



Public Order and Good Morality, in the Employment Contract

Zynab Khalvndy and Hassan Hosseini

Department of Law, College of Law and Political Science, Kermanshah Branch, Islamic Azad University, Kermanshah, Iran.

ARTICLE INFO

Article history:

Received: 24 March 2017;

Received in revised form:
23 April 2017;

Accepted: 4 May 2017;

Keywords

Employment contracts,
Insurance contracts,
Consumer contracts,
Public order,
Good morality.

ABSTRACT

Labor rights, in most cases, based on public order, public order in work law, including minimum and maximum that, in law and government regulations have been introduced, and the employer cannot, even with the consent of workers, through individual contracts, or agreements mass, at least reduce, the maximum increase. Review of the legal system, in the face of a situation that, freedom of contract is used to justify the imposition of systematic, widespread and unfair clauses in contracts has become. Public order and good morality, by limiting freedom of contract, may be in the process of labor contracts in the Iranian legal system, are effective. Study on the law applicable to the employment contract, taking into account the public order and good morals, using descriptive-analytic method and library study has been done, and the results, including that one of the consequences of the increasing the use of standard contracts, the inclusion of the conditions unfair contracts, particularly contracts of labor, corporations and businesses a strong economy, using the bargaining power of its superior design contracts unilaterally, and to win writing, these plans are full the covenants contained, the workers, or the weak contractual party, harmful and It is unfair, in law, worker protection entails certain rules, not dealing with unfair terms.

© 2017 Elixir All rights reserved.

Introduction

Good morals and public order cannot be completely separated from each other, and the two terms of promise, was adopted despite the fact that, as a basis independent of each other are, in their essence, the relationship between the public and especially, I do, but since in some writings domestic legal, ethical norms, including references to public order have enumerated, some lawyers believe (Article 975 of the civil Code, good morality and a source of general has, however, Article 6 of the Code of civil procedure (approved in 1939), it is in the public order, as diffusion barriers made contracts, and says contracts and agreements that are detrimental to the public or contrary to good morals, on court training has no effect, and has also been said (good morality, one of the sources of unwritten public order is considered. The opinions and events judicial frequency, which, in different countries there reflects the fact that, good morals while the concept of freelancing is really effects of certain public order, and it depends on the indivisible, and should be a source of public order, to account out. in the view of the above, it can be made that good morality is an independent legal concept that, in addition to public order are, and should not be considered as a resource, It is what can be sources of public order, which is considered ethical rules, sometimes the law has become, not good morality. The concept of good morals, belong to the sphere of law, an area that is of course one hundred percent moral nature, as well as how to morals, public order as a special figure, and at the same time as one of its resources to be considered? Article 975 of the civil Code, we can have good morals, public order to be considered resources. According to the article to him, the court cannot rule out, or private agreements, which, contrary to good morals, and or through harrow sense of community,

or other causes contrary to public order is in force leave, although enforcement has never allowed the present circumstance, careful arrangement of this article indicates that its provisions not only tried, that good morals of the resources of public order to be considered, but on the contrary implies independence of ethics good, is against public order. In fact, under this Article, foreign laws and private contracts, the government declared unenforceable. (Abdali, 2001: 99).

Medical laboratory contract, the patients in the laboratory to send, and provided that, in the face of this part of the wage, the doctor will give the contract in terms of legal, contractual permissible, and no forms, no it is alone, but in terms of public order, as this motive in medicine creates, patients vain to the same laboratory Blackberry, thereby earn more, and patients as a means of income was, in fact, the human body will, it is our business, and certainly contrary to good morals as well, the provisions of Article 6 of the new procedures for the declaration of nullity of such a contract Forms are created, another example is that, if one wants the contract, trick than nationality do, and one function Iran or from abroad consider, legally permissible, but in terms of public order, contrary to public order, but may have no idea that any fraud and abuse of the law, contrary to legal norms, but it seems debatable, and cannot be trusted. Moreover, in accordance with Article 975 of the Civil Code, the contract only for violation of public order and good morals is void, while Article 6 of the Code of Civil Procedure, the nullity of the contract, contrary to public order and good morality, provided these that is, the law of contradiction, ie public order and good morals, alone basis, and no contract can not be due to being contrary to public order, the good morality, the binding did not, and because of

that to discuss the matter, together with conflict, and it is unclear whether such an outcome, the legislator or not?

