



Universitat d'Alacant
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LABOUR LAW

Unit 1



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LESSON'S TARGETS

- 1) Labour Law as an Autonomous Legal Discipline:
What is Labour Law?
- 2) Historical, Social & Legal Factors that led to the
emergence of Labour Law

CONCEPT OF LABOUR LAW

A first approach to the concept of Labour Law

1.- What is basically Labour Law?

2.- What makes the difference between Labour Law and other areas of our legal system?

The scope of Labour Law

-Set of the social relations that arise from the services rendered from one person to somebody else



Not all kind of work is regulated by Labour Law!!!:

- *Free/Volunteer Work*
- *Remunerated/Paid Work*
- *Dependent Work* (under direction&supervision of another person)
- *Hired-Hand Work* (on behalf of somebody else)

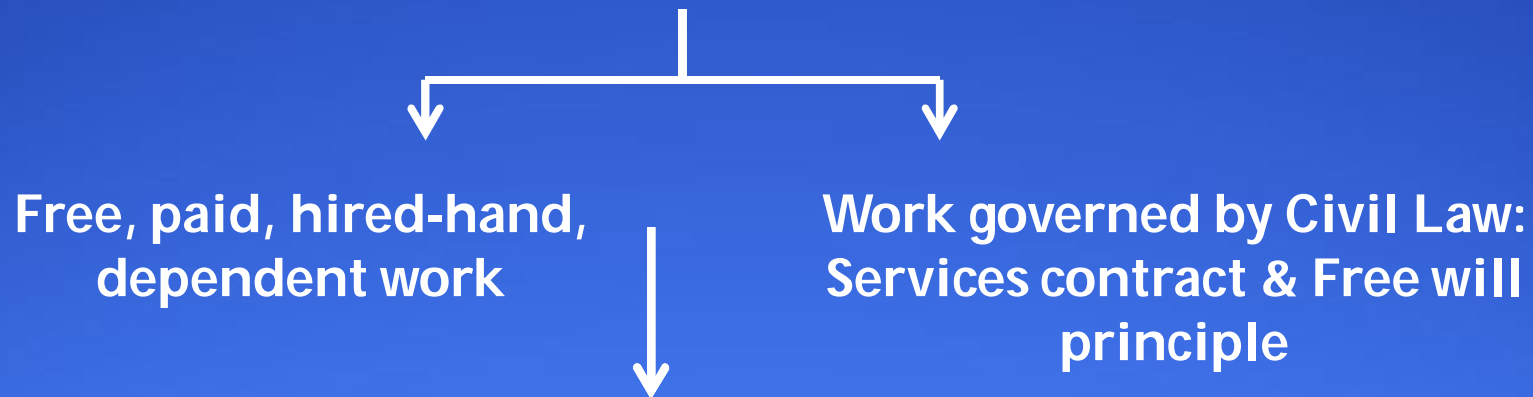
Summing up: Labour Law would only apply to workers who render their services:

- 1.- *VOLUNTARILY* (Free/volunteer work)
- 2.- *FOR COMPENSATION* (Remunerated/paid work)
- 3.- *ON BEHALF OF SOMEBODY ELSE* (Hired-hand work)
- 4.- *UNDER HIS ORGANIZATION AND SUPERVISION* (Dependent work)

Labour Law inspiring principles

Labour Law, as an autonomous legal discipline, counts nowadays with its own principles and institutions. But it doesn't exist since ever:

INDUSTRIAL REVOLUTION



Appearance of the first State labour standards inspired on a totally opposed principle: the *principle of limitation of the parties' free will*

