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RESEARCH ARTICLE

PERFECT SUSPENSION OF WORK: ALTERNATIVE OR ABUSE OF SOCIAL BENEFITS IN TIMES OF PANDEMIC

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Abstract

The purpose of the research was to determine the impact of the Perfect Suspension Of Work (SPL) on the social benefits of workers during the state of sanitary emergency 2020. The methodology is: applied, non-experimental design, quantitative approach and cross-sectional; through the technique of documentary analysis and the data registration form, the study considered the information reported by the Ministry of Labor and Employment Promotion, and reports and publications of regulations applied and enacted during the state of sanitary emergency. The results showed that 298,677 workers were included in the SPL, where 98.12% belong to the private sector, 48.51% to companies with more than 100 workers, 26.05% receive remuneration between S/1000.00 and S/1500.00 soles, the most affected activity is the real estate activity with 15.85%; and the employers have a debt of more than 27 million soles with the AFP, where 80.67% are in judicial collection and the granting of social benefits were computed by days actually worked. In conclusion, the SPL has had a negative impact on social benefit payments and workers' retirement funds.

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Introduction:-

The right to work has been in constant changes and discussions, either to achieve: respect, recognition and preservation. To its increasingly conflictive form we can attribute: technological evolution, population growth and corporate and commercial administrations that prevent the fulfillment and respect of workers' rights, thus allowing many employers to avoid paying social benefits. In the year 2020, the state of health emergency due to the outbreak of the COVID-19 virus, rulers of different countries agreed that, to avoid transmission and contagion of this virus, mandatory social isolation was necessary. The health crisis brought to light the deficit of legal labor and the vulnerability of millions of wage earners in the world. The International Monetary Fund (IMF) and the International Labor Organization (ILO) predicted that by the end of 2020 the loss in wages would be 3.4 trillion dollars; compulsory social isolation affected almost 2.7 billion workers causing 25 million unemployed in the world. (United Nations Organization [ONU], 2020)

In the USA, according to Stanton (2020), the "Response to the Coronavirus, Families First" Act was enacted in order to mitigate the economic, social and labor impact of the health emergency, which sought to ensure that workers did

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not see their payroll reduced and public health coverage undermined; private employers with fewer than 500 workers were granted paid sick, family and medical leave; the cost of such leave was reimbursed to them through tax credits. The U.S. Treasury Department (2020), through the Coronavirus Assistance, Relief and Economic Security Act, provided financial support to companies that retained their employees, defraying 50% of up to \$10,000 dollars in wages paid in businesses affected by the crisis.

In South American countries such as Brazil, labor measures included: advance payment of individual vacations, advance payment of holidays, home office, bank of hours, Lay Off (temporary suspension of employment combined with professional qualification resources), suspension of payment of the Guarantee Fund for Time of Service (payrolls for March, April, May paid in up to six parts starting in July without fines or interest), reduction of the social security payment from 5.8% to 4.55% of the social security payment (April and May), the labor risk of March and April could be paid in August and October, the suspension of labor contracts and the reduction of working hours and salaries (from 25% to 70%) for a maximum of ninety days, the suspension of contract by formal agreement with the employee for a maximum of sixty days with the employer continuing to pay social benefits. (BasqueTrade, 2020)

In Peru, temporary labor measures to deal with the health emergency included: the provision of delayed or early vacations, reduction of working hours and salary readjustment (temporary), leave without pay, authorization for companies to postpone the delivery of the Compensation for Time of Services (CTS) until November 2020 and, as a last option, the authorization of the Perfect Suspension of Work (SPL), subject to compliance and presentation of requirements. (Pita, 2020)

Therefore, with the purpose of alleviating the economy of Peruvians through Emergency Decree 038-2020, the availability of the withdrawal of CTS was authorized, up to one gross monthly salary for each month completed that the SPL lasts and through Law No. 31017 the withdrawal of up to 25% of the Individual Capitalization Account (CIC) of the Pension Fund Administrator (AFP) was authorized for the case of SPL the withdrawal of S/2,000.00 soles; and for the rest of the population from the value of 1 Unidad Impositiva Tributaria (UIT) (S/4,300.00 soles) up to a maximum of 3UIT (S/12,900.00 soles). (Chávez, 2020)

Unfortunately, despite the optional measures dictated by the Government, more than 80 thousand fixed-term contracts have not been respected, up to June 20, 2020, more than 29 thousand 519 companies submitted their request to apply the SPL, affecting approximately 298 thousand 667 employees who did not receive their salary for a maximum period until October 7, 2020 (Alcalá, 2020). As can be seen, a large number of companies requested to apply this labor figure, and if accepted, this would result in a decrease in short-term social benefits and retirement benefits for their workers.

