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Political and legal preconditions for supervision and control over the observance of factory law in Ukraine

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Abstract

The objective consists in the investigation of the mental, domestic and cosmopolitan requirements for the formation of factory legislation and the institution of supervision and control over its observance; to discover the ideological basis of the social reform of intersubjective relations, the formation of ideas on the content of the right to work in political and legal thought and, thus, to be able to reveal the particularities of the organizational and legal model of supervision and control in the imperial period. Taking into account that legislation serves as an indicator of the legal materialization of ideas and values, to determine the political and legal requirements for the establishment of the institution of supervision and control of compliance with factory legislation, an axiological approach, a set of general criteria and special legal methods are used. It is concluded that the period initiated by the bourgeois revolutions was accompanied by the search for an ideological justification for the rapid changes and transformations in the development of social relations in the field of free labor. The factory inspections of the Russian and Austro-Hungarian Empires, created on the basis of the English model, were characterized by the ability to monitor compliance with factory legislation.

Keywords: supervision; control; factory legislation; factory inspections; ideology.

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Requisitos previos político-legales para la formación de la institución de supervisión y control del cumplimiento de la legislación fabril en Ucrania

Resumen

El objetivo consiste en la investigación de los requisitos mentales, domésticos y cosmopolitas para la formación de la legislación fabril y la institución de supervisión y control sobre su observancia; para descubrir la base ideológica de la reforma social de las relaciones intersubjetivas, la formación de ideas sobre el contenido del derecho al trabajo en el pensamiento político y jurídico y, así, poder revelar las particularidades del modelo organizativo y legal de supervisión y control en el período imperial. Tomando en cuenta que la legislación sirve de indicador de la materialización jurídica de ideas y valores, para determinar los requisitos políticos y legales para el establecimiento de la institución de supervisión y control del cumplimiento de la legislación fabril, se utiliza un enfoque axiológico, un conjunto de criterios generales y métodos legales especiales. Se concluye que el período iniciado por las revoluciones burguesas, estuvo acompañado de la búsqueda de una justificación ideológica para los rápidos cambios y transformaciones en el desarrollo de las relaciones sociales en el campo del trabajo libre. Las inspecciones de fábrica del imperio ruso y austrohúngaro, creadas sobre la base del modelo inglés, se caracterizaron por la capacidad de supervisar el cumplimiento de la legislación fabril.

Palabras clave: supervisión; control; legislación fabril; inspecciones de fábrica; ideología.

Introduction

The implementation of the social function of the state, in particular, the need for the latter to intervene in relations between employees and employers to ensure social harmony as part of global peace remains relevant and acute issue from the beginning of the free labor market. Political powers, which are the expression of liberal ideology, minimize the role of the state, focusing on the driving force of the free market and the freedom of the individual from interfering in his personal life. Proponents of the Social Democrats emphasize the need to maintain the decisive influence of the state on the sphere of wage labor.

The issue of delineating the limits of state intervention in labor relations becomes especially relevant in connection with the need to identify trends in the further development of labor legislation, creating an optimal organizational and legal model of supervision and control over its

observance. The current state of public relations development in Ukraine requires proper regulatory and institutional support (i.e. promoting the implementation, protection and defense) of labor rights.

The search for political and legal solutions to regulate the sphere of hired labor, in which the lion's share of the population is involved, necessitates taking into account the historical experience of labor relations, addressing the origins of their formation, which correlates with the analysis of factory law.

The formation of supervision and control in the field of hired labor was accompanied by its organizational and legal design in the form of the institute of factory inspection in a number of European countries. The legal system of Ukraine, whose ethnic lands in the late nineteenth century were part of the Russian (85 %) and Austro-Hungarian empires (15 %) (Hrytsak), was at the stage of «legal centralization and neutralization of conditions for the development of national law» (Miroshnichenko, 2012: 188). At the same time, legal customs and traditions have left their mark on law enforcement practice in these lands.

Legal thought of scholars at that time developed, showing attention to the justification of the law concepts, distinguishing between police law and rule of law, social nature of law, serving as: "...a kind of key to understanding the laws, nature and trends of law that do not die with changing socio-economic formations and undergo transformational changes in the process of statehood development" (Zhygalkin, 2016: 137).

