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On Legal Improvement of Labor Dispute Handling in the Background of Internet

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Abstract

At present, with the continuous development of the Internet, the emerging industries that accompany the Internet have shown bright prospects. Consequently, a large number of labor disputes have also arisen. Since this type of labor dispute is a new form of conflict, the law has limited provisions regarding it. Therefore, when dealing with such cases in judicial practice, there are still deficiencies in legal norms. This paper begins by introducing China's legislative status of labor dispute settlement in the context of the Internet. It analyzes the current laws' shortcomings in this area and proposes suggestions for integrating collective dispute resolution into the legal system. These suggestions include incorporating mediator mediation agreements into the law and defining the role of arbitration institutions based on foreign legal practices. These proposals aim to offer new insights for enhancing labor dispute resolution in the Internet era in China.

Keywords

Labor disputes, Negotiation, Mediation, Arbitration

1. Overview of labor dispute settlement in the context of the Internet

In recent years, with the continuous development of the Internet industry, the settlement of labor disputes in the context of the Internet has always been a hot issue of concern to the government and society, because the handling of labor disputes involves the protection of the legitimate rights and interests of workers and people's livelihood issues, so the handling of this issue is very important in practice. In fact, the provisions of Chinese law in this regard are not completely blank, and there are relevant provisions in the Labor Law and the Labor Dispute Mediation and Arbitration Law, but the new issue of labor rights and interests disputes arising in the current Internet context is not perfect in terms of legal solutions, and there are still deficiencies in protecting the rights and interests of workers. At the same time, since this is a labor dispute under a new type of employment relationship, although China's relevant policies have made relevant provisions for the timely handling of such issues, this provision has not been incorporated into the law, so this issue needs to be solved urgently.

Labor relations are the focus of social relations, and the harmony and stability of labor relations are directly related to the development of social relations (Yang Zhiming, 2023). With the continuous development of the Internet, the employment mode has become more flexible, and the employment model of the new platform in the context of the Internet has shown a diversified form (Huang Zhenpeng & Yang Chengguang, 2023). Since Chinese law does not have a clear standard for determining the relationship between platform practitioners and employment platforms, the Ministry of Human Resources and Social Security (MOHRSS) issued in 2023 did not clearly indicate whether the relationship between platform practitioners and employment platforms is an employment relationship but only concluded an intermediate agreement on the existing issues under the new employment form to deal with the frequent labor disputes between workers and platforms in the context of the Internet. Therefore, when determining the

relationship between the two, relevant standards should be issued in a timely manner, so as to provide legal standards for labor disputes in the context of the Internet and better protect the legitimate rights and interests of workers.

2. The legislative status of labor dispute settlement in the context of the Internet

According to the Labor Law, the Law on Mediation and Arbitration of Labor Disputes, and relevant legal provisions, China's labor dispute settlement mode mainly includes four methods: negotiation, mediation, arbitration, and litigation. For example, first of all, there is a diversity of solutions. That is, focusing on consultation, mediation, arbitration, and litigation as the main methods, this labor dispute settlement method not only provides the parties with diversified ways to resolve different disputes but is more in line with China's national conditions and the diversified legal pursuits of the parties (Wang Quanxing, 2022). Second, mediation and negotiation are arbitrary. That is to say, mediation and negotiation are not necessary procedures for the settlement of labor disputes, and the parties can freely choose the way to deal with them. For both arbitration and litigation, they have their respective characteristics of mandatory and final (Wei Yuexia & Bai Ying, 2022).

3. Legal issues in the settlement of labor disputes in the context of the Internet

3.1 There is a lack of legal provisions for collective disputes

The right to collective labor, also known as the "three rights of labor", is a right enjoyed by labor groups, including the right to unity, the right to group negotiation, and the right to dispute (Lin Jia, 2021). The three rights of labor are the most important means to protect workers, and they are also the only way to protect their rights and interests. Among them, the right to solidarity is the foundation, and the right to group consultation is the core and the means to achieve both. As an indispensable means to realize the autonomy of collective contracts, the right to dispute plays an important role in collective contracts. In a collective contract, if there is no right to dispute to suppress the employer, the employer can not comply with the provisions of the collective contract, and the rights and interests of the workers cannot be protected, so the collective dispute acts to build a bridge for the employer and the employee to negotiate. In practice, however, not all controversial acts are given the veneer of legalization. At present, China's legal provisions on collective disputes are almost blank, and the law does not stipulate whether collective disputes are legal. Although there are relevant terms for work stoppage and strike in China's Trade Union Law, strikes are not legally recognized in China's Constitution.

