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The legality of political strikes in collective labor law: A perspective of Taiwanese labor law

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ABSTRACT

This article analyzes the legality of political strikes in the framework of collective labor law, focusing on the Taiwanese legal system. The right to strike assists workers in addressing structural economic disadvantages; however, the legal status of political strikes in Taiwan remains contentious. Prior studies have not methodically examined the interplay between political demands and the existing framework of strike legality. This study utilizes a doctrinal legal methodology to analyze the Act for Settlement of Labor-Management Disputes and related legal materials, including judicial interpretations, academic literature, and comparative analyses from Germany, Japan, the United States, and international labor law, with a specific focus on the jurisprudence of the International Labour Organization (ILO). The research indicates that Taiwanese law predominantly permits strikes intended to enhance working conditions. Consequently, purely political strikes are generally considered illegitimate because their demands target the state instead of the employer, and their goals extend beyond the immediate improvement of labor conditions. Nonetheless, the research demonstrates that socio-economic political strikes related to workers' economic interests exist in a hybrid state that a categorical prohibition cannot adequately address. The article clarifies the distinction between strike targets and strike purposes, thereby enriching the theoretical discussion on the classification of political strikes. It asserts that demonstrative political strikes linked to socio-economic labor interests should be evaluated according to the principles of proportionality and last resort. This method helps us check if political strikes are legal in a more organized way while keeping the collective bargaining system stable.

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1. Introduction

The right to strike is one of the three fundamental labor rights and is a key part of modern constitutional labor law. In constitutional democracies, it is recognized as an institutional mechanism enabling workers to counterbalance the structural economic dominance of employers, frequently motivated by the aim to preserve or alter labor conditions or to secure

specific economic advantages (Perra & Pilati, 2023). The Act for Settlement of Labor-Management Disputes in Taiwan defines a strike as a temporary and collective refusal by workers to do their jobs. A strike is essentially a collective failure to meet contractual obligations (Dobos, 2022). Nonetheless, when executed within the statutory framework, such non-performance is redefined from a contractual breach into a legally safeguarded privilege, absolving workers and unions from civil and criminal liability (Chang Kai, 2012). Taiwanese labor law doctrine and judicial practice impose rigorous examination of the legality of strike actions, grounded in the fundamental principles of good faith and the prohibition of rights abuse. These principles are made real in four ways: subject, purpose, procedure, and means. There are four things that must be true for a strike to be legal.

2. Method

The study advances through three stages. First, it uses doctrinal legal analysis to put together the internal structure of strike legality under Taiwanese law. It does this by looking at how the Act for Settlement of Labor-Management Disputes and other related laws are meant to be understood. The analysis primarily utilizes formal legal sources, such as statutes, administrative interpretations, and judicial decisions, augmented by academic literature and documented labor dispute practices in Taiwan to demonstrate the practical application of legal rules. Second, the study elucidates the concept and categorization of political strikes by examining pertinent legal scholarship and comparative labor law analyses. The comparative perspective encompasses Germany, Japan, the United States, and international labor law—especially the jurisprudence of the ILO—since these jurisdictions exemplify significant models in strike law and are often cited in Taiwanese labor law scholarship. Third, the article performs a normative assessment through constitutional interpretation and proportionality analysis. At this point, the proportionality test looks at whether limits on political strikes serve a valid purpose, are appropriate and necessary to reach that purpose, and stay fair in balancing the rights of workers as a group with the needs of the public. Methodologically, the study integrates interpretive doctrinal analysis with constrained evaluative and reformative reflection. Nonetheless, the research predominantly constitutes a legal-doctrinal investigation and does not endeavor an empirical evaluation of strike behavior, representing a limitation of the current study.