(A) In case, is contrary to good morals.

(B) if, because of hurting the community, contrary to public order or the other, if the purpose was to morals, public order sources confirm, should such matter was set; " the court cannot, foreign laws and private agreements, due to opposition to good morality, or due to hurt the feelings of the community, or because of opposition to public order is the timely implementation of leave, although enforcement of laws It is permissible in principle. "

A point which it is necessary, it seems that the so-called Article 6 of the Code of Civil Procedure, in 2000 and added, shall, unless inconsistent with Shariah law is on the side of good morality, practical forms considerably will be created, and it is essential that, as soon as legislator, to amend the contract. Article declares, contracts and agreements that are detrimental to public order or contrary to good morals, which, contrary to Shariah law, in the court of training effect is not indicated (contrary to Islamic standards) in this matter, in addition to surprise led to much involves considerable difficulties. Little wonder of it, this is why, in an Islamic society, had an assumed minimum are, and the commitment of people and theocracy, with respect to laws and religious rules in social relations, and of the constraints in the box good morality, reminds of the fact that, it could be noted that, while the view of the people, the food and of good morals is considered to be in conflict with religious laws contract, in other words, may , good morality in an Islamic society, it is recommended that, contrary to Sharia, or rather something that corresponded fully with the law, is condemned. Forms of practice, which, from the analysis of the argument is that, if the contract, contrary to public order or good morals current, but with Islamic rules no contradiction between, can in effect be announced, but the two concepts public order and morality, with time and place and with social change, and change society's interests and should not be driven and bound, on which he assumed constant.

Conceptualization

1. The definition of public order, in Word

Amid Persian culture, "order" Doll, respectively, to the field of cataract extraction, synonyms, respectively, pearl field, contrary to the word of rhythmic rhyme and prose, has meaning. (Amid, 1998: 213)

The word in the Oxford English Dictionary, the meaning is: "How certain are you that, in those things associated with each other, such as alphabetical order, a condition in which everything certainly is arranged, the standby status, okay, acceptable just, what officially is allowed, what the official or organization it is announced, social class, classification of objects or animals, the command system of organized life or work situation is the result of a good government and stable, obedience to the law, regulations, qualifications. some believe that public order can not be defined by a single general formula, and with the same definition everywhere and all cases D, is used, and basically no adequate definition of public order, and the nature of public order. (Almasi, 1999:128).

2. The definition of public order, the so-called

In the terminology law professor Jafari Langrodi, order it, we find: "discipline, coordination of persons or objects or meanings, so that taste uncton up, or aim to provide. Apart from that, it will be useful or not. (Jafari Langerodi, 2009,717).

In English law, instead of the term "public order", the term "public policy", to have used. Saizheh (dsiget) in the case of "public policy", said public policy, or public order, and the English definition of it not, but overall we can say that "public policy", when defects that act at the same lack of opposition to the law, with the aim rights and social harmony, have opposed. (Ahmadi Rastani, 1962: 13).

Some scholars believe that, "public order", the "public law" that is, from ancient times to exist, and to maintain public interest, is used. "Mallory" This says to some concepts of public law and public order, have been used interchangeably. The root of this blending in Roman law there, and the French civil code writers often use them also have in place. There is no doubt that the so-called Roman, caused the confusion between "public law", and "public order". (Jafari Langerodi, 2009: 27 to 37). The difference between the two is that the former is a set of rules, and that requires administrative formality, but the latter only an advocacy organization, and is prohibiting is, we can say that the rules of public law, "public order" and public law unit are equal. But in private law, the concept of "public order", a case is exceptional. "Public order" on all branches of law, such as civil rights and trade and industry, business and private international and so on, there. But in public law, is more important. (Ahmadi Rastany, 1962: 51).