That was a time associated with the formal consolidation of substantive norms in the field of wage labor regarding the protection of the most vulnerable categories – minors, women or those who determined the peculiarities of working time accompanied by procedural rules aimed at ensuring compliance with factory law. There was a demonstration of general civilizational trends that the factory legislation of each state was formed under the influence of a number of political, socio-economic, ideological factors, which led to specifics of normative and law enforcement activities.

It is difficult to disagree with the opinion of the famous professor O. M. Bykov, who served in the factory inspection and was directly involved in the development of labor bills under the Provisional Government of Russia, that «... factory laws may be more than any other piece of law and closely dependent on general economic and cultural conditions of the state»(Bykov, 1909: 269).

Another researcher of factory law, jurist, public figure L. M. Nisselovich emphasized:

To determine with greater or lesser accuracy the reasons that caused this or that change in law; to find out, as far as possible, the views and principles that

guided the legislature in this or that change: this is the task of the one who studies the history of law (Nisselovich, 1883: XI-XII).

The ethnic Ukrainian lands became part of the Russian and Austro-Hungarian empires in the late nineteenth and early twentieth centuries. The aim is to explore both worldview mental and domestic preconditions for the formation of factory law and the institution of supervision and control over its observance, to clarify the ideological basis of social reform of bourgeois relations, the formation of ideas about the content of the right to work in contemporary political and legal thought, the peculiarities of organizational and legal model of supervision and control in the imperial period.

1. Research methodology

The law serves as an indicator of the legal materialization of ideas, values, ideologies that were dominant in society at a certain time and in their peculiar intertwining in the communicative discourse of persons directly involved in rule-making activities influenced the formal consolidation of legal norms. It is necessary to characterize the development of law in the political and legal perspective from the standpoint of the axiological approach.

Postulating the intersubjectivity of values, allowing to take into account the bearers of the latter as an individual and society or humanity as a whole (Gorobets, 2012) – axiological approach allows to consider the development of law as part of legal reality, which is a reflection of axiosphere and normospheres in the aggregate of their unity and interaction. As Western researcher E. Darian-Smith observes, «our conceptions of justice change over time and they are linked to economic power, social values and moral feelings that are not universal, apolitical or static» (Darian-Smith, cited: Gryshchuk, 2019: 6).

The choice of methods was determined by the aim. During the study, both general (dialectical) and general scientific (analysis and synthesis) and special legal research methods (historical, teleological, formal and legal) were used, based on the requirement of a comprehensive analysis of political and legal phenomena.

The dialectical method made it possible to analyze the nature of the change in ideology as a set of ideas and views, in particular, on the nature of the social reform of bourgeois relations. The method of analysis and synthesis provided an opportunity to critically comprehend and synthesize scientific advances in the understanding of labor rights as an object of their protection and defense.

The historical method, thanks to the use of such techniques as retrospective analysis, historical comparison allowed to outline the features of factory law due to political and legal development, to determine the causal patterns of the institute of factory inspection.

The teleological method allowed to determine the impact of direct and indirect goals pursued by lawmakers in the development of factory legislation. The application of the formal-legal method inherent in legal research has allowed to focus on the subject and features of factory law in general and the institution of supervision over its observance, in particular, in terms of modern development of labor law.

2. Results and discussion

2.1. Ideological basis of social reform for bourgeois relations

The consequence of the bourgeois revolutions known as the «Spring of the Peoples», which took place in a number of European countries in 1848-1849, including the Ukrainian lands of the Austrian Empire and the Kingdom of Hungary (Bukovina, Galicia, Transcarpathian Ukraine), drew attention to legal equality and freedom as principles that were the basis for the formation of law rule on the basis of liberalism.

The Russian Empire embarked on the path of bourgeois development after the abolition of serfdom in 1861, which began the transition from class to class (civil) society in the preservation of autocracy and the political regime of the police state, which left its mark on the nature of lawmaking and law enforcement.

