

The Legal Coordination of Labor Relations in the Context of Public Health Emergencies

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Abstract:

Based on the nature of the enterprise and the externality of labor relations, the labor relations coordination mechanism is multi-dimensional, and its basic framework generally consists of government intervention, individual labor relations coordination, collective labor relations coordination, and corporate social responsibility campaigns. The public health emergency has brought some new changes in the field of labor relations. The laborer and the employer arbitrarily action the right to rescind the labor contract based on the irrational tendency, infinitely highlighting the unilateral expression of their "economic person", ignoring their role as "social person". The elasticity of demand for the overall benefit. In the final analysis, the "Labor Contract Law" and other legal norms lack the necessary restrictions on the actor's rescission behavior, the traditional theory's definition of the right to form the right to rescind the contract is blindly applied in practice, and the balance of interests between labor relations subjects is naturally broken. Therefore, it is necessary to examine the legitimacy of the unilateral termination of the labor contract, and to discuss and study the legal coordination of labor relations in the context of public health emergencies.

Keywords: *Emergencies, Public health events, Labor relations, Legal coordination.*

I. INTRODUCTION

Before and after China was hit by the international financial crisis in 2008, the focus of the construction of the labor relations coordination mechanism shifted from the coordination of individual labor departments to the coordination of collective labor relations. At the beginning of the implementation of the "Labor Contract Law", it was hindered by the impact of the international financial crisis, and the labor-management conflict became more intense, and the coordination of individual labor relations seemed inadequate. Therefore, for the first time, the coordination of body-labor relations was put on the stage of history as the protagonist. Although this shift in focus has great significance for progress, practice has shown that it is difficult to achieve the expected goals with a single breakthrough reform. In the top-level design of the construction of labor relations coordination mechanism, attention should be paid to the overall promotion. Basic Framework of Labor Relations Coordination Mechanism the multi-dimensionality of labor relations coordination mechanism depends on the nature of enterprises and the externalities of labor relations. In market economy countries, labor relations coordination mechanism

consists of coordination means of various dimensions. The reason for this multidimensionality can be explained at least from the nature of the enterprise and the externality of labor relations. As the relationship between labor and means of production, labor relations are at the core of an enterprise.

Public health emergencies refer to major infectious disease epidemics, mass diseases of unknown cause, major food and occupational poisoning, and other events that seriously affect public health that occur suddenly and cause or may cause serious damage to public health. For example, the new crown pneumonia epidemic is a major public health emergency with the fastest spread, the widest infection range, and the most difficult prevention and control. It has had a major impact on China's economic and social development and people's daily life. A test of ability. After the outbreak of the epidemic, the Chinese trade union actively responded to the call of the party and the state, united and mobilized the majority of workers and the masses to participate in the anti-epidemic prevention and control and the resumption of work and production and the resumption of the market and made active efforts to overcome the epidemic and resume production [1]. Reviewing the trade union's response practice in this epidemic, summarizing the coping experience, identifying the existing problems, and clarifying the improvement path are of great significance for further improving the ability and level of the Chinese trade union to respond to major public health emergencies. This article examines the legitimacy of the unilateral termination of the labor contract and discusses the legal coordination of labor relations in the context of public health emergencies.

II. CHINA'S CURRENT LABOR RELATIONS COORDINATION MECHANISM IS STILL AT AN IMMATURE STAGE

According to the above-mentioned basic framework, although China's current labor relations coordination mechanism is basically complete in form, it is still at an immature stage in substance. Its deficiencies are mainly manifested in [1]: deficiencies in overall structure from the perspective of overall structure, there are three main deficiencies in China's current labor relations coordination mechanism:

(1) Weakening of the social intermediary coordination mechanism, that is, not only the actual function of the collective labor relations coordination mechanism is weak, but also the lack of a corporate social responsibility movement mechanism among domestic enterprises.

(2) Government intervention and individual labor relations coordination have become the main mechanisms for labor relations coordination.

(3) The vicious circle of increasing government intervention in individual labor relations and over-reliance on government intervention for individual labor relations further squeezes the development of the social middle-level coordination mechanism [2]. This is a broken structure of "strong capital and weak labor + strong government and weak society". Among them, especially because of the lack of the union of workers, it has become a kind of, as the German legal philosopher Redbrick said, "It doesn't take the whole of the employees of the enterprise as a complete social unity at all, it is completely It is a structure that only sees pure trees but does not see the forest."

