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THE CONTRACT FOR THE RECRUITMENT AND EMPLOYMENT OF  
DOMESTIC WORKERS (STUDY IN UAELAW NO.10 OF 2017)

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### **Abstract**

The study focus on the relationship of the recruitment office for the employment of assistive workers with the worker and the relationship of the recruitment office for the employment of domestic workers with the employer without addressing the general rules such as the relationship of the employer and the worker. We are trying to take what is new in Federal Law No. 10 of 2017 regarding domestic workers and its implementing regulations, Cabinet Resolution No. 22 of 2019<sup>5</sup>. Results of the study is several conclusions have been reached, which are :Not setting a definition for the domestic workers contract. Not attaching the contract form in the Domestic workers Law or its implementing regulations. Not to put a job description for the professions mentioned in the appendix to the Domestic workers Law. Recommendations of the researcher Through this research and after getting acquainted with the results, it can be said that there is a set of recommendations that we deem it necessary to follow, namely: The legislator must set a definition in which he clarifies the tripartite relationship that takes place in this contract and not only defining the employment contract, but rather clarifying this relationship. The legislator must attach a form of the contract in the Domestic workers Law or its executive regulations, since the contract is one of the formal contracts that the legislator has determined to be according to a model approved by the competent ministry

### **1-Introduction:**

The status of the worker in societies varies with time. In the past, the worker was employed under the system of slavery, and the employer considered him as a commodity or his private property. And the worker was bought and sold in the markets and there was no difference between him and the rest of the goods, and he did not possess the rights that exist in the legal legislation that we see today, because of the end of the time of slavery

and to provide the necessary protection for this employment, we have seen over time an evolution in terms of the worker's relationship And the business owner. The worker has rights other than what he was, as the worker did not have rights and was subjected to beatings when he violated the employer's orders.

However, this relationship developed as a result of the development of laws and the activation of workers protection organizations, and workers became treated with dignity and in a more humane manner. The State of the United Arab Emirates was a pioneer in this field as usual, as it respects the workforce and works to ensure that they enjoy their full legal and constitutional rights as well, the most important of which is that it is not permissible to employ them in forced labor (without remuneration) or in strenuous or stressful work from the guarantees in the law regulating labor relations No. 8 of 1980, which was issued even before the UAE Civil Transactions Law due to its importance.

### **1.1.The research importance:**

The spread of the phenomenon of the family's dependence on this assistive labor in life So, it has become in many societies to a need, and it cannot be dispensed with, and there is no vacant house unless there is a worker in it who helps, whether it is a farmer, gardener, shepherd, nanny, driver of professions. Usually the employer falls into a dispute between him and the worker's recruitment and employment office, as he may claim the latter with the expertise available in this worker, such as if he claims his experience in the field of agriculture and he does not know that. The worker is the weakest link in this relationship, and that is due to the reason Exploitation by the recruitment and employment office for assistive workers and the employer.

### **1.2.The Search problems:**

1. There is no definition explaining a contract for domestic workers.
2. The lack of job descriptions for the occupations mentioned in the Domestic workers Law Appendix.
- 3- Not including a form of the contract, as it is one of the formal contracts in which the legislator stipulated that it be concluded according to a form approved by the competent ministry.

### **1.3.Field of the study**

We will focus in this study on the relationship of the recruitment office for the employment of assistive workers with the worker and the relationship of the recruitment office for the employment of domestic workers with the employer without addressing the general rules such as the relationship of the employer and the worker. We are trying to take what is new in Federal Law No. 10 of 2017 regarding domestic workers and its implementing regulations, Cabinet Resolution No. 22 of 2019.

## **1. Introducing the domestic workers contract and its parties**

The Emirati legislator did not set a definition for this contract, but defined the work contract, and this is what the first article of the law (regarding domestic workers) stipulated that: (Every fixed-term agreement concluded between the employer and the worker regulates the rights and obligations of the two parties according to the model adopted by Ministry).

### **1.1. Defining auxiliary service workers contract and its parties**

It is clear to us from the definition that the contract was limited to two parties only, namely the worker and the employer, without mentioning the third party in this contract. It is a recruitment and labor office. The Emirati legislator did not limit itself to defining a contract for assistive workers, but knew and clarified the parties to this contract, as I mentioned, that this contract consists of three parties, they are the employer, the worker, and the assistant labor recruitment office.

