

Enhancing social welfare in Kazakhstan: A strategic approach to adopting international social security standards

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CITATION

Kuttigalieva A, Khamzina Z, Yermukhametova S, et al. (2024). Enhancing social welfare in Kazakhstan: A strategic approach to adopting international social security standards. *Journal of Infrastructure, Policy and Development*. 8(7): 5159. <https://doi.org/10.24294/jipd.v8i7.5159>

ARTICLE INFO

Received: 11 March 2024

Accepted: 8 April 2024

Available online: 2 August 2024

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Abstract: This article presents a comprehensive analysis and strategic framework for enhancing social welfare in Kazakhstan through the adoption of international social security standards. This article aims to formulate scientific and practical recommendations for enhancing the legal framework governing Kazakhstan's social security system. It posits that integrating international social protection standards is pivotal for refining national legislation and charting future developmental courses. Employing a novel methodology, this study analyzes key documents from the International Labour Organization (ILO), the United Nations, the Commonwealth of Independent States (CIS), and the Eurasian Economic Union (EAEU). It also examines efforts to assimilate these international norms into Kazakhstan's social security laws. The investigation reveals a stagnation in the evolution of the nation's social sector, marked by a dearth of innovative ideas and initiatives to elevate the subpar social security standards. The adoption of international social standards emerges as a catalyst for rejuvenating the national social sphere, aiming to elevate the Kazakhstani social protection system to meet global benchmarks. This research outlines the pathways for Kazakhstan's ratification of and accession to key social protection instruments and offers expert recommendations to support this endeavor. The conclusions and recommendations developed are poised for application in legislative reforms, aiming to amend and enhance existing laws to foster a more robust and inclusive social security framework. The findings suggest that the adoption of international social security standards not only contributes to the improvement of individual lives but also fosters social cohesion and economic stability. The article concludes with tailored recommendations for Kazakhstan, highlighting the role of stakeholder engagement, phased implementation, and continuous evaluation in the successful integration of global social security norms. This research contributes to the ongoing discourse on social security reform, offering a valuable perspective for scholars, policymakers, and practitioners involved in social welfare enhancement efforts in Kazakhstan and similar contexts.

Keywords: ILO; Kazakhstan; social protection; social rights; social risks

1. Introduction

The primary objective of this study is to develop and justify targeted recommendations for the enhancement of Kazakhstan's social security system through an in-depth analysis of both international benchmarks and domestic legal frameworks. Additionally, the paper seeks to explore and propose how global norms can be effectively integrated into the Kazakhstani context.

Unlike previous research within Kazakhstani legal scholarship, this study is

unique in its comprehensive approach to formulating improvement strategies for the national social security system, drawing on an extensive review of international standards alongside national laws. Prior studies have only sporadically addressed the issues relevant to social security law in Kazakhstan, focusing on specific aspects without providing a unified framework for systemic enhancement (citations include works by Akshataeva et al. (2016); Buribayev et al. (2016, 2020); Bidaishiyeva et al. (2018); Ibraev et al. (2017); Karayev et al. (2016); Koishibayev et al. (2020); Mukhamadiyeva et al. (2017); Madiyarova et al. (2017); Ryspekova and Beissekeyeva (2013); Rakymzhanova et al. (2018); Rakhimova et al. (2018); Sidorenko et al. (2017, 2018); Seitenova and Becker (2004); Turebekov and Nurkatova (2018)). This paper fills the gap by offering a holistic and detailed examination of the potential for harmonizing Kazakhstan's social security policies with international standards, setting a new precedent in the field of legal research for social security in Kazakhstan.

Article 1 of the Kazakhstan Constitution establishes the nation as a social state, which entails a commitment to advancing the social sector in accordance with globally accepted social norms. This involves the concerted effort of the state machinery to prioritize social welfare, ensuring citizens have the means to realize their social rights, managing state affairs, and framing national policies with a social focus above other public and economic concerns. Although the 1995 Constitution enshrines a system of social rights that define the essence of the social sphere and its functions, these rights are dynamic, evolving with the economic progress and political reforms within the country.

Social rights should be viewed through both narrow and broad lenses. We believe the broad categorization of social rights includes the right to social security, social protection, social insurance, and services, as well as the right to the freedom of labor, to choose one's occupation and profession freely, to safe working conditions, to fair remuneration without discrimination, to protection against unemployment, to resolve labor disputes, to rest, and to access housing, education, and healthcare.

Our analysis of scientific research on social rights highlights several key characteristics commonly acknowledged in their definitions: social rights are defined not as abstract notions, but as subjective demands directed at the state; they are closely linked with ensuring a decent standard of living for individuals. The fulfillment of social rights necessitates proactive efforts from the state, including the enactment of relevant legislation and the design and execution of policies and programs aimed at providing social protection, access to quality healthcare services, education, decent work, and cultural development.

In defining the scope of our analysis, we find it reasonable to embrace a narrow interpretation of this definition, summarizing that social rights encompass a collection of rights to social protection, social security, assistance, and services.

The constitutional mandate for social security aims to provide conditions for a "decent life" and the "free development of individuals," suggesting that the benchmark for what constitutes a decent standard of living should align with international norms, notably those set by the ILO. Despite over three decades of membership in the ILO, Kazakhstan has yet to ratify any of the ILO's critical Conventions on Social Security. This gap in ratification adversely affects the coherence and efficacy of Kazakhstan's social security legislation. Ratifying these ILO conventions would not only enhance

the legislative framework but also significantly contribute to the improvement of social security standards within the country.

International frameworks play a crucial role in safeguarding and upholding social rights, setting a foundational minimum standard of living to be adhered to by nations. For the Republic of Kazakhstan, achieving full compliance with these international human rights standards remains a challenging endeavor. It is premature to claim that Kazakhstan has fully realized these human rights benchmarks at its current developmental stage; indeed, significant strides in this domain are yet to be made. This situation stems from the fact that the recent transformative efforts within the society have not been primarily focused on enhancing the humanitarian aspects. The emphasis has been on addressing the economic, social, and political challenges, often sidelining the imperative of human rights protection (Becker et al., 2009).