3.2 The mediator's professionalism is insufficient and the mediator's mediation agreement is weak

3.2.1 The professional quality of the mediator is insufficient

Mediation is a flexible way to resolve the contradictions between the two parties of a labor dispute in the context of the Internet. This is because mediation is a low-cost and flexible way of dispute resolution that not only avoids the escalation of conflicts between the parties but also reduces the number of conflicts between the parties. The introduction of mediation mechanisms in the settlement of labor disputes, resolving labor disputes at the grassroots level and ending them in the bud, so that labor relations can continue to be maintained, is conducive to protecting the interests of both workers and employers and is also conducive to maintaining harmonious and stable labor relations.

Under normal circumstances, the mediators of labor dispute mediation organizations should have professional quality and literacy, and have a strong grasp of professional knowledge, but this is not the case in actual life. Since most of the personnel have not undergone professional legal training, they generally make decisions based on their own practical experience and ethics when dealing with professional labor dispute cases, and lack professional legal knowledge.

3.2.2 The mediator's mediation agreement is weak

Mediation agreements are not as binding as decisions of administrative or judicial bodies. Generally speaking, the effect of a mediation agreement is equivalent to that of a civil contract, and if both parties can voluntarily abide by it, the validity of the mediation agreement cannot be ignored; The existing way to solve the weak effectiveness of mediation agreements in China is to improve the effectiveness of mediation agreements by confirming the validity of mediation agreements, but in real life, mediation agreements include mediation agreements made by mediation institutions and mediation agreements made by mediators (Tu Wei & Cai Yujie, 2015). Since there is no individual mediator system in China, and there is no provision in Chinese law on the judicial confirmation of mediator mediation

agreements, it is necessary to maximize the effectiveness of mediator mediation agreements and realize the unity of legal and social effects of mediation agreements (Hu Zhen, 2019).

3.3 The positioning of the arbitration institution is not clear

In academic circles, different scholars have different opinions on whether an arbitration institution is an administrative or judicial institution. According to the "Opinions on Further Strengthening the Mediation and Arbitration of Labor and Personnel Disputes and Improving the Diversified Handling Mechanism" issued by the Ministry of Human Resources and Social Security in 2017, arbitration is clearly characterized as a quasi-judicial system, and according to Article 19 of the Labor Dispute Mediation and Arbitration Law, "the labor dispute arbitration commission shall be composed of representatives of labor administrative departments, trade unions, and enterprises. Therefore, the author believes that the positioning of labor dispute arbitration institutions belongs to third-party institutions, that is, they belong to neither administrative organs nor judicial organs. From the perspective of the composition and subordination of the arbitration commission, the arbitration institution is more strongly influenced by the administrative organs, which shows a more obvious trend of the administrative of the arbitration institution. Therefore, when dealing with relevant labor dispute cases, due to the establishment of arbitration institutions, the arbitration institutions may have the defect of insufficient authority, which may affect the fairness of the case hearing.

