

Reflection of Women's Rights in Foreign Countries' Constitutions

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ANNOTATION: The constitution serves as the legal basis in any democratic state. In the Constitution, the sovereignty of a particular country, foreign policy, system of state and community management, citizenship, personal, political, social and economic rights and freedoms of citizens living in the country, duties and obligations of citizens are given priority.

KEYWORD: development, Constitution, committee, gender, Human Rights, family, political activity, discrimination, Third Renaissance.

Introduction. At present, the issues of development, improvement, codification and further democratization of constitutionalism and humanization of legislation remain relevant in the world. Between 1990 and 2015, constitutional reforms were implemented in 75 of the countries that achieved democracy after armed conflicts, chaos, and authoritarianism [1].

These days, the process of constitutional reforms is gaining momentum throughout Uzbekistan. In this process, the will of the people is fully reflected in the changes being introduced to the Constitution. In the process of constitutional reforms, priority is given to studying the suggestions and comments of all our compatriots, making changes based on the wishes of the citizens.

Discussion. If we look at the history of the nations of the world, we can see that national constitutions have been changed several times. Of course, this is a natural process. Because as the years pass rapidly, the society and social views also change. This requires new changes in the legislation.

The submission of the constitutional project law "On Amendments and Additions to the Constitution of the Republic of Uzbekistan" to public discussion, and the consideration of everyone's suggestions and opinions in the process of this project, indicates that freedom of thought is gaining its place in the life of the society.

Shavkat Mirziyoyev, the Head of State of the Republic of Uzbekistan, in his holiday greetings on the occasion of the 27th anniversary of the Constitution of the Republic of Uzbekistan, focused on constitutional reforms, in particular, "That our country pays serious attention to strengthening legal equality between women and men, that the women's committee and its regional departments were completely reorganized, they were given additional powers and opportunities, and the necessary conditions were created for their full functioning, which was a new step in this direction, in addition, in 2019, based on Article 46 of our Constitution, the laws "On guarantees of equal rights and opportunities for women and men" [2] and "On protection of women from oppression and violence" [3] were adopted.

President Shavkat Mirziyoyev emphasized that parliamentary and public control is extremely necessary in the consistent implementation of these laws, and that protecting motherhood and childhood and solving social problems of women will be the focus of our country in the future. He also emphasized that many of our women are rising to responsible leadership positions in state and community management, economy, finance-banking, education, health, culture and other fields. “Who knows more about people’s pains and concerns, the situation in families and neighborhoods, who feels better than everyone else? Of course, aren’t our respectable and kind women? There is no doubt that the role and influence of our sisters in identifying social problems and solving them in time, increasing the efficiency of management is very large, therefore, we should actively continue the policy aimed at increasing the role and status of women in society, entrusting them with various responsible tasks” - he emphasized [4].

Additions and amendments aimed at reducing the areas of professional activity prohibited for women and eliminating gender-asymmetric provisions in the legislation were made in the Labor Code and other related regulatory legal documents. Importantly, experts from UN bodies such as the UN representative office in Uzbekistan, the Population Fund, the Children’s Fund, the Office of the High Commissioner for Human Rights, the International Organization for Migration and the International Labor Organization participated in the development of these laws.

Also, the adoption of the Strategy of Actions on five priority areas of development of the Republic of Uzbekistan in 2017-2021, Development strategy of New Uzbekistan for 2022-2026, The National Strategy of the Republic of Uzbekistan on Human Rights, Strategy for achieving gender equality in Uzbekistan until 2030, National goals and tasks in the field of sustainable development fundamentally strengthened the legal framework of this field and serves to establish the appropriate systematic activities.

The institutional basis for ensuring the protection of women’s rights, freedoms and legal interests has been further strengthened. In particular, the commission of the Republic of Uzbekistan on ensuring gender equality, a special committee in the Senate of the Oliy Majlis, and the state committee for family and women were newly established and started their activities.

Wide-scale reforms, programs and systematic measures aimed at solving issues such as creating equal rights and opportunities for women and men, ensuring the rights and legal interests of women, to increase social and political activity, strengthening its position in state and community management, improving living and working conditions, ensuring employment, increasing income, wide involvement in business activities, Addressing work with “Women’s Register”, protecting women from harassment and violence, strengthening family foundations providing targeted support to them, are being implemented. Also, special attention is being paid to establishing effective public control over timely elimination of women’s problems by official organizations.

