

Labor and Family Responsibilities: Updated Approaches in Law

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ABSTRACT

The social value of labor law and social security law is that their main objective is to allow people to meet their socially significant needs (food, clothing, housing, security). Most often, people receive a livelihood that allows them to realize these needs for their work. Labor law regulates the intense activity of people, creates guarantees of safe work and stable wages. However, when a person cannot work, this legislation does not achieve its goal. Then social security law guarantees people support in the form of various benefits and pensions. The family as a basic element of society is affected by all changes in the economy or politics. The study shows that problems of the labor of employees with family responsibilities exist in many countries. The instability of work, when only one of the spouses is engaged in work, forces the second spouse to go to work. Thus, there is a need for care for children and elderly family members. Russian labor law contains guarantees of protection of people with family responsibilities, but we can note some shortcomings as for the homework and the distance work. The protection of such workers should be aimed not only at receiving benefits, but also at providing them with opportunities to work in order to meet socially significant needs.

Keywords: *labour law, social security law, socially significant needs, workers with family responsibilities, social risks*

1. INTRODUCTION

“Social” means important to society. This term shows the main characteristic of law as an achievement of human civilization. Outwardly, the social value of law is manifested in the fact that it makes relations between people, groups of people, and public institutions sustainable and clearly stated. The law should defend and protect the life of every person, his/her freedom, personal integrity, the ability and need to work, develop, create a family, etc.

The social value of law consists in the achievement of its goals, which are reflected in laws and other legislative acts. In our view, in labor law and social security law that value is expressed directly and concentrated. The development of these branches of law is associated with the complication of public life when many human rights can no longer be realized without guarantees. These branches complement each other and make it possible to meet basic human needs.

Most often, people receive a livelihood that allows them to realize their physiological needs and the need for security, for their work. Thus, wage is the main and sustainable source of income for people. G. Hegel said, "...human sweat and human labor procure for man the means of satisfying his needs" [1]. Labor is one of the main elements of the economy. Therefore, scientists call labor law one of the most important branches.

Sometimes a person cannot provide for their own livelihood. If the reasons do not depend on him, they are objective, respectful (science calls them social risks), he is entitled to support. The state compensates for the onset of social risks by providing a person with social pensions and benefits. This is how it supports the financial situation of a person and his family, their social status. Social payments make it possible to meet the most important needs.

2. MATERIALS AND METHODS

A. Maslow wrote that any person has several levels of needs. The first two are physiological needs: food, shelter, clothing, and the need for security. They are basic, without their satisfaction it is impossible to fully exist and develop a person. The next three levels show a personal advancement of a man – the need for love and/or belonging to something; the need for respect, for knowledge; aesthetic needs and the need for self-actualization. A person cannot experience high-level needs while he is hungry, cold, and in danger. A. Maslow said that if the body is dominated by physiological needs, all other needs can disappear or be relegated to the background [2].

We believe that the social value of labor law and social security law is that their main objective is to allow people to meet their socially significant needs. Needs may be different, and people evaluate them differently. The most important of them are recognized by law and are therefore

called socially significant. They are necessary for the protection and development of the individual, social groups, and society. "The law is formed objectively in accordance with the psychological nature of a person, and the law is the result of a subjective law-making activity of people" [3].

The ability to meet socially significant needs depends on the economic, political, and social conditions in the country. Therefore, each state independently decides what rights, obligations and guarantees should be included in the laws to achieve that goal.

The family as a basic element of society is affected by everything that happens in the state. Any changes in the economy or politics have an impact about families. We can note the consequences of the pandemic of coronavirus disease (COVID-19). The United Nations International Children's Emergency Fund (UNICEF), the International Labor Organization (hereinafter referred to as the ILO) and the United Nations Entity for Gender Equality and the Empowerment of Women (UN WOMEN) give special importance to this fact.

These organizations worked out Recommendations called "Family-friendly policies and other good workplace practices in the context of COVID-19". This document emphasizes that many families are unable to care for themselves, so it is necessary to establish emergency measures in order to protect them. It includes recommendations for employers, such as flexible work arrangements (compressed work week, flexible working hours, telework etc.), preventing workplace risks by strengthening occupational safety and other measures that reflect the needs of workers and their children. Governments must maintain their systems of social security, which are addressed to families in poverty, inequality and deprivation. "While social protection is a responsibility, - Recommendations said, - family-friendly policies in the workplace can support these efforts" [4].

