

# THE FUTURE OF LABOR UNION'S PROTECTION OF LABOR RIGHTS — — COOPERATION, HARMONY AND WIN-WIN

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**Abstract:** The future of labor rights protection is cooperation, harmony and win-win, labor-capital cooperation is closely related to maximization, balance and efficiency, and labor-capital cooperation, win-win and the construction of harmonious labor relations constitute an organic whole, and enterprise trade unions play an indispensable role in achieving a win-win situation.

**Keywords:** enterprise trade union; labor right; Harmonious labor relations

Trade unions are the representatives of workers, and it is their duty to protect the right to work. What we need to think about is whether trade unions only stop at or limit themselves to protecting the rights and interests of workers and ignore the interests of the management of enterprises? The interests of enterprises and workers are mutually antagonistic and conflicting, and the protection of the rights and interests of workers means that the interests of enterprises are lost. Therefore, in order to strive for and safeguard the interests of workers to the greatest extent, trade unions in enterprises are actually trying to reduce the interests of management as much as possible. However, on the other hand, the interests of workers and employers are not only antagonistic and conflicting, but also compatible. With the development of enterprises, the wages and welfare of workers will also increase, and once the operating efficiency of enterprises is not good, the wages and welfare of workers will not be guaranteed, and they may lose their jobs. If the laborer makes too many demands on the enterprise, but in the short run, it is beneficial to the laborer, but once the demand exceeds the enterprise's affordability and affects or even drags down the enterprise's operational capacity, the consequence is that the enterprise loses or even goes bankrupt, and the laborer is faced with the situation of being laid off, so the laborer and the enterprise's management are still facing the situation of being laid off. The interests of both sides are closely related and influence each other. To put it simply, the two sides have a competitive and conflicting side, as well as a cooperative side. So, how should trade unions deal with this complex relationship between workers and management?

The answer is cooperation, harmony and win-win. Labor-capital cooperation and building harmonious labor relations are the process, and win-win is the result and purpose. Labor-capital cooperation and the construction of harmonious labor relations are a process and state in which workers and employers coexist in harmony and conspire for the development of enterprises, and employers use labor reasonably within the scope of the law, while workers do not strike or other drastic means with the other side of the enterprise. Win-win, also known as "win-win", is a situation in which two parties with conflicting and opposing interests cooperate in a certain social relationship, so that the final result is beneficial to both parties. The role of trade unions is to promote cooperation between employers and employees and form harmonious labor relations on the basis of striving for and safeguarding the legitimate rights and interests of workers, and

to achieve a "win-win" situation through such harmonious labor relations.

## 1. LABOR AND CAPITAL COOPERATION AND MAXIMIZATION, EQUILIBRIUM AND EFFICIENCY

Before we can figure out the concept of labor-management cooperation, we need to clarify what "cooperation" is. According to the interpretation of Cihai, cooperation is "a joint action formed by individuals or groups through coordination in order to achieve a certain goal." A kind of social interaction. Participants must have common goals, similar understanding, coordinated action and certain credit in order to achieve the desired results of cooperation. It is characterized by the commonality of behavior, the consistency of purpose, and even the possibility that cooperation itself becomes an end. [The Sixth Edition of Cihai [M], Shanghai Dictionary Publishing House, 862 (2009).] The most important feature of cooperation is the unity of purpose. Then, as a way of cooperation, labor-capital cooperation is also reflected in the consistency of the purpose of both sides. Labor-capital cooperation refers to a management mode adopted by capital owners and labor owners to achieve common interests. From the perspective of cooperation, the game between labor and capital is not a zero-sum game, and both sides can achieve mutual benefits through cooperation.[ Ling Guoshun and Zheng Shaofang, a New Perspective of Building Harmonious Labor Relations in Private Enterprises: Research Based on Labor Cooperation Game, Theoretical Circle, No.12, 2009, p. 52.]

