

## **THEORETICAL AND LEGAL ANALYSIS OF THE STAGES OF FORMATION OF LABOR LEGISLATION**

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**Objective:** to conduct a thorough analysis of the evolution of human rights at different stages of development of society, to study the main aspects of the formation of socio-legal status of man in the field of labor. **Research methods:** general scientific and special methods are used in the work. **Results:** the peculiarities of the formation and development of labor legislation are analyzed, specificity of the factory legislation in the period of activization of labor movement for labor rights is defined, it is established that «formation of the social status of the person in labor sphere» is formation and development of labor rights, duties. The stages of formation of the social status of a person in the sphere of labor are singled out, namely: 1) collective-dependent (primitive-communal); 2) individually dependent (slave, feudal); 3) factory-industrial (capitalist); 4) collective-totalitarian (Soviet period); 5) integration-European (modern development of Ukraine). It is established that the specificity of primitive society is the collective organization of labor at the initial stage of human life, namely the need for collective efforts to organize life, because man himself was unable to earn a living. **Discussion:** the question of the social and legal position of man in the field of labor shows that it is work that most fully reflects the level of socialization of man, his motivation, as well as needs. Trends in social evolution indicate the patterns of formation of human social status at different stages of formation of society and the development of labor legislation. Features of historical and legal aspects of formation of the labor legislation in the XX-XXI centuries are considered.

**Key words:** factory legislation; social evolution; slave law; worker; individual labor; collective labor; social and legal status; labor legislation.

**Problem statement and its urgency.** Questions of theoretical and legal analysis of the stages of formation of labor legislation indicates the process of forming a person's social position in the field of labor. Therefore, the relevance lies in the importance of studying the evolution of human rights at different stages of society.

**Analysis of research and publications.** The tendencies of public evolution specify on conformity to law of becoming of social position of man on the different stages of forming of society. In the special scientific literature the separate aspects of research of problems of genesis of social position of man in the field of labour engaged in scientist V. Groman, C. Golunsky, Y. Kantorovych,

A. Kobelyzky, V. Litvinov-Falinsky, G. Shenberg but other.

**The purpose** of this article is to conduct a theoretical and legal analysis of the stages of formation of labor legislation, the study of the social status of man in the field of labor in the XX-XXI centuries.

**Presentation of the main material of the study.** The historical experience of the social and legal position of man lies in the special specifics of the development of primitive society, which is based on the collective organization of labor. Man in those days was incapable of personally securing his existence, which prompted the need for collective efforts to create proper living conditions.

The basis of primitive society was the principle of tribal and intergenerational solidarity and the duty of each to promote the development of the tribe. Precisely in this the collective essence of the work of primitive people was manifested [1, p. 942]. But the improvement of the means of production made individual labor possible, which led to the emergence of slavery, where all physical labor was performed by slaves, and free people considered physical labor humiliation. The oppressed position of the direct producer of material goods (slave) was manifested in the fact that being in the status of the slave owner's thing - his tool, slaves received only a minimum, which was not even enough to restore labor. As Skazkin S.D. wrote, there was a rule among slave owners: if slaves were sick, they were not given as much food as healthy, they were much cheaper to replace [2, p. 57]. The lawlessness of the main producers leveled the main impulse to work - its motivational aspect, it deepened social contradictions. In contrast to the right of slavery, feudal law was more complex, the basis of production relations under feudalism was the full ownership of the feudal lord of the means of production and partial ownership of the producer (peasant). Feudal law primarily enshrined the relationship of feudal land ownership and responsibilities (duties) of the peasants, that is the domination of the feudal lord and the dependent position of the peasants, who were forced to work for free, and were subject to corporal punishment. At the same time, such a group of the population as artisans was formed among the townspeople, who united in workshops. Artisans were the owners of goods created by their own labor. Despite the serfdom of the peasants in feudal society, the difference between the new social relations and the slave system was that the urban small individual producer was in such conditions that he could pay the rent, continue their production, even without progressive results [3, p. 197].

