

## Concept, Essence and Significance of Social Partnership in the General History of Law

<sup>1</sup>Cholponbay Karynov, <sup>2</sup>Kunduz Jylkicheva, <sup>3</sup>Maksat Makambay, <sup>4</sup>Nurmira Omukeeva, <sup>5</sup>Victor Gerasko, <sup>\*6</sup>Zhympargul Abdullaeva

<sup>1</sup>*Department International Relations and Jurisprudence, Kuwait International University, Bishkek, Kyrgyzstan*

<sup>2</sup>*Department of Civil, Labor and Environmental Law, Kyrgyz National University named after J. Balasagyn, Bishkek, Kyrgyzstan*

<sup>3</sup>*Department of International Law, International University of Kyrgyzstan, Bishkek, Kyrgyzstan*

<sup>4</sup>*Department of Entrepreneurial and Financial Law, Kyrgyz State Law University, Bishkek, Kyrgyzstan*

<sup>5</sup>*Department of Constitutional and Administrative Law, Kyrgyz State Law University, Bishkek, Kyrgyzstan*

<sup>6</sup>*Science and Research Department, Osh State University, Osh, Kyrgyzstan, [jypar.science@oshsu.kg](mailto:jypar.science@oshsu.kg)*

### Abstract

The article is investigating different positions in relation to the concept, essence and significance of social partnership institution in general law theories, reveals the conceptual basis of social partnership as a specific type of public relations. For Kyrgyzstan at the present stage the social partnership system development acquires a special significance not only as a beneficially affecting factor the country social stability, but also as the most important condition for dynamic economic development. The Institute of Social Partnership occupies a leading place in the labor relations regulation system in many countries in the world. Together with that, in world science and practice, there is a clear definition for category "social partnership".

**Keywords:** labor law; social partnership; theories of law; employer; worker; trade union; labor relations; collective agreement; labor disputes.

### Introduction

Concerning Kyrgyzstan, social partnership is a comparatively new concept for legislation and practice. In science, there are many approaches to its formulation. In particular, it is necessary to say about those definitions of social partnership, which embedded in legal science and legislation.

Completely interesting interpretation is given by A.K. Mishin: "In broad sense, social partnership is a specific type of public relations between social groups, layers, classes, communities and structures of power, based on which the permission to confess the conflict between the two parties is established. In a narrow sense, social partnership represents its own mechanism of interaction between government agencies, worker and employee representatives in the social and labor issues regulation process" (Mishin, 1998).

V.A. Mikheev offers a slightly different interpretation of social partnership concept and its essence: "Social partnership is a civilized system of social relations in the social and labor sphere, based on employees, employers, entrepreneurs,

government authorities and local self-government interests coordination and protection based on contracts, agreements, reaching a compromise, consensus on topical issues of economic and socio-political life of society" (Mikheev, 2001).

According to the author Commentary to the Kyrgyz Republic Labor Code, by Professor Ramankulov K.S., the social partnership is a multifaceted phenomenon that can be characterized from political, economic, legal points of view. For this reason, there is a different understanding of social partnership, its role, goals and objectives (Ramankulov, 2011).

There are other interpretations of the concept of social partnership. For example, I.V. Chernyshova proposed the definition of social partnership as a normatively formalized, legally guaranteed procedure for distinguishing, harmonizing and ensuring the legitimate interests of employers, labor collectives, their representatives in the field of social and labor relations by negotiating, mutual concessions (compromises), concluding collective agreements and agreements (Chernysheva, 2000).

As it is seen, the general interpretation for all above definitions is the "social-partnership" relationship testifies necessity of interests' agreement partnership as a matter of facts only possible data relations. As for the legislative definition of social partnership, the Labor Code of the Kyrgyz Republic in Art. 22 defines social partnership in the sphere of labor as the public authorities interaction, employers' and trade unions associations in determining and implementing agreed socio-economic policy in the field of labor relations, as well as bilateral relations between employers and trade unions, in which government determines interaction side parameters (Kyrgyz Republic Labor Code, 2004). As noted by domestic scholars lawyers Mikhailenko N.T., and Mikhailenko V.N. "social partnership relations are built on the principle of tripartism, i.e. three party representatives participation. At each level of interest, parties protect those or other educations. Thus in these relations representative workers, entrepreneur associations and the government management bodies are participating at the government level" (Mikhailenko, N.T., & Mikhailenko, 2005). According to our view, the legislator in Art. 22 in the Kyrgyz Republic Labor Code enshrined all types of interaction between workers (trade unions), employees and government power bodies at legal nature. Article 22 of the Labor Code of the Kyrgyz Republic recognizes possibility of a social partnership existence as a basis for bipartisanship a two sided cooperation of workers with the employer, only with the government active participation.