Maximization, equilibrium and efficiency are the three pillars of law and economics, which are "the basic concepts to explain rational behavior, especially in the decentralized system of the market containing many different people's mutual restraint." [Robert Court and Thomas Uren, Law and Economics, translated by Zhang Jun et al., Shanghai Sanlian Bookstore, Shanghai People's Publishing House, 1994, p. 25.] Among them, maximization is the goal of rational economic man, equilibrium is a balanced state obtained by the interaction of buyers and sellers in the market to maximize their own interests, and efficiency is the measure of the quality of market resource allocation. Win-win is related to all three. Win-win means that both sides have achieved maximization (long-term or short-term), that the interests of both sides have reached a balance, and that the allocation of market resources has reached an efficient state.

The cooperation and win-win between labor and capital are also closely related to the maximization of self-interest of both sides, the equilibrium of labor market and the allocation efficiency of market resources. As a representative of the interests of workers, trade unions should strive for a win-win situation in order to maximize the self-interest of workers, balance the power of both employers and employees, and improve the efficiency of resource allocation in the labor market. Therefore, labor-capital cooperation is closely related to maximization, equilibrium and efficiency.

## **1. Cooperation and maximization**

Maximization is the goal of rational economic man. Both workers and employers will pursue the maximization of their own interests. The maximization here should be the maximization of net income, that is, the maximization of the surplus after subtracting the total cost from the total income. In terms of short-term interests, fighting for their own interests can maximize their own interests, but in terms of long-term interests, cooperation is the way to maximize their own interests for both sides who compete and depend on each other.

First of all, let's see whether cooperation can maximize the benefits of trade unions and workers. Compare the costs and benefits caused by the cooperation between workers (trade unions) and enterprises, and the costs and benefits caused by the struggle between the two sides.

Workers (trade unions) struggle with enterprises, and their gains depend on the strength of trade unions and the results of the struggle. If the strength of trade unions is relatively strong and trade unions gain advantages in collective bargaining, then in the short run, the benefits of workers through collective bargaining will be greater than benefits of cooperation (compromise) with enterprises. However, collective bargaining requires costs, including but not limited to the cost of information collection, the cost of bargaining members' wages and so on. In the case of cooperation, although the short-term benefits may be lower than benefits of successful collective bargaining, the cost is much lower, and the net benefits of collective bargaining are not necessarily higher than those of cooperation. When the strength of the trade union is relatively weak, the trade union is at a disadvantage in collective bargaining. Even if it tries its best to fight for it in collective bargaining, it will not be taken seriously by the enterprise

because of its weak strength. On the contrary, in the case of cooperation, the enterprise will give due consideration to the requirements of the trade union because it wants to save trouble. Therefore, in this case, the benefits of collective bargaining and resistance are smaller than those of cooperation between the two sides. However, the cost of collective bargaining and struggle is greater than that of cooperation, so that the net benefit of collective bargaining and struggle is lower than that of cooperation, that is, cooperation is more rational than collective bargaining (struggle), and it is easier to maximize the interests of workers. It can be seen that whether trade unions choose to cooperate with enterprises depends on their own strength from the perspective of law and economics.

Secondly, it depends on whether cooperation can maximize its benefits for enterprises. If the strength of trade unions is weak and enterprises gain advantages in collective bargaining, the benefits of the management of enterprises will be greater than their disadvantages in collective bargaining, and in this case, if the management of enterprises wants to gain the advantages of collective bargaining, the costs they bear will increase accordingly. Because it may be necessary to find representatives who are good at negotiating, to study how to reject all or part of the demands made by trade unions and workers, and so on. But relatively speaking, if gains the superiority in the collective bargaining, its increase income often may cover the cost which therefore increases, therefore in order to obtain the big net income in the collective bargaining, the enterprise management side will make every effort to obtain the collective bargaining the superiority, this belongs to the enterprise management side in these two kind of situations the most superior choice. Once the strength of the trade union is very strong, even if the enterprise spends a lot of manpower and material resources, it is difficult to reach an agreement with the trade union. Not only is its benefit less than when the trade union is weak, but also the negotiation cost is more. Obviously, its net benefit is lower than when the trade union is weak. At this time, it is more advantageous to choose cooperation. If the enterprise cooperates with the trade union, the profit gained by the management may not be as high as the profit gained through collective bargaining, but at the same time, the cooperation strategy of the two sides will greatly reduce the transaction costs in the process of collective bargaining. Therefore, from the perspective of net profit, the net profit gained by the cooperation between the two sides

is not necessarily lower than net profit gained by the management when they try their best to gain the advantage of collective bargaining.