The first party: the employer. The Emirati legislator defined the employer in the first article of the Domestic workers Law as: (Every natural person or recruitment office uses a worker to perform a work of domestic workers) and the definition matches the executive regulations of the Domestic workers Law. Article No. 1, it is clear that the Emirati legislator did not limit the employer to the natural person, but included in him an assistive labor recruitment office, and at first glance this worker cannot be envisioned as a worker under the supervision of the recruitment office. But the intent of this definition is that the assistant service worker He will work for the owner of the recruitment office and carry out any of the professions mentioned in the appendix to the Domestic workers Law, whether he is in the residence of the owner of the domestic workers recruitment office or not. The office has the right to have an assistive service worker to do the work of domestic workers<sup>1</sup>.

The second party: the worker. The Emirati legislator defined the worker in Article 1 of the Domestic workers Law as: (a natural person who performs auxiliary service in exchange for a comprehensive wage under the management, supervision and direction of the employer) and the definition is identical in the executive regulations of the Domestic workers Law in Article No. 1, and as it is shown that the worker performs his work in return for a wage, we cannot imagine that he will perform his work without pay, otherwise we were in the process of selling slaves. Previously, slaves used to work for free<sup>2</sup>.

The Emirati legislator was distinguished by the fact that it did not specify a place for work, such as a home only, but rather a definition to include places prepared for residence such as private farms, and this is what was stipulated in Article 1 of the Domestic workers Law in Article 1, which stipulated (the place designated for permanent residence or temporary residence of the employer or His family, the beneficiary of the service, or his family, including private farms and the like) and the application of the definition in the executive regulations of the Domestic workers Law in

Article 1, and it is worth noting that the professions defined by the legislator, some of them are for the performance of auxiliary service at home or a place designed to reside, such as a nanny and some others whose values cannot be imagined at home or a place prepared for residence such as the sailor, and the professions stipulated by the Emirati legislator in the appendix to this law are: (employee, sailor, guard, shepherd, sais, embedded, falconer, worker , Housekeeper, cook, nanny, farmer, gardener, private trainer, private teacher, private nurse, special representative, private agricultural engineer, private driver).

The third party: the recruitment office. The Emirati legislator defined the recruitment office in Article 1 of the Help Services Workers Law as: (The office licensed, in accordance with the provisions of this law, to mediate the recruitment of workers, based on what the employer requests from him or for temporary employment of workers), it is clear to us from the definition that the recruitment office must be licensed in accordance with the provisions of the Domestic workers Law and the executive regulations of this law.

It is worth noting that the Ministry has the right to refrain from granting a recruitment office license to whoever applied for this license in the event that he had previously obtained a license, but it was canceled previously because he lost one of the conditions mentioned or repeated a specific violation. This is stipulated in the executive regulations of the Service Workers Law from Article 2 in the second paragraph, which states:

The Ministry may refrain from granting a recruitment office license in the following cases:

A - If a license has been previously obtained and the license has been canceled or terminated by the Ministry for any reason.

B - Repeated violation of the license applicant of the legislation and regulations in force in the ministry.

I think that the definition of a domestic workers contract should be added, since the Emirati legislator limited himself to defining an employment contract without mentioning the contract that is agreed upon between the employer and the recruitment office.

## **2.2.Domestic workers Contract Properties**

This contract has many characteristics, including:

1- A formal contract: the domestic workers contract is considered one of the formal contracts in which it is not sufficient to match the offer and acceptance, but rather the parties must take a specific form, and this is in contrast to the consensual contracts, which are in which the two wills are identical. The principle in contracts is that they are consensual. In the contract, but it is permissible to agree to empty the two wills in a specific form, but as for the domestic workers contract, an explicit text was stated in

the Domestic workers Law explaining that it is a formal contract in Article 6, which states: (The employer is obligated to conclude an employment contract With the worker according to the form approved by the ministry, and the contract must be written in four copies, one of which is delivered to the worker and the other to the employer, and the third is deposited with the recruitment office and the fourth with the ministry). The Emirati legislator was not satisfied with stipulating in the contract for assistive workers that the contract be written only, but also stipulating that it be written in accordance with the form approved by the Ministry, which indicates the importance and seriousness of this contract<sup>3</sup>.

Named contract: The assistive employment contract is considered one of the named contracts because the legislator has organized this contract and put a specific name for it, and this is unlike what it was in the past

3- A binding contract for both sides: Some may call it a reciprocal contract, meaning the contract that creates mutual obligations and rights owed by the two parties. That is, each party is a creditor and debtor at the same time, when one of the parties fails to implement his obligation, the other party may request the termination of the contract or that he, too, abstains from fulfilling his obligation, as the obligations of each contractor are the reason for the commitment of the other contractor. This is the case in the domestic workers contract, because when the contract is established, the worker has an obligation to perform his work and has the right to receive a wage from the employer, and the recruitment office must provide the required competence in helping service workers and other obligations and rights,<sup>4</sup> which are We'll touch on it later.