3. Analysis and Results

3.1. Legal Structure of Strike Legitimacy in Taiwan

Taiwanese law says that a strike is a legally protected way for a group of people to not do their jobs. Article 5 of the Act for Settlement of Labor-Management Disputes says that a "dispute action" is when either labor or management does something that stops normal business operations in order to get what they want. This law says that a strike is when workers temporarily refuse to work. From the standpoint of private law, this behavior signifies a collective cessation of contractual obligations (Yang, 2019). In terms of function, it is a test of strength between workers and management, a "battle and negotiation" in which workers are on the offensive and management is on the defensive (Chiu, 2020). In normal contract law, failing to do work that was agreed upon would mean that the person who didn't do it would be liable for breach of contract. Labor law, on the other hand, changes this conclusion by making some collective refusals legal when they follow the rules set by law. In this way, the strike acts as a "privilege to preclude illegality," which means that actions that would normally be against the law are protected when done within the law.
Articles 53 to 56 of the Act are where most of the rules about strikes can be found. Article 55 says that actions taken in a dispute must follow the rules of good faith and not abusing rights. These principles are the main rules that govern strikes. Good faith is a general rule that says people must be honest, fair, and proportional when they use their rights. The prohibition of abuse of rights exemplifies the principle of good faith, ensuring that rights are exercised within their legitimate scope and do not inflict undue harm (Li, 2021). Even though the right to strike is

legally recognized, it is still limited by these higher principles. Through doctrinal evolution and judicial interpretation, the abstract principles of good faith and non-abuse have been solidified into four cumulative dimensions of legality: subject, purpose, procedure, and means. A strike is legal only if it meets all of these conditions. This four-part structure shows that the legislature wants to treat strikes as a tightly controlled institutional mechanism that balances workers' freedom with social order, not as an unlimited freedom.

Article 54 of the Act says that only a labor union can call a strike, and that the union members must vote directly and secretly to approve the strike. Taiwanese law recognizes a union monopoly over the start of strikes (Streikmonopol). This principle is reflected in the United States, where similar restrictions are in place. Only labor unions or individual labor groups with a collective nature are recognized as the only entities allowed to exercise strike rights (Wu & Su, 2022). This institutional setup is meant to make sure that collective action is accountable, organized, and democratic. The law aims to stop spontaneous or fragmented "wildcat" strikes that could hurt industrial relations without clear lines of responsibility or negotiation by requiring union leadership and majority approval (C.-T. Lin, 2020). Administrative interpretations have bolstered this stance. According to a directive from the Council of Labor Affairs (1989), a union must be a formal party to the dispute in order to call a strike. It cannot do so just as an agent. Because of this, strikes that groups of workers start on their own, without following union rules, are usually illegal. Moreover, specific groups of workers, such as educators and employees in national defense agencies, are explicitly forbidden from striking, demonstrating the legislative emphasis on public interest and national security (C.-K. Huang et al., 2020). Additionally, majority approval through secret ballot guarantees internal democratic legitimacy and ensures that strike action embodies collective will rather than leadership imposition.

The legitimacy of purpose is the most debated part of strike regulation. Article 53 says that strikes are only allowed in "interests disputes," which are disagreements about how to keep or change working conditions. On the other hand, "rights disputes" are disagreements about rights that already exist and come from laws, collective agreements, or labor contracts. These disputes must be settled in court or by an administrative body (Center for Labor and Employment Law, 2017). This distinction is based on a functional reason. When rights are already legally defined, courts and other decision-making bodies have the right tools to enforce them. Strikes are not needed and can cause problems. When disagreements are about future terms and conditions that depend on bargaining power, though, strikes are a valid way to negotiate. Besides the legal limit on interest disputes, Article 23 of the Collective Agreement Act sets a peace obligation that stops dispute actions about things that are already covered by a valid collective agreement. Once the parties have reached an agreement, there must be industrial peace for the duration of the agreement. This supports the idea that strikes are mostly used to help people negotiate with each other, not as a way to protest against society as a whole. A major doctrinal debate is whether the legitimacy of a strike's purpose must also meet the requirement of collective agreement relevance (Tarifbezogenheit). The dominant perspective asserts that strike action must ultimately seek to conclude or amend a collective agreement (Y.-C. Huang, 2015; C.-T. Lin, 2020). Consequently, political, religious, or solely ideological objectives are excluded from the acceptable parameters of strike purposes. Nevertheless, dissenting scholars contend that Taiwanese law does not explicitly mandate such a requirement. The law only talks about interest disputes and doesn't say that strikes are only legal if they are trying to reach a collective agreement. Article 53(2) also allows people to take action against unfair labor practices, even if the dispute isn't directly about the results of collective bargaining. This means that the law allows for a wider range of interpretations of what is a legitimate purpose.