Statement of the problem:

What is the impact of the perfect suspension of workers' social benefits during the state of health emergency 2020?

Main objective:-

Determine the impact of the perfect suspension of workers' social benefits during the state of health emergency 2020.

Specific objectives:

- i. Register information on workers according to the main vulnerable groups during the state of health emergency with the Labor Administrative Authority (AAT).
- ii. Detail the number of members who resorted to withdrawing from the AFP pension fund during the state of health emergency.
- iii. State the legal provisions applied to the payment of social benefits: vacations, CTS, ordinary bonuses and AFP, of workers during the perfect suspension of work.

Study hypothesis:

The perfect suspension of work during the state of sanitary emergency has a negative impact on workers' social benefits.

Theoretical framework:

Quintana (2021), whose objective was to analyze the development of the Private Pension System-Peru, obtained the following results: the members who have withdrawn 95.5% of their funds are those between 30 and 50 years of age, who represent 61% of the total number of members of the SPP, who have lost 60% of their pension funds, in addition to the difficulties they will have to face in order to accumulate these funds again and thus obtain an appropriate pension.

For L'institut Paris Region (2020), in its technical dossier on The impact of the Covid-19 crisis on the French economy, whose objective was to analyze the aftermath of this major crisis on the economy of the Paris region and its resilience, concluding that the massive recourse to support policies of the public authorities, allowed to cushion the crisis in certain sectors: part-time work (the active population affected is 11.3 million in France), especially in the art industries, entertainment, and construction. The Solidarity Fund was created for small businesses, the self-employed and micro-entrepreneurs.

Meanwhile in Portugal, for Paes et al. (2020), whose objective was to provide a practical tool to diagnose, in real time, the impacts of the COVID-19 pandemic on employment based on policy responses; concluding that: the collective commitment to tripartite social dialogue and the creation of a broad consensus helped to steer the response to the crisis and the development of solutions - such as simplified layoffs - allowing to adjust policy measures to economic and social changes.

For Shuai et al. (2020), in their difference-in-difference (DID) documentary analysis research, they evaluated the dynamics between COVID-19, the labor market and government policies in the United States of America; their objective was to know if the different government policies had been effective in stabilizing the labor market, in particular the Paycheck Protection Program (PPP) and the extension of unemployment benefits. They concluded that: the PPP helped stabilize wages, but also suppressed labor demand; increased only in health-related occupations.

Meanwhile, in Colombia, Zapata (2020), whose objective is: to determine the effects on labor matters of the norms during the state of emergency. She concludes that in the labor sphere, measures and forms of labor are used and regulated such as: work at home, paid leave, salary without service obligation, vacations, flexible working hours, elements of defense of the unemployed and layoffs; causing changes in labor ties and economic perceptions of workers, causing a condition of unemployment and reduction of income.

In the case of Paredes (2019), in Trujillo - Peru, in his basic descriptive research, whose objective was to discern the way in which the perfect suspension of work, which is granted automatically at the request of the employer in the processing for collective dismissal for economic reasons, violates the powers of the worker. It determines that this dismissal procedure favors the employer and violates the rights of the workers; arbitrary for the collaborators and advantageous for the employers.

Variable 1: Perfect Suspension of Work

It refers to a labor break of the parties involved in an employment contract, allowing the worker to stop performing their work duties which leads the employer to stop canceling the work days not performed, this can occur individually or collectively, thus seeking to maintain the labor bond between the parties involved. (Supreme Decree N° 011-2020-TR, 2020, art.5).

Variable 2: Social Benefits

It is an untouchable allowance added to the salary granted by an entity, public or private to its workers, where its main objective is to prosper the quality of life of the human resource, attending to their main labor, family and personal needs according to the effort made in the organization. (Miranda, 2019)

Type of investigation:

Applied quantitative approach.

Research design:

Non-experimental-transversal

Sample:

The sample was considered to be the number of workers at the national level in 2020, according to the requests submitted to the virtual platform of the MTPE for the application of the perfect suspension of work.

Data collection techniques and instruments

Documentary analysis-Registration form

Results:-**Table 1:-** SPL requests registered through the virtual platform.