The basic needs of a family are most often met by the earnings of its able-bodied members. Therefore, the work of workers with family responsibilities, especially women – wives, mothers, and housewives, shows current trends in the field of labor and social security. It is appropriate to consider the regulation of their work taking into account the history of legislation and the experience of various countries. This allows you to offer possible solutions to problems.

3. INTERNATIONAL LABOR STANDARDS FOR WORKERS WITH FAMILY RESPONSIBILITIES

The importance of protecting both the family and the working person has long been recognized in the world. The United Nations Universal Declaration of Human Rights of 1948 establishes that the family is the natural and fundamental unit of society and has the right to protection by society and the state. At the same time,

everyone has the right to work, to free choice of employment, and to fair and favorable working conditions. These rules were clarified in the 1995 Copenhagen Declaration on social development.

The family is the Foundation of society, and social development is impossible without a strong family. States have made a commitment to develop the institution of the family and to take into account the rights, opportunities and responsibilities of its members, regardless of differences in cultural, political and social systems. In addition, they have pledged to provide opportunities for combining paid work with family responsibilities.

The activities of the ILO are directly aimed at establishing guarantees in the field of labor and social security. The first ILO documents were dedicated to women whose roles - biological as mothers and social - as guardians of the family. They deal with the protection of women's labor, restricting their work at night, prohibiting women from working immediately after childbirth, etc.

In the middle of the last century, the list of employees with family responsibilities expanded. ILO Convention C156 of 1981 "Workers with family responsibilities" pointed to the need to protect not only working women, but also working men with a family.

Recommendation R165 "Workers with Family Responsibilities" that develops the ideas of this Convention says that the strategic goal of each Government is to provide to all workers with family responsibilities opportunities for exercising their right to labor without any discrimination and without conflicts between their employment and family responsibilities.

ILO Convention C156 has expanded the list of these responsibilities. ILO Convention C102 of 1952 "Social security (minimum standards)" contains the obligation to support only in connection with the birth and upbringing of children.

Convention C156 emphasized that the protection should be provided to employees who care for all immediate family members who are in real need of care or assistance, when these responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity. We can say that the ILO requires full equality of opportunities for working men and women, considering the needs of such persons in the field of labor and social security.

The European Social Charter is a document that contains more obligations towards people. It also enshrines the right of everyone to work (article 1), to just conditions of work (article 2), the right of women to special protection associated with motherhood (article 8), right to social security (article 12), right to family protection (article 16), and especially the right of workers with family on equal opportunities and equal treatment (article 27). The Charter requires to consider the socially important needs of employees with a family, guarantee their work and care for the family, prevent discrimination against them, and provide them with social security.

4. MODERN PROBLEMS OF REALIZATION OF THE RIGHT TO WORK BY EMPLOYEES WITH FAMILY RESPONSIBILITIES

Changes in the structure of the economy and the pace of its development are constant. They do not always have a good impact on the financial situation of families. Many problems are aggravated during economic crises and downturns because the earnings of economically active family members are necessary to meet the socially significant needs of all family members. A decrease in the level of earnings or its complete absence makes the very life of the family difficult.

The economic changes of the late twentieth century forced a rethink of the view of families. As G. Bonoli (University of Lausanne) points out, the post-war economy and society were based on stable families, with a clear division of roles between men and women. The continuous development of the economy allowed one of the spouses (usually a man) to work, while the other spouse managed the household, took care of children and elderly relatives [5]. However, S. Thewissen and D. Rueda (University of Oxford, UK) point out that changes in production techniques and innovations in the field of information technology create significant risks of loss of employment for people engaged in routine work, which can be replaced by automation [6].

S. Bothfeld and S. Rouault (Hochschule Bremen) call women's and children's dependence on the main breadwinner's income an insecure strategy in times of rising risk of unemployment. The instability of work, when only one of the spouses is engaged in work, forces women to go to work. So, a "second earner's" employment is increasingly considered as a crucial element of social protection against child poverty [7]. Although, unfortunately, there is no guarantee for a woman to get a permanent a high paid job, since she does not always have a high professional qualification. Despite efforts to promote gender equality such as equal treatment legislation, the expansion of childcare support and greater wage regulation, gender inequality persists [8]. Moreover, it is recognized that women are at the same time workers in the labour market and unpaid domestic workers in the home [9].

