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Labour Law Aspects in the Constitution of the Republic of Macedonia

"…Will freedom itself sing as slaves have sung of it."
Branko Miljković

Summary

This academic analysis considers the question of labor and employment relations through the prism of constitutional provisions.

The analysis is focused on the freedom of labor and the right to work in their constitutional and legal forms; the labor legal content, general philosophy and eschatological value in time and through time as universal human values.
It considers the labor according to the Macedonian solutions, trying to make slight contact with some European and international solutions and standards. The analysis goes back to one of the basic issues of labor law, labor relations and social rights, transferred through constitutional solutions.

This paper exceeds the typical positive legal analysis and tries to penetrate and illuminate more dimensions of the basic human civilization - what makes the essence of labor and what is its relation to the man as part of the "liberated man"? The answer to this question considers the modern challenges of the capitalist economy and globalization - concepts that ensure even greater value and significance for this academic paper.

1. Labour in the Constitutional Norms

The labour and labour relations belong to the essential legal and social area, which has always been deeply involved in the man's living. This is particularly evident nowadays when labour is a basic phrase of life (survival) on the capitalist market and economy oriented system. It is why labour and the labour law are considered as the right to life.1

The nature of labour is a part of the human nature and one can say that it is also true the other way around. It is the basic form of the man's life activity.2 It can also be considered as the essential characteristic of labour. Philosophically put, labour is a lifestyle. It is the source of existence and means of confirmation of knowledge, ability and

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1Therefore, the prominent French professor Jean-Emmanuel Ray, currently working at Paris I University (Pantheon-Sorbonne) named his student textbook ''Droit du Travail - droit Vivant'', cf. Jean-Emmanuel Ray, *Droit du Travaildroit Vivant,* 8 edition actualisee et augmentee, Editions Liaisons, Paris, 1999, p. 1.

2К. Среткова, *Трудово право-општа част,* Универзитетско издателство Св. Климент Охридски, Софија, 2010, p. 12.

individualism. It is an element of the human being.3 As part of the man's social life, we recognise labour through the labour law, which builds the legal relations with a number of other legal disciplines. Even more so, because labour and labour law can be observed in the civic, administrative, commercial, criminal and in particular, constitutional law. Besides, labour has an economic component and it is built in accordance to the economic rules. Labour is related to the social security of citizens' and exercising rights in the areas of social insurance and social protection. Furthermore, labour law contains moral, ethics, sociology and philosophy, which distinguishes it and makes it unique in relation to other legal disciplines. Even when a person is not in a labour relation, i.e. he is unemployed, he is also subject of concern and regulation by the labour law.

The relation between the labour law and the constitutional law4 is particularly important. Actually, the entire labour law developed through exercising the fundamental rights provided by the constitution, such as the right to work, professional associating, strike, social security, social protection etc. Worldwide, constitutions most frequently regulate labour and employment (labour relation) with constitutional imperative provisions. The constitutional provisions in the area of labour relations are a part of the constitutional law. On the other hand, these constitutional provisions within the labour law are often the principles5 on which other labour norms are founded and developed. They are the basic guidelines and foundation for upgrading the rights to employment. However, in the dimension in which it appears, the institute of labour is older than the constitutions and the constitutional regulation of the rights of citizens in the world. Since labour is the man's feature as conscientious and willing labour, it has occurred since the ancient times. Throughout historical epochs, it has certainly altered its character and legal status, but its nature has remained intact. This is provision of physiological and spiritual goods, using it for himself or for another person. In this way, the man has become *homo faber*.6

The polyvalence of labour and its multilayered structure is expressed via the labour relation, which, in spite of being legally regulated, contains a spiritual component that describes the meaning and the essence of its factual phenomenon. It follows that it is not irrelevant what attitude and what concept will be designed toward labour and the employment relations within a society, starting from the constitution of

3Anton Ravnić, *Osnove radnog prava,* Pravni fakultet u Zagrebu, Zagreb, 2004, p. 110.

4К. Среткова, *op cit*., p. 25; Jean-Emmanuel Ray, *op cit*., p. 17.