Indicators	Virtual platform MPTE-SPL
N° of applications registered	39,767
N° of companies	32,088
N° of workers	298,677

Note: The number of companies is a one-time count of the total number of applications registered. The last job position is taken according to the date of registration of the person's status.

Source: Letter N° 2867-2021-MTPE/4.3

Table2:-Registered SPL applications by type of employer.

Type of Employer	N°ofWorkers	%	N°ofCompanies	%
Private	293,057	98.12	30,197	94.11
Public	85	0.03	16	0.05
Other	79	0.03	18	0.06
No information	5,456	1.83	1,857	5.79
Total	298,677		32,088	

Source: Letter N° 2867-2021-MTPE/4.3

Table3:-SPL by company size and number of employees.

Company size according to number of workers (electronic spreadsheet)	N°ofworkersRequested				N°ofApplicantCompanies	
From 1 to 10 workers	71,238		23.85%	24,354		75.90%
From 11 to 100 workers	77,092		25.81%	4,932		15.37%
More than 100 workers	144,891		48.51%	945		2.95%
No information 1/	5,456		1.83%	1,857		5.79%
Total	298,677			32,088		

Note: 1/ Not registered in the electronic payroll. Source: Letter N° 2867-2021-MTPE/4.3

Table4:-SPL according to pay range.

RemunerationRange	Company Size						No information 1/	Total		
	From 1 to 10 Workers		From 11 to 100 Workers		More than 100 workers					
Minor of 930	5,700	8.00%	4,621	5.99%	8,971	6.19%		19,292	6.46%	
930	32,180	45.17%	8,936	11.59%	2,352	1.62%		43,468	14.55%	
>930 - 1000	3,622	5.08%	3,444	4.47%	3,610	2.49%		10,676	3.57%	
> 1000 - 1500	14,823	20.81%	25,463	33.03%	37,523	25.90%		77,809	26.05%	
>1500 - 2400	4,869	6.83%	16,781	21.77%	41,616	28.72%		63,266	21.18%	
> 2400	2,286	3.21%	9,145	11.86%	37,475	25.86%		48,906	16.37%	
No infor. 1/	7,758	10.89%	8,702	11.29%	13,344	9.21%	5,45	100%	35,260	11.81%

		%		%			6			%
Total	71,238	23.85%	77,092	25.81%	144,891	48.51%	5,456	1.83%	298,677	100%

Note: 1/ Not registered in the electronic payroll.

Source: Letter N° 2867-2021-MTPE/4.3

Table5:-SPL according to economic activity.

By Economic Activity (Electronic Payroll)	N°ofWorkers	%	N°ofCompanies	%
Act. Real Estate Emp. And Rentals	47,343	15.85	4,800	14.96
Hotels and Restaurants	46,503	15.57	5,030	15.68
Trade, Vehicle Repairs, Motor Vehicles	44,143	14.78	6,721	20.95
Transport, warehouses and com.	36,309	12.16	2,863	8.92
Other Act. Serv. Com. Soc. & Per.	36,230	12.13	3,640	11.34
Industries Manufacturing	35,508	11.89	3,194	9.95
Construction	20,506	6.87	1,252	3.90
Education	10,191	3.41	957	2.98
Mining and quarrying	7,307	2.45	112	0.35
Social and health services	4,880	1.63	1,080	3.37
Financial intermediation	2,180	0.73	130	0.41
Agric. Livestock Hunting and forestry	537	0.18	129	0.40
Electricity, gas & wat. Electricity, gas and water	425	0.14	25	0.08
Public Adm., Social Security Plans	182	0.06	27	0.08
Fishing	131	0.04	25	0.08
Not determined	846	0.28	246	0.77
No information 1/.	5,456	1.83	1,857	5.79
TOTAL	298,677		32,088	

Note: 1/ Not registered in the electronic payroll.