3. The definition of good morals

Ethics is the ability and talent firm in the soul and conscience, and optional voluntary actions that are issued, the moral source of good deeds and the bad, and the ugly and beautiful. The quality of the interior, in terms of its nature, embraces good and bad effects of training. If these qualifications, aptitude and ability prefer towards virtue and truth, love and goodness, encourage good lead, and in love with the beauty and ugliness and hatred of cakes, it is applied, the irrevocable nature of their actions, and these actions can easily be exported. Issuance of these actions, without discomfort good morality are called, these actions are: patience, patience, generosity and courage, justice, goodness, and so it belongs to good morals are, if the applied drop-in, self-competence necessary for these actions has not, and for development of good practices, and hidden in his famous not prepared. Or the ill-bred, and by the likes of ugliness and beauty, do not be. Posts and bad behavior and discourses, he is easily done, as someone who has to be bad ethics, behavior and language that are easily exported, notorious ethics are immoral actions include: betrayal, lies, fear, greed, oppression, violence, abuse, non-observance of chastity, the word, and the like, on the basis of Islamic good morality value, and for growth in Islamic society has invited, and man's faith by virtue personal, good morals tested by their Islam, and Allah, his Messenger ethics for its beautiful commendable. So in this definition, is how behave, and how being on your own is included. How to behave, relate to human actions that include the words, and how to relate to the characters and sensual habits (Motahari, vol. 3, 2008, 22) The purpose of good morals, manners and deeds improves and righteous society, the source of an important part of the rules of public order, it bilge, and prevents invasion of private contracts on ethics. So, the good morals, public order is a specific figure. Part of good morality that still has not penetrated laws, and ensure its implementation is only a social conscience. (Katuzian, 2013: Ch 7: No.108).

Economic public order

Log economic concept of public order, the legal literature, the achievements of the twentieth century, and it has been said before, it is not unprecedented. But the concept of economic public order, civil rights law today in the twentieth century, then is placed, has a different meaning, and has another purpose. In this sense, the states with the fair distribution of wealth in society, economy, society, and their leaders are in control. The government intervention in economic affairs, public order, public order, so it will not interfere, they say. Private contracts, as one of the factors in the distribution of wealth, including topics of public order is placed. In these cases, the government not only works contracts, as it is set, and the contracting parties to impose, but in some cases contract are trying to prevent, and even sometimes individuals are required to contract are. Although the obligation to contract, to invoke public order, still in legal literature, find their place and strong yet, but it seems that, by expanding the scope of public order, and excess Find works imposing a contract gradually to the belief that, to live in the community, it would have at some time, to accept the idea of having to contract, according to people in the public order. (Safai, 2006, c 2.54).

1. Supportive economic General order

The goal of the social order which, it is said to be social public order, protect the people as labor, economic and livelihood, are decrepit. This is the basis of the public order, always contract, can not be brought to justice. When the two parties, from the economic point of view not the same, and the strong and weak, or one side, product or service in a monopoly, and the other hardware it requires, in such cases, the contract is not only justice not looking, but also will lead to injustice. To balance this relationship, and avoid violating the rights of the poor, the government and the law have to be. Laws regulating the employment contract of the concept of public order in this sense, and to protect workers, the employer is established. (Safai, Katuzian, 2006: vol. , p. 167).

2. The guidance economic public order

The goal in this type of economic public order, regulation of the national economy. The rules guiding public policy, the government guided economic system, or the leadership of the community there. Because in this system, governments are trying to steer economic guidance, one of the distribution of wealth, the contract with them. In the last century, guiding economic principle of freedom of contract limit, and people do not allow that, contrary to the laws of economic regulation, contract formation establish. It is true that the aim of public policy guidance such as public order protection, welfare and protection of society, but the purpose of public order guided directly to the purpose of the legislation is not the direct target of public order, the implementation of the economic policies of the government, and the effectiveness of these policies in terms of technical, contrary to public order support, moral and humanitarian purposes, and protect the poor directly, the legislator's attention. For example, banking laws and exchange, and interest rate, including rules that have been established for this purpose. (Safai, 2010, vol 2.56 and 57).

3. Difference political public order with supportive economic public order

Agreement of the parties, and their role will the public order, and the nullity of contracts, public order, political, economic and social order is different.

Public order policy, any agreement contrary to public order, causes of nullity of the contract. But the economic public order, protection is not. For example, labor laws, rules, according to public order situation is in favor of the workers, one-sided in the sense that the employment contract, can reduce worker benefits. But can they add, for example, closed one day a week, two days, or hours of 44 hours per week, 40 hours a week reduced. Such a deal would protect against public order, and not in vain. Contracts that are contrary to public order Establish guidance, in addition to invalidity, as civil remedies, criminal sanctions may have to be. For example, Article 2 of the Law speculators exacerbated punishment, and overcharging Act of 1367, about hoarding food commodity some people, severe punishment is prescribed. (Safai, 2010, vol 2.56 and 57)

