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## **The Notion of Yemen Labour Law**

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In contemporary law system the labour law is viewed as fundamental that establishes the labour relations and is of high importance for the worker's life.

The law theory differentiates the independent and the dependent kind of labour. The independent labour is not subjected to the labour law while the dependent labour is fully regulated by it. The category of persons that fall into the class of independent employees includes these of the lawyers, the doctors and the architects and as these of the traders. Their work is considered to be free lance. Regardless of the working place that they execute their profession, they receive their payment not as a salary but as different wages. It is characteristic that these employees choose by themselves the working methods in order to get the best possible results. For example the free lance doctor makes independent decisions that he/she thinks appropriate for the medical treatment without taking into consideration an outer influence. The lawyer leads the case and follows the procedures as he/she considers the best way to do it regardless of the supervisor.<sup>1</sup>

On the other hand the factory worker or the employee is fully subordinate to the employer in performing the working functions and duties. The employee is placed in a subordinate position of a performer of the working obligations imposed by the manager and is thus a subjected to a certain responsibility (see article 1, Labour Law).<sup>2</sup> This fact experiences the difference between their position and that of the free lance lawyer and the free lance doctor.

Thus those who in the working process have to fulfill orders and assignments from the employer are placed in a juridical dependence. According to some authors, there is an economic dependence too due to the fact that the employee counts on the monthly payment he/she receives as the only means of income. Of course the worker can get additional payments as a second source.<sup>3</sup>

"The labour relations are defined by the law that regulates the dependent specialized paid labour or by the law that regulates the special juridical relations of labour, performed by employees in change of payment and for the behalf of a manager that controls the working process."<sup>4</sup>

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<sup>1</sup> See Kaira, H. The Fundamental Labour Law, Cairo, 1979, 18 p.

<sup>2</sup> See Ratach, F., Cairo, 2005

<sup>3</sup> See Kaira, H. The Labour Contract, 1990, 20-28 p.

<sup>4</sup> See Abdul Yahua, Labour Law Readings, Cairo, 1989

## **The Labour Law signification**

The present days gives the Labour Law a great importance due to its widening perspectives to embrace more and more affected people. The rising significance of the Labour Law is expressed into several directions.

Firstly, the social plan – the significance of the Labour Law is felt in every layer of the human society. The majority of the citizens experience contract labour relations and work under the conduct of a manager. They fully count on the monthly payment. The Yemen Labour Law is one of the fundamental juridical issues that are applied directly in their social life. This concerns foremost the payment conditions (article 55), the working time (article 71-76), the different leave types (article 77 and on), the labour insurances (article 119 and on), etc. these defined norms concern the private life of the employees and the life of their families as well. The immense importance of the labour law is manifested also in the social insurance.<sup>5</sup>

Secondly, the economic plan. The labour law is of great importance for the economic development of every country. It is a way to make the severe economic condition of the worker better and to regulate the labour relations that they had endured. It gives the security against the workers' exploitation. This security concerns most the worker's payment. It guarantees the right payment and the normal existence of the employee by defining the minimum payment and a right recalculation of the monthly payment. The additional payment for working experience is also paid (see article 64), the working day is regulated (article 71), the working insurance (article 119-121) and the different social favors are being regulated.

The lack of an adequate decision of these problems leads to the potential possibility for increasing the production costs that on the other hand leads to the income decrease. This presupposes a higher price for the final product. The first labour juridical issues have been directed to the regulation of the economic labour conditions and some other social reforms in favour of the workers that are imposed especially in the developing countries. As a result of the economic growth and the rising juridical conscience, the workers received some social benefits. These changes led to the stabilization of the working atmosphere, to the production increase and they guarantee the interest of the people involved in the labour relations.<sup>6</sup>

## **Historical development of the Labour Law**

### **1. The ancient system of the Labour Law**

The ancient societies viewed the labour process mainly as a human power and primitive working instruments. The animals are widely used as a working power.

