

LAW OF THE KYRGYZ REPUBLIC

On the Basics of the State Guarantees of Gender Equality

January 31, 2003

This Law regulates relationships so that to provide for equal rights and opportunities of persons of both sexes in social, political, economic, cultural, and other aspects of human life; it is designated to protect women and men against discrimination on distinction of sex; it is tasked to promote progressive democratic relations between men and women on the basis of national traditions; and it provides state guarantees of equality and equity to persons of both sexes.

Chapter I. General Provisions

Article 1. Main Terms

Gender — acquired and socially prescribed behaviour of people of different sexes.

Gender policy — state and public activities aiming at the achievement of equality in relationships between people of different sexes.

Gender relationships — the mode of behaviour and treatment of people of different sexes in their communication or in various joint activities.

Legal gender expertise — the monitoring of national legislation and other legal acts so as to determine that they comply with the gender legislation.

Gender statistics — statistics that reflects the existing status of men and women in all sectors of social and political life, and that highlights gender concerns and attitudes within the society.

Gender equity — equal social status of men and women in the society.

Gender equality — equal rights, obligations and responsibilities of men and women before the law except for mitigating circumstances prescribed by laws of the Kyrgyz Republic.

Equal opportunities — the system of means and conditions that are necessary to actually achieve gender equality.

Equal partnership relations — cooperation or joint participation of men and women in state and public life on equal conditions.

Gender discrimination — any sex-based distinction, exclusion or preference, which may restrict or deny equal exercise of rights.

Open gender discrimination — discrimination with the direct indication of the person's sex.

Latent gender discrimination — discrimination without the direct indication of the person's sex.

Sexual harassment — immoral behaviour in respect of people of different sexes, as well as unwarranted sexual advances of verbal (threats, intimidation, indecent remarks) or physical (touching, patting) character, which may humiliate or insult the person who is dependent on the perpetrator due to work, official, financial, family, or other reasons.

Violation of equal rights — active or passive behaviour that may be manifested in the form of derogation, contempt, as well as in restricting rights or granting privileges on distinction of sex.

Household work — a type of labour with the purpose to satisfy family needs.

Article 2. Goals and Objectives of the Law

The goals and objectives of this Law include the provision of men and women with:

- equality of their rights, obligations, and responsibilities;
- equality of their opportunities;
- equality of partnership relations between them in all aspects of life;
- equality in the family; and
- equality in social, economic, work, and other activities.

Article 3. Objects of Gender Equality

Objects of gender equality shall include public and social relations subject to legal regulation.

Article 4. Subjects of Gender Equality

Subjects of gender equality include individuals, legal entities, and the State.

Article 5. Legislation of the Kyrgyz Republic Concerning Gender Relationships

In the Kyrgyz Republic gender relationships shall be regulated by the Constitution of the Kyrgyz Republic, gender-related international treaties of the Kyrgyz Republic, legislative and legal acts of the Kyrgyz Republic, and this Law.

Article 6. Prohibition of Gender Discrimination

No open or latent discrimination shall be permitted in all aspects with respect to people of different sexes.

Those subjects of gender equality that have permitted any open or latent discrimination shall be liable in accordance with the legislation of the Kyrgyz Republic.

Gender discrimination shall not include:

- protection of maternity functions;
- recruitment for the military service of men only at such times as laws of the Kyrgyz Republic may prescribe; and
- adoption of temporal special measures based on this Law with the view to achieve actual equality in gender relationships.

Article 7. The Basics for State Policies in Achievement of Gender Equality

The basics for state policies with regard to the achievement of gender equality shall include as follows:

- to adopt, improve and promote laws and other legal acts designated to provide for gender equality;
- to develop and implement state targeted programmes for the achievement of gender equality;
- to protect society against such information, propaganda and advocacy that aim at violating gender equality;
- to educate about and advocate for the culture of gender equality;
- to comply with generally recognized international-law principles and norms, as well as with international obligations of the Kyrgyz Republic in respect of gender-equality matters.

Article 8. Barriers to the Achievement of Gender Equality

Whenever a person's behaviour, which is based on common-law norms, traditions and culture, may contradict requirements of this Law, such behaviour shall be considered a barrier to the achievement of gender equality.

No common-law norms, traditions, and cultural values containing elements of gender discrimination shall be supported.

Chapter II. Guarantees of Gender Equality in State Government and in Access to Civil Service

Article 9. Guarantees of Gender Equality in State Government

The State shall guarantee an equal participation of men and women in state government. The State shall provide, by legal, organizational, and other means, for an equal representation of men and women in legislative, executive, and judicial branches of power.

Article 10. Guarantees of Gender Equality in Access to Civil Service

Persons of both sexes have equal rights, obligations, and responsibilities and equal opportunities with respect to access to civil service and to subsequent work in state bodies.

Heads of state bodies shall provide for equal access of men and women to public offices in accordance with their abilities and training.