Public order and good morality, in labor law

The rules generally two categories are: The first is directly related to social interests and the public interest, that people can not, contrary to agreed, but set other rules that, to supplement or interpret the will of the people, and the interests of dealers, if their silence have been enacted, and can the contrary they agree, the agreements and rules when they enter into force, dealers will not be contrary to the laws, rules supplemented or interpreted to say. The first set of rules, or rules of mandatory public order, or of public order called. The concept of public order, do not be a precise definition obtained, and can not be it to be recognized, he can only say that, based on the whole idea of social superiority, over the individual and the supremacy of public interest over private interests that today the concept of public order had a special evolution, and in addition to the general rule of political, economic social order, it added. One of the most important direct influence public order, or public order laws, contracts today, this way the legislator, to support and guarantee individual liberty, Right to enjoyment (Article 960-959Q.m), or economic and social support, such as specifying hours of work. (Article 51 Q. labor), Article 10 of the Civil Code, the autonomy and freedom of contract is referred to, and in the second part of existing laws, or of public order, has stated, it must be noted that, sesame rule is not absolute, and the rules of public order is the contract, and that they are limited, the permissible principle, bound by the same means. Article 975's BC, decreed: "The Court can not, foreign laws or private agreements, contrary to good morals, or through harrow sense of community, or other reasons contrary to public order is the time enforce, although the implementation of these rules, in principle, be permitted ", this article represents the imperative of good morality and public order, and we can say that aspect is exceptional. So the realm of contracts, and the will of the parties to the extent that, contrary to the rules, not the rules governing freedom of contract are Limiter, one can not under contract freedom, civil rights and determine which factors other, people are deprived.

Legislature, as one of the constituent branches of government can play an important role in the relations between workers and employer have. Passed laws that, in order to protect workers, and to prevent disputes and tensions between these two groups to avoid, or where such a legal possibility requires that, after a dispute in the best way, the difference between removing it. Rules should be prepared in such a way that, as much as possible exploitation of workers by employers is prevented.

On the other hand, characteristics of the labor laws, shall be such that, as they can not be agreed, and so the public order and good morality, in relation to that, the violation of which, in accordance with disturbing public order, and finally features rules such that, to make workers' fundamental rights.

A. Protection from worker

Working in a contractual relationship with the employer, has qualities that governments should stand up to support him, in more general terms, governments have a duty, from all walks of life and its citizens, especially the poor class support. One of those features, inequality between these two categories, in all cases, including economic and social fields, there. The inequalities that could be the work of transformation, the government is obliged to, at least to reduce them what to do. The legislature should pay attention to this point, the legislation has attempted to redress this imbalance to some extent, and the rate is reduced. This is why, expert in the field, the mission of the rights of labor, moderated the relationship between employee and employer know.

Commands religious, and practical life of religious leaders, we also, in this regard, and handle and grace to the working classes and the poor, has been considered, so that the proceedings would villages, and lack thereof, the destruction of the country known is means that, in the laws of most countries, the attitude to the people, not the same, and the main attention has been paid to the workers. Work etiquette, more interest towards them. Therefore, some labor rights, rights of unilateral or in other words, evolution of labor law to change "one-way" are known. "Thus, the general principles of contracts away from one Party which is weaker than the other, provides more support (Araqi, 1991, 33)

Also in this regard, labor rights, "leading rights" have said. This description is because, in general, labor laws, from the beginning to the present day, showing the improvement of workers, and more support for them. " Thus, "the rules gradually reduced working hours, and added much of global vacation. Similarly, the minimum age to work has increased, and the retirement age has come down.

But in this general direction, it is also noted that, in line with the evolution of the legislative branches of government, always the process is not available, and for various reasons have caused this change in time, or even the amount of labor rights to be reduced . This case may be, divided into four categories:

First, in many countries, the issue of rights in the case of new regulations, compared to the previous regulations, the disposal of the order have less to workers Second, the economic situation of a country, in a different time period may cause scores to decline, or labor regulations are a barrier to progress Third, create a special atmosphere and social atmosphere, to cause legislators to think about changes, in some cases handle labor law. Joy as possible, employers with pressure and provoke the workers, in certain segments of society, and with scheme of things, the legislature are subject to revision, and issuing new regulations, in order to reduce benefits for workers by day, and finally the fourth case when the law works in practice as well not run, or somehow ambiguous, and may dispute settlement authorities and relevant officials in the interpretation of the benefits of working more than the law itself there , increase or decrease. It seems, in the current situation of our society, some of these factors, together, and areas to make a difference.