5Гзиме Старова, *Трудово право,* Просветно дело, Скопје, 2009, p.65; Владимир И. Миронов, *Трудовое право,* Питер прес, Санкт Петербург, 2009, p. 73-75.

6This is a term coined in the antiquity by the Greek philosophical thought, which means the one who makes, builds, approaches, changes and materialises. See: Prosperetti, Ubaldo, 'Lavoro (fenomeno giuridico)', *Enciclopedia del dritto*, Vol. XXIII, 1973, p. 328-329. Even Plato and, later, Aristotle in his *Politics*, referred to intellectual work and physical work with the physical work being despised and seen as unworthy for a free man by both of them. Thus, free citizens are considered to be *homo ludens*, while all others who perform physical work, whether slaves or free men, are considered as *homo faber*.

the state and certainly further, within other regulatory solutions, primarily legislation.

The constitutional norms make the basic frame regulating the issues of labour (work). In constitutions, labour is usually declared through the prism of the fundamental rights of people, mainly as an economic and social right, i.e. rights. Therefore, we can say with certainty that, within the constitutional norms, labour is treated in its etymological dimension, which touches the very philosophy of the explanation of labour as a civilization phenomenon. It is best recognized through the constitutional and legal axioms and, at the same time, labour law axioms: freedom of labour and the right to work.7 What normative contents will a certain constitution have and will these issues even be mentioned therein depends on the relation to such issues by the society and the legislator. That is why this institute should be analysed from the aspect of legal logic and the aspect of positive laws.

2. The Freedom of Labour and Right to Work (Labour)

In its subjective demonstration, labour represents a polyvalent area of human personality. It relates to a man and represents a part of the man's spiritual complex, but it is expressed via the materialization of the idea contained in the thought. Thus, as a metalegal category, labour obtains materialization through the man's conscious will. Hence, it is of utmost importance that labour, when materialized, arises from the freedom of personality expressed through free will. Then we talk about free labour.

In theory and practice, free labour is considered as a separate institute, but also as part of the freedom to choose one's profession and employment.8 Everything began in France in 1791 where the d'Allarde Decree specified that: "...it is permitted/free to all persons to carry out any business or practice any profession, art or job that he or she deems right" (Article 7). Inspiration for this radical historical labour law upheaval toward the creation of free labour law relations was found in the French Declaration of the Rights of Man and of the Citizen (1789), where it was declared that all men were born and remained free and equal in rights. From this, the entire concept that began to develop with the French Revolution obtained great impact on the understanding of the labour, working relations as well as the overall industry and trading activities that culminated in the motto: ''Laissez faire, laissez passer''. In practice, this meant accepting the freedom of labour within the frames of the constitutional solutions during the XIX and the XX century. In this regard, we can mention the emergence of several views and attitudes related to the freedom of labour, which had their materialization in numerous constitutions. First, it was certainly the French view that involved the freedom of labour among the constitutional solutions, starting from the French Constitution of 1791, the Constitution of 1946

7Cf. A. Ravnic, *op cit*., p. 98-110; Саво Климовски, *Уставно право и политички систем,* II, Просветно дело, Скопје, 2006, p. 280-282; Светомир Шкариќ, *Уставно право,* книга втора, Униот траде, 1995, p. 183.
8Paul Durand, *Trate de droit du travail,* T. II, Paris, Dalloz, 1950, p. 62.

and the current one from 1958.9 Today, the freedom of labour is considered a part of the man's freedom as the basic activity for their existence and the basic human value.[10]

The second representation of the freedom of labour ranges from the concept of non-regulation of this institute with constitutional norms to accepting equalizing of the freedom of labour with the freedom of industry, trade and work. There are also constitutional solutions providing for freedom of choice of the profession as part of the fundamental rights.11 Freedom of labour is also related to the freedom of choice and performing of work.

