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BAN ON THE PROFESSION FOR WOMEN IN RUSSIA

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Abstract

The article is devoted to the difficulties in professional fulfilment for women in modern Russia. The age-old legal prohibition on women's work in a number of professions is discriminatory on the basis of gender, as scientific and technological progress, automation and the increasing level of environmental control every year allow women to work in less severe, harmful and/or dangerous conditions than before. Women have the right to apply for jobs in the industries they are interested in, based on a positive assessment of their physical capabilities. Russia is one of the world's record-setting countries for the number of restrictions on women's choice of profession. This situation needs to be resolved, as year after year more and more women are denied entry into the profession, even when they have received the appropriate education.

The paper deals with the cases of citizens Svetlana Medvedeva and Anna Grigorieva, who managed to achieve the protection of their right to work in their chosen professions – a motorist-helmsman and a gravure printer, respectively.

Due to the active position of Russian women, infringed in their labor rights, in 2020, changes in the Russian legislation are planned to be introduced, according to which the current list of prohibited professions for women will be reduced by almost 6 times, and the changes themselves are proposed for discussion, including public, which is very important to reflect in the adopted act the real demand of the labor market.

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1. Introduction

In Russia, since Soviet times, the work of women in a number of professions is officially banned. This restriction is determined on the basis of the harmfulness of a profession (Labour Code of the Russian Federation, 2001; Determination of the Constitutional Court, 2012). Today, women, in accordance with Government Resolution No. 162 of 25 February 2000 “On approval of the list of heavy work and work with harmful or dangerous working conditions, in the performance of which the use of women's labor is prohibited” (Government Resolution of the Russian Federation, 2000), cannot perform 456 types of work (Figure 01). This problem needs to be solved, because in today's world such a broad restriction discriminates against women.



Figure 01. Firefighter – one of the prohibited professions for women in Russia

2. Problem Statement

This research is aimed at studying the question of the necessity of the existence of restrictions on women in the choice of profession, its validity in the past and present.

3. Research Questions

- 3.1. Why were the restrictions imposed on women's choice of profession in Russia?
- 3.2. Do these restrictions discriminate against women?
- 3.3. What is the international experience in this matter?
- 3.4. Is such an extensive list of restrictions relevant today, taking into account scientific and technological progress, automation and improvement of environmental control?

4. Purpose of the Study

The purpose of the study is to substantiate the need to revise the current List of heavy work and work with harmful or dangerous working conditions, in the performance of which the use of women's labor is prohibited due to its discriminatory nature in the modern realities of Russian life

5. Research Methods

Equality of sexes and opportunities is declared in Russia. At the same time, the state protects motherhood and childhood. A woman may not work, for example, as a diver, firefighter, carpenter, plumber, excavator driver, diesel locomotive driver, electric locomotive driver, electric train driver and their assistant, train and subway train driver, baggage and hand luggage porter at airports, work underground in mines and in the construction of underground structures.

The list includes many professions related to manual labor and representing a high risk of injury. The government of the Russian Federation has defined norms for women that limit the maximum permissible loads “when lifting and moving heavy loads manually” (Government Resolution of the Russian Federation, 1993): it is allowed to lift and move constantly during the working day up to 7 kg of weight, and when alternating with other activities – up to 10 kg, including containers and packaging. In comparison, in France, women are not allowed to be engaged in activities involving carrying weights of more than 25 kg in their hands and 45 kg on a cart or wheelbarrow.

For the employer, Russian legislators have left the right to bypass these restrictions if he / she creates a safe working environment, which is not easy to do, since in addition to the direct costs of changes to working conditions, it is required to complete the certification of the workplace with the necessary conclusion of the State Expertise on Labor Conditions and Sanitary Inspection Service of the Russian Federation (Government Resolution of the Russian Federation, 2000). In practice, this possibility is practically not realized, especially since this necessity usually arises in relation to only one potential employee – yet these are exceptional cases when women want to be engaged in a dangerous or difficult activity.

Various restrictions on the choice of profession by women are imposed in many countries of the world. Thus, the Convention of the International Labor Organization No. 45 of 21 June 1935 “On the employment of women in underground work in mines of any kind” prohibits the employment of women in underground work in mines. In some countries, there are quite specific restrictions for the world practice. For example, in the UAE, women are prohibited from being engaged in activities related to animal droppings; in Saudi Arabia, women cannot work as drivers, including cars; in the Republic of Belarus, women are not allowed to work at a height of more than 1.3 meters when harvesting fruits and medicinal raw materials from shrubs and growing trees; in Kyrgyzstan, women are prohibited from cutting red fish heads; in Madagascar, even criminal liability is provided for women handing out leaflets, posters and other printed materials.