The police state, dating back to the period of enlightened absolutism in Europe, was a kind of «secularized absolute monarchy based on theories of natural law and social contract, according to which the monarch was given power over his subjects for the common good» (Kholod, 2006a: 15). Such a «common good» was understood as a public value, the responsibility for the achievement of which, however, was assumed only by the state, while acquiring a police character. Professor of Jurassic Imperial University M. M. Belyavsky stated: «In the struggle for theories of socialism and individualism, power and freedom, altruism and selfishness, centralization and decentralization, there are efforts of people to achieve the ideal of public policy – the general welfare of citizens» (Belyavsky, 1904: 5).

The idealistic ethical trend that underlie the justification of the public administration system in the police state is known as eudemonism, defining «the basis of morality of man's desire for happiness» (Dictionary of Ukrainian language). The appointment of a police state was seen as

contributing to the common good. Variations in the meaning of the term «good» Academic Explanatory Dictionary calls «good, happiness», «... all that a person needs in life» (Dictionary of the Ukrainian language).

A characteristic feature of eudemonistic theories (H. von Wolf, I. G. von Justi), which V. M. Hessen called the «political philosophy» of the police state, was «the smallest regulation of what is» important «for the state – and everything is important» (Hessen, 1902: 5).

In 1871, the publicist R. I. Sementkovsky, in a preface to his translation of Robert Mohl's book, emphasized: «Life has too eloquently persuaded governments to create a utopia» (Mohl, 1871: C. II).

As a reaction to the governance of the police state in the eighteenth – first half of the nineteenth century, the teachings of liberal individualists became widespread in its classical manifestation with the value justification of freedom as independence from the state (Hessen, 1902).

Four groups of arguments have been put forward in favor of this view: (1) philosophical, which postulates the recognition of law as inherent in human nature (J. Locke). It followed that the task of the state can only be the protection of human rights, because the state itself people create in accordance with the terms of the social contract for the protection of natural rights; (2) the economic argument of the doctrine of the Physiocrats, developed by A. Smith and his followers, about the non-interference of the state in economic life as an integral condition of technological progress.

The state was given the role of guardian of the safety of the production process; (3) a political argument put forward by representatives of the liberal school (B. Constant, E. Labule), the main message of which was the understanding of freedom not so much as participation in power, but as independence from power; (4) psychological argument (W. Von Humboldt, J. W. Mill) with the definition of human activity as a necessary condition for their development: «the smaller the state, the greater the individual» (Hessen, 1902: 10-11).

Thus, in the views of proponents of liberalism, the police state gave way to the rule of law in its liberal interpretation – «minimal» state with the least optimal impact on economic relations (Yakovyyuk, 2000).

Such ideological messages actualized the process for formation of objective law with its potential possibilities of introducing a model of formal definition of rights, freedoms and legitimate interests of citizens protected by the state. The period initiated by the bourgeois-democratic revolutions in Europe led to the consolidation of the inalienable (natural) rights of the first generation, including the right to life and equality before the law. Thus, the idea of natural human rights, nurtured by early modern thinkers, began to be embodied in legal acts that consolidated the achievements

of revolutions, reflecting the views characteristic of classical liberalism (Malinov, n/y).

These are so-called negative rights, which were aimed at protecting a person from any unwanted interference or restriction that violates his freedom. The importance of the state was to protect security and law and order, to establish «rules of the game» that would reconcile public and private interests. This approach to the role of the «gendarme state» was substantiated by representatives of the individualistic theory of the law rule (W. Humboldt, I. Kant, J. G. Fichte) (Hessen, 1902: 11).

The very term «rule of law» was introduced into scientific usage by Robert von Mohl in the 30's of the XIX century (Palienko, 1906). Experience of state and legal development of a particular country, embodying the worldview of the role and importance of law for state and social construction.

The history constitutionalism development in Austria, begun during the revolutionary events in Europe in 1848-1949, was restored after a period of reaction to the adoption of the December Constitution of 1867, which defined the foundations of Austro-Hungary as a dual monarchy.

