

Abstract of Workplace Dispute Resolution in Korea

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Abstract:

This article provides a detailed outline of the labor dispute resolution system in Korea. Part one describes the history of collective bargaining at the enterprise level and industrial disputes, with strike data. Part two describes the legal frameworks for regulating labor disputes.

As excerpted from the author, “Labor disputes can be divided into “individual disputes” and “collective disputes”, depending on whether the party involved is a union or an individual employee. Collective disputes are deemed to break out when differences between unions and management on wages, working conditions and others are not resolved through negotiations or compromises. Even when the party involved is an individual, if the issue at hand is concerned with union activities, labor disputes are still considered as collective disputes. If the disputes between management and individual employee revolve around dismissals, wages and other working conditions, we can call them “individual disputes”. In terms of nature, if the issue pertains to individual workers’ rights such as dismissals, wages and other working conditions, they are considered as “rights disputes.” If it is about interpretation and application of rights and collective agreements that have already been defined, it is “rights disputes.”

There are five types of unfair labor practices depending on how employers block trade union activities. These unfair labor practices are the means whereby trade unions can enforce employers to go to collective bargaining and can remain independent of employers’ influence. The National Labor Relations Commission adjudicates both cases of collective right disputes and of individual right disputes.

In conclusion, the author observes that dispute resolution is a key to how to stabilize and institutionalize industrial conflicts which are like to rise with industrialization of society. Korea has endeavored to improve the dispute resolution mechanisms. Efforts to improve the dispute resolution mechanism are being sought at two fronts. One is the legal and institutional infrastructure. Specifically, there is a movement to rationalize relevant laws (Labor Relations Commission Act, Trade Unions and Labor Relations Adjustment Act and Labor Standard Act) and regulations and strengthen the public disputes resolution body, the National Labor Relations Commission, while improving its overall operations. One example is for the Commission to be more proactive in providing mediation service before labor disputes escalates to industrial actions. The other direction is to improve disputes resolution capabilities of labor and management. For example, the two sides are being encouraged to make more frequent use of the private mediation program.

There are also plans to provide more training opportunities to enable labor and management to seek solutions on their own. As a consequence, overall performance of mediation, arbitration and adjudication through the Labor Relations Commission has improved significantly over the years.

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