Labor Rights, Globalization and Legal Thoughts

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ABSTRACT: Although the relationship between employee and employer in the sense that today is considered in labor rights and on the commitment of one party (the employee) to the labor force contract under the authority and control of the other party (employer) to a certain fee have existed through centuries in many human societies, the rules governing these relationships are not always the same and has undergone many changes. To reach the current stage, and to create special and specific rules that govern the relationships between those who work and people who use first class work long distance has been traveled.

Keywords: Labor Rights, Globalization, Legal Thoughts.

INTRODUCTION

For a long time, labor had an inferior and humble concept and powerful people of the society resigned from the labor and to do their work, they employed other people as slaves and serfs and servants in their employment and he used to work. Although the study on labor relationships in such social systems can be interesting, it is not the discussing issue of this paper. It may be hard to accept that the labor relationships in these forms have a contract concept and a contract of the current legal system contracts has been concluded between the parties. Regulation of the contract requires accepting the equality of the parties and their freedom of action that is highly doubtful, even lacked, in the relationship between master and slave and the serf. The purpose of these lines is to study the relationship between those who work (today so-called worker) and those who have the authority of first class work and the fee payment is done by them (in the current legal terms employer), since the relationship follows the contract between the parties. Particularly, the role of the concluded contract between the parties' in regulating the relations between them, is investigated 1.

Labor Rights

Up to date, different definitions of labor rights have been providing, the most comprehensive of which legally is the definition by Abolfazl Ranjbari who writes that “labor
rights are the rules governing the relations between employee and employer, so that performing
the job by the employee is associated by his/her subordination to the employer”\(^2\).

As is clear from the legal definition, labor rights do not include any kind of job. One of the
most important conditions for labor rights is working for others. The job that is called self-
employment and self-employed individuals who work for themselves do not include labor law\(^3\).

**Characteristics of labor rights**

Every law has a series of features and specs that labor law is no exception. Therefore,
characteristics of labor rights are as follows:

1. Young labor rights; labor rights in the world do not enjoy much of
dating and these
rights are a novel field of study in Law School.
2. Labor rights are transnational; the provisions relating to the labor have worldly concepts
and include the human rights of individuals.
3. Labor rights compositeness; labor rights are
compound rights that include public and
private law, and have impacts on the economics, politics, sociology and other fields.
4. Labor rights are dynamic: for example, the retributory progress of labor regulations,
development of labor rights, expanding in its territory and its regulations development indicate
that labor rights are dynamic.
5. Labor rights are discriminatory; that is to say, the labor law should be pro-poor,
however, it gives many rights to employers.
6. Labor rights in relation to public order. This means that, no employee and employer
have the right to be against the benefits that are determined for employees in the labor law.
However, there's no legal difficulties for creating more benefits for employees \(^2\).

**Sources of labor rights**

Sources of labor rights are divided into two categories:

1. Main sources of labor rights
2. Secondary sources of labor rights

- The main sources of labor rights are: a) constitution, b) common law, c) regulations, d) jurisprudence, and e) collective agreements. Sometimes the situation demands that a collective agreement be signed between representatives of employers and representatives of employees which makes working conditions regulated and better \(^4\).
- Secondary sources of labor rights
  A) International standards and principals such as: paper letter, and letter of
    recommendation.
  B) Job conventions and norms.
  C) Theories of law scholars, the interpretation, perceptions and law professors’ writings
    affect preferences of legislators dramatically \(^1\).

**International organizations and labor rights**

International Labor Organization is a specialized agency of the United Nations, which acts
in the field of labor to promote social justice and fulfillment of internationally recognized
human rights. International Labor Organization was established at the end of the First World
War and based on the 1919 Versailles peace treaty that created the League of Nations. It did not
disappear by World War II and it became the first specialized agency of the United Nations in 1946. The International Labor Organization has determined worldly criteria in the context of Recommendations that indicate minimum standards and has presented Conventions. Some of
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these international rights and norms include the right to unionize, concluding a collective agreement, indifference in wages, abolition of forced labor and unwaged labor, admission minimum age for employment, equity of opportunities, equal behaviors, and prohibition of discriminatory practices in employment. The Organization especially provides technical assistance in the following areas to members: professional training and education in order to return to work, employment policies, labor administration, labor law and industrial relations, working conditions, management development, cooperatives, social security, labor statistics and occupational safety and health. In addition, International Labor Organization presents its advice opinions to labor organizations and institutions. In the framework of the United Nations, the International Labor Organization currently with 179 members, has a unique "tripartism" structure, composed of employees, employers and governments who are involved in the Organization equally. Islamic Republic of Iran has also been a member of the Organization and is committed to implement the international obligations arising from the membership

Labor rights globalization

Declaration of International Labor Organization in 1998: In recent decades we have seen the transfer of the legal regime governing international labor rights. Regulations governing the labor have had transnational and global aspects, because the problems, demands and needs of employees’ society around the world is the same. In this regard, labor laws approximation of the world countries by the ILO's have had important effects. The new regime has been mainly based on the 1998 ILO Declaration on Fundamental Principles and Rights at Work, and then the widespread use of the term "core labor standards" has been propagated. Labor rights globalization is due to both competition of countries in social developments, and the employees tend to globalize their struggles.