Nevertheless, according to the data of Human Rights Report of 2018, the most impressive lists of restrictions on women in the admission to the profession are provided for in 9 countries of the former USSR: Azerbaijan, Belarus, Moldova, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Turkmenistan and Uzbekistan, which, of course, is a legacy of Soviet legislation and practice. At the same time, the greatest limitation is provided not by the Russian legislation, but by the legislation of the Republic of Uzbekistan – 477 professions (Human Rights Report, 2018).

The norm prohibiting women from working in certain professions in Russia was first provided for in the Labor Code of 1918. But if initially these restrictions concerned women of childbearing age, as

well as those who had medical contraindications for a certain type of work, in modern Russia they have spread to all women.

It should be noted that many professions prohibited for women, refer to prestigious and well-paid, therefore, the restrictions, in addition to other discriminatory consequences, exacerbate sectoral differences in employment of men and women, where women in their majority work in low-paid sectors (Buchanan, 2014; Tyrowicz, Van der Velde, & Gorau, 2018; Vahidi, & Lebegue, 2017; Vinokurova, & Vinokurova, 2015).

What are the restrictions substantiated with? In addition to the physical characteristics of women, having, compared to men, on average, less height, weight, as well as physiological characteristics associated with their reproductive system, there is a number of occupational diseases, which the fair sex has stronger liability to.

Research in this direction was carried out both in Soviet times (Alekseev & Usenko, 1988), and today (Hygienic Requirements to Working Conditions for Women, 1996; Methodical Recommendations, 2002; Moskovskaya & Bulygina, 2018; Fomin, Igishin, Fadeev, & Anisimov, 2018; Kondratieva, Kravchenko, & Loktionov, 2019). According to statistics, the proportion of women among all workers with occupational diseases is only about 30%. But this is due to their limited access to hazardous work. The main occupational diseases, to which women are more inclined, are diseases of the respiratory system, spine, bone and muscle systems, connective tissue, organs of the gastrointestinal tract. In men, poisoning and injuries come out in the first place, which, however, in terms of the number of days of disability, are inferior in duration to women's diseases. Women, like men, suffer from diseases of the heart and blood vessels, but they are different in structure: women often have varicose veins, hypertension, thrombophlebitis, but less often a heart attack. Women often suffer from arthritis and rheumatism, and diseases of the urinary system are mainly represented by cystitis. Much more emotional by nature, women have much stronger than men liability to diseases of the central nervous system - neuroses, mental disorders. Also, allergic reactions, dermatitis, vibration and noise pathology, the consequences of harmful effects of chemicals in women are more common.

Why do women around the world continue their struggle to find jobs that are traditionally considered to be men's jobs? There are those who attribute this to the advance of feminism. However, some believe that the reason is a basic desire to earn more (Kiregian, 2015). Often men lose interest in the job, in which the level of wages in relation to the average for the region falls, a woman can be satisfied with it. Also, the modernization of production has largely helped to equalize the opportunities for men and women. An important role is played by the global trend and fashion for certain types of professions. For example, now every year the proportion of women working as system administrators is growing.

What is very important, the Federal Law No. 273-FL of 29 December 2012 "On Education in the Russian Federation" (Art.5) guarantees the right to education of every person regardless of gender. Therefore girls, women can get education even in those specialties in which they won't be able to work later because of the existing restrictions. But the right to education is not limited to obtaining a diploma as such. Women should be able to enter the profession. In China, for example, women were not allowed not only to work, but also to study mining, which was economically feasible, since the state's education costs have to be repaid.

In Russia, the following situation was possible: Svetlana Medvedeva, a resident of the town of Samara, having received education in the specialty “Navigation on inland waterways and coastal navigation”, in 2012 tried to get a job in LLC “Samara River Passenger Enterprise” for the position of “motorist-helmsman”, but due to the fact that this work is in the list of prohibited for women (The List of heavy work with harmful or dangerous working conditions, in the performance of which the use of women's labor is prohibited, 2000), the shipping company rejected her application.

She spent five years fighting for her constitutional and labor rights. The Russian courts did not recognize discrimination and violation of labor rights against S. Medvedeva, as the employer followed the Russian legislation, which enshrines professional prohibitions that protect the “reproductive health of women” from harm. The plaintiff emphasized that having two children, the priority for her are professional development and career growth. But the Supreme Court of the Russian Federation justified its decision by the norms of the Convention No. 111 of the International Labor Organization “On discrimination in employment and occupation” of June 25, 1958, according to which any differences, exceptions or preferences justified by specific requirements related to a particular job, as well as the provisions of the United Nations Declaration “On the elimination of discrimination against women” of November 7, 1967, are not discriminatory, according to which measures to protect women's health in the performance of certain types of work are not discriminatory, if they were taken in accordance with the physiological characteristics of the female body.

