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Adoption of the law on combating human trafficking – A new milestone in the development of the legal policy of the Republic of Kazakhstan

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Abstract

Relevance. The relevance of the article is due to the need to study the problems of forming a legal policy to combat human trafficking, and subsequently to create an effective legislative regulation of this area.

Purpose. The purpose of the article is to assess the legal policy, as well as the legal status in the field of legislative regulation of combating human trafficking in the Republic of Kazakhstan and to analyse the draft law developed in this area.

Methodology. Such methods as dialectical, comparative legal, method of induction and deduction, analysis and synthesis, and functional method were used to achieve this goal.

Results. The peculiarities of the formation of a new legal policy in the field of combating human trafficking are revealed. The connections of the legal policy of combating human trafficking in the Republic of Kazakhstan with other areas of state policy are characterized. The article considers problems of forming a global legal policy to combat human trafficking, which is recognized as transnational organized crime. Scientific provisions are formed to improve the legal policy in the field of combating human trafficking. The particular importance of the need to modernize the legal policy and adopt a separate law on combating human trafficking is emphasized.

Conclusions. The conclusions obtained in the article develop criminal law science, criminal political science and contribute to the solution of practical issues regarding the prevention and suppression of human trafficking.

Keywords: forced labor; human exploitation; legislation; crime victim; illegal migration.

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Introduction

Legal policy is one of the many areas of state policy, including economic, environmental, foreign, migration. Each policy area is carried out on the basis of a developed concept approved by official documents. In “On the state of constitutional legality in the Republic of Kazakhstan: Message of the Constitutional Council of the Republic of Kazakhstan”, their importance is noted in the State Planning System, especially strategies, as well as messages of the Head of State [1].

President K. Tokayev more than once drew attention to the urgent need to toughen penalties for certain criminal offenses. So, in his Message of the President of the Republic of Kazakhstan K. Tokayev to the people of Kazakhstan, he drew attention to the need to strengthen responsibility for human trafficking, domestic violence, which affects women and children, also arguing that the protection of their rights should be a priority for the state [2]. In the next Message from the President of the Republic of Kazakhstan K. Tokayev to the people of Kazakhstan demanded to improve the procedure for investigating crimes against a person, in particular in the field of human trafficking, in accordance with international standards, as well as to develop new laws in this area [3].

Human trafficking undermines basic human rights and encroaches on life and health, freedom and security. Although this problem in the Republic of Kazakhstan was addressed by law enforcement agencies, scientific researchers, and the leadership of the country. At the same time, the necessary regulatory and legal framework regulating legal relations in the field of preventing and combating human trafficking has not yet been fully formed in the state. Guaranteeing human rights and freedoms in the studied area is implemented through the creation of a system of criminological security, including the adoption of laws regulating the fight against modern slavery. Currently, the Draft law of the Republic of Kazakhstan “On combating human trafficking in the Republic of Kazakhstan” is being developed, which is planned to be submitted to the parliament for consideration in April 2023 [4].

Thus, due to the incompletely formed legislative base and the system of measures to suppress a dangerous social phenomenon, the issue of forming a new legal policy and changing the legal framework in the field of combating human trafficking remains relevant in Kazakhstan. Unfortunately, in this time, this issue not only does not cease to be relevant, but has also become aggravated due to the long period of restrictions imposed due to the COVID-19 pandemic and the subsequent long-term self-isolation of citizens. So, taking advantage of the fact that citizens began to spend even more time on the Internet, criminals began to invent more and more ways to commit criminal acts using websites, misleading people and using dating sites or job search sites, online games or social networks. networks [5].

Researchers paid enough attention to the problem of legal policy in the field of combating human trafficking. So, A.B. Bekmagambetov et al. [5] studied the peculiarities of international standards in the field of combating human trafficking and focused on the need for their implementation in the Republic of Kazakhstan in the

context of the problem of forming a legal policy. A. Khamzin et al. [6] investigated the problem of prevention of criminal offenses in the field of human trafficking, including those committed using social networks, also arguing regarding this area the methods of committing human trafficking. Studying the issues of combating human trafficking, T.K. Akimzhanov [7] noted the need for constant modernization of its criminal law regulation. A.B. Bekmagambetov [8] studied the place of legal work on the prevention and suppression of human trafficking in the state policy of Kazakhstan and came to the conclusion about the formation of a new type of criminal policy. A.B. Bekmagambetov et al. [9] studied the development of anti-trafficking policies in accordance with international standards. R.T. Nurtayev [10] studied the peculiarities of the application of the rule of law principle in the policy of combating human trafficking.

