

Status and Roles of Iranian Workers' Associations

Mostafa Seraji and K.H. Hassan

Faculty of Law, University Kebangsaan Malaysia, 43600 Bangi, Selangor, Malaysia

Abstract: Workers' associations have been established in Iran since, 1950. Although, the associations are not in the same strength and status of trade unions in the West, their existence is considered as precursor to the development of trade unionism in Iran. Since the 1979 Revolution, Iranian workers have been trying to attain a recognisable position in their workplaces. They tried to gain acceptance in the Jomhouri e Eslami's (JE) party as its workers' branch and to finally have their position legalised by the government. This study analyses the status and roles of the Iranian workers' associations by focussing on the Workers' House, Islamic Labour Council and Guilds Association.

Key words: Workers' association, Islamic Labour Council, Guilds Association, development, Iran

INTRODUCTION

Critics on trade unionism in Iran has been accusing that Iranian laws restrict the establishment of trade unions and trade union movement. The statement is true if one were to compare with trade unionism in the West. But, Iran has its own history and political development which largely shaped the evolution of trade unionism in the country. Basically workers in Iran have the right to trade unionism-although, largely curtailed by the governing regime-under its labour law (Qorashi, 1987; Baqer, 1984). This brief study discusses the status and roles of three workers' associations which in the context of Iran are considered as trade unions. Their roles in trade union movement in Iran might be limited but they certainly function as representatives of the workers. An established organisation is the Workers' House which began as Islamic groups in factories in 1980, starting as a JE Party workers' group (Habibzadeh, 2009).

ORGANISATIONAL DEVELOPMENT OF THE WORKERS' HOUSE

In 1958, a group of workers' guild societies started their activities in Tehran in the form of a union, under the name of workers' association. Following this incident, the leaders of the societies were accepted and allowed to contribute to the Iran Novin Party (dissolved on 2 March, 1975) which was one of the political parties existing during that period (1968). Given that the workers had appropriate background, the Workers' House developed quickly and obtained a fundamental and determinate role in advancing the struggles of workers' movements in Iran by creating and activating societies and guild councils in workplaces

and factories. The Workers' House with its fundamental role as a workers' national organization was created through the cooperation of different trade unions from Islamic societies and Islamic Labour Councils throughout the country. Therefore, the Workers' House can be called a confederation (Habidzadeh, 2009).

Although, the Workers' House started its work in 1979, according to Iran statutes, it has continued its activities after getting promoted to legitimize itself by the Home Ministry's Party Commission in January, 1991. The Workers' House is currently run as a nongovernmental guild association. It has a special place among its counterparts by emphasizing the pursuit of workers' guild demands (social and economic); additionally, it is the biggest and most active workers' organization in terms of members, abundance of branches throughout the country, plurality and variety of services to its members, effect on governmental institutions, experience and level of relations to international governmental and nongovernmental organizations (Habibzadeh, 2009). Therefore, it can be concluded that the WH is currently working in party form, having obtained permission from the Commission Party of the Home Ministry.

STRUCTURE, COMPOSITION AND VISION/MISSION OF THE WORKERS' HOUSE

There are two constitutions that guide the Workers' House in Iran. One of them emphasizes on the manner of philosophy and the Workers' House's intentions whereas the other deals with Workers' House composition and structure. The Workers' House is an organisation obliged to Iran's Constitution and was established with high Islamic aims. It was also created to guide and organise

people who protect the poorer classes in society. Based on the intention, the Workers' House attempts to solve rising issues by emphasizing the above-mentioned aims in the cultural, social, economic, political and industrial areas, as follows:

- Obtain independence from foreigners and avoid damaging and wasting natural resources in Iran
- Protect human freedom required of developing of the workers' abilities and talents to perform creative roles in their own social destiny
- Remove poverty and privation by emphasizing decent work and interdicting any type of exploitation and establishing an Islamic economic system based on the constitution that emphasizes spiritual personality and humanity
- More extensively support the Islamic Republic Revolution's institutions and cooperate more to realize the aims of the revolution
- Realize Principle No. 43(2) of Iran's Constitution insofar as labour force in Iran should share ownership of tools that they work with
- Completely perform Principle No. 44, especially the third part pertaining to cooperation
- Protect and develop relationships among all Moslem workers and help the world's poor people struggling for freedom
- Develop and consolidate relationships with other Islamic organizations
- Join the struggle against atheism and imperial racialism around the world

All Workers' House members announced that they are obligated to the Constitution of the Islamic Republic of Iran. The intention of creating the Workers' House has been approved in one introduction and 14 parts (HM, 1998).

