

UNEMPLOYMENT INSURANCE IN IRAN, A CRITICAL ANALYSIS

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ABSTRACT

Unemployment Insurance is a category of Social Insurance which supports the subsistence of those who have lost their income due to unemployment. This kind of supporting from society citizen not only has been identified in law of numerous countries, but also, has been reflected in many ILO conventions. In Iran with ratification of unemployment insurance law in 1366 as temporary one, afterward, the permanent ratification of that law in 1369, this social protection has been made in Iran legal system in the shape of social security services, in the way that has been cited in article 29 of constitution. According to this law, two organizations, (Social Security Organization and Labor and Social affairs Ministry) have been recognized as law administrator. Nevertheless this law has hopeful points and supporting existence, it has been accompanied with many problem and challenges due to legislature's idealistic thought during ratification of law.

Some problems with this Act can be categorized as follow:

- 1- *Applying vague and ambiguous expressions and words in context of the Act which makes it hard to executive and interpret, such as: the extent to which the Act covers unemployed peoples.*
- 2- *The minimum period to pay unemployment insurance fee is six months which seems a short one, taking into account financial situation of relative sources.*
- 3- *In the foresaid Act just employer has to pay the insurance fee which seems unfair to put total financial burden on employer's shoulders while Government makes no contribution.*

Also there are other problems which this work will focus on to illustrate and propose solutions. The present study is to focus on Iran legal system in demission of unemployment insurance, taking in to consideration problems within Unemployment Act of Iran and finally come up with suggestions and recommendations.

Keywords: Unemployment, Unemployment Insurance, Social Insurance, Social Security, Iran Unemployment Insurance Law.

INTRODUCTION

Unemployment as a significant problem particularly to third world countries and developing countries, encounters society with economic and social hardships, also individuals private life is affected by unemployment. That is why Governments nowadays try to provide their individuals with jobs and combat with unemployment. Apart from causes and effects of unemployment and even Governments approaches to deal with it, to have job and be protected against unemployment is a right for citizens and an obligation for Government.

Article 23(1) Universal Declaration of Human Rights considers unemployment and expresses that protection against unemployment as a right on part of citizens and an obligation on part of Government. Article 29 Constitution of Iran also provides protection against unemployment as a right for all people.

Regarding unemployment as a risk which most of private insurance companies are reluctant to insure it, methods applied to protect people in case of unemployment are sort of social insurance and public aids, depends on legal system in different countries.

Unemployment insurance is a category of social insurance which in most countries is the result of cooperation among Government, Employer and employee and in most countries is compulsory. Generally covers unintentionally unemployed people which could not find any job. Unintentionally means without intention of employer and employees and unemployment is not due to employee's failure. According to Iran statute some unintentional circumstance are as follow:

- 1- Natural disasters such as earthquake
- 2- War and fire
- 3- Movement of factory and equipments

Job security undoubtedly is one of the crucial issues in working environment which goes more complicates day by day. Increasingly rate of unemployment in developing and even progressive countries can somehow prove the importance of this

issue. Recent surveys in Iran show that 20 percent of employees guess to lose their job in next year and they believe it would be so difficult to find new job if they lose their job. Taking into consideration this circumstance, it seems necessary to support employees through social insurance particularly unemployment insurance whether by government or syndics. This work will focus on related Statutes to unemployment insurance in Iran to identify problems available and introduce solutions for them. There have been different papers and written works about social insurance in Iran but none of them narrows down exactly on unemployment insurance statute and the innovation in this work is to focus on problems available in statute of Iran.

This thesis is purely doctrinal. Doctrinal researches referred to as theoretical, pure legal, academic, traditional, conventional armchair research is essentially a library based study, which means that the material needed by a researcher is available in libraries, archives and other databases(1).

The research would be qualitative study .Qualitative research methods are a complex, changing and contested field a set of multiple methodologies and research practices. Qualitative research therefore is not a single entity, but an umbrella term which encompasses an enormous variety (2). Also it is a pure legal study because this paper will focus on Iran statutes related to unemployment insurance.

UNEMPLOYMENT INSURANCE

There are for types of secure social insurance in Iran and the unemployment insurance is more modern than other three types; pension insurance, health insurance and family aides and assistance insurance. On the other hand the scope of unemployment insurance is more expanded than other kinds of secure social insurance because this insurance protects all people that cover by labor law.

DEFINATION

Employment Insurance (EI) provides temporary financial assistance to unemployed Canadians who have lost their job through no fault of their own, while they look for work or upgrade their skills. Canadians who are sick, pregnant, or caring for a newborn or adopted child, as well as those who must care for a family member who is seriously ill with a significant risk of death, may also be assisted by Employment Insurance(3).