4- It is considered one of the compensation contracts: The domestic workers contract is considered one of the compensation contracts for the employer and the worker, but we do not find anything wrong with the contract between the labor recruitment office and the employer from donation contracts, such as if the employer is one of the friends of the office owner and provides him with a free service, which is bringing a worker Or bring workers for free<sup>5</sup>.

5- A time contract: It means the time contract or the term contract. They are those contracts in which the element of time is essential, where the corresponding obligations owed by the two parties are determined by the time period during which the contract is in force. In a help service worker contract, the employer has to pay the wages due during the validity period of this contract in exchange for the service or work performed by the assistant service worker, and this is in contrast to the immediate contracts in which the time component does not affect the obligations of the parties from a decrease or increase, such as a sale contract, And the period specified in the domestic workers contract is two years, and it may be renewed for other periods, and this is what Article 7 of the Domestic workers Law stipulates, which stipulates: Other, by agreement of the two parties). Article 17 of the Executive Regulations for the Domestic workers Law stipulates that (The employment contract is for a limited period of two years, and may be renewed for the same period. If the two parties continue

to implement it after the expiration of its original period, the original contract shall be considered implicitly extended with the same conditions contained therein, including Duration clause)6.

6- A specific contract: a help service worker contract is one of the specific contracts in which each of the parties knows when contracting how much he takes or what he gives, and it is unlike potential contracts or Ambiguity in which each of the contractors when contracting does not know precisely how much or what Gives like an insurance contract. In addition, the performance of the duty is not dependent on an unknown matter at the time of its occurrence, which creates obligations and rights7.

7- A contract of compliance: the nature of compliance prevails over domestic workers contracts because it is one of the contracts in which it is not possible to bargain due to the development of this type of contracts to the society's need, such as electricity and water contracts. The employer must conclude the contract according to a model approved by the Ministry and subject to the laws without He leaves a wide room for bargaining in this contract, and in addition to that, the legal position differs between the assistant service worker and the employer, as the former is in need of work and is subject to the terms of this contract without compromising because of his need8.

This is what was stipulated in Article 145 of the UAE Civil Transactions Law, which stipulates (Acceptance in compliance contracts is limited to merely submitting to similar conditions that the obligor sets for all his clients and is not acceptable to discuss with them). Therefore, it can be said that any contract in which the second party accepts the conditions set by the first party is considered compliance contracts. This is the modern approach to defining compliance contracts without requiring that the first party be a monopolist for the commodity or service subject of the contract.

8- It is considered one of the contracts that are based on personal consideration: the personality of the assisting service worker in the contract is considered to be of interest in terms of his efficiency, experience and capabilities, 9so it is not possible to delegate another person to do his work based on the text of Article 16 in the first paragraph of the Domestic workers Law, which stipulates that (Performing the work himself according to the direction and supervision of the employer .....). Accordingly, the obligation of the auxiliary service worker does not transfer to the heirs upon his death to implement it, as the contract ends upon the death of the assistant service worker as it is one of the contracts that are based on personal consideration, and on the other hand, the worker may not send another person on his behalf to do the work. This may happen, for example, a person negotiates on the basis that he is the worker, and after completing the negotiations and signing the contract with him with the office, this worker sends another person on his behalf to do the required work, even if he has the same competencies and capabilities, in our estimation here the contract will be void and the office or the owner may The action or any injured party may demand its heroes. He may also claim compensation, considering that this is a form of the harmful act.

### **3. Adaptation and nature of the assistant service workers contract**

First , we will deal with the adaptation of the domestic service works contract, and secondly ,we will deal with the team of the domestic workers contract

#### **3.1.adaptation of the domestic service works contract**

We have to adapt this contract as it is one of the contracts recently organized by the Emirati legislator, and the understanding may be mixed between it and some contracts, that this contract consists of two parties, the employer and the assistant service worker, and the contract is made through the mediator, which is the office of assisting workers. Although it is a contract consisting of two parties and the contract is through an intermediary and has its own characteristics and legislation, this does not justify the failure to confuse it with some contracts. Accordingly, many questions may arise, is it a work contract, a sale contract, or a contracting contract, and why has the legislator not regulated it in the labor law, and we will explain each of them in a separate section.

*First*, distinguishing domestic workers from an employment contract.

Among the contracts in which confusion may occur with a domestic workers contract is the employment contract despite an explicit provision that excludes this category, and this is what Article 3 and Paragraph (c) of the Labor Law stipulated: (The provisions of this law do not apply to the following categories: ..... c- Private household servants and their like)

Among the differences between an employment contract and a help service worker contract are:

1 . Mediator: In domestic workers contracts, there is a third party in it, and the mediator in this contract is not present in the work contract, and it is an office for the recruitment of assistive workers, and the latter is like all the parties, so he is committed to fulfilling the obligations, whether stipulated by law or that have been agreed upon by the employer and the worker.