Source: Letter N° 2867-2021-MTPE/4.3

Economicactivity	From 1 to 10 Workers	From11 to 100 Workers	More than 100 workers	No information 1/	Total	
Act. Real Estate Emp. And Rentals	3.52%	14.36%	17.77%		47,343	15.85%
Hotels and Restaurants	4.49%	24.50%	9.81%		46,503	15.57%
Trade, Vehicle Repairs, Motor Vehicles	5.00%	13.64%	12.89%		44,143	14.78%
Transport, warehouses and com.	2.14%	11.04%	14.77%		36,309	12.16%
Other Act. Serv. Com. Soc. & Per.	2.87%	12.68%	12.35%		36,230	12.13%
Industries Manufacturing	2.43%	10.78%	13.75%		35,508	11.89%
Construction	0.92%	4.43%	9.90%		20,506	6.87%
Education	1.09%	4.15%	2.57%		10,191	3.41%
Mining and quarrying	0.06%	0.61%	4.60%		7,307	2.45%
Social and health services	0.92%	2.25%	0.27%		4,880	1.63%
Financial intermediation	0.08%	0.62%	1.02%		2,180	0.73%
Agric. Livestock Hunting and forestry	0.08%	0.37%	0.00%		537	0.18%
Electricity, gas & wat. Electricity, gas and water	0.02%	0.09%	0.21%		425	0.14%
Public Adm., Social	0.01%	0.11%	0.04%		182	0.06%

Security Plans						
Fishing	0.02%	0.02%	0.05%		131	0.04%
Not determined	0.19%	0.35%	0		846	0.28%
No information 1/.	0	0	0	1.83%	5,456	1.83%
Total	23.85%	25.81%	48.51%	1.83%	298,677	100%

Table6:- SPL by economic activity and company size.

Note: 1/ Not registered in the electronic payroll.

Source: Letter N° 2867-2021-MTPE/4.

The communication to the AAT through the virtual platform of the MTPE registered a total of 298,677 workers in SPL. Likewise, the supervision of workers according to vulnerable groups showed that: 98.12% belong to private entities; 48.51% belong to companies with more than one hundred workers; 26.05% of workers have a salary range between S/1,000 and S/1,500 soles, with 45.17% of companies with 1 to 10 workers earning between S/1,000 and S/1,500 soles; out of a list of seventeen activities, 45.17% earn S/930 soles. Out of a list of seventeen activities, the economic activity with the highest percentage of SPL is the real estate activity with 15.85%, with 24.50% belonging to the economic activity of hotels and restaurants with 11 to 100 workers.

Table7:-Number of members by number of withdrawals due to the pandemic.

Number of withdrawals	Numberofmembers	%
One-time withdrawal	2,980,597	57.64
Second time withdrawal	1,299,604	25.13
Third time withdrawal	891,264	17.23
Total	5,171,465	100

Source: Joint Report N° 00012-2021-SBS/ dated 12.04.2121 of SBS

Table8:-Withdrawals from the Pension Fund other than a pension.

Pension Fund Withdrawals	Value (In millions of Soles as of 03.30.2021)	%
Withdrawal of 25% of housing	2,920	4.37
Withdrawal of 95.5% of the CIC	30,543	45.68
Withdrawals of Pandemic D.U. (S/2000 soles)	5,059	7.57
Withdrawal Law 31017 (25% or 3 UIT)	19,292	28.85
Withdrawal Law 31068 (4UIT)	9,055	13.54
Total withdrawals from the Fund	66,869	100
Pension Fund value as of March 30	160,312	

Source: AFP Association and SBS

Table9:-Active members by CIC balance and age range (February 2021).

AgeRange	CIC > 0		CIC = 0		Total active members
	Members	%	Members	%	
<= 20	4	0.00%	154,462	2.59%	154,466
21 – 30	50,619	2.69%	1,929,785	32.34%	1,980,404
31 – 40	445,493	23.72%	1,733,724	29.06%	2,179,217
41 – 50	634,122	33.76%	1,252,308	20.99%	1,886,430
51 – 60	556,712	29.64%	552,544	9.26%	1,109,256
61 – 64	131,354	6.99%	115,062	1.93%	246,416
>= 65	60,208	3.21%	228,924	3.84%	289,132
Total	1,878,512		5,966,809		7,845,321
	24%		76%		100%

Source: SBS

Table10:-Employers' pension debt to AFP accrued from January 2021.

Collection Status	Amount (in Millions of Soles)	%
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Administrative (1)	4,258.00	15.48
Judicial (1)	22,193.42	80.67
Fractional (2)	1,061.39	3.86
Total	27,512.81	100

Note: (1) Corresponds to pension debt of both public and private sector employers.

Note: (2) Corresponds to pension debt of public entities that availed themselves of the Pension Contribution Payment Rescheduling Regime (REPRO-AFP) established by Legislative Decree No. 1275, which approves the Framework for Fiscal Responsibility and Transparency of Regional Governments and Local Governments (REPRO-AFP I); as well as Emergency Decree No. 030-2019, which exceptionally establishes the Regime for the Rescheduling of Payment of Pension Contributions to the Pension Funds of the Private Pension Fund Management System owed by public entities (REPRO AFP II).

