

O'ZBEKISTON – 2030: INNOVATSIYA, FAN VA TA'LIM ISTIQBOLLARI

**I RESPUBLIKA ILMIY-AMALIY
KONFERENSIYA MATERIALLARI**

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O‘ZBEKISTON — 2030: INNOVATSIYA, FAN VA TA’LIM ISTIQBOLLARI

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Isanova Feruza Tulqinovna

Annotatsiya

Mazkur nashrda “O‘zbekiston — 2030: innovatsiya, fan va ta’lim istiqbollari” nomli I Respublika ilmiy-amaliy konferensiyasi doirasida taqdim etilgan ilmiy maqolalar to‘plami jamlangan. Unda O‘zbekistonning turli oliy ta’lim va ilmiy-tadqiqot muassasalari, tarmoq tashkilotlari, mustaqil tadqiqotchilar tomonidan taqdim etilgan ijtimoiy-gumanitar, iqtisodiyot, huquq, biologiya, tibbiyot va boshqa sohalarga oid maqolalar kiritilgan. Maqolalarda ilm-fanning zamonaviy yo‘nalishlari, innovatsion texnologiyalar, ta’lim islohotlari hamda barqaror taraqqiyotga oid masalalar muhokama qilingan. To‘plam akademik izlanishlar, amaliy tajribalar va ilmiy xulosalarni birlashtirgan holda, fanlararo integratsiyani chuqurlashtirish va ilmiy hamkorlikni kuchaytirishga xizmat qiladi.

Kalit so‘zlar: ilmiy-amaliy konferensiya, innovatsiya, fan va ta’lim, O‘zbekiston 2030, barqaror rivojlanish, ilmiy izlanishlar, fanlararo integratsiya, ilmiy hamkorlik, texnologik taraqqiyot, zamonaviy ta’lim.

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PROHIBITION OF DISCRIMINATION IN NATIONAL LABOR LAW

Nizomova Khosiyatkhon Omonkhon qizi

Master's student of the Tashkent

State university of law

E-mail: nafisanizomova@gmail.com

Tel: +998 99 707 85 35

Tashkent, Uzbekistan

Abstract. The paper explores the prohibition of discrimination in labor and training in Uzbekistan. It highlights constitutional guarantees of equality and examines relevant legislation, including the Law on Equal Rights for Women and Men and Article 4 of the Labour Code. The distinction between direct and indirect discrimination is discussed, along with the need for clearer definitions of "performance qualities" and "result of work." The author proposes legal amendments to help courts better identify and prevent discriminatory practices.

Key words: discrimination, prohibition of discrimination, equality, direct discrimination, indirect discrimination, performance qualities of employee, result of work.

MILLIY QONUNCHILIKDA MEHNAT VA MASHG'ULOTLAR SOHASIDAGI KAMSITISHNI TAQIQLANISHI

Nizomova Xosiyatxon Omonxon qizi

Toshkent davlat yuridik universitet magistranti

Toshkent, O'zbekiston

Annotatsiya. Ilmiy izlanishda O'zbekistonda mehnat na mashg'ulotlar sohasidagi kamsitishga yo'l qo'ymaslik masalalari yoritilgan. Konstitutsiyaviy tenglikning kafolatlari va tegishli qonun hujjatlari, jumladan, "Xotin-qizlar va erkaklar uchun teng huquq hamda imkoniyatlar kafolatlari to'g'risida"gi Qonun hamda Mehnat kodeksining 4-moddasidagi normalari tahlil qilingan. To'g'ridan-to'g'ri va bilvosita kamsitish tushunchalari, shuningdek, "xodimlarning ishchanlik sifatleri" va "mehnati natijalari" ning aniqroq ta'riflari zarurligi muhokama qilinadi. Muallif sud amaliyotini takomillashtirish bo'yicha qonunchilikka qo'shimchalar kiritishni taklif qiladi.

Kalit so'zlar: mehnat na mashg'ulotlar sohasidagi kamsitish, kamsitishni taqiqlash, tenglik, to'g'ridan-to'g'ri kamsitish, bilvosita kamsitish, xodimlarning ishchanlik sifatleri, mehnati natijalari.

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Prohibition of discrimination in the field of Labor and training is one of the indispensable foundations of modern legal systems and is decisive in the protection of human rights and the provision of social justice. Discrimination is a violation of equality [1].