2 . Termination of the contract: In the work contract after the expiry of the period, the employer may or may not renew in addition to that, the employer may terminate this contract during this period in the event that the worker breaches his obligations and then he must search for another worker. As for the domestic workers contract, the employer has the right to change the assistant service worker and replace him with another worker according to the reasons stipulated by law, whether he has failed in performing his work or lacks the qualifications to perform the work assigned to him and other reasons that we will mention later. It is clear to us that the legislator distinguished the employer in the employment contract from the employer in the domestic workers contract. The employer in the work contract has to look for a worker who has the competencies required

to perform the work. As for the employer in the help service worker contract, he uses the office that recruiting and operating Domestic workers to get a new worker to do the work specified by an employer when he contracted with the recruitment office<sup>10</sup>.

**Second:** Distinguishing domestic workers from the contract of sale.

The domestic workers contract is distinguished from the sales contract in that it is a benefit contract, while the sale contract is a property contract<sup>11</sup>.

A question may arise that as long as the domestic workers contract is focused on the worker and his service, how is this not considered human trafficking, in both cases the person is under the supervision of another person. And the answer to this question is that in human trafficking it is usually for illegal acts because it is not regulated by the state. The state has defined and put in place laws that protect victims of human trafficking from being exploited in doing work that may be illegal or very strenuous and for a fee that he cannot obtain Life necessities. Therefore, the Emirati legislator has regulated the issue of bringing in assistive workers and stressed the issue of the conditions for bringing in this worker because it is possible that some bring in minors and sell them or exploit their need for money and oblige them to work illegally - such a matter we did not find in the Emirates, thank God - even if the legislator did not address The UAE decided to regulate this issue in the Domestic workers Law, but it was organized in an independent law, namely Federal Law No. 51 of 2006 regarding combating human trafficking crimes. Some believe that it is easy to practice human trafficking by recruiting and defrauding them under the pretext that they got a job. We do not agree with this, as the UAE is one of the first countries in protecting human rights and dignity, and we have never heard of such behavior in the UAE.

**Third:** Distinguishing domestic workers from contracting

One of the contracts that is similar to the domestic workers contract is the contracting company, both of which are contracts obliging one of its parties to perform a specific work in return for the agreed wage. But they differ from the survivor of the dependency, so the assistant service worker follows the employer and works under his supervision and guidance, and this is unlike the contracting contract where the contractor does not work under the supervision and direction of the other party, but rather an agreement is made on the work, and then the contractor proceeds independently of the will of the employer<sup>12</sup>.

We note that the domestic workers contract is a contract concluded between two parties, the employer and the assistant service worker, through an intermediary, which is the recruitment office for domestic workers, and the contract has characteristics that distinguish it from others. We cannot consider it a sale contract, employment contract, or contracting contract despite the aforementioned similarity. Based on that, I see that the Emirati

legislator distinguished himself when he enacted a special law that would regulate it and define its terms and conditions, as it is one of the important contracts in the society of the UAE.

### 3.2 .Nature of help service worker contract

Since the help service worker contract is one of the contracts that have changed and have special legislation, meaning that it is one of the named contracts, in addition to its characteristics that distinguish it, we have to address the adaptation of the nature of this contract after distinguishing between it and other contracts, we should define the law applicable to this The contract, is it a commercial contract that is subject to commercial law or a civil contract that is subject to civil law? But in this contract it cannot be adapted directly because it consists of two parties and a mediator. We have to adapt it according to the relationship between the parties.

It is not possible to imagine the relationship between the employer and the assistant service worker that the relationship between them is considered commercial, because the two parties do not seek speculation and it is the pursuit of profit, and the goal of this contract cannot be trading and is intended to be the movement of goods, money and papers Commercial. Based on this, it becomes clear to us that the business owner contracts with the aim of obtaining a service that facilitates the process of managing his home or working in it without having a financial return, as well as for the auxiliary service worker, he contracts in order to obtain the wage, but it cannot be considered a business. This is due to its loss of the speculation and trading elements, and it cannot be considered a business. In addition to that, the assistant service worker contracts with the employer with the aim of his need to provide for his needs and help his family, who are usually abroad, and it is not conceivable that this is a worker who left his country for another purpose. He works to provide for his needs and help his family<sup>13</sup>.