STATUS OF THE WORKERS' HOUSE: IS IT INDEPENDENT?

Although, the Workers' House is operated in party form its constitution emphasises that worker and employer organisations cannot interfere in political affairs, however Workers' House activities are beneficial for workers and have effective roles in workplaces compared to other workers' organizations (Hafezian, 2001). The Constitution, 1980 states that the formation of parties, societies, political or professional associations, as well as religious societies whether Islamic or pertaining to one of the recognized religious minorities is permitted provided they do not violate the principles of independence,

freedom, national unity, the criteria of Islam or the basis of the Islamic Republic. No one may be prevented or compelled to participate in the aforementioned groups.

In addition, Article 178 of the 1990 Labour Act stipulates that any person who resorts to coercion or threatens to obligate another to join a workers' or employers' organization or prevents one from joining such organizations and anyone who prevents lawful organizations from being established or their statutory functions from being performed shall with due regard to his situation and means and to the degree of the offence, be subject to a fine between 20 and 100 times the minimum daily wage applicable on the date of judgment or to a term of imprisonment ranging from 91-120 days or to both these penalties.

As mentioned in the second chapter, according to the ILO standard in Article 2 of Convention No. 87, workers and employers without distinction whatsoever, shall have the right to establish and subject only to the rules of the organization concerned, join organizations of their own choosing without previous authorization (Ghebali, 1989). It has been emphasized that the Workers' House was formed based on the Parties Law and operates under the supervision of the Parties Commission of the Home Ministry, therefore contradicting international labour standards. Moreover based on Article 3 of Convention No. 87, worker organizations are supposedly free to draw up their constitutions and rules. Nevertheless, the WH constitution must be based on parties commission rules.

The Iranian government through the Home Ministry, however, shall have the right to dissolve parties and political groups through a measure stipulated in Articles 16 and 17. Indeed, if parties, populations or groups commit any of the actions stated in Article 16 of the Law Regarding the Activities of Political and Professional Parties, Groups and Organizations and Islamic Associations or Recognized Religious Minorities in 1981, the government has the authority to write reminders give warnings, suspend permits or request dissolution from the courts. Furthermore, the Workers' House is registered under the Law. On the other hand, based on Articles 3 and 4 of Convention No. 87, public authorities are prohibited from any interference that would restrict this right or impede the lawful exercise thereof. Furthermore, workers' organizations shall not be liable to be dissolved or suspended by administrative authority. Regarding government interference in union affairs and the Workers' House, all throughout the Workers' House existence, the Secretary General and other members of its Central

Council are selected from among government people. Therefore, their roles in the Workers' House may help the government monitor workers accordingly.

The International Confederation of Free Trade Unions (ICFTU) has lodged a formal complaint with the UN's International Labour Organization (ILO) over a state-sanctioned campaign of terror to crush an independent trade union in Iran on 27 July, 2006. The ICFTU alleges in the complaint that the president of the Union of Workers of the Tehran and Suburbs Bus Company has been jailed since December and union meetings were broken up by police and vigilantes. Despite being a member of the ILO and having a duty to honour ILO labour standards, the Iranian government has repeatedly resorted to harassment, arrests and physical attacks to crush the union, the ICFTU says. Moreover, it claims that the attacks were carried out by Workers' House members.

Furthermore based on the above-mentioned points, the Workers' House is a political organization registered with the Home Ministry. Its head and Central Council membership must be introduced to the Home Ministry, although it operates as a worker institution. It can be the last but not least contradiction of the Workers' House to ILO standards, as the ILO Consultant Council stated in its report (ILO Report to Iran in 2002). It can be concluded that although, large contradictions exist between the Workers' House Constitution and ILO standards, the Workers' House is the largest worker organization with the biggest worker population. It has more effective workplace roles compared to other worker organisations.