The State shall provide for equal partnership relationships between men and women in legislative, executive, and judicial branches of state power, and in bodies of local self-governance.

Vacancies at public offices, including executive posts, shall be filled by conducting competitions, in which both men and women may participate on equal footing.

No competitions may be announced for persons of one sex only.

Chapter III. Guarantees of Gender Equality in Economic and Social Sectors

Article 11. Equal Access to All Forms of Ownership

The State shall guarantee the realization of the right to ownership by persons of both sexes. The State shall provide for equal access of men and women to all forms of ownership.

Article 12. Equal Access to Business

The State shall guarantee that persons of both sexes shall have equal access to business. No gender discrimination shall be permitted in business activities.

Article 13. Equal Access to Business Management

The State shall create equal conditions for persons of both sexes to the management of businesses (economic entities).

No gender discrimination shall be permitted in respect of business management.

Article 14. Equal Access to Land Use

The State shall provide persons of both sexes with equal access to the use of land plots given or granted for the perpetual (termless) or fixed-term (temporal) use.

The rights to land of men and women shall be equally protected.

Article 15. Access to Equal Social Benefits

Persons of both sexes shall have equal access to social benefits.

Parents shall have equal access to care allowances for children and for superannuated or sick family members.

Chapter IV. Gender Equality in Labour

Article 16. Equal and Free Choice of Occupation

Employers shall provide for work equality of men and women.

Employers, regardless of forms of ownership, shall take measures to ensure equal working conditions for people of different sexes.

Employers shall provide persons of both sexes with opportunities to perform both work and parental functions.

Article 17. Equal Salary

Equal access of persons of different sexes to salary means an equal salary of men and women who have similar qualifications and who works in similar work conditions.

Decrease of salary or worsening of work conditions on distinction of sex shall be recognized gender discrimination.

Article 18. Guarantees of Equality in Mass Redundancy Situations

In situations of mass redundancy of over one third of the whole number of the employees of a company, establishment or organization, the number of dismissed employees of one sex shall be proportional to the established number of the employees of this sex at such company, establishment or organization.

Article 19. Sharing of Household Work

The principle of gender equality in labour shall also apply to household work.

Persons of both sexes shall bear equal obligations with regard to household work. Household work may not be used as a means of gender discrimination, and it may be performed equally by men and women.

Article 20. Guarantees of the Acknowledgement of Household Work

The State shall recognize household work as one of the forms of social, productive work.

Any property formed at the expense of household work by members of a family shall be deemed property of the family.

Article 21. The Right of People of Both Sexes to Receive Information on Vacancies

Men and women who have not been promoted or have not been trained for skill upgrading during three years have the right to ask the employer about and receive in writing his or her reply on reasons for no promotion or for no skill-upgrading training, as well as on the experience and qualification of the person who has been appointed (employed, promoted) to the claimed office or who has been trained for skill upgrading.

Article 22. No Pressure On And No Victimization of the Person Who Has Suffered Sexual Harassment on the Part of His or Her Employer

An employer shall not put pressure on or persecute an employee who has refused the employer's sexual advances (harassment) or who has lodged a complaint against the employer for sexual discrimination.

If an employer puts pressure on or persecutes an employee on the above-mentioned grounds, the employer shall be liable in accordance with the laws of the Kyrgyz Republic.

Chapter V. Gender Equality Enforcement Mechanism

Article 23. Authority of the Jogorku Kenesh of the Kyrgyz Republic With Respect To the Provision of Gender Equality

By adopting laws, the Jogorku Kenesh of the Kyrgyz Republic shall form a legal foundation for state gender equality policies in all sectors of state and public life.

Within the bounds of its authority, the Jogorku Kenesh of the Kyrgyz Republic shall appoint, on consideration of the representation, no more than seventy percent of persons of one and the same sex to offices of:

- justices of the Constitutional Court of the Kyrgyz Republic;
- justices of the Supreme Court of the Kyrgyz Republic;
- members of the Central Commission of the Kyrgyz Republic on Elections and Referendums, and auditors of the Auditing Chamber of the Kyrgyz Republic.

No less than once a year, the Jogorku Kenesh shall listen to Government's reports about the gender equality status. Such reports shall be furnished by the Government of the Kyrgyz Republic in such manner as the Jogorku Kenesh of the Kyrgyz Republic may determine, and they shall be promulgated in mass media.

Article 24. Authority of the Government of the Kyrgyz Republic With Respect to the Provision of Gender Equality

Within the bound of its authority, the Government of the Kyrgyz Republic shall:

- participate in drafting and provide for the implementation of a single state policy aiming at the achievement of gender equality of men and women in all aspects of public life;
- develop state targeted programmes on the provision of gender equality and provide for their implementation;
- finance activities relating to the realization of state gender equality policies from the national budget, extra-budgetary sources, and other sources allowed by the laws of the Kyrgyz Republic; and
- direct and control activities of executive state bodies to provide for and to protect gender equality.

