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Правовой статус женщины на примере законодательств Российской Федерации и мусульманских стран

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Аннотация: В статье приведено исследование правового статуса женщины в аспекте частноправовых отношений в Российской Федерации и исламских государствах. Выявлены основные различия в законодательстве этих стран, указаны примеры некоторых запретов в гражданской, семейной и трудовой правоспособности женщин.

Ключевые слова: Правовой статус женщины, трудовое право, семейное право, ислам, имущественное право.

The Legal Status of Women on the Example of the Legislation of the Russian Federation and Islamic Countries

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Abstract: The article presents a study of the legal status of women in the aspect of private law relations in the Russian Federation and Islamic states. The main differences in the legislation of the countries are revealed; some examples of prohibitions in the civil, family and labour legal capacity of women are given.

Keywords: Woman's legal status, Labour Code, Family Code, Islam, property rights.

The content of determining the legal status, including the woman's legal status, has changed depending on moral and ethical, socio-economic, scientific and religious worldviews.

The legal status of women has a significant impact on the main paradigms of gender relations, which contain the following aspects:

1. Rejecting double standards in relations between men and women;
2. Denouncing biological sex differences to justify the legal inequality of women in family and society;
3. Rejecting the existence of male or female rights and obligations in family and society, etc. [1].

Labour rights of women in the Russian Federation. Every citizen, regardless of gender, has the right for protection of honor and dignity during the working period. The Labour Code of the Russian Federation prohibits discrimination on the basis of sex, which means having equal rights when concluding an employment contract [2, v.3].

However, the rights protection of pregnant women and women with children concerns several legislative prohibitions:

- refusing to conclude an employment contract due to pregnancy or having children [2, p. 64];
- dismissing pregnant women at the employer's initiative (the same prohibition, with some exceptions, concerns women with children under 3, and single mothers with children under 14 [2, p. 261];

- establishing a probation period when concluding a contract with a woman expecting the child's birth, or having children under 1.5 [2, p. 70];
- sending pregnant women on a business trip and assigning them to work overtime on weekends or at night [2, p. 259];
- withdrawing pregnant women from vacation; replacing their vacation days with monetary compensation [2, v.126].

Pregnant women and mothers having children under 1.5 have an additional right for regular breaks intended for feeding the child. They may also require a transfer to another, easier job at the same enterprise [2].

Labour law in Islamic countries. In the Islamic Caliphate, women have actively participated in economic activities. In the XII century, Ibn Rushd argued that women are equal with men in all respects, and have equal opportunities. Nevertheless, in most countries of the Islamic world there is a division in "male" and "female" professions, with lower levels of women's employment and education compared to those of men. The reason for this phenomenon is indirectly due to behavioral patterns dictated by some prescriptions of the Islamic religion. A large family, acting in Islamic tradition as a kind of standard, serves for many Muslim women as a guideline according to which they arrange their lives and choose professions [3]. For example, in the UAE legislation, the government encourages women to participate in economic life; however, there are prohibitions on working at night for certain work types that are considered too dangerous for women [4].

Women's property rights in the Russian Federation. Modern women in Russia have the same rights to own and dispose property as men; they can possess real estate, cars or any other things. They have the right to be engaged in entrepreneurship, can establish companies or become shareholders, as well as dispose the profits received.

The law protects a woman's property rights in case of divorce. If the wife runs the household and takes care of the children, she has the same rights to jointly acquired property as the husband, who earns money.

Women's property rights in Islamic countries. Islam gives women the right to personal property. Due to the lack of financial obligations for women (i.e. for the family

maintenance), a man has more property rights, i.e. to fully provide the family with everything necessary, at the conclusion of marriage to give his wife property that becomes her possession. However, Islamic women historically have had ownership rights. Islam allows women to work under certain conditions, for example, a woman cannot stay alone with men. Her job activity should not interfere with more important things, such as raising children. It is preferable that women rather than men work in women's educational institutions and sports centers. Some Islamic schools do not give a woman the right to take the position of a judge. Others (Hanafi madhhab) speak of a ban only on the criminal court and allow to conduct civil cases. These restrictions in rights are associated with the desire to protect a woman from the burden of dealing with violent criminal cases.

Women's family rights in the Russian Federation. Socio-economic rights also include family rights. According to the Family Code of the Russian Federation, both spouses have equal rights to raise children and for the property acquired in marriage.

Issues of motherhood and fatherhood, children upbringing, property (unless stipulated in the marriage contract) and other issues related to the family must be jointly resolved. The wife, as well as the husband, have the right to keep their surname, take the surname of the spouse or combine the two surnames together.

The Family Code of the Russian Federation protects the rights of women who stay at home with a child and do not have earnings. In this case, the spouse has the right to any property that the husband has bought with his own money. Transactions with joint property in marriage take place with the mutual consent of both spouses [6, v.34].

Women's family rights in Islamic countries. The Holy Koran says: "The man is the guardian of the woman, therefore Allah has given one of them an advantage over the other and therefore they spend out of their possessions."

Islamic women can marry only a Muslim. Muslims explain this by saying that a non-Muslim man as the head of a family can set a bad example for children. If the husband is a Gentile and the wife is a Muslim, then the children are highly likely to cease to be Muslims and will be brought up in a gentile tradition. On the other hand,

the Holy Koran allows Islamic men to marry women from among the "people of the Scripture" (Christians and Jews), although this is reprehensible, it is not prohibited.

According to Muslim traditions, the wife is completely subordinate to her husband. The main role of a woman is reduced to the family, offspring reproduction and child care, while the role of a man is to financially support the family.

Men are allowed to have up to four wives. According to some Islamic theologians, a woman has the right to prescribe a condition in the contract which forbids the husband to take the second and subsequent wives without her approval.

The most important terms of the marriage contract are:

- The marriage stability and complying with the contract terms by each of the spouses; establishing inheritance between the two parties;
- The husband is obliged, despite the contract to pay a wedding gift (mahr); to assume supporting the wife, providing her with food, clothing, housing, etc.
- The wife is charged with approving the husband's right to her upbringing since the husband is the head of the family; submitting everything to her husband. The wife should be tied to his house. Therefore, if there is no need, she cannot leave the house without her husband's permission [6].

The legislation in Islamic countries periodically undergoes changes regarding the expansion of women's legal capacity. For example, since 2015, the Board of Directors of an organization must include at least one woman.

Thus, women in the Russian Federation have greater legal capacity than in Islamic countries. This indicates the traditionally established foundations in Islamic states, despite economic development, social, spiritual and political structure progress.

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