III. LABOR RELATIONS COORDINATION MECHANISM

The basic framework of the labor relationship coordination mechanism includes a variety of mechanisms, among which there are mainly four mechanisms, namely individual labor relationship coordination, government intervention, collective labor relationship coordination and corporate social responsibility [2], as shown in Figure 1.

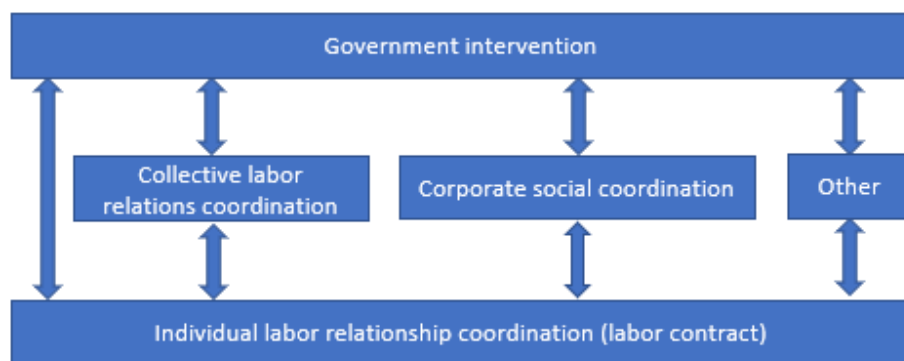


Fig 1: Labor relations coordination mechanism

3.1 The Relationship between Government Intervention and the Coordination of Individual Labor Relations

In the operation of a single labor relationship, a single worker is not enough to compete with the employer, and it is difficult to achieve autonomy of will and obtain fair protection. Therefore, on the one hand, the government uses labor law means, that is, by formulating and implementing labor standards, to intervene in the operation of labor contracts, and to limit employers' freedom of contract, so as to ensure that workers obtain the bottom-line benefits stipulated by labor standards; Legal means, that is, through macro-control, supply of public goods, etc., to create macro- and micro-economic conditions to ensure the normal operation of labor employment and labor relations. Among them, the labor standard can only protect the bottom-line interests of workers and cannot provide protection for workers to obtain interests above the bottom line [3]. It is worth noting that in the modern market economy, the consequences of government intervention in labor relations are the same as government intervention in other fields. There is the so-called "North Paradox", that is, "the existence of the state is the key to economic growth, but the state is artificial. The root of the recession".

3.2 Government Intervention, Collective Labor Relations Coordination

The relationship of the coordination of individual labor relations is due to the phenomenon of "failure" between government intervention and coordination of individual labor relations, so it is necessary to embed collective labor relations coordination between the two. The relationship between the three, as far as the field of labor law is concerned, is concentrated in the labor standards, collective contracts, labor

rules and regulations, and the validity relationship between labor contracts [3]. As the multi-level basis of labor rights and obligations in labor relations, they constitute the substantive legal tool system of labor law. The order of effectiveness levels from high to low is labor standards (laws and administrative regulations) → collective contracts → labor rules and regulations → Labor Contract. Among the tools of different efficacy levels, the content of the efficacy relationship includes two aspects: complementary efficacy and "not less than" efficacy. In the above-mentioned substantive law tool system, the role of labor benchmarks mainly depends on the public power of the government, and the role of collective contracts and labor regulations mainly depends on the solidarity of trade unions. The key is that the main body of labor in the coordination of collective labor relations is no longer a single laborer, but a labor union as a solidarity of laborers [4]. This can not only make up for the lack of power imbalance between the parties in the operation of a single labor relationship, but also make up for the limitation that labor standards only protect the bottom-line interests of workers, so that workers can obtain benefits above the bottom line. However, the disadvantage is that strikes or factory closures that may occur in collective bargaining will have a negative impact on economic development and social stability. Although collective labor relations coordination has its advantages, the exertion of this advantage depends on the economic environment formed by the government's macro-control.