ISLAMIC LABOUR COUNCILS

Now-a-days, trade unions use their experience and initiatives through the Participation Consultative and Participation in Management to achieve and improve their social and economic situation in the workplace. This cooperation between workers and employers comes across as legal and valuable. Bilateral committees have an effective and fundamental role in workplaces as worker and employer representatives with technical, economic, social and legal aims (Hafezian, 2001). Since, the Shah's regime in Iran, there have been some organizations, such as the workshop council, a workshop union that gives workers the right to participate in workshop activities. However, the role was very weak and the workers were unable to participate in workshop affairs.

ESTABLISHMENT, RECOGNITION AND OBJECTIVES OF THE COUNCILS

Since, the victory of the 1979 Islamic Republic Revolution in Iran councils have been developed to

facilitate the participation of different society levels and have become a fundamental principle of Iran's Constitution. Cooperation between workers and employers was emphasized by the Constitution's Principle No. 104 of Chapter 7 through the organization of a council consisting of workers, peasants, other staff and management. To implement this article, the Iran's Parliament enacted the law, an act that established the Islamic Labour Councils in January, 1984. The Law constitutes an executive by-law through which the Islamic Labour Council operates. Although, the High Labour Council ratified a rule establishing the Islamic Labour Councils, some parliament representatives postponed their establishment until 1984 (Habibzadeh, 2009).

According to the 1984 law regarding the formation of the Islamic Labour Councils, the councils were established to provide Islamic settlement and cooperation in preparing programmes and coordination for developing affairs in industrial, agricultural, service and production units. As this, 1984 law states some principles of its purpose, a glance at some of the company councils shows more details of the aims, including the following:

- To help management implement company aims
- To give special attention to workers' intellectual and practical capacities and recommend to the management the upgrading of workers' employment level
- To collect effective recommendations of workers for company improvement
- To assist in developing treatment, welfare, sport, culture, educational services and wages in comparison to other companies
- To make effort to maintain workers' employment and social status

SCOPE AND COMPOSITION OF ISLAMIC LABOUR COUNCILS

In view of the councils' philosophy, Principle No. 104 of the constitution will be examined. Based on the revolutionary environment at the time the Law of Formation of Islamic Labour Councils, 1984 was ratified, the councils' scope is that all elements and existing members, including workers, employees and management in factories and other units, consist of economic, social, manufacturing, industrial, agricultural, educational and administrative effects in consultative ways to plan programmes and coordinate their relative affairs.

The council composition, as per Article 1 of the Law of Formation of Islamic Labour Councils, includes workers' representatives elected by the General Assembly

and a management representative. This composition shows the multiple workers' representatives and a unique management representative. Therefore, the council composition is unbalanced. Based on the above-mentioned point and in view of the limitation of management representatives, the labouring nature of the councils overcomes the management; consequently, the councils' cooperation scope is replaced by worker domination of council affairs. This result is not deduced from Principle No. 104 of the constitution and its parliamentary debates and it may bring difficulties to the councils' programmes as mentioned in Article 1 of the Law of Forming Councils and Principle No. 104 of the Constitution.

As the purpose of Principle No. 104 in the constitution is to cooperate in consultative or executives approaches, the elements of the councils must be harmonized to provide programmes and coordination in developing council affairs. With regard to the councils' powers and duties as stated in the Law of Forming Islamic Labour Councils, the duties include executive, practical and consultative aspects. To execute the councils, Article 27 of the Labour Act, 1990 can be mentioned as an instance whereas in termination of the employment agreement in Article 27, one of the requirements is council approval. The Islamic Labour Councils have interference and supervision in all aspects of labour relations and the workplace, thus this extension of power and duties might create barriers in employer management programmes.

Although, the Law of Forming Islamic Labour Councils, 1984 was enacted to implement Principle No. 104 of Iran's constitution in 1980 and the constitution recognises the councils as worker organizations. Article 1 of the law suggests that the councils are not structured according to the definition of worker organizations (Hafezian, 2001). Article 131(1) of The Labour Act, 1990 stipulates the formation of worker organizations: The workers of any given unit may establish an Islamic Labour Council, a Guild society or workers' representatives. Based on the article, the Islamic Labour Councils are as considered worker organisations, although the philosophy in the constitution as well as council aims and composition cannot be examined by using worker organisation standards.

