



Legal Nature of Collective Labor Disputes

**Nurmagambetov Amanzhol
Magzumovich**

Head of the Department of Civil, Labor and Environmental Law
of the Faculty of Law of the L.N. Gumilev Eurasian National
University

**Rakhimkulova Lola
Ulugmurodovna**

Senior Lecturer at Tashkent State University of Law

ABSTRACT

Conflict is inevitable in workplace relations. Establishing institutions and practices that are able to manage workplace conflict effectively is therefore an integral dimension of any workplace relations system. However, the nature of workplace relations and workplace conflict is changing. For example, as trade union density has declined, work-related disputes have become increasingly individualised, rendering institutions built on the expectation of collective disputes struggling under the resulting workload

Keywords:

Conflict is inevitable in workplace relations. Establishing institutions and practices that are able to manage workplace conflict effectively is therefore an integral dimension of any workplace relations system. However, the nature of workplace relations and workplace conflict is changing. For example, as trade union density has declined, work-related disputes have become increasingly individualised, rendering institutions built on the expectation of collective disputes struggling under the resulting workload. Broader legislative and economic developments have also affected the nature of disputes, with many countries reporting a sharp increase in the number of rights disputes (and termination-related rights disputes in particular) proportionate to the number of interest disputes. Conflict resolution is an essential part of any well-functioning labour market and industrial relations system. Where there are labour relations one inevitably finds labour disputes and the need to resolve them efficiently, effectively and equitably for the benefit of all the parties involved and the economy at large. The framework put in place to deal with such

disputes is a crucial component of any country's industrial relations system. The options available to the social partners and to governments are numerous and range from informal negotiations all the way to formal litigation and may even include government intervention to resolve certain labour disputes in the public interest.

. Generally speaking, employment disputes are divided into two categories: individual and collective disputes. As the term implies, **individual disputes** are those involving a single worker whereas **collective disputes** involve groups of workers - usually represented by a trade union.

Collective disputes can further be divided into two sub-categories: rights disputes and interests disputes. A **rights dispute** arises where there is disagreement over the implementation or interpretation of statutory rights, or the rights set out in an existing collective agreement. By contrast, an **interest dispute** concerns cases where there is disagreement over the determination of rights and obligations, or the modification of those already in existence. Interest disputes typically arise in the context of collective bargaining

where a collective agreement does not exist or is being renegotiated.

In terms of collective disputes, the kind of dispute often has important legal and strategic consequences for determining the method for resolving it. In the case of a rights dispute where there is a valid collective agreement in force, this same agreement might include provisions setting out the mechanism the parties must follow in the event of a dispute. And depending on the country, there may be legal provisions requiring certain collective disputes to proceed in a specified manner to arrive at a resolution (e.g. a collective interest dispute involving an essential public service may be subject to compulsory arbitration under the law).

While the range of choices for resolving labour disputes is broad, the present discussion focuses only on the **extra-judicial mechanisms** of conciliation, mediation and arbitration – that is, solutions which do not involve going to court or appearing before a labour tribunal. And while there is a great variety of conflicts that can arise between workers and employers, this paper further focuses on those mechanisms used to resolve disputes in cases of **collective disputes**, that is, disputes associated with the process of collective bargaining (*interest* disputes) or in the application/interpretation of collective agreements (*rights* disputes) and which arise between employers and groups of workers most often represented by trade unions.

Types of Labour Disputes

Labour disputes can broadly be categorised in two ways - collective and individual labour disputes.

Furthermore, collective labour disputes can be:
a) interest disputes (about new entitlements)
or b) rights disputes
(about existing entitlements).

Collective Interest Disputes

Collective interest disputes are those disagreements where negotiating parties disagree over the determination of terms and conditions of employment to be set out by a new collective agreement or over the

modification of those already laid down by the existing collective agreement. Commonly disputes in this category

will arise in the context of collective bargaining during the negotiation or renegotiation of agreements. Examples of the issues arising in such disputes can include the attempt of the parties to agree pay rates to apply in the enterprise, working arrangements to apply or levels of productivity or output to be expected in the enterprise. Negotiations in such matters are generally a matter of 'give and take' – of haggling or bargaining. The practice prevailing in the economy generally, or in other sectors of the economy, may give some guidance as to possible resolution or means of finding agreement.

In essence, the issues in 'interest disputes' are negotiable and often compromisable or at least subject to design and customisation by the parties to the disagreement.

Collective Rights Disputes

This second type of collective dispute can arise in relation to the terms and conditions of work set out under law or in a collective agreement where that agreement carries the force of law. Such disputes commonly relate to situations which appear during the application of a collective agreement or when interpretation of an existing collective agreement is challenged by one of the parties. Common issues giving rise to such disputes include non-payment of wages, unilateral modification of working hours, non-observance of agreed rates of pay or holidays, anti-union practices or any of the broad range of existing rights and obligations set out in applicable collective agreements which have the force of law. Collective disputes over rights can be around different interpretations by the parties to a collective agreement of whether a set of circumstances constitutes the infringement of a right or entitlement or they can be around the question of remedy for a proven or alleged contravention of the law or of the collective agreement.

References:

1. Spielmans, John V. "Labor disputes on rights and on interests." *The American Economic Review* (1939): 299-312.
2. Warner, Malcolm, and Ng Sek-Hong. "Collective contracts in Chinese enterprises: A new brand of collective bargaining under 'market socialism'?" *British journal of industrial relations* 37.2 (1999): 295-314.