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**Z.K.Ayupova<sup>1</sup>, D.U. Kussainov<sup>2</sup>**<sup>1</sup>Kazakh national agrarian university, Almaty, Kazakhstan;<sup>2</sup>Kazakh national pedagogical university named after Abai, Almaty, Kazakhstan[zaure567@yandex.ru](mailto:zaure567@yandex.ru)**NEW APPROACHES OF THE PROTECTION OF THE WOMEN'S  
AND CHILDREN'S RIGHTS IN THE REPUBLIC OF KAZAKHSTAN**

**Abstract.** At the beginning of the new third millennium the special attention was paid to the problem of women's rights. There are many reasons. Processes of democratization of the society, political and economic transformations in the countries of Central Asia have created both new opportunities, and obstacles in the sphere of achievement of gender equality. From the point of view of law, the feminism represents the special interest as the theory of gender equality, which is the base of the women's movement. We would like to note, that in the late 70-th of the XX century the feminist movements have gained mass character. The feminism, inspired by the socialist ideals, proclaimed the struggle against all forms of exploitation, including the exploitation of women. Now it is quite necessary to create the democratic law-abiding state, with the functioning of the stable non-governmental sector, which will provide, together with the public authorities, free and real participation of citizens in decision-making processes and management of social policy. We would like to note, that the special role in the development of civil society belongs to women's non-governmental organizations as the real public power, capable to influence on the legal policy of the country today. That's why the strong legal base is quite necessary, with the stable legislation, which will allow to the women's organizations to develop and participate in the political life of the society.

**Keywords:** feminism movement, children's and women's rights, gender equality, Central Asia, Kazakhstan, women's non-governmental organizations, gender statistics, Strategy of Gender Equality, institutionalization of gender policy, realization of children's rights.

In the beginning of our article we would like to list the international documents in the field of the protection of women's and children's rights. There are: Convention of the United Nations "On elimination of all forms of discrimination against women", it was ratified in 1998; Convention "On the political rights of women", it was ratified in 2000; Convention "On nationality of the married women", it was ratified in 2000; Convention of the International Labor Organization "On equal remuneration of men and women for work of equal value", it was ratified in 2000.

In the Republic Kazakhstan was adopted the Law "About the State Guarantees of the Equal Rights and Equal Opportunities of Men and Women", it was adopted in 2009. In Article 10 of this law was fixed the participation of employers in ensuring the equal rights and equal opportunities of men and women in the sphere of work, job. The equal rights and equal opportunities in the sphere of the labor relations are guaranteed to men and women, including:

- execution of an employment agreement;
- equal access to vacant workplaces;
- questions of professional development, retraining and promotion.

Adoption of this law has transferred Kazakhstan to the new level of gender policy and achievement of gender equality.

The famous researcher of the feminist movement I.V. Krykova has studied the peculiarities of the provision of women's rights during the pre-revolutionary period, formation of the legal status of women in the Central Asia and Kazakhstan [1, P.15].

In our country the question of maintenance of the gender statistics means the division of statistical data through the position of men and women in all important spheres, regulated relatively recently. In the Republic Kazakhstan has published annual collection of the statistical information named "Men and women".

Besides, in Kazakhstan in the cases of violence against the women was created the new form of the statistical report, which allows to analyze and generalize not only the types and forms of violence, but also the persons, victims of violence, their appearance, etc.

Seventeen years ago, in 2001, the Department of Public Safety was created in the Ministry of Internal Affairs of the Republic of Kazakhstan. It has an automatic database about the women's violence. It obtains the information on many parameters: reasons and consequences of commission of violence, age, physical health, etc.

Also in Kazakhstan was created the mechanism of public monitoring of the situation in this field. The purpose of public monitoring is definition of an assessment of the results of the regular process of collecting and analysis of comparative information about the situation. This allows answering the following questions: how effectively governmental bodies work in such specific sphere, how do they planned to eliminate the homicide, how the real requirements of the population correlated to new realities, how effectively they spend the budget for the struggle with domestic violence.