THE ISLAMIC LABOUR COUNCILS' ROLE IN DISPUTE RESOLUTION

One of the most significant functions of the Islamic Labour Councils is to settle disputes in labour relations. Article 157 of the 1990 Labour Act emphasises that any dispute between an employer and a worker or an

apprentice arising from the enforcement of this law or other labour regulations, training contract, workshop agreements or collective labour agreements shall, at the outset be settled through a direct compromise between the employer and worker or trainee or their representatives in the Islamic Labour Council. Nevertheless, the Law of Forming Islamic Labour Councils has not directly pointed out dispute settlement as a function. Article 13(6) of the Councils Law considers employee complaints pertaining to workshop defects.

According to the ILO Constitution, conventions codify the principles of International Labour Law, as adopted by the International Labour Conference with recommendations-almost-also having that sort of force because they have regard to their formulation and adoption (Rubin, 2005). As these conventions are binding Recommendations under the ILO Constitution, also place the governments of all member states under certain obligations (Rubin, 2005). Convention No. 151 of the ILO in Labour Relation (Public Service), adopted in 1978, emphasizes negotiation, conciliation and arbitration to settle disputes, its Article 8 stating that the settlement of disputes arising in connection with the determination of terms and conditions of employment shall be sought, as may be appropriate to national conditions, through negotiation between the parties or through independent and impartial machinery, such as mediation, conciliation and arbitration, established in such a manner as to ensure the confidence of the parties involved (Rubin, 2005).

The convention on Collective Bargaining No. 98 and its recommendation also stress the value of negotiation between workers, trade unions and employers to determine working conditions and terms of employment and/or regulate relations between employers and workers and/or regulate relations between employers or their organizations and those of their workers. Under certain conditions, negotiations with workers' representatives other than trade union officials are also covered, as defined in Convention No. 135. The Labour Council may act as a forum to settle dispute between workers and employers and if the dispute cannot be settled then it will be referred to the mainstream judicial system.

HOW TO ESTABLISH AN ISLAMIC LABOUR COUNCIL?

According to the Law of Forming Islamic Labour Councils, establishing an Islamic Council is one of the obligations of the Ministry of Labour and Social Affairs. The ministry is obliged to form a council in any workshop or unit with >35 employees. An Islamic Labour Council may start to form by filling out a constitution form

provided by the ministry. The following steps are taken in the formation of an Islamic Labour Council. First, the Labour Ministry refers a representative to a workshop to check all parameters pertaining to forming a council. Unit workers and employees who want to establish a council in their workplaces may apply at the Department of Labour and Social Affairs. The workplace should have a minimum of 36 permanent employees to form a council.

Second, the Ministry Board issues an invitation to the General Assembly to elect an employee representative, as well as identify the qualifications of council candidates. Third, the first General Assembly is convened or held. To elect a board employees' representative, at least half of the workplace staff without the management should be present in the General Assembly. The candidate who receives the most votes will be elected Board Employee Representative.

Fourth, the board is convened to identify the qualifications of the council candidate. The board consists of three persons; namely a Labour Office representative, a representative from the relative ministry and an employees' representative. The board identifies the qualifications of candidates running for election as members of the Islamic Labour Council. Fifth, the Islamic Labour Council publishes the candidates' names in an announcement by a representative from the Ministry of Cooperation, Labour and Social Welfare. The candidates must fill out a form with personal information and submit it to their respective city's Department of Labour no later than 5 days from the date of announcement. Sixth, the council candidates' qualifications are examined and the names of the qualified candidates are announced.

Seventh, the General Assembly is invited to elect members and alternative members of the council and ratify the council's constitution. The General Assembly takes no >15 days from the board's notification to recognize candidates' qualifications. Eighth, the General Assembly within the appointed time is convinced that at least two-thirds of workplace employees attended the assembly. After the General Assembly ratifies the council's constitution, candidates running for election as a member of the Islamic Labour Council shall introduce themselves. Then, the election is held by secret ballot. Ninth, the council management is appointed where in the first Council session, the members appoint the head, vice chancellor, treasurer and secretary. Tenth, the registration of the Council is conducted. Based on documentation, the Ministry of Cooperation, Labour and Social Welfare shall issue the certification of the council's registration as well as member credit letters for a 2 years period (Hafezian, 2001).