Uzbekistan has established effective international cooperation in this field. In particular, the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Vienna Declaration, the Beijing Declaration, and the Platform for Action have been submitting periodic (this year - the sixth) reports on the implementation of international obligations to relevant UN convention organizations.

The conducted analyzes show that in recent years there are problems in ensuring equal rights of women and men in the use of all economic, social, cultural, civil and political rights. Also, problematic situations in eliminating all forms of gender discrimination by the organization or enterprise, protecting women from any violence and maintaining balance between family and work duties of women are noted. This requires the determination of women’s rights on the constitutional basis.

From this point of view, it is necessary to develop women’s rights and improve the constitutional basis of women’s role in family-legal relations in Uzbekistan based on the experiences of advanced foreign countries.

The Constitutions of various foreign countries include norms related to the protection of the rights, freedoms and legal interests of women:

- women have equal rights with men in all spheres of life, political, economic, cultural, social and family life, the state protects the rights and interests of women, applies the principle of equal pay for equal work to men and women (**Article 48 of the Constitution of the People's Republic of China [5]**);
- that every woman has full and equal human dignity, which includes equal opportunities in political, economic and social activities, and that women have the same rights as men in the custody and protection of children. And that Parliament regulates the implementation of these rights by law and that all laws, customs and cultural practices that violate the rights of women enshrined in the Constitution are recognized as violations (**Article 80 of the Constitution of the Republic of Zimbabwe [6]**);
- the government should comprehensively ensure the rights of women based on Islamic criteria and perform the following tasks: Creating a favorable environment for the growth of women and restoring their material and intellectual rights, protecting single mothers, especially during pregnancy and childbirth, to establishing competent courts for the protection and maintenance of the family, to provide special insurance for widows and old women, protecting the interests of children in the absence of a legal guardian in order to give custody of children to suitable mothers (**Article 21 of the Constitution of the Islamic Republic of Iran [7]**);
- abolition of all forms of discrimination against women, prohibition of the use of forced labor of women, that men and women have equal rights in all spheres, especially in marriage and family relations, that marriage is defined on the basis of the principles of mutual consent and the conditions of monogamy (**Article 45**), prohibition of human trafficking, exploitation of prostitution and indecent exposure of women, the prohibition of dismissal of an employee due to pregnancy, the right of women to receive maternity leave, length of service or other social benefits with full payment, the state and society provide medical care to women, especially women living in rural areas who do not have adequate social support, that they should send their children to school and have decent living conditions, create opportunities to provide them with employment (**Article 46 of the Constitution of the Republic of Cambodia [8]**);
- women and men have equal rights and opportunities, that women cannot be discriminated against in any way, that women use special assistance and protection provided by the state during pregnancy and after childbirth, if they are unemployed or in need of assistance, they will receive food subsidies from the state, and that the state will provide special support to the woman as the head of the family (**Article 43 of the Constitution of the Republic of Colombia [9]**);
- the need for the state to protect the welfare and rights of women (**Article 34, Part 3 of the Constitution of the Republic of Korea [10]**);
- women and men have equal rights and obligations in the economic, political, cultural, professional, social and family spheres, as well as in any other sphere, the state guarantees equal opportunities for both sexes, the state encourages the integral development of women, their comprehensive participation in the life of society, ensuring the realization of their sexual and reproductive rights, to protect against gender-based violence in all its forms and in all areas, creating institutional and legal mechanisms for this (**Article 43 of the Constitution of the Republic of Cuba [11]**);

Women have the right to full and equal protection of the law and to non-discrimination on the basis of sex or marital status, which includes the following rights: use of the same rights as men in civil law, including equal rights, conclusion of contracts, obtaining and maintaining property rights independently or together with other persons, regardless of their family status, to have equal rights in making decisions related to guardianship, sponsorship and care of children and their upbringing, obtaining and maintaining citizenship,

annulment of marriage, regardless of how the marriage was concluded, fair disposal of property together with husband;

