

THE ROLE OF ARBITRATION IN LABOR RELATIONS MANAGEMENT



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Abstract

Arbitration plays a pivotal role in providing a structured, efficient, and expert-driven process for resolving labor disputes, which is essential for maintaining order and fairness in the workplace. It is widely recognized as an integral part of the labor relations infrastructure in many countries. It serves as a critical mechanism in the management of labor relations, offering a structured and formalized approach to resolving disputes between employers and employees. In this study the researcher will introduce the role of arbitration in labor relations management based on literature, books, documentaries and some articles together with the case study in real.

Arbitration plays a profound role in labor relations management, offering significant benefits for both workers and employers. Through arbitration, workers can uphold their legitimate rights and interests, such as wages, benefits, and working conditions. Arbitration also encourages enterprises to adhere to labor laws and contractual terms, thereby enhancing corporate compliance and ethical standards. Timely and fair resolution of disputes through arbitration helps maintain harmonious labor relations and reduces tension and conflicts in the workplace. Particularly after COVID-19, there have been noticeable changes in the handling of labor relations through arbitration. In this paper, the researcher will discuss the importance and role of arbitration in labor relations management based on a literature review.

Keywords: Arbitration Labor Relations Management COVID-19

Introduction

Based on the impact of COVID-19 since 2019, many changes have taken place in labor relations in both China and the world: conflicts between employers, employees, salary inequality, ways to solve conflicts, the direction of consideration arbitrators, and so on all have deeply affected the existing labor relations. This paper will also take the case as the entry point, synthesize a large number of references, stating the role of arbitration in the process of dealing with the problem of labor relations.

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Literature Review

Definition of arbitration

In the Chinese context, the arbitration ruling is determined by a committee composed of the representatives of the employee, the employer, and governmental labor departments. The ruling issued by the committee will be acted upon by the parties. Arbitration, therefore, is a statement of facts and evidence by each party, followed by a committee ruling regarding the resolution of the dispute.

Effective January 1, 1995, the China Labor Law of 1994, as adopted at the Eight National People's Congress, covers a wide range of employer–employee issues. For example, Chapter 4 covers working hours, rests and leaves in Articles 36 through 45, labor safety and sanitation is covered in Articles 52 through 57 of Chapter 6, and issues surrounding female workers and juvenile workers are covered in Articles 58 through 65 of Chapter 7. Article 79 is the core of this chapter and in its entirety states (Labor Law, 2002):

Once a labor dispute occurs, the parties involved can apply to the labor dispute mediation committee of their unit for mediation; if it cannot be settled through mediation and one of the parties asks for arbitration, application can be filed to a labor dispute arbitration committee for arbitration. Anyone of the parties involved in the case can also apply to a labor dispute arbitration committee for arbitration. The party that has objections to the ruling of the labor arbitration committee can bring the case to a People's Court.

Today's formal arbitration of labor disputes, as required by law in Chapter 10 of the Labor Law of 1994, is drawn from both historical and cultural backgrounds. Historically, Chinese culture has required dispute resolution be conducted through a respected village leader or elder rather than resolving disputes using a judicial approach. A common Chinese saying among villagers warns, "One case in court, a lifelong enemy ahead." Historically, therefore, a substantial number of civil disputes have been resolved by village arbitration due to cultural orientation, even including (in the past) some criminal cases that had minor social jeopardy.

Fundamental to the Chinese labor arbitration system is an employment relationship based on a clear understanding of the responsibilities of the employee and the employer. Increasingly, at the demand of the Chinese government, this is seen in a written labor contract. Only with a written contract in place can a workplace dispute be resolved by pinpointing a violation of the contract (by either party) should one exist. Starting in the mid-1980's China has actively urged companies to create contractual relationships with their employees. China's leadership wants these contracts to be within the constraints of pertinent laws and to have contract disputes handled in a consistent and fair way. Using this approach, the government has constructed a method for arbitration based upon actions that uphold the labor contract. The government's formal recognition of the value of arbitration was seen in the early 1990s with the promulgation of the "three systems" reforms, which instituted employee labor contracts (rather than Marx's concept of employment rights) along with minimum wage and social security reforms.

