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Labour Legislation in Mining Industry of Russia in XVIII – Beginning XX Centuries

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The article considers matters on labour legislation formation in Russian empire in XVIII – beginning XX centuries on a mining industry example as the most developed branch, including at the gold mining enterprises. In the process of each industry formation there were regulations of labour which influenced other departments. The given feature can be deduced on an example of mining law. In the beginning of XX century the process of creation of the uniform centralised labour legislation was completed in Russia.

Keywords: labour legislation in Russian empire, industrial (factory, plant, working) law, mining industry, mining law, principles of regulation of labour in Russian empire, civilian, compulsory, obligatory labour, Berg-privileges, Berg-regulations, Additional rules on February, 19th, 1861, Regulations on mining population of state mining factories on March, 8th, 1861, Charters mining, industries, on a private gold mining, the Charter on industrial labour of 1913.

The problem of formation of legislation on labour in Russia on an example of mining industry before the beginning of the XX century has been researched insufficiently. During the Soviet period the concept of absolutization of class struggle as away of social conflicts resolution in a bourgeois society dominated and formation of branch of labour law was connected only with the socialism period in spite of the fact that in Russia at the beginning of the XX-th century the process of creation of the uniform centralised labour legislation came to an end. In this connection jurists repeatedly addressed to history of formation of the Russian labour law branch which before revolution historically was called as worker, factory, plant, industrial law. These terms

were used as synonyms. Special attention should be given to works by L.M.Nisselovich (1884 – 1885), V.P.Litvinov-Falinsky (1900), A.N.Bykov (1909), I.I.Janzhul (1907), L.S.Tal (1913), etc.

Legislation on labour in Russia prior to the beginning of the XX-th century was regulated by various departments. The basic sources on the given matter till XIX century were codes of laws, charters acts of Moscow princes, tsars, and emperors. The legislation regulated labour relations extremely poorly as forced labour was applied commonplace. Tsars' decrees within this area had mainly punitive nature.

There was no uniform centralised legal protection of workers up to 1861. Norms of regulation of labour appeared in the course

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of formation of each industry. Departmental ordering of norms of labour law enormous legislative material on private matters created inconveniences in courts and administration activity.

At the heart of legal regulation of civilian labour civil legislation collected in volume 10 of the Code of laws of Russian empire was laid down. Archaism, patriarchal character of this legislation, which basic part of articles referred to XVIII century attracts attention.

The government starts to take measures on legislative regulation of civilian labour only since the middle of XIX century. There were nine main laws which formed the basis of industrial law in Russia within the period of 1882 to 1903. In 1913 all laws regulating labour of hired workers which had been earlier in different parts of the Code of laws, were united in the separate regulatory legal act «Charter on industrial labour». It became the main source of labour law in Russian empire. It consisted of four sections and 597 articles.

Up to the middle of the XIX century work hiring was regulated exclusively on an individually-contractual basis. In the second half of the XIX century and at the beginning of the XX-th century E.B.Khokhlov separates out the following principles of legal regulation of labour in Russian empire:

1. A principle of freedom of the labour contract;
2. Combinations of the state and individually-contractual regulation of labour relations;
3. Unity and differentiations of labour legislation;
4. Stability of conditions of a labour contract.

The state and individually-contractual regulation was not supported by a method of collectively-contractual regulation (Khokhlov, 2000.P. 92-94).

Labour organisation within mining industry was built on the general fundamental bases typical to all branches and departments of Russian empire.

Example. Up to XVIII century mines and factories at cites were under control of voivodes there was no mining administration in Russia. The centralised administration of this industry was based on several orders: the Big treasury, the Big palace, Pushkarsky, Weapon, Ambassadorial. The latest order hired workmen abroad and one of the first started to develop legal regulation of foreigners' labour in the territory of Russia (The historical..., 1807).

Mining legislation starts to develop in Russia in XVIII century. Orders on search of minerals on Don, Urals Mountains, Caucasus, in Siberia, Kazan, Arkhangelsk, Olonetsky regions are passed.