In November 29, 2005, № 1677 Strategy of Gender Equality in the Republic of Kazakhstan for 2006-2016 was adopted by the Decree of the President of the Republic of Kazakhstan N.A. Nazarbayev. It is the fundamental document, which directed to the realization of long-term gender policy of the state, the instrument of its realization and implementation of monitoring from the state and civil society, as an important factor of formation of democracy. Each section of Strategy of Gender Equality in the Republic of Kazakhstan has included the indicators, developed at the same time with the regional office of UNO Women's fund (UNIFEM) for the achievement of gender equality in policy, economy, education, family, healthcare and prevention of the violence against the women and children.

Strategy of Gender Equality in the Republic of Kazakhstan consists of 9 sections, in which were fixed: the strategic actions for achievement of gender equality in the social and political life, economy; implementation of legal and gender education; strengthening of reproductive health of men and women; prevention of violence in the society; achievement of gender equality in family; strengthening of family and increase the role of education in family; development of gender-sensitive public consciousness.

Each section of Strategy of Gender Equality in the Republic of Kazakhstan contains considerable descriptive part on the different problems, with the indication of the purpose, analysis of the situation, possible risks and strategic tasks and actions. Certainly, the value of this document consists from the detailed study of each problem in the field of gender equality. The basic concepts, such as "discrimination on the basis of sex", "direct and indirect discrimination", concepts of "the equal rights" and "equal opportunities" were analyzed in this document [2].

In 1995 in the Republic of Kazakhstan was created Advisory Body - Council for Problems of Family, Women and Population Policy by the President of the Republic of Kazakhstan N.A. Nazarbayev. In 1998 was created National Commission on Affairs of Family and Women by the President of the Republic of Kazakhstan N.A. Nazarbayev. In 2006 was created National Commission on Affairs of Women and Family Population Policy by the President of the Republic of Kazakhstan N.A. Nazarbayev. In the Republic of Kazakhstan, in the first state of the CIS, such regulations in the sphere of gender policy were adopted.

Later, in 2009, Law of the Republic of Kazakhstan "About Prevention of Domestic Violence" was adopted. With adoption of this Law "About Prevention of Domestic Violence" the Republic of Kazakhstan was recognized as the state, which pays larger attention to this problem and elaborates the mechanisms of the effective protection of the women's and children's rights.

Gender equality and the protection of women's and children's rights, especially in the developing countries are most vulnerable. There are the fundamental principles of the United Nations Organization. These rights cut across all aspects of the UNO's work and are crucial to long-term progress, including achievement of the Millennium Development Goals. The rights of women's and children's have often been promoted in isolation from one another. Separate international treaties have been forged and specialized UNO agencies, government ministries and non-governmental organizations, created for whom women or children are the primary focus. It is quite necessary to explore the human rights links between these two groups (women and children), the practical implications of considering them together [3].

In this article we would like to explain, how to provide the conceptual framework for understanding human rights. That's why we need to make a brief look at the evolution of the women's and children's rights movements and explains why an emphasis on women in development eventually gave way to a

focus on gender equality. Moreover, we need to describe the legal instruments and mechanisms, which have been created to protect and promote women's and children's rights. First of all, it is necessary to distinguish among them the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. They show where the rights of women and children intersect and how both conventions and the committees that monitor them can be successfully employed to safeguard these important rights.