The 2019 EVA Air flight attendants' strike in Taiwan is a good example of how strike legitimacy works in real life. In this case, the employer said the strike was illegal because the union's

demand for a "labor director" (a union representative on the board) was not something that had to be negotiated under the Act for Settlement of Labor-Management Disputes. The Ministry of Labor's Board for Decision on Unfair Labor Practices eventually decided that these kinds of demands are part of "interest disputes" and do not make a strike illegal. But this case shows how dangerous it is for unions to switch from traditional wage bargaining to a broader role in the organization or the economy. This case shows that in Taiwan right now, any strike that doesn't directly target terms that the individual employer can control, like "socio-economic political strikes" aimed at government policy, is likely to be seen as illegal by the courts. This is because it would fail the strict "interest dispute" test used in cases like the EVA Air dispute. The idea that strikes should be a last resort is stronger when they are done in a fair way. Article 53 says that mediation must be tried and fail before a strike can happen. While mediation, arbitration, or adjudication is still going on, dispute actions are not allowed. This "cooling-off" mechanism shows that lawmakers prefer negotiated solutions and makes sure that strikes only happen after all other options have been tried.

Lastly, the legitimacy of means means that the way strikes are carried out must follow safety and proportionality rules. Articles 55 and 56 say that safety and sanitation equipment must be kept up, and they also say that people can't do things that put their lives or the safety of others at risk. Strikes always put economic pressure on businesses and make things harder for the public, but these effects are acceptable within reason. Nonetheless, actions resulting in irreversible destruction, disproportionate harm, or significant threats to public welfare may be deemed an abuse of rights (Christensen, 2026; H.-C. Lin, 2022). The "means principle" strengthens this boundary by saying that using the suffering of innocent third parties as a way to pressure employers is a form of exploitation. Christensen (2026) notes that these strikes may be condemned for "harmfully using the innocent as a means to further their own ends," thus transgressing the essential ethical principle of treating individuals as ends in themselves. The mediation-first requirement also follows the necessity principle, which means that less restrictive options must be tried before going on strike.

When put together, these doctrinal parts make the strike a regulated institutional tool that aims to restore labor peace by causing temporary disruption. Lawful strikes are protected from civil and criminal liability. The legal framework's main goal is not to cause conflict for its own sake, but to restore balanced labor relations through organized collective pressure.

3.2. Concept and Classification of Political Strikes

The idea of a political strike makes the rules about strikes more complicated than they would be otherwise. Political strikes are different from regular industrial action that is aimed at employers to change working conditions. Instead, they usually want to change government policy, make changes to laws, or make bigger decisions about the economy and society. In comparative historical practice, political strikes frequently manifest as general strikes encompassing various industries and social groups. These actions may include workers, students, civil society participants, and various social movements (Paldam, 2021). Taiwan has not witnessed extensive political strikes in the postwar era; however, the theoretical discourse continues to hold considerable importance.

Scholarly efforts to delineate political strikes typically follow three main methodologies: target-oriented, purpose-driven, and integrative approaches. The target-based approach defines a strike as political if it is aimed at the state or public authorities (C.-T. Lin, 2020; Pálmadóttir et al., 2023). According to this theory, the key is to find the entity that is being pressured. But things get more complicated when the state is also the employer at the same time. In these situations, it is hard to tell the difference between pressure from the employer and pressure from the state.