As for the relationship between the employer and the domestic workers recruitment office, the contract for the employer is considered civil, as I mentioned, but it is considered commercial for the domestic workers recruitment office. Because domestic workers recruiting offices seek to contract in order to obtain profit, that is, seek to achieve profit, which is what the merchant does and is called speculation, and this is what Article No. 4 in the second paragraph of the Commercial Transactions Law stipulated that: (Business is / 2- The speculative actions carried out by the person even if he was not a trader with the intention of making a profit). And in the event that a contract was concluded between the employer and the service worker, the situation would have been as I mentioned that it is subject to the rules of civil law, but the UAE legislator. Therefore, the domestic workers contract is considered a contract of a mixed nature.

The relationship between the employer and the worker is under the rules of the Civil Transactions Law. As for the relationship between the employer and the domestic workers recruitment office, it is a relationship that is subject to the rules of commercial law, as well as for the relationship

between the worker and the domestic workers recruitment office. It follows from this adaptation that in the event of a dispute, the rules of the civil transactions law are applied in case the dispute is between the employer and the worker, and the rules of commercial law apply in case the dispute is between a help service worker and the employer or worker. In all cases, we must mention that the Domestic workers Law and its executive regulations are applied to resolve disputes, regardless of whether the work is civil or commercial. This is in the event that there is a text, but in the absence of a text in this law and its regulations, then it is necessary to refer to the Civil Transactions Law or the Commercial Law according to the legal nature.

#### **4. Elements of domestic workers contract:**

##### Satisfaction and formality in helping service workers

The principle is in consensual contracts, that is, writing is not required unless the law stipulates or the two parties agree on that, so there must be correct compromise before writing a contract with domestic workers. And consent means the presence of the will of the contractor and the direction of this will to the achievement of a legal order after it coincided with the will of the second party. And this will is expressed by any means of expressing the will, such as verbal or non-verbal expression, such as writing, indicating and verb, regardless of whether the will is explicit or implicit. In this section, I will not dwell in the explanation on the methods of expressing the will and on the congruence of offer and acceptance (the congruence of the two wills) in order to avoid repetition in the explanation of these topics **14**.

##### **4.1. capacity**

In order for the contract to be concluded in a correct manner, the employer, the assistant service worker, and the domestic workers recruitment office must have eligibility, and the performance eligibility will be shown and divided to know the eligibility that must be available in each party. As for the eligibility for obligation, it is the human's ability to establish rights for him and its mandate for the existence of the person, and it is unlike the capacity for performance, which is the authority to use rights and achieve the legal effect, and its mandate is perception and discrimination. What matters to us is the eligibility of performance for the three parties, and this is what we will explain in the following:

A- Full capacity: If the person has reached the age of majority and is in accordance with the Civil Transactions Law in Article 85, which stipulates: (1 - Every person who reaches the age of majority, enjoys his mental powers and has not been forbidden, he shall be fully competent to exercise his rights stipulated in This law and the laws branching from it, 2- And a person reaches the age of majority if he completes twenty-one lunar years) It is clear to us from the text that the legislator has determined the age of majority, which is 21 lunar years, and a person is considered fully competent upon reaching this age, provided that he enjoys his powers The mentality, meaning the absence of any of the symptoms of eligibility, such

as insanity, dementia, inattention and foolishness. If he has reached the age of majority and enjoys his mental powers without any symptom of eligibility, then he can conclude all contracts, including the contract of domestic workers<sup>15</sup>.

B- Deficient Eligibility: The person with incomplete competence is someone who has reached the age of discernment and has not reached the age of adulthood, and he is called the discerning boy. The age of discrimination is seven lunar years and this is what Article No. 86 of the Civil Transactions Law stipulates: (Anyone who has not reached the age of seven is considered incapacitated. (In addition, a person who has reached the age of majority and was foolish or negligent is considered incompetent, and this is what Article No. 87 of the Civil Transactions Law stipulates :) Everyone who has reached the age of discrimination and has not reached the age of majority and whoever reaches the age of majority and is foolish or careless, he shall be incompetent according to the provisions of the law.)

The incompetent person has the right to conclude beneficial contracts purely for the purpose of that, is that it is the right of a person who lacks competence, whether he is a discerning boy and has not reached the age of adulthood, or is foolish, or he is negligent, to accept donations only. In this case, his actions are considered correct, but if they are purely harmful, then they are void as a gift, then it is considered to the donor as purely harmful, and therefore it is considered a void action if it is issued from a person who is incompetent, and this is what Article No. 159 in the first paragraph of the Civil Transactions Law stipulated: The financial actions of the discerning young person are valid when they are purely beneficial, and void when they are purely harmful<sup>16</sup>.