As China's market economic reform deepens and workers' legal awareness increases, the economic field faces an increasingly growing number of complicated labour disputes, especially when the labour market opens up, enterprises' labour policy appears more market-oriented, and the labour flows more diversified. In order to better regulate enterprises' labour management system and the labour disputes resolution mechanism, China promulgated a series of laws and regulations. As is evident from the practice of labour disputes arbitration, while China's labour dispute arbitration system functions generally well to solve most kinds of labour disputes, it is still in urgent need for constant updates and improvements, in that part of the provisions lag behind the actual situation, and law implementation is influenced by various external factors.

Wang Xuefei's research shows that under the background of fierce economic competition at home and abroad, the conflict of interest between workers and relevant units is becoming more and more obvious, and there are more and more legal cases related to labor

conflicts, its relevant nature is more complex, and its main contents have more diverse characteristics. Based on these circumstances, the current labor dispute arbitration institutions not only lack a systematic response mechanism, but also do not form a scientific and efficient management system. Relevant adjudication departments have no advantage in managing related labor relations and in managing the economic progress of the region, and may have a negative impact on them. In the article, she also noted that "arbitration" its master the connotation is: by the neutral third party as the main body, for the dispute between the parties to the labor dispute Comprehensive analysis, and finally make a more reasonable and fair judgment, according to the specific connotation of labor dispute and arbitration, she concluded that the corresponding definition is: the parties to the labor dispute voluntarily submit the labor dispute to a third party, namely the labor dispute arbitration committee. In the specific implementation process, the committee, according to the corresponding labor laws and regulations, the reasonable, scientific and clear disputes between the workers and employers.

The function of labor dispute arbitration and management

It is conducive to the fair and timely settlement of labor disputes: The Labor Dispute Arbitration Law clearly points out that the labor dispute agencies must effectively ensure the legitimate rights and interests of the parties concerned, uphold fairness and strictly enforce the law. At the same time, all are equal before the law, labor disputes in the process should not only be handled in time, and should be solved efficiently, put an end to delay, which plays a great role in promoting the stability of workers and family life.

It is conducive to protecting the legitimate rights and interests of the parties concerned. The labor dispute arbitration law is covered in the area of the labor law, so when it comes to the use of the law to solve the labor disputes, the legitimate rights and interests of the parties can be actually guaranteed, and the legislative purpose can be defined to safeguard the parties. The legal group benefits of the vulnerable groups in the human and labor relations should give them appropriate legal protection; It is conducive to promoting the harmony and stability of labor relations, and not only has a positive help to maintain the basic life of workers, but also related to the realization of the right to work.

The problem of arbitration in labor relations

In today's highly developed market economy, the judicial system is highly perfect, the arbitration system is still has strong vitality, this is that it adapt to the needs of the market economy relations and development, formed its own characteristics, and has its value and significance, it with its simple, flexible way, and abide by the "facts, the law as the criterion" principle, dealing with a lot of labor dispute cases, in the beginning of reform and opening up has played a very important role. The existence of the labor dispute arbitration system is to achieve the purpose of fairness and efficiency, so in today's socialist society, the labor dispute arbitration system cannot be canceled. But with the establishment of the market economy and the continuous improvement of labor law system, the materialization of labor relations in China is basically completed, and as two independent workers and enterprises, in the pursuit of their market interests at the same time, the contradiction between deepening, labor dispute cases presents a rising trend and many new characteristics, the current labor dispute handling system has not adapt to the requirements of the development of the situation, the defects are growing.

