The Principle of Dignity as a Guide for the Construction of Relations and Labor Laws

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ABSTRACT

The thematic of the work approaches on the Right protected to the laborer, having as optic the principle of the human dignity in the ambience of the work in the celebratist vision. It is a principle that is constitutionally declared as fundamental, which is based on the purpose of the living being and human being and when analyzed under the labor prism makes man no longer just a mechanism to use his work as a profit for entrepreneurs. The research was carried out documentary and bibliographically, with literature pertinent to Labor Law. The objectives drawn from the general one which was to analyze the relevance of human dignity in the work scope, and the specific ones that were divided in to study about the main laws that govern the Law of the Work and to demonstrate how the Labor Laws are applied in the companies. Therefore, the aspects raised in the research, understood the need of the subject to be
approached in the area of Labor Law.

**Key Words:** Labor Law, Human Dignity, CLT, Labor, Fundamental Principle.

**INTRODUCTION**

The Brazilian Federal Constitution advocates in its first article, belonging to the chapter of fundamental principles, the dignity of the human person. It is perceived here the importance of this principle which is present in all fields of Brazilian law - including labor law.

The Consolidation of Labor Laws is an agglomeration of rights and obligations that protect the labor field. The Constitution responds more broadly to what we understand as the basic rights given to workers, a minimum that must be obeyed in cases in which there is no established law that meets certain class or rights.

A distinction must be made between the worker and the employee, the worker is a genre of which the employee is the species, since in order to be considered an employee, he must conform to the requirements established in art. 3 of the CLT, in which it implies to be a natural person providing service of a non-contingent nature, under dependency and for salary. This service needs to be provided to someone - a physical or legal person - and it is from that person that the subordination arises.

The worker is any service provider, not necessarily having to be subordinate or not. With these definitions of basic distinctions given between employee and worker, one can then give opportunity to the main aspect that the present work.

It is noteworthy that both are protected by the principle of Human Dignity but in respect of certain rights stipulated in the Constitution itself or in the CLT only a certain class is a beneficiary of such conditions.

During the explanations below, it was sought to emphasize the principle of human dignity focused on labor law, but it is also an issue that is directly linked to any other legal area, dependent on political, social and economic facts. reflections, health and quality of life of the worker.

Work is linked to social relation, and it is the main source of income that allows the individual to survive in their environment. The Federal Constitution of Brazil recognizes the right of workers, understood as such employees, employers, self-employed and liberal professionals, to freely constitute and deconstitute unions; to join and leave unions according to their interests.

This means that human dignity is based on the very nature of the human species, which normally includes...
manifestations of rationality, freedom and purpose in itself, which make the human being a constantly developing entity in the search for self-realization, with regard to their professional development.

Taking into account human dignity, the same is the recognition of a value, in Labor Law. It is a moral principle based on the purpose of the human being and not on its use as a means, in the scope of work.

With this, the great and fundamental importance of the Labor Law process expresses a representation in the Brazilian reality of all that is fundamental in the legislation in the Country, having in this way a structure formed in several stages, which have brought to mankind laws pertinent to sphere of the world of work.

Thus, the work makes an apparatus of the issues raised above, being primordial each bibliographical and documentary analysis, and the concepts that were of paramount importance to be the foundation of the work, because in them content was found to be made a clear analysis and cohesive

THE HISTORY OF LABOR LAW IN BRAZIL

The history of work in Brazil was constituted from its "discovery", constituting an initial phase in the importation part of black slaves from Africa to work in Brazil. In a second, almost immediate phase was characterized by the exploitation of indigenous peoples by Portuguese who came to reside in the northern region of the country. In the course of the centuries the native labor force was replaced by the negroes who were brought from other Brazilian states or from Africa itself and placed in slave quarters under subhuman conditions.

In the middle of the nineteenth century, marked historical changes occurred that revolutionized the context of work in Brazil, such as (CEZARETTO, 1997):

- 1850: Brazil approved and innovated with the Eusebio de Queiróz Law that ended the slave trade;

- 1871: the Free Venture legislation was approved, which gave freedom to the children of slaves born in Brazil;

- 1885: was enacted the legal text that guaranteed freedom to slaves over 60 years of age;

- 1888: on May 13, the best known of all Brazilian laws on the subject of the liberation of slaves occurred, there was the promulgation of the Golden Law, signed by Princess Isabel.

