

On the Absurdity of the Labor Law Regulation that Right Disputes Can't Be Settled by Strikes

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Abstract

The Legislative Yuan (Congress) of Taiwan passed in 2009 the Act for Settlement of Labor Disputes (ASLD) which regulates that strikes are not allowed when right disputes are concerned. Although the majority of our labor law scholars agree with this new regulation, it is wrong and unrealistic. Nearly all Taiwanese trade unions are badly organized and therefore unable to be the counterparts of the employers. It is accordingly quite unusual that they in comparison to the Western unions dare to strike for wage raise in terms of the interest disputes. Strikes would be here undertaken merely by workers whose rights are severely violated, e. g. when the employer has not paid them wages for months. Such disputes may, however, only be settled by the procedures of mediation, arbitration or decision on unfair labor practices in accordance with the named Act or judged by a civil court. Unfortunately, these are either less helpful or time-wasting. The new regulation is in fact a imitation of the German model. It is well-known that their trade unions are omnipotent and resort easily to a strike action when a compromise can't be reached regarding the interests disputes. Due to all these differences, it is unwise to adopt the mentioned model which is actually not free from criticisms even in Germany. The author had presented his thesis long before the new regulation was passed but found astonishingly no echo from his colleagues. The related article was indeed deemed as nonexistent. This reveals another serious topic regarding the discourse culture of the law research community in Taiwan.

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