

# Al-Khateeb highlights most prominent labor law amendments

**CAPITALS:** An interview was recently conducted with Professor Lawyer Khaled Al-Khateeb who has an experience of more than 25 years in Labor Law and the legal field with many relevant researches and numerous studies. This was stated in a press release issued Monday. He is a partner in Taher Group Law Firm along with Abdulaziz Taher Al-Khateeb.

Al-Khateeb highlighted that the Labor Code which was issued on the Feb. 19, 2010 marking significant adjustments which differed radically from the previous law, pointing to the importance of this law being one of the topics related to all workers in the sector of civil society. Below are excerpts of the first part of a two part interview:

**Under the act of New Private Sector Labor Law of Kuwait No. 6 of 2010, what are the main effects on the rights of workers in the private sector?**

**Al-Khateeb:** The rules of the Labor code are peremptory norms of the public order and State public interest which has two consequences. Firstly, that the rules of the Labor code issued by a new legislation are enforced immediately with immediate effect on current labor relations and also on the contract signed prior to the issue of the new law, with respect to the post enforcement effects and excluding the anti enforcing effect which shall depend on the old law. Secondly it sets forth an important guarantee which shall nullify any condition in an employment contract which violates any provision stipulated in the articles of law, except those conditions that comprises of such rights or privileges in the law which are more beneficial to the laborers as a minimum limit to their rights.

**What is the scope of application of the Labor Law on workers? Is it applied to all in general or to a certain category?**

**Al-Khateeb:** It excludes those who work under other category, such as the domestic labor and in matter that are covered in the oil sector law unless this law would be more beneficial to them. This is illustrated in Article 5, according to which the competent Minister shall issue a separate decision to regulate their relationship with their employers.

**Does the employer have the right of bringing labor into the country without referring to the competent authorities?**

**Al-Khateeb:** Under article 8, the employer has to notify the competent authority of his need of labor, and also he has to report the number of workers who work for him on an annual basis which is to be done on the prescribed forms prepared by the ministry. Otherwise, and



Educators are seen protesting on Thursday, Oct. 27, 2011. Professor Lawyer Khaled Al-Khateeb, highlighted the significant changes made to the Labor Code which was issued on the Feb. 19, 2010. (Al Watan)

as stated in Article 137, the violating employer shall be fined not exceeding five hundred dinars for violating Article 8. In addition to that, the Law obliges employers to display the penalty list of violations in a visible place in accordance with Article 35, otherwise the employer will be subject to the same penalty which shall be doubled in case of repetition of the same violation within a span of three years.

**We have previously seen workers who are brought in by employers and left to fend for themselves, how can this be solved?**

**Al-Khateeb:** The legislator has addressed this issue in Article 138 as it is not permissible for the employer to recruit workers from outside the country or use workers from within the country without enabling them to work for him, or he has to prove that he has no actual need of them, then in such a case the employer shall bear the expenses for returning the laborer to his home country. The Article stated a penalty of imprisonment not exceeding three years and a fine of not less than one thousand Dinars and not more than five thousand dinars or by one of these penalties on anyone who violates the provisions of third paragraph of the previously mentioned Article 10.

**Is there any change in the night work involving women?**

**Al-Khateeb:** Formerly, the law had forbidden night work for women in general, and it was permitted by law to exclude night work in hospitals and other institutions. But the legislator has amended that as the text of the new law which does not allow women to walk at night between 10:00 pm to 7:00 am, except in hospitals, clinics, private medical houses and other institutions that are allowed to do so by a decision of the Minister of Social Affairs and Labor. In this respect, the Law in article 22 makes it obligatory for employers to provide security requirements for women who work at night and to provide means of transportation to and from the place of work.

**Has the law added up anything to the rights of working women?**

**Al-Khateeb:** The new law stated that pregnant women employees are eligible for a paid delivery leave for a period of seventy days, provided that the delivery happens within that period and this is not included in their other vacations. This article also prevents the Employer from terminating her services during the delivery leave or the absence from work due to medically certified sickness that is proved as a result of pregnancy or childbirth. It also permits the employer to grant further leave after the end of her maternity leave upon request without pay not exceeding duration of four months for child care, so the new Labor

Law is more equitable than the previous one for pregnant women. The new law contracted the articles 25 and 26 as the old law had given right for pregnant women to leave up to thirty days before delivery and forty days after delivery which waived the right of the employee to her annual leave if she availed her pregnancy leave for that particular year while the new law guarantees both.

In addition to the above, the new law also stated that working women should be given two hours a day for breast feeding which was in accordance with the terms and conditions specified by the Ministry's decision during the official working hours. It also made establishment of nurseries for children below four years mandatory for employers who hired more than 50 women or those with more than 200 employees according to Article 25. The new law also stipulated equality between male and female employees to receive equal pay for same work without any discrimination between them as stated in Article 26.

**Has the law prescribed a certain form for employment contracts?**

**Al-Khateeb:** The new law has determined the need that contracts should be written and executed in three copies, two for the parties to the contract and the third copy to be deposited with the competent ministry. If the contract is not written or executed in a written form, then

it shall deem to exist, and the burden of proof shall be on the employee to prove his rights through all possible means.