Since 1700-172 the Order of mining affairs, since 1715 – the Ore order were established for mining industry managing. Since 1717to1718 12 boards, including Berg-board vested with mining organisation matters authority were set up instead of the out-of-date system of orders.

All basic decrees by Peter I on use of civilian, compulsory and obligatory labour extended over mining industry as well. It is obviously necessary to distinguish between «compulsory» and «obligatory» labour concepts as till the second half of the XIX century both compulsory, and civilian labour were obligatory (serf). Labour of a civilian worker was regulated under individually-contractual basis and always accompanied by partial loss of rights and especially freedoms of the worker, up to application of corporal punishments. The first mining law in Russia, concerning all vital issues of mining manufacture appeared in 1719 and was called «Berg-privilege». This regulatory legal act introduced special privileges to article 10 for mining manufacture workmen: « Workmen of such factories who originally will

be selected for the manufacture will not only be released from monetary requisitions and soldier's and sailor's service and any overlay, but will also receive salary during certain times for their work» (Complete collection..., 1883).

In 1739 another mining law «Berg-regulations» appeared which confirmed free entrance and departure of foreign mining experts, use free and forced labour in mining industry, exclusive position of workmen. The law specified, that «at impossibility to get free and purchased workers the treasury will get peasants but not the whole volosts but several courtyards registered whom the factory owner himself should transport and settle at factories»(The historical..., 1807). The further reform of mining legislation and mining administration on not-private acres is connected with Catherine's II Manifesto (1782), the report of the Minister of Finance «On the order on mining factories managing» (1804) and the project of Mining Provision (1806).

The mining legislation up to 1861 provided the use of only obligatory (serf) labour: «As the landowner managed, to a certain extent, any affairs of the «citizens»(as serfs were often named) within the manor, as the higher-ups should be the general higher-ups to some extent within their districts; and mining administration really had police, court, schools, and churches etc. under their authority within mining districts» (Shtof, P.168).

After cancellation of serfdom the reform concerned people registered to mining factories, mines as well. It was regulated by Additional rules on February, 19th, 1861, and also by Provision on the mining population of not private mining factories on March, 8th, 1861 (Chistjakov, 1989; Set of laws..., 1900). Additional rules concerned the population of private, state, cabinet mining factories, crafts and mines of department of the Ministry of state property and the Ministry of Finance.

All mining people were granted «personal, on property and condition rights of free rural inhabitants». But there were also exceptions. For example, mining population of Barnaul silver-refining factory and Ekaterinburg lapidary factory was ranked as city philistines' estate. (Provision on...,1876). Dismissal process of mining people with posterity from obligatory service occurred within two, and at Olonetsky factories – three years. With transition into a free estate, state and zemstvo taxes and duties were extended on them. The retired for long service, some categories of workers who had served from fifteen to twenty years were released from taxes.

The mining population did not represent a homogeneous mass. The majority had a manor and a field plot, but some lived at factories, mines, in master's premises. Some workers performed basic works requiring a sufficient skill level others were used on subsidiary works. All mining population was divided into workmen and rural workers to differentiate actually working whose basic working place was the factory, a mine, a craft from so-called sub-factory peasants who performed auxiliary works, were often used for transportation of cargoes and consequently had working horses. Legally, strictly formally in any case it is a matter of peasants: as Additional rules only developed norms of the Manifesto of 1861 and the General provisions on the peasants released from serfdom dependence.

According to section «On order on mining people recruitment for factory works» Provisions on mining population of state mining factories on March, 8th, 1861 the workers released from obligatory labour could be recruited again on mining factory, a mine, a craft only on voluntary conditions for not more than three years, «after lapse of time, conditions can be renewed' (Provision on...,1876).

Depending on nature of manufacture all recruited for work on mining industry

enterprises were divided into workmen and workers. «Workmen, in essence, are those executing all technical, factory or miner works requiring due knowledge and skill; also those official people (attendants), as regards technical, economic or writing skills will be referred to this category as well. Workers, in essence, are those being engaged in different either not technical or auxiliary factory work» (Provision on...,1876). In contrast to workers workmen had different privileges, for example, releasing from zemstvo duties.