These diverse views and understandings of the freedom of labour pose the question of its content, the elements that comprise it and the issue whether the freedom of labour is something different from the freedom to choose profession, employment, free performance and acceptance of work.12

Freedom of labour relates to dependent and independent labour. Hence, freedom of labour relates to all citizens of the state and it should not always be connected to the country's citizenship. The freedom of labour implies freedom of choice of profession and employment as well as termination of one's employment. They are a constituent part of the freedom of labour and its elements. Even though the freedom of labour has not been paid great attention in theory, it deserves deeper analysis, above all as nowadays, freedom of labour is associated with freedom of personality and, if you like, its "liberation" through labour. Consequently, it can be said that freedom of labour is in close relation to dignified work and work that should liberate, not limit and frustrate, i.e. enslave (beauty of one's personality is expressed through freedom of personality in labour, which is a denial of slavery work in its metalegal dimension). This means that freedom of labour is not associated to the very economic formation and its form (capitalism, socialism, entrepreneurship and alike) but with the very person, i.e. the man.13 Therefore, it contains deep philosophical, ethical and moral components. Certainly, this is hardly practicable and therefore many constitutions regulate the right to work, which originates from the freedom of labour. Freedom of labour means accessibility to every job and position for everyone, under equal terms. It means that equal employment terms must apply for each applicant and they must be disclosed to everybody in advance.[14] Finally, freedom of labour is also expressed through the ban for forced labour. In this manner, man's personality is protected in terms of prohibition of slavery, i.e. slavery labour in its materialization.

9Jean-Emmanuel Ray, *op cit*., p. 17.

[10]Borivoje M. Sunderic, *Pravo Medjunarodne Organizacije Rada,* Pravni fakultet Univerziteta u Beogradu, Beograd, 2001, p. 161; *Pravna enciklopedija,* Beograd, 1985, p. 1519.

11Thus, the German Basic Law stipulates in Article 12 that "All Germans have the right to free choice of a profession and of a working position..." See A. Ravnić, *op cit*., p. 99.

12Ibid, p.100.

13Alain Suipot, "*Les droit de travaille,"* Quadrige, Paris, 2004, p.52 (translation into Macedonian: Ars Lamina, 2010).

[14]Borivoje M. Sunderic, *op cit*., p. 163.

Actually, freedom of labour is an antithesis to the forced labour. This does not imply however that there are not any elements of coercion.[15]

On the other hand, it is wrong to think that freedom of labour is a labour law principle. It is a constitutional principle, associated to labour.16 The right to work is a labour law principle. It is the right to work that is a factual materialization of the freedom of labour (understood as an eschatological phenomenon), but not in its full scope.

Freedom of labour and the right to work are correlated and it is the guarantee of the right to work that arises from the freedom of labour, which is a prerequisite of the former. On the other hand, the obligation for work is a logical component of the right to work and, historically, it existed on many occasions, above all in the socialist understanding of the right to work. It was demonstrated as an obligation, which meant that every citizen and, more rarely, a resident in the country should work. That obligation was supposed to be ensured by the state. In reality, it meant full employment. Therefore, we can analyse the guarantee to work as a part of the socialist concept as well as a part of the capitalist concept of labour organization. Nevertheless, we are of opinion that different views concerning the right to work and its guarantee were based in the past on wrong foundations. Actually, in the socialist period the right to work was also ultimately an obligation. In addition, the capitalist approaches range from the attitude of absolute non-interference of the state in exercising this right and its understanding as a good, to the attitude that the right to work could not be guaranteed in democratic capitalism unless there is an obligation to work, even as forced work.[17]

The right to work is a program right, which is anticipated to be accomplished in the future.[18] It does not relate to any particular person, understood specifically as right and obligation. The state guarantees it, but not with any of its bodies. The actual exercising of the right to work should be understood conditionally, because it is most often reduced to an obligation of the state to create conditions for its exercise, which are above all economic, but also legal, educational and social. This right is not direct or subjective, i.e. right that is exercised in a procedure before a public authority competent body.[19]

When the right to work is exercised in practice in a country, then it is associated with its employment rate. Certainly, the exercise of this right is in practice anticipated only through the condition of free choice

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[15]Ibidem, p. 162; The theory on the existence of certain elements of coercion in every work was advocated by George Freedman, who thought that elements of force could occur in relation to physical force, moral conviction, economic pressure, need to serve the society or some ideal and alike. Here, we have elements of self-compelling which have a spiritual and subjective aspect and elements of coercion related to the situation in the labour market, conditions in companies and other issues that do not depend on the worker. More about this in: G. Friedmann, P. Neville, *Sociologija rada,* Sarajevo, 1972, p. 24-25.