In addition, in recent decades, people's views on the family have significantly changed. Solidarity, the main feeling of people after the victory in the most difficult war of the twentieth century - The Second World War, was gradually replaced by individualization and personocentrism. The declaration of a human as the reason for the existence of the state and the world community inevitably led to a change in people's opinions about their place in the world. If earlier people more often followed traditions, chose marriage, family, and the birth of children, today many families are incomplete, due to a large number of divorces, and the reluctance of young people to start a family.

G. Bonoli points out that family instability is not unsafe itself, but it has adverse consequences in terms of the availability of means of livelihood, sometimes - their

absence, if the only parent of the child is not working [5]. According to A. E. Gutpa and A. C. Huston (University of Texas at Austin), job instability, low income, or low wages can even have a direct impact on a woman's health, causing depression and mental disorders [10].

Besides, the issue of care for children and elderly family members remains unresolved. Such activities in many countries have traditionally been assigned to families. In the 1970s, the external childcare was useful to mobilize women's labor supply for the labor market. But today in the EU the 'care issue' is almost exclusively debated as a matter of "de-familisation" - the outsourcing of care work to public or private services. Therefore, the system of institutions where young children and the elderly receive care is developed at a sufficient level not in all European countries.

The European social charter in this regard, specifies in article 27, that it is necessary to develop public or private social services, including kindergartens and other day-care institutions, or to promote their development. The goal is obvious - to allow employees with a family to work, earn income and fulfill socially important needs independently. ILO Recommendation R165 also contains a norm that Governments must promote policies aimed at facilitating the combination of work and family responsibilities, such as developing home-help and home-care services which can provide workers with family responsibilities, as necessary, with qualified assistance, at a reasonable charge. It is necessary to Governments to be oriented to the needs, rights and expectations of the citizens and the parents. Families will increase their labor supply if they meet decently regulated employment conditions and if care services offer reasonable quality standards. Social vulnerability and segmentation are to be combated by ensuring universal access to "quality early childhood education and care" [7] as well as the developed system of care for the elderly.

According to C. Pollak (Université de Sorbonne), there is a tendency to call such circumstances (instability of family income, inability to provide care for children and the elderly) - new social risks. Unlike traditional social risks (illness, disability, old age, etc.), they do not have clear signs and require deep analysis. She emphasizes that today people who used to be more protected, or there were fewer such situations, find themselves in difficult circumstances. New social risks need to be defined precisely, since they are too vague (low-income individuals, people in social isolation, people with insufficient qualifications, etc.) [11]. It is necessary to identify signs of new social risks and fix them in the law, because this is an issue of providing for such people with social security benefits. Recognizing new social risks means expanding the scope of social security, and possibly making major changes to it.

Russian scientists write about new social risks too. They attribute this to the development of a market economy. There are new categories of the poor and unemployed that need to be protected. In many foreign countries, the newest social risk is the need for long-term care [12].

The right to social security is one of the basic human rights in modern society. Pensions and allowances are provided

if it is impossible to meet socially significant needs independently (with the help of labor and wages). However, social dependency becomes a danger when a person loses the desire to take care of himself and his family independently. It is emphasized in the ILO Income Security Recommendation R067 1944 that social benefits should replace lost earnings, with due regard to family responsibilities, up to as high a level as is practicable without impairing the will to resume work where resumption is a possibility. Therefore, social security is most often temporary or partial support from the state.

Politicians, scientists, and public figures recognize that the protection of people in situations of social risk is more effective in a broad context – not only in the form of social benefits, but also in the form of opportunities to work, provide for their own livelihood, and meet socially significant needs. It should be noted that the protection of workers with families, who are very vulnerable in the market economy, is perceived by this strategy.

5. EXPERIENCE IN LEGAL REGULATION OF WORK OF PERSONS WITH FAMILY RESPONSIBILITIES IN RUSSIA

During its socialist period, Russia was isolated from the Western legal tradition by the Iron Curtain. There was no antidiscrimination regulation, but there was a principle of “uniformity and differentiation in labor law”. This meant that labor legislation was applied equally to everyone, but some specific categories of employees (youth, women, people with family responsibilities, disabled individuals, etc.) were given preferential consideration by the legislators, and special norms were provided for them [13]. Today Russian law regarding the employment of women and persons with family responsibilities shows an example of effective protection. Since the first acts - the foundations of factory legislation in Russia, this issue has been a priority.

The Labor Code of the Russian Soviet Federative Socialist Republic of 1918 marked the beginning of labor law. It contained rules on regulating the work of women and persons with family responsibilities. This shows that the state assessed the socially significant needs of different employees, the opportunities to meet them, and established special work rules for some of them.