SUPERVISION OF THE ISLAMIC LABOUR COUNCILS

The extension of council power and authority is too wide with the excessive power potentially leading to a breach in the guild units. This extension contradicts the jurisdiction of the council, including council development. Principle No. 106 of Iran's Constitution prohibits council dissolution unless the powers and duties are abused. Chapter 3 of the Law of Formation Islamic Labour Councils also stipulates that the dissolution of a council is not possible except in cases of excess of powers and abuse. The referee who recognizes council deviation and carries out the dissolution process will be determined by a regulation (Darki, 1991). The council has a right to appeal the dissolution decision in a competent court that shall investigate the appealed case in a meeting held on an expedited basis (Beheshti, 2010). The referee in a council's deviation in a region is a Board to Dissolve and Distinguish Council's Deviation. The board consists of three representatives of the Islamic Labour Councils elected by the region's councils, three council managers elected by workplace management, as well as a representative from the Ministry of Cooperation, Labour and Social Welfare.

CRITICISM ON THE ISLAMIC LABOUR COUNCILS

Article 1 of the Law of Forming Islamic Labour Councils emphasizes that a council shall be organized by holding an election of council members by the General Assembly. The assembly consists of all workplace employees. All employees as members of the assembly shall attend the council member election process. On the one hand, all employees in a workplace are considered members of the General Assembly following Article 1 of the council; on the other hand whether workers subjected to the Labour Act are covered by Article 1 or other regulations such as the State Employment Act or other especial employment acts is not determined (Beheshti, 2010).

Moreover, Article 1 states that all employees are automatically recognized as assembly members. In other words, employee membership in the assembly is binding. However, binding the council's membership is incompatible with Convention No. 87 of the ILO. Conflicts also exist between Article 1 of the Councils' Law and Principle No. 26 of Iran's Constitution regarding council membership. Principle No. 26 of the constitution prohibits compulsory membership in associations and societies.

Based on Article 15 of the Councils Law, the Ministry of Labour is obligated to form Islamic Councils in workplaces that have >35 workers. However, Article 131(4) of the Labour Act, 1990 allows workers in a workplace to organize Islamic Labour Councils or Guild Associations or choose a Worker's Representative. Workers are only allowed to have either one of the options. The inconsistencies between the two laws prohibit workers from workplaces with >35 employees from forming a guild association, although this association is the only one nearest to the normal worker organizations in other countries. In addition following Principle No. 26 of Iran's Constitution pertaining to freedom of association, if any labour relation is frustrated at all, a council may not be entitled to form a labour organization (Ashouri, 2002).

Although, forming workers' organizations in Iran is based on ILO International Labour standards and a worker's association shall consist of employee representatives and a management representative, the composition of councils does not conform to ILO standards. In case of council member dismissal, Article 26 and 27 of the councils law stipulate that the member may refer to a competent court, although the court might not have yet been determined as either general or special. Council characteristics, composition, duties, power and authorities are totally unlike ILO standards, such as Convention No. 87 and Article 8 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Council features and authorities are more alike to city councils (Shourayeh Shahr).

GUILD ASSOCIATIONS

Workers can form a guild association under the 1990 Labour Act to implement Principle No. 26 of Iran's Constitution which protects the legal and legitimate rights and interests of workers and to develop worker and employer economic conditions which are interests granted to societies. Although, Article 131(5) of the Labour Act, 1990 mandated the Ministry Board to approve the by-laws on the Manner of Formation, Scope of Function and Power and the Modus of Operation of Guild Societies and Related Guild Associations within a period not exceeding 1 month from the Labour Act's enforcement date, the Ministry Board ratified the Guild Association's by-law in December, 1992.

