

Provision of constitutional rights to work

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Abstract: The article analyzes the importance of the right to work established in the constitution as one of the most important human rights. The article is about the content of the rights and freedoms of citizens, practical realization of the right to work, proclaimed by the Constitution of the Republic of Uzbekistan.

Keywords: Labor law, right to work, human rights, constitution, labor market

The right to work is one of the most important constitutional human rights. The realization of this right determines the possibility of realizing a number of other labor rights: the right to rest, to equal remuneration, to safety working conditions, etc. In recent years, human rights and freedoms and legal interests are respected as the highest value in our country, and efforts are being made to build a strong civil society by strengthening the legal system. Strengthening the legal system requires carrying out constitutional reforms.

It is becoming necessary to carry out constitutional reforms taking into account the achievements we have achieved in recent years and the changes in the world. Especially today's era of globalization and rapidly changing life realities impose the task of carrying out constitutional reforms in order to further modernize our country and strengthen peace and stability.

If we look back to the development and implementation of right to work in the constitutions as a constitutional right of citizens appeared relatively recently. In the beginning of the twenties century Mexico was the first country who made such changes in law.¹ Theoretically, after the Second World War all over the world, namely industrialized countries started constitute the right to work. The wave of such actions made the countries to reconsider and provide secure labor rights.

In case if we make a general analyze the constitutions of foreign countries we can name the following approaches to understand the category of the right to work. Firstly, the right to work as a constitutional right does not exist. The Constitution does not mention it, since it is considered that the right to work is part of the right to

¹ https://www.constituteproject.org/constitution/Mexico_2015.pdf?lang=en

engage in economic activity in such countries as USA and Japan. Secondly, the right to work considers itself as an absolute right, i.e. as freedom of work. Thus, the Constitution of the Federal Republic of Brazil provides for the right of everyone to freely carry out any work, occupation or profession in accordance with professional qualifications established by law. This understanding of the right to work is typical for most of the States of Central and Eastern Europe, some Latin American countries (Romania, Croatia, Hungary, Albania, Mexico, etc.). Thirdly, the right to work is a relative right addressed to the State. It is understood as the right to receive a guaranteed job. Such an understanding of the right to work was enshrined in the USSR Constitution of 1936. Currently, such an interpretation of the right to work in its "pure form" is practically not found even in socialist states, since this right in these countries is simultaneously declared a citizen's duty (China)².

The current Constitution of the Republic of Uzbekistan does not provide the obligation to work. In accordance with Art. 37 of the Constitution, labor is free, everyone has the right to freely dispose of their abilities for work, to choose the type of activity and profession. Forced labor is prohibited. Everyone has the right to work in conditions that meet the requirements of safety and hygiene, to remuneration for work without any discrimination and not less than the minimum wage established by law, and the right to protection from unemployment.

Without denying the existence of the right to work in the Constitution, some scientists of labor law believe that the right to work is included in the understanding of the constitutionally established freedom of labor or that the right to work is equivalent to the freedom of labor – these are equivalent concepts and there is no reason to differ them.

Employment is the most important characteristic of the economy and the well-being of the country's population while simultaneously representing a social problem. It was characterized by the existence of an employment contract, a specific place of work, including premises for performing labor functions, regulated working hours and relax time, fixed wages and etc. Employees in the course of their entire working career, as a rule, rarely changed both the scope of their work (profession) and the place of work (organization, enterprise). Such "standard" employment was accompanied by clearly defined forms of social protection, which gave certain stability to the employee's life [1].

Therefore, any reform to be carried out must necessarily correspond to the legal bases specified in our Constitution.

Today, according to V.I.Anishina and Yu.G.Poponov, the position of the state towards the principle of the right to work in its former sense is not clearly expressed.

² <http://www.jurvestnik.psu.ru/index.php/ru/-1-7-2010/6-2010-12-01-13-31-58/-1-7-2010/93-konstitucionalizacziya-prava-na-trud-v-zarubezhnyx-gosudarstvax->

This gives certain reasons to doubt the preservation of the constitutional right of citizens to work, understood as a state-guaranteed right to employment, and to consider freedom of labor as the absence of obligations of the state, and, accordingly, the employer to ensure the right of everyone to work [2].

Even the President of the Republic of Uzbekistan gave his suggestions on the Constitution.

In the direction of the rights and freedoms of citizens:

- A citizen of Uzbekistan has the right to freely move around the country, freely choose a place of residence or residence (propiska restrictions will never be restored);
- every citizen is guaranteed the right to leave and return to the country without obstacles;
- privacy is guaranteed;
- forced labor and child labor are not allowed;
- every person has the right to work in comfortable working conditions, to receive a decent wage for his work;
- the minimum wage should be enough for a person and his family to live [3].

In our opinion, the amendments to be made to the Constitution are significant as they provide solutions to issues in the following directions:

First, new inalienable human rights are established in the Constitution. In particular, rights and freedoms such as the right to a clean environment, inviolability of residence, inviolability of property, rights to the results of intellectual activity, rights to a healthy lifestyle, labor rights, and free movement will be strengthened.

Secondly, it is determined at the level of the Constitution to limit the freedom of a person, to explain his rights during the arrest, to explain the reasons for the arrest, to achieve that he can be detained for a maximum of forty-eight hours until the decision of the court, to ensure humane treatment of the persons deprived of their freedom, and not to apply the death penalty.

Thirdly, to enshrine the idea of "lawful state" by law, to clarify the relations between the state authorities and management bodies, to transfer some powers of the President to other bodies, to clarify the activities of local authorities and management bodies, to expand the powers of the government, to clearly define the responsibilities of officials, to determine the status of the neighborhood, citizenship The role of the institution of society in state and society management is clearly indicated.

Fourth, by incorporating the principle of "man - society - state" into the Constitution, forming the foundations of social statehood, in which family, children, youth, the elderly, persons with disabilities, regardless of whether they are in the country or outside of it, care about all people, guaranteeing inclusive education, housing for the needy -place, by determining the minimum amount of consumer

goods necessary for living, the responsibility of the state is strengthened at the level of the Constitution.

Freedom of work is an absolute right, it is addressed to an indefinite circle of persons - as well as the right to property, the right to life and other constitutional rights of man and citizen. Being an absolute right, this right has priority in the field of other rights that constitute the content of the complex right to work. Freedom of work, therefore, is one of the fundamental human rights, inalienable by nature of law, as well as freedom of speech, freedom of thought, freedom of movement, etc. A person deprived of the freedom of labor turns into a serf, a slave. In fact, he loses his human dignity and becomes a "talking tool". This conclusion follows from the analysis of the provisions of Article 8 of the International Covenant on Civil and Political Human Rights of 1966, which proclaimed freedom of labor.

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