It is not difficult to find that in the case of different strength of trade unions, enterprises and trade unions have different attitudes towards cooperation or collective bargaining and resistance. In the case of strong trade union, the rational choice of enterprises is cooperation, while the rational choice of trade unions is collective bargaining and struggle, while in the case of weak trade unions, the rational choice of enterprises is collective bargaining and struggle, while the rational choice of trade unions is cooperation. So, do the two intersect? The answer is yes. If one side insists on collective bargaining and struggle, while the other side advocates cooperation, then the result of the game between the two sides is cooperation, but this cooperation is obviously more beneficial to the side that insists on collective bargaining and struggle, because it is more powerful, and the other side will inevitably give up part of its interests for cooperation.

From the perspective of long-term net income, if the two sides adopt the way of cooperation, then the two sides do not have to carry out time-consuming and laborious negotiations and struggles every time. Compared with the two sides struggling for interests every time, the transaction cost will be greatly reduced, and both sides can use the limited resources for the management and development of the enterprise. Although the short-term benefits of the struggle between trade unions and enterprises may be higher than benefits of compromise and cooperation between the two sides, from the perspective of game theory, although the compromise of cooperation between the two sides is a sub-optimal result in the short run, it is beneficial to both sides in the long run. Therefore, labor-capital cooperation is an inevitable choice for both sides to maximize their own self-interests.

## **2. Cooperation and balance**

Why should employers and employees cooperate to achieve a win-win situation? From the perspective of law and economics, the first reason is equilibrium. "The idea of equilibrium is one of the most important features of neoclassical economics and the basis of its methodology." [Zhu Hai, *The Nature of the Market: Perspectives and Methods of Human Behavior*, Gezhi Publishing House, Shanghai Sanlian Bookstore,

Shanghai People's Publishing House, 2009 edition, page 30.] The so-called equilibrium is the state of harmony between the two sides in the market, which is "the state of mutual balance of opposing factors". [Michael Parkin, Economics (8th edition), translated by Zhang Jun, People's Posts and Telecommunications Press, 324 (2009).] Equilibrium means not only a static state, but also the interaction and interdependence of various forces in the market. The cooperative relationship between enterprises and trade unions (workers) is obviously in line with the characteristics of equilibrium. Enterprises and trade unions choose to cooperate in order to maximize their respective interests, and the final result is to form a market equilibrium. Equilibrium is a process and a state. The result of equilibrium is not necessarily a win-win situation. It is possible that one side is dominant and the other side compromises, but the emergence of a win-win result must be a state of equilibrium.

In order to fight for and safeguard the legitimate rights and interests of workers, the trade union of an enterprise fights against the management of the enterprise. This state of struggle is a continuous state, but there are two States of struggle: fierce struggle and relaxed struggle. Cooperation does not mean that trade unions give up fighting against enterprises, but adopt a moderate and rational way, rather than using strikes, machine destruction, negative sabotage and other drastic means, and using moderate and rational means to fight against enterprises, often forming a balanced state. That is to say, the contest between employers and employees is carried out in a mild environment, and it is easier to form a result that both sides are willing to accept, so as to achieve a balanced and win-win situation for both sides. The balanced situation in the labor market is not only conducive to maintaining a stable job and life security for workers, but also conducive to maintaining a stable production and operation situation for enterprises, which is the result that both sides want to see. It can be seen that labor-capital cooperation is a necessary means to achieve the equilibrium of the labor market and maintain stable labor relations.