The conducted research of scientific literature confirms that the problems of combating human trafficking were considered in many scientific papers in Kazakhstan. At the same time, there is no comprehensive study of the formation of a new stage of the legal policy of the Republic of Kazakhstan in the context of the adoption of a single regulation in the field of prevention and suppression of human trafficking, which determines the relevance of this article. The purpose of this research is a comprehensive analysis of the peculiarities of the formation of a new legal policy, as well as a draft law on combating human trafficking and the formulation of scientific recommendations to improve the effectiveness of the mechanism for preventing and combating human trafficking in the Republic of Kazakhstan.

Materials and Methods

Guided by the research purpose, general scientific, as well as special scientific methods, in particular, legal science, were used in the preparation of this article. The dialectical method contributed to the study of the formation of legal policy in its development in the science and practice of law enforcement. In the course of the study, the problem of the formation of legal policy in the field of combating human trafficking was considered through the prism of the dialectic of the relationship of various factors: legal, economic, social. The study of the problems of regulation of combating human trafficking was carried out using the dialectical method. Scientific positions on this issue were studied using the comparative legal method.

The author analysed scientific research, regulations in the field of combating human trafficking. In the process of preparing the material, such legal acts as the Criminal Code of the Republic of Kazakhstan [11], Law of the Republic of Kazakhstan “On countering extremism” [12], Law of the Republic of Kazakhstan “On narcotic drugs, psychotropic substances, their analogues and precursors and measures to counter their illegal trafficking and abuse” [13], “The concept of the legal policy of the Republic of Kazakhstan until 2030” [14], “The concept of foreign policy of the Republic of Kazakhstan for 2020-2030” [15], “The concept of the migration policy of the Republic of Kazakhstan for 2023-2027” [16]. Also, the subject of consideration was the Draft law of the Republic of Kazakhstan “On combating human trafficking in the

Republic of Kazakhstan” [4]. The study of regulatory documents of Kazakhstan, as well as the development of scientific provisions was carried out using general scientific methods of logic: analysis and synthesis, induction and deduction. Thus, in the study of the legal policy of combating human trafficking, as well as its legislative regulation in Kazakhstan, the analysis method was used to study the chosen topic in depth. The functional method helped to reveal the peculiarities of the subject of research and reveal its essence, as well as the state of legislative regulation in Kazakhstan.

The synthesis method contributed to the identification of scientific provisions regarding the formation of policies in the field of prevention and suppression of human trafficking not only in Kazakhstan, but also in other states, to study in detail certain legal aspects of the problem under study, which enabled forming a holistic picture of the regulation of the issue of combating human trafficking, as well as considering key aspects of the Draft law of the Republic of Kazakhstan “On combating human trafficking in the Republic of Kazakhstan” as well as determining its advantages [4]. The description reflects the main scientific trends regarding the legal approach to the issue of preventing and combating modern slavery, increasing the effectiveness of protecting the rights of victims of human trafficking, types of human exploitation and peculiarities of committing crimes using modern technologies, as well as the development of legal regulation of combating human trafficking in the Republic of Kazakhstan. The results of scientific research and the results achieved are described.

The principle of consistency and complexity made it possible to consider the problem more comprehensively and from all angles, to update the problems of legal policy in the context of the development of a single regulation on combating human trafficking, to find out the main areas of work to improve this policy, to provide a generalized description of them. With the help of the induction method, the results of the study were summarized and scientific conclusions were drawn, and the scientific positions of scientists from different countries were studied using it. The author conducted a study, guided by the principle of objectivity, based on scientific materials and regulations. The use of the above methods enabled solving the tasks set for the research.

Results

Starting from 1991, legal reform was carried out in stages in the Republic of Kazakhstan, the concept of legal policy was approved, and as a result, the legal system of the state was improved. Various branches of legislation, including the criminal sphere, were modernized [5]. Ignoring the need to adopt laws in the field of combating human trafficking is an indicator of ineffective legal policy, which over time can lead to destabilization in society. A comprehensive solution to the problem of prevention and suppression of human trafficking includes the establishment of criminal liability for acts in this area, the development of an effective system for the prevention of crimes in the field of human trafficking, the protection of its victims, and the provision of comprehensive assistance to victims of human trafficking. Crimes in the field of human trafficking are committed for the purpose of subsequent sexual exploitation, use of labor, organ

transplants. Due to the danger of this phenomenon, the importance of its detailed regulation with the help of the Criminal Code increases.