Source: Information provided by the AFPs to the Superintendence of Banking and Insurance.

The research has shown that 57.64% of the 5,171,465 members of the AFP have made a one-time withdrawal from the CIC, of a total of more than 66 million soles, 28.85% corresponds to the authorized withdrawal according to Law 31017. Likewise, active members according to age range out of a universe of 7,845,321, 24% have a balance greater than zero and 76% have a balance equal to zero in their CIC; extracting that: 33.76% of active members between 41-50 years old have a balance greater than zero and 32.34% of active members between 21-30 years old have a balance equal to zero. At the same time, as of January 2021, the AFPs maintain accounts receivable from employers for more than 27 million soles, of which 80.67% are in judicial collection.

Table11.-Vacations

Origin	Standards			
	Regulations		Stateofhealthemergency 2020	
PoliticalConstitutionofPeru	D.L. N° 713	D.S. 002-2019-TR / Regulation	D.U. N° 038-2020	D.S. N° 011-2020-TR
Article 2° - paragraph 22	Article 22	Article 5	Article 3	Article 4, paragraph 4.1
It states that everyone has the right to peace, tranquility, enjoyment of free time and rest, as well as the right to enjoy a balanced environment adequate for the development of his or her life;	Workers who leave after completing the year of service and the corresponding record, without having enjoyed the rest, shall be entitled to the payment of the full vacation remuneration.	The employer and the employee may agree, previously and in writing, to advance rest days on account of the vacation period to be generated in the future; even for a number of days greater than the proportion of the vacation record generated at the date of the agreement.	Employers who are unable to implement the remote work modality or apply the paid leave, due to the nature of their activities or the level of economic impact they have at the date of entry into force of this Emergency Decree, may adopt the necessary measures in order to maintain the validity of the labor relationship and the receipt of remunerations, giving priority to the agreement with the workers.	Employers falling under Art. 3° of the D.U. No. 038-2020 first seek to adopt the alternative measures that may be necessary in order to maintain the validity of the employment relationship and the receipt of remuneration, privileging dialogue with the workers, such as: (a) To grant the vacation rest acquired and a) Granting the vacation leave acquired and pending of enjoyment. b) Agreeing, by means of physical or virtual support, the advance b) Agreeing, through physical or virtual
Art. 25				
Workers are entitled to paid weekly and annual rest. Their enjoyment and compensation is regulated by law or by agreement.				

				support, the advance of vacation time on account of the vacation period to be generated in the future. In the latter case, the advance of vacation time is subject to the rules established in Chapter II of D.S. N° 002-2019-TR, D. S. that approves the Regulation of D. L. N° 1405, D. L. that establishes regulations so that the enjoyment of paid vacation time favors the reconciliation of work and family life, for the private sector.
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Table12:- Compensation for Time of Service (CTS).

Standards				
Origin	Regulations		Stateofhealthemergency 2020	
PoliticalConstitutionofPeru	D.S. N° 001-97-TR	D.L. N° 728	D.U. N° 038-2020	D.S. N° 011-2020-TR
Article 24	Article 2°	Article 78°	Article 7°, item 7.1-7.2	Article 13°, item13.1
The payment of remunerations and social benefits of the employee has priority over any other obligation of the employer.	The CTS is accrued from the first month of the beginning of the labor relationship; once this requirement is fulfilled, any fraction is computed in thirtieths. The provisions of this article are mandatory for public administration workers subject to the private activity regime of Legislative Decree 728 and civil servants who enter the new civil service regime established by Law 30057, Civil Service Law".	Upon declaring the claim to be well founded, the judge shall order the payment of the remunerations not received. Likewise, the judge will order the deposits corresponding to the compensation for time of service and, if applicable, with interest.	7.1 Exceptionally, workers under a perfect suspension of work foreseen in the legal framework in force and subject to the scope of the TUO of the Law on Compensation for Time of Services, approved by D.S. N° 001-97-TR, are authorized to freely dispose of the funds of the intangible amount for deposits of Compensation for Time of Services (CTS), foreseen in Law N° 30334, up to one (1) gross monthly remuneration for each expired	13.1 In order to stipulate the gross monthly remuneration to be freely disposed of from the CTS funds, in accordance with D.U. No. 038-2020, the last monthly remuneration received by the employee prior to the start date of the perfect suspension of work is valued.
	Article 8°	Article 79°		
	The days of actual work are computable. Consequently, days of unjustified absence, as	The judge may, at the request of a party, order the payment of a		