### **3. Cooperation and efficiency**

The importance of efficiency for resource allocation is self-evident. Because resources are scarce, it is necessary to pursue efficient allocation of resources rather than inefficient allocation of resources to make full use of effective and scarce resources. Wheth-

er it is the labor market or the product market, workers and enterprises tend to pursue efficient results. So, is the result of labor-capital cooperation an efficient one? The answer is yes, because the criterion for judging the efficiency of resource allocation is the maximization of social welfare, which is a normative criterion. The efficiency of resource allocation is actually the maximization of welfare, and in the research paradigm of law and economics, the efficiency of resource allocation means Pareto optimality.

The maximization mentioned above is the maximization of net income, which is for each subject in the market (society), while the maximization of social welfare is for the total social welfare, which is the sum of the welfare of each subject. In the labor market, the total social welfare is the sum of the welfare of the management (total surplus) and the welfare of the workers (total surplus). It can be seen that besides the maximization of net income, we also pay attention to the maximization of social welfare, that is, the maximization of the sum of consumer surplus and producer surplus. When the Pareto optimal efficiency criterion is achieved, the social welfare is maximized.

As the criterion of judging efficiency, Pareto optimal criterion is that any change in the allocation of resources in the market can not make any party better. In the case of win-win cooperation between enterprises and trade unions, Pareto optimality is obviously achieved, because win-win is the result of both sides, and in this case, no matter which side the resources in the labor market are inclined to, the interests of the other side will inevitably be damaged. Therefore, the state of cooperation and win-win is the state of efficiency, and cooperation and win-win maximize social welfare, that is, the total welfare of both employers and employees is maximized, which should be encouraged and affirmed.

Therefore, from the above analysis, we can see that cooperation is closely related to the three pillars of law and economics: efficiency, equilibrium and maximization. Labor-capital cooperation helps to achieve the efficiency of labor resource allocation and the maximization of the interests of both sides, and to achieve market equilibrium.

## 2. CONSTRUCTION OF LABOR AND CAPITAL COOPERATION, WIN-WIN AND HARMONIOUS LABOR RELATIONS

### 1. Labor and capital cooperation and win-win

Labor and capital cooperation is the premise and condition of win-win. From the concept and characteristics of labor-capital cooperation, we can see that labor-capital cooperation is based on the common goal of both sides. This common goal is win-win. Because both enterprises and workers (trade unions) are self-interest maximizers, if the cooperation between labor and capital can not maximize their interests, their rational choice is not to cooperate. Since the choice of labor-capital cooperation, it means that the goal of cooperation is win-win, labor-capital cooperation is the process, and win-win is the result. "Labor cooperation is to sublimate the zero-sum logic fundamentally, put the win-win logic of mutual benefit and win-win into the practice of labor relations, and build a new type of labor relations." [Di Minxue, Research on Labor-Capital Cooperation in Non-public Enterprises, China Social Sciences Press, 60 (2012).]

On the other hand, win-win also provides a guarantee for long-term labor cooperation. Although the goal of labor-capital cooperation is win-win, due to the uncertainty of the results of labor-capital cooperation, in some cases, labor-capital cooperation may not necessarily achieve win-win, but only benefit one party, while the other party does not benefit or even suffer losses from labor-capital cooperation. In this case, the party who does not gain or even lose may not choose "labor cooperation" in the future. Therefore, both sides should not only pay attention to the process of labor-capital cooperation, but also pay attention to the results of labor-capital cooperation. Win-win is the guarantee and need of long-term cooperation between employers and employees. It is not conducive to their own long-term benefits to destroy labor-capital cooperation purely for their own interests.

### 2. Harmonious and harmonious labor relations

Harmony is a complex concept. The so-called harmony, simply speaking, means that "the multiple (including binary) elements of the system are in a state of cooperation or orderly competition among the elements of the system." [Chen Jinsong, On Harmony, Heilongjiang Education Press, 50 (2007).] The idea of harmony has existed in China