16A. Ravnic, *op cit*., p. 101.

17In Germany and Italy between the two wars, labour was not considered a good, as in the capitalism, and it was not considered that workers have a right to work and an obligation to work that complement each other; Soprano Enrico, *Libero del lavoro II,* Torino, 1942, p. 2.

18A. Ravnic, *op cit*., p. 108.

19Ibidem

of work, but this is not sufficient. As a program right, it is very important how it is exercised in practice or, more precisely, in the contemporary democratic capitalism. The right to work expressed through employment, i.e. a possibility for prompt employment, would mean its actual realization and accomplishment. Therefore, we can say that in the current conditions, this right is exercised though the industrial development of the country, in ratio with the demographic situation. On the other hand, this means that with increased birth rates and slower industrial development, this right is not exercised, for a simple reason of the existing unemployment. The latter situation occurs in many countries in practice. Otherwise, full employment is considered to exist even in situations where 4-5% of the population with work ability is unemployed. However, a difference should be made in relation to the full production employment, which means that workers are full-time employees and effectively work full working hours without a possibility for semi-employment or concealed employment. This only occurs if all employees are profitable for the employer.[20] Ultimately, a higher level of exercising this right occurs where its exercising enables the worker to earn a wage that can provide him a dignified life. In this sense, we can talk about the real exercising of the right to work in practice.

3. The Macedonian Constitutional and Legal Solutions

The Macedonian tradition of accepting the freedom, struggling for it and living and sharing it, is deeply rooted in the Macedonian essence. This did not remain without reflection in the legal and philosophical matrix of the academic thought that was created in the country throughout the XX century and in the symbiosis with the positive legal norms created by the new Macedonian history of legal system. The constitutional system of the country, starting from 1946 via the ASNOM (Anti-Fascist Assembly for the People's Liberation of Macedonia) principles until today has rested on the liberation principles of the Ilinden Uprising warriors, which have consequently been transposed, logically and deliberately, to other social fields and, above all, to the area of labour. Thus, after the Great War freedom was understood as part of the basic principles of the democratic civic concept, which gained a different, socialist dimension during the second half of the XX century. However, the freedom of labour did not loose its essence of free entering and leaving the employment relationship and the realization thereof, although there were certain variations associated to limitation of the original values.

The Constitution of the Republic of Macedonia[21] from 1991 stipulated the basic principles of the freedom of labour and the right to work as part of the basic social rights of the Macedonian citizens. The constitutional solutions provided for under this Constitution regulate the freedom of labour in a somewhat different way, i.e. indirectly instead of directly, as some European constitutions do. In fact, the freedom of

20When we say profitable, we do not mean productive, since productivity is possible even when there is no profitability. These are situations when everybody works, but the employer has no profit. If he dismisses a part of employees, the work would be productive again, but also profitable. It means that the costs of labour force are lowered and the final product is profitable.

[21]*Official Gazette of the Republic of Macedonia*, No. 52/91.