As of May 13, 1888, blacks began to have autonomy in their destinies, since they were free and could
give their opinion about their present and future, it is known that everything was difficult at the beginning, because the blacks did not have laws that to support them in their work.

Only in 1934 did the Federal Constitution begin to deal with Labor Law, but in a very restricted way, with only a few items that favored the worker, such as, (Martins, 2002):

- Freedom of association;

- The minimum wage, the wage isonomy;

- Protection of the work of women and minors;

- The weekly rest;

- Annual vacation.

In the Constitution of 1934 the laws were also disorderly, specific to each profession, which made its application extremely complicated. Already in the constitution of 1946 some changes happened, as (MARTINS, 2002):

- The participation of employees in profits;

- Paid weekly rest;

- Stability;

- The right to strike.

The Federal Constitution of 1967 maintained the labor rights established in the previous Constitutions, with few modifications. After this Constitution, we still had several other ordinary laws, dealing with work, such as, (Martins, 2002):

- Domestic servants;

- The rural worker;

- The temporary worker;
- Holidays, among other Laws.

Finally, with the enactment of the current Federal Constitution of October 5, 1988, there was the inclusion of social rights and individual rights and guarantees, while in the previous constitutions, labor rights were always provided for in the economic and social order.

**A historical context of changes in the world of work**

During the fifth and fifth centuries, where the economy was strongly marked by the regime of servitude, one can say that the only means of survival for the people was slave labor, they submitted to the clergy and the nobility the holders of power and land, this period was called the Feudal Economy.

The Feudal system or Feudalism was characterized basically by the decentralization of the political power, farmer and shepherding, that is to say, there was a landlord and feudal landowner, he himself elaborated its laws and only submitted to the rules of the Church.

The rest of society was called servant, so we can define that the society of this time was structured as follows: Nobility - feudal lords; Clergy - members of the Catholic Church; and the Servants - most of the peasant population and slaves of the feudal lords.

It can be observed that in this type of society the model of slave labor prevailed, where the servant worked only to provide his livelihood and received only housing and precarious food, in addition they paid very high taxes for the feudal lords.

According to the author Carmo (1998, 52):

The servile work was carried out by small communities, as at this time the land was a condition of freedom and power, the peasants owed taxes and therefore should not work in a productive rhythm in order to generate surplus, since the economic market did not yet exist, but dictated by the seasons of the year and by the rotation of day and night.

It is noticed that at the moment the work was not considered important by the dominant classes of the time, since they had no interest to accumulate wealth, only those who really needed the work exalted it, since for the church it was obligatory the servile work for the classes the body, the source of all sin[...], must remain occupied in order to turn away from the diabolical temptations "(C[...ARMO, 1998, p.45) .

**The principle of human dignity**
Through the Universal Declaration of Human Rights, a varied concept of human dignity can be drawn which includes various aspects such as biological, philosophical, ethical, and psychic. All based on the principle of human dignity recognized in the aforementioned Declaration.

The existential world emerged with Christianity is indisputably different from that which formed with thought in antiquity; in this, however developed and projected the vision of humanitas and the recognition of a humanistic vision of the life of man, which encompasses aspects other than those focused on natural existence and their immediate and naturally simplistic possibilities, In all these respects, the view of mankind remained centered on the collectivism of the polis, that is, in ancient Greece or in Roman statesmanship, (ALVAREZ, 2009).

Even in the most evolved societies of the ancient epoch, such as Rome and Greece, there was not yet the determining notion of a valuing singularity of the human being as a being in itself, disconnecting from the social context of the polis dominated by the local aristocracies.

According to Cezaretto (1997: 87):

Thus, the Greco-Roman inhabitants were not distanced from their Egyptian, Phoenician, Semitic, and other peers, who proclaimed the same notion of a man trapped in the social system and / or the designs of the surrounding nature, which provided him with tremendous fear for all the catastrophes to which people were subjected in those times.

From this point of view, it was difficult to attain a central source of freedom that does not constrain man to arrive at a cohesive and comprehensive concept of human dignity, not only in regard to the religious aspect, but which could also be included in the juridical world, that they were interconnected.