since ancient times. Laozi put forward that "man follows the earth, the earth follows the heaven, the heaven follows the Tao, and the Tao follows the nature" is a natural view of harmonious coexistence of "harmony between Man and Nature". [ See Zhu Youzhi, *Harmonious China*, Hunan People's Publishing House, 12 (2007).] Since modern times, the idea of "building a harmonious socialist society" has appeared dimly in the ideological system of Marx, Engels and other founders of scientific socialism, as the faithful successor and developer of Marx's scientific socialism, from Mao Zedong to Deng Xiaoping to Jiang Zemin. Several generations of leading collectives of the Communist Party of China have also given different degrees of thinking and exploration to the issue of social harmony. Taking the construction of a socialist harmonious society as a clear and specific goal of the modernization drive and making a scientific and systematic conception of a series of specific issues related to the construction of a socialist harmonious society began with the central leadership collective with Hu Jintao as its general secretary. [ Zhu Youzhi, *Harmonious China*, Hunan People's Publishing House, 256 (2007).]

Building a harmonious socialism is an important ruling policy of the Party. Building harmonious labor relations is a part of building harmonious socialism. Harmonious labor relations, as a social development goal of our country, were formally put forward at the Sixth Plenary Session of the Sixteenth Central Committee of the CPC held in 2006. In the Decision of the CPC Central Committee on Several Major Issues Concerning the Construction of a Harmonious Socialist Society, "implementing an active employment policy and developing harmonious labor relations" is regarded as "insisting on coordinated development and developing harmonious labor relations". It is one of the seven important contents of "strengthening the construction of social undertakings", and specifically requires "improving the coordination mechanism of labor relations, implementing the labor contract system and collective consultation system in an all-round way, and ensuring that wages are paid in full and on time. Strictly enforce national labor standards, strengthen labor protection, improve the labor security supervision system and labor dispute mediation and arbitration mechanism, and safeguard the legitimate rights and interests of workers, especially migrant workers. The so-called harmonious labor relations are "a state of labor relations in which laborers and asset owners with different interest orientations can basically achieve their respec-

tive interest objectives through non-confrontational ways such as negotiation, coordination, participation and contract, so as to achieve the effective combination of laborers and production assets and complete the production process under the modern mode of production."

### **3. Cooperation between Labor and Capital, Win-win and Construction of Harmonious Labor Relations**

The cooperation between labor and capital, win-win and the construction of harmonious labor relations are not only not contradictory, but also identical in essence. Labor cooperation and win-win means that both enterprises and workers benefit from the production and management of enterprises, and the cooperation between the two sides rather than fierce confrontation reduces transaction costs, avoids high costs such as strikes (whether for enterprises or workers), and maximizes the interests of both sides. At the same time, it is also the embodiment of harmonious labor relations. As some scholars have pointed out, harmonious labor relations "concisely speaking, is to achieve the goal of" mutual benefit and win-win "through the way of" cooperative game "between labor and capital."

For enterprises, labor-capital cooperation is more conducive to the development of enterprises than blindly suppressing the rights needs and claims of workers and trade unions. Even if there are contradictions and disputes between employers and employees, labor-capital cooperation provides a possible dispute resolution channel for the contradictions and disputes between the two sides, making the relationship between the two sides more harmonious and easier to achieve the common goal of both sides: the development and profitability of enterprises. "Resolving labor conflicts and achieving harmonious labor relations are the proper meaning of the healthy and sustainable development of China's private enterprises.". Harmonious labor relations are not without conflicts and disputes, but conflicts and disputes can be effectively managed.

"Win-win" is also the need to build harmonious labor relations. In order to play a leading role in building harmonious and stable labor relations, trade unions in enterprises should adhere to the concept of harmonious development and mutual benefit. Through various work, we can promote mutual understanding, support and cooperation between the two sides of labor relations, realize mechanism co-construction, benefit

co-creation and benefit sharing, and ultimately achieve mutual benefit and win-win results.[Guo Zhiwu, Scientific Outlook on Development and the Construction of Trade Unions in Enterprises, China Economic Press, 150-151 (2011).]As some scholars have said, "Enterprises pursue profit maximization, workers pursue income maximization, enterprises pursue cost saving, trade union construction and development and harmonious labor relations need enterprises to increase investment, there will inevitably be contradictions and conflicts between the two, but these contradictions and conflicts are not irreconcilable." Instead, we can achieve harmonious coexistence through economic, legal, moral, public opinion, education, coordination and other means.