labour and the actual work are regulated in such a way that forced labour is prohibited through Article 11 of the Constitution. In this way, work must be and is expressed only though a willing activity of each citizen of the country who wishes and can i.e. is able to enter the legally regulated employment, i.e. to work. Under Article 11 that prohibits forced work, the actual freedom of labour is a part of the basic civil and political freedoms and rights, as part of the rights of the man and the citizen. Specifically, we are talking here about the constitutional legal rights that place the work issue in the prism of the basic economic and social rights of the citizen. Thus, Article 32 of the Constitution stipulates that everyone is entitled to a job, free choice of employment, protection at work and material security during temporary unemployment. In this way, the Macedonian Constitution enables and guarantees the right to work, understood in its philosophical and external demonstration, i.e. as a right that is not guaranteed by the state in terms of employment and a right given to everyone. Exercising this right in practice, in reality, depends on many other circumstances, among which the first is the citizen's free will to work, the social and economic conditions in the country and the relations in the labour market or, in other words, an opportunity for employment. If this is so, then in no case we could put an equality sign between the employment and the right to work. It means that the right to work is a broader right that enables the citizen who seeks work to get employed, if conditions are met. Article 32 also states that everyone has the right to a free choice of employment, meaning that the free will stipulated as a concept and a principle can be seen exactly in this part of Article 32, paragraph 1, where it finds its source through the free choice of employment. Accordingly, the choice of employment depends on the citizen himself, i.e. *argumentum a contrario*, everyone has the right to refuse to be employed to a certain working position. This is directly correlated to Article 11 stipulating that forced work is prohibited. Thus, it is this part of Article 32 that complements Article 11, i.e. they are directly correlated. Protection at work and material security during temporary unemployment are social and economic rights, which are part of the social security of the citizen if he/she is not materially able. This right should provide protection against poverty. Protection at work itself means that a worker should be protected from the point of view of their physical and moral integrity, but this should be interpreted in more general terms and, we would even add, their spiritual integrity. Paragraph 2 of Article 32 sets out that everyone is entitled to any job under equal conditions. This is a complex of rights that are complemented with the right to free choice of employment. Thus, if everyone has the right to choose, then everyone has the right to apply for, i.e. to have access to any job. Otherwise, if everyone had the right to choose where to work, but only to certain positions and not at others, this would be a limited right. In this case, our Constitution guarantees this right in its full extent - a really commendable and good solution, which ultimately means that every citizen of the Republic of Macedonia has the right to choose a job that he would perform in relation to all jobs available in the labour market.

Further, Article 32 regulates some other rights that are primarily associated to the aspect of legally regulated labour relations and relate to the right of each employee to adequate compensation. At this point, we

can only say that compensation means a counterbalance or balance to the work done and represents a concept of the capitalistic market-driven economic relations, according to which the working relations are currently realized in Macedonia. The Constitutional provision uses the term adequate (compensation) which is, in our opinion, a good solution, since it is not possible to specify precisely the amount of compensation for different working positions in the Constitution. On the other hand, there have been cases in comparative law where the right to a minimum wage is regulated, but its amount cannot possibly be regulated here either. The Macedonian Constitution does not contain such a solution, which is, in our opinion, legislator's omission, because practice has proved that exactly 20 years have elapsed from adopting the Constitution until the adoption of the minimum wage legislation, which has had a negative impact on workers. We can also say that this Article provides for some employees' rights. These rights refer to already employed citizens and include the rights to a daily break, weekly and annual holidays. As we have already mentioned, the issues here do not refer to typical rights associated to freedom of labour and the right to work. Rather, they are intrinsic rights to the working relation that are, as the legislator considered, adequately regulated by the Constitution, thus gaining greater importance and rising to the level of some basic principles in labour legislation that should be used as a basis for the development of the Macedonian labour legislation. Equally, it is very important that the employees cannot waive these rights. Still, we have had a Constitution-related legal case in history, when the Labour relations law envisaged, we would say through the back door, a possibility for the worker to waive his right to the annual leave. The Constitutional Court repealed this provision in the Labour relation law as unconstitutional. In accordance with the Constitution, laws and collective agreements also govern the rights of the employees. The fifth paragraph, the last one in Article 32, lays foundations for a system where the legal relations in the field of labour should be regulated further, i.e. it refers to dualism of the labour law system. It does not mean that these are the only legal acts through which the system is going to be built, which has also been shown in practice. Labour relations, as one of the most dynamic in a society, need other legal instruments like rulebooks, decisions and alike. However, the Constitution unequivocally instructs through paragraph 5 of Article 32 that the main bearers of regulation of the working relations shall be laws and collective agreements. At this point, we would like to note that the Constitution of Republic of Macedonia does not make any distinction or hierarchical difference between these acts. In our opinion, this confirms the generally accepted international principle that the relation between a law and a collective agreement is not typically hierarchical and that in many cases, the collective agreement is a more important act than the law governing the working relations.[22]

It follows from the constitutional solutions that the right to work is a constitutionally guaranteed right. However, it does not guarantee the right to employment that would be provided by the state, but rather the

[22]In this respect, see more in: Лазар Јовевски, 'Колективни преговори', *Компаративни согледувања,* Скопје, 2006, p. 111-117.

right that guarantees a possibility for everyone to work. This right is exercised only if there is a free will expressed by the citizen and it refers to any job and free choice of employment. Hence, we clearly state that the right to work in the Republic of Macedonia is a constitutionally guaranteed right. Freedom of labour is a kind of leitmotif that is incorporated into the constitutional and legal solutions and which represents an ideal case. It means that the Macedonian Constitution is among those constitutions that regulate freedom of labour indirectly and, in essence, it is expressed through the right to work.

