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ISSUES OF IMPROVING THE LEGAL FRAMEWORK FOR STATE CONTROL AND VERIFICATION OF COMPLIANCE WITH LABOR RIGHTS OF EMPLOYEES

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Abstract: this article analyzes the norms of the Constitution and legislative acts adopted in the new edition as the legal basis for state control and inspection of compliance with labor rights of employees. In particular, systemic problems in the norms of the law are studied based on the experience of the legislation of foreign countries. In the article, the author substantiates the need to improve legislation, in particular, to develop and adopt the law "On state control of the activities of business entities".

Keywords: labor rights, Constitution, state control, inspection, supervisory bodies, employee, business entity, business entity, individuals

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Introduction

Labor legislation, in particular, issues related to state control and inspection of compliance with labor rights of employees, their types, specially authorized state bodies in this area and their powers, and the procedures for implementing state control and inspection are enshrined in various legislative documents.

Some scholars also put forward the idea that when complying with labor legislation, attention should be paid only to compliance with labor rights of employees. In this regard, they conclude that employers do not feel any need to protect their rights[1].

Methods

The method described in the statement above involves a multi-faceted approach to the development and implementation of a green curriculum in Nigerian schools. It emphasizes the importance of adequate funding to support several key stages: effective planning, hiring of green curriculum experts, continuous training and retraining of professionals, smooth implementation, supervision, and development of infrastructure. The process begins with careful planning, which requires mobilization of resources and financial commitment to ensure the green curriculum is properly designed and aligned with national priorities. The employment of experts with specialized knowledge in green education is crucial for the practical implementation of the curriculum. Additionally, regular training and retraining programs are needed to equip educators with updated skills to effectively teach the curriculum. The implementation stage involves the actual execution of the planned curriculum, which requires sufficient resources, including facilities and teaching materials. Supervision is also critical, as it ensures that the curriculum is properly monitored and evaluated for effectiveness. Lastly, the development of green infrastructure, such as eco-friendly facilities, is necessary to support the practical aspects of the curriculum, with funding playing a key

role in every stage of the process.

Result and Discussion

Here, let us pay attention to an interesting point. In the course of studying legislative documents and scientific research related to state control and inspection of compliance with labor legislation, we see that they mainly focus on protecting the labor rights of employees.

In particular, in Article 5 of the Law "On Labor Protection", 3 of the 9 main directions of state policy in the field of labor protection are directly aimed at protecting the interests of employees. The main directions of state policy are ensuring the priority of the life and health of the employee, encouraging the development and introduction of safe equipment, technologies and means that protect employees, and providing social protection to employees who have suffered from industrial accidents or have suffered from occupational diseases.

Section 7 of the Labor Code also provides for relations related to the protection of the labor rights of employees, in particular, the main methods of protecting labor rights and the procedure for their implementation.

In addition, we can see that the main attention in the scientific research of national scientists is also focused on the protection of the labor rights of employees. For example, the scientific research work carried out by the national legal scholar M.A. Rakhimov in 2021 is also directly devoted to a comparative legal analysis of the protection of the labor rights of employees, while the research work of the national legal scholar D.S. Atazhanova studied the issues of protecting the labor rights of women and persons engaged in performing family duties[2].

Based on the above, we can conditionally divide the normative legal acts regulating the issues of state control and inspection of compliance with labor rights of employees into the following 2 types:

- 1) The Constitution of the Republic of Uzbekistan;
- 2) Laws of the Republic of Uzbekistan;

The Constitution of the Republic of Uzbekistan is an important source guaranteeing the labor rights of employees. The importance of the Constitution as a basic document is manifested in the following:

- a) The Constitution guarantees the most basic labor rights of employees.

In turn, Article 42 of the Constitution also guarantees a number of basic labor rights, including decent work, free choice of profession and type of activity, work in comfortable working conditions that meet safety and hygiene requirements, and fair wages for labor.

At the same time, Article 44 of our Basic Law strictly prohibits any forms of forced labor and child labor that endanger the health, safety, morals, mental and physical development of the child, including those that impede his or her education.

The new Constitution, in addition to being a legal guarantee of fundamental labor rights, also provides for important rules related to ensuring their observance, as well as state control and inspection over their observance.