IV. GOVERNMENT INTERVENTION CORPORATE SOCIAL RESPONSIBILITY MOVEMENT

In addition to labor inspection, labor benchmarks are also enforced on individual labor relations through corporate social responsibility campaigns [4]. The main points are:

4.1 The Main Controlling Enterprise is the Leading

Enterprises in the corporate social responsibility movement are divided into control enterprises and controlled enterprises. The former refers to enterprises that are in a controlling position in the production and operation chain, while the latter refers to enterprises that are controlled by the main controlling enterprise in the production and operation chain, such as parent companies and subsidiaries, brand owners and manufacturers, buyers and suppliers, and contractors. with contractors, general contractors, and sub-contractors. For the consideration of expanding business opportunities and balancing the labor cost of the enterprise, the main controlling enterprise has made a public commitment to the society that it not only undertakes its own social responsibility, but also urges the accused by formulating and implementing corporate social responsibility standards, order constraints, selection of trading partners, and entrusting factory inspections [5]. The controlling enterprise shall undertake social responsibilities and provide necessary guarantee conditions for the accused enterprise to undertake social responsibilities. In a nutshell, the formulation and implementation of corporate social responsibility standards are dominated by the controlling enterprise.

4.2 Participation of Social Forces

The emergence and development of the CSR movement is the result of the joint participation of various social forces. These social forces include consumers, investors, NGOs, and international agencies.

Among them, the role of non-governmental organizations is particularly important [5]. It not only formulates corporate social responsibility standards and urges the accused enterprises to comply with corporate social responsibility standards in the form of commissioned factories, but also creates social pressure by mobilizing the public, organizing social activities, using social media, and guiding public opinion [6]. Force the controlling enterprise and the accused enterprise to fulfill their social responsibilities.

4.3 The Combination of Social Joint Control and Economic Control

The corporate social responsibility movement embodies a social joint control relationship, that is, the controlling enterprise, the controlled enterprise and various social forces control each other to realize corporate social responsibility within the whole society [6]. In terms of its formal composition, it is a combination of social movements and corporate control actions. The former mainly refers to the consumer movement of "conscientious consumption" and the investor movement of "social investment", which creates social pressure on the controlling enterprise, urging it not only to fulfill but also urge the accused enterprise to fulfill its social responsibilities; the latter is the controlling enterprise. Conduct social pressure to the accused enterprise in various ways and urge the accused enterprise to fulfill its social responsibility [6]. As far as its substance is concerned, it is the use of the market mechanism and belongs to economic control. Whether it is the control of the controlled enterprise by the controlling enterprise or the control of the enterprise by social forces, they are all controlled by means of a "buyer-led commodity chain" and by means of contracts, consumer purchases, and profits.

4.4 Implementing Labor Standards based on Corporate Social Responsibility Standards

Whether it is social joint control or economic control, it is all for the implementation of labor standards, and the corporate social responsibility standards formulated by the controlling enterprise or its leading NGO in accordance with international labor standards and labor laws of the country where the company is located is the implementation of labor standards. refine and implement. To judge whether an enterprise complies with labor standards and fulfills its social responsibility, it must take the corporate social responsibility standard as a specific measure [7]. In this sense, the CSR movement is a movement to promote CSR standards to implement labor benchmarks.

V. THE COORDINATION OF COLLECTIVE LABOR RELATIONS AND THE COORDINATION OF CORPORATE SOCIAL RESPONSIBILITY

The corporate social responsibility movement is a social middle-level coordination mechanism between government intervention and individual labor relationship coordination. Its functional value lies in making up for the insufficiency of government intervention and individual labor relationship coordination and considering the realization of labor benchmarks to protect the interests of workers. function and super bottom function [8]. The difference is that:

(1) The former is dominated by trade unions, while the latter is dominated by the controlling enterprise.

(2) The former is mainly based on solidarity of laborers, collective bargaining, and collective contracts, while the latter is mainly based on social joint control between the controlling enterprise and the accused enterprise, between NGOs and enterprises, and corporate social responsibility standards [8].

