Conventions and Recommendations of International Labor Organization in supporting that labor force rights and its comparison with labor low and the Constitution of Iran

Alireza Mooghali, Arash Veysi, Reza Sasanfar

Department of Management, Payame Noor University, I.R. Iran

ABSTRACT

In this article gradually impact of the ILO at work's regulations and laws in international level and the Islamic Republic of Iran country will be discussed. Therefore, after investigating of structural and main components of the ILO, will be paid the investigating International Labor Organization's policies in relation to employment, discrimination prohibits and will paid employment and in a state of comparative occupation policies in constitution and civil law with labor international laws will match and studied.

INTRODUCTION

A. occupation policies:

One of the important reasons of economic enterprise creation is people’s need to various goods and services which are provided by the firm. These economic units have forced to provide and absorb the manpower for producing and provide services, the relationship between supply and demand of labor force through the conscious policies and with regular and precise planning and in occupation level increasing and labor force productivity is very desirable and effective.

Conversely, lack of attention to this point caused unemployed, poverty, reduced productivity, and injustice and social and economic crisis has followed. so governments should take the realistic codification and normative occupation policies and scientific and coordinate planning initiative in this regard.

this is because I is impossible to get the individuals’ occupation issue deposit to demand and supply market because this subject in addition to having the dimensions of personal, national, and global also having the dimensions and different variables political, social and economic. so, governments are obliged to consider it in its self-long- term and short planning until economic growth and occupation increase fields will be provided.

Occupation has different dimensions of individual, national and global. is individual of that direction in addition to promotion of the human personality, on his life dignity and affairs is also effective. it is national of that direction creation Social justice and the fight against poverty and is means the economic development and growth and create the balance in social and economic relations. and in the global dimension is one of the economic development and growth important indicators of each country in according to international communications.

ILO and its impact on occupation:

The equal of article1 this conventions, any government that accept the conventions, is obliged to announce and follow active policy in field of Creation full employment and generating and for all People who are jobseekers and ready to serve the opportunity of occupation, it guarantee to find a job and and Provides freedom in the choice of occupation So that every worker, regardless of race, color, religion, sex, political opinion, national dependence and social origin, should have all Facilities to obtain the necessary qualifications for having Suitable job and using his capabilities and competencies in article 2 of this conventions. Meanwhile

Corresponding Author: Arash Veysi, Department of Management, Payame Noor University, I.R.Iran
Tel: 0098-91743232322 E-mail: arashvaeyci@yahoo.com
emphasizing on appropriate social and economic policies formulate And consultation with stakeholders representatives especially the workers and employers need to adjust and Coordination the policies has stipulated with national goals and conditions. cause of the paragraph (a) of Article 3, the Declaration of Philadelphia annexed to the organization Statute , One of the organization important and critical tasks is global programs advancing and formulating among the nations of the world in order to access the full employment and raising the life. in context this policy, the ILO with Conventions formulating of no. 122-1964 employment policy regarding occupation policy- that Iran has Joined- Important step has taken in Providing of occupation overall policies.

Moreover, in Letter of recommendation no. 122, Adopted in 1964-that Iran has not join to it - Convention that is in fact 122 Conventions complementary. ILO describes the general principles of occupation policy. " this principle is based on that objectives of employment policy must be determined clearly And quantitative as far as possible in relation to growth and economic development and Based on the labor force analytical studies and occupation rates ,unemployed or Incomplete employment, and the how distribution of the force. Governments that had not accepted a recommendation should try hard in raising the production and full utilization of human talents through education, guidance, professional education, health services, adopted the arrangement that workers, especially young people and those who are newcomers to the labor market was In search of productive and useful job and could keep pace themselves with economic needs changing . In addition, occupation policy must be proportionate with overall country social and economic policy.

On the other hand, the Organization in no. 111-1958 Conventions " regarding the discrimination prohibiting In affairs related to the occupation and employment " the also has joined Iran to its, Meanwhile emphasized on fact that the terms of employment and occupation and right to use professional guidance and professional education and right to employment and occupation to different professions and working conditions will be included, in its second article , announced that "each of Member State which has ratified this conventions and shall be bound that according to specified principles that are in accordance with local conditions and traditions ,has adopted a public and national policy that aims to success probability equal establishment in employment and Occupation and in Conduct and behavior conditions with worker and destroy any discriminate."