Every person has rights simply by virtue of being human. These rights - universal legal guarantees that represent the minimum standards required for individuals to live in dignity and with equal opportunity - cannot be taken away. Since the Universal Declaration of Human Rights was adopted in 1948, human rights have become codified in international, regional and national legal systems. Human rights law obliges states to do certain things and to refrain from doing others. For example, states have an obligation to provide every individual with the opportunity for education. At the same time, they have the duty to reject any action that may result in discrimination against a group of individuals in exercising that right on the grounds of race, colour, sex, language, political or other opinion, national or social origin, property, birth or other status. Under international human rights law, states have the obligation to respect, protect and fulfil human rights. The obligation to respect means that states must refrain from interfering with or curtailing others' enjoyment of their human rights through laws, policies, programmes or practices. The obligation to protect requires them to safeguard individuals and groups against human rights abuses by others. The obligation to fulfil means that states must take positive action to facilitate the enjoyment of basic human rights through the creation of relevant procedures and institutions, the adoption of laws and policies, and by ensuring enforcement and adequate funding.

In 2005 in the Republic of Kazakhstan was adopted the Law "About the State Social Order", in which was fixed the mechanism of budget financing of NGO's, including women's organizations and movements, support of the important programs and projects in this field.

There are two sides in estimation of the value of Kazakhstan into the mechanism of the state social orders and its influence on development of gender NGO's: positive and negative. The positive side means, that the Kazakhstan's NGO's have received the stable financing of their activity and participation in the social state programs. It allows to the different NGO's taking part in grants, foreign trips, etc. The negative side means the suspicious financing of some foreign NGO's with the means of so called "dirty money".

Human rights are universal. They apply equally to men and women, girls and boys. Women, for example, are entitled to the same rights to life, education and political participation as men. However, in practice, these rights are violated every day in multiple ways - in virtually every country in the world. Gender equality and women's rights are key elements in the Universal Declaration of Human Rights. Yet it was later recognized that certain rights are specific to women, or need to be emphasized in the case of women. These rights are outlined in subsequent international and regional instruments, the most important of which is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted about forty years ago, in 1979, and entered into force two years later, in 1981. It defines the right of women to be free from all forms of discrimination and sets out core principles to protect this right. It also establishes an agenda for national action to end discrimination and provides the basis for achieving equality between men and women. It does so by affirming women's equal access to - and equal opportunities in - political and public life as well as education, health and employment. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is the only human rights treaty that affirms the reproductive rights of women.

By February 2010, The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) had been ratified by 186 States - more than most other international treaties. The Optional Protocol to The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which entered into force in December 2000, lays out procedures for individual complaints on alleged violations of the Convention by States parties. It also establishes a procedure that allows the Committee that monitors implementation of the Convention to conduct inquiries into serious and systematic abuses of women's human rights in countries.

Gender roles and expectations are often identified as factors hindering the full realization of women's and girls' rights, with adverse consequences for entire families. Understanding how gender plays out in

specific situations is therefore a necessary first step in addressing certain problems, and should generally be carried out when planning and implementing any development project. Such an analysis does not focus on women or men per se, but rather on the relationship and power dynamics between them - their differing roles, responsibilities, opportunities and needs.

By the way, the Declaration of the Rights of the Children in its sixth principle says: "The child for his comprehensive and harmonious development needs love, respect and understanding. He has the possibility to grow up in the good conditions, with the parents and in the atmosphere of love, moral and material security.

I.I. Lukashuk wrote: "The International Law has provided the following principles: a) no illegal intervention in implementation of human rights and freedoms, private life; b) all forms of physical or mental violation abuse; c) economic and labor exploitation are prohibited; d) no illegal drugs and psychotropic substances; e) prohibition of all forms of sexual exploitation and pressure; e) no humiliating punishment. Thus, the child has to be protected from all negative both physical, and moral influences" [4, P.133].

Recognition of children's rights grew out of the wider crusade for human rights, specifically those of women. Indeed, perceptions of the two groups were largely similar early on. In the 18-th century, for example, both women and children were generally regarded as a form of property. The 19-th century marked the birth of the 'child-saving' movement, which spurred the growth of orphanages, the development of schooling, and the construction of separate institutions, including juvenile courts for children in conflict with the law. Still, children were perceived largely in terms of their usefulness to adults: their purpose was to carry on the family name and to look after the elderly.