At the same time, bipartism is defined in scientific literature as voluntary independence based on interaction (dialogue, consultation, negotiation) workers organizations and practice of tripartism consultations and labor disputes resolution (Smirnova, 1998) with triparty agreement processing purpose the trade unions, employees (entrepreneurs) and government relevant authorities representatives and management (Semigin, 1996). In the political theory and practices, the terms of ideas about coordinating associated interests associates with the tripartism (Latin, tripartitus or tripartite) is considered in social policy as an important element of the government welfare (Velikanov, 2016).

In this way, in domestic legislation, a broad understanding of the term social partnership is developed. View of social partnership definition is given in the Kyrgyz Republic Labor Code, for example, the Kyrgyz Republic Law "On Trade Unions" states that "trade unions shall act as socially independent parties in the form of social partners", bodies of local self-government and

associations of employees with their representatives (Kyrgyz Republic Law, 1998). Considering different positions relating to the social partnership concept, it is necessary to pay attention to differentiation between this concept and its similar categories, in particular to above mentioned category of "social dialogue". The law theory opinion states that "social partnership" and "social dialogue" concepts are almost at the same order and no social partnership in practice can exist without social dialogue, cooperation and interaction. Another important principle is the government assistance in strengthening and development of social partnership on a democratic basis (Abakumova, 2018).

According to the International Labor Organization definition, "social dialogue represents all kinds of negotiations, consultations and information exchange between government representatives, social partners or between social partners on the issues of mutual interest. From this definition it follows that more expansive understanding of term "social dialogue" as interaction between all interested forces in solution of particular problem (Grinberg & Chubarova, 2005).

The following agrees with the Yu.N. Dorozhkina and M.M. Sunarchina position in response to which the social partnership providing negotiations, dialogue between the three parties on equal basis and their implementation by all parties. Here, social dialogue, cooperation, interaction already does not provide equality and conclusion obligations agreement that makes these regulation forms of social and labor relations in the face of indifference to their needs, usefulness and principle of usefulness.

As noted by Professor A.A. Shulus, in revealing the social partnership conceptual basis, "the social partnership concept is a specific type of public relations that can be characterized as fully defined and systematic. Following destinations are distinguished in its content:

- 1) Subject is system of mutual relations on the labor relations regulation and such indirect relations;
- 2) Subjects are workers (employees representatives), government power and local self-government bodies;
- 3) Purpose is ensuring balance in implementation of employees and employers interests;
- 4) Area of regulated relations is defined as social labor and indirectly related to economic and political relations, for example to ownership and its redistribution issues in the government formation issues.

Social partnership is a category in market society, which raises a certain level of maturity in

economic, social and legal together with the emergence of civilized labor market and trade unions as representatives of workers (Schulus, 2007). "Social partnership" is a narrow understanding, which refers to relation between employers, employees and labor unions, and in a broad meaning, considers social partnership as an intersectoral social interaction between three sectors of society: a) government agencies; b) commercial enterprises and c) non-profit organizations in order to solve social problems (Zaytseva & Kandrichina, 2021). Social partnerships characterized as hybrid social spaces formed in range of partners work together for mutual benefit (Seddon et al., 2004).

The multifaceted category of "social partnership" is manifestation in various terminology and interpretations defined in foreign countries a complex social phenomenon understanding in various aspects including socio political, economic, legal, sociological and practical (Shcherbakov, 2010).

Social partnership development directly relates to the complexity in increasing of the socio-economic tasks facing society, which can be successfully solved via joint efforts of all participants in the social dialogue. Social and labor relations development largely depends on the social partnership effective features as an effective tool for guaranteeing harmonization of relations between labor, capital and the government (Malyshev, 2008). It is impossible to understand the essence of social partnership without specifying the purpose of system existence.

According to our opinion, social partnership is not only protection of subjects labor relation rights, but also support of social world and public consent. In fact, the main purpose of social partnership is to protect the workers, employers' rights. In our opinion, there are inclusions in the social partnership of its partnership elements, as well as its content. The latter represents the relationship between subjects including legal mechanism that makes up the social partnership. Simultaneously, this system inclusion into labor conflicts and their regulation as independent elements is not justified (Kyrgyz Republic Ministry of Justice, 2018).

Labor disputes represent distinction of subjects, which should be considered as one of partnership relations objects on the basis of which the subjects enter into a relationship), and the procedure of their regulation carried out in representatives participation forms as employees and employers in this process.