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<sup>5</sup> See Baduyi, A. Z. Labour Relations, Cairo, 1992

Omar Mohamed Abdulhalet, Labour Law, Salaa, 1966

<sup>6</sup> See Baduyi, A. Z. Labour Relations, Cairo, Haldun, 1992, 18 p.

See Shanon Mohamed Labib. Labour Law Readings, Cairo. 1996, 13 p.

As concerning the human working relations they were defined only in the relation of the subordination and super ordination in the conditions of slavery. The slaves had been treated as possessions not as human beings. Thus the working relations didn't consist of two independent sides that had agreed between them. The master is the owner of the slave and of everything the slave possesses. Outside slavery there were some kind of working relations between free citizens that are hired to perform specific actions. The Roman Law regulates these relations as a contract of hiring people according to a certain working power. A free citizen hires another free citizen but the relations are like those of a slave and his master.<sup>7</sup>

## **2. The Middle Age Labour system**

### **A. Feudalism**

The Middle Ages are characterized with a feudal system that puts the power into the hands of the landowners. The agriculture is the main economic sphere of the time. The village people are bound to the land and the landowners. This makes their work highly dependent of the feudal.<sup>8</sup>

### **B. The Craftsman Labour System**

The craftsman organization appeared on 13 th century with the emerging class in the cities that has the right to a free labour without the veil of the feudal. The relations within the different organizations are regulated by an internal code that includes certain norms and rules of labour relations as those of the paid leaves and the labour conflicts. This code transforms the working place into an organization.

### **C. The System of Labour Relations in the age of the Free Capitalism**

The French Revolution proclaims the personal freedom of the human being from the juridical, economical and political point of view. The labour relations are defined by the principle of completely free contracting and the free will. The overall freedom leads to the equality in the sphere of the labour relations. One of the most significant acknowledgements is that the labour is viewed as a product subjected to the law of the marketing conditions.<sup>9</sup> This period is characterized with a higher level of the labour seeking contrasted to the market requirements.<sup>10</sup> This is a reason for increasing exploitation of the worker. The employer imposes working requirements and gives the worker an insufficient payment for his/her existence. The workers are placed into bad

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<sup>7</sup> See Hasan Kaira, The Working Contract, Cairo, 1992, 28 p.

See Lunk Kamer, The working Contract, Aris, 1968, 2 p.

<sup>8</sup> See Hahua Abdul Yadua. The Labour Law Readings, Cairo, 1989.

<sup>9</sup> See Bran and Jallan. Labour Law. Paris. 1958, 18 p.

<sup>10</sup> See Ishmael Ihab. Labour Law, Cairo. 1965, 17 p.

working conditions and even the hygienic conditions are not fulfilled. A severe control has been imposed on the worker by diminishing the payment for not qualified work performed. It concerns the existence means of the worker and most of the time is not fair. The implementation of the machines into the working process increases the risk of labour accidents. These accidents can lead to serious harm or permanent disability of the workers. There aren't law norms to protect the workers' rights. There is a certain juridical need to regulate these new circumstances. There is a need to regulate the social peace and to guarantee the stability. The present industrial mechanisms lead to the emerging of the capitalistic system, the gap between the worker and the employer gets still greater. The workers begin to make the trade unions in order to guarantee their rights. The trade unions are transforming themselves into a powerful weapon against the employer's actions. They organize strikes to impose the workers' wishes. On the other hand the employers close the factory in response to the strikes of the workers. A powerful conflict is felt between the workers and the employer.<sup>11</sup>

There is an expressed tendency to imply new law orders to regulate the required balance. This process is further supported by the production process, the concentration of the people in the cities, the increase of the working potential, the severe competition, the attempts of the employers to reduce the production expenditure by diminishing the workers' payment and etc. the Labour Law appeared first as separate juridical acts and later expands its scope concerning different layers of economic groups. The Labour Law now regulates a greater sphere of the labour activities and is a fundamental base for regulation of the labour relations.<sup>12</sup>

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<sup>11</sup> See Abdullah Rada, Abdulrasul, Labour Law, Cairo, 1978, 9-10 p.

<sup>12</sup> See Hadge Mohamed Abdulkader. Labour Law Readings. Salaa. 1995