In Russia, the process of transforming unlimited autocracy into a constitutional monarchy began during the revolution of 1905-1907. Secretary of State J. S. Witte, commenting on the revolutionary events, summed up: «Russia has outgrown the form of the existing system. It seeks the rule of law on the basis of civil liberty» (Witte, cited in: Palienko, 1906: 134).

The liberal ideology of individualism negatively understood political freedom as the non-interference of the government in private life and seeing the need for legally equal actors for progressive development. It did not solve the problem of economic inequality. The last issue was perhaps the most acute and directly related to the political and legal justification of models for regulating relations between workers and industrialists. As the well-known Ukrainian jurist M. I. Palienko wrote in 1906, liberal politicians defended formal freedom and:

Overlooked or even deliberately ignored the real freedom of the individual and the interests of those economically oppressed social classes whose condition could not be improved only by the guarantee of formal rights to freedom in the implementation of the principles of the government non-interference, free initiative and competition (Palienko, 1906: 146).

In the 80's of the XIX century, in Austria, with the support of some conservatives, a Christian social movement with demands for social reformism was gaining ground (Lokhova, 2016). Against the background of socialists' calls for reforms based on social justice and state assistance to

improve the situation of the impoverished, there was a revision of views on the role and tasks of the rule of law, justifying the need for the latter positive activities to improve the financial situation.

Unable to stand the test of time, the principle of individualism was gradually replaced by the tendency to fill the law with social content (socialization) (Bostan and Bostan, 2008), ie the predominance of public interests over the interests of individual members of society.

In the middle of the XIX century, German scholar F. Stahl defined the essence of the law rule» – not that the state maintains the rule of law and protects the rights of citizens without administrative tasks, but only in the manner and nature of these tasks» (Palienko, 1906: 147). As a result, the rules of police law were inferior to the administrative ones, which determined the limits of the powers of state bodies in various spheres of government on the basis of the expediency principle and legality.

In the post-reform Russian Empire, bourgeois reforms and measures aimed at the legal consolidation of new social relations were accompanied by a struggle between conservative and liberal bureaucracy, the line between them was less significant in resolving the labor issue. Proponents of liberal views, especially economic liberalism from his “laissez-faire” (from the French “allow doing”) did not see the need for state intervention in relations between employers and workers based on the principle of freedom of contract.

But in contrast to Austria, where the Liberals opposed the adoption of social legislation by the conservative government of Taaffe, and the Social Democrats put pressure, in the Russian Empire, according to Russian economist and jurist V. P. Bezobrazov, “nothing like this struggle was” (Bezobrazov, 1888: 13).

By the way, V. P. Bezobrazov, being a moderate liberal, supported the legislative definition of mutual rights and responsibilities of industrialists and workers, their judicial and administrative protection. At the same time, the scientist warned “against any interference in the economic relations between landlords and employees, in the economic content of the contract and the resulting economic living conditions” (Bezobrazov, 1888: 111).

As a representative of conservative ideology, the founder of the idea of social monarchy, which later transformed into the idea of the welfare state, L. von Stein, appealing to his conclusions: “Public administration in this area. Only in this sense we understand the task of the administration to establish the order of labor in industry” (Bezobrazov, 1888: 112).

The theory of the welfare state emerged as a response of German conservatives to the threat of revolutionary change, offering instead an alternative to social reform “from above” (Kochetkova, 2008). L. von Stein’s

position on the need for state regulation for stabilization was also accepted by Austrian conservatives (Grandner, 1994). Reflecting on the role of the state, L. von Stein emphasized:

...governance should not provide personal development, spiritual, physical, economic or social, but only the conditions for them”, in particular in the economic sphere, government activities should be only additional. Only with the optimal performance of the state’s function of internal governance “highest good can be true freedom (Stein, 1874: 50-51).

L. von Stein saw the social function of the state not in the “subordination of one interest to another, but in the harmonious resolution of these contradictions” (Stein, 1874: 525). Aiming to find a way to eliminate contradictions in the state with the help of the state, the scientist proposed a solution for the working class to “change its dependent position due to the nature of labor, in an independent, materially free position” (Kochetkova, 2008: 70).