4. Suggestions on the improvement of the law on the settlement of labor disputes in the context of the Internet

4.1 Bring collective disputes into the legal system

In the context of the Internet, in the process of collective bargaining disputes, all countries take measures from the source stage of legislation, such as the right to strike, the right to close the factory, etc., to give both labor and management their respective rights, so as to ensure the effective realization of the negotiation purpose. Because in the process of social bargaining, collective bargaining has a great impact on both labor and management, and it is also the most likely to lead to collective labor disputes. In China, there is no clear legalization of the right to strike, which leads to great controversy in reality, and the reason for this is that the Collective Dispute Act has not been legalized, so the collective dispute act must be brought into the legal system. Workers should then be guaranteed the right to strike in the course of collective action and collective bargaining. Since there is a reference to strikes in the Constitution, it is difficult to stipulate them directly in the Constitution, so it is possible to choose from stipulating such measures in the Basic Labor Law. For example, the right to strike is legalized in the Labor Law, or the right to strike is provided for in the Labor Law, i.e., in the Collective Contract Law and Collective Bargaining (Lin Jia, 2016). At the same time, the right to collective bargaining should be regulated, such as limiting the number of collective bargaining, and at the same time stipulating that employers may not refuse reasonable requests made by employees in collective bargaining.

4.2 Improve the professionalism of the mediator and incorporate the mediator's mediation agreement into the law

In terms of improving the quality of mediators, first of all, it is necessary to strengthen the professional skills training of mediators, and at the same time, it is also necessary to conduct regular assessments and select those with excellent results as formal mediators. Second, on the issue of the selection of mediators, it is also necessary to establish a strict selection system. Finally, an information management system for relevant personnel can be established to collect statistics on the personal information of mediators and supervise the real-time status of mediation cases by mediators

According to China's current legislation, the mediator mediation agreement has not yet been incorporated into the law, but the inclusion of the mediator mediation agreement in the scope of judicial confirmation in combination with the actual situation is an inevitable need to deepen China's reform and development, and it is also an urgent need to connect with the international mediation system. First of all, it is necessary to clarify the standards for mediators under the application model, implement the "two-step" strategy, and at the beginning of the application model, learn from the certification system model of the United States, and invite people who must enjoy social reputation to serve

as mediators, such as expert professors, university teachers, etc.; In the later stage of the application model, due to the accumulation of experience in the early stage, it is possible to draw on the British mediator system to formulate a certain mediator selection examination at this time, and change to a market-oriented and professional direction (Xie Pengxin et al., 2022). Second, it is necessary to implement and improve the roster system of mediators. Through various organs and industry associations to jointly build a roster of mediators, in order to improve the quality of mediation work, and at the same time establish a mediator database, standardize the management of mediators, and ensure resource sharing. Finally, the part-time work of mediators should be strictly prohibited. Violators are subject to severe penalties and no judicial confirmation of the mediation agreement in this case may be imposed.

4.3 Clarify the position of arbitration institutions

It is clarified that the positioning of labor dispute arbitration institutions is a third-party institution, that is, it is neither an administrative organ nor a judicial organ. However, due to the fact that China's labor dispute arbitration commission is set up in the labor administrative department, this makes the administrative tendency of arbitration institutions tend to be obvious (Li Tiankun, 2023), and it is difficult to give full play to the effective role that arbitration institutions should play as a third-party institution. Because the positioning of the tripartite institution is more suitable for the positioning of the labor arbitration institution in the current context, the active role played by the tripartite institution is conducive to better handling the legal disputes of the parties and enhancing the sense of legal responsibility of the parties, so that the labor disputes can be resolved in an all-round way. At the same time, it is necessary to further weaken the administrative tendency of arbitration institutions and strengthen their socialization tendency. For example, it is possible to further socialize and regulate the floating personnel of arbitration institutions, set strict entry thresholds for arbitrators, and conduct professional quality training for arbitration-related personnel to improve their professional quality.

5. Conclusion

The settlement of labor disputes in the context of the Internet has always been a concern in the field of labor law. The continuous integration of the Internet and traditional industries has promoted the emergence of new employment relationships, and new labor dispute resolution issues have become increasingly prominent. If such problems are not properly handled, they will hinder the sustainable development of our economy. China's existing labor dispute settlement system is only applicable to the traditional employment model, and does not have flexibility in the application of the new employment model. It can be seen that the handling of labor disputes in the context of the Internet in China's law needs to be improved urgently. Therefore, on the basis of the existing academic research in China, starting from the current legislative status of labor dispute settlement in the context of the Internet in China, this paper analyzes the existing problems, and draws on foreign legal experience while combining the actual situation in China, and puts forward suggestions on the settlement of labor disputes in the context of the Internet.

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