The modern legal framework in the field of combating human trafficking began to emerge in 1998, when recruitment of people, and later human trafficking, was criminalized. At present, the Criminal Code establishes responsibility for other acts in this area, such as kidnapping, trafficking in minors, organizing or maintaining brothels for prostitution and pandering [17]. Despite the operation of the Criminal Code, in view of the complexity and danger of such a social phenomenon as human trafficking, its regulations are not enough to effectively prevent and combat these types of crimes. Characteristically, the legislative framework in the field of combating human trafficking includes, in addition to the Criminal Code, laws in the field of suppression of extremist activities, drug addiction, for example, Law of the Republic of Kazakhstan “On countering extremism” [12], Law of the Republic of Kazakhstan “On narcotic drugs, psychotropic substances, their analogues and precursors and measures to counter their illegal trafficking and abuse” [13].

Unfortunately, crimes in the field of human trafficking are committed in Kazakhstan, especially in young girls, for sexual exploitation, forced labor [18]. A.B. Bekmagambetov et al. in their study of interviews with victims of human trafficking came to the conclusion that traffickers, as a rule, are looking for people who are in difficult circumstances. Their victims include undocumented migrants, as well as those who urgently need money and work. The perpetrators also target abandoned children or children from disadvantaged or poor families. Citizens of low-income countries, the unemployed become victims of human traffickers. Currently, criminals are also actively using the Internet to commit crimes, and under the guise of “employers” offer work abroad. The promise of big earnings, the lack of documents provokes people to respond to such ads [5]. Below are the main goals pursued by traffickers in Kazakhstan (Figure 1).

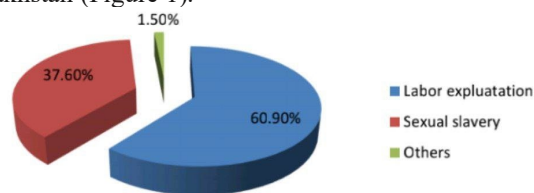


Figure 1. Spheres in which victims of human trafficking are exploited in Kazakhstan

Source: [6]

International human rights standards require the provision in states of guarantees for the security and inviolability of a person, life and health, personal freedom, the prevention of unlawful encroachments on the rights of a person, as well as the improvement of national legislation in order to increase the effectiveness of protecting the rights of citizens, including in matters of combating human trafficking. Based on the need to comply with international standards when improving legislation, including in the field of combating human trafficking, the priority should be the protection of human rights and freedoms. Trafficking in human beings infringes on human freedom

and is an international crime. Therefore, it is important for the Republic of Kazakhstan to build international relations to combat human trafficking. To form an effective legal policy of the state, it is also necessary to study the experience of other countries, both in the field of legislative work and in the field of law enforcement.

In order to comply with international standards and improve criminal policy, Kazakhstan cooperates with various international organizations. Thus, within the framework of the United Nations, which constructs a global policy in the field of preventing and combating human trafficking, there is a separate division – the Office on Drugs and Crime, which directly creates international programs to combat human trafficking. Also, the state constructively interacts in this area with Interpol, the International Labor Organization and the International Organization for Migration, which are also responsible for solving problems of combating this type of crime. At the same time, at this stage of the development of the Republic of Kazakhstan, a new task is the implementation of national projects, which include the Safe Country project [5].

The legal foundation for the development of new policy areas and solving urgent problems from the standpoint of the rule of law, guarantees of the security of citizens and using innovative management technologies was laid in the Republic of Kazakhstan – “The concept of the legal policy of the Republic of Kazakhstan until 2030” [14]. Law-making, human rights, and law enforcement are distinguished within the framework of legal policy. In accordance with the branches of law, there is a criminal, an anti-terrorist, and an anti-corruption policy. At the same time, as this Concept confirms, a new policy has just begun to take shape, the essence of which is the activities of state authorities to combat human trafficking. Thus, “The concept of the legal policy of the Republic of Kazakhstan until 2030” provides for the solution of problems within the framework of the policy of combating crime related to human trafficking [14]. Scientists also note the need to develop this direction. For example, A.B. Bekmagambetov et al. [5] substantiate the relevance of work on the formation of a policy to prevent and combat human trafficking.