Rate unreasonable, and more or commenting too, benefit workers, in effect creating a social atmosphere special, and he can change and revise labor laws affect the rates of decrease, and even the labor law, the protections and workers' interests, protects, questioned, however, other than those mentioned in the total labor laws, must protections, and it is necessary to state especially legislative, due to the weakness of the workers cortex, and the unequal relationship between employee and employer, in order to develop and provide social support regulations , And to improve them.

B. Prevent conflict and tension in worker-management relations

Many of the provisions of the labor law by the legislature established, in order to protect the rights of workers, when workers see the contract and its terms and issues of other regulations that, his salary is somewhat preserved , and the context of threats and exploitation by the employer, eliminated or reduced, can safely work more, and tensions differences between him and the employer is reduced, but it is clear that the mere existence of regulations can not, alone have the necessary performance, but should be monitored and guaranteed-executive, also exist. So legislature should, in the two cases, the relevant provisions of the legislation. This is because, the Islamic Republic of Iran seasons as labor inspectors, and crime and punishment are considered, and materials allocated to them. The rules, in order to make accommodations for workers in the workplace and outside it, can be said to be guaranteed. Devoted a chapter of the Labor Code, the welfare of workers that includes health care and public health, for workers or insuring them, the creation of housing cooperatives of liturgical, cultural and entertainment catering, in certain cases and provision of transportation etc., one of the issues that legislation for the welfare of the workers, considered that, in turn, could, areas of conflict and tension in relationships is to reduce, or eliminate, the need to that, because on the other side of this relationship, the employer is, however, the stronger the relationship, the legislature must, desires and comments logical and reasonable But he also take heed, and pay him to consider, because the lack of attention to this issue may be, the relationship is strained, and employers under intense pressure law which are conducive to the harmful effects of economic and social returns. Basically, in terms of unilateral labor laws, and the support they may, in some countries, and also in the case of some countries, the interests of employers is not considered reasonable. For example, some may be, Article 12 of the labor law, these cases are considered.

C. Make arrangements for the differences settlement (of the difference)

In terms of labor relations, the legislator not only to avoid differences, addressed to the regulations, but the emergence of differences, arrangements for resolving disputes, is considered. Measures that could, as soon as possible to resolve the differences between the two sides, and continue working to provide normal conditions, while the rights of the parties, the effects of economic, social and psychological differences, through the block. and employer characteristics of the working relationship, the legislature initially did not want the difference between them, the public authorities judicial dispute resolution, tabled, and be addressed to increase the current difficult problems, and prolong the proceedings. Hence references procedures that, for the settlement of disputes are considered, and Title IX

Labor Law, is devoted to this topic. It should be noted that, naturally solve all disputes, thereby not possible, and the legislative area it has identified. (Hashemi, 1991).

According to Article 157 of the Labor Law, the dispute involves any difference individual, between the worker and the employer, or the employer and the trainee that, from the implementation of employment, training contract, according to a workshop, or collective bargaining work, stems be.

Legislator, as well as ways to resolve this conflict, and the stages it has been clear. Such differences, in the first place through direct settlement between the employer and man power, or training or their representatives, take place. In the absence of a compromise, lawmakers in the two authorities considered that, in order to go through them, to be taken to address and resolve the dispute. Reference First, the Board recognized that the trio were formed (representative of the Ministry of Labor and Social Affairs - Representatives of workers, representatives of industry executives) vote of the Board, after a lapse of 15 days from the date of notification and no objection, the one of the parties, to be effective, any objection any of the parties, during this period, the dispute in question "dispute resolution Committee", in accordance with the law of 9 people will be formed, three workers' representatives, three representative industry executives, and three government representatives, will be addressed and resolved. Voted "Dispute Resolution Committee" final and binding.

D. Avoid extreme exploitation of workers by employers

As mentioned earlier, by Unequal relationship between labor and management, there is always the possibility of taking advantage of this relationship. In other words, the employer in terms of economic, social and other aspects is stronger, it is the workers, the exploited. This is why governments, especially pillar of the legislature which, in this regard, intervened, and the laws and regulations of the abuse, and exploitation avoid, and from rights for workers or the poor support, and the mission of the labor law, adjustment in these relationships, are implemented. Stop this exploitation, in various forms, can be used by countries with established principles and basic rules and regulations normally carried out.