The individual only began to be valued in itself, as an ens of self-will, independent of the contextual society in which it was inserted, and as being of spiritual and transcendent destination with Christianity. Before him, however, the Stoic movement had already consecrated itself as an initiative of valorization of the human person and its uniqueness close to natural causality, recovering a certain part of Heraclitus's thought (CEZARETTO, 1997).

The Stoics were the first to begin Christianity because they already believed in human dignity and for this reason proclaimed the following principles: homo res sacra homine (man is sacred to another man) because we are all linked to the same body: membra sumus corporis magni (we are members of a great body). Philosophy in antiquity misses even a term to express the personality, in what was complemented by the neo-Marxist
According to Cezaretto (1997, 28):

Christianity originated an innovative dimension of the individual taking into consideration human person. Such a view was so different from classical rationalism that the Greek clergy were unable to find in Greek philosophy the categories and words to demonstrate this new reality. The Hellenic thought was not in a position to conceive that infinity and the world could express themselves in a man.

With regard to the sense of the individual in the time of antiquity, it continues to be a beginner until the beginning of the Christian era. The old man is acquitted by the city and the family, submitted to a destiny without vision of the future, without having its own name, superior to the own gods.

In this reflection, one must not question the transformations of the concept of life, human, social human life and its implications for development, solidarity and equity of the beings that inhabit the same Planet.

**The role of the Brazilian Constitution in relation to worker protection and human dignity.**

Our magna brings several direct and explicit protections to the human being and thus to the worker.

As an example, article 5, item III states that "no one shall be subjected to torture or to inhuman or degrading treatment".

In another point the Brazilian Constitution strengthens this defense brought in article 5 described above and raises it in its paragraph XLIX providing, more broadly, that prisoners are assured respect for physical and moral integrity. In section XLVIII more specifically, it says that "it is forbidden to submit to any forced labor."

With much wisdom, the Brazilian Constitution brings people's social rights, establishing that "social rights are education, health, food, work, housing, transportation, leisure, security, social security, protection motherhood and childhood, assistance to the homeless, in the form of this Constitution. " (Redaction given by Constitutional Amendment nº 90, of 2015)

Then the constitution in its article 7 makes a general apparatus of the minimum conditions required for work, as well as the minimum rights of the worker such as compensation, rests, maximum working hours.

With the advent of the Modern Era, the juridical principle of the dignity of the human person was then modified in its foundation by the idea of ??a completely different conception structure, now centered on the valorization of freedom and dignity, the latter being linked and extended to those who accepted the fundamentals of a social contract that foresees these rights then formed.
As the author Machado portrays (1994, p.89):

Developing a "moral" conception of legal order, and through the possibility of just, peaceful and harmonious social coexistence, which brings equal opportunities for all, the State accomplishes its primary end and thus achieves the public good, that is, the good common.

At the moment after the French Revolution, an important moment in which religious life is separated from rationality, making the country - at least in theory - in a lay entity, one sees a jump in the construction of the concept of human dignity and the one fundamental amount value of the human person arises, making it come to be seen as an abstract entity with a substantial dignity. This recognition took place with the insertion of the man in the economic center and the core of the citizenship as guideline of the system of production and consumption so that he could act and demand subjective rights before the State.

Human dignity is one of the ramifications of the law that aims at the norms of legal institutions and the principles that govern the relations of subordinate work, objectifying their subjects and the companies destined to the protection of the worker, (MACHADO, 1994).

The State then fulfills its fundamental duty: to create a just legal order and, based on it, to promote public good and human dignity in the social sphere. By this, it gives man the possibility of achieving his own integral development, which is a concrete expression of human dignity, having as its greater support the right to decent work.