Guild rules and regulations were a prerequisite for the emergence of labor legislation, which later regulated work in industry in a centralized manner. One of the first pieces of legislation on the legal regulation of labor was the «Ordinance on Workers and Servants», adopted in England in 1349, which

was designed to regulate labor relations between employers and workers. The document forbade panhandle, which was considered an unworthy occupation, and established that all men and women under the age of 60, healthy in body, not engaged in trade or crafts, had no property and land to cultivate and were not in the service of another master, are obliged to go to serve the lords, if they are called [4, p. 197-199]. As we can see, these were only the preconditions of the contract of employment, and only with the proclamation of freedom of labor during the French Revolution (1789-1799) formed new approaches to labor regulation, labor becomes a commodity, labor from public regulation to civil law [5, p. 121]. As Prokopenko V.I. emphasizes, since the proclamation of freedom of labor, labor relations have developed without violating the interests of the bourgeoisie, because having been left without the means of production, the worker was forced to agree to the conditions offered to him. This formal «rights and required «bandages» determined by agreement of the parties, as state labor relations are not interested [6, p. 9].

An important stage in the development of industry was the use of cheap child and women's labor in harmful and heavy work, at night and so on. It should be noted that this situation had a rather negative connotation for the development of society and remained virtually unresolved during the first third of the XIX century. and it was not until 1833 that a law was passed in England to facilitate child labor . It should be noted that in other countries the factory legislation did not develop as rapidly as in England, which was due, as noted above, to the activity of workers. At the same time, the norms of factory laws remained ineffective, their implementation depended entirely on the will of entrepreneurs, because for a long time factory inspections were not created and compliance with labor rights in the labor process was not controlled [7, p. 934-935].

The rules of factory labor were slightly adjusted in the law dated April 24, 1890, which, in particular, established: 1) permission for day work of children under 12 years of age who were already working in industrial enterprises; 2) confirmation of the right to 6-hour continuous work for workers

aged 12 to 15, as well as for the admission of such workers to work on weekends and holidays together with adult workers; 3) 9-hour shift work of workers under 15 years of age at enterprises with a two - shift work schedule per day; 4) interpretation of night work for underage workers and women, based on the specifics of the economy and with the solution of this issue in the future by provincial or ministerial measures, and not by law; 5) special rules of work in the glass industry [8, p. 200].

An important stage in the systematization of factory legislation was the Statute of Industrial Work, adopted in 1913. This document should be seen as an attempt to streamline the factory legislation governing labor relations in industry. The Statute defined the rights of the factory inspection, namely: the factory inspection had the right to monitor the implementation of regulations on the employment of minors and their attendance at primary schools; to take care of the introduction of special schools for the provision of primary education to minors; draw up, with the participation of local police officers, protocols on violations of regulations and transfer these protocols to judicial institutions; to accuse in court those guilty of committing offenses in the field of labor; to consider and approve taxes, tables, internal regulations drawn up by factory departments for the management of workers; application of measures to prevent disputes and misunderstandings between manufacturers and workers by studying them in the city for the purpose of a peaceful agreement of the parties; supervision of compliance with the rules on steam boilers; supervision over the implementation of the rules on the distribution and duration of working hours; collection, verification and preliminary compilation of statistical data on the activities of industrial institutions in the area. The distribution of factory inspectors across the country was carried out by the Minister of Trade, Industry and the Minister of the Interior. The Statute of Industrial Labor also stipulated that employment contracts could be concluded only by providing workers with payroll books, which defined the terms of employment, the procedure for payment, the procedure for penalties for absenteeism and faulty work. It was forbidden to include in the contracts conditions that would restrict the parties

in the exercise of the right to judicial protection. In turn, the payment of wages to workers had to be made at least once a month, if the contract is concluded for a period of more than a month, and at least twice a month, if the contract is concluded for an indefinite period. Settlements with workers must be recorded in a special book. An employee who did not receive a salary on time through no fault of his own, has the right to demand in court the termination of the contract concluded with him, and in addition to his salary the owner must pay him a salary of two months - a fixed-term contract and a two-week earnings, if the contract was concluded for an indefinite period. Settlement with workers instead of money coupons, symbols, bread, goods and other items is prohibited. It is also forbidden to make deductions for the payment of debts, but such a prohibition does not apply to cases where the employee was given money in advance. In this case, more than one third of the amount due for payment cannot be deducted from the salary if he is not married, if he is married or has a child and has children, then no more than one quarter of the salary can be deducted from the salary [9, p. 28-45].