Constitution of the Islamic Republic of Iran and Occupation:

Necessity of policy in the Occupation field has been inferred different principles in the Constitution of the Islamic Republic of Iran:
-at paragraph 12 of article III One of the duties of the Islamic Republic of Iran is Correct economic foundation and fair based on Islamic criteria for establishing welfare and elimination of Poverty and remove any soft exclusion in various areas, including work.

-cause of the paragraph28, government is also mandated that with Community need observance to various jobs provide for all people situations for establishment of Occupation opportunity and equal conditions for job authentication.

-also due to the paragraph 2 of article 43 providing of working conditions and facilities for all in order to achieve full Occupation and placing the means of work to available everyone who is able to work but hasn’t the the means of work as one of the essential conditions for Providing society economic independence and eradication of poverty and exclusion, and fulfilling needs of man knows.

The Iran labor law adopted 1369 and the Occupation:

In labor law related to policy about employment, there is no special point. However, in Article 119, it Obliged the Ministry of Labor and Social Affair that take action into occupation service centers Creation of throughout the country and Identify work create areas and to create planning occupation opportunities.

(B) the freedom and prohibiting coercion to work:

Respect to Personality and human rights requires that no person be assigned without his/ her satisfaction. so, the labor rules must be formulated with regard to this principle respect to human personality is completely observed when In all ways, he protected his rights and more favorable himself and his family living conditions. Job freedom is requisite of governing people over his social destiny and this freedom makes up the basis and foundation of human society life . "Job is the right of every human being who has the power to work And it is the duty of government and society that implementation and Play this right for all human that ability to work, to guarantees every human having the freedom right to job choice that is his merit and his benefit in society.

Based on paragraph 23, Universal Declaration of Human Rights, work Freedom has been confirmed. This Declaration stipulates that "Everyone has the right to work, choose his job, be willing to have satisfaction and favorable conditions " International Covenant of Economic, Social and Cultural adopted 1966 in his article stated that: " Covenant Party States recognize the right to work, that related to all and had calls the appropriate steps to protection these routine right."
The ILO regulation about freedom and forced prohibition to work:

In the Declaration of Philadelphia annexed to the organization statute after that emphasis on "work is no good." In Article 2(1) declared that: "All human beings irrespective of race, creed, belief, or sex, have the right to continuing both material welfare and both their spiritual freedom development conditions and honor, economic security and pursue equal opportunity." in conventions no. 29-1930 which also Iran has joined, although its purpose is regarding the force labor prohibition in countries under the domination and member States colonial And in Article 1 as "their land territory" is noted of them But problems that could be used as also have titled and the countries other attention that have not under the domination territories that also could place. in article 2 of this conventions states that" the term of coercive labor or forced labor referred to work or services That imposed to him with threat of punishment and without desire and satisfaction who are volunteer interested party to do it .. "in this conventions after emphasizing on some services, such as military service, a service that is part of civic obligations and ordinary that is the citizens of a country, services that have imposed as a result of condemnation in a righteous courts service that is imposed to offenders, serving that has been imposed force majeure sentence and Finally, partial, Public and rural works the direct benefit of the population and the rural individuals themselves should be carried out. Are outside the inclusion of this conventions, in paragraph 2 of article 5 was also emphasis on the regulations immediate repeat that have led to the establishment of labor forced. In this Conventions have been emphasized on the immediate and absolute prohibition of labor force for women, individuals younger than 18 and older than 45, teachers of cultural including teachers, students and administrative staff.

in article I of conventions no. 105-1975 about the "abolition of forced labor" that also Iran has joined to it, appointed that: Each of the ILO member states to join this Conventions are obliged to prevent any form of forced labor and is avoid the attempt to use any form of forced labor as compulsory or political beliefs education, Punishment because of having or the political existing system expression contrary opinions, economic and social as workers mobilization and use of them to intend economic development, as a discipline, as a punishment and reprimand due to participating in strikes and as a propaganda of racial, social, national and religious.

