

The Rules for Adjudicating Unfair Labor Practice: An American Experience

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Abstract

Unfair Labor Practice originates from US Labor Law. The National Labor Relations Board is the competent agency to enforce the law and adjudicate the unfair practice. Federal courts serve as the interpreter of the laws and formulate the construction of the laws. Those institutions are standing for the adjudicating unfair labor practice cases. There are two categories of unfair labor practices. One is the unfair practices committed by the employer and the other committed by the labor organization. No statutory construe of the definition of unfair labor practice in the law. General Counsel's charge and NLRB's adjudication against violators can be considered as state's intervention into labor-management relationship. Their actions responding unfair practice protect employee from being abused.

Keywords: National Labor Relations Act, Adjudication, General Counsel

美國不當勞動行為認定與裁決之規範

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-兼與我國九十二年版勞動三法草案相關條文初步對照

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摘 要

不當勞動行為之法律概念來自於美國全國勞工關係法，依照該法所設立的全國勞工關係局 (the National Labor Relations Board)是執行該法律與處理不當勞動行為案件的主管機關，聯邦法院是美國勞工法之解釋機關，則為促進各該法律概念形成之主要之司法解釋權責機關。因而美國之不當勞動行為之裁決機關為常設性之全國勞工關係局與法院之法定機關。該法之不當勞動行為即是指雇主的不當勞動行為與勞工組織之不當勞動行為。該法之立法解釋定義規定並無法解釋何謂不當勞動行為。該局總檢察長之告訴與全國勞工關係委員之會議裁決之程序，在本質上，其乃是美國以國家之力量以高權介入於勞資間之法律關係中，借而對任何勞工有關不當勞動行為之申訴之處理，以保護其勞工之權益。

關鍵字：全國勞工關係法、裁決、總檢察長

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