

THE LEGAL CATEGORY OF "JUSTICE" IN LABOR RELATIONS

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ABSTRACT

The article aims to identify and analyze the manifestation of the legal category "Justice" in labor relations. The research employs legal analysis (examination of regulatory legal acts), a formal legal method (development of new legal constructs), and an analytical method (analysis of court decisions). The main conclusion is that if the employer fails to comply with labor laws, they will gradually become the weaker party in the labor relationship. To avoid this, employers should cultivate the image of a conscientious employer capable of bringing justice into labor relations. Results indicate that justice is not a legal regulator but a moral category that may or may not be reflected in legal norms. When interpreting labor law norms based on the principle of justice, courts effectively alter the content of these norms and compel legislators to regulate labor relations differently. If legislators disregard the alignment of laws with justice, judges may refuse to comply with unjust laws. This study can serve as a foundation for further research into the legal phenomenon of the conscientious employer and the influence of justice on law enforcement practices in labor relations.

Keywords: justice; labor relations; labor law norms.

A CATEGORIA JURÍDICA DE "JUSTIÇA" NAS RELAÇÕES TRABALHISTAS

RESUMO

O artigo tem como objetivo identificar e analisar a manifestação da categoria jurídica

"Justiça" nas relações de trabalho. A pesquisa emprega análise jurídica (exame de atos jurídicos regulamentares), um método jurídico formal (desenvolvimento de novas construções jurídicas) e um método analítico (análise de decisões judiciais). A principal conclusão é que, se o empregador não cumprir as leis trabalhistas, ele se tornará, gradualmente, a parte mais fraca na relação trabalhista. Para evitar isso, os empregadores devem cultivar a imagem de um empregador consciente, capaz de trazer justiça às relações trabalhistas. Os resultados indicam que a justiça não é um regulador legal, mas uma categoria moral que pode ou não estar refletida nas normas legais. Ao interpretar as normas do direito do trabalho com base no princípio da justiça, os tribunais alteram efetivamente o conteúdo dessas normas e obrigam os legisladores a regulamentarem as relações de trabalho de forma diferente. Se os legisladores desconsiderarem o alinhamento das leis com a justiça, os juízes poderão se recusar a cumprir leis injustas. Este estudo pode servir de base para outras pesquisas sobre o fenômeno jurídico do empregador consciente e a influência da justiça nas práticas de aplicação da lei nas relações de trabalho.

Palavras-chave: justiça; relações trabalhistas; normas do direito do trabalho.

1 INTRODUCTION

The concept of "justice" is studied by representatives of various scientific disciplines. Each discipline interprets justice from its own perspective. However, they share a common foundation: justice is a moral category that, when refracted through different disciplines, acquires specific tones that allow it to be characterized from various positions. This article examines its manifestation in jurisprudence, particularly within labor law norms.

Labor law is a special branch of law whose norms combine not only the legal regulation of social relations in the sphere of labor but also the ethical foundations of these norms. This is because labor law governs relationships between subjects where one is subordinate to the other. Dependency (subordination) is a key characteristic of labor relations, giving rise to specific benefits and guarantees for the dependent party. Assessing how fair a labor law norm is for dependent subjects or those applying the norm can sometimes be challenging, as what is fair for one party is not always fair for another. Moreover, what is fair in the context of one socio-economic formation is often unfair for representatives of another socio-economic formation.

The research can contribute to improving labor law norms not only in terms of legal technique but also in ensuring their alignment with the principle of justice. Scholars should focus their efforts on substantiating the integration of justice and high-quality legal techniques in the content of labor law norms.

Given that labor law is aimed at protecting the labor rights of employees, it is evident that the content of labor law norms will also be characterized by the protection of the weaker

party in the labor relationship – the employee. However, under modern conditions of digitalization, we believe that the "weakness" of the employee and the "strength" of the employer should be examined from the perspective of the principle of justice, not only in the content of the norms but also in issues related to the protection of labor rights.

2 METHODS

This study employs a qualitative approach to explore the manifestation of the legal category of "justice" in labor relations. The methodology primarily focuses on a theoretical and bibliographic review complemented by an analysis of judicial practices.

During the study we employed methods such as legal analysis (examination of regulatory legal acts), the formal legal method (development of new legal constructs), and the analytical method (analysis of court decisions).