Below are the main articles that claim the CLT, on the rights of workers:

- **Art. 8th. Integrative function of the principles according to the CLT**: the labor law (CLT, art. 8) provides that administrative authorities and the Labor Court, in the absence of legal or contractual provisions, will decide, as the case may be, by case law, by analogy, by fairness and other general principles and rules of law, especially labor law;

- **Arts. 7th to 10th. Specific constitutional principles**: freedom of association (art. 8th); non-interference of the State in the trade union organization (art. 8th); right to strike (art. 9), representation of workers in the company (art. 10), recognition of conventions and collective agreements (7th, XXVII);

- **Arts. 443 °. Duration of contract**: the employee, when expressly admitted, will be for an indefinite period or determined (CLT, art. 443); if the parties are silent over the term, the contract will be for an indefinite period; the CLT allows for forward contracts, in the case of transitional activities, of service whose nature or transitoriness justifies it and in the case of contracts of experience;
- Arts. 20º and 29º to 30º Work and social security portfolio (CTPS): its nature is proof of the employment contract; both in verbally adjusted employment relationships and in those in which there is a written contract, there will be, in addition to the contract with the combined clauses, the portfolio; as far as its compulsory, no employee can be admitted without presenting the portfolio, and the employer has a legal deadline of 48 hours for the notes, returning it to the employee (CLT, art. 29); the notes made in the portfolio generate a relative presumption about the existence of the employment relationship; will be made by the employer, except for those related to dependents of the bearer for social security purposes, which will be made by the INSS, as well as those of occupational accidents (arts. 20 and 30, CLT).

With regard to Labor Laws, it is important to note that the application of the Laws favors the employee much more than the employer. The Federal Constitution elaborated in 1988 also ensures the stability of the workers' rights in Brazil, taking into account the interpretation of the norms referring to CLT, which also protects the worker. Here are some Laws that benefit the worker, (BRASIL, 2008):

- Collective agreement: it is foreseen in Law 8,542 / 92, art, according to which labor standards and conditions will be established through collective agreements, collective agreements and collective agreements;

- Collective agreement: it is a normative instrument self-elaborated at category level and on the territorial basis of the syndicating unions; were defined (CLT, art. 611) as the normative agreement whereby two or more trade unions representing economic and professional categories stipulate conditions of work applicable, within the respective representations, to individual work relations. Concept removed from the site: https://www.centraljuridica.com/doutrina/15/direito_do_trabalho/autonomia_coletiva_negociacoes_coletivas.html

- Collective Agreement: it is possible for unions to enter into collective agreements with one or more companies of the corresponding economic category, which stipulate working conditions applicable to them, their respective labor relations (CTL, art. 611, § 1); the legitimacy for the collective agreement, by the employers' side, belongs to the company, but CF / 88 (art. 8, VI) considers the participation of trade unions in collective bargaining to be mandatory;

- Integrative function of the principles according to the CLT: the labor law (CLT, art. 8) provides that administrative authorities and the Labor Court, in the absence of legal or contractual provisions, will decide, as the case may be, by case law, by analogy, by fairness and other general principles and rules of law, especially labor law;

- Specific constitutional principles: freedom of association (art. 8th); non-interference of the State in the trade union organization (art. 8th); the right to strike (9th), workers' representation in the company (11),
recognition of collective agreements and agreements (7th, XXVII);

- **Duration of the contract**: the employee, when expressly admitted, will be for an indefinite period or determined (CLT, art. 443); if the parties are silent over the term, the contract will be for an indefinite period; the CLT allows for forward contracts, in the case of transitional activities, of service whose nature or transitoriness justifies it and in the case of contracts of experience;

- **Labor and social security portfolio (CTPS)**: in both verbally negotiated employment relations and written employment relationships, its nature is proof of the employment contract; there will be, in addition to the contract with the combined clauses, the portfolio; as far as its compulsory, no employee can be admitted without presenting the portfolio, and the employer has a legal deadline of 48 hours for the notes, returning it to the employee (CLT, art. 29); the notes made in the portfolio generate a relative presumption about the existence of the employment relationship; will be made by the employer, except for those related to dependents of the bearer for social security purposes, which will be made by the INSS, as well as those of occupational accidents (arts. 20 and 30, CLT).

It is understood that the Labor Laws come to strengthen the legal relationship between employer and employee, that is, legal relationships are defined by the fact situation of daily life at work. Therefore, the CLT is constituted by more than five hundred articles and subsections, and only a few were presented for a better understanding on the subject.