**What about the worker's wage reduction with relation to the new labor law?**

**Al-Khateeb:** The new labor law prohibits an employer to reduce the worker's wages during the period of the contract for any reason whatsoever, and any agreement between them and the reduction in pay is deemed absolutely null and void in relation to the public order and state public interest.

**What is the minimum wage under the new labor law?**

**Al-Khateeb:** The new law does not set a minimum wage, but the Minister of Social Affairs and Labor issued a decree to set a minimum wage in the private sector taking into account the inflation rates witnessed by the country which shall be revised every five years as per Article 63 of the new law.

**Has there been any changes in the probation period under the new law?**

**Al-Khateeb:** Yes, it has set the probation period of not more than 100 working days during which both parties have the right to terminate the contract without prior notice. If the employer terminates the contract, he is obligated to pay end of service gratuity to the worker of his tenure; while previously under the old law 16 the probation period was set for not more than a hundred days and gave the employer the right to dispense off the services of the worker without a reward.

**What other penalties can be levied against the worker under the new law?**

**Al-Khateeb:** Firstly, the law states that no penalty procedure can be taken against the worker unless the latter is informed in writing of what is attributed against him and given a chance to defend himself of his act or action and a copy of the same is placed in his personal file. The worker must be informed of what action can be initiated against him, and what penalty could be inflicted in case of repetition. What is new in this case is that the worker can be suspended for not more ten days during the investigation of the violation allowing him his right to receive wages if investigation ends in his favor.

The new law further stipulates that all penalties which are levied on employees need to be accumulated in a fund, and the proceeds of the funds, in the situation of the closure or liquidation of the company shall be distributed equally among the employees as per a decision of the Minister.

## Safar: Kuwait Municipality 'in high gear' ahead of Eid Al-Adha

**KUWAIT:** Kuwait's Municipality has raised its alert status, in the midst of the Eid Al-Adha holidays, after uncovering several violations detrimental to the health and safety of people in the country.

Talking to Kuwait News Agency (KUNA), Minister of Public Works and Minister of State for Municipal Affairs Dr. Fadhil Safar commended the efforts of imports inspectors at Kuwait International Airport, for seizing a large amount of spoiled fish.

For her part, Director of the imported food department in the Kuwait Municipality, Istiqlal Al-Musallam said that the total amount of the seized rotten fish was 350kg which came from an Asian country, she did not mention. She explained that a team of Municipality inspectors had revealed that the imported food was unfit for human consumption.

Dr. Fadhil Safar asserted on Sunday the importance of food security, describing it as one of the most pressing issues that require appropriate solutions in order to secure a stable and prosperous life for Arabs.

Safar, in a speech marking the start of the 39th meeting of the Executive Council of the Arab Organization for Agricultural Development organized by the Public Authority for Agriculture Affairs and Fish Resources, expressed hope in achieving goals and reaching the level of expectations for coordination and cooperation

among Arab countries in the field of agriculture.

He highlighted the importance of achieving sustainable Arab agricultural development, which requires ambitious programs, plans and a clear strategy implemented on the ground to meet the needs and requirements of people in the Arab region.

He said that there are a number of important issues on the agenda, which include a review of programs, projects and agricultural activities that have been implemented during the 38th session or will be implemented for the current session of the Executive Council. He added that "this requires all of us to pass the necessary recommendations and to take appropriate decisions, particularly with respect to these programs, projects and activities that will be implemented, stressing the importance of providing scientific data and technology to ensure the implementation of the functions of sustainable agricultural development in all Arab countries.

Safar, on behalf of Kuwait, praised the tireless efforts of the Director General of the Arab Organization for Agricultural Development, Dr. Tariq ibn Musa Al-Zadjali and Chairman of the Organization's Executive Board, Dr. Fahd bin Abdulrahman Al-Ghoneim, in their efforts to attain the desired integration between the meeting Arab states. -KUNA

## Kuwait facilitates pilgrimage for Vietnamese Muslims



Acting Charge d'Affaires in Ho Chi Minh Abderrazaq Al-Khalifa poses with the five Vietnamese who were granted by the State of Kuwait the opportunity to go on Hajj this year. (KUNA)

**KUALA LUMPUR:** In the first project of its kind in Vietnam, the Kuwaiti Consulate has provided opportunities for a host of Vietnamese Muslims to go on Hajj this year, a gesture by Kuwait Awqaf Public Foundation, an official at the consulate told KUNA Sunday.

Acting Charge d'Affaires in Ho Chi Minh Abderrazaq Al-Khalifa praised this gesture saying it speaks well of Kuwaitis' love of fellow Muslims around the world. He noted there is a great need for more such brotherly gestures.

This project was appreciated and extremely well

received by the religious authorities in Vietnam, as well as those allowed to go on pilgrimage. The pilgrims were selected from among names on initial lists of people meeting specific criteria through a raffle, the official said.

Statistics show there are over 80,000 Muslims in Vietnam, the majority of them living in southern regions of the country.

The Kuwaiti diplomat expressed hope there would be another such gesture in the future which accommodates a higher number of deserving Muslims in this brotherly country. -KUNA

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