

Labour Arbitration in Mainland China: Its Current State, Characteristics, and Tendencies

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Since the implementation of the “Labour Dispute Mediation and Arbitration Law (LDMAL)” in 2008, there has been a substantial increase in the number of labour disputes in China, which to some extent shows workers’ growing awareness of labour rights. However, while new legislation was laudable, it also brought about tremendous pressure on labour dispute mediation, arbitration, and litigation. On one hand, the labour dispute arbitration legislation essentially meets the needs of the current labour disputes. But on the other hand, China’s labour dispute arbitration system is still challenged by more complicated labour relations, group-based litigations, diverse demands, intricate problems, and other factors. The system, therefore, is in urgent need of improvement. This paper analyses the following main characteristics of the current labour arbitration system in China: (i) arbitration as the pre-trial procedure for some types of labor disputes under certain conditions; (ii) free labour arbitration; (iii) reasonable time limits for labour arbitration application and a shortened time frame to reach an arbitration reward; (iv) a tripartite regulatory mechanism; and (v) the dual nature of the labour arbitration system as quasi-judicial and quasi-administrative. Furthermore, this paper focuses on the tendencies and future possibilities for the labour dispute arbitration system in China that include, but are not limited to, separation of labour arbitration and labour litigation, socialization of labour arbitration system, unified law application and coordinated jurisdiction in labour arbitration and civil litigation, and lastly, strengthening of multiple approaches to oversight labour arbitration.

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