Unemployment benefits are payments made by the state or other authorized bodies to unemployed people. Benefits may be based on a compulsory Para-governmental insurance system. Depending on the jurisdiction and the status of the person, those sums may be small, covering only basic needs (thus a form of basic welfare), or may compensate the lost time proportionally to the previous earned salary. They often are part of a larger social security scheme. Unemployment benefit is commonly referred to as "the dole"; to receive the benefit is to be "on the dole". "Dole" here is an archaic expression meaning "one's allotted portion", from the synonymous Old English word *dāl*(4).

Insurance system is likely to face in upcoming years and a description of ways in which policymakers may be able to use economic analysis to adjust the program so that it remains effective in addressing the needs of unemployed workers(5).

Unemployment means: an involuntary stop in working and it created in three different situations:

1-Desability of work force: in this situation labors could not response to the offers from work market because of two main reasons: 1- They do not have the requirements of labor market. 2- Lack of accommodation in job place.

2- Technological unemployment: it causes by changes in economical or technical situations.

3- Periodical unemployment: it is the most important and created by economic crisis.

1-2-Problems:

There are lots of problems in performance of unemployment insurance because of many reasons, but generally the most important reasons are: economic and technical reasons. Unemployment occurs in a large measure so it contains lots of labors. This means, lots of different individual situation and planning is too hard to resist. Every labor has own circumstance for unemployment and insurance programmer has a legal and social challenge in this situation. For example, a labor works for a multinational company that is bankrupt because of global economic crisis. It is obvious that the situation of this labor is totally different with a labor who works for a small business. On the other hand for an insurance programmer it is unpredictable that analyze the time of unemployment correctly, although unemployment insurance is more useful than other kind of insurance but costs dramatically increase and even affected budget of a country.

UNEMPLOYMENT INSURANCE ITS SERVICES

There are two general opinions about unemployment insurance services: 1- Grants to needs unemployment workers. 2- Interactive services (6).

PAYMENT METHOD SERVICE

In this method the labor have to pay premium for response in his need time and whenever he become unemployment the insurance company pay to him. In this method the advantages is overwhelming. This means everything that noted in the

insurance contract has to follow by parties and it not depends on other circumstances. In other type, advantages are according to labor salary with a reasonable limitation. Sometimes there is a mix of these two methods.

GOVERNMENTAL AIDES

This service granted by governments that has different conditions. For example: work experience, family income, determination payment for jobseekers until they find one, and unlimited payment.

SERVICE METHODS IN IRAN

In Iran generally there are unlimited conditions for unemployment insurance and only there are some exceptions like; Retirement and Disability, Free business owners, Optional participants insured, Foreign Citizens and so on.

One of the debatable issues about unemployment rules in Iran is about the seasonal unemployment's labors. Because some jobs like building workers in cold and rainy seasons fall in unemployment situation because in such seasons there are no building activities. In Iran law a specific article is not visible.

UNEMPLOYMENT INSURANCE AS A CATALYST FOR EMPLOYMENT

In Iran economic change causes a huge rate of unemployment that leads government to act new rules for this problem in 1987(7). In this way, legislators try to make a method for unemployment insurance that not only focuses on unemployment problems also a general program for re-enlisting the people who lost their job, with making new job opportunities with focus on prior labors abilities.

DEVELOPMENT JOB OPPORTUNITIES

There is two main targets for education of development job opportunities: first of all, the activities for improve unemployed skills and retraining new modern skills. Secondly, training with propose of self-employed and enterprises small business. For these propose government supports unemployed labors with some aides like loan, tools, work permits and so on.

THREE PARALEL ISSUES

Payment for unemployment compensation, educational programs and employment units are active simultaneously. These programs divided on guidance and movement.

GUIDANCE

In guidance, employment units try to show the country economic situation to job seekers. This point helps them to understand the needs in labor market so they can focus on those fields that are more available.

MOVEMENTS

Employment units recognize the regional that have more job opportunities and help to labors for move to recognized regional. In this way, units also help labor for labors and their family accommodation. Sometimes the units try to find house and vehicles with reasonable price for labors.

All in all, unemployment insurance law with a supportive view and encourage unemployed people to join the unemployment units, first of all recognize limitation of its scope and secondly can be an effective way against unemployment.

UNEMPLOYMENT LAW LIMITATIONS (A PRIVILEGE OR RESTRICTI ON)

There is a chain in insurance relationship in Iran secure social law. Systematically, for using unemployment insurance benefits, a person who lose his job, have to covered by social secure law and it depend on covering by labor law. In this situation if somebody does not have including conditions, he cannot use insurance automatically and this negative point that created by variety reasons. According to unemployment insurance law, the employer not only has to pay premium but also have to add three percent for premium unemployment insurance law. The base of this payment is the list of employees which every month informed to social secure organization by employer. On the other word employer have to pay premium unemployment insurance to mentioned organization in additional to usual salary.