LEGAL STATUS OF THE GUILD ASSOCIATIONS

The legal status of a guild association is of some importance because this status determines an organization's legal capacity. Whether legal action can be

taken by or against a trade union in its own name, the way property is held and the liability of union officers are all matters determined by the particular legal status conferred to a union (Barrow, 2002). Under the common law, a trade union was not treated as a corporate body (i.e., a legal body distinct from its member workers). Instead, it was treated as an unincorporated association. The trade union had no separate legal personality and thus, could not be sued in its own name and could not enter into contracts or deeds under its name (Cabrelli, 2009). The legal status of a guild association in Iran follows a Roman system and is dealt with under Article 131 of the Labour Act, 1990. The law grants guild associations a special status, as collections of individuals who are able to do or receive a specific category of things in the collective name of the association (Humphreys, 2005). The labour act states that:

In order to implement Principle No. 26 of the constitution of the Islamic Republic of Iran, to safeguard the legitimate rights and interests and to improve the economic condition of workers and employers which entail protecting the interests of society, workers, subject to this law and employers related to any vocation or industry may establish Guild Associations. In order to coordinate the performance of the assigned legal functions, Guild Societies may form Guild Association units at the provincial level and a High Council of Guild Association at the national level

The article notes allow the formation of Guild Associations in workplaces, Councils of Guild Associations at the provincial level and High Council of Guild Associations at the national level (Art 131 of the Labour Code 1990).

All Guild Societies and related units, at the time of establishment shall be under the obligation to formulate their articles of association with due observance of the legal provisions, to present them to the general assembly, get them approved by it and submit them to the Ministry of Labour and Social affairs for registration. All representatives of Iranian employers in the High Labour Council, High Council of Social Security, High Council of Technical Safety and Labour Hygiene, the International Labour Conference and their likes, shall be selected by the 1-ICGS of employers, in case of establishment. Otherwise, they shall be introduced by the Minister of Labour and Social Affairs. The workers of a unit

may have only one of the following: An Islamic Labour Council, a guild society or a workers' representative

ESTABLISHMENT AND RECOGNITION

To establish a guild association, a funder board needs at least three employees. The board shall provide constitution drafts and a list of candidates and invite members to attend the General Assembly to approve the constitution and hold elections (Article 13 and 7). The minimum requirement to form a workers' Guild Association is 10 persons in a workplace and 50 members from related guilds in different workplaces. Nevertheless, under Article 2(1) of the by-law on the Manner of Formation, Scope of Function and Power and the Modus of Operation of the Guild Societies and Related Guild Associations, workers in other occupations shall be free to become members of different Guild Associations (LSSI, 2006).

All Guild Associations are obligated to launch a constitution in observance of relative laws and approval in their general assembly. The association's constitution shall consist of the required information to introduce the association. Based on the by-law on the Codification of the Guild Association's Constitution required some information.

The constitution with its amendments and changes need to be reported to the Ministry of Cooperation, Labour and Social Welfare, however the documents are required to be adopted by the ministry (Art 14).

The ministry shall certify the election and issue an announcement in Iran's Formal Newspaper and in a widely circulated newspaper in Iran. Generally, lawmakers put sanction to enforce the law. Although, the ministry has been obligated to issue a certification regarding the association's election, the Ministry Board has not ratified any sanction pertaining to the certification. Moreover, there is no reference to appeal the ministry's decision in examining the association's documents, such as its constitution. A case that can be cited as an example is the attempt of the Mahabad Guild Association Centre to obtain authorization from the ministry to extend its permission validity because the ministry had denied permission.

STRUCTURE AND FUNCTIONS OF THE GUILD ASSOCIATIONS

Trade union structure is initially determined by the constitution and each individual union's rules. Trade union structures vary, each reflecting its diverse origins

and perceptions on how to best achieve the goals of the trade union (Collins, 2005). The association shall have three fundamental bodies, namely; decision-making body (General Assembly), executive body (Board of Directors) and supervision body (Inspectors). The association's by-law in Article 8 stipulates that the bodies of a guild association, steps to form the General Assembly and the powers and duties of the board of directors and inspectors shall be determined in the association's constitution.

The General Assembly is the highest body in a guild association with two session types, usual and special. The usual session is held by inviting the board of directors and inspectors; however in case of refusal, the usual session is formed by one-third of members and is officiated by the attendance of half-plus-one members. These details are obtained from a sample constitution for Guild Associations provided by the Ministry of Cooperation, Labour and Social Welfare, such as dissolution of the association and electing a liquidation committee (Art 15, 16 and 18). The special general meeting shall be held once the board of directors or inspectors issue a written invitation. They may additionally call a regular general meeting in urgent cases (Hafezian, 2001).