The stagnation in the advancement of the social sector in recent years is evident, marked by a glaring absence of innovative approaches and initiatives aimed at improving the markedly low social security levels. Integrating international social standards presents a viable pathway to rejuvenate the national social sphere. By aligning with these global norms, Kazakhstan can elevate its social protection system, bridging the gap between existing practices and the requisites of universal standards. This alignment not only promises to enhance the quality of social security but also positions Kazakhstan closer to the global paradigm of human rights protection.

The impact of international law on domestic legal frameworks has been extensively documented across various scholarly works (Butler et al., 2020; Conforti, 1993; Guimaraes, 2021; Kirby, 2005; Kjeldgaard-Pedersen, 2019; Leary, 1982; Lyutov, 2014; Paulus, 2009; Urueña, 2017; Verdier and Versteeg, 2015). In an age characterized by globalization and the deepening of international ties, the interplay between local, regional, and global legal systems has emerged as a critical area of legal study. This dynamic reflects a web of influences and norms that shape legal practices and policies both within and across national boundaries. While national legal systems are built on the distinct historical, cultural, and socio-economic contexts of their countries, the growing permeability of borders in the contemporary world has magnified the influence of international legal norms on domestic legislation. This trend is evident in the ratification of international agreements, the incorporation of international convention standards, and their assimilation into national laws, fostering legal harmonization, enhancing international collaboration, and bolstering human rights protections.

Scholarship highlights the substantial contributions of international human rights law to improving human rights conditions globally (Bantekas and Oette, 2016; D'Amato, 1995; Hathaway, 2002; Hannum, 1995; Naranjo, 2023; Simmons, 2009; Teye, 2023). Nonetheless, acknowledging the influence of international law on national human rights frameworks is insufficient without specifying how international norms begin to exert their effect domestically, identifying barriers to their implementation, and formulating strategies for overcoming these challenges. The role of the state is pivotal in enacting social protection measures. The successful integration of state social support legislation necessitates precise legal frameworks. Every social regulation should be supported by a robust mechanism for delivering social benefits. Even after a country ratifies an international social protection standard, direct

application without intermediaries is unfeasible; implementation invariably involves state-led procedures to operationalize these standards effectively.

2. Research methodology

International frameworks for social protection are intended to guide national policies and legislation towards sustainable development and improve social relations. This study examines the impact of international frameworks and agreements, as well as ILO conventions, on the evolution and regulation of the social protection system in Kazakhstan at its current stage of development.

The study assumes that international frameworks have key mechanisms that can influence domestic laws, with effective implementation aligning with the public good. It adopts a comparative approach to examine Kazakhstan's legal system and how international agreements shape national policies, provided there is commitment and capacity to embed international obligations into domestic law and enforce them. This study employs a research methodology designed to systematically explore the potential for enhancing social welfare in Kazakhstan through the strategic adoption of international social security standards. The methodology is structured to provide a comprehensive analysis of both the current state of Kazakhstan's social security system and the international frameworks that could inform its development.

The approach encompasses a combination of qualitative and quantitative methods, document analysis, comparative legal analysis, and policy evaluation to offer a holistic view of the possibilities for reform and improvement.

Primary data for this study was collected through a comprehensive review of relevant literature, including academic articles, reports from international organizations such as the ILO and the United Nations, and Kazakhstan's own national legislation. Additionally, international legal instruments related to social security were reviewed. A comparative legal analysis was conducted to identify gaps between Kazakhstan's current social security legislation and international standards. Through the combination of various analytical techniques, the aim of this study is to provide practical recommendations for policy-makers to improve the social security system and, consequently, the well-being of the people of Kazakhstan. Despite Kazakhstan's ratification of international instruments aimed at social protection over the past two decades, the adoption of universal standards has not significantly transformed the pursuit of a more just social security system.

This study explores the idea that Kazakhstan's formal adherence to these global standards, coupled with the lack of effective implementation mechanisms and the inappropriate translation of these standards into domestic legislation and practice, pose significant obstacles to increasing social security levels. Using a method that compares national laws with international standards, this research aims to develop a theory about the potential positive influence of international agreements, laws, and ILO conventions in strengthening and ultimately achieving enhanced social security standards in Kazakhstan. This research employs various analytical methods, including dialectical, legal-logical, socio-legal, systemic-structural, and comparative legal analyses, to thoroughly examine the organization and functioning of the social protection system. In particular, the comparative legal method is utilized to identify

and evaluate exemplary legal frameworks for social protection from around the world, as well as international law, with the goal of integrating these best practices into Kazakhstani legislation and legal enforcement. A critical methodology is adopted with respect to the legal regulation of social rights, insisting that all regulatory legal acts be rigorously examined for alignment with internationally accepted norms. This ensures that national legislation will evolve in harmony with international standards, rather than being isolated from them. In addressing the complexities of legal regulation within the social protection field, a systematic approach is considered essential. This approach recognizes the multidisciplinary nature of legal regulation, which social protection encompasses. It involves an interplay between constitutional, administrative, tax, civil, social welfare, social security, and labor law regulations. This comprehensive approach emphasizes the need for a holistic examination in order to fully understand and effectively reform the legal foundations of social protection systems. In the early stages of our research, we conducted a comparative study of the provisions of international treaties that Kazakhstan has ratified and the underlying concepts of its social security legislation. Following this, we conducted an exploratory analysis of the potential for Kazakhstan to ratify further conventions, which it has previously refused to do. Through this process, we evaluated the benefits and drawbacks of these ratifications and created predictive models of their possible positive and negative effects. Despite some criticism over the past decade, comparative analysis has served as the primary method for our initial segment of the investigation. Recent academic discourse has identified the study of legal compliance as an emerging field within international law scholarship, highlighting a significant oversight in many compliance studies: the issue of legal interpretation.

Researchers such as Howse and Teitel (2010), Simmons (1998), and Raustiala (2000) argue that these studies often ignore how the interpretation of legal norms significantly impacts their application, both domestically and internationally. Instead, they assume a fixed and universally understood meaning for legal rules.