This could not be done by eliminating social inequality as such, but by reducing its severity by creating decent living conditions for all citizens.

Thus, the property of liberal ideology was the justification of the rule of law, which in the field of labor relations was embodied in the requirement of legal equality for workers and employers and freedom of contract. Instead, the property of conservative ideology was under the pressure of socialists and the threat of revolutionary change was the justification of the welfare state with the need to influence the latter to support the worker as an economically weaker party to the employment contract.

Such ideological currents developed in parallel, being initiated by social changes after the bourgeois-democratic revolutions, and continue today in their new political variations to offer various political and legal ways of regulating social and labor relations. At the same time, modern scholars agree that «... social and legal state – are interdependent and complementary features of a developed rule of law» (Vavzhenchuk, 2016: 320).

2.2. The right to work in political and legal thought of the late XIX – early XX centuries

The ideologists of the welfare state drew attention to the value of social rights, the need to resolve the issue of the labor ratio and capital with the assistance of the state, which was widely discussed in scientific journals. Thus, the scientist I. E. Andrievsky, who wrote the preface to the work of L. Von Stein published in Russia, drew attention to the fact that the human person, equal and free, can be that way under an integral condition – the

right to work (Andrievsky, 1871: CXLIV). A. I. Elistratov considered the right to work (the sphere of economic initiative of citizens) as a component of the right to personal freedom, seeing in it «public-legal regulation of the relationship between workers and entrepreneurs» (Elistratov, 1910: 88).

At the same time, there was no mentioning of legal consolidation of the right to work at that time. As V. M. Hessen, a jurist, public and state figure, ideological leader of the school of «revived natural law», emphasized in lectures on police law given in 1901-1902 at the Alexander Military Law Academy, «the right to work» is not recognized by the state» (Hessen, 1902: 372).

A lawyer, one of the founders of the Cadet Party, S. A. Kotlyarevsky, reflecting on the proclamation of the right to work in the Constitution of the Second French Republic, concluded that this «... did not lead to any results. There can be no serious legal claim where there is no awareness of the objective possibility of its implementation» (Kotlyarevsky, 1915: 348).

The subject of legal regulation of relations between workers and employers at that time was mostly the reduction of excessive working hours of exhausting work, especially for vulnerable categories such as minors and women, i.e. hygiene and safe working conditions, which were seen as part of the right to life that was negative in its nature.

At the end of the XIX century, when the labor issue became relevant, including due to the significant increase in strikes, the right to a dignified existence, which was associated with a positive understanding of the state's function to ensure it, began to be widely discussed by thinkers.

On the one hand, this process developed under the influence of the concept of socialists, on the other hand, it led to the transformation of liberalism, the separation of its social diversity. S. A. Kotlyarevsky, emphasizing that outside the socialist ideology strengthens the idea of the right to a dignified existence of all citizens, concluded: «... the idea of the right to a dignified existence is already something more than a pious wish: it begins to bind the legislator, and we feel that such cohesion will only grow» (Kotlyarevsky, 1915: 349).

Significant contribution to the development of the right to a dignified existence understanding, which was considered in close connection with the right to work, was made by such jurists, philosophers, politicians and public figures as S. M. Bulgakov, S. I. Hessen, B. O. Kistyakivsky, P. I. Novgorodtsev, Y. O. Pokrovsky, V. S. Solovyov, representing mostly the school of «revived natural law» and justifying the right to work as arising from the right to life, ie relating it to natural human rights, the status of which the latter had the best reason to claim all the rights of the «second generation» (Malinov, n/y).

Thus, S. I. Hessen included the right to work, the right to exist, the right to a short working day in the catalog of “social and natural rights of man and citizen” (Great Ukrainian Law Encyclopedia. Vol. 2: 138).

The appeal of thinkers to the problems of natural human rights with the central idea of individual freedom testified to the protest against state absolutism. It is urgent to mention philosophical and legal reflections of P. D. Yurkevych with his conclusion that “human rights depend on their dignity...” (Yurkevych, 2001: 605). Among the social ideas of Lesia Ukrainka, who drew attention to the promotion of human dignity as the highest value (Donchenko, 2016).