As previously mentioned, the board of directors shall be responsible for performing the executive affairs of the guild association to protect its members' legal rights. The board members should be elected by secret voting of the general assembly. The general board of directors' qualifications include Iranian citizenship, belief in one of the official religions of Iran, being employed in a respective workshop, industry or occupation, membership in the association, no substantial penal condemnation, minimum work experience and minimum education. The board of directors shall elect a chairman, deputy and treasurer from amongst themselves (Art 19). Although, the board of directors has an essential role in conducting the association while potentially dismissed or pressed by different issues, Article 28 of the Labour Act, 1990 protects worker representatives in the associations against pressures.

DUTIES AND AUTHORITIES OF THE GUILD ASSOCIATIONS

Article 21 of the by-law on the Manner of Formation, Scope of Function and Power and the Modus of Operation of the Guild Societies and Related Guild Associations stipulate the guild associations' authorities and duties. As the associations are the workers' representatives, their first functions shall be to attempt to

protect the rights of legitimate members. The associations should cooperate in establishing and protecting cooperative companies and interest-free loans and make an effort to provide welfare facilities for their members according to the respective rules.

Moreover, association duties include collecting membership fees and voluntary aid based on the constitution having joint activities with other guild association centres within the province after obtaining permission from the General Assembly and cooperating with other worker and employer organizations to implement their duties and authorities. However, cooperation with the Ministry of Cooperation, Labour and Social Welfare to distinguish and find out workers' problems and enforcing the Labour Act, 1990 are also determined as association duties. Associations are established to create an appropriate welfare environment for workers. They should also collaborate with the ministry as government representatives. Although, one of the main association functions is consultative duties, the Iranian guild association functions have been combined with other guild duties.

IS THE GUILD ASSOCIATIONS A TRADE UNION?

Worker union and associational activities have been adopted by the Labour Act, 1990 and some institutions, such as the Workers' House and its management; nevertheless, the question of whether a guild association is a syndicate (Trade Union) remains. To find the answer, indicating syndicate definitions in domestic and international legal language is imperative. The word syndicate is derived from French and the term is known as trade union in British English. Before the Islamic Revolution, 1979 in Iran, it was called a syndicate and a group of syndicates was referred to as a union. In Iran's Constitution, 1980 and the Labour Act, 1990, syndicate refers to guild association which protects and develops the legal and legitimate rights of workers (Art 131, Labour Code).

Association in Persian means a group of people who gather to investigate a particular issue or a gathering place. Although, Guild Association has replaced the term syndicate (trade union) in the Constitution, 1980 and the Labour Act, 1990 after the 1979 Revolution, considering the meaning of Association in Persian, the term Guild Association which replaces the term syndicate is perhaps temporary. The term syndicate (trade union) used in law cannot be removed because of the term's history that spans hundreds of years. The government of post-Islamic Revolution in Iran and according to some special cultural characteristics of the prior regime removed all Shah

Regime features in regulations, such as lawmakers replacing the term syndicate (trade union) with guild association. This change explains why associations were formed 15 years after the Revolution. Therefore, writing Guild Association and reading it as syndicate (trade union) are preferred.

CRITICISM ON THE GUILD ASSOCIATIONS

As the legal status of Guild Associations follows Article 131 of the Labour Act, 1990, the fourth clause stipulates that workers of a workplace may only have one of the three organization types and representatives, namely; an Islamic Labour Council, a Guild Association or a Workers' Representative. The Law of Forming Islamic Councils, 1984 has obligated the Ministry of Cooperation, Labour and Social Welfare to form an Islamic Labour Council in each workplace; nevertheless, establishing a guild association under its by-law (1992) is impossible because the ministry has formed the councils in most workplaces and workers were pressed to adopt the councils instead of trade unions (Beheshti, 2010). This situation creates controversy between Iranian laws and ILO standards, especially Convention No. 87 which emphasizes that a worker organization should be formed without any distinction or discrimination. In addition, the convention has recognized workers' rights to join work organizations freely (Hafezian, 2001).