**Labor reform and the principle of human dignity**

Law 13467/17, enacted on July 13, 2017, brought numerous changes to the Consolidation of Labor Laws (CLT) and entered into force on November 11, 2017. For example, hour bank, union contribution, collective agreements and agreements, moral damages, dismissal without just cause, lack of employee registration, vacations, pregnancy through unhealthiness, overtime, intrabirth interval, childbirth interval, 12x36 work, administrative fines, premium, travel allowance and daily allowances, travel extensions in unhealthy places, quarantine, labor claim, self-employed, part-time work, transportation.

Briefly, we will explain the changes that occurred in the items mentioned above:

I - Bank hours: with the new law can be agreed by individual written agreement, however, the compensation must occur within a maximum period of 6 months.

II - Union contribution: the contribution becomes optional - no longer mandatory - that is, the employee must authorize the discount of a salary day to be discounted.
III - Conventions and Collective Agreements: as of the new law, the agreement and the collective agreement will have precedence over the law when the matter deals with: agreement on the working day (observing the constitutional minimum); Bank of hours; intrajornada interval (meeting the minimum limit of 30 minutes and maximum of 6 hours); job plans, salaries and functions compatible with the personal condition of the employee, as well as identification of positions that fall under the functions of trust; business regulation; the choice of the workers' representative in the workplace; teleworking, warnings and intermittent work.

IV - Moral damages: subject will be explored below when relating it to the principle of human dignity.

V - Dismissal without just cause (agreement between the parties): dismissal may occur by mutual agreement; the payment of the 40% fine will be in half on the FGTS balance; the employee may only withdraw 80% of the FGTS deposited; the company must give at least 15 days' notice; the employee does not receive unemployment insurance.

VI - Lack of employee registration: Microenterprise and small businesses will be fined R $ 800.00 per unregistered employee - before the value was half a minimum wage per employee; already the other companies will suffer a fine of R $ 3,000.00 per employee not registered and R $ 6,000.00 in case of recidivism; and a fine of R $ 6,000.00 per employee, when they are not informed of the data necessary for their registration.

VII - Vacations: vacations may be divided into up to three periods, not less than 5 calendar days and one of them must be at least 14 calendar days. Before the holidays could be split into just 2 periods and only 1/3 sold.

VIII - Pregnancy and the right to leave for insalubrity: before the law was rigid and removed any possibility of pregnant women working in unhealthy environments. With the new law only the activities considered unhealthy to a maximum extent is that it removes the pregnant woman from work; in all other cases (medium, minimum level of health) the pregnant woman will be removed from office as long as she presents a medical certificate recommending the removal during pregnancy. In the case of infants the unhealthiness to any degree to configure the removal is necessary the presentation of a medical certificate that advises the removal of the position.

IX - Overtime: the remuneration will be at least 50% higher than the normal time. This precept already follows the vineyard being applied since the Federal Constitution already stipulated this minimum and the one determined in the CLT was not applied.

X - Interval Intrajornada: The minimum interval that was previously one hour has decreased to 30
minutes - provided that it is negotiated between employee and employer. If it is not granted the company will pay only the time suppressed (before it was about the total time).

XI - Interval to breastfeed the child: the two half-hour rest periods stipulated for breastfeeding should be defined in an individual agreement between the woman and the employer;

XII - journey and work 12x36: 12 hours a day or 48 a week; every 12 hours worked there must be 36 hours of rest; can be agreed by individual or collective agreement. Previously, forecasts were made only by collective agreement.

XIII - Administrative fines: the amounts of fines expressed in currency will be adjusted annually by the Reference Rate (TR), published by the Central Bank, or by the index that replaces it. Before, there was no correct definition of values.

XIV - Prize, aid of costs and daily of travel: before these payments integrated the remuneration for all the legal effects. Under the new law, the premiums will be considered apart from the salary, not being incorporated into the employment contract and do not constitute a basis for any labor and social security charges.

XV - Travel extensions in unhealthy places: requirement of pre-licensing for extensions of hours in unhealthy activities, not being required for 12x36 days. Previously it was only allowed under license from the competent authorities in the field of occupational health and safety for any class of workers.

XVI - Quarantine: through an MTB ordinance it was established that the dismissed employee could only be rehired after 90 days, otherwise the contract would be unified. With the advent of the new law, the dismissed employee can not be rehired for 18 months, nor even as an outsourced employee.