Freedom and prohibition of forced to work in the Constitution:

The constitution of the Islamic Republic of Iran, the article of job choice right and observance of job choice freedom and absence of coercion individuals to certain work and preventing the exploitation has be placed the main axis of human problems, economic and social. Cause of article 28 of the constitution, "Everyone has the right the job trend thereto and isn’t against to Islam and the public interests and others rights, selected.osla in paragraph 4 of article 43 in order to society independence Supplying and the eradication of poverty and deprivation, and fulfilling human needs in the process of growth, with it freedom maintaining one of the Islamic economics criteria of based on " occupation choice freedom observance and lack of coercion specific the work and preventing the another's labor ", has been consistent. In addition, paragraph 6 of article II, according to the "Dignity and human sublime value and his freedom coupled with responsibility toward God" is knows the base of the system.

Freedom and prohibition of forced to work in labor law:

Labor freedom is one of the social life basic and principles, and one of the economic activities freedoms results and necessities. “Labor freedom means that specifically of the word, must not be wrong with freedom of business, industry and commerce. Job freedom in fact, only his capital is arm force and skill and expertise, he is not the owner of the means of production. In the event that the freedom of business is the component of economic freedom and it including jobs and business and industry and Commercial affairs. Their occupation is require having capital, means of production and obtaining a license from public authorities.

Also in Iran labor rights, In order for elimination injustice and support of workers and defense of human fundamental rights, some the regulations have been enacted. labor right of year of 1337, in order to implementation of article 29 and 105 and in article 62 states that “everyone else place the compulsory work over contrary labor international conventions regulations of no. 29 and 105 in addition to the obligation to pay a fee in each case, shall be punished to pay a Cash fine or to misdemeanor imprisonment or to punishment.

The labor law 1369 of article 6 and with inspiration the principles of the Constitution provides that people forcing to specific work is prohibited and Iranian people from every nation and the tribal to which they belong they should have equal rights and race, color, language and like these will not be causing scores. and all the people, both men and women was placed equally in law protection and the everyone has the rights to select the job that tends to it and oppose Islam and the public interests, and does not infringe of others. “ in order to this article observance, in accordance with article 172 of the labor right also sanctions In order to force labor prohibition implement, including prison, pay the cash fine, and damage compensation has been decreed.
(C) Prohibition of discrimination in labor:

The topic of the elimination and prohibition of discrimination in the work of the international covenant of economic right, Social and Cultural approved in 1966 is also taken into consideration. Based on paragraph 2 of article 7 of the covenant “this covenant parties states have recognized the everyone’s right to fruition work favorable and Justly conditions in particular ensure equality of opportunity for everyone that can be promoted in his employment to a higher stage regardless of any other considerations except length of service and merit.”

In article 21 of the universal declaration of human rights has been agreed that "Everyone has the right to achieve with equal condition to public jobs in his country."

Also in article 23 of this declaration, it is emphasized that the occupation right and benefit from fair and favorable conditions and without discrimination and accordance with human dignity.

Regulations of the International Labor Organization about the Prohibition of Discrimination at work:

International Labor Organization made special importance for the Prohibition of discrimination in work as one of the human fundamental rights and the take further action to improve working conditions and workers’ lives come to do and benefit from the right. In article 2 of the declaration of Philadelphia annexed to the ILO Statute emphasized on both stability sustainable peace that can be consistent based on social justice, and that all human beings have benefit from the benefit right from material and spiritual welfare in freedom conditions and the equal opportunity and achieving the conditions which will enable this subject must be place that aim main the national and international policy.

Convention no. 111-1985 ” regarding the discrimination prohibition in occupation and employment affairs ” that Iran is linked to it-also has paid discrimination proceedings ban issue in the field of employment and career choice. Based on article 1, this convention “discrimination included any difference, exclusion or preference based on race, skin color, sex, religion, political opinion, and or ancestral nationality record or social class was established and in affairs related to employment and occupation completely abolished probability of success, equal and equality observance in Conditions of Conduct with workers and or make it hurt.”

The Constitution and the discrimination prohibition in work:

Every person’s employment in the Islamic Republic of Iran both of freedom in type choosing and jobs quality and both of having the right appropriate and proportionate job with persons talent and ability and without any discrimination, regarded as one of the human fundamental rights, and criteria have been established. Based on paragraph 9 of third principle the Constitution, ”the government of the Islamic Republic of Iran is obliged all its facilities to eliminate undue discriminations and creation justly facilities for all in all fields of moral and material is used. also in Principle 19, it is declared that "Iranian people " whatever the ethnic group or tribe, have the equal rights and color, race, language, and like these would not be score." in articles 20 and 29 of the Constitution it is also emphasized that men and women have place equally in law protection and having all human rights, political, economic, social and cultural with Islamic criteria observance, supportive, conformity, government is mandated that compliance with the society need observance, provides possibility of occupation to work and equal opportunity for occupations for all people in the society.