Article 25. Authority of the National Council of the Kyrgyz Republic on Women, Family and Gender Development under the President of the Kyrgyz Republic With Respect to the Provision of Gender Equality

Within the bounds of its authority, the National Council of the Kyrgyz Republic on Women, Family and Gender Development under the President of the Kyrgyz Republic shall monitor the enforcement of this Law.

The National Council shall publish yearly reports on the enforcement of this Law.

Article 26. Activities of Local Self-Governance Bodies With Respect to the Provision of Gender Equality

Local self-governance bodies shall carry out activities with respect to the development and achievement of gender equality, and they shall coordinate their activities with activities of executive state bodies as they relate to supporting appropriate state, regional, and local programmes.

Article 27. Involvement of Public Associations and of Other Non-governmental Organizations in the Provision of Gender Equality

Public associations and other non-governmental organizations may:

- take part in the decision-making process of state bodies and of local self-governance bodies with respect to the provision of gender equality;
- represent and protect the rights of persons in courts and in other state bodies;
- nominate and support candidates who campaign for the protection of gender equality principles;
- obtain methodical, informational, and other assistance from appropriate executive state bodies of the Kyrgyz Republic to the extent, and following the procedure prescribed by state, regional, and local programmes aiming at the elimination of gender discrimination.

Public associations and other non-governmental organizations may make yearly public reports.

Article 28. Controlling the Enforcement of this Law

The General Procurator's Office of the Kyrgyz Republic shall provide for strict and uniform enforcement of this Law.

Article 29. Legal Gender Expertise of Laws and of Other Legal Acts of the Kyrgyz Republic

The goal of legal gender expertise is to examine and identify gender equality inconsistencies in laws, other legal acts of the Kyrgyz Republic, and in state, regional, and local gender-related programmes.

Legal gender expertise may be performed by state bodies, independent public associations and other non-governmental organizations.

Article 30. Gender statistics

The National Statistics Committee of the Kyrgyz Republic shall manage the collection of gender-sensitive statistical data in the Kyrgyz Republic.

State bodies, local self-governance bodies, and heads of companies, establishments and organizations shall submit relevant gender information to the National Statistics Committee of the Kyrgyz Republic.

Article 31. Effects of a Breach of this Law

Should bodies, vested with controlling and monitoring functions with regard to the enforcement of this Law, identify a violation of gender equality, they may:

- send state bodies, local self-governance bodies, and heads of companies, establishments and organizations written requests to eliminate, within a specified term, the identified violation of gender equality;
- resort to facilities of the legislation of the Kyrgyz Republic with regard to the provision of gender equality; and
- make public, in mass media, the name of the company, establishment or organization on the list of violators of this Law.

Article 32. Liability for Breach of the Laws of the Kyrgyz Republic Concerning Gender Relationships

Should officials of state bodies, local self-governance bodies, or state-owned and communal organizations with regulatory, administrative, or managerial functions, along with heads and other employees of other organizations with similar functions, breach the laws of the Kyrgyz Republic concerning gender relationships, they shall be liable in accordance with the legislation of the Kyrgyz Republic.

Chapter VI. Procedures for Consideration of Gender Equality Violations

Article 33. Procedures for Consideration of Gender Discrimination Cases

Petitions to the following authorities fall within the process of consideration of instances of gender discrimination, sexual harassment, persecution, victimization, and of other violations of gender equality:

- to the President of the Kyrgyz Republic;
- to the Jogorku Kenesh of the Kyrgyz Republic;
- to the Government of the Kyrgyz Republic;
- to the Ombudsman of the Kyrgyz Republic;
- to local self-governance bodies;
- to court;
- to the National Council of the Kyrgyz Republic on Women, Family and Gender Development under the President of the Kyrgyz Republic;
- to employers;
- to public associations and other non-governmental organizations; and
- to law-enforcement agencies.

Article 34. Coordination of Activities of Various Bodies in Consideration of Disputes Arising from Violations of Gender Equality

The National Council of the Kyrgyz Republic on Women, Family and Gender Development under the President of the Kyrgyz Republic shall coordinate activities of various bodies in consideration of disputes arising from violations of gender equality.

Article 35. Registration and Recording of Gender Equality Violations

The National Council of the Kyrgyz Republic on Women, Family and Gender Development under the President of the Kyrgyz Republic shall register and record all instances of violations of gender equality.

To monitor the provision of gender equality, state bodies, public associations and other non-governmental organizations may register instances of violations of gender equality, and they shall furnish these data with the National Council of the Kyrgyz Republic on Women, Family and Gender Development under the President of the Kyrgyz Republic.

Article 36. Taking Effect

This Law shall take effect on the day of its official promulgation. The Government of the Kyrgyz Republic shall adjust its legal acts to this Law.

President of the Kyrgyz Republic

March 13, 2003