XVII - labor claim: if the employee signs the termination, can not question it judicially; the losing party will have to bear the costs of the action (regardless of whether the losing party is a beneficiary of free justice); proving the bad faith of the party may be ordered to pay from 1% to 10% on the value of the cause, in addition to the indemnification of the opposing party; if the inability to bear the costs is proven, the obligation is suspended for up to two years from the conviction. Previously, it was anticipated that there would be no cost to the employee who filed the claim and no payment of compensation fees if the employee lost the claim.

XVIII - self-employed worker: according to the CLT, employees who do not meet the legal requirements set forth in art. 3 of the CLT. The hiring of the autonomous employee removes the quality of employee provided for in the CLT, provided that they comply with all legal formalities, even if contracting is with
or without exclusivity, whether continuously or not.

XIX - part-time work: weekly work went from 25 hours to 30 hours a week, with no possibility of doing overtime (something already foreseen previously); however in the 26 hours weekly hours there is the possibility of making up to 6 extra hours, with an increase of 50% over the normal hour value; proportionate to the working day (already foreseen previously).

XX - transportation: according to the new law, the time spent on the trip will not be considered as time of service and will not be computed in the working day, in any situation. Previously, CLT provided two cumulative requirements: hard-to-reach places and transportation provided by the employer. If both served the time spent for displacement was considered as time of service, and therefore computed in the work day.

As discussed above, these were some of the main devices reformed in the CLT with the advent of Law 13467/17.

With regard to the right to non-pecuniary damage, known as moral damages, this is a very controversial matter, the content of the law infringes not only the various International Conventions to which Brazil is a signatory, but also the Federal Constitution itself of 1988. Below we will demonstrate the setbacks found in the theme "off-balance-sheet damage".

The Art. 223-A, below transcribed, requires that the matter that deals with moral damages in the labor scope be based exclusively on the CLT, prohibiting the use of the Federal Constitution itself. In this way, the first part of the controversial matter that is the off-balance damage with the Labor Reform is pointed out. The application of the Constitution can not be excluded, since this is our greater law.

With regard to the International Labor Organization, one of the violations that occurred was the absence of hearings between the representatives of the workers, employers and the government to arrive at a plausible and acceptable solution for all parties. This procedure is established in convention 144 which is in force in Brazil through decree 2518/98.

Art. 1. The text of ILO Convention 144 on tripartite consultations to promote the application of international labor standards adopted in Geneva in 1976 at the 61st Meeting of the International Labor Conference is approved.

Other offended devices were Conventions 98 (ratified in 1952 in Brazil through Decree No. 33,196) and 154 (in force in Brazil since 1992 through Legislative Decree No. 22), which consist of the right to organize, encouraging collective bargaining since it is the safest way for the employee to obtain the best
advantages for his class and the same guarantees the protection of civil servants in the exercise of their union rights.

CONVENTION 98. ILO.


After deciding to adopt several propositions, they would take the form of an international convention, adopts, on July 1, 1919, the following convention, to be known as the "Convention Concerning the Right to Organize and Collective Bargaining, 1949" (removed from the site www.oitbrasil.org.br/node/465)

CONVENTION 154. ILO.


Among the various infractions mentioned above, one of the most absurd is the monetarization of the employee's life, so that in its text the law brings a maximum valuation of possible compensations in the scope of labor law. This understanding is extracted from the very content of the law when we analyze that the basis of calculation for the indemnification resulting from an infraction to the resulting norm by the employer will be the last salary perceived by the employee. And in the very scope of the law brings the maximum value punishment that a company can afford which is up to 50 times the last salary perceived by the employee.

That is, say in the case of the death of an employee who realizes a minimum wage. And that the death was due to the employer's fraud because it did not provide adequate PPE aggravated by the fact that the work environment is highly unhealthy. Thus, the compensation resulting from this macula caused in the family will be only 50x the minimum wage at the time of the fact. Or, if this official does not die, but is so fragile that he becomes highly incapable of carrying out activities of daily life, let alone being able to work again, the indemnity given to that official - if (this point is emphasized) is considered by the judge as an offense of very serious nature - will be only 50x the minimum wage at the time of the occurrence of the fact. Value this for the rest of the employee's life independent of his age, or any other factor unique to each being.