- The organization of labor arbitration in our country is imperfect.
- The procedure system of labor dispute arbitration is not perfect.
- Deviating from the basic attribute of arbitration, the administration tends to be serious.
- The system of property preservation and prescription in the arbitration process is not perfect.
- The scope of acceptance of labor dispute arbitration is narrow.
- The conflict between labor arbitration and litigation is becoming more and more obvious.

- Labor dispute arbitration institutions lack necessary supervision.

Suggestions for Improving China's Arbitration System

1. Enhancing the credibility of arbitration institutions

To establish a just, fair, and transparent arbitration process is fundamental to improving credibility. The arbitration institution should ensure that the arbitration process complies with relevant laws and regulations, and that all participants have equal opportunities to express their views and protect their rights. The quality and reputation of arbitrators have a significant impact on the credibility of the arbitration institution. It is necessary to strengthen the internal management of the arbitration institution and the professional ethics and quality of arbitrators to enhance their quality and reputation.

The arbitration institution should also make information about the arbitration process public so that the public can understand the process and outcomes of arbitration. The institution should actively communicate and interact with the public, understand their needs and expectations, and respond promptly to their concerns. This can be achieved through public hearings, online consultations, media promotion, and other means. In this regard, the arbitration institution should also provide convenient complaint channels and feedback mechanisms to enhance public trust and satisfaction in the institution.

An effective supervision mechanism is key to improving credibility. The arbitration institution should establish corresponding supervisory bodies or hire third-party institutions to supervise the arbitration process to ensure a just, fair, and transparent process. The institution should also accept supervision from the public, media, and legal institutions and actively respond to their questions and suggestions.

2. Strengthening the construction of the arbitration team

On one hand, establish a unified selection and training system for arbitrators to improve their professional quality and professional ethics, and strengthen the supervision and management of arbitrators to ensure the fair adjudication of cases. Raise the selection standards for arbitrators, conduct qualification reviews to ensure they possess professional knowledge and experience in law, business, negotiation, and mediation. On the other hand, establish a training and certification system for arbitrators, provide professional training for new arbitrators to improve their professional quality and arbitration skills. At the same time, establish an arbitrator certification system to conduct regular assessments for arbitrators already in service to ensure they are competent for arbitration work. Additionally, conduct regular evaluations of arbitrators' professional ethics and conduct to ensure they adhere to the principles of justice, fairness, and integrity.

3. Improving the arbitration legal system

Revise and improve the Arbitration Law in accordance with social development and actual needs, clarify the legal status and responsibilities of arbitration institutions, regulate the arbitration process, and strengthen the enforcement of arbitration awards. Add new content, such as electronic arbitration, online arbitration, and other new forms of arbitration to meet the increasingly complex and diverse needs of dispute resolution.

Clarify the legal status and responsibilities of arbitration institutions, grant them the corresponding legal status and responsibilities, enabling them to handle disputes fairly, justly, and efficiently. Consider incorporating arbitration institutions into the judicial system and strengthening cooperation with courts to enhance the enforcement of arbitration awards.

Regulate the arbitration process, establish unified rules for arbitration procedures to ensure the fairness, transparency, and efficiency of outcomes. At the same time, strengthen the training and management of arbitrators to improve their quality and professional level.

4. Strengthening international cooperation

Actively participate in international arbitration affairs, strengthen exchanges and cooperation with arbitration institutions of other countries, promote coordination and communication between different legal systems; establish transnational arbitration institutions, develop common rules and standards, so that arbitration institutions from different countries

can better cooperate and communicate; strengthen legal aid, etc., by providing legal aid to help parties in need of international arbitration resolve disputes and improve the international influence of China's arbitration system; the need to train a group of arbitrators with an international perspective and experience to meet the needs of the development of international arbitration.

Through the implementation of the above measures, the international influence of China's arbitration system can be strengthened, its status and role in the international arbitration field can be improved, and a greater contribution can be made to China's economic development and social progress.