As we have seen, our Constitution, adopted in the new edition, has established important rules related to the implementation of fundamental labor rights of employees and state control over their observance.

The laws of the Republic of Uzbekistan play an important role in the system of legislative acts devoted to the implementation of state control and inspection over the observance of labor rights of employees.

It should be noted that the Law of the Republic of Uzbekistan “On State Control over the Activities of Economic Entities”, adopted on 24.12.1998, plays an important role in the system of such laws.

This Law is directly aimed at comprehensively regulating relations related to state control over the activities of economic entities, and regulates such issues as the forms of state control over the activities of economic entities, basic principles, requirements for inspection officials, the grounds and periodicity of inspections, the rights and obligations of inspected economic entities, and the rights and obligations of officials of control bodies.

A noteworthy feature of the Law “On State Control over the Activities of Economic Entities” is that it considers inspections as a form of state control, without providing for separate procedures for state control and inspection.

In particular, the Law provides for the following 3 forms of state control over the activities of economic entities:

- a) inspection, including inspection in the form of audit and control;
- b) analysis of statistical information and other information;
- c) conducting inspections of bodies under the authority of the department.

In turn, although the Law treats inspections as an independent form of control, the inspections themselves are divided into several types. The Law lists the following types of inspections:

- 1) scheduled inspection;
- 2) short-term inspection (or unscheduled inspection);
- 3) inspection of the activities of individual entrepreneurs;
- 4) inspection of business entities not related to the inspection of their economic activities;
- 5) comprehensive inspection;
- 6) inspection in the form of supervision;
- 7) pre-investigation inspection;
- 8) tax inspection;
- 9) inspection (audit) of financial and economic activities.

As we have seen, the mentioned Law defines 9 types of inspections as a form of state control, and it should be noted that all of them are applied directly to the activities of economic entities.

At this point, let's clarify what entities are meant by the term "economic entity". Although the Law "On State Control of the Activities of Economic Entities" is directly aimed at regulating relations related to the control of the activities of economic entities, it itself does not provide an explanation of the concept of "economic entity".

Only in Section 8 of the current Criminal Code, which is devoted to terms, the concept of "economic entity" is defined as enterprises and citizens engaged in entrepreneurial activities, regardless of the form of ownership.

As we have seen, the term "economic entity" refers to an enterprise that is a legal entity or an individual entrepreneur.

At this point, let's briefly dwell on the concept of "enterprise". Article 40 of the current Civil Code establishes that a legal entity that is a commercial organization may be formed in the form of a business company and society, a production cooperative, a unitary enterprise, and in other forms provided for by law.

Although the above norm does not directly refer to an enterprise, it is strictly established that a unitary enterprise is considered a commercial organization.

At the same time, Chapter 7 of the Civil Code, devoted to material benefits, provides an

explanation of the concept of "enterprise" that the entire enterprise is considered real estate as a property complex[3].

In addition, Article 5 of the Law of the Republic of Uzbekistan "On the contractual and legal framework of the activities of economic entities" No. 670-I dated August 29, 1998, legal entities, as well as individuals carrying out entrepreneurial activities without forming a legal entity, are subjects (parties) of economic contracts.

As we have seen, the concept of "economic entity" is given different interpretations in various legislative acts. In our opinion, this situation is connected with the time of adoption of both of the above laws.

For example, the Law "On the contractual and legal basis of the activities of economic entities" was adopted on 29.08.1998, and the Law "On state control over the activities of economic entities" was adopted on 24.12.1998.

In our opinion, the concept of "economic entity" used in both of the above laws is morally outdated today. For example, if we analyze the legislation of foreign countries, we will see that state control is applied to business entities in them.

For example, the above-mentioned relations are regulated in Russia by the Law of December 26, 2008 "On the Protection of the Rights of Legal Entities and Individual Entrepreneurs in the Conduct of State Inspection (Supervision) and Local Inspection"[4].

The Labor Code of Kazakhstan lists the following three elements of control over compliance with labor legislation:

- a) state control (Chapter 38);
- b) internal control over labor protection and safety (Chapter 39);
- c) public control over compliance with labor legislation of Kazakhstan (Chapter 40)[5].