In the structure of this new direction of legal policy, the main components are law-making and law enforcement tools. Thus, the law-making or legislative part of the anti-trafficking policy provides for criminalization, delineation of criminal liability for crimes in this area. In this part, it is very important to carry out the policy in accordance with international standards. Also, in the field of combating human trafficking, it is necessary to create complementary and coordinated criminal and criminological legislation. The law enforcement part of the anti-trafficking policy largely depends on the effectiveness of legislation and is subject to periodic monitoring. Such monitoring is carried out, for example, by the Commission on Human Rights under the President of the Republic of Kazakhstan [18].

Solving the problems of increasing the effectiveness of the legal policy of the Republic of Kazakhstan is part of the huge question of the effectiveness of the state in general, since the main goal of the state legal policy is to ensure the realization of the rights and freedoms of the country's citizens and the effective operation of public authorities

[10]. As J. Lobasz rightly notes [19], this policy should become balanced as a result of the improvement and harmonization of the actions of all its participants in various fields. Of importance is the formation of both horizontal relations between law enforcement agencies, social services, and vertical relations between local authorities and central government authorities.

Multilateral cooperation should cover both the problem of prosecution and the provision of assistance to victims of human trafficking. At the same time, public awareness of the legislative framework in this area and signs of human trafficking also plays an important role. A creative approach in the formation of a strategy for cooperation between government agencies, non-governmental organizations and the public will contribute to improving the effectiveness of law enforcement policy in the field of combating human trafficking, identifying criminal activity, strengthening assistance to its victims, and increasing trust between the participants in this policy. Effective measures to prevent human trafficking are also impossible without the implementation of foreign policy measures.

Thus, in accordance with “The concept of foreign policy of the Republic of Kazakhstan for 2020-2030”, the state maintains international relations in the field of combating illegal migration and human trafficking [15]. Thus, a significant part of the crimes in the world is occupied by criminal acts for the purpose of labor exploitation, which is why it is so important to form an effective policy in the field of combating illegal labor migration [8].

It should be noted that criminal and migration policy are closely related to each other in the field of combating human trafficking. As established by “The concept of the migration policy of the Republic of Kazakhstan for 2023-2027”, due to the lack of a unified global migration policy and the existence of many economic, social, and national characteristics of different countries, the Republic of Kazakhstan must form its own migration policy [16]. Also, the problem of human trafficking is related to the problem of ensuring gender equality, since gender imbalance is one of the conditions for trafficking in women and children. The gender and family policy of the Republic of Kazakhstan, like the criminal one, have common goals, including the protection of the rights and freedoms of women and children.

Based on the foregoing, it can be concluded that the policy in the field of combating human trafficking is closely intertwined with different policy areas: foreign, migration, gender and family, and in order to ensure order in the field of combating human trafficking, it is necessary to combine the efforts of many participants in state policy. It is characteristic that the term “anti-trafficking” policy is found in the scientific community to designate the term “policy in the field of combating human trafficking”. In particular, it is used by C. Szerba [20] in his dissertation research on the topic of prevention of human trafficking. Also, the term “anti-trafficking policy” is used in his dissertation regarding the study of anti-trafficking policy in Canada by J. Ferguson [21].

An important step in the formation of anti-trafficking policy is the legislative work on a separate regulation in this area. Within the framework of the “Safe country” national project, there is a consistent development of anti-

trafficking policy and work on improving the country's legislation. Thus, the Draft law of the Republic of Kazakhstan "On combating human trafficking in the Republic of Kazakhstan" is currently being developed, the author of which is the Ministry of Internal Affairs, and which is planned to be considered in Parliament in April 2023 [4]. The draft law was created with the aim of clearly defining the powers of state authorities on combating human trafficking and optimizing their work, as well as improving the effectiveness of human rights protection. The idea of adopting a single regulation that would combine social and criminal tools to combat human trafficking was made public back in 2010. It should be noted that Kazakhstan is one of the few CIS countries where this law has not yet been adopted [9].

It is important to note that the draft law actually lays the legal foundation for anti-trafficking policy. When developing it, international standards were taken into account, the powers of state bodies and the procedure for their interaction in this area were regulated, guarantees were secured for the rights of foreign citizens who suffered from human trafficking, and the issue of providing assistance to minor victims of crime was resolved. Thus, if this law is adopted, foreign citizens will be provided with the same assistance as citizens of the Republic of Kazakhstan: provision of asylum, basic necessities, provision of psychological assistance, rehabilitation, which, of course, will be a big step for the country in terms of compliance with international standards.