The socially significant needs of all employees are the same. First of all, everyone needs to eat and dress in order to live, they need housing, and they need security. However, not all employees have the same opportunities to meet these needs. So, there are rules that can be applied only to some of them. For example, on October 5, 1936 the Council of People's Commissars of the Union of Soviet Socialist Republics (hereinafter referred to as the USSR) adopted the resolution No. 1813 on criminal liability for refusing a pregnant woman employment, as well as for reducing her salary. Thus, the need for security, stable

work, and the absence of anxiety for the future appeared in the labor legislation.

The state also paid attention to the biological role of women. Much attention was paid to additional requirements for the protection of women's labor and health. The Council of Ministers of the USSR in 1975 adopted Resolution No. 839 on the replacement of women's labor in underground work. The state defined industries, professions, and jobs with difficult and harmful working conditions, where women's work was prohibited. Physical activity for women who lifted and moved weights manually at work was abolished too. Maternity leave was gradually increased. On March 26, 1956 by the Decree of the Presidium of the Supreme Soviet of the USSR, it was increased from 77 to 112 calendar days, and in the early 90's - to 140 days.

However, even in Russia today, the role of the woman in the life of the family and society is changing. She is not only a mother, wife, and hostess, she is an active economic and political subject. The state has also realized the role of men in taking care of the family. This was reflected in the labor law by fixing the worktime standards of employees with the families. Today, the law takes into account changes in public consciousness, new values acquired under the influence of the media and the Internet, as they actively change people's motivation and behavior [14]. Therefore, the law reflects many phenomena that have already appeared in public life.

The social value of labor law also consists in the fact that it should preserve forms of work that are convenient for employees with a family. In 1981, in the USSR the Resolution "On the working conditions of homeworkers" has been adopted. The conclusion of an employment contract for work at home was primarily granted to women with children under 15 years of age and persons caring for disabled people, family members with serious illnesses. The woman was the main person who took care of and at the same time provided for the livelihood of children and other family members. Today, the Labor Code of the Russian Federation has a whole chapter devoted to work at home, but it does not contain a rule about the advantage of making an employment contract for working at home for employees with a family. These rules must be changed.

Beyond that, the development of digital technologies has made it possible to actively use Internet technologies and mobile communications. For many employees, working outside the workplace has become a reality. Remote work is a fact of modern life. It requires regulation by law. This explains the appearance in the Labor Code of the Russian Federation of a Chapter on the features of remote labor. Such rules fully correspond to the interests and needs of employees with a family. In addition, they are of interest to employers, as they make it possible to manage your organization more efficiently.

However, scientists note the lack of flexibility of legal regulation on this issue, S. Yu. Golovina drew attention to the fact that the standards of the Labor code of the Russian Federation allow applying the rules on remote work only to persons who work exclusively in remote access mode [15]. At the same time, many jobs that were previously

performed only in the workplace, due to the introduction of digital technologies, can be partially performed remotely, but require the presence of an employee at work at certain hours.

6. CONCLUSION

The study shows that problems of the labor of employees with family responsibilities exist in many countries. They did not appear at a single moment, but they became more acute due to changes in the economy. These problems require analysis in labor law and social security law since the goal of both branches is to allow a person to meet their socially significant needs. If an employee with a family is unable to work and receive a salary, or both work and care for the family are difficult, the person must receive support from the state and society. The protection of such workers should be aimed not only at receiving benefits, but also at providing them with opportunities to work.

In this regard, we believe that the shortcomings of Russian labor law shown in the article should be eliminated. First, it is necessary to develop work at home and give priority to such work not only to women, but also to all employees with a family. As for remote work, we note that the draft law No. 973264-7 "On amendments to the Labor code of the Russian Federation in terms of regulating remote work" has already been developed. This bill contains rules on the possible combination of remote work with work at the workplace in the organization. We believe that these rules are timely, but this opportunity should first be given to employees with a family. This will allow them not only to effectively combine work with family care, but also to guarantee their livelihood if the employee is the main source of income.

Summing up it may be said that labor law and social security law have a common goal - to allow people to meet their socially significant needs (food, clothing, housing, security). Labor law regulates the intense activity of people, creates guarantees of safe work and stable wages. However, when this legislation does not achieve its goal, social security law guarantees people support in the form of various benefits. This, in our opinion, is their mutual social value.

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