In addition to the previously mentioned provisions that regulate the freedom of labour and the right to work, we will note some provisions that typically refer to the labour laws and social rights stipulated by our Constitution.

First, we would like to note that protection of motherhood and minors is raised as a constitutional principle pursuant to Article 42. It stipulates that a person under the age of 15 cannot be employed; these persons cannot be employed in places harmful for their health and ethics and they enjoy special protection at work. Special protection is stipulated for mothers, as well. We could say that to a certain point, this represents a restrictive approach within the constitutional solutions, because other categories of employees who would enjoy special protection at work are not included. Even more so as, according to the constitutional provision, special protection is guaranteed only for the mother, i.e. after delivery and not during the pregnancy. Anyhow, this does not mean that protection of health and safety at work should lose its meaning and be devaluated to a legislative level. On the contrary, the Constitution stipulates only a frame and regulates certain types and categories of protected workers as a principle. The rest should be (should have been) regulated by laws and other acts.

The Article 35 of the Constitution provides that: "The Republic (state) provides particular protection for invalid persons, as well as for their involvement in the life of the society." This provision does not refer directly to special protection at work for these persons, but rather to creation of a general, broader social concept that would provide such protection. This does not include only special protection at work, but also protection during education, economic rights, social packages and alike i.e. their inclusion in the overall social living. In interpreting this Article, protection (special) at work referring to these persons should be viewed as a part of the general concept of protection and integration, even more so because we think that protection at work is of utmost importance for these persons.

The Constitution of the Republic of Macedonia regulates some collective labour rights and some rights in the field of social protection and insurance. These include the right of organizing into trade unions (Article 37) and the right to strike (Article 38). Article 37 does not stipulate the establishment of employers' organizations but only organizations of workers. In our opinion, this is a legislator's omission. The citizens should exercise their economic and social rights and, above all, their labour rights, through trade unions. Trade unions serve as organizations that should protect these rights. Employers' organizations, organized as associations or chambers, have not found their place in the Constitution of the country and, therefore, these issues are regulated by

laws. However, exercising the citizens' i.e. workers' social rights is not possible without social dialogue where it is these employers' organizations and rarely the state that appear as the other party. Hence, it is not really possible to accomplish social and economic rights in the Macedonian market economy without a social dialogue demonstrated through collective agreements. Therefore, we are of opinion that the Constitution should provide for the possibility for organizing of employers in their organizations and associations, thus making these rights complete and directly applicable in practice.

The right to strike is guaranteed by the Constitution, but certain limitations related to some professions such as the armed forces, police and administrative bodies are also provided for.[23]

From the aspect of social rights, the Constitution stipulates the right to health care (Article 39). This right is guaranteed to every citizen of the country. It is also regulated by special legislation. Here, the citizen should be considered as a citizen of the Republic of Macedonia, while the right to health care for foreigners is provided through international treaties and ratified acts of ILO and the Council of Europe, like the European Social Charter (revised).

4. Social Rights as Constitutional Rights or Not?

There is disagreement in the academia about whether the social rights should be a part of the constitutional solutions along with the personal and political rights. The second dilemma that exists is which rights belong to the category of social rights.[24]

Social rights are included in the broader category of economic, social and cultural rights. However, social rights are distinguished from the economic and cultural rights, firstly because of their importance, legal nature and practical applicability. There are numerous opinions that the social rights should not be a part of the constitutional norms.[25] Reasons for such beliefs are different. It is considered that these rights should not be constitutional rights because they are not universal, i.e. they do not refer to all citizens but only to the employed ones. On the other hand, these rights are program rights and they are not directly accomplishable, and thus have no court protection. Such views and attitudes of some scholars result from a too dogmatic or market-related view of social rights rather than understanding of the essence of the constitution as a legal act. The constitution is not only a legal document, it is rather a basic document that ensures national and individual survival ... and ... Everything which a nation believes is necessary for the general wellbeing should be included into the constitution.[26]

In certain legal theories, such is the French one, it is considered that the constitutional principles referring to the field of labour and social

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[23]Саво Климовски, *Уставно право и политички систем,* II Ed. Просветно Дело, Скопје, 2006, p. 291.