Our research began by examining instances where Kazakhstan's domestic social security laws deviated from international standards. We utilized not only the legal text itself, but also scrutinized government reports from Kazakhstan on their adherence to these international agreements. In the following phase, we examined the alignment of Kazakhstan's social legislation with international standards in order to determine whether following additional global standards could strengthen the nation's social protection system. This included a forward-looking analysis of the legislative changes necessary to implement such standards.

A key goal of our research was to propose improvements to Kazakhstan's social security system, informed by international standards and in line with them. Using legal modeling, we assessed proposed legislative changes, forecasting their socio-economic and legal implications, and simulating the achievement of specific goals. This methodology allowed us not only to critique existing systems, but also to constructively propose and predict the consequences of adopting international standards within Kazakhstan's legal framework.

In our study, we identified and analyzed the following documents as the legal foundation for social rights, examining their implementation and impact on national legislation and policy development. Our research focuses on states' compliance with

these standards, mechanisms to ensure adherence, and the efficacy of these instruments in enhancing the social rights of individuals. The interplay between international norms and domestic policies is a critical area of investigation, as well as the role of international and regional bodies in monitoring and advocating for respect for, and progress in, the realization of social rights.

The Universal Declaration of Human Rights (UDHR) from 1948 articulates, among other rights, the right to social security (Article 22), the right to work and to favorable working conditions (Article 23), the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay (Article 24), and the right to a standard of living adequate for the health and well-being of oneself and one's family, including food, clothing, housing, medical care, and necessary social services (Article 25). The International Covenant on Economic, Social, and Cultural Rights (ICESCR) of 1966, a multilateral treaty adopted by the United Nations General Assembly, commits its parties to work towards the grant of economic, social, and cultural rights to individuals, including labor rights and the rights to health, education, and an adequate standard of living.

ILO has established many conventions that set international labor standards, including those on freedom of association, the right to collective bargaining, the abolition of forced labor, equality of opportunity and treatment, and specific aspects of working conditions and social security. Notably, the Convention concerning Minimum Standards of Social Security, No. 102 (1952), lays down the basic principles and minimum standards for social security systems.

The Convention on the Rights of the Child (CRC) of 1989 delineates the rights of children, especially emphasizing the provision of adequate living conditions, health care, and education. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) of 1979 seeks to eradicate discrimination against women in all life aspects, including in employment, health, and education, thereby supporting the fulfillment of social rights.

ILO Convention No. 118 on Equality of Treatment (Social Security) of Nationals and Non-Nationals, ILO Convention No. 103 concerning Maternity Protection (Revised) (1952), and ILO Convention No. 128 concerning Invalidity, Old-Age and Survivors' Benefits detail specific social security rights. Unfortunately, none of these ILO conventions has been ratified by Kazakhstan to date, even though all prerequisites for implementing these key international social security provisions—such as a regulatory framework and available funding sources—exist within the country's social sphere.

3. Results

This research substantiates the potential pathways for enhancing Kazakhstan's social security framework through the adoption of international social protection standards.

At the outset of our study, we adopted the premise that a “decent standard of living” could objectively be assessed by comparing it against international norms, particularly those encapsulated in ILO Convention No. 102 concerning “Minimum Standards of Social Security.” Consequently, it is imperative for the national policy to

prioritize establishing the requisite, primarily economic, conditions to facilitate the ratification of this Convention at the earliest. This Convention is viewed as a forward-looking benchmark that is well-suited to Kazakhstan's context, offering a roadmap for elevating the nation's social security framework to meet international standards.

International Labour Organization Convention No. 102, along with subsequent ILO instruments, is distinguished by its absence of rigid mandates commonly found in conventions, instead presenting a spectrum of options and adaptable measures designed for incremental progress towards universal social protection, tailored to a country's economic capacity. This Convention allows for diverse implementation strategies, including cumulative and distributive mechanisms, varied benefit disbursement methods, and the choice between general or sector-specific schemes, mandatory or voluntary insurance, involving both public and private entities. These elements are all directed towards furnishing a protective umbrella that aligns with the nation's specific requirements.

Convention No. 102 acknowledges the diversity and evolving nature of social security models, emphasizing that no single model is universally applicable. It advocates for countries to devise social protection mechanisms that resonate with their unique social, cultural, historical, and economic contexts. Rather than prescribing a one-size-fits-all approach, the Convention proposes a framework grounded in global consensus on core principles, aiming to establish a baseline of social protection acceptable to all member states.

Specifically, the Convention outlines minimum standards for benefits related to unemployment, sickness, old-age, and disability, including more lenient conditions for medical care following work-related injuries. However, the levels of social benefits currently provided in Kazakhstan fall short of those recommended by this international framework. Notably, later ILO conventions suggest even more substantial compensation rates (e.g., the 1969 Convention recommends a 60% compensation rate for temporary incapacity benefits), highlighting the evolving expectations for social protection standards.

Convention No. 102 has played a pivotal role in shaping global social security discourse, influencing the creation of numerous international guidelines and enhancing protections for workers and insured individuals. The ratification of Convention No. 102 by Kazakhstan could significantly elevate the nation's social security guarantees, thereby aligning closer with international benchmarks and enhancing the welfare of its citizens.

Recommendation No. 202 outlines essential social protection measures that should encompass: universally accessible, high-quality, free healthcare for all, including those with lower incomes; financial assistance for child rearing and support that meets at least the minimum living standards; provision of social security and benefits for individuals of working age at least at the minimum living standard; and ensuring that pensions meet the minimum living standards for the elderly. The overarching principle is that social protection should be all-encompassing, with income level being the sole criterion for eligibility. This approach advocates for a social protection framework based on national standards, such as the subsistence minimum or median income, as defined by national laws.

The document criticizes strategies that diminish obligatory social insurance in

favor of personal savings, highlighting that this shifts the burden of social risks (such as aging, disability, loss of family earners, pregnancy, unemployment, etc.) onto individuals. It argues that a system based on collective fund redistribution upholds social justice, enjoys widespread support, and is effective in reducing poverty. Consequently, Recommendation No. 202 views personal savings plans as complementary to, rather than replacements for, mandatory state social insurance programs.

