

Reflections on legislation on the right to strike
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Abstract: To have and to be able to use the right to strike is an important factor in safeguarding workers' rights and interests in an era of economic globalisation. It is considered a fundamental workers' right in a market economy; a natural extension of the right to work as well as a civil right. The right to strike is important in balancing and coordinating labour relations, promoting economic and social stability and development. However, only strikes that fall under certain legal criteria are lawful. To be lawful, a strike would include the following: it should be organized by a trades union, its ultimate goal would be to achieve a collective contract and it would ensure the stability and safety of society and the economic order. A lawful strike enjoys legal protections – for instance immunity from civil and criminal liability. In China, the right to strike has long been a sensitive issue in labour law studies because it touches upon human rights as well as workforce stability and the social order. Moreover, since there is a paucity of literature and material on the subject, systematic research on the right to strike is rare in Chinese academic circles both at home and abroad. As China moves to a market economy, labour conflicts have become more serious and more numerous with an increasing number of collective actions by workers including strikes. However, there is a gap in China's legislation on the subject and no law that actually deals with the issue. China's WTO membership will intensify labour conflicts so legislation to regulate and adjust labour relations will become inevitable in China's market economy reforms, and the right to strike an unavoidable issue. At present Chinese law does not forbid strikes, but nor does it stipulate explicitly that citizens or workers have the right to take such action making it difficult to regulate or deal with strikes when they occur. The growing number of labour conflicts will require rapid measures on strike legislation. The time has come to draw up regulations giving Chinese workers the right to strike and to lay down the criteria for lawful industrial action. The article analyses relevant issues in detail, including the significance of such legislation, the legal basis for it, its content and timing.

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