At the same time, issues related to the implementation of state control and inspection over compliance with labor legislation are also regulated by the Entrepreneurship Code of the Republic of Kazakhstan, adopted on October 29, 2015. In particular, Article 135 of this Code provides for the following two types of state control:

- 1) supreme control carried out by prosecutor's offices on behalf of the state;
- 2) control carried out by authorized state bodies in accordance with the conditions and procedure established by the legislation[6].

In Moldova, special attention is paid to the legal regulation of state control over business entities. For this purpose, the Law "On State Control" was adopted on June 8, 2012. Article 1 of this Law establishes as its purpose the norm on legal regulation of relations in the field of state control over business activities[7].

Based on the above, it is advisable to reconsider the concept of "economic entity", replacing this concept with the concept of "entrepreneurial entity", and to apply state control and inspection measures only to the activities of business entities.

Article 19 of the Labor Code provides for the following entities that may act as employers: organizations, regardless of their form of ownership and departmental affiliation; branches, representative offices or other separate structural divisions of organizations; individuals.

As we have seen, individuals can also be employers. This raises the question of whether any individual can be an employer.

The answer to this question is clearly defined in the Labor Code, according to which the legal capacity and transactional capacity of an employer who is an individual entrepreneur arise from the

moment he is registered as an individual entrepreneur.

Thus, an economic entity can be a subject subject to state control and inspection of compliance with labor legislation.

Thus, an individual, after state registration as an individual entrepreneur, can become a subject of labor relations and is obliged to comply with the requirements of labor legislation, including the labor rights of employees.

State control and inspection are carried out by economic entities that are considered employers over compliance with labor legislation.

As we have seen above, state control measures are carried out over the observance of labor legislation by economic entities, as well as the labor rights of employees. Let us explain how many of the three forms of state control established by the Law "On State Control over the Activities of Economic Entities" can be applied.

It should be noted that the forms of control applied to economic entities are directly related to their content and nature.

The current Law lists three forms of control as inspection, including inspection, inspection in the form of control, analysis of statistical information and other information, and inspection of bodies under the supervision of the department.

Here, inspection is understood as a one-time control by the control bodies over the implementation of laws and other legislative acts regulating their activities by economic entities[8].

Therefore, an authorized state body may conduct an audit of the compliance of an economic entity with labor legislation, including the labor rights of employees.

The current Law defines the concept of auditing the financial and economic activities of an economic entity, that is, auditing, as the study and comparison of accounting, financial, statistical, banking and other documents of economic entities in order to exercise control over compliance with tax and currency legislation.

In this regard, a reasonable question arises as to whether it is possible to conduct an audit when verifying compliance with labor legislation by an economic entity, as well as the labor rights of employees.

In accordance with the current Law, the procedure for conducting audits of financial and economic activities during pre-investigation inspections and in connection with initiated criminal cases is regulated by criminal procedural legislation.

It is clear from the above norm that if the violation of an employee's labor rights is associated with a crime (for example, evasion of taxes or fees (Article 184-m of the Criminal Code), the financial and economic activities of the business entity may be audited.

The current Law defines a supervisory audit as one of the forms of state control over the activities of business entities.

The Law "On State Control over the Activities of Business Entities" defines the concept of a supervisory audit as an audit conducted by the supervisory authorities to ensure that business entities eliminate violations identified during a previous audit.

The following two conclusions can be drawn from the above definition:

a) a supervisory audit is conducted only in order to eliminate violations identified during a previous audit;

b) this type of audit is carried out only by supervisory authorities.

At this point, let's clarify the concept of a supervisory body. According to the law, the term "supervisory body" means ministries and departments authorized by law to control the activities of

economic entities by the state.

Thus, the above norm recognizes any body authorized to control in legislative acts as a supervisory body.

At this point, let's pay attention to another issue. The Decree of the President of the Republic of Uzbekistan "On Measures to Implement the New Administrative Reforms of Uzbekistan" No. PF-269 dated 21.12.2022 defines the concept of "inspection", according to which it is determined that it is a republican executive body that carries out state control and inspection in relevant sectors and industries, as well as operates under the organizational subordination of the ministry[9].

At the same time, the aforementioned Decree strengthens the concept of a "ministry" as a republican executive body that develops and implements a single state policy in the relevant areas, coordinates the activities of executive authorities in a certain direction, and organizes management activities in the system on a one-man basis.

Thus, based on the above definition, we can reasonably conclude that only inspections are considered supervisory bodies, and ministries are not supervisory bodies.