Liberal legal idea in Ukrainian legal thought developed in the teachings of M. P. Drahomanov with an emphasis on universal values, the priority of the human person in the pursuit of happiness and prosperity (Kruglashov, 1992), the rationale that the “full will of every person” will always be the goal for all governments” (Great Ukrainian Law Encyclopedia, Vol. 2: 251).

The socio-political ideal of Ukrainian scientist S. A. Podolynsky was civic socialism, he meant a society in which the people govern and manage all economic, political and cultural processes (Donchenko, 2016). In his work “Crafts and Factories in Ukraine” he wrote: “Every working man should have free access, on equal terms with all rights, to the work community to which he has the greatest commitment...” (Podolynsky, 1880: 125).

Thus, the period initiated by the bourgeois-democratic revolutions put on the agenda the consolidation of the first generation rights. Its status was claimed by the natural right to work. Without labor man can not ensure his existence and the importance of creating safe working conditions. Their provision was regarded as part of the realization of the right to life. This, in its turn, necessitated the development of factory law.

2.3. Factory law, supervision and control over its observance

Returning to the post-reform (1861) events related to the preparation of factory bills in the Russian Empire, it should be noted that there was the competition between St. Petersburg and Moscow industrialists, intensified during the economic crisis of the late 1870s – early 1880s. Ukrainian economist, later Secretary General of Finance in the Government of the Ukrainian Central Rada, M. I. Tugan-Baranovsky analyzed in detail the reasons for the «humanity» of St. Petersburg manufacturers and «freedom» of Moscow ones in the state intervention in relations between industrialists and workers (Posse, 1906).

The government was influenced by strikes and the spread of «secret socialist propaganda among the workers» (Materials on the publication of the law, June 2, 1897 on the restriction and distribution of working time in

factories: 88). Making a historical digression of the procedure for adopting factory legislation, V. M. Hessen concluded: «The development of our factory legislation is not on the initiative of the government – but due to external shocks, requests of manufacturers and, in part, workers’ strikes. Hence its unplannedness, fragmentariness, contingency» (Hessen, 1902: 75).

In practice, this state of development of draft factory laws demonstrated the contradictory nature of the work of commissions convened in Russia in the period from 1859 to 1879 (chaired by a member of the Council of the Minister of the Interior, chairman of the commission to revise factory and craft statutes A. F. Stackelberg, Adjutant General P. M. Ignatiev, Minister of State Property P. A. Valuev), and witnessed the general trend for the principle of freedom abandoning in relations between labor, capital and the accompanying principle for freedom of workers’ organizations, workers’ representation and strikes, i.e. public instruments of protection for employees’ legitimate rights and interests, which did not correspond to the very nature of the autocracy (Kholod, 2006b: 175).

Thus, the Law of June 3, 1886 “On the employment of workers in factories, plants and manufactories and the mutual relations of manufacturers and workers” (Supreme Approved Opinion of the State Council, 03-06-1886), providing for the conditions of conclusion, performance and termination of the employment contract with the fixation of the latter in the workbook, testified to state intervention in the relationship between workers and industrialists – holy of holies” liberal freedom of contract.

As a result, denying both workers and industrialists the freedom of contractual relations, the tsar inevitably embarked on the path of public care, interference from above in the labor relations of workers and industrialists, their petty regulation to prevent labor conflicts (Kholod, 2006b), demonstrating the implementation of the police state policy.

The main purpose of resolving the labor issue was to prevent workers’ strikes, which showed a steady upward trend. In this situation, the government of the Russian Empire decided to put relations between industrialists and workers “under the strict control of special oversight bodies”, thus deciding “to further restrict the freedom of the employment” (Materials on the publication of the law, June 2, 1897 on restriction and the distribution of working time in the establishments of the factory industry: 5).

In the Russian Empire, the establishment of factory inspections was initiated by the Law «On Minors Working in Factories, Factories and Manufactures» of June 1, 1882 (Supreme Approved Opinion of the State Council, 01-06-1882). In Austria-Hungary, the Law on Labor Inspections was adopted on June 17, 1883.