Article 188 of Iran labor law organized exceptions in labor law and focuses on family business and government employees. According to this article these groups departed from covering of this law so they cannot use the benefits of unemployment insurance law (8)

So in Iran law although there is a positive viewpoint about general covering of unemployment insurance but the negative points cannot be ignored. One of them reviled in exceptions in rules band this situation shows a vital reform in this protective law.

ACCES TO BENIFITES

Prevision of unemployment insurance benefits is payment the premium frequently at least six month but there are some exceptions. Insured person who become unemployment because of war, flood, earthquake and all natural disasters, even if have not paid the premium insurance, can be use the benefits of unemployed insurance benefits.

Other exception is about the seasonal labors that because of the specific weather conditions lose their job so their unemployment is also involuntary and can be covered by unemployment insurance law.

AUXILIARY UNITES

Educational centers and department of labor have variety of activities for employment goals. In such units unemployment person have a theoretical and practical experience in self employment, marketing, and economical issues.

According to article 24 of labor law, after termination of labor contract, the employer has to pay 1 month salary as benefits for end of contract.

According to labor law a labor can use two aides in the unemployment situation:

1-according to law: in articles some special aides foreseen to help labors in such situation because as a protective organization, social secure have to care from labor until he could find a new job.

2- Unemployment insurance special aides: in insurance helps although there is a general view to cover any unemployment but because of prevention of misuse, separation from the job has to done involuntary otherwise there is no payment to labor.

JOB SECURITY; A CONTROVERSIAL TOPIC

One of the most important issues in labors relationships undoubtedly is job security. In such situation the necessity of government protecting role seems more important. Due to the sensitivity of the labor community to the labor contracts and legislative activities in this area, this concerns still there.

Since labor salary supply continuity, after termination of employment contract is very important and this is a general concern between all labors, so in labor law there are lots of acts about how to return to work. The protective rules in this issue are so restricted in protect the labor.

Although this kind of attitude in first view seems beneficial for labors but with more consideration this kind of protecting ways, has a reveres effect. For example in an arbitration committee of labor law, In terms of both legislation and judicial standards, employee has already won in court unless employer can prove the contrary. Such Unfair treatment, make the employer sensitive, filling and very restrict in hiring activity and such view causes a lots of unemployment.

CONCLUSION

Unemployment undoubtedly takes into account as a crucial economic and social problem which threats life of peoples and causes society different difficulties. Hence governments should pay attention to this issue to protect citizens and the fact that unemployment insurance is not beneficial enough for private insurance companies, lends weight to need of government intervention. This point of view applied by Iran constitution through Article 29 but in a idealistic view which is not convenient regarding Iran's economic capacities and put too much financial pressure on government. Despite positive points of unemployment insurance in Iran there are several points of weakness which should be paid more attention to have a suitable system of unemployed people protection. Findings and suggestions of this work are as follow.

There are vague and ambiguous expressions and words in Iran Unemployment Insurance Act such as scope of this Act; on the other hand the extent into which the Act covers unemployed people is not clear. Solution for that seems to be the amendment of legal texts in order to make them as clear as possible to enhance performing of this Act.

Minimum period of time needed for a person to be deserved of unemployment insurance is six months working and paying fees which seems not adequate because allows some people to misuse it and also financial situation of unemployment insurance is not so that good and this circumstance exacerbate it. For that the minimum period should be increased and a person to be deserved to get paid unemployment insurance at least pays one year unemployment insurance fee, so that it van serve as a financial aid to it.

According to Iran Unemployment Insurance Act the only part in charge to provide financial source is employer, on the other hand all the responsibilities regarding this issue left on employers shoulder which is not fair. So employees and government play no role to provide financial source of unemployment insurance. Government intervention and support can be a good solution to lessen pressure on employers.

Iran Unemployment Insurance gives privileges to unemployed people more than other countries and even more than what has been determined in International Conventions. This faces Iran Unemployment Insurance with problems taking into account weaknesses of financial sources. For instance an unemployed people deserved to get paid unemployment insurance from the first day he/she gets unemployed. So there is no reasonable period of time to start paying after that and this fact somehow encourage unemployed one not to look for new job because he/she gets paid right once gets unemployed.

There are not enough punishments for those who breach legal rules regarding unemployment insurance. For example if an unemployed one finds job and does not inform his/her new situation and still received unemployment insurance, the only punishment for his/her is to return the amount he has not been deserved to receive. There is no other punishment for this and prepares situation for those who want misuse and finally is the executive directive of Unemployment Insurance Act which should serve as enhancement to enforcing the Act itself is not enough clear and causes difficulties.

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