Thus, the monetization of the life of the human being is demonstrated, which implies that life in certain aspects is not so valuable. In order for the employee's life to be valued he must exercise a high position,
since the basis of calculation for an indemnity is his salary. That is, the life of the one who receives a minimum wage is worth less than the life of the one who has promotion or a position in the board.

That is to say, in addition to having created a role in which only what appears in it can be considered as off-balance, it still valued it, leaving aside the analysis of each case - as it should be in law since each person is a single individual which carries with him his ills and only he can be able to understand the suffering through which he passes and the consequences that that suffering has in his life. Not to mention that each employer is also unique, since the capital of one is not always equal to the capital of the other. Among other forms of analysis that exist before a sentence is imputed.

Only in the attempt to clarify the definition of off-balance damage so that this article can be made clearer, the concept, roughly, is based on the offense of honor, freedom, image, health, everything that comes from the basic principle of dignity human.

Below we have transcribed in full the new implements brought with regard to the theme of off-balance damage, which is being explored in this topic, by the law described above:

Art. 223-A. The provisions of this Title apply to the repair of damages of an off-balance-sheet nature resulting from the employment relationship.

Art. 223-B. House damage of an off-balance nature to an action or omission that offends the moral or existential sphere of the individual or legal entity, which are the exclusive owners of the right to reparation.

Art. 223-C. Honor, image, intimacy, freedom of action, self-esteem, sexuality, health, leisure and physical integrity are the legally protected assets inherent in the individual.

Art. 223-D. The image, the brand, the name, the business secret and the confidentiality of the correspondence are legally protected assets inherent in the legal entity.

Art. 223-E. Those responsible for the off-balance damage are those responsible for the offense against the defended legal right, in proportion to the action or omission.

Art. 223-F. The reparation for off-balance damages may be claimed cumulatively with the compensation for material damages resulting from the same act harmful.

- 1º If there is cumulation of claims, the court, in rendering the decision, will discriminate the amounts of indemnities for property damage and reparations for damages of an off-balance sheet nature.
• 2º The composition of losses and damages, including lost profits and emerging damages, does not interfere in the assessment of the off-balance-sheet damages.

Art. 223-G. When assessing the request, the court will consider:

I - the nature of the legal right protected;

II - the intensity of suffering or humiliation;

III - the possibility of physical or psychological overcoming;

IV - the personal and social reflexes of action or omission;

V - the extent and duration of the effects of the offense;

VI - the conditions in which the offense or moral prejudice occurred;

VII - the degree of fraud or guilt;

VIII - the occurrence of spontaneous retraction;

IX - the effective effort to minimize offense;

X - forgiveness, tacit or express;

XI - the social and economic situation of the parties involved;

XII - the degree of publicity of the offense.

• 1º If it judges the request, the court shall determine the indemnity to be paid, to each of the offended, in one of the following parameters, being forbidden the accumulation.

I - offense of a light nature, up to three times the last contractual salary of the victim;

II - offense of average nature, up to five times the last contractual salary of the victim;

III - offense of a serious nature, up to twenty times the last contractual salary of the victim;

IV - offense of a very serious nature, up to fifty times the last contractual salary of the victim.
2º If the offended person is legal personnel, the indemnity will be set in compliance with the same parameters set forth in paragraph 1 of that article, but in relation to the contractual salary of the offender.

3º In the recurrence between identical parties, the court may increase the amount of compensation to double.

As stated above, the current legislation provides as compensation parameter the last salary perceived by the victim. That is to say, in similar situations an employee who suffered the same damage as another can receive greater indemnity not because this fact affected his life more than that of another, but simply because his salary was higher or lower. Another example to be given is the harassment suffered by many in their jobs, but that is difficult to prove. Assuming that a woman suffers harassment in her work environment, an employee who occupies the position of general services - in which the vast majority earns a minimum wage - and the harasser is the director of a certain company. In this case, it is necessary to verify how much the judge will interpret the harassment - serious nature, very serious, average - and from there the base of calculation will be the minimum salary in force at the time of the fact.