However, it points out that not every group in Kazakhstan is shielded from social risks, especially those in non-traditional employment (like temporary, seasonal, migrant workers, those on fixed-term contracts, part-time or remote workers, etc.), as well as those whose employment is not officially recognized. This lack of official recognition means no insurance contributions are made on their behalf, leaving them ineligible for insurance-based pensions and benefits. In situations of social risk, these individuals are left without support, plunging them into severe poverty.

Therefore, Recommendation No. 202 advocates for the development of universal social protection systems, emphasizing the importance of ensuring all segments of the population have access to fundamental medical care funded by the state, a provision not currently guaranteed in Kazakhstan.

The procedures for the provision of social services and the social service standards established in Kazakhstan during the 1990s have yet to be updated to reflect the significant socio-economic changes that have occurred since then. It is crucial to recognize that the development of the social service system in Kazakhstan occurred during a period of declining budget allocations for the social sector, reaching critically low levels. In light of the country's evolving socio-economic landscape, there is now a pressing need to revise the criteria by which citizens facing difficult life circumstances are entitled to free social services. Equally critical is the formulation of regional social standards that accommodate the varied living conditions and regional capabilities for delivering social services across different areas of the nation. Our analysis identifies several shortcomings in the legal framework regulating social services:

The absence of rules for establishing standards, norms, and regulations in the social services sector.

Inadequate exposition of the management principles for state social services, including their economic and financial bases.

A lack of provisions for creating a market of services, engaging non-state social service providers, enhancing service quality, optimizing financial expenditures, and fully meeting the demand for services.

Insufficient regulatory guidelines for the involvement of non-state entities in social service provision.

The absence of a principle linking citizens' rights and responsibilities concerning the receipt of services, notably the expectation for citizens and families to contribute voluntarily to the costs of social services.

A lack of regulations pertaining to the specifics of contractual relationships in service provision.

The absence of standards aimed at bolstering civil society's role in social services and facilitating the establishment of public associations of social service workers.

Implementing state standards in social services not only enhances the organization of service provision but also typically improves the management quality of systems and processes, which is currently a critical concern for the social sector as a whole.

The notion that every individual, regardless of their life stage be it childhood, their productive years, or old age—should receive a basic income that ensures a dignified existence is a topic of widespread discussion across numerous countries, including Kazakhstan, as highlighted by various researchers (Berstembayeva et al., 2021; Chugunov et al., 2022; Khamzin et al., 2016; Maltseva, 2016; O'Brien and Pellerano, 2015; Rakhimova et al., 2018). This concept is supported by the International Covenant on Economic, Social, and Cultural Rights of 1966, integrated into Kazakhstan's legal framework, which advocates for the right to an adequate living standard for individuals and their families, including adequate food, clothing, and housing that adheres to necessary health standards, and aims for the progressive enhancement of living conditions.

The analysis of “sufficient” and “decent” living standards suggests a direct correlation between these terms, implying that a decent living standard encompasses both minimal and reasonably determined consumer needs. In this context, a rational consumer budget should reflect the optimal needs of an individual rather than merely the minimum requirements. However, the concepts of minimum and rational consumer budgets have not been officially recognized as social norms due to their absence in legislative documents. It is proposed that a fixed percentage of the Gross Domestic Product (GDP) should be earmarked for social protection by an authoritative state entity, independent of fluctuating internal or external factors.

To address poverty in affluent nations, mandatory state social insurance is often complemented by means-tested social assistance, which evaluates individual or family income against a subsistence minimum or another national benchmark. Conversely, in Kazakhstan, social aid—which is provided at levels far below acceptable standards—serves as the primary mechanism for supporting the impoverished, rather than as a supplementary measure, falling short of meeting international norms.

The International Labour Organization's Convention No. 117, dated 22 June 1962, which Kazakhstan has not ratified, stands as a crucial document for the establishment of social policy and the development of labor and social protection standards internationally. Despite the enactment of the Social Code of the Republic of Kazakhstan in 2023, Kazakhstani legislation still lacks a formal definition of social policy. The principles outlined in Convention No. 117 are instrumental in guiding efforts to:

- formulate national strategies aimed at broadening social security coverage;
- construct and sustain comprehensive national social security systems;
- enhance and make parametric adjustments to social security schemes;
- develop and uphold effective protection mechanisms, ensuring adherence to legal standards and law enforcement;
- manage social security systems judiciously and enhance the administrative and financial frameworks supporting them.

Kazakhstan has chosen not to join Convention No. 118, which focuses on ensuring equal treatment in social security for nationals and non-nationals, due to

governmental concerns over the financial implications. The adaptation to the Convention's stipulations would necessitate substantial additional state budget allocations, which are deemed unfeasible. This decision underscores a substantial opportunity for engagement and exploration by experts in the field.

Furthermore, Convention No. 128 and Recommendation No. 131 outline criteria for pension adequacy in scenarios of old age, disability, and bereavement, including the need to adjust pension amounts in response to significant shifts in income levels or living costs. Despite strides in social protection, the sufficiency of benefits in Kazakhstan presents a pressing challenge. Social payments are minimal, and the national poverty threshold is misaligned with the already low subsistence minimum. Consequently, many elderly pensioners continue to live in poverty. The failure to align social protection benefits with a basic living standard poses a significant hurdle to reducing poverty in Kazakhstan.

We believe that aligning Kazakhstan's legal framework with global standards necessitates the ratification of Convention No. 157, titled "On establishment of an international system for the maintenance of rights in social security." By ratifying this international convention, Kazakhstan would gain access to mechanisms that facilitate the creation of bilateral or multilateral agreements focused on preserving social security rights. This is crucial for promoting the free movement of individuals and fostering the growth of labor migration. Convention No. 157 introduces various approaches to uphold social rights guarantees for individuals relocating across borders. Therefore, this international convention would equip Kazakhstan with the necessary tools to address and ensure the social security rights of its citizens residing abroad, effectively managing the complexities of transnational social protection.