Another positive aspect of the draft law is bringing its provisions in line with the international obligations of the Republic of Kazakhstan, defining a number of terms, such as human trafficking, human exploitation. It also clearly outlines the principles of combating human trafficking, prescribes a ban on discrimination against its victims, as well as a guarantee of confidentiality of information received about them. The draft law establishes the right of victims of human trafficking to both accept assistance and refuse it. It is important to define the term "victim of human trafficking". So, a person receives this status regardless of the fact that a criminal case has been initiated. Consequently, the draft law establishes the regulatory framework for providing social assistance to such person, including medical examination, temporary residence, receiving psychological assistance, basic necessities.

Also, in order to create an effective system for the prevention of crimes in the field of human trafficking, the draft law provides for such a concept as "potential victim of human trafficking". The definition of this concept creates the legal basis for helping people who are at risk. It should also be noted that in order to bring the current legislation in line with this draft law, it will be necessary to amend the Code "On Marriage (Matrimony) and Family", the Labor Code, the Law "On Population Migration", as well as amend other regulations [4]. Undoubtedly, the adoption of this law will be an important step in the formation of a policy in the field of combating human trafficking.

The development and implementation of a special law will create a solid legal basis for intensifying the fight against human trafficking, which is rightly called slavery. The scientist notes the need to finalize the bill, taking into account the CIS model law on combating human

trafficking, the experience of other countries in regulating this issue, as well as peculiarities in the economy, legal system, public administration of the Republic of Kazakhstan. It also emphasizes the need for detailed regulation in the law on combating human trafficking of the procedure for identifying and providing qualified assistance to victims of human trafficking. In the law, as noted by A.B. Bekmagambetov et al. [9], it is important to link the status of a victim of human trafficking and a victim in accordance with the norms of criminal law.

At the same time, the adoption of a law on combating human trafficking in the Republic of Kazakhstan will necessitate the improvement of legal, namely law enforcement policy in terms of improving qualifications, passing special training for law enforcement officials, labor inspectors to develop skills to recognize signs of human trafficking, cases of psychological violence. Vulnerable populations, including women, children, disabled persons, as well as people working abroad require increased attention. Employment agencies should also be subject to greater scrutiny. It is important for the state to carry out work to inform the population, as well as victims of human trafficking, about legal remedies. If the draft law on combating human trafficking is approved, it will also be necessary to establish a unified system for collecting information regarding work in the field of suppression of crimes in this area. In the context of the problem under consideration, special attention should be paid to the need not only for legislative changes, but also the importance of changing public consciousness in the direction of general humanitarian values.

The main directions of the consistent development of the legal policy of the Republic of Kazakhstan in the field of combating human trafficking are the prevention of modern slavery, which includes raising public awareness regarding this issue, increasing the efficiency of state bodies, monitoring compliance with the law, improving the legislative framework in the field of combating human trafficking, developing cooperation between participants in legal policy, as well as improving the efficiency of the system of assistance to victims of human trafficking.

Discussion

The issue of the stage of formation of both the legal policy of the Republic of Kazakhstan in general and, in particular, the phase of the formation of a policy to combat human trafficking is disputable. For example, A.B. Bekmagambetov et al. [5] note that although the system of regulations of the Republic of Kazakhstan addresses various issues of combating human trafficking, anti-trafficking policy, as a separate area of criminal policy, has not yet been formed as a holistic phenomenon.

Scientists argue the need to create at present an effective mechanism for the anti-trafficking policy as a manifestation of the combination of law-making, human rights, law enforcement policy, which is also inextricably linked with other areas of state policy, such as foreign policy, family, cultural, migration, gender. The legal foundation of this new policy, according to the researchers, should be the law on combating human trafficking [5]. In the context of the above, it should be clarified that in connection with the draft law already developed at the present time in the field of preventing and combating

human trafficking, the legislator is gradually laying the legal foundations for an anti-trafficking policy, or a policy to combat human trafficking.

Disputable in science is the question of how to develop a legal policy to prevent human trafficking. In the context of this problem, one should agree with scientists who emphasize the transnational nature of modern slavery. Thus, M.Y.Y. Al-Zoubi [22] argues that human trafficking, having a transnational nature, is a transnational organized crime. The study of S. Manavalan [23] emphasizes that human trafficking is one of the most serious transnational crimes. Such a criminally punishable act is called an international phenomenon [24].