While international trade liberalization expanded, the ILO, with the adoption of Declaration of 1998 (albeit nonbinding), has responded to the pressures of liberalization. This has led to the encouragement of respect for workers' rights. The mentioned Declaration has created the essential flexibility against the effects of globalization and has made the basic standards scope of labor rights globalized. While the ILO has maintained the system governing previous labor international law, it has made it effective potentially. Criteria set forth in Jus Cogens are "fundamental norms of international law" and the characteristics of "Declaration Jus Cogens" have been entered in many bilateral and multilateral agreements of trade freedom that have been signed after 1998. However, the current system suffers from major gaps. The new system needs serious reforms such as putting the main emphasis on "rights" in ILO documents, the limits of which are specified in the treaties, not "principles" that are vague and general. Due to weaknesses in the enforcement of the decisions implementation of the ILO, and as the implementation of many provisions are optional, some still do not believe that labor rights are the main themes of international law. In addition, a stronger supervision mechanism should be employed to prevent the violation of these fundamental rights. Supervision system of 1998 Declaration must become more practical than the current theoretical regulatory state. Thereby the rights of employees' society, including employees and employers must be supported more fully.

Employer

Employer is a natural or legal person that the employee works for the request and into account of whom in lieu of receiving fees. In fact the employer is the owner of the job and the workshop. The labor law is established for the regulation of relationships between the employer and the employee.
Employee
Employee is the one who is engaged in any activities for another person in lieu of receiving fees, including wages, salaries, profits and other benefits.  

Contract
Agreement between the parties or multiple parties that is legally obligatory. Contracts are divided into contracts with document and simple contracts. The contract with document is a contract that does not take account of the shape of its regulation. This type of contract is written, has the parties’ signature and the witnesses’ signature, and can be submitted.

Simple contract is another form of contract. Any contract that is out of contract with document is called simple contract. Verbal contracts or transactional or behavioral contracts are the examples of simple contract.  

Administrative contract
When the contract is discussed, it is thought that contract is specified to certain actual individuals. Also legal individuals, especially governmental organizations to meet their needs deal with different legal acts that are associated with concluding a contract with other actual or legal persons. Some of the legal actions of the government are in the form of unilateral obligations, that is to say, they are unilateral, such as regulations, and the letters, etc.

Some of the actions of the government are in the form of contracts and agreements between the parties or they are bilateral, such as purchasing, selling, and renting and so on.

Lack of supporting domestic employees against foreign employees
Countries with a weak economy and lack of jobs always attempt to prevent the entry of foreign employees in the country and employment of foreign workers are not allowed.

Employment and job security
The phenomenon of job security has been arisen after protests and strikes of workers and employers due to limitation of their rights by their employers and most of countries have accepted it. In a way that was expressed, job security is a form of legal protection of employees against employers. However, job security will be realized when the relationship between employer and employee is stable, so that this relationship cannot be cut with ease and little harsh. This means that the ending of the relationship between employee and employer is not vague and non-specific and may not be coupled with the lack of compensation. The relationship between employee and employer on labor law must be adjusted so that the employer cannot fire the employee when she/he tends to. Dismiss a worker must be associated with legal difficulties for an employer, otherwise, there is no "job security" for workers.

In response to the criticism that says: "employees have liberty, they can freely agree. The contract that is created between employer and employee is the expression of their free will and liberation. In the contract some concessions will be considered for the employee that the accusation of cruelty to the employees is not justified", it must be said that: Due to the limitations of the employment, the employer can impose her/his will to the employee. The worker is forced to get a job and the employer is well aware of this state of coercive. Although the employee performs the work freely, the will of the employee in the selection of labor contract conditions is not free. The contract conditions are under unemployment situation and have been imposed to the employee. In this case, the employees need to be protected legally.

Solutions in creating job security
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In order to provide job security, a newly theory is proposed that the courts using the theory have prevented the employees firing by employers. Based on the theory of abuse of others’ rights, the employer will not be allowed to execute her/his will in any shapes she/he tends to. In her/his competence of using rights, legal restrictions are created. The employer has the competence of using her/his right under the law. This theory is more consistent with justice and fairness.