As for the contracts between benefit and harm, they are dependent on the guardian's permission or the permission of the minor after reaching the age of majority. Actions circulating between benefit and harm are dependent on the guardian's permission within the limits in which he may act initially or the minor permitted him after reaching the age of majority). And based on what I mentioned previously in the characteristics of the domestic workers contract, the help workers contract is considered a contract of compensation and contracts whose characteristics are netting, as it is a circle between benefit and harm<sup>17</sup>.

And it is worth noting that it is not possible to imagine the assistant service worker who has reached the age of discrimination, but he is 12 years old, for example, and works under the supervision and administration of the employer because the guardian has authorized this, because despite reaching the age of discrimination and the guardian has authorized this contract, the assistant service worker is exposed to It is higher for him to be a victim of human trafficking crimes, and in addition to that it is unimaginable to undertake the professions stipulated in this law. Likewise, if he had reached the age of adulthood and was foolish or negligent, therefore the Emirati legislator had put texts that limit the possibility of these crimes occurring or to protect the weak party, who is the helping service worker, to fall into hardship because of the obligations that he has

due to the domestic workers contract. The law that the Emirati legislator put in place in the Domestic workers Law is Article 3 in the third paragraph, which states: (..... and in all cases it is prohibited to recruit or employ a worker whose age is less than eighteen Gregorian years).

This text is clear to us. The Emirati legislator specified for the worker to have completed eighteen years of age in order to be able to work and the researchers see that it is conceivable for those who have reached this age that he will be able to carry out the professions stipulated in this law. Help is to work in a profession that is difficult for him to perform and protects the employer from supervising and managing the assistant service worker in a profession that he cannot perform. Therefore, Article 7 in the first paragraph of the executive regulations of the Domestic workers Law stipulates: (A) Conducting a medical examination Mass of the worker, to be sure Fitness for the work to be done. This is in terms of his physical, mental and psychological ability and that he does not suffer from any chronic or contagious disease or from health conditions that reduce his ability to accomplish the work). It is clear to us from the text that the assistant labor recruitment office must conduct an examination of the domestic worker in order to ensure his health, fitness and ability to authorize the work assigned to him by the employer, and I will clarify the obligations of the assistant labor recruitment office in the next chapter.

C - Incompetent: they are three, the person from his birth until the completion of seven full lunar years, and the person suffering from dementia or the afflicted. This is what Article 86 of the Civil Transactions Law stipulated: (He shall not be eligible to exercise his civil rights for a person who lacks discrimination due to a young age, dementia or insanity, and everyone who has not reached the age of seven is considered to have lost discrimination). Discrimination is null, whether the disposition for him is purely beneficial or harmful, purely harmful, or a circle between benefit and harm, because the non-discrimination has no will, and legal action is based on will. Likewise, the insane and the imbecile shall have no capacity and all their actions are absolutely null and not permissible even with permission. He has any contract because the owner has no will and no will, and he has no capacity to conclude any contract, including a contract of domestic workers<sup>18</sup>.

#### **4.2. the defects of satisfaction**

Satisfaction cannot be considered valid if there is a defect of satisfaction, even if the contract is concluded and eligibility is available,

Based on that, consent must be safe from faults, and among the faults of consent is coercion, deceit, unfairness, and error.

A) Coercion: It is unlawfully stripping a person's will and obligating him to contract without his consent, whether this coercion is material or moral, and this is what is clear to us from the definition in Article No. 176 of the Civil Transactions Law, which states: (Coercion is forcing a person without right to To perform work without his consent, and coercion is recourse or not, as it may be material or moral.

All of the aforementioned applies in the event of coercion occurring on one of the contracting parties in a domestic workers contract, but it is not conceivable that one of the parties contracted with the heirs of the assistant service worker in the event that the assistant service worker dies and then the coercion ceases because as I mentioned that the domestic workers contract is one of the existing contracts. On personal consideration, that is, the auxiliary service worker was contracted with in order to carry out certain jobs that require specific expertise and competencies, so the contract does not pass to the heirs of the assistant service worker<sup>19</sup>.

B) Deceit and unfairness: deception is intended to deceive one of the contracting parties by fraudulent verbal or verbal methods that make him enter into a contract, and if he had not been deceived, he would not have contracted, and this is what Article No. 185 of the Civil Transactions Law stipulated: (Deceit is to deceive one of the contractors The other by means of fraudulent verbal or verbal means that leads him to accept what he would not be satisfied with by others).