(3) The former focuses on realizing the super-low function of labor standards. The labor standards stipulated in collective contracts and enterprise labor rules and regulations are usually higher than labor standards, and the level of corporate social responsibility standards is usually consistent with labor standards [8]. Because of the differences in the source and mode of action of social forces, the two complement each other and are indispensable in the coordination mechanism of labor relations, and there is also a relationship of competition in practice. In Western countries, the CSR movement is seen as a measure of companies responding to trade unions, or a legitimate anti-union activity, that is, employers make employees think that employers have "wake up" through CSR campaigns. Come here", proactively improving labor conditions and standards without unionizing, to change employees' expected trust in unions. It can be said that the decline in the rate of trade union organization in industrialized countries is not unrelated to the development of the corporate social responsibility movement [9]. Not only that, but the CSR movement can also be seen as a complement to the role of trade unions. South Korea's practice shows that formal workers in formal employment can fight for rights and interests under the enterprise trade union system, while informal workers in informal employment are not union members, and their rights and interests depend on the integration of social movements and trade union movements [9]. Among them, the positioning and protection of citizens' labor rights, the boundary and interaction of government intervention and coordination with the middle layer of society should be raised to the constitutional level, and institutional design should be carried out as issues of human rights protection, rule of law government, and civil society construction; labor contract operation and labor dispute resolution is not only applicable to labor law, but also needs to supplement relevant civil law norms under certain conditions; the means of government intervention in the field of labor relations are a combination of labor law and economic law in content, and in form. It is regulated by administrative law; the coordination of collective labor relations not only occupies a key position in the labor law system, but also has an increasingly strong impact on the corporate governance structure; the corporate social responsibility movement is, in a certain sense, a movement to achieve legal control.

Social responsibility standards are the form of social norms to implement international labor standards and domestic statutory labor standards. Enterprises' fulfillment of social responsibilities is an obligation entrusted to enterprises by modern company law. Comprehensive application of corresponding legal means in economic law and international trade law [9]. Emphasizing the cross-departmental legal nature of the labor relationship coordination mechanism, its significance lies in placing the labor relationship coordination mechanism within the framework of the entire legal system for comprehensive consideration, that is, centering on labor relationship coordination, integrating various legal departments in the legal system, especially labor law and the legal resources and jurisprudence resources of economic law, comprehensive design and construction of cross-departmental law for the coordination mechanism of labor

relations.

VI. THE TREND OF CHINA'S LABOR RELATIONS COORDINATION MECHANISM

The field of labor relations is an area where social contradictions and social problems occur frequently and are concentrated in the social field. Labor-capital contradiction is the social contradiction that has the greatest impact on economic and social development and has the longest influence among many social contradictions. To strengthen and innovate social management, to solve outstanding problems affecting social harmony and stability as a breakthrough, it must focus on labor relations [10]. In view of the current situation that China's labor relations coordination mechanism has defects in the overall structure and various components, according to the basic spirit of social management innovation, we should promote the overall structural transformation of the labor relations coordination mechanism, that is, from "strong capital and weak labor + strong the structure of "government and weak society" is shifted to the structure of "strong capital and weak labor + limited government and strong society" to improve the overall efficiency of the labor relations coordination mechanism [10]. There are three main points:

(1) Focus on strengthening the social intermediary coordination mechanism, improve its status in the labor relations coordination mechanism, moderately weaken the direct interaction between government intervention and individual labor relations coordination, and strengthen the government's ability to coordinate with individual labor relations through the social intermediary.

(2) Strengthen the social intermediary coordination mechanism, consider the cultivation and development of the collective labor relations coordination mechanism and the corporate social responsibility movement mechanism, attach importance to the cooperation between social forces within the system and social forces outside the system, and give full play to various social intermediary coordination mechanisms and various the advantages of a social force and complement each other.

(3) Transformation of government intervention functions.

On the one hand, optimize the functional division of labor between the government and the middle layer of society, and transfer part of the government's function of coordinating labor relations to the middle layer of society; equal emphasis is placed on the means of economic law and the means of labor law [10].

VII. SUMMARY

This paper study shows that under the background of public health emergencies, the labor relations coordination mechanism is multi-dimensional, and its basic framework consists of government intervention, individual labor relations coordination, collective labor relations coordination, and corporate social responsibility campaigns. Among them, collective labor relations coordination and corporate social responsibility are social intermediary coordination mechanisms between government intervention and individual labor relations coordination during health emergencies; government intervention and individual

labor relations coordination not only interact directly, but also through social intermediaries Layer coordination mechanism and indirect interaction. To this end, it is necessary to strengthen the social intermediary coordination mechanism, optimize government intervention and individual labor relationship coordination, to promote the labor relationship coordination mechanism as a whole, and form a structure of "strong capital and weak labor + limited government and strong society".

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