Every individual has rights. However, as with women, certain rights are specific to children or need to be reinterpreted in the case of children. These rights are outlined in the Convention on the Rights of the Child. The Convention was adopted in 1989, ten years later after The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)- and entered into force in 1990. The framers of the Convention recognized that those under 18 years of age have specific needs. Moreover, they wanted to make certain that the world recognized that children have human rights, too. The Convention on the Rights of the Child spells out the basic human rights of children worldwide: the right to survive; to develop to the fullest; to protection from harmful practices, abuse and exploitation; and to participate fully in family, cultural and social life. The four core principles of the Convention are non-discrimination; the best interests of the child; the right to life, survival and development; and respect for the views of the child. Every right spelled out in the Convention is inherent to the human dignity and harmonious development of every child.

There are the following non-governmental children's organizations in the Republic of Kazakhstan: "Center of support of children", "Childhood without borders", "Association of mothers having many children Gibrat", "Public association Dostar", etc. The mission of these organizations is to activate and involve the children and teenagers in different sport sections, school clubs in order to create the civil society.

Activity of such centers is directed into: the analysis of position of children and teenagers in Kazakhstan, reform of juvenile justice and protection of the child, educational seminars (economic, psychological, legal) for the development of potential of children, development of the persons, talents and physical abilities of children, and also work with their parents.

The lives of women and children are tightly knit, as are their rights. Women and children have both been subjected to discrimination, so they share that experience. But it is also true that women's health and social and economic status - even before a child is born - is directly related to a child's prospects for survival and development. Historically, women have been the primary caregivers of children, and resources put in their hands are more likely to be used to benefit children than those given to men. Discrimination against women is thus detrimental not only to women themselves, but also to the next generation. Protecting women's rights is important in itself. But it also tends to reap benefits for their children. Conversely, protecting the rights of children - particularly girls - is the first step in promoting gender equality for women. The stereotyping of gender roles and gender-based discrimination begins in childhood. Efforts to support gender equality must start there and address the roles of girls and boys, men and women, in the household. Advocating for women's rights has been essential to advancing the situation

of women worldwide. The same holds true for the promotion of children's rights and improvements in their ability to survive and thrive. However, if the rights of women and children are considered together, they can reinforce each other and make mutually supportive demands on society.

N.M. Rimashevskaya notes: "The cultural rules and social norms that influence the behavior of females and males are often felt most acutely as a young person moves into adulthood. The double burden of being both young and female relegates millions of adolescent girls to the margins of society where their rights are disregarded and their safety is denied. Girls, in general, face a host of disadvantages. Although many more girls are receiving a basic education, they are often denied the same opportunities as boys, treated as inferior and socialized to have low self-esteem. The damage is often compounded by the fact that girls across the globe are more likely than boys to experience sexual abuse. Addressing gender discrimination faced by adolescent girls is crucial to their development and to the realization of their rights" [5, P.10].

Women's rights are also closely linked to those of their adolescent daughters. Empowered women who enjoy the same rights as their husbands or partners are important role models and are more likely to safeguard their daughters' rights. Typically, it is economic, social and cultural subordination within the family that inhibits many women from claiming even their most basic civil and political rights. Thus, the importance of eliminating discrimination against women is paramount, especially in the private sphere of the home.

In the conclusion we will note that motherhood, the childhood, family represent the complex system of the social factors of the society. Protection of motherhood and childhood is one of the priority problems in the Republic of Kazakhstan, especially in the recent 26 years of the sovereign development through the planned economy to the market economy.

