

Recognition to Right to work of Labours as human right

Prof. (Dr.) Nitu Nawal*

Vipin kumar**

**Dean, School of Legal Studies and Governance, Career Point University, Kota, Rajasthan.*

***Research Scholar, Career point University, Kota, Rajasthan.*

Work as labour is a paid operation, the result of human activity;ⁱ and it is also conceptualizable as human effort applied to the production of wealth. Thus, work originates the need for the establishment of norms tending to the protection of those who only possess their labour power. In this way, the so-called "Right to Work" implied the appearance of a catalog of human rights, also known as human labour rights, which are inherent by the mere fact of being a person and working. Human rights protect those who make legal work their livelihood and make it possible for working people to carry out their activities in complete freedom. These human rights constitute a catalog of prerogatives that when developed derive in what we can identify as labour justice. Human labour rights are closely linked to social security, the right to stay in a job, the right to be compensated in the event of dismissal without just or legal cause, to a salary, to a house, to training and training, a maximum working day, social security, the distribution of profits, the right to professional association, among others. In this sense, the Various Human Rights Commission considers it opportune to disseminate to the general public and to those who are workers in particular, from human rights to work and work, in the spirit of promoting build a work culture.

LABOUR RIGHTS AS HUMAN RIGHTS:

It is important to define the rights of our workers. Labour rights are those rights specific to the role of the worker. Some of these rights are exercised individually and others jointly. This may include the right to work in the job you have chosen and the working conditions that cover only various issues such as fair pay and privacy protection like-as the right to protection against arbitrary and unjustified dismissal, the right to representation and the existence of the Union, Strike rights. These rights can be based on a number of reasons, including freedom, dignity and capacity. This research work is not intended to protect workers' rights, but takes into account the fact that the foundations of rights are important when considering their interpretation.

HUMAN RIGHT TO WORK AND HUMAN RIGHTS AT WORK

Human Rights at work have their origin as social rights in the Mexican Constitution of 1917 and in the German Weimar Constitution of 1919, after a long process of development that started from the Industrial Revolution.ⁱⁱ The right to work has three fundamental elements:

- 1) freedom to exercise any lawful profession without the interference of any public authority;
- 2) the right to have a job, which implies positive obligations for the State, in order to foster favorable circumstances to generate jobs;
- 3) dignity, since the job must meet a minimum of fair conditions.

Work expands its importance to the economic, social and political sphere, hence the need for it to unfold under the magnifying glass of human rights, since only through the observance of these labour human rights does it ensure that those who have work enjoy the benefits of the fundamental rights of the person who works, so that they do it with dignity and that the values of equal work, equal pay, gender equality and without any discrimination are fully respected. Likewise, there are various rights that affect people's work environment, which are also recognized international instruments that recognize the right to work and human rights at work.

ILO AND RIGHT TO WORK:

The ILO, which belongs to the United Nations system, has established what is known as the content of international human rights law. The Conventions issued by the ILO regulate issues related to work accidents, illness, compensation, labour administration, placement agencies, professional capacity, labour credits, union law, rest, equality at work, non-discrimination, minimum age for admission to work, work statistics, seafarers, hygiene at work, paid educational leave, application of international labour standards, prohibition of the worst forms of child labour, protection of health, human resources, minimum wages, protection of wages, security and health, social security, rural workers, abolition of forced labour, night work, underground work and vacations, among others. The ILO establishes its *raison d'être* and regulates labour human rights.

The ILO defines forced labour as “all work or service required of an individual under the threat of any penalty whatsoever and for which said individual does not offer himself voluntarily”. Among other instruments, Convention No. 158, on the termination of the employment relationship (1982), establishes the legality of the dismissal in its article 4, and imposes, in particular, the need to offer valid reasons for dismissal. as well as the right to legal and other remedies in the event of unfair dismissal.

Declaration on Progress and Development in Social Matters, in article 6, states, among others, that social development requires that everyone be guaranteed the right to work and to freely choose employment, including participation of all members of society in productive and socially useful work.

Human rights at work include, among others, the person's right to social security to access health and social protection systems, through the institutions established to provide them, so that workers enjoy protection in the case of illness, general accidents, work risks, pensions for incapacity for work, widowhood or orphanhood, which constitute a minimum of social security that employers are obliged to grant workers, rights that configure the human right to decent work.