In connection with the foregoing, it is so important to take into account international standards, the experience of other countries in combating such a dangerous social phenomenon, as well as the scientific achievements when forming the state legal policy. For example, it is necessary to pay attention to the statement of J. Lobasz [19] about the importance of a balanced anti-trafficking policy, which will be the result of the harmonious interaction of its participants. The scientist also rightly focuses on the existence of many disputes between transnational participants in global politics in this area as a problem that interferes with building a balance between the work of government bodies and the protection of citizens' rights.

Considering the problems of forming a policy to combat human trafficking, P. Burland [25] points out the importance of taking measures by the state to prevent the migration of the population. Similarly, in her study, N. Avdan [26] pays special attention to the need to change the migration legislation of each country. One should agree with this scholar, who believes that the practice of increasing responsibility for illegal migration has a negative impact on combating human trafficking, since it increases the number of victims of this crime, and at the same time creates conditions for easier commission of crimes by traffickers around the world.

As S. Manavalan [23] rightly points out, at present, the formation of effective cooperation between countries in the prevention and combating of human trafficking, which is also facilitated by the development and adoption of effective international documents, remains an urgent issue. Of course, the Republic of Kazakhstan should pay much attention to the issue of international cooperation in the field of combating human trafficking, improve migration legislation, as well as form an effective policy in the field of preventing human trafficking. Thus, the creation of a system of effective preventive measures is more in line with the principle of humanism and the need for the state to fulfil its obligation to protect citizens and, ultimately, leads to fewer crimes and a decrease in the amount of work of state bodies on dealing with the consequences of human trafficking.

As noted above, in view of the complexity of the problem of trafficking in persons, its solution calls for an integrated approach within different policy areas. This statement is confirmed in scientific papers in the field of combating human trafficking. For example, A. Khamzin et al. [6] note that due to the COVID-19 pandemic, the introduction of long-term isolation, which in turn provoked the emergence of new ways for criminals to attract victims using online technologies, without using large financial

costs, as well as the economic crisis, and the growth of poverty, the number of potential victims of human trafficking increases accordingly. Moreover, according to V.V. Mangora [27], as a result of the COVID-19 pandemic, the most vulnerable population groups most often become victims of human trafficking: disabled persons, children, women.

Thus, as confirmed by other scientists, such as J. Todres and A. Diaz [28], the pandemic has created conditions, in which the risk of becoming a victim of human trafficking has significantly increased and the ability to identify victims of crimes in this area has decreased. Based on this, the anti-trafficking policy should be carried out in a complex with the work of the state in other areas, since legal instruments are not enough to solve this problem. As A. Khamzin et al. [6] and L. A. Dean [29] correctly point out, in addition to strengthening the legislative framework, it is necessary to carry out public awareness-raising work, highlighting the extent of the spread of this dangerous phenomenon, the precautions that citizens should follow. In addition, the key to a gradual decrease in the level of crime in this area is the rapid response of state bodies to each case of human trafficking, and an increase in the level of investigation of criminal cases.

The issue of the terminology of the draft law on combating human trafficking is controversial. Thus, not all countries' legislation uses the term "human trafficking". The legal policy of Great Britain, France, Australia uses the approach, according to which laws are passed against modern slavery. Accordingly, instead of the term "human trafficking", the term "modern slavery" is used. This approach is supported by some scholars. For example, K. Preble et al. [30], R. Broad and N. Turnbull [31] consider it more accurate in comparison with the term "human trafficking", "forced labor", arguing that the term "modern slavery" includes the former and is a broader concept, covering a wide range of criminal activities.

This point of view has the right to exist and contributes to the overall structuring of the problem. At the same time, the draft law "On Combating Human Trafficking in the Republic of Kazakhstan" spells out a very broad concept of human trafficking, which implies the commission of any act for the purpose of exploiting a person, which is fully consistent with the requirements of international legislation on combating human trafficking. It is worth noting that scientists identify separate stages in the formation of anti-trafficking policy in the state. For example, R. Broad and N. Turnbull [31] point to two phases in the formation of a policy regarding the fight against modern slavery: recognition and structuring of the problem; development of relevant legislation, also emphasizing that legal policy requires additional knowledge, conducting research, for example, to establish all types of exploitation of a person with a view to subsequent effective legislative work.