A crucial strategy for CIS member states to fulfill their commitments to regional human social rights standards is through the alignment and standardization of their national laws in this domain. The diversity in legal frameworks governing social rights across CIS countries results in ineffective guarantee mechanisms, which do not align with their international commitments. This issue stems from the varied approaches CIS countries adopt in developing their social systems, including differing funding sources, the inconsistent execution of related domestic policies, and the lack of uniformity in national legislation formulation.

To enhance the efficacy of cooperation at the regional level, several measures are proposed. Firstly, the implementation of foundational documents should be made directly applicable within state territories, considering the framework of national constitutional laws. Such documents should form the core basis for legal actions. Secondly, the gradual alignment of the legal and regulatory foundations concerning social rights among CIS member states could be facilitated through the introduction of model laws. Lastly, the formulation and endorsement of conceptual international acts, recommended for integration into national legislations, would further promote harmonization. These steps aim to bridge the gaps in social rights protection and ensure a more cohesive approach among CIS countries.

Countries within the EAEU, which are also part of the post-Soviet space and members of the CIS, share many similarities in the legislative frameworks governing social security. The constitutions of all EAEU member nations affirm state guarantees and responsibilities in social security matters. However, the specific laws regulating

the social security for citizens of EAEU countries exhibit unique characteristics. A significant hurdle to aligning the social security domains of EAEU states is the marked disparities in their national social insurance systems. Thus, it is recommended that legislative efforts in EAEU countries focus on establishing individualized record-keeping within the mandatory social insurance system.

In light of the distinctive nature of international social security norms as benchmarks crafted from global wisdom and successful social protection strategies, it's crucial for legislative harmonization within the EAEU to focus on setting unified standards for the protection of working migrants' rights, especially in handling social risks. This harmonization should include aligning social protection mechanisms to address common scenarios such as loss of employment capacity, loss of a family provider, employment in hazardous conditions, childbirth, residence, and work in environmentally compromised areas, and criteria for recognizing a family as large. Such efforts are vital for creating an integrated and equitable social security system across EAEU member states.

Specific recommendations for enhancing the social security framework within the EAEU and adhering to international standards include:

Unifying eligibility criteria and benefits. Establish common definitions and criteria for identifying eligible cases and beneficiaries across member states. This includes standardizing the nature and extent of benefits to ensure consistent support for individuals facing similar life events or risks.

Adapting to diverse needs. Encourage each member state to tailor its approach to social security, ensuring it provides adequate protection while reflecting the country's specific circumstances and needs. This may involve adopting a combination of savings-based and pay-as-you-go systems, along with comprehensive and targeted programs.

Implementing comprehensive coverage. Expand social protection to cover all individuals, especially working migrants, against a broad spectrum of risks, including employment in hazardous conditions and living in environmentally compromised areas.

Ensuring adequate delivery of benefits. Strengthen the overarching duty of states to guarantee the timely and effective delivery of social security benefits. This includes the application of principles such as solidarity, collective funding, and risk pooling, alongside ensuring the systems' sustainable management.

Promoting collaborative governance. Foster collaborative governance of social security initiatives, involving stakeholders in the planning, execution, and monitoring of these programs to enhance transparency and accountability.

Adjusting benefits regularly. Make regular adjustments to pensions and other benefits to preserve the purchasing power of beneficiaries, ensuring they continue to meet the intended level of protection against social risks.

Streamlining grievance and appeal mechanisms: Establish clear procedures for grievances and appeals, allowing beneficiaries to contest decisions or seek redress effectively. By focusing on these specific recommendations and aligning with the versatile options and adaptable implementation strategies provided by ILO norms, EAEU member states can achieve an optimal level of protection tailored to their unique needs. International standards, with their qualitative and quantitative criteria,

offer a solid foundation for constructing social security systems that are equitable, effective, and rooted in the principles of human rights.

This study highlights the distinctive nature of international social security norms, which are essentially benchmarks that states set for themselves, crafted from the collective wisdom and successful strategies for bolstering social protection observed worldwide. These norms acknowledge the diversity of social security systems, emphasizing that there is no singular, perfect model suitable for every society. Instead, they propose that each society should tailor its approach to social security, ensuring it provides adequate protection for its citizens. The ILO norms, in particular, present a versatile array of options and adaptable implementation strategies, all designed to achieve an optimal level of protection tailored to the specific requirements of each country. This tailored approach may include a mix of savings-based and pay-as-you-go systems, comprehensive and targeted programs, compulsory and optional insurance, along with various methods of disbursing benefits, thereby offering a broad spectrum of solutions to meet diverse national needs.

International standards set forth both qualitative and quantitative criteria that delineate the foundational norms for social security, which social protection schemes are obligated to ensure in response to specific life events or risks. These standards address several key areas, including:

- Identification of eligible cases (What risks or life circumstances warrant protection?).
- Eligibility of beneficiaries (Who qualifies for coverage?).
- Nature and extent of benefits (What assistance should be provided?).
- Prerequisites for entitlement (What conditions must an individual meet to be eligible for benefits or privileges?).
- Duration of benefits and any initial waiting periods (How long is the benefit or privilege available?).

Moreover, these standards outline overarching guidelines for the organization, funding, and administration of social security systems, incorporating principles for their efficient operation. This framework encompasses:

- The state's overarching duty to ensure the adequate delivery of benefits and the effective management of social security systems.
- The principles of solidarity, collective funding, and risk pooling.
- Collaborative governance of social security initiatives.
- The assurance of promised benefits and privileges.
- Regular adjustments to pensions to preserve beneficiaries' purchasing power.
- The provision for grievances and appeals to be lodged.

These detailed guidelines are designed to lay a solid foundation for social security systems, aiming for their effective management, sufficient funding, and the ability to offer essential support to those in need, all grounded in the values of equality and justice. International standards thus act as concrete recommendations guiding nations towards achieving the right to social security and adopting a social protection strategy rooted in human rights principles. As previously mentioned, these standards are pivotal in how UN treaty bodies interpret the right to social protection within the framework of international human rights laws. They frequently utilize these benchmarks to evaluate the progress of countries and their adherence to obligations

concerning social security.