Employees working under the contract and workmen should have notified the employer about their dismissal three months prior to the expiration of a contractual term, workers – a month prior. Administration of factory, a mine in turn should have notified the worker about a termination of the contract within three months in advance, in case of immediate dismissal – to give out to the worker the salary for three months. Workers accused of committing a crime, infringers of discipline if it had been registered in the penal book not less than two times were dismissed without salary under Guardian Mining Order sentence.

The mining higher-ups made specific rules and conditions for each separate operating mining factory or mine. «These rules, in compliance with local requirements of factory or mine, should provide:

- 1 Categories of attendants, workmen and workers;
- 2 Recruitment conditions;
- 3 Rules allowing women and children to do a particular work;
- 4 Attitude of workmen and workers to supervisors and masters;
- 5 Time and work continuation, and number of working days a year and working hours a day, depending on a sort and nature of each work, or the least quantity of fixed

work if such is established should have been determined;

- 6 Reporting-line of workmen and workers at the factory;
- 7 Order to follow in calculations with workmen and workers;
- 8 Order of disputes and misunderstanding between factory people and factory administration resolution;
- 9 Exaction of penalties and fines imposed on these people;
- 10 Cases entailing annihilating conditions concluded with attendants, workmen and workers, and
- 11 Other mutual relations between working people and factory administration» (Provision on...,1876).

Recruiting for work one by one, artels and communities under voluntary contracts and for free-agreed payment, workmen and workers received it in the form of a salary or as piece rate payments under condition.

The contract of employment was made out on a simple paper in a local mining administration office being recorded in a special book. Every employed was given out a working book where all the data about the worker were put down, term and hiring conditions, salary or piece rate payments, deductions made from them, etc. were recorded. The working book replaced the passport for free residence in the given district, dismissal was recorded in it. In addition, all employees, workmen, working people, hired for mining service or work on free hiring, were put on the general list of that factory or a mine where they were employed.

Provision on mining population of state mining factories established minimum, 12-year-old age of employment on specified enterprises. Juveniles aged 12 – 18 years were recruited for factory works peculiar to their ability and age, with their parents consent (article 52, 53, 307).

According to the Mining charter «... juvenile workers under fifteen and women are not supposed to night works as well as to works in mines. Juvenile workers, moreover, should not be engaged in work more than eight hours a day», more than four hours without a break. Juveniles were not allowed to be engaged in harmful to their health and to wearisome works (Skorov, 1895. P. 137, 415).

However, the Charter on industry (edit. 1893) which norms extended over mining factories, mines, crafts, temporarily, «in case of need», allowed to recruit on factories, manufactory children under 10, to let to night works (from 9 p.m. till 5 a.m.), juveniles under 15 to six-hour works without breaks «when due to a sort of manufacture it appeared necessary, and due to nature of works assigned to juveniles, six-hour continuous work cannot cause harm to their health, and under that condition that in these cases the general operation time of juveniles within days did not exceed six hours round o'clock» (Skorov, 1895).

By the end of Russian empire epoch legislation on employment was an independent and extensive branch quite differentiated in various volumes of the Code of laws. So, rules on hiring workers for factory, mining enterprises initially were contained in the Charter on industry, and then, since 1913 – in the Charter on industrial work (the Code of laws. P.2, v.11) the Charter mining (the Code of laws, v.7). Norms on hiring for work «Siberian inhabitants of different estates and mezensk samoedi», including convicts allowed to live at liberty in a restricted area, and Kalmyks as well were under Provision on foreigners (edit. 1892 and on cont... 1912), the Collection of laws on peasant administration and instructions to rural both volost gatherings and officials.

At last, in a number of provinces of Russia, including Siberia, employment of workers was carried out on the basis of «the general local

decision» with amendments made by the all-Russian legislation on hiring for work.