Based on the analysis of the Draft law of the Republic of Kazakhstan "On Combating Human Trafficking in the Republic of Kazakhstan" [4], regulations, scientific research, it can be concluded that the anti-trafficking policy in the Republic of Kazakhstan has already gone through the stage of awareness of the problem of human trafficking in legislation and moved to the stage of the

second phase, which is the development, adoption and implementation of a special law in this area.

On the basis of the study, it is concluded that it is expedient to adopt the law of the Republic of Kazakhstan “On Combating Human Trafficking in the Republic of Kazakhstan”, which will help reduce cases of crimes in this area, create an effective system for their prevention and protection of the rights of victims of human trafficking [4]. Currently, the country does not have a clear legal framework in the field of combating this extremely dangerous social phenomenon, which negatively affects the formation of an effective anti-trafficking policy in order to establish guarantees for the rights of citizens and protect their interests.

Conclusions

The relevance of the problem of human trafficking necessitates the development of optimal measures to combat crimes in this area. An appropriate solution to the problem is the formation of a balanced legal policy in the field of preventing and combating human trafficking, which is based on the protection of human rights. The problem of human trafficking affects different areas of policy: foreign, migration, family, cultural, gender, legal. At this stage, a new direction of legal policy is being formed in the Republic of Kazakhstan – anti-trafficking policy, or the policy of combating human trafficking. Considering that human trafficking is also an international crime, which is usually committed by an organized criminal group, in order to strengthen measures to counter this dangerous phenomenon, it is necessary to form a global legal (criminal) policy based on the constructive interaction of different countries on the basis of common international legislation.

The research confirms that the anti-trafficking policy in the Republic of Kazakhstan has passed the stage of structuring and understanding the problem of human

trafficking in the country’s legislation and is currently at the second stage of its formation, which is the phase of development, adoption and implementation of the law “On Combating Human Trafficking in the Republic of Kazakhstan”.

The draft law on combating human trafficking in the Republic of Kazakhstan establishes the basis for protecting individuals from modern slavery. It defines the roles of authorized bodies, sets out principles for combating human trafficking, ensures confidentiality of information about victims, and provides for granting victim status to enable access to necessary state support, independent of criminal case initiation.

The advantage of the draft law is its development in accordance with the international obligations of the Republic of Kazakhstan, fixing such concepts as “human trafficking”, “victim of human trafficking”, “human exploitation”, “potential victim of human trafficking”. The adoption of the law “On Combating Human Trafficking in the Republic of Kazakhstan” will certainly become a huge step in the formation of an effective legal policy of the state and a new stage in the development of anti-trafficking policy.

Prospects for further research may include studying the problematic issues of improving the migration legislation of the Republic of Kazakhstan in the context of the consistent formation of an anti-trafficking policy.

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Conflict of Interest

None.

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Прийняття закону про протидію торгівлі людьми – нова віха у розвитку правової політики Республіки Казахстан

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Анотація

Актуальність. Актуальність статті зумовлена необхідністю дослідження проблем формування правової політики у сфері протидії торгівлі людьми, а в подальшому - створення ефективного законодавчого регулювання цієї сфери.

Мета. Метою статті є оцінка правової політики, а також правового стану у сфері законодавчого регулювання протидії торгівлі людьми в Республіці Казахстан та аналіз розробленого законопроекту у цій сфері.

Методологія. Для досягнення поставленої мети були використані такі методи, як діалектичний, порівняльно-правовий, метод індукції та дедукції, аналізу та синтезу, функціональний метод.

Результати. Розкрито особливості формування нової правової політики у сфері протидії торгівлі людьми. Охарактеризовано зв'язки правової політики протидії торгівлі людьми в Республіці Казахстан з іншими напрямками державної політики. Розглянуто проблеми формування глобальної правової політики протидії торгівлі людьми, яка визнана транснаціональною організованою злочинністю. Сформульовано наукові положення щодо вдосконалення правової політики у сфері протидії торгівлі людьми. Підкреслено особливу важливість необхідності модернізації правової політики та прийняття окремого закону про протидію торгівлі людьми.

Висновки. Висновки, отримані в статті, розвивають науку кримінального права, кримінальну політологію та сприяють вирішенню практичних питань запобігання та протидії торгівлі людьми.

Ключові слова: примусова праця; експлуатація людини; законодавство; жертва злочину; нелегальна міграція.