Valid reason for the dismissal of employees

Theory of valid reason to dismiss employees has prompted the opponents of this theory to scrimmage. Using bad publicity around the world, they do not want to be a law in support of the employees. The opponents of Labor Code under economic interests, say that the employees protecting law is a serious obstacle to economic development and investment, without an explicit proof and providing specific figures and statistics in this case. The main point is the fact that some of the rich and the mongers do not believe in "job security" and legal protection of workers. They believe that the employees work better if they are afraid and needful. This moneyed class of people do not value labor and human capital. Beyond that, they do not believe in human personality as a human being. They do not know that staffing is an important contributor to economic development.

In countries where labor legislation is enacted through Parliament, the right is considered to employees that when the employer intend to dismal an employee, he must provide a plausible reason. The reason must be so that prevents the job performance. In addition, workers who are facing layoffs, must be compensated of losses and sufferings which she/he experienced due to it. This compensation is material and additional to the worker’s monthly salary.

Determination of the punishment of labor rights violators

In progressive society, law enforcement warrants are the requirements of legislation. Especially in the field of labor relations to the employer, it is imposed intensively. Enforcement of labor law is a legal phenomenon that has been created based on the idea of supporting the employees. Labor law in most countries of the world has been allocated significant roles.

It may be criticized on this ground that punishment is the right of those who violated the law, violators will be punished according to the Criminal Code. The answer is that the purpose of stating this issue is not the denial of punishment according to the criminal law, but in the Criminal Code there is no explicit sentence regard to the relations between the employee and the office or the employer. Given the lack of enforcement in labor affairs, the principle of legality of crime and punishment in the relationship between employer and employee is ignored, because it is contrary to the principle of justice that a right is violated due to lack or vagueness of the law. In this way, undoubtedly the greatest losses will be on the employee, because the employees are always at the weak point.

In labor relations, when the employee is plaintiffs and the department is the defendant, the overall impression is that the department is not punishable. Unfortunately it is a fact that in the Labor Code there is no penalties to the department. However, contrary to the general perception, most of progressive countries have not neglected that. For example, Article 184 of Iran’s Labor Code has stated that: "In all cases where the violation is done by legal persons, the remuneration for done work, demanding wages and loss should be paid from the legal personal property. However, the criminal liability, including imprisonment, fine or both will be received by the CEO or chief of legal personality that the offense has been done by her/his statement. The punishment will be meted out to the mentioned officials.

Enforcement of labor safety requirements
To better clarify the issue for the readers’ mind in connection with the enforcement of the labor safety requirements, we will start with an example. For example, a worker is hired for day labor or contract labor for the construction of the wall. The employer hires him for the job. After starting, due to an unintentional accident, worker dies or is injured. In this case, who must pay the damages to worker’s body? According to which law it will be investigated? In these kinds of events Article 100 of labor law provides: "The office is obligated to provide health and safety conditions, etc.". Article 1*7 of labor law obligates the administration for the medication and treatment of the injured worker. Article 113 of labor law obligates the administration to pay "one per cent of employee’s monthly salary" if the worker is disabled due to an accident. As can be seen, none of the labor laws include the employer to pay the damage to the worker's body. In addition, the labor law exempted the office from paying the compensation to the dead employee’s body. The worker who is disabled is paid "one per cent of his monthly salary" by the office which is very poor. Furthermore, if this limited facility is not given to the worker, no responsibility is undertaken by the office administrators, because there is no law that guarantees the performance of these Articles. This is the right of worker that be compensated for the losses she/he faced at work of any employer, and it is one of the principles of protection of workers' rights. However, in accordance with Article 171 of Iran’s Labor Code it is stipulated that the worker is compensated for any damages. The mulct of the one who has died at work will be taken from the employer, by the court, and given to the employee’s survivors. If the employer refuses, the court will sentence him to prison for that 2.

Conclusion
The contents of this law indicate the employees’ relations to the Department. It is not necessary for the agencies that are subject to a special law to include the labor law. On the other hand, it is too hard to include the labor law in the relations of employer and employee that work out of offices, because there is no explicit rule in this context. Unless the employer is considered out of the office, and this issue will be counted a big lack of labor law flax the cases. The inclusion of the labor law includes factories, small workshops, corporations, private foundations, and other works that the employer hire employees to perform the work, and "the Department" and its subsets are the function of a specific law and the relations of the Department and the office staff would be subject to a special law 1.

No right to labor strike
In the labor law no sentence can be seen for the right to protest and having offers and protests by employees. In the contemporary world, such a law is considered a non-democratic. The employees should have the right to express opinions. Some ways must be anticipated in which the employees can transfer their wishes in public gatherings to decision-making powers.

Unemployment Insurance:
In the contemporary world to help poor employees and avoid poverty in employees’ families, an insurance called the unemployment insurance is considered. The insurance in addition to presenting health insurance, protects the employees against social injuries. It is necessary for the government to know itself more responsible for creating jobs and social prosperity. To achieve this objective, the unemployment insurance will impose the government more.
REFERENCES