

Cancelling the Exclusion of Holders of Management and Trust Positions from the Hours of Work & Rest Law Is it really a necessary and effective amendment?

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Abstract

Many employees in Israel work long hours and are under considerable pressure at work. Long work hours take their toll both personally and socially. Employees in management positions or positions of trust are excluded from the Hours of Work & Rest Law (5711-1951), because subsection 30(a)(5) determines that the law does not apply to them. Aharoni-Goldenberg proposes cancelling this subsection and including this group of employees within the law. Is cancelling the subsection the right and effective move to prevent overwork among employees in management and trust positions?

At present, according to the law's social goal's perspective, the Labor Court tends to interpret the aforementioned subsection reductively. It has been ruled that the exclusion should apply only to top management employees who are well rewarded, so that it is evident that the fact that their job might involve unconventional work hours was indeed taken into account and remunerated. Because of this interpretation, the cross-section of employees affected by the exclusion is small.

Various studies indicate that managers who have extensive responsibilities in an organization work longer hours than other employees do, and that the higher their level of education, the more hours they invest in work. Many managers attribute this to the responsibilities that they shoulder rather than to their employer's demands. In fact, studies indicate the importance of proper balance between work and family or leisure time, but it was found that the number of work hours is not the key factor that affects work satisfaction. High pay, on the other hand, increases work satisfaction, and most managers are satisfied with their work. They enjoy high social status and the esteem of their co-workers, experience self-fulfillment, view their job as a badge of honor, and through it ensure their own and their family's welfare. In an era of economic insecurity, and in an era dominated by consumerism, these advantages have immeasurable value.

Although I believe that there is no doubt about the necessity of change regarding the number of work hours, I do not find that the road to change is by means of cancelling

subsection 30(a)(5). The justifications presented by Aharoni-Goldenberg in favor of canceling the exclusion include reference to these employees as historically discriminated against, and an assumption that their consent to the exclusion is not informed consent. Namely, they have no choice and no knowledge regarding the consequences of overwork. Therefore, paternalistic intervention is required to save them from themselves. In her opinion, even the prime minister should be included in the law, and not work beyond the determined limit.

I do not share this view. I do not perceive the mentioned group as weak employees who need the protection of the law from their employers and themselves. I believe that this is a strong group, that the power gap between them and their employers is (almost) nonexistent, and that they make informed choices and are aware of the consequences. Most are happy with the opportunity they have been given.

Reduction of too many work hours can occur only through cultural and social change, when consumerism is no longer a supreme value and the economic future of employees and their families is more secure. Only then, can the social value of highly responsible and long work hours change. Without this change, there is no point in including these workers in the Hours of Work & Rest Law. Paternalism in this case is not justified, especially in view of the fact that it might actually lead to decreasing rather than increasing their welfare, as was clarified in the paper.