Constitution of Uzbekistan guarantees equality before law and equal treatment without any discrimination. Privileges are given according to law and conform the social principle of justice and humanity.

Moreover, the Law of the Republic of Uzbekistan "On Guarantees of Equal Rights and Opportunities for Women and Men" intended to ensure equality of men and women in all spheres of public and private life. It establishes legal mechanisms to prevent discrimination based on gender, promotes equal participation in social, political, and economic life, and guarantees equal rights in employment, education, and decision-making processes. The law also outlines responsibilities for state bodies and employers in promoting gender equality.

The principle of prohibition of discrimination is reflected on Art. 4 of Labour Code of the Republic of Uzbekistan. According to which, discrimination is the establishment of any direct or indirect restrictions, as well as the provision of any direct or indirect advantages in the sphere of work and occupation depending on gender, age, race, nationality, language, social origin, criminal record of relatives, property and official status, place of residence, attitude to religion, beliefs, membership in public associations, as well as other circumstances not related to the performance qualities of employees and the results of their work.

The definition of discrimination given by the legislator in Article 3 of the Labor Code allows us to conclude that the emphasis is placed on inadmissibility of establishing restrictions or preferences in the exercise of rights, the right to equality of opportunity and equal treatment in the sphere of labor.

It should be noted, the Labor Code of European countries recognize harassment as discrimination, including sexual harassment.[2]

In Labour code the term “prohibition of discrimination” is used, while in international law, as noted above, the concept of “non-discrimination” is used, reflecting a new level of requirements in the issue of eradicating discrimination.

Although the Code fully discloses the concept and essence of discrimination, the legislator does not explain what is meant by direct and indirect discrimination. Based on the theory, direct discrimination implies the explicit and open introduction of restrictions for one person compared to another on grounds not related to the personal performance qualities and results of the employee's work. Direct discrimination exists when unequal treatment occurs as a result of the direct application of laws, rules or practices that are expressed in a clearly different attitude on one specific ground [3, p.30]. For example, dismissal of an employee because of his religious beliefs or refusal to hire because of pregnancy.

Indirect discrimination is the opposite phenomenon Indirect discrimination is the opposite phenomenon, the creation of seemingly neutral conditions with equal treatment of all employees with the aim of placing a certain group in unfavorable conditions for labor activity [4]. The essence of indirect discrimination is reflected in the principle of proportionality between the goal and the legal means which the employer uses in order to achieve it [5]. Indirect discrimination is difficult to challenge in court, since the rules may appear objective. However, it can be proven if they negatively affect a certain group. For example, an employer refuses to consider candidates who do not have a permanent residence in the capital or the establishment of uniform working hours for all employees, thereby preventing employees from performing prayers.

Moreover, the definitions of concepts “performance qualities of employee” and “result of work” are not interpreted on the Code. M. Gasanov defines performance qualities as relevant professional qualifications and personal qualities necessary to execution of work [6, p.147-148]. The result of labor is the result, the final product or the fulfillment of the set tasks. This can be, for example, the number of completed projects, the quality of products, sales achievements or other measurable indicators. The result of labor shows how effectively the employee performs his duties. "The result of labor" is quite obvious: these are all changes in the economic entity and the environment (including other economic entities), which are a consequence of his labor [7, 65-68]. Thus, the result of labor evaluates the efficiency of work,

and business qualities - the ability of the employee to achieve these results. Any other factors unrelated to the quality of an employee's work performance or the results of their labor should be recognized as criteria for identifying discriminatory practices on the part of the employer.

It is important to understand that, preferences given to an employee in connection with his performance qualities and work results are not discrimination. For example, if several people wish to take the corresponding position, the employer has the right to choose the more qualified employee with more work experience.

In conclusion, it is deemed necessary to make amendments to Resolution Plenum of the Supreme Court of the Republic of Uzbekistan "On the practice of applying by courts the legislation regulating the termination of an employment contract" add clear definitions of concepts "performance qualities of employee" and "result of work", explain the differences of direct and indirect discrimination to protect employees from the negative consequences of seemingly neutral actions of the employer that have discriminatory consequences, and it shall be applied by the courts when determining the facts of discrimination.

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Mas'ul muharrir: *F.T.Isanova*
Texnik muharrir: *N.Bahodirova*
Diszayner: *I.Abdihakimov*

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