Any statute discriminating against women on the basis of sex or marriage shall be lose its validity:

I. Behaviors that discriminate against women, in particular:

- a. sexual harassment, bullying, and the use of violence or force;
- b. discrimination in work, business and public affairs;
- c. deprivation of property, including inherited property (**Article 24 of the Constitution of the Republic of Malawi [11]**);

The state actively promotes public welfare by adopting policies aimed at:

- ensure equal opportunities for women, enact laws to ensure their full participation in all aspects of Namibian society, in particular, the government should ensure the implementation of the principle of non-discrimination in remuneration for the work of men and women, the government provides maternity and related benefits for women through appropriate laws (**Article 95 of the Constitution of the Republic of Namibia [12]**);
- every woman has the right to non-discrimination on the basis of sex, every woman has the right to safe maternal and reproductive health, none of the woman can be subjected to physical, mental, sexual violence due to religious, social, cultural traditions, customs or other reasons, such an act is punishable by law and the victim is entitled to compensation in accordance with the law, women have the right to participate in all state bodies based on the principle of proportionality, women should have the right to special opportunities in education, health, employment and social security on the basis of positive discrimination, spouses have equal rights in property and family relationships (**Article 38 of the Constitution of the Republic of Nepal [13]**);
- the state ensures the elimination of all forms of discrimination against women and persons with disabilities, state policy in all areas to ensure their comprehensive development and participation in national development, the state, including taking measures to fight against violence against women and children in society and private life, it is ensuring their equal representation in public institutions through national gender policy and quota enforcement (**Article 22 of the Constitution of the Republic of Niger [14]**);
- men and women have equal rights in family, political, social and economic life, as well as in education, work, social security, receiving state awards (**Article 33 of the Constitution of the Republic of Poland [15]**);
- the state should protect women's rights as stipulated in international and regional agreements ratified by Sudan, the state guarantees to men and women the right to equality of all civil, political, social, cultural and economic rights, including equal employment and other professional advantages, guarantee the rights of women in all spheres without discrimination, fight against harmful customs that degrade the dignity and status of women, providing free medical services for motherhood, childhood and pregnant women (**Article 49 of the Constitution of the Republic of Sudan [16]**);
- ensuring full equality of men and women, the state provides funds and opportunities for women to increase their opportunities and well-being, protection of women's rights, taking into account their unique status in society and natural motherhood, women have equal rights with men and that this right includes equal opportunities in political, economic and social activities, which violates the status of women in the

constitution, prohibition of laws, cultures, customs or traditions that are contrary to their welfare or interests (**Article 33 of the Constitution of the Republic of Uganda [17]**).

Results. Protection of women's rights, freedoms and legal interests and ensuring gender equality based on a comparative study of the laws of development of national and foreign constitutions, in accordance with international standards in this field, it would be appropriate for the Constitutional Commission to take into account the following suggestions and recommendations for expanding their rights and opportunities:

The first proposal: to consider the issue of reflecting the norms aimed at protecting women's rights, freedoms and legal interests and ensuring gender equality in the draft Constitutional Law, in particular, to include in Article 46 of the Constitution of the Republic of Uzbekistan principles such as equal pay for the work of women and men, ensuring equal rights of women and men in the family and family relations.

The second proposal: to reflect the norms aimed at ensuring that the state protects women from any violence and maintaining a balance between family and work duties in Article 25 of the Constitution of the Republic of Uzbekistan, and that women are not discriminated against.

The third proposal: the state should ensure the equal rights of women and men in the enjoyment of all economic, social, cultural, civil and political rights and to this end make it a constitutional requirement that any person, organization or enterprise take appropriate measures to eliminate all forms of discrimination between the sexes.

The fourth proposal: equal opportunities for women and men in education, vocational training, work and career advancement (work), economic-political, socio-cultural and other spheres of activity, as well as creating conditions for the protection of their work and health.

Conclusion. In general, the political, social, economic, and legal conditions created in Uzbekistan are effective in protecting women's fundamental rights, strengthening the constitutional and legal foundations of women's and family issues – building a new Uzbekistan and strengthening the foundations of the Third Renaissance will create a unique ground for the increase of people's well-being and standard of living, and the development of human capital.

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