The rights of the person, among them, labour rights are those that pre-exist the emergence of the labour bond, it is not the emergence of a contractual bond that originates them, only objectifies them, the right to work, therefore, the potential worker already owns it and the contractual-

employment relationship only adds new rights, also constitutionally protected.ⁱⁱⁱ By way of illustration and not limitation, since the guiding principle that they are progressive and constantly expanding rights is applied, we can mention the following:

- Right to job stability, which means that the worker must enjoy their permanence at work, to provide their personal and job security, which allows them to work with dignity and tranquility, on the understanding that they can only be separated from their employment for a just or legal cause.
- Right to be compensated with up to three months of salary or to be reinstated in their work in the event of unjustified separation from their employment.
- Right to receive double remuneration in the case of working overtime, which is regulated by statutory laws, and which only authorizes overtime for up to three hours, three times a week.
- Right to receive training and education, which allows the worker to access, if appropriate, the ladder programs and improvement in employment, which translates into better performance and remuneration.
- The right for work establishments to be hygienic and healthy, for the prevention of accidents, including in the use of machines, instruments and work materials, as well as their right to organize work in a way that guarantees the health and life of the workers, under penalty of the sanctions established for this purpose by the laws.
- Right to a maximum working day of eight hours, for the protection of occupational health by avoiding excessive hours that reflect inhumane treatment.
- Right to enjoy insurance, invalidity, old age, life, involuntary cessation of work, illness, accidents and childcare services, aimed at the protection and well-being of workers and their relatives.
- Right to establish cooperative societies, for the construction of cheap and hygienic houses, destined to be acquired in property by the workers.
- Right to settle their worker-employer conflicts, before the Local or Federal Board of Conciliation and Arbitration.
- Right to obtain credits, to obtain movable or immovable property.
- The right to receive your salary in current legal currency and not in kind, in order to avoid the reappearance of the ray shops.
- Right to receive distribution of profits, with respect to which the employer enters for the goods or services produced in the workplace.
- The right of women to enjoy a period of rest before and after childbirth, for the protection of the mother and her future daughter or son.
- Right to establish the conditions under which the contracted service is to be provided in an individual employment contract, producing legal certainty for the employer and employee.

- Right to receive a written record of the number of days worked and the salary received, which fosters the legal security of the worker and allows proof of his employment history.
- Right to be informed of the safety and hygiene regulations in visible places in the center of work, to avoid accidents in the workplace that harm your health or personal integrity.
- Right to enjoy the days of rest established in the Law, in an unrestricted respect for civic or traditional commemorations of the workers.
- Right to enjoy a minimum wage, in respect of their right to the minimum living.
- Right to equal pay for equal work without discrimination of any kind, to abide by the human right to equality.
- The right to a bonus, which will consist of an annual bonus that the employer is obliged to deliver to the worker.
- Right that the placement service for workers, through government or private job boards, is free.
- Right to enjoy a vacation period, which allows integration with her family, and the preservation of her physical and mental integrity.
- Right to payment of a seniority premium, consisting of 12 days of salary for each year worked, payable when you are separated without legal cause from your work or when you have been at the service of your employer for more than fifteen years in voluntary separation case.

ENFORCEABILITY OF HUMAN LABOUR RIGHTS

Labour human rights can be asserted through instances belonging to legislative bodies; Jurisdictional bodies and non-jurisdictional institutions, as well as before international bodies and courts. Knowledge of the mechanisms that make it possible to enforce labour human rights is necessary and important for workers because it allows them to achieve the effectiveness of international and national labour regulations by exercising them and achieving their protection. Many State by ratifying the International Covenant on Economic, Social and Cultural Rights; the Additional Protocol on Economic, Social and Cultural Rights; As well as various conventions of the International Labour Organization, it was obliged to abide by the procedure of the Pact, Protocol and cited conventions and verify its observance. In turn, the ILO monitors that the States that ratify the conventions that are issued within it are observed through the respective review committee. This organization has two control mechanisms and also issues recommendations to areas where its application could be improved.

Labour human rights are constantly expanding by virtue of the economic development of the countries. Inhabitants of the States that are party to the American Convention on Human Rights,^{iv} can enforce them through the Inter-American Commission on Human Rights, which has the power to recommend to the member states that they report on the actions that implement for the respect of the aforementioned rights.

ENDNOTES:-

ⁱ Hoffe, O., Economic Citizen, Citizen of the State, Citizen of the World. Political ethics in the era of globalization, Buenos Aires, Katz, 2007, p. twenty-one.

ⁱⁱ Committee on Economic, Social and Cultural Rights, General Comment No. 18, the Right to Work, approved on November 24. Geneva, United Nations, 2005.

ⁱⁱⁱ Abdon Pedrajas Moreno, Dismissal and fundamental rights. Madrid, Trotta, 1992, p. fifteen.

^{iv} Sastre Ibarreche, Rafael. The right to work, Madrid, Trot-ta, 1996.

www.ijahms.com