5. Strengthening publicity and promotion

Increase efforts to promote the arbitration system, raise public awareness and understanding of the arbitration system, and guide parties to choose arbitration as a means of resolving disputes. The following measures can be taken: organize training activities on the arbitration system, invite professionals to explain the characteristics, advantages, and scope of application of arbitration, and enhance public understanding of arbitration; strengthen cooperation with the media, invite media reports and interviews to increase the visibility and influence of the arbitration system; establish a feedback mechanism to promptly collect public opinions and suggestions on publicity and promotion work, continuously improve the work, and enhance the effectiveness of publicity. Through the implementation of the above measures, the public's awareness and understanding of the arbitration system can be effectively improved, guiding parties to choose arbitration as a means of resolving disputes. At the same time, it can promote the development and improvement of the arbitration system, providing society with more and more efficient ways to resolve disputes.

The process of the arbitration:

stage	Committed step	describe
1. apply for arbitration	- submit a written application	The party to the dispute formally submits a written arbitration application to the arbitration institution, stating the facts and claims of the dispute.
2. accept and hear a case	- review application	The arbitration institution shall review the application and determine whether it meets the conditions for acceptance.
3. to form an arbitration tribunal	- designated arbitrator	In accordance with the arbitration rules, one or three arbitrators shall be appointed to form the arbitration tribunal.
4. exchange of documents and evidence	- submission of evidence and documents	Both parties submit evidence and documents to support their respective positions.
5. hearing/trial	- oral statement	The parties have the opportunity to present the case orally before the arbitration tribunal.
6. mediation attempt	- mediation meeting	With the assistance of the arbitrator, the parties attempted to resolve the dispute through mediation.
7. arbitrament	- tribunal for deliberation	The arbitration tribunal considers the case and makes an award.

The current state of China's arbitration system

After years of sustained effort, the arbitration industry in our country has achieved significant development, arbitration theory has become increasingly prosperous, and arbitration rules have been continuously revised and improved. With the deepening of arbitration practice, the arbitration environment in our country has gradually improved, and more and more arbitration practitioners have joined the industry. The public's understanding of arbitration is also constantly improving, with some market entities beginning to choose arbitration as a way to resolve disputes, and their trust in arbitration is gradually increasing. At the same time, society's understanding of arbitration is deeper than ever before, with a more comprehensive and objective understanding of it.

1. The number of arbitration institutions is continuously increasing

The number and distribution of arbitration institutions in our country are continuously increasing, with more than two hundred now, covering most parts of the country. The increase

in the number of arbitration institutions is due on the one hand to the support and guidance of national policies, strengthening the standardized management of the main arbitration institutions. On the other hand, the demand for arbitration to resolve disputes in society is also increasing. With the development of the economy and progress of society, various disputes continue to emerge, and the appearance of arbitration institutions provides a more convenient and efficient way to resolve disputes.

The increase in the number of arbitration institutions in our country is of great significance. First, arbitration institutions provide more avenues and choices for the resolution of social disputes. Compared to litigation, arbitration is more flexible, convenient, and efficient, offering parties more convenient services. Second, the increase in arbitration institutions can improve the efficiency and quality of dispute resolution. The professionalism and authority of arbitration institutions can ensure the fairness and accuracy of dispute resolution, while also reducing the time and effort costs for the parties involved. Finally, arbitration institutions can promote the establishment and improvement of the social credit system. The enforcement of arbitration outcomes is guaranteed by state coercion, so the increase in arbitration institutions can promote the establishment and improvement of the social credit system, raising the level of legalization in society.

2. The number of arbitration cases is increasing year by year

With the popularization of the arbitration system, the number of arbitration cases in our country is increasing year by year, involving various types such as contract disputes, financial disputes, and intellectual property disputes. This situation reflects the widespread recognition and trust in our arbitration system. As an independent third-party institution for resolving disputes, the fairness and authority of the arbitration committee are highly praised. Compared to traditional litigation procedures, arbitration procedures are more straightforward and efficient. Parties can choose suitable arbitration institutions and rules based on their needs, thereby better protecting their own interests.