The primary research method was a source review. The sources for the review were selected based on two categories. The first category included studies of labor law norms related to traditional labor relations, without reference to moral categories. Key studies in this category were articles on labor law norms by prominent scholars, such as Tal (1913) and Alexandrov (1948).

The second category focused on studies examining labor law norms in connection with judicial practice, which has the potential to "transform" the meaning of these norms from the perspective of justice. In these works, judicial practice has, in effect, replaced the legislator (Volkova *et al.* (2016), Adrianovskaya (2023), among others (Sapfirova *et al.*, 2022)).

3 RESULTS

The study of the influence of justice on labor relations and its manifestations within these relations must address both positive and negative aspects of labor law norms in terms of their compliance with the principle of justice. In other words, it is essential to focus on instances of both injustice and justice in labor law norms to assess the appropriateness of their inclusion in legal content.

Justice is not a legal regulator but rather a moral category that may or may not manifest in legal norms. In philosophy, for instance, the categories of morality and ethics are often considered synonymous. Similarly, the law does not always differentiate between these terms, although some scholars distinguish them, arguing that moral norms represent principles, whereas ethical norms are behavioral rules not enforced by the state (Lukasheva,

1986). Nevertheless, the law must align with the demands of morality and justice. Most scholars agree that the law cannot be unjust (Avdyukov, 1970; Sergeiko, 1974).

The law constitutes an authoritative demand backed by state coercion, as violations of this demand entail responsibility under the sanctions of relevant norms. Of course, breaches of moral or ethical norms do not result in legal responsibility unless these norms coincide with legal norms in content. In such cases, the legal norm aligns with the morality and ethics established in a particular society, regulates the arising legal relationships, and simultaneously serves as an instrument for educating members of society.

For example, the norms governing workplace discipline aim to educate parties in labor relations, including adherence to internal workplace rules. If an employee commits a disciplinary violation, the employer has the right to impose a disciplinary penalty (Labor Code of the Russian Federation of December No. 197-FZ, 2001). Let us analyze this norm from the perspective of morality and law. On the one hand, the employee violates the internal workplace rules established by the employer, which are binding for both parties. This constitutes a violation of labor law norms (Article 21 of the Labor Code of the Russian Federation). On the other hand, the employee, psychologically, allows themselves to neglect their duties, possibly due to unwillingness, fatigue, or opportunistic behavior (Sapfirova et al., 2020), thereby violating the moral dimension of this norm.

Thus, an employee may be subjected to disciplinary penalties for violating both labor law norms and moral norms, which are unified in Article 192 of the Labor Code of the Russian Federation, serving as a means to cultivate workplace discipline.

The question of whether an employer exercises their right to hold an employee accountable lies not only in the realm of legal relations but also in justice. Article 192 of the Labor Code of the Russian Federation requires employers to consider the severity of the violation and the circumstances under which it occurred. According to Clause 53 of the Resolution of the Plenum of the Supreme Court of the Russian Federation, employers, like courts, must be guided by the principle of justice when applying disciplinary penalties (Plenary Ruling of the Supreme Court of the Russian Federation No. 2, 2004).

This implies that justice, in conjunction with legal norms, dictates whether the employer may exercise their right. For instance, in the case of two employees arriving late for work, the employer may choose to penalize one while not penalizing the other. However, if the disciplinary penalty is appealed in court, the judge may raise a valid question: how fair was it to penalize one employee but not the other? It can be argued that justice demands both employees be held accountable for their simultaneous misconduct, while the differentiation in

penalties (e.g., a reprimand, warning, or dismissal) represents the fair application of Article 192 of the Labor Code of the Russian Federation.

The law must be just—this is the ideal law, as justice is a fundamental category of law (Lukasheva, 1986; Sergeiko, 1974) and "a property of legal norms" (Baranov, 1989, p. 64)+-.

Most scholars believe that the law cannot be unjust (Avdyukov, 1970; Lukasheva, 1986; Sergeiko, 1974) because law and justice should be identical. "Evident injustice cannot be considered law" (Yavich, 1990, p. 25).