Let's say that in the same example mentioned above, this time the employee harassed by the same director is the occupant of a commissioned position, perceiving a salary 4x greater than the minimum wage. Her indemnity will be greater than that of the aforementioned employee. It is perceived the dignity of the human person, since the same people, holders of the same rights, both being offended in a way that it is impossible to establish parameters for the suffering, intimate pain caused by harassment. But, in the case described here, it will be used of the law which stipulates and values ??the off-balance damage.

It is perceived a de-characterization of the true meaning of the principle of human dignity, since the worker becomes a thing, where the true psychic shock that this damage has in the life of the employee is not taken into account and the conditions that a certain company has and must to bear the losses caused in the life of a given worker.

The limited conceptualization of the concept of off-balance damages is extracted from the law. In an ever-changing society, it is inconceivable to freeze such comprehensive and ever-changing global concepts as off-balance-sheet damage. Moreover, to value such an offense which gives rise to off-balance-sheet damage on the basis of the offender's last salary is to disparage the dignity of every human being, as if what one receives more would have a greater dignity than one who receives less. An unacceptable act before the Constitution which, in addition to ensuring equality among all, expressly prohibits discrimination between persons.

In this way, there is no doubt about the violation of the principles established in the Federal Constitution, as well as basic principles of Brazilian society, as well as international conventions mentioned by Brazil. What makes some position of utmost urgency on the part of the Brazilian judiciary.
THE EVOLUTION OF MAN AND DIGNITY IN TIME

Emphasis is placed on the construction of respect for the human being in society in relation to their rights, human dignity itself, in view of the history of man and his rights that have been won with many struggles over the decades.

Due to the concept of human dignity, as well as its application to all human beings, to be something recent and its discussion is only gradually taking over the legal order, it becomes difficult to create a ground for collective recognition when it is placed in confrontation with the historical roots created by previous civilizations which, little by little, society seeks to deconstruct.

Then, due to many difficulties in the universe of work, man began to be respected and dignified among society at large, as changes appeared, Laws begin to be put into practice and respect for man as a worker to be effective, facilitating the quality of life.

But any other rational being is likewise represented by its existence, as a result of the same rational principle which is also valid for me, an objective principle where Kant deduces the following practical imperative by acting in such a way that you consider humanity, both in your person and in the person of any other, always and simultaneously as an end and never simply as a means, (ALVAREZ, 2009).

The quality of life, especially at work, is now the right of all Brazilian citizens. The work condition is increasingly related to the human, social and environmental factor of small, medium and large companies, it is perceived that from these aspects there is a growing concern with respect to these social tendencies.

This, in short, means that only the human being, the rational being, is the person who has his Labor rights provided by law. Every individual who is inserted in the sphere of work has his rights assured, without distinction of race, color or creed, that is, man should be treated in his equality of person and citizen.

In the legal sphere, the State must fulfill its fundamental duty, which is to: create a just legal order and, based on it, promote the public good and human dignity in society, that is, give the individual the opportunity to achieve his own development professional and personal, this being the concrete expression of human dignity, having as its main pillar the right to decent work.

CONCLUSION

There was an in-depth analysis of the content that was used to interpret abstracted data in books, theses, dissertations, journals and articles. Aiming to understand critically the meaning of the content exposed, it addresses the issue of the right of the individual to a decent and balanced work environment taking into
consideration the quality of life.

It is understood that in today's workforce is increasingly demanded, it is necessary not only to be an employee, but also a multipurpose individual who can act in various areas of an organization, since the issue of a healthy environment can not be because it is known that most of the time he spends more time at work than in his own home.

Human dignity is one of the ramifications of the law that has as its goal the norms of legal institutions and the principles that govern the relations of subordinate work, objectifying its subjects and the companies destined to the protection of the worker.

It is necessary to take extreme care with the issues from an ethical point of view because the fact of human involvement was evaluated only theoretically, which brought many benefits and few risks, avoiding any kind of harm, grounding the total relevance for the job.

We sought to reconcile the current framework of Human Dignity with the new law 13467/17, which exposed the gravity of the issue in view of the devaluation of human dignity, putting fundamental rights at risk for years of hard work.

Therefore, the research was aimed at the trajectory of work over the years, what were its changes, what actually occurred so that workers acquired their rights, in what way Globalization helped for such changes, as the right influences in the everyday of the workers.

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