With the deepening participation of Chinese enterprises in international markets and the increase in international interactions, the number of cross-border arbitration cases is also increasing. Arbitration, as an internationalized dispute resolution mechanism, provides convenience for the resolution of cross-border disputes. Our country actively promotes the internationalization of arbitration, joining international arbitration organizations and rules such as the UNCITRAL Arbitration Rules, further enhancing the international influence of our arbitration.

The challenges faced by arbitration management in the future

1. Imperfect internal governance structure of arbitration committees

With the deepening development of the socialist market economy and the further expansion of opening up to the outside world, arbitration work faces the problem of an imperfect internal governance structure of arbitration committees, which affects the credibility and healthy development of arbitration.

2. The arbitration legislation needs to be improved

The existing Arbitration Law has legislative defects and fails to fully respect the development law of arbitration, which needs to be further modified and perfected.

3. Arbitration theory research is relatively lagging behind

The research of arbitration theory in China is relatively lagging behind. In the early stage, most of them introduced foreign arbitration legislation, practice and theoretical research, and there were few theoretical and institutional innovations.

4. The development of arbitration institutions is unbalanced

The regional distribution of China's arbitration institutions is obviously unreasonable, the difference is too large, and the lack of comprehensive consideration of the market demand and the materialization degree of the local economy.

5. The international competitiveness of arbitration is not strong

In the face of the development trend of international arbitration, the international competitiveness and credibility of China's arbitration need to be improved to adapt to the challenges of globalization.

6. The supervision and restriction mechanism is not perfect

The imperfect supervision and restriction mechanism of arbitration has seriously affected the credibility of arbitration and restricted the healthy and rapid development of arbitration.

7. Insufficient support and guarantee

The support and guarantee measures for arbitration are not in place, and it is necessary to further strengthen the support and guarantee for arbitration.

8. Conflict on the boundary of the parties' autonomy in arbitrary proceedings

In order to maintain the legitimacy and efficiency of the arbitration system, it is necessary to coordinate and balance the boundary conflicts of the parties' autonomy in arbitration proceedings.

9. The necessity of revising the Arbitration Law

The current arbitration law does not adapt to the development of the situation and the needs of arbitration practice, and needs to be revised and improved.

10. Exploitation of the potential of arbitration services

Compared with the huge demand for social dispute resolution brought about by economic development, China's arbitration service potential is yet to be tapped, and the future development space is huge.

11. Interaction between international arbitration and Chinese enterprises

The challenges faced by Chinese enterprises in international arbitration include the lengthy trial period, high arbitration costs, language barriers and other issues, which need to further enhance the competitiveness of Chinese enterprises in international arbitration.

12. Modernization and internationalization of arbitration administration

Arbitration management needs to be further modernized and internationalized to adapt to the development of the digital economy and the trend of global economic integration.

Conclusion

Arbitration plays a vital role in labor relations management, it will not only help to resolve the existing labor disputes, it also promotes compliance with labor laws and the long-term stability of labor relations because it provides a fair platform, so that labor disputes can be handled independently and objectively without external influence, compared to court litigation, arbitration proceedings are often much more efficient, able to resolve disputes faster, reduce the time costs for both parties, in addition, arbitrators usually have professional legal knowledge and industry experience, ability to more accurately understand and adjudicate complex labor disputes, on the other hand, the arbitration process is usually confidential, help protect the privacy and business secrets of the parties, avoid unnecessary public exposure while the arbitrator award is legally binding, once made, the parties must comply, this provides legal guarantees for the settlement of labor disputes, help to maintain harmonious labor relations, reduce adversarial activity, to mutual understanding and cooperation, prevent the occurrence of disputes, final arbitration cases and awards can be used as educational resources, help other employers and employees understand labor laws and best practices, the arbitration system can adapt to changes in the social and legal environment, continuous updates and improvement, to meet the new needs of labor relations management.

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