

# Labor and employment law synthesis paper

Law



## Labor and Employment Law Synthesis Paper Honglei Qin HMD 259-2005

11/14/2012 Labor and Employment Law This law is the one capable of explaining the economic motivation, background and implication of employment and labor regulation so as to help the policymakers, researchers and advocates express their own positional ideas (Simpson, 2011).. These regulations are the ones that provide the initial ideas of the labor law to any person getting into the studies regarding the economic perspectives.

The labor law consists of various aspects which mostly are directly involving the employment processes. In this case, there are many categories of employments whereby the regulations guiding them are of different kinds. Some of the examples are the gender bases in the labor sector whereby both sex are protected by the law from any kind of discrimination in the workplaces (Simpson, 2011). In case of age matter, the law provides regulations on the age required for the employment hence preventing any kind of child labor.

Other special cases that are guided by the labor law are the issues of slavery, human trafficking and the forced labor whereby the victims are being forced to work in bad conditions without their requirements been observed by the employers. According to the study conducted by Ann Sophie, the role of employment law economically is to generate a frame work of legal aspects to maximize the labor exchange joint value by reducing the incentives of the parties (Simpson, 2011).

This is done in order to an advantageously use the element which are unspecified of contractual relationship and by doing this the cost of detailed employment and enforcement is reduced at a high rate. In order to

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understand well the concept of the employment or labor law, let us look at different ways of employment. Two of the main ways that a person can be employed is as an employee or may be as a contractor that is independent contractor. This will help us understand various obligation of the labor law since the two employment categories are assigned different rights under different obligations in the employment law (Simpson, 2011).

Taking the case of the employee, he/she works directly under the service contractor with the employer, that is he/she works completely in the employer's authority (Pagura, 2011).. He therefore have contract of service. In the other case of contractor, they do they work under sails of service and they do not only sell these services to one employer at a time but can as well sell them to many employers. Therefore they work under the contract for service. In order to understand this more, let us take an example of John and James who are both mechanics working in the same garage.

John works there as a full time employee while James works as a contractor reporting to duties only in two days a week (Pagura, 2011).. In case of John, he waits to be told how, when and where to work by the boss. He gets his salary at the end of the month and it is fixed regardless of how many cars he has repaired (Pagura, 2011). All the tools are provided by the employer and he does not pay for any breakages or loses all that is under the employer's obligation. In the case of James, he works only on Mondays and Fridays.

After every peace of work he records it and at the end of every week he prepares an invoice for the job done of which he receives payments. Unlike John, James has to bring his toolbox with him and if he wants to use any from the garage he has to pay for it. Here are the deferent obligations provided by

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the labor law to these two different workers. In terms of flexibility, James is more flexible and independent than John. The independence of both is measured in terms of ability to work for others (Pagura, 2011).

James is allowed to work for other contracts from Tuesday to Thursday while John is working exclusively for this one employer. Looking at the case of commercial risks, the employee is free from any commercial risk instead are taken by the employer while the contractor bears the risks at work. These points are some of the points that an industrial court look at in order to determine whether a certain worker is an independent contractor or an employee.

According to the contractor's Act 2006 all the contractors are provided by the same rules and regulations. The labor law also provides regulations among the employee themselves. Let us look at one example of a case that is common in workplaces and that, if not handled properly, can be dangerous (Cornock, 2012). This is the issue of discrimination. There are several different types of discriminations such as the gender discrimination whereby a certain worker is denied her / his legal rights simply because of the sex type.

The other type of discrimination is the religion or belief. This kind of assault can be from the employers or from the employees themselves. In order to report or raise such an issue, the victims should do it using a written grievance with clear grounds of the problem and should be done before the end of three months from the incident (Cornock, 2012). In conclusion, the whole paper has tackled some of the aspects of the labor law and their implementations.

We have seen how each employee is eligible to these employment rules which protect them in all kinds of work. The topic of labor law is broad and in order to understand further more studies are required. References Cornock, M. (2012). What to do when an employer acts unfairly. *NursingStandard*, 26(38), 63. Pagura, I. (2011). Employment law: Employee v Independent Contractor. *Journal Of The Australian Traditional-Medicine Society*, 17(2), 36-37. Simpson, B. (2011). Labor and Employment Law and Economics. *Industrial Law Journal*, 40(1), 111-114.