Summarizing the analysis, it's important to note that only a small portion of the international acts defining human social rights standards has been ratified by the Republic of Kazakhstan to date. The ratified International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights are of significant value for the development of social legislation.

The development and enactment of Kazakhstan's Social Code in 2023 were met with hopes for positive changes. We believed that codifying social legislation could be a promising direction for implementing international human social rights standards into the legal system of the Republic of Kazakhstan. This area has experienced a lack of developed principles for constructing social legislation, leading to the adoption of acts in this field that are predominantly declarative, resulting in the non-fulfillment of the Republic's international obligations regarding minimum standards of social security and services and the exclusion of "traditional" bases for social benefits from the legislation.

The codification of social legislation was intended to organize, systematize, and revise national law in line with corresponding international norms. Undoubtedly, among other positive impacts of codifying social legislation, in our view, the most important aspect and consequence should have been the real possibility of integrating international standards for establishing, providing, and realizing human social rights into the legal system of the Republic of Kazakhstan.

However, the hopes for positive changes were not realized (Buribayev and Khamzina, 2023; Khamzina and Buribayev, 2022), and the fundamental guarantees of social rights and their implementation measures, which have become an integral part of Kazakhstan's international obligations, were not incorporated into national legislation in accordance with international standards.

4. Discussion

The lack of a unified, systematic approach in crafting social security legislation results in its ineffectiveness and leads to unforeseeable social outcomes, sometimes infringing upon citizens' rights to social protection. An analysis of the evolution within the social protection framework reveals several instances that highlight the fragmented development of social security laws, including neglect of social risks, their inappropriate replacement, and a reduction in social security levels. The presence of these widespread issues has sparked scientific curiosity and motivated the investigation into Kazakhstan's social security framework, aiming for alignment with international benchmarks.

The primary mechanism through which international legal instruments influence domestic laws is by their incorporation into national legislation. As per the transformation theory prevalent in international law, the ratification of an international treaty by a state integrates that treaty into its national legal system (Lyutov, 2022). Article 4 of the Kazakhstan Constitution stipulates that international treaty commitments are binding within the Republic. Ratified international treaties take precedence over national laws, reflecting the principle that citizens' rights and freedoms should align with the Universal Declaration of Human Rights and

Kazakhstan's international commitments. This constitutional provision underscores the country's commitment to harmonizing its domestic legal framework with its international obligations, setting a legal precedent for the integration of global standards into the Kazakhstani context.

International standards have delineated "classic social insurance risks" such as loss of income, restricted life activities, disability, bereavement of the family breadwinner, and maternity. These standards have laid the groundwork for Kazakhstani legislation to establish social risks and coverage types. Beyond merely replicating international norms, domestic laws, guided by Articles 22 and 25 of the Universal Declaration of Human Rights, have broadened the scope of social risks to encompass poverty, radiation effects, and residing in ecologically challenged areas.

The International Labour Organization enhances United Nations directives by offering countries a framework for the practical implementation of rights integral to the human right to social security. Globally, states are mandated to align with both national and international human rights legislations, conforming to soft laws and global benchmarks, especially in the realm of social welfare.

Considering the challenges Kazakhstan faces in effectively applying international agreements in social protection, coupled with systemic issues in enacting ratified norms, there is a pressing need for scholarly investigation into integrating international standards into the nation's legal framework. Such research is pivotal for developing a strategic foundation for state initiatives aimed at aligning Kazakhstan with globally accepted legal norms. This scholarly endeavor is expected to generate foundational insights for enacting state measures, offering evidence-based recommendations for enhancing the regulation, quality, and forms of legal guarantees of individual social rights.

International norms concerning human rights in the social domain aim to enhance the framework of domestic national social law. In this context, the obligation of a state, as a member of the ILO, to modify its legal system in line with ILO Conventions arises only insofar as these standards generally offer more favorable conditions compared to domestic legislation. Hence, the integration of international norms into social security presents unique challenges. Since 1996, the Republic of Kazakhstan has been an official participant in the ILO. The ratification of acts from this organization has primarily focused on Conventions that regulate various aspects of employed labor, often neglecting ILO Conventions that directly address issues of social security.

International social security standards, as stipulated in global frameworks, set the baseline for ensuring an adequate standard of living for individuals. A modern state committed to fostering a social welfare-oriented structure is obligated to meet and uphold these universally accepted social benchmarks. Despite its development as a sovereign nation, Kazakhstan has yet to ratify any ILO conventions related to social security, leaving several universal social risks unaddressed by its national social protection system. The lack of ratified ILO conventions universally applicable to social security adversely impacts the organization and effectiveness of Kazakhstani social legislation, where ratification could significantly enhance its coherence and quality.

In addition, our analysis embraced the notion that domestic lawmaking could draw inspiration from sources beyond the international treaties to which a nation is

formally bound. In shaping national laws, non-binding “soft law” instruments, as well as international agreements that do not impose direct obligations on the state, can offer valuable guidance (Lyutov, 2022). This category of “soft law” encompasses ILO Recommendations, which act as advisory directives for member states in the crafting of policies, the revision and enhancement of national laws, and the implementation of practical initiatives within the socio-labor sector. Much like Conventions, ILO Recommendations establish baseline standards for countries, providing a framework for the elevation of domestic legislation and practices to align with international expectations.

The study included an analysis of the ILO Recommendation No. 202 “Concerning National Floors of Social Protection,” which was adopted on 14 June 2012. Following this analysis, recommendations were developed for Kazakhstan to meet the minimum social protection thresholds. These recommendations are aligned with strategies aimed at broadening social security coverage to ensure progressively enhanced levels of social security for the widest possible cross-section of the population, in accordance with ILO standards on social security.