	well as days that are not computable, shall be deducted from service time at the rate of one thirtieth for each of these days.	provisional allowance and fix its amount, which may not exceed the ordinary remuneration.	calendar month of the duration of the perfect suspension of work.	
	Article 21°	Such allowance shall be paid by the employer up to the balance of the CTS reserve still held by the employer; thereafter it shall be paid by the depositary of the same up to the amount of the deposit and its interest.	7.2 The worker who is under a perfect suspension of work provided for in the legal framework in force, and who does not have a balance in his/her CTS account, may request from his/her employer the advance payment of the CTS for the month of May 2020 calculated as of the date of disbursement.	
	Employers shall deposit in the months of May and November of each year as many twelfths of the computable remuneration received by the employee in the months of April and October respectively, as full months worked in the respective semester. The fraction of a month shall be deposited in thirtieths.			

Table13:- Ordinary bonuses, national holidays and Christmas.

Standards				
Origin	Regulations		State of health emergency 2020	
Political Constitution of Peru	Law N° 27735	D.S. N° 005-97-TR	D.U. N° 038-2020	D.S. N° 011-2020-TR
Article 24°	Article 6°	Article 3°, item 3.3 – 3.4	Article 7°, item 7.2	Article 12°
The payment of the employee's remuneration and social benefits takes priority over any other obligation of the employer.	In order to be entitled to the bonus, it is a requirement that the employee is working at the time the benefit is to be received or is on vacation, on paid leave, receiving social security or work accident benefits, except as provided for in the following article. In the event that the employee has been working for less than six months, he/she shall receive the bonus in proportion to the months worked, and it shall be paid	3.3. Once the computable remuneration has been determined, the Christmas and Independence Day bonuses are calculated for the periods January - June and July - July. Christmas are calculated for the periods January - June and July - December, respectively. December, respectively. Ordinary bonuses are equivalent to a full remuneration if the employee has worked during the entire six-month	The employee who is in a perfect suspension of work as provided for in the legal framework in force, and who does not have a balance in his/her CTS account, may request his/her employer to advance the payment of the CTS for the month of May 2020 and the bonus for the month of July 2020 calculated as of the disbursement date. This request may be submitted through non face-to-face means and executed by means	The free availability of the funds of the intangible amount for CTS deposits, as well as the advance payment of the advance payment of the aforementioned benefit corresponding to May 2020 and the legal bonus for July 2020, as referred to in Article 7.1 and 7.2 of Article 7 of the D.U. No. 038-2020, are applicable in the event of any type

	in accordance with Article 5 of this Law.	period, and are reduced proportionally.	of transfer to the employee's active or passive accounts indicated by the employee. The employer must make the advance payment within the first five calendar days of the employee's request.	of any type of perfect suspension of work foreseen in the in the current legal framework adopted by the employer, including the one regulated by numeral 3.2 of article 3 of D.U. No. 038-2020.
	Article 7 If the employee does not have an employment relationship in force on the date on which the benefit is to be received, but has worked at least one month in had worked at least one month during the corresponding semester, he/she shall receive the respective bonus in the respective bonus in proportion to the months actually worked.	The amount of the ordinary bonuses is reduced proportionally when the period of service is shorter. 3.4. The length of service for calculation purposes is determined for each full calendar month worked in the corresponding period. calendar month worked in the corresponding period. The days that are not considered as time actually worked shall be deducted at the rate of one thirtieth of the corresponding fraction.		3 of U.D. No. 038-2020.

Tabla14:- AFP.