[24]Рената Тренеска-Дескоска, *Конституционализмот и човековите права,* Правен факултет Јустинијан Први, Скопје, 2006, p. 146.

[25]They include J. Jowell, Cass Sustein, Jon Elster, Antero Juranki and others. Quoted in *Конституционализмот и човековите права,* Р. Тренеска-Дескоска, p. 148-149.

[26]Р. Тренеска-Дескоска, *op cit*., p. 150-151.

legislation have values of positive legislative norms and, depending on their wording, there is no obstacle for their direct application.[27] The French Constitutional Council (Constitutional Court), in the decisions related to the right to work and the right to strike, also verified this.[28]

In order to specify which rights are included into the constitution as social rights and whether they are constitutional issues at all, the actual understanding of the constitution as the highest legal act of a state should be taken into account. The actual wording and contents of the constitutional norm depend on it and the wording itself directs to the nature and application of the constitutional norm with the labour-related content. So, opinions can differ, but it is undisputable that labour principles and rights as part of the social rights enable a certain balance in the society. They can be of a program nature but regardless of it, they "direct" to certain ideals related to labour legislation and social issues of labour equality, personal freedom in labour relations and thus generally to mutuality and solidarity, which should ultimately depict the national community as human, equitable and coherent community of all citizens. Through the constitutional social rights, the capitalism gains a more human and social image and it is not an instrument of inequality in the living standards, as some theoreticians believe.[29] Social globalization of equality and the global social justice are not possible without their prior occurrence on the national level in the countries of the world. Liberation through labour and establishment of the social global peace are challenges that are currently solved primarily on national level (and regional as well), in order to be subsequently achieved on a global, planetary level.

A part of the social rights that are essentially labour rights are accomplishable directly and the court protection is possible. These rights are the rights to strike, minimum wage, health and safe working conditions. Those rights that do not have direct applicability are "instructions," which are referred to be developed further by the legislator with the purpose of their direct implementation.[30]

Conclusion

Labour-related law and social norms contained in the Constitution should be viewed through a wider prism as part of the human rights of the citizen and worker. In this sense, in their demonstration, they contain eschatological aspects as part of the legal liturgy (writing in stone), which has existed since the very appearance of humans until the present time and which will exist forever. The values in labour that concurrently have a constitutional legal value have great importance for the external (practical) demonstration of labour as a working relationship. They are the basis of the essence of the working relationship, expressed through the subjective inter-relation of subjects. Since under the constitution, they have a general and universal social

[27]Riviero Jean-Jean Savatier, *Droit du Travail,* Paris, 1966, p. 35-36.
[28]See: A. Ravnic, *op cit*., p. 467-468.
[29]It is Bill Jordan's claim in "Constitutionalism and Social Right" where he deems the social rights quasi-constitutional, especially in the countries of the continental Europe, which are an obstacle towards establishing a global social citizenship. See P. Тренеска-Дескоска, p. 150.
[30]A. Ravnic, *op cit*., p. 467.

value, they gain its image within the working relationship. This is exactly the reason for our fostering of a special relationship towards the idea of the existence and development of legal norms in the labour field within the constitution.

If the legislation facing the challenges of the global capitalism is supposed to rest on the idea of "man freed through labour," it shall have to rely on the constitution as its pillar. The constitution, with its range of norms should "preserve" the values of the labour as heritage for all employees and citizens. Therefore, the constitution and the labour are in etymological union that refers them to each other, thus expressing its eschatological paradigm which is materialized in the capitalistic act of the (right) to work.

"...and you shall know the truth, and the truth shall make you free".
John 8:32