Non-discrimination in the labor law:

Labor law codification can establish in each community a clear and healthy relationship between employer and worker, generalize social justice and a large extent eliminate class differences So that, by rejecting any discrimination provides in achieving moral and material progress to be fairly for all individuals of society.

The mentioned fundamental principles in article 6 of labor law1369 has been emphasized. also in article 38 of this law discrimination prohibition in the determination of wage rate based on gender, race, ethnicity and political and religious beliefs is emphasized.

Part II: Foreign Nationals occupation:

Generally, nationals of each country have priority about using of the existing job opportunities in their homeland ratio to strangers. security and economic and political considerations, requires that the foreign nationals occupation is not the extent that country economic arteries have get them and or composition of the working population disturb in favor of foreign. This right of each country provides the rules and regulations in relation with the foreign nationals occupation, this is because the occupation and work policies in the countries should be based on the same country's manpower adjustment and then in case of necessity of foreign nationals is invite to work not than any stranger could have occupied different occupations and workers nationals the country are unemployed.
**Regulations of the ILO in support of migrant workers:**

Labour international organization is considered issue of supporting migrant workers as important goals in the introduction of its Statute organization and "protection of temporary workers who are employed in a country other than their country" in order to improve working conditions and social justice establishment, is essential.

Cause of the provisions of convention no. 1947-97 "about migrant workers" of which Iran is not joined to it - immigration worker is a person who migrates from one country to another country to obtain the job and do not have your account will be busy. Therefore, in terms of this Convention, also immigrant workers has including those wage earners and as a result, should be without regard to nationality supporting regulations, also in this Convention behavior equality between domestic and foreign workers are supported and emphasized. In accordance with parts of this Conventions, the countries that have joined, committed that "about immigrant workers have the behavioral the individuals' rights and privileges should not be less in comparison with themselves rights and privileges."

According to a ricle 14 of convention no. 143-1975 "regarding to immigrant workers( supplementary regulations) that Iran is not joined to it"Countries that have joined the convention can have the labour freedom right about migrant worker are postponed to this condition that worker while legally and for working in the country of migrated is residence . "However, this period shall not exceed two years." however based on the provisions of this Convention whenever viewpoint the benefits the country needs to accept migrants, this country can limit the occupation to some jobs and works for foreigners nationals.

Convention no. 19-1925 regarding the "equality of treatment between foreign and domestic workers in the field of accidents compensation due to occupational " - which Iran is joined to it - states that any country which has joined to this convention is committed in the case of other countries nationals that have joined the convention and in its soil was work-related accident about their heirs, as well as the behavior that act about the its own nationals. Another point is that based on the provisions of this convention the principle of equal treatment should be applied without any conditional in the area of residence, about the foreign workers.

Conventions no. 35 and 40 adopted 1933 - that Iran has no joined none of them - with similar statements about the aging insurance, disability, death of the head of household, require that foreign workers in terms of insurance pay and or receive pension in domestic workers verdict are.

**Foreign nationals' occupation in Iran's Constitution:**

Based on article 28 of the constitution, "Everyone has the right to be preoccupied to work, which tends to it, and is not opposed to islam and social interests and the government is the required to provide equal occupation facilities and equal condition for all people. " the mentioning point about this article is that foreigners are not excluded from job and used expressions inclusion is general and include all the country's inhabitants. But considering that stipulated that intending jobs are not opposed to Islam, So much can impose limitation by ordinary laws frequency limited for all workers, including foreign workers and immigrants. Also, since that foreign nationals are deprived of political rights, so Citing to this principle can be by ordinary laws deprived the aliens of occupation in some jobs Or limitations established for the licensing of their work. But "if government has had the special contract with other governments the in which make special facilities for nationals occupation of other country, must be operate to its obligations."