Relations, which were subject to the rules of supervision and control, they had purely administrative, organizational and public law feature. At the same time, these relations have become those regulated by factory laws and have since been associated as an integral part of factory (industrial, labor) law in terms of their law enforcement and human rights goals and social purpose.

However, at the time of formal consolidation of such norms, factory law was a sub-branch of police (administrative) law, which was determined by the nature of the policy implemented in practice.

In general, factory law had a number of features. First, it was of a guardian nature. The latter was clearly evident in the legal framework of factory inspectors, who, in addition to the power to oversee compliance with the law, could interfere in relations between workers and industrialists, prevent conflicts and promote their settlement, care for workers, education of minors.

The purpose of these measures was to ensure «public peace», prevent strikes, which, on the one hand, provided for the supervision of workers, on the other – obliged industrialists to improve working conditions. A contemporary of the events, economist V. P. Bezobrazov, responding to the condition of law, wrote about the preventive activities of the factory inspection, that «... is generally in the care for the mutual relations of masters and workers...» (Bezobrazov, 1888: 56).

The scientist justified the need for its functioning as a special body of the police state, of course, understanding the latter as a characteristic of that time interpretation as a public administration body and the transfer of inspection from the Ministry of Finance to the Ministry of Internal Affairs «not only useless but harmful, capable of increasing the arbitrariness of police actions and causing various abuses» (Bezobrazov, 1888: 62, quoted by Kupriyanova).

However, the Law of the Russian Empire of June 3, 1886 and the adopted «Rules on the Supervision of Factory Industry and the Mutual Relations of Manufacturers and Workers» enshrined the guardianship nature of supervision, which reflected the essence of police policy on labor issues. Reacting to such changes, V. M. Hessen commented: «The government does not have a social program. Current law is the product of police considerations, not social policy» (Hessen, 1902: 313).

In support of his conclusion, the scientist cited, for example, unresolved at the law level, issue of sanitation in factories, which was extremely important from a social point of view, but was of secondary importance from the police point of view, because of unsanitary work conditions, will not lead to strikes (Hessen, 1902). The same opinion was held by L. S. Tal, noting that statesmen in the nineteenth century were guided mostly by «police and financial considerations rather than social motives» (Tal, 1918: 6).

Secondly, the factory legislation of the Russian Empire was largely based on Western European legal acts. Thus, the law of England was taken as the basis for the legal regulation of factory inspections. This had its positive aspects, at the same time the haste in the preparation of the bills «by stationery on strange... foreign models» (Bezobrazov, 1888: 18) with balanced consideration of the state of domestic development, international standards and national characteristics.

However, at that time the specifics of the organizational and legal basis for the factory inspection in the Russian Empire was determined by the political regime of the police state, embodied in the remnants of serfdom, lack of free labor traditions. Austria was called the most similar to Russia in the organization of labor supervision among all the countries of Western Europe (Bykov, 1909).

This commonality between Russian Factory Inspection and the Austrian Industrial Inspection, and at the same time the difference between the latter's activities and those of the British Inspection, was oversight of internal labor regulations, which was seen as interfering with freedom of employment and guardianship of policies.

Thus, Austrian Factory Inspection, like Russian one, was a centralized system of bodies within the Ministry of the Interior Affairs, acting as a mediator to prevent and resolve conflicts between workers and industrialists, overseeing the living conditions of workers and educating minors (Bykov, 1909). However, in 1900 about 93.3 % of Ukrainian population of Galicia and Bukovina was supported by growing crops, 2.5 % received income from fishing, and 1.7 % from trade, the industrial population, which came under the supervision of factory inspections was small (Levynsky, 1914).

Third, one of the shortcomings of the factory laws was the lack of defined legal liability and specific sanctions for violations of regulations, which led to ineffective legislation and complicated supervision and control activities. In particular, most of the complaints were about the implementation of the Law of the Russian Empire "On the duration and distribution of working time in the factory and mining industry" of June 2, 1897.