An important stage in the systematization of factory legislation was the Statute of Industrial Labor, adopted in 1913. Which provided for the procedure for remuneration to victims of accidents at work and members of their families in the event of the death of a worker. If a worker lost his ability to work for a period of three days due to bodily injury caused in connection with production, he retained half of his earnings from the date of the accident to the day of recovery. In case of permanent disability designed help of two thirds of annual salary if the worker died, indicated aid was provided to members of his family [10, p. 413-439].

An important contribution to the development of labor legislation was the adoption in 1918 the Labor Code of the RSFSR. According to this Code, all citizens were required to work [11].

A qualitatively new level of development of labor legislation is observed in the next codification act on labor, which was adopted in 1922. The Labor Code of 1922 contained norms that have not lost their significance to this day [12].

All this prepared the ground to adopt new codification acts labor Soviet republics, including the Labor Code of the Ukrainian SSR 10.12.1971 year, Consisting of XVIII sections and 265 articles. The first version of the code, despite numerous changes and additions, did not meet the new realities, it lacked rules that would regulate the legality of in-kind payment, liability for wage arrears, did not regulate irregular working hours, did not regulate labor relations with the employer - an individual, the possibility of the existence of several trade unions at the enterprise was not taken into account, the status of the labor collective was not regulated, etc. [13, p. 7-528]. However, the latest world realities have influenced the change of socio-economic relations, with the further development of which the stagnation of the labor market was not consistent. The logical consequence of the crisis of social development was the collapse of the Soviet Union and the emergence of new independent states, in particular - Ukraine, just then, in the 90s of the twentieth century began a complex long and sometimes painful process of building a modern European democratic state, where not only proclaimed the highest social value, but most importantly - will feel this way [14, p. 67].

Knowledge of the history of the development of scientific thought, the laws of its formation and functioning allows you to see the path taken by science thought to the modern understanding of the subject of science, scientific research methodology, which are important for further research. The history of labor law is the same modern legal theory, but in terms of its genesis and development. To predict the ways, methods of further development and improvement of modern labor law of Ukraine requires a comprehensive and thorough analysis of trends and patterns of historical development of labor law [15, p. 61].

Examining the historical aspect of the development of socio-legal status of man in the field of labor, we can conclude that the formation of labor rights at different stages of human development depends on the legal certainty of social status and trends in labor legislation.

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**ТЕОРЕТИКО-ПРАВОВИЙ АНАЛІЗ ЕТАПІВ  
СТАНОВЛЕННЯ ТРУДОВОГО ЗАКОНОДАВСТВА**

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**Мета:** провести ґрунтовний аналіз еволюції прав людини на різних етапах розвитку суспільства, дослідити основні аспекти формування соціально-правового статусу людини у сфері праці. **Методи дослідження:** у роботі використовуються загальнонаукові та спеціальні методи. **Результати:** проаналізовано особливості становлення та розвитку трудового законодавства, визначено специфіку заводського законодавства в період активізації трудового руху за трудові права, встановлено, що «формування соціального статусу людини у сфері праці» – це формування і розвиток трудових прав, обов'язків. Виокремлено етапи формування соціально-правового становища людини у сфері праці, а саме: 1) колективно-залежний (первіснообщинний); 2) індивідуально-залежний (рабовласницький, феодальний); 3) законодавчо-промисловий (капіталістичний); 4) колективно-тоталітарний (радянський період); 5) інтеграційно-європейський. Встановлено, що специфікою первісного суспільства є колективна організація праці на початковому етапі життя людини, а саме необхідність колективних зусиль, оскільки людина сама була не в змозі заробляти собі на життя. **Обговорення:** питання про соціально-правове становище людини у сфері праці показує, що саме праця найбільш повно відображає рівень соціалізації людини, її мотивацію, а також потреби. Тенденції соціальної еволюції вказують на закономірності формування соціального статусу людини на різних етапах становлення суспільства та розвитку законодавства про працю. Розглянуто особливості історико-правових аспектів становлення законодавства про працю у ХХ-ХХІ ст. Тенденції суспільної еволюції вказують на відповідність законам становлення соціального становища людини на різних етапах становлення суспільства.

**Ключові слова:** фабричне законодавство; суспільна еволюція; рабовласницьке право; працівник; індивідуальна праця; колективна праця; соціально-правове становище; законодавство про працю.

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