Standards					
Origin	Regulations	State of health emergency 2020			
Political Constitution of Peru	Law 25897	D.U. 033-2020	D.U. N° 038-2020	Law 31017	Law 31068
Article 24°	Article 1°	Article 10°	Article 9°	Article 2°, item 2.1y 2.3	Article 1°
The payment of the employee's remuneration and social benefits takes priority over any other obligation of the employer.	The Private Pension Fund Management System (SPP) aims to contribute to the development and strengthening of the social security system in the area of social security. contribute to the	Exceptionally, and for the period of payment of the remuneration corresponding to the month of April of this year the obligation of withholding and payment	It is hereby provided, on a one-time basis and exclusively to the universe of persons included in the D.U. No. 034-2020 D.U. N° 034-2020, the extraordinary retirement of up to S/ 2	2.1 Authorize that members of the Private Pension System, on a voluntary and extraordinary basis, may Pension System, on a voluntary and extraordinary basis, may withdraw up to 25% (twenty-five percent) of the total accumulated funds in their of the total of their accumulated funds in	Extraordinary authorization is hereby granted to members of the Private Pension Fund Management System that, until October 31, 2020, do not have Pension Funds Administration System who, until October

	<p>development and strengthening of the social security system in the area of pensions, in order to provide protection against the risks of old age, disability and death. protection against the risks of old age, disability and death, and is mainly comprised of the Private Pension Fund Administrators (AFP). The main members are the Private Pension Fund Administrators (AFPs), which manage the pension funds referred to in Chapter II of Title III of this Law. Law</p>	<p>of the components of the mandatory components of the mandatory contribution of 10% of the insurable remuneration for the of the insurable remuneration destined to the Individual Capitalization Account and the commission on the flow discounted monthly to the workers affiliated to the workers affiliated to the Private Pension System (SPP), the Pension System (SPP), as established in paragraphs a) and c) of the a) and c) of article 30 of the Unified Text of the Law of the Private System of the Private Pension Fund Management System Law. Pension</p>	<p>000.00 (TWO THOUSAND AND 00/100 SOLES) from the Individual Capitalization Account (CIC) of the Private members of the Private Pension Fund Management System (SPP), provided that at the time of the evaluation of the request the worker is under an approved measure of perfect suspension of work provided for in the legal framework in force.</p>	<p>their individual capitalization account, establishing as maximum The maximum withdrawal amount is established as the equivalent of 3 UIT (tax unit) and the minimum withdrawal amount as the equivalent of 1 UIT. 2.3. In the event that the member has a total accumulated fund in his/her individual capitalization account equal to or less than 1 UIT (one tax unit), the withdrawal will be 100% (one hundred percent) and in a single disbursement, within a maximum period of 10 calendar days after the application is filed with the private pension fund manager to which the member belongs.</p> <p>Second final supplementary provision</p> <p>Members of the private pension system benefited by U.D. 34-2020 may avail themselves of this regulation, deducting the amount received under it the amount received as a result of it and maintaining the limits provided for in limits set forth in Article 2 of the present law.</p>	<p>31, 2020, do not have accreditation of pension contributions to the individual capitalization account (CIC) for at least individual capitalization account (CIC), for at least twelve (12) consecutive (12) consecutive months, to optionally withdraw up to four (4) tax units (UIT) of the total accumulated funds in their CIC. of their accumulated funds in their CIC. The Law is not applicable to those who qualify for the Retirement access to the Early Retirement Regime due to Unemployment.</p>
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		Funds. Without generating penalties or fines to the employers. fines.			
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When indicating the main rules that regulate the conditions for the granting of social benefits, it is observed that: for vacations (D.S. N° 002-2019-TR), the payment of truncated vacations is calculated in so many twelfths and thirtieths of the salary and in the case of advanced vacations upon agreement between the employer and the employee; for the payment of CTS (D.S. N° 001-97-TR), the effective working days are computable, the non-computable days are deducted from the time of service, the accrual of CTS is made from the beginning of the labor relationship, and the payment of CTS is made from the beginning of the labor relationship. N° 001-97-TR), the days of effective work are computable, the non-computable days are deducted from the time of service, the accrual of the CTS is made from the beginning of the labor relationship and the application is mandatory for employees of the public administration under the regime of the private activity of the D. L. 728; in the case of ordinary bonuses (Law No. 27735), for their deposit it is a requirement that the employee is working, otherwise they will be paid as a percentage of the months worked; for the payment of AFP (D.U.033 and 038-2020), the suspension of the payment of the CTS is mandatory. and 038-2020) the suspension of the pension contribution for the month of April will not be considered for the evaluation of access to benefits and the withdrawal of S/2000.00 soles is authorized; remembering the debt that employers have with the AFP.

***Impact of the perfect suspension of work on workers' social benefits during the state of health emergency 2020.**

It is evident that 32,088 companies submitted 39,767 requests for the application of the SPL (Peru at the national level), placing 298,677 workers in perfect suspension of work under this legal labor figure. Likewise, according to the laws and regulations in force, in a normal period, for the calculation of social benefits, the days actually worked are considered; laws and regulations that were applied without exception during the sanitary emergency period.