As for unfairness, it is either minor injustice or gross injustice, minor injustice and it is what falls under the evaluation of the evaluators and people usually tolerate it, such as if the seller sells something for ten dirhams and its value is nine dirhams or eight dirhams, this is considered minor unfairness, but if its price is five or four dirhams For example, it would have been gross injustice because it does not come under the evaluation of the constituents, meaning that the defective injustice of consent is obscene unfairness, and among the conditions that must be met in order for the defective change to be fulfilled are:

1- Using fraudulent means: These methods vary, because they may be positive, such as if the employer is informed by a help-service worker recruitment office that the assistant service worker is familiar with the principles of the profession and has sufficient experiences to perform all the tasks and if not this lie, the employer would not have contracted. Fraud is negative, such as silence, in a situation that requires disclosure and statement, such as if the assistant labor recruitment office is silent about its knowledge of something.

2- That deceit leads to the contractor falling into obscene unfairness: that is, deceit that leads to minor unfairness, this is not a disgrace to consent and usually people tolerate it, but if it was obscene then it would have been a defect for consent.

3- The deception is the motive for the contract: whether the deception is positive or negative, then this change must be the motive for contracting, and the criterion here is a personal criterion for the judge of the matter to decide.

As for the effect of deception with gross unfairness, the contract becomes unnecessary and the injured party has the right to rescind the contract. This is what Article No. 187 of the Civil Transactions Law stipulated: (If one of the contracting parties deceives the other and it is ascertained that the contract was done with gross disgrace, the one who was

deceived by him may terminate the contract). If he deceived one of the parties to the domestic workers contract, then he has the right to terminate the contract, whether it is the employer, the assistant service worker, or the domestic workers recruitment office, and this right is for the person who deceived him only without the other so as not to benefit from his mistake<sup>20</sup>.

T - error: and it is a delusion other than the reality, such as if a person fancies the validity of an incorrect event or vice versa, and the mistake may be defective to consent or not defective to consent, and error that is not defective to consent, such as if one of the contractors makes a mistake in writing the agreed price, this does not affect the contract Is being corrected. As for the mistake that defects consent is that which occurs on one of the conditions of the contract, the subject of the contract, or the nature of the contract, and this is what Article 194 of the Civil Transactions Law stipulates: (If the mistake occurs in the nature of the contract or one of the conditions of the meeting or in the place where the contract is nullified) It is clear to us from the text that if there is a mistake in the nature of the contract, a condition of the contract conditions, or the place of the contract, such as if the employer contracts with a domestic workers recruitment office in order to provide a support service worker who does the work of the cook, then it turns out that he is a farmer, then the employer has the right to cancel the contract. This is what Article 195 of the Civil Transactions Law stipulates: (The contractor may annul the contract if he makes a mistake in a desirable matter as an attribute in the place or the same or an attribute of the other contractor)<sup>21</sup>.

It is worth noting that I think it is possible for the Emirati legislator to add exploitation as a defect of the will, similar to what the Iraqi legislator did in Article 125 of it, because this type of contract in which exploitation is common and easy due to the weakness and poverty of the assistant service worker and his need for work. It may also be exploited by the employer, but the UAE legislator has put in place a text that protects the assistant service worker from this exploitation. But he explained it in the form of a form of exploitation, which is Article No. 4 in the second paragraph of the Domestic workers Law, which states: (That he does not ask himself or through others, or accept from any worker, whether that is before or after starting work.”This is one of the most common forms of exploiting the need of the help service worker, as he is in need of work, then the domestic workers recruitment office stipulates that he will find a job for him on the condition of obtaining a commission that is not originally It is the right of the Office of Assistive Labor Recruitment and this affects the assistant service worker, and the assistant service worker is considered to be harmed as a result of this exploitation and exploitation resulting in gross injustice and this exploitation occurs in the compensation contracts and the domestic workers contract from the compensation contracts, or the effect of this exploitation on the contract We recommend that the aggrieved party may file a lawsuit or review the relevant authorities within a year from the date of exploitation, in which the exploitation is requested to be raised to a reasonable extent.

### **3.3. Formalism in a help worker contract**

Satisfaction alone is not sufficient for the domestic workers' contract to be a valid contract, rather it must be written, as writing is a condition for the validity of the contract and not only for proof. This is what is meant by formalism, i.e. emptying the will of the contractors in a specific form. The Emirati legislator has defined the formalism required in the domestic workers contract between the employer and the recruitment office, which is the conclusion of the contract according to the model approved by the ministry and under specific conditions<sup>22</sup>.