Paid because the working relationship, in fact, a contract (the contract) is, naturally, should be given consideration. On the one hand, workers in its workforce, the employer, and on the other hand, the employer must do, for this workforce, to pay workers. So non-payment of wages to workers, in fact, breach of contract, and establish responsibility for violation of the contract. In this regard, the Government primarily for certain parties responsible for the fall, and he will have to pay. The constitution of some countries, including Iran, the issue of non-payment of wages as a form of exploitation is, as outlined, and non-compliance with its human rights violations known in religious orders. We also act prohibited Pay appropriate: in this respect also, the legislator has established materials, so if possible, decent wages paid to the worker, and his rights were not violated. In the first place, mention the word "right shoulder straps", the new word in the Islamic Republic of Iran, involves the notion that, should it attempt to be, carried out, the right of workers to be paid. Means that, in the definition of the word, the Labor Law says, it's the overall concept that, 'such as wages, salaries, profits and other benefits "is used, it is also" all downloads law, workers validity of the employment contract, including wage or salary, by family enjoyment, the cost of housing,

food, transportation, benefits in kind, bonuses increase production, annual profit and so they "win," right shoulder straps "the say.

In the second place, the establishment of "evaluation and job classification", the legislator has asked, to the exploitation of the labor of others to block, and based on respect for justice and fair wages, reasonable, and adequate paid to workers, in this regard, both the government as well as employers by law, obliged to take steps in this process are the establishment of such a system, in addition to preventing the exploitation, to establish correct relations workshop, the labor market in terms of wages and determine the duties, and responsibilities range of different jobs, is necessary. On the other hand, the legislator for the workshops, the classification and evaluation of jobs are not "fixed fringe benefits paid, due to the occupation" of benefits is known, in terms of the nature of the job or the workplace, and for the restoration of wages, hours and working normally pay is. For example, it can be hard working benefits, benefits administration, super job, and so on, in this case named. (Hashemi, 1991)

Connection with public order laws to issue two classes, and complete their division. Identify and distinguish these two groups is very important. Because the accuracy of transactions, is effective. That is, if the law is, and contrary to the act, the act shall be legally void, while the criminal sanction, we can, but if a law graduate, in the case of mutual consent, the parties concerned, Unlike the action is void. However, the diagnosis of these cases, the principle is difficult, and should be explicitly mentioned in the law that the law and its material aspect of predatory, or that due to the factors which may be political, economic, social, and ethical, the judge about the decision, and the laws it considers, and indeed the will of the legislature, in this case, authentication, so "because these factors are always changing and evolving, we can not rule consistent and clear for them, the lost.

Basically, the earlier contracts, the principle of autonomy of the parties, but today, with the involvement of governments in the current affairs of the people, the more authoritarian aspects have been strengthened, and perhaps in some rules, it should be mentioned explicitly. Including Article 8 of the Labor Code, which provides that "the provisions stipulated in the employment contract, or subsequent changes, if enacted would be for workers benefit less from the advantages provided for in the law to fail" Also, in accordance with Article 141 of the Labor Law into force and the enforceability of collective bargaining do, valuable if knows that, the benefits are less than, the labor law has been predicted, it is not specified, or the rules and regulations existing in the country, and decisions and resolutions not contradict state law, and that no contradiction to the approval of the Ministry of labor, social Affairs and reach (Araqi, 2007)

Public order and good morality, in the employment contract

Public order, including fences and departments is that the freedom of individuals, the contract limits the parties are not entitled, under the outer circle put, and contrary to the rules of public order, the contract wage, but to preserve public order certainly must respect these criteria, high reliability and value of contract law, not.

Article 975 of Iranian civil law, in this regard, said the court could not, foreign laws or private agreements, which are contrary to good morals, or by hurting the community, or because of other, contrary to public order is , duly

implemented, although such laws are in principle allowed. And Article 6 of the Code of Civil Procedure Iran, said contracts and agreements that are detrimental to public order or contrary to good morals, the Court can not effect.