Kyrgyz Republic Labor Code in a number of cases did not include such a form as workers and employers participation in collective labor disputes

approval. However, without further system functionality it is possible to agree on these interests, in negotiations with the purpose of improving the working conditions, if employees can contradict the opportunity right to terminate the work in support of their needs. On the other hand, the possibility in realization of employees right by going through a formalized procedure for regulation of differences does not serve the establishment of social world in labor relations.

Additionally, these relations occur in mutual consultations, negotiations on socio-economic policy issues with agreements conclusion, preparation and conclusion of collective agreements and participation of employees and representatives in management and participation of organizations.

They are built on the principles of party equality, respect and consideration of their interests, party interest participation in contractual relations, government cooperation in strengthening and development of social partnership in accordance with democratic principles. The purpose is to protect the rights and interests of workers, employers and society.

## Conclusion

Altogether, social partnership can be determined in a way how institutions system, mechanisms and procedures, called to maintain parties interests balance involved in the negotiations on payment and labor conditions including employees with employers, and support general social purposes.

## References

- [1]. Abakumova N.N. (2018). Problems of social and labor relations and social partnership. *Ideas and Ideals*, 2(2(36)), 28-40.
- [2]. Chernysheva, I.V. (2000). Legal issues of social partnership in the subject of the Russian Federation. Dissertation thesis, Tomsk, 197.
- [3]. Grinberg, R.S., & Chubarova, T.V. (2005). Social partnership: World experience and Russian specifics. URL: <http://alji.ru/books/64-grinberg-rs-chubarova-tv-socialnoe-partnerstvo.html>
- [4]. Dorozhkin, Yu.N., & Sunarchina, M.M. (2004). Participation of Russian trade unions in the formation of the mechanism of social partnership. URL: [http://www.ogbus.ru/authors/Dorozhkin/Dorozhkin\\_1.pdf](http://www.ogbus.ru/authors/Dorozhkin/Dorozhkin_1.pdf).

- [5]. Kyrgyz Republic Labor Code. (2004). General issues. URL: <http://cbd.minjust.gov.kg/act/view/ru-ru/1505>
- [6]. Kyrgyz Republic Law. (1998). "On Trade Unions" from October 16, No. 130 Kyrgyz Republic Jogorku Kenesh Statements, 1998, № 12, p.529.
- [7]. Kyrgyz Republic Ministry of Justice. (2018). Social Partnership System Development Concept in the Kyrgyz Republic from 20.06.2018 No. 291, URL: <http://cbd.minjust.gov.kg/act/view/ru-ru/33540?cl=ru-ru>
- [8]. Malyshev, M.A. (2008). Tripartism in the system of social partnership. *Sociology of Power*, (1), 63-70.
- [9]. Mikhailenko, N.T., & Mikhailenko, V.N. (2005). *Labor law of the Kyrgyz Republic. Textbook*, Bishkek: Enlightenment, 2005, 78.
- [10]. Mikheev, V.L. (2001). *Fundamentals of social partnership: theory and politics. Textbook*, Moscow, 448.
- [11]. Mishin, A.K. (1998). *Social Partnership in Russian Society (Theoretical and Applied Analysis)*. Barnaul, 125.
- [12]. Ramankulov, K.S. (2011). *Commentary to the Labor Code of the Kyrgyz Republic*. Bishkek, 1046.
- [13]. Seddon, T., Billett, S., & Clemans, A. (2004). Politics of social partnerships: a framework for theorizing, *Journal of Education Policy*, 19:2, 123-142. <https://doi.org/10.1080/0144341042000186309>
- [14]. Semigin, G.Yu. (1996). *Social partnership in the modern world*. Moscow, 208.
- [15]. Smirnova, O.B. (1998). *Labor law. Textbook. 2nd edition*. Moscow: «PROSPECT», 448.
- [16]. Schulus, A.L. (2007). Social partnership the Russian model. *Social partnership*, 2. URL: <http://www.oilru.com/sp/15/644/>
- [17]. Shcherbakov, A.V. (2010). *Evolution of the Institute of Social Partnership in Russia: Historical and Legal Research. Dissertation thesis*: Cheboksary, 180.
- [18]. Velikanov, A.P. (2016). Limits of political harmonization of interests of workers and employers within tripartism: deconstruction of the European experience. *News of the Saratov University. New series. Series Sociology. Political Science*, 16(2), 234-239.
- [19]. Zaytseva, N.V., & Kandrichina, I.N. (2021). Social partnership: history and modernity. *Proceeding of BSTU, History, Philosophy*, 6, 2 (251), 74–76. (In Russian).