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#### ҚАЗАҚСТАН РЕСПУБЛИКАСЫНДАҒЫ АНА МЕН БАЛА ҚҰҚЫҒЫН ҚОРҒАУДЫҢ ЖАҢА ҚЫРЛАРЫ

**Аннотация.** Үшінші мыңжылдықтың басында әйелдер құқығы мәселесін қамтамасыз етуге деген баса көңіл аударушылық байқалады. Әрине, ол кездейсоқ емес. Орталық Азия елдерінде қоғамның демократизациялау процесі, саяси-әлеуметтік реформалар қоғамды жетілдіруге жаңа мүмкіндіктер әкелді, сонымен қатар олардың барлығы гендерлік тепе-теңдікті жүзеге асыруға жол ашты. Құқықты қамтамасыз ету жағынан феминизм жыныстар тепе-теңдігі теориясы ретінде белгілі дәрежеде өзекті мәселе, оның негізінде әйелдер еркіндігі үшін жасалатын іс-әрекеттер жатыр. Егерде еске түсірсек, феминистік қозғалыс ХХ-сы ғасырдың 70- жылдары жалпылық сипат алды. Социалистік идеалдармен қаруланған феминизм, өзінің мақсаты ретінде қанаудың барлық түрлеріне қарсы күрес бағытында қалыптасты, сонымен бірге әйелдерді қанаудың жалпылама түрі ретінде көрініс тапты. Қазіргі кезеңде, құқықтық демократиялық тұрақты мемлекет құрудың аса қажетті жағдайы ретінде біз мемлекеттік емес секторды қалыптастыру әдістерін айтамыз, бұл қозғалыстар мемлекеттік ұйымдармен бірге азаматтардың еркін және реалды құқықтарын қорғап, мемлекеттік басқару ісіне, шешімдер қабылдауға қатынаса алу мүмкіндігі туады. Көңіл аударатын жай, азаматтық қоғам даму барысында басты рөлге әйелдер қозғалысы ие, олар қоғамдағы реалды күш болып саналады, елдің құқықтық саясатына тікелей әсер етеді. Сондықтан да әйелдер қозғалысының еркін дамуы үшін, қоғамның саяси өміріне қатысуы үшін, оның заңнамалық және құқықтық негізі қалануы қажет.

**Түйін сөздер:** феминистік қозғалыс, ана мен бала құқығы, гендерлік тепе-теңдік, Орталық Азия, Қазақстан, мемлекеттік емес әйелдер ұйымы, гендерлік статистика, гендерлік тепе-теңдіктің стратегиясы, гендерлік саясатты институционализациялау, балалар құқығы жүзеге асыру.

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### **НОВЫЕ ПОДХОДЫ ЗАЩИТЫ ПРАВ ЖЕНЩИН И ДЕТЕЙ В РЕСПУБЛИКЕ КАЗАХСТАН**

**Аннотация.** В начале нового третьего тысячелетия наблюдается особое внимание к проблеме обеспечения прав женщин. И это не случайно. Процессы демократизации общества, политические и экономические преобразования в странах Центральной Азии создали как новые возможности, так и препятствия на пути достижения гендерного равенства. С точки зрения права феминизм представляет определенный интерес как теория равенства полов, лежащая в основе движения женщин за освобождение. Отметим, что в конце 70-х гг. XX века феминистические движения приобрели массовый характер. Феминизм, вдохновляемый социалистическими идеалами, основной целью провозглашает борьбу со всеми формами эксплуатации, в том числе с эксплуатацией женщин, понимаемой весьма широко. В настоящее время необходимым условием построения демократического правового государства является формирование и развитие устойчивого неправительственного сектора, который позволит обеспечить, наряду с государственными органами, свободное и реальное участие граждан в принятии решений и управлении социальными процессами. Отметим, что особая роль в развитии гражданского общества принадлежит женским неправительственным организациям, которые сегодня являются реальной общественной силой, способной влиять на правовую политику страны. В связи с этим необходима прочная правовая база, стабильное законодательство, позволяющее женским организациям самостоятельно развиваться и участвовать в политической жизни общества.

**Ключевые слова:** феминистское движение, права женщин и детей, гендерное равенство, Центральная Азия, Казахстан, неправительственные женские организации, гендерная статистика, стратегия гендерного равенства, институционализация гендерной политики, реализация прав детей.

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