However, Article 534 of the current Labor Code establishes the Ministry of Employment and Labor Relations of the Republic of Uzbekistan as the body that exercises state control and inspection over compliance with labor legislation, other legal acts on labor, and labor protection rules.

Based on this point of view, it is proposed to clarify the concept of "supervisory body" and eliminate inconsistencies in legislative acts.

In our opinion, it is appropriate to define the concept of "supervisory body" as follows:

"supervisory bodies are ministries, departments, their structural divisions and other organizations authorized by law to exercise state control over the activities of business entities".

At the same time, although it seems logical that the form of state control over the activities of employers can be applied by supervisory bodies, it should be noted that the current legislation does not provide an answer to the question of the procedure and terms for conducting this form of control.

The Law provides for the analysis of statistical information and other information as a form of state control over the activities of business entities.

At the same time, Article 4 of the above-mentioned Law is limited to the norm that the analysis of statistical information and other information shall be carried out in accordance with the legislation.

It should be noted that to date, no legislative acts contain a procedure for the analysis of statistical information and other information.

In this regard, it is advisable to establish in the legislation specific mechanisms for implementing state control through the analysis of statistics and other information and conducting inspections.

The subjects of inspection of bodies under the supervision of the department, as well as the procedures for this type of inspection, are not specified in the current legislative acts.

Therefore, the fact that the inspection of bodies under the supervision of the department, listed as one of the forms of state control in Article 4 of the Law "On State Control over the Activities of Economic Entities", includes control over compliance with labor legislation, in particular, labor rights of employees, does not allow us to make any judgments about the content and nature of this inspection.

In particular, although Article 4 of the aforementioned Law stipulates that inspections of bodies under the supervision of the department shall be carried out in accordance with the legislation, there is no procedure for conducting such an inspection in any legislative act.

Another problematic issue in the Law "On State Control of Business Entities" is that 9 types

of inspections are defined as a form of state control, but the terms and mechanisms for their implementation are not defined.

Conclusion

Based on the above, as well as taking into account the current obsolescence of the Law “On State Control over the Activities of Business Entities”, it is proposed to develop a draft Law of the Republic of Uzbekistan “On State Control over the Activities of Business Entities” and provide for the following in it:

- 1) to establish specific mechanisms for the implementation of state control through preventive measures, monitoring, analysis of statistics and other information, and inspections;
- 2) to introduce the implementation of preventive measures by means of legal propaganda based on targeted programs approved by the supervisory authorities on a quarterly basis;
- 3) to introduce a modern mechanism for coordinating state control. In this case:
 - all inspections must be registered by the supervisory authorities in the Unified System for Electronic Registration of Inspections;
 - registration implies the implementation of the inspection by agreement with the authorized body for the coordination of inspections or by notifying it of the inspection;
 - to establish that inspections conducted on the basis of applications from individuals and legal entities on cases of violations of legislation, information from state bodies and their structural units, information received from the media and other information sources, shall be conducted in agreement with the authorized body;
- 4) to establish strict deadlines for conducting inspections;
- 5) to establish the grounds for refusal of an official of a supervisory body to participate in an inspection;
- 6) to establish a strict list of supervisory bodies and their control functions in the appendix to the draft law, establishing procedures that provide for the following:
 - a) it is prohibited to conduct control measures in the activities of business entities by bodies and organizations not included in the list;
 - b) conducting inspections in the activities of business entities by bodies and organizations not included in the list shall be considered as illegal interference and obstruction of business activities.
- 7) determine the rights and obligations of entrepreneurs and officials involved in the inspection;
- 8) determine the mechanism for implementing the results of the first inspection, i.e., the consideration of the inspection materials and results by the head of the supervisory body with the participation of the entrepreneur for the purpose of making a reasoned decision;
- 9) introduce a mechanism for conducting post-inspection analysis, i.e., the procedure for identifying the causes of systematic violations committed by entrepreneurs based on the information obtained from the inspection, as well as developing proposals for their prevention;
- 10) establish a mechanism for assessing the effectiveness of the activities of supervisory bodies. The development and adoption of the draft Law of the Republic of Uzbekistan “On State Control of the Activities of Business Entities” will serve to implement effective state control over compliance of employees with labor legislation by business entities.

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