

## **Employment freedom and the prohibition of discrimination in the workplace; a comparative study of Iranian Constitution, Iranian Labor Rights and Regulations of ILO**

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**Abstract:** This paper reviews the employment and discrimination prohibition laws in Iranian memorandum and labor law compared to the regulations of International Labor Organization (ILO). Hence, this paper attempts to provide the further exploration of the Iranian and International labor rights, pitfalls, weaknesses, strength and opportunities.

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### **1. Introduction:**

#### **Freedom and Prohibition of force for employment**

The respects of the human personality necessitates that nobody employ without his/her permission. So the labor right should be prepared to the extent that the personality of human is fully respected. The job selection freedom is the freedom of any body for determining his/her social goal. "The work is the right of anybody that has the power to do the job." Paying attention to the article 23 of announcement of International Society for Human Rights states that: "everybody has the right to select his/her work".

#### **1.1 - The regulation of ILO for freedom and prohibition of the force for employment**

In Philadelphia announcement in the article 2 has been stated that "all of the humans have the right to develop their mental and financial welfare regardless of their gender, race and ethnicity". In the concord 29, that Iran also has been joined to it, it is stated that "the term obligatory work is referred to a type of the work that the person does without any satisfaction and according to the fear of punishment". In this protocol, after emphasizing on some necessary services and works such as military service, small jobs with the responsibility of the residents of a small village, the services that justice court has imposed, all are the works that have been excluded from the definition of the obligatory work.

In the article 1 of protocol 105, it is obligated that "each of members of the ILO are committed and charged for prohibition of forced job and prohibit all of the forced work in the type of gender, race and ethnicity related works, political and social imposed

works that prepares the benefits of another party without the doer benefits.

#### **1.2 - Freedom and the Constitution prohibits forced labor**

Under Article 28 of the Constitution, "Everyone has the right to select a job that is not contrary to Islam and public interests and wishes, if it does not infringe the rights of others.

Constitution of Islamic Republic of Iran puts at the center the right to choose their main occupation and humanitarian issues, economic and social data....

Also in paragraph 4 of Article 43 in order to ensure the independence and the eradication of poverty of economic criteria based on "respect for freedom of choice is knowledge based jobs.

In addition, in paragraph 6 of Article II to "human values and dignity and freedom i his responsibilities before God" knows the system from the base.

#### **1.3 - Prohibition of freedom and forced work in labor law**

One of the basic principles of freedom and social life and economic activities is one of the results and the necessity to freedom. "Freedom means the freedom to take your particular business; industry and commerce should not be confused.

Freedom and economic freedom of its business and affairs, including commercial and industrial jobs and businesses are for workers category. (A) To require the employment of capital, equipment and license the production of public officials.

Work Act 1337 No. 29 and 105 in order to implement all provisions of this Convention and its Protocols as binding. It can be expressed in Article 62 that “everyone else against the International Labor Convention No. 29 and 105 regulations apply in addition to assign mandatory obligation to pay the fees to pay the fine saying in each case, (...) or to imprisonment for misdemeanors of a (...) and will be punished.”

It should be noted that the “freedom to work only with the mandatory provision is not repealed,” because personal appearance is not sufficient in themselves do not have. But do not the other way and do the job that his free will to choose.

## **2. Prohibiting discrimination in employment**

One of the principles of equality and non-discrimination in respect of individual freedoms are basic human rights. Because people enjoy equal rights in the context of a society and the conditions underlying the establishment of social justice. The only freedom and not having to work that infringe upon individual rights are human but, discrimination in employment creation but also prevents the possibility of human freedom to be his favorite work.

Resolving the issue and prohibit discrimination in employment in the International Covenant on Economic, Social and Cultural Rights, adopted in 1966 has also been considered. In Article 21 Universal Declaration of Human Rights establishes that “Everyone has the right to equal access to public service in his country achieve.”

Also in Article 23 of this Declaration, the right to employment and to benefit from fair and satisfactory conditions has been emphasized.

### **2.1 - The regulations prohibit discrimination in the work of the ILO**

International organization working for prohibition of employment discrimination as one of the fundamental human rights is an important distinction. Most measures to improve working and living conditions of workers to the enjoyment of this right are oblivious...

In Article 2, Philadelphia Declaration which stressed the right of all humans are entitled to benefit from material and spiritual welfare. This makes it possible to achieve a condition that should be the main national and international policy. No. 111-1985 to the convention prohibiting discriminatory practices in the field of employment and occupation is chosen. But,

regarding to the fact that all of the human beings don't have equal intelligence, in paragraph 2 of the article 1, the differences between such issues are permitted and allowed and states”:

The professional or expertise difference cannot be considered as discrimination.”

### **2.2 - The Constitution prohibits discrimination in employment**

The employment of everybody in Iran regardless of gender, race and ethnicity has been considered very much and some regulations approved too. Referring to the paragraph 9 of principle 3 of the Iranian constitution, the government of Iran has committed to do his highest level of attempt in the cancellation of the discrimination and providing equal employment opportunities.

Also, in the principle 19 it has been stated that: “our people from every race and ethnicity are respectable and have equal rights for employment”. In the principles 20 and 29 also it has been emphasized that the men and women are equal and have the equal financial, social, economical and political support.

### **2.3 - Prohibition of Discrimination in Employment Act**

The employment act can clear the relationship between worker and employer, provide social justice and remove categorical differences, and equalize the opportunities for mental and financial achievements for everybody in the society. The top basic principles has been emphasized in labor right approved in 1369 Hijri in Iran. Also, in the article 38 of this regulations, the prohibition of discriminations in salaries has been emphasized and the genders, the races and the ethnicities have been considered equal.

It should be noted that the discrimination in any type is in oppose of human respect and personality and in fact disregarding the equality and the existence of the discrimination don't lead to the successful social justice.

## **3. Conclusions:**

The aim of the current study was to conduct a comparative review of the employment discrimination and forced employment in Iran compared to International Labor Organization. As we know, the aims of the labor conventions and forums that have conducted around the world have been the improvement of the social justice regardless of ethnicity, gender and race. In Iran labor rights and

constitution have fully paid to this issue from the social justice perspective. But the development of new rights followed by meetings, forums and conventions needs more attention and follow up for member countries of ILO. So, conducting comparative studies between our own rights about labor force and ILO rights can help us to improve the internal regulations and moving forward social justice and satisfaction. So, the current study paid to the practical aspects of the labor force employment and explored the differences and similarities.

**References:**

- 1- Aghaee, B. (1997). Human Rights Dictionary, Ganje Danesh Publications, Tehran, Iran
- 2- Emami Seyed H. (1997), Civil Rights, Eslamiyeh Publications
- 3- The report of the 3rd labor conference, Tehran, 16-18 February 1971, Ministry of Labor and Social Affairs
- 4- Memorandum of International Labor Organization, (Translation), Vol, 1. Ministry of Social Affairs and Labor Publications, Tehran, Iran
- 5- The act of the 3rd program of the Islamic Republic of Iran Development, Approved; 1990-1994
- 6- Iranian Constitution, Legislation Publications, Tehran, Iran
- 7- Iranian Civil Rights, Mizan Publications, Tehran, Iran