Perhaps, Iranian legislator deliberately defining public order refused, not rough and assuming that the definition of pay, and even the definition of a social order offered, it would not solve the problem, because in practice implementation public order "defined" cases and cases of properly was not possible, and in any case could not, the intervention of the judge, in his appropriation of definition down. In addition, at various times, the realm of public order is different. In other words, the size of the territory depends on the concept of "society", at any time and in relation to the value that society attaches to the ruling power. (Emami, 1985).

The rules for good behavior, like public order in part to illustrate that people in relationships private, can not exceed this range and, if the individuals of a society in contract, regulate the conditions observed not, that the regulation is void and has no legal validity. The fact that, whether good behavior, expression of public order, or category rather it requires a long debate, and on which comments have not been confirmed, summed up the collective morals, part of a social order considered, and that good morality, public order there can not be, because morals or good, code of ethics and social position is essentially linked with the discipline of the society. Another group of public order and morals, separated from each other knowingly, and for each consider certain limits, and that some of the rules and regulations, the concept of public order, but does not relate to good morals. For example, provisions relating to the transfer of land subject to land reform, public order aspects, but in the aspect of that is related to good morals can not be seen.

The result of the discussion, and disagreement lawyers in regulations and laws, including the laws of Iran, is evident. Because Article 975 of the Civil Code, reads: Court can not, foreign laws or private agreements, which are contrary to good morals, and or by hurting the community, or other causes, contrary to public order is be put into force the laws, although, in principle, be permitted. strong Firms and businesses, the strong side contracts are enjoying the bargaining power of its superior design contracts the unilaterally, and to win writing, these plans are full of provisions, which the weak contractual party, harmful and unfair. often without bargaining, or modification to the sign, they have a strong hand, to anchor stability of the contract, and the principle of freedom of contract, the hot, the argument that it is not against the law, the education benefit more from including provisions that, to win, and obviously to the detriment of the poor, will not stop while Of inequality and injustice, even if behind a veil intriguing, the imposed contract, unjust and unacceptable. (Karami, 2015, 107)

Labor rights in most cases, based on public order, public order cases, no such agreements, individual and collective, nor any employers' organization and workers can not over evolution or change it to agree, of these come forth, like child labor is prohibited, or forcing a person to forced labor is prohibited. Such as these are called classic public order.

In labor law, public order, a one-way trip. This means that only the employer, to impose an absolute way, and deviate from it, in the interests of the employer, and the disadvantage of workers, even if the working agreement is not possible.

But in the opposite direction, to the benefit of the workers is subject to change. This is due to the difference in the status of workers and employers, in production, and the gap between the share of each of them, of surplus value, and because the workers in labor relations, the weak relationship and the balance of forces between the parties, always in favor of the employer, thus labor rights protections, and the development and changes in labor law is one-sided, with the explanation that, public order law work, including minimum and Maximum that, in law and government regulations mentioned, and the employer can not, even with the consent of workers, through individual contracts or collective bargaining, at least to reduce the maximum ham, But it is always negotiations, to increase the minimum and reducing the maximum permissible for the interests of workers. (Katouzian, 1971, 118).

Contracts against good morality

Opposition contract with ethics, can be divided into two types:

1. may, as a result of conflict with the moral law is the subject of the contract (such as the Treaty concerning the conduct of gambling). The invalidity of such contracts is not in doubt, but that rarely happens in practice that people directly to good morals rape, and threaten their influence.
2. It may be the subject of the contract is legitimate. But the aim of closing the breach of ethics rules, such as the owner of your home, to create a gambling den or brothel rents or sells; new treaty it is legitimate, but the purpose of it, is unethical. So some have said illegitimacy to the contract has no effect, and more so, to retain autonomy exaggerate not, only believe that, because of illegitimacy, to have the contract and the provisions it be understood, and the judge has no right to external reasons, such as testimony, invoke, and some of these have mostly abandoned, and only you-know enough notifying parties. Article 217 of the Civil Code, can be confirmed by recent comment was that, under this Article: "The deal is not necessary that, for clarification, but if specified, it must be legitimate, otherwise the transaction is void." (Katuzian, 2006, vol. 1, 185 and Article 217 of the Civil Code).