S. Medvedeva sent an individual complaint to the UN Committee on the elimination of discrimination against women, which on February 25, 2016 in its Decision – Opinion – supported all the arguments of the applicant. The Committee noted that Russia had not provided scientific evidence to substantiate the inclusion of the profession “motorist-helmsman” in the List of prohibited jobs for women, namely that there is a negative impact of noise on the female body. It was also taken into account that Russian legislation does not provide for a special restriction for men to work in unsafe working conditions, even in cases where the risks to their reproductive health are known.

The Committee demanded that the Russian authorities pay S. Medvedeva compensation; ensure her access to work in accordance with her qualifications; make the necessary changes to Russian legislation so that possible restrictions are aimed at protecting maternity (the health of pregnant and lactating women), without impeding the access of all women, without exception, to professional fulfilment.

The Opinions of the UN Committee are executed by Russia on a voluntary basis. The execution of the decision on the case of S. Medvedeva was complicated by the fact that the position of the International Body is in conflict with the position of the Constitutional Court on the same issue (Determination of the Constitutional Court, 2012).

The Samara District Court first, followed by the Samara Regional Court pointed to the advisory nature of the above-given Opinion of the UN Committee and the non-binding nature of its execution. But the Supreme Court of the Russian Federation recognized it as a new circumstance, sending the case of S. Medvedeva to the court of first instance for review.

As a result, the refusal of the employer to accept the applicant for a position from the “list of prohibited professions” in September 2017 was recognized by the court of first instance as illegal. At the

same time, the court did not oblige the employer to employ S. Medvedev, having accepted the argument of the shipping company about “absence of vacancies”; S. Medvedev did not use the right to compensation of moral harm from the defendant, having considered that compensation has to be paid to her by the state.

6. Findings

Despite the fact that S. Medvedeva could not achieve satisfaction of her demands in full, her desire to achieve justice helped to change the situation:

- She currently works as a captain-mechanic of the boat at the petroleum refinery (The transgender-printer defeated the system, n.d., paragraph 1).
- In 2016, the Supreme Court of the Russian Federation issued a Review of Judicial Practice, in which it pointed to the need to take into account the Opinion of the UN Committee on the elimination of discrimination against women expressed in the case of S. Medvedeva in law enforcement practice. This, for example, played a decisive role in the victory in the resonant case of Nikolai Grigoriev. Having worked over 10 years as a gravure printer at the LLC “Janoschka Pavlovsk”, which is part of the German concern JanoschkaGroup, in 2017 he underwent hormone therapy and surgery, then had a sex change procedure, officially received a new passport and became Anna. Under Russian law, a woman cannot be employed as a gravure printer because it is classified as a harmful job. The employment contract with Nikolai (Anna) was terminated by the employer “due to circumstances beyond the will of the parties”. Anna assessed the actions of the employer discriminating on the basis of gender and decided to defend her rights in court. As a result of almost two-year struggle, the claims of Anna Grigorieva were partially satisfied by Frunzensky District Court of St. Petersburg in April 2019: the court found the dismissal unwarranted, awarded the payment for the time of enforced idleness in the amount of 1 849 920 rubles, ordered the defendant to compensate moral harm to the plaintiff in the amount of 10 000 rubles (though the sum of 50 000 rubles was specified in the claim).

In 2019, the Ministry of Labour and Social Protection of the Russian Federation announced the revision of the list of prohibited professions for women. The government prepared the draft Order “On approval of the list of productions, works and positions with harmful and (or) dangerous working conditions at which work of women is limited” (Draft Order, n. d.), the entry into force of which is scheduled for January 01, 2020. The current list of 456 types of work was reduced to 79. Women, for example, will be able to drive trains, river and sea transport. The most difficult and dangerous types of work, such as, for example, work as firefighters, divers, miners, will still remain unavailable for them. The project is subject to discussion, including public, which is very important to reflect the real demand of the labor market in the adopted act.

7. Conclusion

Nevertheless, based on the foregoing, even if the legislator changes the labor legislation in terms of restricting the use of women's labor in jobs with harmful or dangerous working conditions, women themselves need to soberly assess their abilities and risks of the profession for their health. After all, in the pursuit of equality or a dream, it is sometimes easy to irretrievably lose health and spoil the quality of life.

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