Table15:Summary of perfect suspension results and social benefits.

Detail	In million of soles	Communication to AAT		Verification to AAT			AFP			Short-term benefits			Retirement benefit	
		Quantity	Virtual platform MTP	According to size	According to salary range	By economic activity	Fund withdrawals	CI C >0	CI C =0	Judicial collection	Vacations	CTS	Gratuities	AFP
Applications submitted		39,767									Measure that was adopted as a primary option prior to the implementation	For the calculation of CTS, the months actually worked were	The payment of the employees' bonuses was made for actual work	Workers in SPL condition were authorized to withdraw S/2,000, and later the withdrawal
N° of workers in SPL			298,677											
More than 100				49%										

workers											of the SPL. Vacation leave can be: vested, pending or advanced.	e taken into account. Human resources hired in SPL received a percentage equivalent to the months preceding and preceding the SPL period.	; in the event that this work was interrupted and furthermore there is no remunerative payment, this period in SPL does not enter into the calculation for this benefit. This means that they only received the bonuses proportionally for the days actually worked.	of up to 4 UIT (as of October 2020) was authorized for those workers affiliated to the private pension system. This authorization does not specify their employment status. In April, the mandatory contribution of 10% of the CIC was prevented.
>1000 - 1500				26.05%										
Act. Real Estate Emp. And Alq.					15.85%									
One-time withdrawal						57.64%								
Law N° 31017	66,869					28.85%								
21 - 30								32.34%						
41 - 50								33.76%						
Debt to AFP	27,512.81								80.67%					

Conclusions:-

- i. The repercussion of the perfect suspension of work on the social benefits of workers during the state of health emergency 2020, has generated a negative impact, causing 298,677 workers not to receive wages during the SPL period, in addition to being disadvantaged with the use, proportional payment or non-payment of their social benefits during the pandemic period. For this reason, they have had to resort to the withdrawal of their unemployment funds and their individual capitalization account, which have been destined to consumption and payment of primary needs (without knowing if the AFP withholding agent has complied with the deposit of withholdings for the retirement fund), seeing them reduced or in the extreme of the cases exhausted; making these funds unrecoverable for many affiliates. With the results obtained, we can infer that the laws and regulations in force are not designed or directed to achieve the SDG outlined in the search for: "strengthening those who need it most, without leaving them helpless".
- ii. The registration of information on workers according to the main vulnerable groups, during the state of health emergency before the Administrative Labor Authority shows, information provided by the MTPE, that there is a high percentage of workers in private companies, of greater capital and labor capacity, of economic activities of service, with average and minimum economic income who were in a condition of perfect suspension of work and who have seen their social benefits affected. Being this an opportunity to remember that Peru, before the pandemic crisis, has determined in the future, through the Sustainable Development Goal 2030, to seek to end poverty through the creation of decent jobs and economic growth, aiming to apply non-aggravating legal regulations in favor of sustainable growth.
- iii. The number of members who resorted to withdrawing from the pension fund of the AFPs during the state of health emergency have reduced and postponed their retirement, withdrawing money from their capitalization account without being aware of the debt that their employer has with the pension fund administrator, a debt that could hinder the worker from correctly managing the payment of their retirement. It is possible that in the near future the government will have to increase the percentage of its social security contribution, disability or survival insurance and may consider that the affiliates themselves become a greater public expense for the state, with the creation of new support programs for retirees, demonstrating that during the state of health emergency, those most in need were left helpless, preventing them, in the future, from enjoying the same rights and economic resources.
- iiii. The legal provisions applied to the payment of social benefits: vacations, CTS, ordinary bonus and AFP, of the workers during the perfect suspension of work, leave the worker at the mercy of the employer. The serious situation of vulnerability in the face of the Covid-19 pandemic caused the Government bodies to decide to implement several palliative provisions that did not manage to cover the entire Peruvian population; that is why regulations were decreed for the authorization of: use and withdrawal of short-term and retirement social benefits, which were enacted to soften and disguise the state of lack and lack of labor protection in which the worker finds himself. An atypical situation has been expected in order to force the employer to use the financial entities for: the payment of remunerations and benefits of the workers and as an informative means of a labor control, digitalized, in real time. Demonstrating that, in our country during a period for solidarity and the search to undertake and manage non-arbitrary laws and policies, these were written on paper.

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