Conclusion

Good morality in the face of certain public order is part of good morality, yet the law has not penetrated, and ensure its implementation, only social conscience (customs), and in each country is different, or the phrase "character and deeds Improvers and righteousness "of society which, in terms of time and space is variable, and for the annulment of the contract is not necessary, clear texts exist, but the judge enough that, in French law, the jurisprudence that opinion, is accepted. The impact of public order and good morality, the contract calls for the establishment of justice, and prevent abuse of the rights of the weak, and a crisis of huge economic, and avoid violating the rights and interests of individuals and society, eventually, public order, and ethical Has set. Rules governing the contract, in order to support and balance, and prevent injustice and serve, support from poor against the strong, and consequently improve the economic situation of low-income groups have been established, for the most part due to the weak position of workers, consumer or the insurer, and the inadequacy of traditional rules in the contracts, rights of the parties to the contract would be violated, therefore, Formulation of laws such as (Article 33 to 49), the law of e-commerce on consumer protection, or law on damages, the contract, especially damages arising from

work (Article 12 Direct Tax Act), and the insurance contract (Article 60 of the law Social Amen Act of 1975), respectively. According to former rules, mandatory or public order, or of the well.

Public order and good morality, as one of the most important threats to freedom of contract, are considerable legal status, warranty contracts contrary to "public order, demanding the invalidation of the contract. Instead extradition proceedings, and damages arising from the contract, contrary to public order in Iranian law, contrary to the opinion and legal writings available, may be of some civil code, the same applies to inferred. Public order and good morality, by limiting freedom of contract, the consumer contracts and insurance work, in the Iranian legal system, are impressive. In Iran, the Consumer Protection Act involves certain provisions dealing with conditions not unfair. But Iranian courts, if the will to intervene, in order to control unfair terms, have the legal tools necessary minimum, for the purpose of Iran's rights there, and public order. If that freedom, in the interests of such fair deal, support the weak, the interests of society, the status of jus cogens, the scope of the contract limited, we can also keep the principle of freedom of contract, injustice committed is, in the terms of the contract deal.

Acknowledgment

The researchers would like to thank all participants of this study. The research also supported by grant from Islamic Azad University of Kermanshah Branch.

References

1. Abdali, Mehrzad, general theory of public order and good morality, civil rights (A Comparative Study of the countries of France, Britain and Iran) Tarbiat Modarres University, 2001.
2. Ahmadi Rastani, Abdul Ghani, public order, in private law, Tehran, 1962.
3. Almasi, Nejad Ali, conflict of laws, Tehran, University Press center, 1999.
4. emami, Asadollah, country rules information bank, 1985.
5. Jafari Langerodi, Mohammad Jafar, terminology rights, Tehran, library treasure of knowledge, Seventh Edition, 1995.
6. Safa'i, Seyed Hasan, issues of private international law in Tehran, Faculty of Law in 1995.
7. Safai, Seyed Hasan, era from civil rights arrangements, general rules of contracts, (v) 2.2010.
8. Safai, Seyed Hasan era from civil rights arrangements, general rules of contracts, (v) 2.2006.
9. Eraqi, Syed Ezzatollah, labor rights, Tehran, Samt, 2007, seventeen printing.
10. Eraqi, Syed Ezzatollah, labor rights booklet, published by the Faculty of Law and Political Science.
11. Amid Hasan, Persian dictionary Tehran, Amir Kabir Publishing Institute, Tenth Edition, 1998.
12. Katuzian, Naser. general rules of contracts, vol. 3, Fifth Edition, Tehran, Publishing Corporation, 2008.
13. Katuzian, Nasser, general rules of contracts, the first volume Corporation publication, twelfth edition, Tehran, 2014.
14. Katuzian, Naser, philosophy of law, Volume 1, Issue 166
15. Katuzian, Naser, civil rights, certain contracts, Fourth Edition, 1992, Publishing co, vol.1.
16. Katuzian, Naser, civil rights of certain contracts, Tehran, library of Ganj Danesh, 2009, Eighth Edition, Volume II.
17. Katouzian, Naer; Introduction of law, Tehran, Tehran University Faculty of Administrative Sciences and Business Management, 1971.
18. Katuzian, Naser, civil liability. Confiscation and advocated, vol. 1 and 2, Tehran, Tehran University Press: Volume 1: 2003.
19. Karami, Sakineh, public order, a tool for judicial review of unfair terms, Journal of Law Justice, seventy-ninth year, number ninety-first, autumn 2015, p. 107.
20. Motahari, Morteza, Introduction to Islamic Sciences, vol 3.
21. Hashemi, Seyed Mohammad , approach of labor new law, Tehran, Law Schools of Shahid Beheshti univercity press.