Article 131(1) of the Labour Act (1990) on coordinating association duties allows them the formation of provincial and national centres. Although, the act was passed into law >20 years after the ratification of the Labour Act, 1990, the provincial and national centre of the guild association was formed in 2010. Based on Convention No. 87 of the ILO, Article 23(4) of the Universal Declaration of Human Rights and Article 8 of the International Covenant on Economic, Social and Cultural Rights, a worker organization shall not be required to obtain permission for establishing its own organization. However, the centre president of the Guild Association in an interview did not attempt to hide the Ministry of Labour's effort to establish the centre, as he stated that the centre could not be organized without the Labour Minister's efforts. He added that the minister shall incur the cost spent on establishing this centre and the building to house the centre. This type of financial protection might lead to similarity between the centre's opinion and the ministry's idea on labour struggles and conflicts, as the financial aid to the Islamic Labour Councils has led to the councils siding with the ministry.

Although, the ILO standard in Article 3 of the Freedom of an Association's Convention states that workers' and employers' organizations shall have the right to draw up their constitutions and rules, elect their representatives in full freedom, organize their administration and activities and formulate their programmes, the Ministry of Cooperation, Labour and Social Welfare has provided a sample constitution for guild associations and a constitution along with other documents based on Article 14(2) of the guild association which should be submitted to the ministry. Hence, the ministry may defer the process of establishing the association as it can be a type of previous authorization.

Commenting on the existence of real workers' unions in Iran, one unionist, Parviz Babaie, asserts that on the one hand, it is not possible to say that there are no workers' associations but on the other, the associations are not adapted to the ILO standards. Moreover, no workers' organizations, not even Islamic Labour Councils are found in many factories and workplaces. Even if a council were formed in a workplace, negative relations with the management might develop. This is because the councils are expected to defend workers' rights and they would not like to be subservient to management. In addition, although the workers' associations are surrounded by political parties, the parties' agenda may not be congruent with the aspirations of workers whose protests would be conditioned by their own programmes.

No qualification requirements for the associations' candidates were specified in the 1992 by-law; nevertheless, the new by-law ratified in February, 2011 provides some qualification requirements, such as Iranian nationality, obligation to the constitution and no affiliation with illegal political parties. However, the government has not enacted any act to define political crimes. Some authors believe that although the Labour Act, 1990 is silent regarding the political actions of workers' organizations, this stance can be interpreted as law makers allowing for cooperation between the political parties and worker organizations (Hafezian, 2001). The by-law related to guild associations disallows associations from having affiliations with political parties.

CONCLUSION

Although, some worker associations have been established by workers in factories and companies in Iran, they do not conform to the Iranian Labour Act, 1990 and the Law of Formation Islamic Labour Councils. Hence, Iranian governments, pre-and post-revolution do not

recognise these worker associations. The Tehran Bus Drivers Union and Haft Tappeh Trade Union which are considered as illegal organizations are well-known and have been invited by the ILO as the trade union representatives of Iran during its annual Conference in 2010. Although, the Workers' House is currently run as a nongovernmental guild association, it is registered under the Parties Act in the Commission Party of the Home Ministry. The Workers' House is a contradiction based on ILO standards, as observed in the 2002 ILO Consultant Council report.

The Islamic Labour Councils in Iran provide Islamic settlement and cooperation in preparing programmes and coordination for developing affairs in industrial, agricultural, service and production units. The conciliation, as one of the most relevant methods of dispute resolution in the Islamic sense of Sulh as provided by the Labour Act, 1990 is one of the council functions. Moreover, regarding Convention No. 87 of the ILO, the binding of the Council's membership is totally incompatible with ILO standards. Council characteristics, composition, duties, power and authorities are totally unlike ILO standards, such as Convention No. 87 and Article 8 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Council features and authorities are more alike to the City Councils (Shouraye Shahr).

The Labour Act, 1990 provides that the guild associations can be established to pursue the legitimate rights and interests of workers. However, three is the minimum number of employees to form a guild association. The suggested constitution for the association with its amendments and changes need to be reported to the Ministry of Cooperation, Labour and Social Welfare. The documents are required to be adopted by the Ministry. The ILO emphasis on the prevention of the previous authorization to form workers' associations is totally inconsistent with the earlier mentioned provision. A huge numbers of workers who are not on a contract basis in companies and factories are unfamiliar with their basic rights and no educational workshops on worker rights are implemented. Thus, a large proportion of the worker population has not joined any workers' organization. In conclusion, all the associations that have been considered in this chapter, such as the Islamic labour councils and the guild associations are not well adapted to the ILO standards in terms of their establishment and independence.

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