### **4. The shop and the reason for holding domestic workers**

**4.1. The shop** is one of the pillars of the contract, and it is not possible to imagine a contract without a place that the contracting parties intend to implement. The conditions of the shop are three, which are:

1- Whether the shop exists or is possible: With regard to a domestic workers contract, the work that the assistant service worker performs is the shop. And it must be possible and able to assist the service worker to perform his work to the fullest extent according to the professions mentioned in the Appendix to the Domestic workers Law. It is not possible to imagine this work to be present as it is not a material thing like the leased property in the lease contract, but it must be possible for the assistant service worker, as there is a confusion between the place of the contract and the place of obligation, so we find that the work in reality is the subject of the obligation and not the subject of the contract. Therefore, it must be possible to do it, and we are not talking here about existence or not, or the allowance that is paid is the subject of the contract,

In addition, the wage paid by the employer is subject to the contract, and for domestic workers recruiting offices, the recruitment of this worker is subject to obligation<sup>23</sup>.

2- The place is designated by a designation that precludes ignorance: It is stipulated in the contracts of compensation that the place be designated for a designation that is denial of ignorance, so it is appointed either by reference to it if it was present at the time of the contract or by indicating its description and specifying its amount. In the domestic workers contract, the work performed by the help service worker is the subject of the contract for the assistant service worker. The parties must assign the work assigned to the assistant service worker and clarify it. This is what the legislator specified when he stipulated that the domestic workers 'contract must be concluded according to the model approved by the Ministry. This model includes the rights and obligations based on the subject of the contract, whether it is work, wage or recruitment<sup>24</sup>.

3- The shop must be legitimate: that is, the place of obligation must be legitimate, and the place of the contract must be legitimate, otherwise the

contract is void, as for the domestic workers' obligation, the work performed by the assistant service worker must be legitimate in order to be correct. Therefore, the UAE legislator specified the works in the appendix to the Domestic workers Law that the assistive service worker is appointed to carry out. In the event that the work assigned to the worker is not mentioned in this appendix, the contract is void, because if the profession is different, but his project is such that this work falls within the scope of the labor law, it is not permissible for the domestic workers recruitment office to bring in these workers because of the permit that restricts it unless Obtaining approval from the competent authorities. This is what was stipulated in Article 3 in the fourth paragraph of the Domestic workers Law, which states (It is not permissible to employ workers in jobs that are not subject to the provisions of this law except after obtaining the approval of the competent authorities). Regarding the location of the contract, the assistant service worker is not permitted Acceptance of the wage if it is illegal, such as if the wage is money that is not valued, such as drugs.

In addition, it is not permissible for the work to be contrary to public order and public morals, such as if the employer appoints him to sell drugs or contraband, with regard to the location of the contract, the wage that the employer will pay cannot be unlawful, such as if the wage is a quantity of drugs, and for a recruitment office Domestic workers cannot recruit under the specified age (18 years of age) or accept an illegal allowance<sup>25</sup>.

#### **4.2.The reason for holding domestic workers**

The reason is one of the pillars of the contract, and the reason may be sought because of the contract is the distant, indirect personal purpose that the contractor wants to achieve from behind the conclusion of the contract, or the meaning of the reason may be rejected because of the obligation and it is the direct purpose that the contractor intends behind his commitment. The reason is legitimate and does not contradict public order and public morals, otherwise it is void, such as if the employer contracts with the assistant service worker to do the cooking, but the real motive for the employer is for the service worker to exploit the help to do an illegal work, such as making wine, and this indicates that the motive The real reason for the employer is to bring the help worker for an unlawful reason, as for the reason for the commitment, the reason for the employer's commitment to pay the wage for the assistant service worker is for him to do work, and the reason for the help worker's commitment to work is the reason for the employer's commitment to pay the wage. As for the domestic workers recruitment office, it is The reason for the commitment is to obtain an allowance from the employer, and therefore the reason for the commitment must be legitimate, correct and present, otherwise the contract is null, such as if the employer agreed with the recruitment office to bring in a minor, so the reason for the commitment The obligation of the employer to pay the allowance is to obtain a minor, and this reason is illegal<sup>26</sup>.

#### **5.Results:**

In this research, several conclusions have been reached, which are:

- 1- Not setting a definition for the domestic workers contract.
- 2- Not attaching the contract form in the Domestic workers Law or its implementing regulations.
- 3- Not to put a job description for the professions mentioned in the appendix to the Domestic workers Law.

#### **6.Recommendations:**

Through this research and after getting acquainted with the results, it can be said that there is a set of recommendations that we deem it necessary to follow, namely:

- 1- The legislator must set a definition in which he clarifies the tripartite relationship that takes place in this contract and not only defining the employment contract, but rather clarifying this relationship.
- 2- The legislator must attach a form of the contract in the Domestic workers Law or its executive regulations, since the contract is one of the formal contracts that the legislator has determined to be according to a model approved by the competent ministry.
- 3- Develop job descriptions for the professions mentioned in the appendix to the Domestic workers Law.

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