



AENSI Journals

Journal of Applied Science and Agriculture

ISSN 1816-9112

Journal home page: www.aensiweb.com/jasa/index.html



The comparative study of the Conventions and Recommendations of International Labor Organization (ILO) and Iranian Labor Law and Constitution

Soraya Etedalipajooch and Fatemeh Saeidinasab

Department of Agronomy, Yasuj Branch, Islamic Azad University, Yasuj, Iran Kilometer 4, Yasuj-Isfahan Road, Postal Code: 75914-93686

ARTICLE INFO

Article history:

Received 20 January 2014

Received in revised form 16

15 April 2014

Accepted 25 April November 2014

Available online 5 May 2014

Keywords:

Convention Recommendation

ILO, Constitution Labor Rights.

ABSTRACT

Background: there are many instances showing the interactivity of the international rules with national constitutions and domestic regulations. So, it is very important to conduct comparative studies to better understand the challenges and pitfalls as well as weaknesses and strength points of the laws. **Objective:** The present study conducts a comparative study and a review of the conventions and recommendations issued by International Labor Organization (ILO) and the labor rules and regulations in Iran. **Method:** this paper is a study conducted by library research and review of the literature. **Results:** their shortcomings and strengths as well as the regulatory vacuums are enumerated.

© 2014 AENSI Publisher All rights reserved.

To Cite This Article: Soraya Etedalipajooch and Fatemeh Saeidinasab., The comparative study of the Conventions and Recommendations of International Labor Organization (ILO) and Iranian Labor Law and Constitution. *J. Appl. Sci. & Agric.*, 9(4): 1566-1568, 2014

INTRODUCTION

In a majority of countries, the governments intervene in labor issues mostly in areas of children support and improving their working conditions. In 1840, the French writer, Villermé, wrote a book called "A Study of the Physical Condition of Cotton, Wool and Silk workers", in which he depicted the pitiable conditions under which 5 or 6-year-old children worked for 16 to 17 hour a day (Karami, 2009). The book raised considerable public sensitivity to the issue, which led to the passing of a law in 1841 prohibiting the employment of children under the age of 8 and it was so effective that in the 19th century, other industrial countries passed the same law (Raanae, 2010). In short, the first attempts to improve the labor conditions involved those of children and teenagers. Supporting child labor has always been considered by international authorities in international treaties and declarations. In article 9 of the international declaration on the child right adopted in November, 1959, it is stated that a child must be protected from harmful influence, abuse, and exploitation. A child must not be subject to any trade (Javid, 2009).

A child must not be employed before having reached the minimum age possible for working. A child must be protected from performing any work which is interferes with his/her education or is hazardous to his/her health or physical, mental, or moral development (Aboulhassani, 2009). In article 11 of the international convention of economic, social, and cultural rights, it is stated that having children perform work that is harmful to their moral or health conditions or is hazardous to their lives or impedes their natural growth must be subject to penalties (karami, 2009).

The ILO and Prohibition of Children's Work under Adolescence Age:

In the preface to the statute of ILO children and adolescents support is considered as a basis for maintaining social justice. Also, about 18 conventions and 6 recommendations have been passed regarding the protection of children and adolescents in various respects. They include conventions 1919-5, 1920-7, 1921-7, 1921-15, 1932-33, 1936-58, 1937-59, 1937-60, 1959-112, 1965-123, and 1973-138 regarding minimum age of involvement in industry, marine, agricultural, non-industrial and underground jobs, and conventions 1919-6, 1946-79, 1946-78, and 1965-124 regarding adolescent medical experiments and convention 1960-115 regarding protection against harmful radiation, recommendations 41, 52, 96, 102, 124, and 146, which complement the above mentioned conventions and recommendation 162 regarding longer leaves for adolescents (www.ILO.org).

The most important requirements stated by these conventions include:

1. Prohibition of children under the age of 14 working in industry except for family businesses (Convention NO. 5, Article 1)

Corresponding Author: Soraya Etedalipajooch, Department of Agronomy, Yasuj Branch, Islamic Azad University, Yasuj, Iran.
Tel: +989133809886; Fax: 0031133343543; E-mail: hassanseif2012@gmail.com