Another group of scholars argues that law should not be assessed through the lens of justice, as what is considered just today may have been unjust in the past. The category of "justice" evolves over centuries: what was just for the ancient Greeks (inequality) is entirely unjust for modern citizens (equality) (Lloyd, 2004).

The third group of scholars argues that justice is broader in scope than law (Averin, 2007; Livshits, 1989); in other words, law is a part of justice, or "there exists justice that is not necessarily the justice of law" (Berzhel, 2000, p. 215).

This is indeed the case: justice is multifaceted and cannot be viewed solely through the lens of law. However, our research assumes the interconnectedness and alignment of justice and law. For example, natural human rights and freedoms are always just and should serve as the foundation for modern legislators.

Unfortunately, labor law norms do not always align with justice, even within the current socio-economic framework. For instance, let us consider the fairness of overtime pay regulations. According to Article 152 of the Labor Code of the Russian Federation, the first two hours of overtime are paid at 1.5 times the regular rate, while subsequent hours are paid at double the rate. The specific rates for overtime pay may be determined by a collective agreement, a local regulatory act, or an employment contract. However, the article does not specify a baseline amount for calculating overtime pay. Employers have calculated overtime pay based on the base salary, i.e., the lowest possible amount. Notably, no employer has calculated it based on a higher sum. In practice, the most generous interpretation has been to equalize the payment for all overtime hours at double the regular rate, typically stipulated in industry agreements or collective contracts.

As a result, an unfair situation arises: an employee works more hours but receives less pay because the amount used to calculate overtime is unjustifiably low, being based on the base salary (or tariff rate) rather than the average earnings. This inequity was addressed by the Constitutional Court of the Russian Federation in its ruling No. 35-P (June 27, 2023), which recommended that legislators amend Article 152 of the Labor Code to require employers to

calculate overtime pay not only based on the base salary (tariff rate) but also taking into account compensatory and incentive payments.

Another example of unjust wage payment concerns arose when workers demanded a wage recalculation because their tariff rates were lower than those specified in the industry agreement. However, these workers' tariff rates were higher than the regional subsistence minimum, and their actual wages significantly exceeded the industry average. This creates an apparent injustice toward other workers in the same industry! Nevertheless, the Supreme Court of the Russian Federation ruled that employers must set all tariff rates based on the industry agreement (Ruling of the Civil Division of the Supreme Court of the Russian Federation No. 32-KGPR23-4-K1, 2023).

If legislators disregard the alignment of laws with justice, "citizens, including judges, may refuse to comply with unjust laws" (Berzhel, 2000, p. 154). At the same time, "disobedience constitutes an offense" (Ilyin, 2003, p. 68). From this perspective, justice is more of a moral category than a strictly legal one.

At the same time, judges today may choose not to comply with unjust laws. The principle of justice often underlies decisions of the Constitutional Court of the Russian Federation on labor issues.

An analysis of the relationship between law and justice reveals that laws should align with justice, but this is not always the case. When this balance is disrupted, a conflict arises that is resolved by a third party—the court. The court applies the principle of justice, effectively taking on the role of the legislator.

For example, in the Constitutional Court's ruling No. 32-P (June 15, 2023), "On the Case Concerning the Constitutionality of Part Two of Article 135 and Part One of Article 193 of the Labor Code of the Russian Federation in Connection with the Complaint of Citizen E.V. Tsaregorodskaya", it was emphasized that when determining permissible limits and timelines for reducing bonus payments, the principle of justice must also be taken into account.

Focusing on the principle of ensuring fair wages, the Constitutional Court's ruling No. 35-P (June 27, 2023), "On the Case Concerning the Constitutionality of Provisions of Part One of Article 152 of the Labor Code of the Russian Federation and Paragraph Two of the Resolution of the Government of the Russian Federation 'On the Minimum Increase in Pay for Night Work' in Connection with the Complaint of Citizen S.A. Ivanichenko", highlighted the need to calculate overtime pay, considering compensatory and incentive payments.

Justice is also evident in the Constitutional Court's ruling No. 26-P (June 28, 2018), "On the Case Concerning the Constitutionality of Part One of Article 153 of the Labor Code

of the Russian Federation in Connection with the Complaints of Citizens D.V. Apukhtin, K.K. Bagirov, and Others", which stresses the necessity of including compensatory and incentive payments when calculating pay for work on weekends and public holidays.

