

Experts Predict Five Trends of Labor Disputes

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To enhance the protection of the lawful rights and interests of workers, Yilian invited several well-known Labor Law experts in China to make authentic predictions on the trends of labor disputes in China after the implementation of 3 new laws (such as *Labor Law of PRC*), which could be a reminder for relevant departments to guide employers to employ worker by law and to protect the workers' lawful rights.

Trend One: A dramatic upsurge in the amount of labor disputes.

Considering substantial increase in the amount of labor dispute cases, Xie Liangmin, Vice Minister of the Legal Department of All-China Federation of Trade Unions, believes that upon the implementation of *Labor Contract Law of PRC*, the amount of labor dispute cases might be on the rise in a short term indeed, which demonstrates the advance but not defects of the new law. *Labor Law of PRC* provides ways of settlement for many labor disputes unsolvable beforetime, which gives impetus to standardizing the labor market operation and promotes harmonious employment relationships. Labor dispute arbitration commissions at various levels shall be well-prepared; staffs with such commissions shall ensure full understanding on the new law and enhanced professional abilities so as to duly perform their duties during arbitration.

Trend Two: Social insurance disputes might be the most fast-rising labor disputes.

Li Jianfei, professor and tutor of postgraduate candidates of Law School in Renming University of China, believes that the increase of social insurance disputes is an inevitable trend due to inadequacies in previous laws and regulations.

The sharp increase in numbers of social insurance dispute cases not only exerts great pressure on the personnel organization of the labor disputes arbitration authorities, but also poses challenges for the linking between laws, regulations and practice. To solve such problem, labor dispute arbitration commissions and people's court shall strengthen communication with the social security administration departments to ensure successful implementation of arbitration award of the social insurance cases and judicial decisions.

Trend Three: Small-wage claim cases will be continuously on the rise.

In China, the labor disputes settlement of "one arbitration before first and second trials" has long been a time-consuming process. In December 2007, 63 rural workers were urgent for payment of arrears of wages, which varies between about 600 Yuan and 3000 Yuan. Although they applied for legal aid to Yilian, they ultimately abandon their application for arbitration considering complex and time-consuming legal proceedings.

Since May 1st this year, the application of such system on minor claim cases will greatly bring down the workers' cost for protecting their lawful rights, encourage more and more parties involving in such disputes refer to legal proceedings again so as to protect their lawful rights and interests though legal channels.

To settle cases under the said system in a more convenient and effective way, labor dispute arbitration commissions shall deploy more staff and simplify arbitration proceedings in order to ensure timely settlement of minor claim labor disputes. Meanwhile, as upon the completion of the single and final arbitration the award immediately comes into effect, labor dispute arbitration commissions shall provide more professional training to the arbitrators so as to improve the arbitration authenticity.

Trend Four: Labor disputes concerning "equal pay for equal work", staff dispatching and special workers leap out.

After the implementation of *Labor Contract Law of PRC*, the "person-based" compensation system applied by many companies since the era of planned economy induces more and more doubts by many.

Huang Leping, a well-known human rights lawyer in China, believes that the key to eliminate "unequal pay for equal work" are to perfect applicable laws and regulations, to provide a settlement for such problems and to ensure the practicality of "equal pay for equal work" rules. The currently drafted Wage Law identifies the "equal work unequal pay" problem as the most important barrier to

conquer. Many experts believe that since such issue often involves mass disturbances, employers must conduct full consultation with their employees to settle such disputes. Served as a coordinator between the two parties, the labor union is an integral part in such procedure.

Trend Five: Labor disputes arising from employment discrimination are on the rise.

Doctor Jiang Junlu, Vice Chairman of the Institute of Social Law Studies of China Law Society and director of Labor and Social Security Law Professional Committee of China Lawyers Association, believes that the cases concerning the employment discrimination settlement following the promulgation of the *Employment Promotion Law of PRC* will be on a rise in the future. He also said the Supreme People's Court is expected to make relevant judicial interpretations in regard to specific employment acts that might constitute employment discrimination. Many Labor Law experts point out that settlements of employment discrimination cases are not quite satisfactory till now, for instance, it remains an operational challenge to specify the obligations of employers who engage in employment discrimination and the compensation for the loss incurred by the injured parties. Therefore, relevant departments may as well promptly establish more practical implementation rules thereupon.

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