The change of the relationship between labor and capital in western countries in the new era has given us the enlightenment of "win-win". In western countries, "with the development of productive forces and the great enrichment of products, the living conditions, working conditions and educational rights of workers have been greatly improved, and the antagonistic relationship between workers and capitalists has begun to change. The antagonistic interests of both sides are not only manifested in the form of fierce confrontation, but also in the struggle to seek checks and balances and cooperation has become a trend in the evolution of labor relations after the war."

### **3. THE ROLE AND ROLE OF TRADE UNIONS IN ACHIEVING A WIN-WIN SITUATION BETWEEN LABOR AND CAPITAL.**

Trade unions represent workers against enterprises, but they also have the responsibility to coordinate the contradictions between workers and enterprises. It is impossible to leave the trade union in realizing the cooperation and win-win between labor and capital and building harmonious labor relations. "In coordinating labor relations and the distribution of interests, trade union organizations, as representatives and defenders of workers'rights and interests and an important pillar of state power, should play an irreplaceable role, that is, Wang Zhaoguo pointed out that trade union organizations at all levels should" devote themselves to building a harmonious socialist society and better express and safeguard the legitimate rights and interests of workers ".

Then, how can trade unions promote the realization of a win-win situation between

labor and capital? The author believes that trade unions should make full use of their status and responsibilities to establish information sharing and transparency, dispute resolution and other related systems between workers and enterprises, and act as channels and bridges for cooperation, consultation and dispute resolution between employers and employees. The specific recommended measures are as follows:

First, information sharing and transparency mechanisms.

Insufficient information often leads to adverse selection, moral hazard and loss in the game. The premise of trust and cooperation, in order to achieve labor cooperation and win-win situation, it is necessary to make full trust between enterprises and workers, and trust is based on the premise of full information sharing and transparency. If workers fully understand the business development of enterprises (except the core secrets of enterprises), they will understand some choices that enterprises have to make for the development of enterprises, such as not being able to provide high salaries, generous benefits, etc., and they will not put forward some requirements that are reasonable but exceed the establishment of enterprises, thus avoiding them. At the same time, it also provides a basis of trust for labor cooperation.

Second, the early warning mechanism of labor disputes.

The reason why labor disputes have evolved into extreme and violent ways such as strikes is that labor disputes have not been solved in a timely and reasonable manner. Establishing an early warning mechanism for labor disputes can enable trade unions to grasp the information of labor disputes at the first time, turn passivity into initiative, actively participate in the settlement of labor disputes, and avoid and reduce extreme ways because labor disputes can not be solved in time.

The early warning mechanism of labor disputes requires "establishing and improving a smooth information network system, taking the demands and voices of workers as the first signal, and resolving contradictions at the grass-roots level and in the bud".

Third, labor-capital cooperation and coordination mechanism.

There are various forms of labor-capital cooperation, including collective bargaining, democratic participation of workers and so on. The cooperation between workers and enterprises must be lubricated, so that when there are obstacles and conflicts in the cooperation between the two sides, they can stand up in time to help both sides remove obstacles and resolve conflicts. Trade unions are the best role to act as "lubri-

cants" for the cooperation between employers and employees. In this case, trade unions need to establish a coordination mechanism for labor-capital cooperation, and also need to convey the needs and ideas of enterprises to workers when they cooperate and communicate with enterprises on behalf of workers, so as to promote the joint action of both sides.

## 4. CONCLUSION

In a word, because the interests of workers are closely related to the development of enterprises, trade unions, as the protectors of workers' rights and interests, must take into account the development and interests of enterprises for the long-term interests of workers, and it is a rational choice for trade unions to achieve a win-win situation between labor and capital. "Trade unions play an important role in building harmonious labor relations. Their role is not entirely on the side of employees to form a confrontational situation with enterprises. They are like lubricants between enterprises and workers, in order to better resolve the frictions and contradictions between employers and employees. The ultimate goal is to achieve the harmonious development of labor relations."

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