Thus, by interpreting labor law norms based on the principle of justice, courts effectively transform the content of these norms and compel legislators to regulate labor relations differently. These rulings by the Constitutional Court of the Russian Federation reinterpret provisions of the Labor Code of the Russian Federation and must be acknowledged as written from the perspective of justice. Legislators are obliged to amend the provisions of the Labor Code accordingly.

Another manifestation of the principle of justice is found in Paragraph 27 of the Supreme Court Plenum's Resolution of March 17, 2004, which allows courts to deny employment in cases of abuse of labor rights by either the employee or the employer.

Abuse of rights, in our opinion, can be considered a violation or unfair behavior. For instance, if an employee is dismissed at the employer's initiative without notifying the employer of temporary incapacity, including on the day of dismissal, the court may interpret the employee's actions as an abuse of rights, and the employee may be denied protection.

Conversely, an employer has the right to hold an employee disciplinarily accountable. However, if the employer fails to consider the severity of the offense or the employee's prior conduct, the disciplinary penalty may be annulled by the court as inconsistent with the principle of justice and constituting an abuse of rights by the employer.

The Labor Code of the Russian Federation lacks ethical norms, although their necessity is evident for the humanization of labor relations (Kabanov, 2011).

For example, phenomena such as bullying, mobbing, harassment, and labor opportunism are not addressed in the Labor Code. These categories are typically considered economic or philosophical issues. T.L. Adrianovskaya (2023) argues that these categories should now be viewed as deviant behavior by violators.

We add that such behavior is primarily unfair conduct within labor relations, degrading the dignity of either the employee (e.g., harassment) or the employer (e.g., labor opportunism is often exhibited by employees toward employers).

It is clear that none of these unfair behaviors (bullying, mobbing, harassment, labor opportunism) constitute legal violations, as there are no legal norms establishing liability for such acts. Identifying and defining them is possible, but eradicating them is not; they will inevitably resurface over time.

Previously, we discussed forms of unfair behavior, such as an employee exploiting hidden opportunities granted by their position, resisting occupational safety rules or changes

in working conditions set by the employer, or deliberately hindering a colleague's career advancement, among others (Sapfirova *et al.*, 2020).

To address unfair behavior, it is important to establish a labor law principle centered on mutual respect for the rights and interests of both employees and employers. Local regulatory acts should detail aspects such as employees' career development processes, the provision of benefits and guarantees, and incentive programs to eliminate issues like labor opportunism or bullying. Another approach is to create a compliance control department and a psychological support unit as internal employer subdivisions. These can help prevent unfair employee behavior and reduce its motivational drivers. By demonstrating attentiveness to their employees, employers can minimize such unjust behaviors.

Unjust Application of Fair Labor Code Norms. For example, Article 3 of the Labor Code of the Russian Federation prohibits discrimination in labor unless it is connected to the professional qualifications of the applicant (employee). However, applying this norm often results in unfairness because discrimination (in the broader sense) is inherently unjust. Employers may reject job applicants without disclosing the true reason—such as gender, age, or residency status—and instead cite professional qualifications like lack of experience, required skills, or education.

4 CONCLUSIONS

The manifestation of "justice" in labor relations reveals a shift that often infringes on the rights of employers. While the employee is undeniably the weaker party in labor relations, this does not mean that their weakness should be transformed into a weapon against employers. Unjustified restrictions on the rights of employers undermine the principle of justice toward them.

If every employee complaint to labor dispute resolution bodies is examined under the presumption of employer guilt, employers will inevitably transition from being the stronger to the weaker party in labor relations, making it increasingly disadvantageous for them to hire workers.

An alternative development path could emerge: employers, seeing the inevitability and futility of labor disputes, may comply fully with the Labor Code of the Russian Federation to minimize conflicts.

Justice exists in labor relations but heavily favors employees. Employers, if they fail to comply with labor legislation, risk becoming the weaker party in the relationship. This trend is characteristic of modern employers. It seems essential for employers to cultivate the image

SAPFIROVA, A.; ADRIANOVSKAYA, T.; AGAFONOVA, S. The legal category of "justice" in labor relations.

of a conscientious employer capable of bringing justice to labor relations.

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