2. Prohibition of children under the age of 15 working except for family businesses provided that the job is not hazardous to their physical, mental, and moral health (Convention NO. 59, Article 1)
3. Prohibition of children under 16 working (Recommendation NO. 146)
4. Permission of children under the age of 14 working in the agricultural sector in order to train agriculture, provided that the total number of training hours is not fewer than 8 months a year (Recommendation NO. 10).
5. Prohibition of employing children under 14 and adolescents over 14 who have not completed the mandatory course of elementary education. (Convention NO. 33)
6. Permission of children under 15 working in non-industrial workshops. (Convention NO. 15, Article 2)
7. Setting a minimum age of 16 for apprenticeship and 18 for working in mines and underground jobs (Convention 123)
8. Prohibition of children under 16 performing jobs which are subject to ionizing radiation (Convention 115).
9. Requiring countries to set minimum ages of employment so that they are not lower than the minimum ages of finishing mandatory education. (Convention 138)
10. Setting the age of 18 as the one for employing adolescents in jobs which are hazardous to their health, safety, and mental state (Convention 138).
11. Permission of employing workers under the age of 18 on ships and industries provided they have a doctor's attestation that they have the ability to work (Conventions 16, 77, 78).
12. Requiring medical experiments for jobs which are greatly hazardous for workers under the age of 21 (Convention 77).
13. Prohibition of adolescents under the age of 18 working in public and private industrial institutes (Convention 6).
14. Permission of employing adolescents between the ages of 16 and 18 at night under urgent conditions which involve public interest (Convention 6).
15. The term night signifying at least 12 consecutive hours during which young adults are not permitted to work (Convention 90).
16. Longer paid annual leaves for workers under the age of 18 (Recommendation 162).
17. Requiring countries to gradually increase the minimum age of work (Convention 138).

Constitution and Minimum Employment Age:

Although the constitution has not explicitly stated rules for protecting working children and adolescents, the Third Principle recognizes all people's rights to have access to free education at all levels. Also, the fact that the government is required to provide free educational devices until the end of high school for all members of the society creates this expectation that all children have the right to continue education through the end of high school. Therefore it is optimal to set the minimum age of work as that of the end of high school.

Labor Law and Minimum Age of Workers:

Although Iran has not joined any recommendations or conventions regarding children's work issued by the ILO, the labor laws passed in 1946, 1949, 1958, and 1990 have always been enforced.

According to the law passed in 1946, the minimum age of work is 12 and for apprenticeship purposes, the minimum age is 10 with maximum daily working hours of 6 (Article 6). Also, in Article 9, in addition to the prohibition of night shifts for children under 16, the employment of girls under the age of 16 in shops, restaurants and public places as salespersons is prohibited. According to Article 13 of this law, having children under the age of 16 perform difficult and dangerous tasks is prohibited. In addition to these laws, in note 2 of article 26 of this law, it is stated that the payment of a child worker must be paid directly to the child; however, this law does not encumber the support of children by their parents or custodians.

The labor law passed in 1949 announces the length of work for children between the ages of 13 to 16 seven hours (1 hour less than other workers) and prohibits burdening further work on them (Article 2). In Article 5 of this law, employing children under the age of 12 is prohibited unless for purposes of apprenticeship. Also, working at night and performing difficult and dangerous work is prohibited for children under 16.

In Article 16 of law passed in 1958, employing children under the age of 12, even as apprentices, is prohibited. According to Article 17 and 20, night work and difficult and harmful jobs are prohibited for children under 18. According to the note of Article 12, burdening any further work on workers under the age of 16 is prohibited although in Article 13, it excludes emergencies and forced conditions. In Article 15 of the same law, the paid annual leave for workers under the age of 16 is 18 days (6 days more than other workers).

The labor law passed in 1990 states advanced laws based on international regulations and standards, which include:

- Employing children under the age of 15 is prohibited (Article 79).

On employing a worker who is between 15 to 18 year of age, medical experiments are required and they must be repeated at least once a year (Articles 80 and 18).

Burdening further work, night shifts, difficult and harmful work, and carrying excessively heavy loads with hands to adolescent workers is prohibited (Article 83).

The minimum age of work is 18 for all jobs which are harmful to moral health (Article 82).

The daily working hours of adolescents are half an hour less than the normal ones (Article 82).

Although the legislators have tried to observe the ILO regulations and standards, it should be noted that children labor could not be evaluated regardless of the economic structure and the educational system of the society. Clearly, children have to be employed to make a living for their families until measures are taken to raise the national income, create economic development and promote standards of living. Simple and quickly-made decisions are not effective in prohibiting child labor. The eventual success depends on the extent to which the public is willing to judge based on its continence and on how eager the society is to support and invest in child education. The key measure to be taken in this regard is to succeed in combatting poverty, which prevents families and the society from making children work in order to make a living and boost production.

Conclusions:

As the review of the recommendations and conventions of international labor organization shows, there are many areas of worker laws that should be considered for revision or review by the Iranian legislation and authorities. Also there are many international rules that are inherently not compatible with the internal sphere and context of the Iran.

The study further explores how the world legal system needs a unified approach to the workers' rights and necessitates the governments to enhance social capital based on prioritizing the work and worker laws.

REFERENCES

- Javid, N., 2009. Workers' Movement in Iran; Chapter 2, Unions
Karami, N., 2009. Minimum Wage will be declined" Rouz Website.
Raanaee, A., 2010. International Labor Organization, Iranian Chamber of Commerce, p.509
Aboulhassani, A. (ND). International Labor Organization, Retrieved from: <http://www.pajoohe.com>
www.ilo.org
<http://www.mcls.gov.ir>.
<http://www.humanrights-iran.ir>.
<http://www.kar-bushehr.com>.
<http://payamekarfarmayan.com>.