**Labor law and foreign national occupation:**

Work of law 1328 only on the basis of not 3 and article 1 of the regulation it was ordained in that: "Workers and business owners who are foreign nationals, if permissibility of to staying in Iran when they can busy to will be exported work that having work permits and it permits from the Ministry of Labour with the relevant regulations will be exported for expertise and specific professionalism."

in article 10 of the Labor Law, which was ordained in 1337 " foreign nationals cannot work unless in accordance with the country rights and regulations of the involved unless is given to them permission and work formal license according to related the regulations of the Ministry of Labor and Social affairs is given to them. "During the articles 120 to 129 labor law the year of, 1369 the attention is paid to the issue of occupation foreign nationals.

And article of the 120 Foreigners nationals occupation conditional to having entry visas with specific work right and work permits have been received. In paragraph (a) of Article 122 also one of the conditions of work licensing issuance has determined for at least in 10 years, stay Foreigners nationals of Iran.

Labor law the year 1337 was determined the condition of residence 5 years and while cause of convention no. 143 the residence condition determine for foreigners nationals must not be more than 2 years.

Therefore, labor law 1369 has determined the more difficult conditions which may create reason more opportunity for Iranian nationals' occupation. Also the mentioned conventions are considered the restrictions create possibility on the some jobs occupation for immigrant country, based on contents ratifications "prohibiting the foreigners nationals employment in key positions and critical posts approved 23 / 6/1362 cabinet "placing of foreign nationals by ministries, governmental organizations and the armed forces of Islamic
republic of Iran in posts and the management agent positions and deputy of companies and government organizations and dependent of government, heads up jobs in the ministries, and governmental organs and financial advisers and administrative, organization agent management and public companies and dependent of government is prohibited.

In Article 38 of the labor law in year 1369 prohibition in the wages rates determination based on "ethnicity" is stipulated. It can be said that contents of this article shall not prevent of discrimination based on nationality and the order it is Iranian different ethnicities, not other nations. This is an obvious affair and certain that in each country occupation priority and benefit from better working conditions is with workers the Same Country. And countries labor laws for migrant workers and foreign is decreed the specific conditions as the Iranian labor law do not separate, even international norms and criteria to allow their countries competent authorities with regard to the own country occupation policies for foreign occupation is create restrictions and barriers, therefore, foreign nationals can not only with having the general conditions of labor contracts in the country are close down and in addition, it should be having the other conditions that detail in labor law in 1369 and "Regulations of foreign nationals occupation adopted on 24 / 3/71 cabinet" has been inserted. In the end, should be noticed to two the important point. First, humanitarian emotions, is ruled which provided the livelihoods possibility and earn money for residing foreigners in enter country. Second, the foreign citizens’ occupation should not be cause of country nationals’ deprivation and unemployed.

Discussion and Conclusion:

Achieving the social justice through Status a set of rules that can the necessary support of workers dignity in all areas, is job right the main objective. Therefore, the legislatures to achieve the best results in this context constantly has flowing the status of the best rules.

In this regard, the ILO Conventions and recommendations- are Considered as labor international standards- the direction are coagulated in which countries experts thoughtful encounters - One of the most valuable sources of labor right and favorable set for legislatures intellectual nutrition in formulating a comprehensive labor law is considered.

It is obvious that all ILO Conventions and recommendations have not feasibility in all countries. For this reason, also member States based on these characteristic, to each of the conventions that their interest have joined or the terms of recommendation are accepted, in other words, in accepting organization approvals, public interests and necessities and economic facilities, social, traditions and capable of adapting with domestic laws, specifically the Constitution is considered.

Clearly, if the content of the approvals adopted by each member was located. That firstly was codification in the framework of organization statutes and second, it is not inconsistent with the established principles of the Constitution of the country. Because governments are forced to justify of content accepting the of the convention that adhere to the constitution and other domestic laws and conformity with to the society culture himself.

In this research to investigation and Iran labor laws and regulations match with labor international Criteria and standards has paid and have evaluated how and extent impact of Iran labor laws and regulations of these criteria. this investigation shows the how the activities of the ILO in the field of formulating the rules and regulations related to work and raise the level of social support has been effect and to what extent was beneficial. It was also emphasized that the labor legislation consistent with international standards alone is not sufficient to protect the social workers and economic and is essential economic and social political structures correction in order to the provide a Suitable framework for the implementation of this rules.

REFERENCES