Principle of limitation of the parties' free will

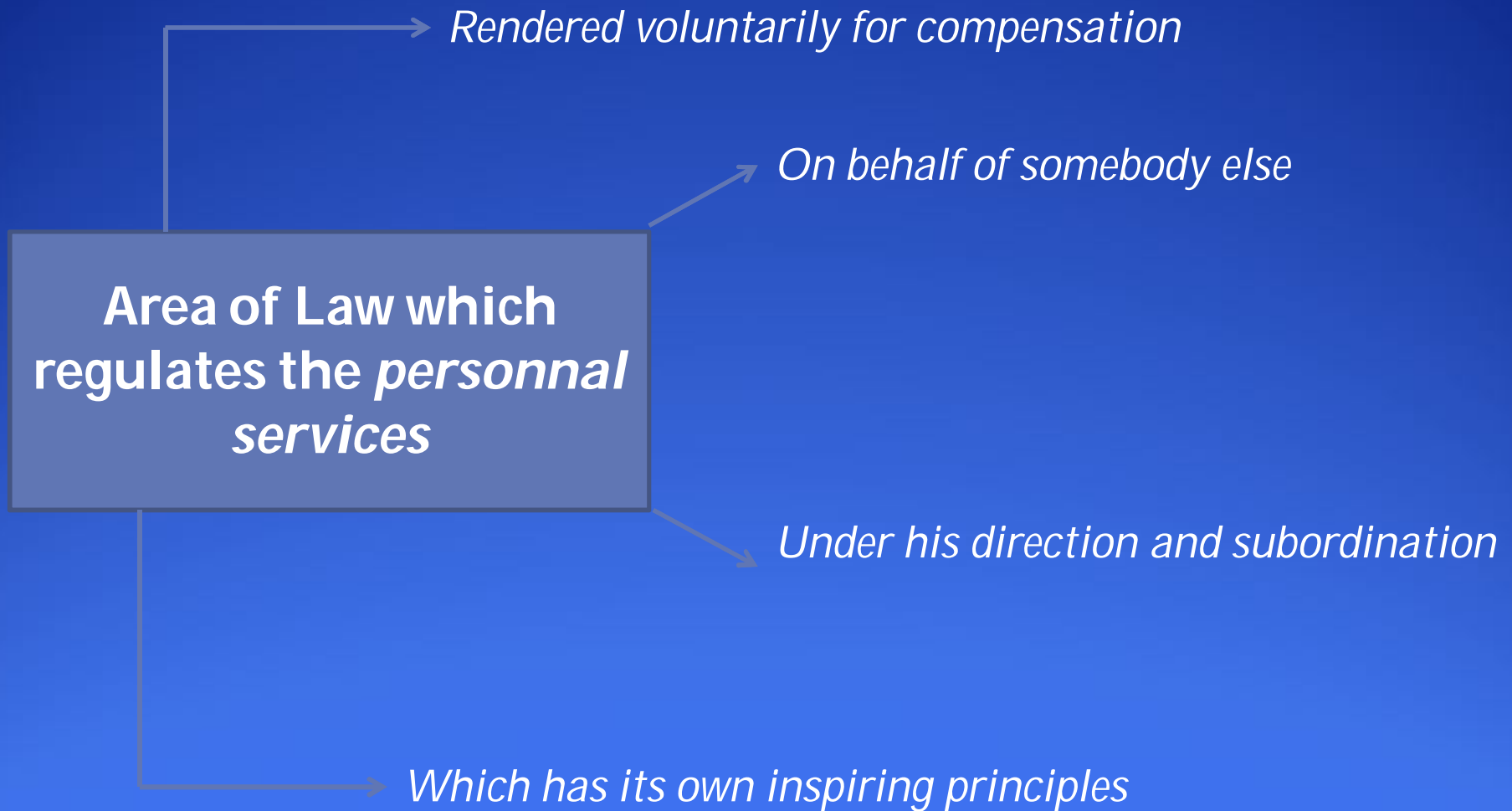
1.- Aimed at protecting the weaker party of the contractual relationship

2.- Meaning: The contract is not the main source of the parties' rights and obligations but the labour standards:
Contract of employment as a "*Regulated Contract*"

3.- Principles currently governing the application of Labour Law regulations:

- 1) More favourable rule (art. 3.3 WS)
- 2) More beneficial condition (art. 3.1 c WS)
- 3) Inalienability of rights (art. 3.5 WS)

Definition of Labour Law



Labour Law Birth: Work legal regime & Labour Law

1.- *Slave mode of production*: Work legal regime based on property rights of a person over another..... *COERTION*

2.- *Feudalism*: Work legal regime based on subordination in the frame of vassalage relationships *COERTION*

3.- *Capitalism*: Work legal scheme based on *FREE* exchange of labour for remuneration, governed by Civil Law and services contract



GENESIS OF LABOUR LAW

Labour Law Birth: How did Labour Law emerged throughout the history?

Labour Law as the result of a range of historical, legal, social and political factors:

- 1.- Sociological Factor: Industrial Revolution
- 2.- Legal Factor: The liberal-individualistic Law
- 3.- Social Factor: Labour movement
- 4.- Political Factor: State intervention in labour^o relations regulation.

Sociological factor: Industrial revolution and its social effects

Social changes brought by the Industrial Revolution:

1.- Change in work organization : From the work in the field, farms and workshops, production turns to be concentrated on factories (capital concentration-companies are founded-large-scale production).

2.- Change in the structure of the working population. Feudalism: capital and workforce concentrated. Feudalism: dissociated:

a) Craftsmen, farmers, etc wealthy so they raise capital and set up factories.

b) Those citizens with no capital so they can only "sell" their workforce for a living.

Legal factor: Liberal-individualistic Law and its social disfunction

Liberal Law relies on principles of Freedom & Equality

In Labour relations:

1) *Freedom of contracting*: Parties' free will governed the labour relationship (they were free to sign or not the contract, to negotiate the terms and when to terminate it).

2) *Unionism prohibition*: Combinations of workers=crime of "criminal conspiracy" (Unions affected the parties' freedom, not letting workers to hire under a minimum working conditions)

* Social effects: No material freedom nor equality

Social factor: the labour movement (main trigger for Labour Law birth)

Workers reaction against the abuses of the liberal system

1) From the point of view of the social action

-First workers collective actions: clandestine meetings, demonstrations, strikes, violent actions (Luddite)

-First workers associations: -to cover workers' social risks protection
-to provide earnings to workers on strike (strike funds)

1) From the point of view of the social action

-Anarchism: Rejects any collaboration with State

-Marxism: Social transformation through State and political parties

Political factor: State intervention in the regulation of labour relations

States gradually become aware of the social problems of the working class. They decided to step in:

- Shy intervention: Legislation protecting exclusively women & children. Ej. Spanish Law of the Chair
- 1919: Weimar Constitution & ILO foundation
- Throughout XX century (major changes):
 - Contract of employment firstly recognized by legislation
 - States changed attitude to unionism and collective rights
 - Specialized Administration: Ministry of Labour & Labour Inspection
 - Specialized Jurisdiction: Labour Jurisdiction



THANK YOU SO MUCH