This research encompassed a comprehensive analysis of ILO Conventions, including: Convention No. 117 “On Basic Aims and Standards of Social Policy,” adopted on 22 June 1962; Convention No. 118 “On Equality of Treatment of Nationals and Non-Nationals in Social Security,” effective from 25 April 1964; Convention No. 128 “On Invalidity, Old-Age and Survivors’ Benefits,” adopted on 29 June 1967, along with its Annex detailing norms for benefit disbursement; and Convention No. 157 “On the Establishment of an International System for the Maintenance of Rights in Social Security,” which came into effect on 11 September 1986. In the subsequent stages, the Treaty “On the Eurasian Economic Union” regarding the provision of social protection rights for EAEU citizens, the Agreement “On the pension provision of workers of the member states of the Eurasian Economic Union,” as well as acts adopted within the framework of the CIS in the field of social payments were analyzed.

The analysis of the aforementioned acts, along with Convention No. 143 on “Migrant Workers (Supplementary Provisions)” dated 24 May 1975, the Convention Relating to the Status of Refugees from 15 December 1998 (which took effect in Kazakhstan pursuant to the Law of the Republic of Kazakhstan on acceding to the Convention Relating to the Status of Refugees adopted on 28 July 1951, and the Protocol Relating to the Status of Refugees adopted on 31 January 1967), and ILO Convention No. 102 on “Minimum Standards of Social Security,” demonstrates that international social standards in the social sphere originate from the state’s duty to ensure everyone lawfully within its borders enjoys and exercises social rights, without restricting these rights to the citizens of a specific country. Social rights are inherently natural, and subjective social rights are entitled to judicial protection. The current framework of social legislation, as well as its evolving trends, underscores the need to harmonize the social rights of citizens of the Republic of Kazakhstan, foreigners, stateless individuals, refugees, and ethnic returnees. Non-citizens lack access to essential social rights, including the rights to a minimum pension and salary, social protection against unemployment, and social coverage in the event of age, illness, disability, the loss of a breadwinner, childbirth, and child-rearing, especially when income falls below the poverty line and under other lawful bases.

A separate section focused on analyzing the problems of implementing norms of international acts ratified by Kazakhstan, which contain individual guarantees of social rights. These ratified by Kazakhstan include: ILO Convention No. 183 of 2000 “On the Revision of the Maternity Protection Convention (Revised), 1952” officially named the Convention of 2000 “On Maternity Protection at Work”; ILO Convention No. 156 “On Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities”; the International Covenant on Economic, Social and Cultural Rights; UN Convention “On the Rights of the Child.”

The focus of this research is underscored by the observation that the ratification of international treaties does not invariably lead to the anticipated outcomes, despite the obligations of states under international law to adhere to these agreements without resorting to their constitutions or national laws as grounds for non-compliance. States are expected to align their domestic legislation with international treaties upon ratification. However, Kazakhstan’s ratification of the UN Convention “On the Rights of the Child,” along with conventions related to “Maternity Protection at Work” and “Equal Opportunities and Equal Treatment for Men and Women Workers,” has not effectively translated into the fulfillment of the commitments set forth by these universal acts. Specifically, the obligations to ensure every child’s right to social security and insurance, to provide maternity benefits ensuring sanitary and hygienic living conditions with a decent standard of living, and to facilitate a balanced integration of work and family responsibilities for workers, have not seen corresponding legislative action for their realization.

The ILO Convention No. 103 on Maternity Protection (revised in 1952) (Geneva, 4 June 1952) mandates that a woman, upon presenting medical certification of her expected delivery date, is entitled to maternity leave under this convention. The duration of maternity leave must be at least 12 weeks, including a compulsory postnatal leave period. A woman on maternity leave qualifies for cash benefits and medical care. The legislation of each country determines the amount of cash benefits to ensure hygienic living conditions and an adequate standard of living for both the woman and her child. These cash benefits and medical care must be provided either through mandatory social insurance systems or public funds; in both instances, they are rightfully accessible to all women who meet the established criteria. Under no circumstances should an employer be personally responsible for the costs of providing such benefits to their female employees.

Currently, in Kazakhstan, working women receive a one-time social benefit for childbirth approximately equal to four times the average salary, are granted a total of 126 days of maternity leave, and receive additional childcare leave until the child reaches three years of age. The government provides all birthing women with a one-time benefit equal to thirty times the monthly calculation index.

However, the social security issues concerning so-called self-employed women, especially regarding maternity and temporary disability, remain unaddressed. Kazakhstan has long acknowledged the necessity to revise its employment policies for the “self-employed population” segment. Official statistics indicate that they make up 34.7% of the population, predominantly women, who do not receive compensation for maternity or illness leave, annual leave, mandatory pension contributions, nor are they included in compulsory social insurance for health-related injuries. The outlined

objectives for improving the legal support for human rights in the socio-labor domain are among the priorities for legislative activity and social policy in the forthcoming period.

By Presidential Decree No. 711, dated 11 December 2008, the Republic of Kazakhstan ratified the United Nations Convention on the Rights of Persons with Disabilities (New York, 13 December 2006), along with its Optional Protocol. In line with the Convention's standards, Kazakhstani legislation needs to be supplemented with general principles to ensure the rights of persons with disabilities. These principles include: respect for inherent human dignity, personal autonomy—including the freedom to make one's own choices—and independence; non-discrimination; full and effective participation and inclusion in society; respect for the diversity of persons with disabilities and their acceptance as a component of human diversity and humanity; equality of opportunity; accessibility; gender equality; and respect for the evolving capacities of children with disabilities and their right to maintain their individuality.

In the area of social protection and ensuring an adequate standard of living, state parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including sufficient food, clothing, and housing, and to the ongoing improvement of living conditions. They commit to taking appropriate measures to guarantee and promote the realization of this right without discrimination based on disability. State parties also recognize the right of persons with disabilities to social protection and to enjoy this right without discrimination based on disability, and they implement suitable measures to ensure and enhance the fulfillment of this right.

These foundational rights and the measures for their implementation, now a core part of Kazakhstan's international commitments, necessitate the state's extensive and comprehensive action to bring national legislation into alignment with international standards regarding the life activities of persons with disabilities, including their social and employment rights.