In the Journal of the meeting of senior factory inspectors of the Kiev district from April 1, 1900 it was noted: "Thus, it is extremely difficult, almost impossible, to establish the fact of the agreement coercion with the workers to serve as a basis for bringing managers to justice" (CDIAC of Ukraine. F. 574. D. 1. C. 205. P. 58-59).

The article of the newspaper «Halychanyn», presenting the report by the industrial inspector A. Navratila on Galicia and Bukovina in 1892, complained that the institute of industrial inspectors «has weak staff and is deprived of the right of execution (the right to enforce decisions)» (The labor movement in Ukraine (1885-1894): collection of documents and materials: 304).

The guardianship nature of the supervision was also evidenced by the subject of its implementation, which was defined quite broadly and required additional interpretation, as it provided for the observance of «proper landscaping and order». Landscaping is understood as «good ordering, provision of everything necessary; orderliness» (Dictionary of the Ukrainian language), and the term order is generally ambiguous and in relation to the previous term implies a state when everything is done, performed properly, in accordance with certain requirements, rules, etc.; order» (Dictionary of the Ukrainian language).

That is, on the one hand, we have the use of those concepts that characterize the component of police law – police improvement, on the other hand, we note the use of evaluation terms, which did not contribute to the effective implementation of supervisory activities. As V. P. Bezobrazov noted, «The surprises, difficulties and complaints of the industrial world about the introduction of new factory orders are explained by some very significant shortcomings of the laws: incompleteness, ambiguity, contradictions, and practical inconvenience in many of them» (Bezobrazov, 1888: 18).

The subject of supervision was specified in determining the powers of the factory inspection (Article 54 of the Statute of Industry of the Russian Empire), namely: (1) supervision of the implementation of regulations on the employment of minors and their attendance at primary schools; (2) overseeing the implementation of mandatory regulations and rules issued by the Chief of Factory and Mining Presence; (3) monitoring the compliance of manufacturers and workers with the rules that defined their responsibilities and the relationship between them; (4) supervision of compliance with the rules on steam boilers; (5) supervision of compliance with the rules on the distribution and duration of working time (Factory laws. Collection of laws, orders and explanations on Russian factory law: 160-161).

Thus, supervision was exercised over the implementation of legislative provisions and over the rules of the procedure. As the terms of employment were recorded in the established payroll and the oral form of the employment contract was not allowed, the compliance with the terms of the contract was subject to the inspections.

It was the intervention of inspectors that caused the greatest dissatisfaction among industrialists. Private Associate Professor of Kyiv University V. Ya. Zheleznov, researching in the early twentieth century the factory law, came to the conclusion of its importance, which was the gradual recognition and implementation of the «principle of social regulation and control in the industrial sphere» (Zheleznov, 1903: 56).

Conclusions

The period initiated by the bourgeois revolutions was accompanied by the search for ideological justification for the further development of social relations in the field of free labor that emerged as a result of serfdom abolition. At the same time, the achievement of liberal ideology was the substantiation of the rule of law features. It was embodied in the form of the of legal equality requirement for workers, employers and freedom of contract in the field of labor relations.

The achievement of conservative ideology, although under pressure from socialists and the threat of revolutionary movements, was the justification of the welfare state with the need to influence the latter to support the worker as an economically weaker party to the contract, isolating the «social idea of governance.»

This was a period for the formal consolidation of the first generation's rights. At the same time, the right to a dignified existence, which was associated with a positive understanding of the state's function to ensure it, began to be widely discussed by jurists, especially representatives for the school of «revived natural law», laying the ideological foundations. Such processes necessitated the development of factory law with the establishment of labor protection norms for minors, women, occupational safety, health, organizational and legal mechanism for their observance to be reflected in the institute of factory inspections.

The English-style factory inspections for both the Russian and Austro-Hungarian empires were characterized by the possibility of overseeing the compliance with legislation, internal labor regulations and workbooks as interfering with the freedom of contract and certifying the guardianship policy of the state characterized by detailed regulation of social relations in the field of hired labor. At the same time, the lack of defined legal responsibility and specific sanctions for regulations violation caused inefficiency of both legislation and activities to supervise and control its observance.

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