Labour legislation on gold mining in Russia which appeared and started to develop since the middle of XVIII century in Urals Mountains should be separated out. In the first half of the XIX century Eastern Siberia becomes the basic area of gold mining. For a quarter of the century the gold fever extended from Altai to the Pacific Ocean. 283 mines out of 553 developed in Urals Mountains and in Siberia were located in Eastern Siberia in 1861 (Information on..., 1863). After reform of 1861 from 64,3 to 75,5 % of all-Russian gold was extracted in Eastern Siberian gold mines. Urals Mountains, for example, gave 17,2 – 28,7 %, and Western Siberia – only 4,6 – 7,2 % of all extracted gold in Russia (Khrolenok, 1969. P. 99).

The gold mining enterprises in comparison with other branches of mining industry – metallurgical, coal-mining functioned, as a rule, for a short time (from 5 to 10 years at an average) seasonal washing gold, development prospecting works, etc. took place.

Simultaneously with rather a fast development of gold mining and demonstration of all its typical features there were special acts regulating labour in a given branch. Basically, all of them were concentrated in the Charter on private gold mining (the Code of laws, v.7), collections of laws on private gold and mining crafts, with explanations to continuations to the Code of laws and orders of the governmental places and officials.

On December, 20th, 1895 «the law on hiring workers for private gold and platinum mines» was passed instead of articles 662, 664-675, 677-680 and 687-706 of «the Charter mining and in changes and additions of other corresponding laws». It consisted of two sections: «A. Concerning supervision of order, accomplishment and safety on private gold and

platinum mines» and «B. Concerning hiring of workers for private gold and platinum mines» (On recruiting..., 1895).

Resume. In the Middle Ages labour was not separated from the person and its use assumed a sort of domination over the personality of the worker. Up to 1861 obligatory labour prevailed in a mining industry of Russia. Mining legislation was extremely poorly connected with regulation of labour of freemen in the given branch at least owing to the fact that they were very few among the serfs registered to mining factories, to mines and crafts. Relations concerning hiring for mining industry in this connection practically did not arise up to the middle of XIX century.

Public-legal regulation of labour relations dominated in Russia till XIX century. Forced labour organisation (working hours, leisure time, wages, etc.) at mining factories, mines, was built on the basis of direct administrative intervention of the state, free labour – basically on the basis of civil legislation and upholding full freedom of the labour contract by employers. Restrictions to its conclusion and activity of supervising bodies were regulated by norms of police (administrative) law.

After serfdom cancellation in 1861 labour legislation regulated labour in mining industry differentially depending on specificity of district, performance of separate works. In process of formation of each industry there were regulations of labour which influenced other departments, forming thus the uniform centralised legislation on labour.

After 1861 all sources of labour legislation in mining industry were divided into general (the Charter on industrial labour 1913) and special (Additional rules 1861, Provision on mining population of state mining factories 1861, Charters mining, industries, on private gold mining, etc.). Factory regulations, collective agreements and customs were referred to the sources of labour law in Russian empire (Kiselyov, P. 6-9. Information on..., 1863; Set of laws..., 1900; Sosna, P. 36).

Labour organisation in mining industry was built on the general fundamental basis typical to all branches and departments of Russian empire. Since 1861 the labour contract content in a mining industry completely met requirements stated in general labour legislation in Russian empire where imperative norms on working hours, rest time, wages, etc. were combined with norms of dispositive nature.

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Законодательство о труде в горной промышленности России в XVIII – начале XX вв.

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В статье рассмотрены вопросы становления трудового законодательства в Российской империи в XVIII – начале XX вв. на примере горной промышленности как наиболее развитой отрасли, в том числе на золотодобывающих предприятиях. По мере образования каждой отрасли промышленности складывались свои правила регулирования труда, которые оказывали влияние на другие ведомства. Данную особенность можно проследить на примере горного права. В начале XX века в России подошел к завершению процесс создания единого централизованного трудового законодательства.

Ключевые слова: трудовое законодательство в Российской империи, промышленное (фабричное, заводское, рабочее) право, горная промышленность, горное право, принципы регулирования труда в Российской империи, вольнонаемный, принудительный, обязательный труд, Берг-Привилегии, Берг-Регламент, Дополнительные правила от 19 февраля 1861 г., Положение о горнозаводском населении казенных горных заводов от 8 марта 1861 г., Уставы горный, промышленности, о частной золотопромышленности, Устав о промышленном труде 1913 г.