Kazakhstan ratified the Convention on the Rights of the Child (New York, 20 November 1989). State parties to the Convention recognize each child's right to benefit from social security, including social insurance, and commit to implementing necessary measures to fully realize this right in accordance with their national laws. They also acknowledge every child's right to a standard of living essential for their physical, mental, spiritual, moral, and social development. State parties, considering their national contexts and capabilities, commit to necessary actions to assist parents and others responsible for child-rearing in fulfilling this right and, when necessary, provide material support and endorse programs, especially regarding nutrition, clothing, and housing.

In Kazakhstan, measures are established to support families with children by providing corresponding benefits. However, comprehensive and adequate social support is available only during the prenatal period for women and after the child's birth until the child reaches one and a half years of age. The support package includes maternity and childbirth benefits, a one-time childbirth benefit, and a benefit until the child reaches one and a half years old. While the first two are lump-sum payments, the latter is a monthly payment at the highest possible monetary rate of forty percent of

ten times the minimum wage, with the minimum amount ranging from 5 to 6.5 monthly calculation indices, translating to approximately fifty US dollars per month.

After the child reaches one and a half years of age, families may qualify for state social security in two scenarios: first, if the family's per capita income is below the cost of the food basket, a child benefit is provided until the child turns eighteen, requiring quarterly income verification below the food basket cost, which is about sixty percent of the subsistence minimum; second, the family may be eligible for targeted state social assistance if the per capita income of family members is below the poverty line, which is equivalent to forty percent of the subsistence minimum.

The mentioned types of social assistance are minimal, with the first benefit being merely one monthly calculation index, equaling about eight US dollars per month, and targeted assistance being the difference between the per capita income and the poverty line established in regions (city of republican significance, capital) per family member. Therefore, the payment falls short of even reaching the subsistence minimum, only up to the poverty line.

In our view, the social assistance provided to families raising children, in circumstances where the per capita income per family member is below the consumer basket and the poverty line, is inexcusably low, does not meet international standards for child welfare, and falls short of Kazakhstan's international obligations to ensure "every child's right to a standard of living necessary for their comprehensive development." This situation necessitates a thoughtful and balanced government approach to revising the social protection system for children and families raising children.

Furthermore, aligning the provision of parental leave until a child reaches three years of age with international standards is necessary. In the Republic of Kazakhstan, parental leave is granted until the child turns three years old with job preservation; however, its paid portion extends only to one and a half years. Consequently, women are often forced to return to work once their child reaches this specified age, as supporting both a woman and a child becomes an insurmountable burden for most families.

In Kazakhstan, it is undisputed that the lack of compensation for parental leave prevents women from fully utilizing it, leading the majority to return to work after the paid portion concludes. This situation arguably constitutes a violation of women's social rights. Moreover, under the UN Convention of 18 December 1979, "On the Elimination of All Forms of Discrimination against Women," which the Republic of Kazakhstan ratified in accordance with the Law of the Republic of Kazakhstan of 29 June 1998, No. 248-1, state parties are mandated to take appropriate actions to prevent discrimination against women on the basis of marriage or maternity and to ensure their effective right to work. These actions include: prohibiting, under threat of sanctions, dismissal from employment on the basis of pregnancy, maternity leave, or discrimination due to marital status at dismissal; instituting paid leave or leave with comparable social benefits for pregnancy and childbirth without loss of previous employment, seniority, or social benefits; and promoting the provision of essential additional social services to allow parents to balance family responsibilities with work and community participation, especially by developing and expanding childcare facilities. Therefore, in line with international norms, states are required to establish

paid parental leave, a promising direction for integrating universally acknowledged standards into national law. This necessity underscores that international social standards typically necessitate a comprehensive suite of organizational, legal, financial-economic measures of support by states.

5. Conclusion

This article has explored the multifaceted approach required for Kazakhstan to enhance its social welfare system through the strategic adoption of international social security standards. As we have seen, aligning Kazakhstan's social security framework with global benchmarks is not merely a matter of legislative adaptation but involves a comprehensive overhaul of existing structures, policies, and practices to ensure that they are inclusive, equitable, and capable of providing for the diverse needs of the Kazakhstani population.

The adoption of international standards offers a pathway for Kazakhstan to modernize its social security system, making it more responsive to the challenges of the 21st century. This includes addressing the disparities in social protection, improving the adequacy of benefits, and ensuring that all citizens—regardless of employment type, geographic location, or social status—have access to a safety net that protects against the vicissitudes of life.

Furthermore, the discussions highlighted the importance of considering the unique socioeconomic context of Kazakhstan while drawing on international norms. The strategic approach suggested involves not only the ratification of key international conventions but also the adaptation of their principles in a manner that respects local realities and leverages existing strengths within the Kazakhstani system. Collaboration with international bodies, engagement with the expert community, and a commitment to ongoing reform and evaluation are essential components of this strategy. Additionally, fostering a culture of solidarity, where social protection is viewed as a collective investment in the nation's well-being, can enhance public support for these reforms.

In conclusion, the journey towards enhanced social welfare in Kazakhstan through the adoption of international social security standards is complex and challenging. However, it is also a necessary and achievable goal. By embracing these standards, Kazakhstan can not only improve the well-being of its citizens but also affirm its position on the global stage as a country committed to the principles of social justice and human rights. The successful implementation of this strategic approach will require patience, dedication, and a willingness to adapt and learn, but the potential rewards—a more secure, just, and prosperous society for all Kazakhstani citizens—are immeasurable.

Author contributions: Conceptualization, YB and ZK; methodology, ZK; software, BZ; validation, AK, SY and YB; formal analysis, YB; investigation, ZK; resources, BZ; data curation, SY; writing—original draft preparation, YB; writing—review and editing, ZK; visualization, AK; supervision, SY; project administration, AK; funding acquisition, YB. All authors have read and agreed to the published version of the manuscript.

Funding: This research was funded by the Science Committee of the Ministry of Science and Higher Education of the Republic of Kazakhstan (Grant No. AP14972849).

Conflict of interest: The authors declare no conflict of interest.

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