The purpose-based approach, on the other hand, looks at the strike's goal. If the main goal is to change public policy instead of controlling private labor relations, the strike is political (Litor,

2025). This criterion also faces challenges, especially in instances related to public sector employment or socio-economic legislation that directly influences labor conditions. The distinction between economic and political objectives becomes indistinct when pension reforms or labor statutes are challenged.
To resolve these uncertainties, numerous scholars employ a dual approach that examines both the objective and the intent of the strike (Lindvall, 2013). In this context, political strikes are additionally classified according to the degree and nature of the pressure applied. People often make a difference between compulsory political strikes and demonstrative political strikes. Compulsory political strikes try to force public officials to do or not do certain things, and they are often open-ended. Demonstrative political strikes, on the other hand, are meant to show disagreement and get people talking about the issue, not to force a change in policy right away. This typology is very important for later discussions about legality.
Different methods try to define political strikes by looking at their possible political effects, like how they might threaten the constitutional order. Critics have said that these kinds of definitions are too vague and too broad, since they could label regular economic strikes as political if they have indirect effects on policy. Some academics assert that a meaningful distinction between political and non-political strikes may be unattainable, contending that all strikes inherently possess political implications due to their impact on economic policy and social governance (C.-T. Lin, 2020). Critics contend that relinquishing conceptual differentiation compromises legal clarity and precludes normative assessment.

3.3. Legality of Political Strikes: Competing Doctrinal Positions

There is a sharp divide between people who think political strikes are legal in Taiwan and those who don't. The dominant perspective takes a prohibitive position and deems political strikes, especially those identified as exclusively political, illegal. The main point of the argument is the legitimacy of purpose. Actions aimed solely at influencing government policy are not covered by the law that protects strikes (Y.-C. Huang, 2015; Z.-Y. Huang, 2025). This is because strike protection is meant to settle disputes between workers and management and improve working conditions. Political demands usually don't have anything to do with things that employers can directly fix, and they don't try to reach collective agreements either. Consequently, they do not meet the requirement that strike purposes pertain to interest disputes within the employer's domain of control.
This restrictive interpretation is supported by comparisons to German and Japanese law. German doctrine, based on the significance of collective agreements, unequivocally forbids political strikes, even in relation to labor legislation. Japanese judicial practice likewise denies the legitimacy of political strikes. Additionally, advocates of the negative stance contend that representative democratic systems offer constitutional avenues—such as elections, petitions, assemblies, and legislative advocacy—for the pursuit of political demands. Using strikes to force the government to do something is seen as going against the principles of democratic institutions. Furthermore, labor unions are designated under the Civil Associations Act as occupational associations, not political entities, thus initiating political strikes is regarded as surpassing their legal mandate (Yang, 2019).
The affirmative stance, conversely, examines the matter from a constitutional viewpoint. Advocates contend that workers are not solely contractual entities but also citizens entitled to the exercise of freedoms of speech, association, and collective action. When government policies have a direct impact on working conditions or socio-economic rights, strike action serves as a form of collective political expression safeguarded by constitutional protections (Tsai, 2006). H.-

C. Lin (2022) asserts that both mandatory and demonstrative political strikes may be constitutionally warranted when their objective is to influence labor and economic conditions. Even purely political demonstrative strikes may be protected under freedom of expression and assembly, as long as they are reasonable and don't last too long. According to this line of thought, actions that are protected by the Constitution cannot also be tortious or illegal breaches of contract. If the refusal to fulfill labor obligations is based on the exercise of fundamental rights, it is not unlawful. J.-M. Huang (2013), referencing German scholarship by Däubler, advocates for the acknowledgment of demonstrative strikes and specific forms of political protest associated with labor interests. More recent normative theories, like Stehr (2025) theory of democratic self-defense, say that political strikes can be used to fix problems when institutions aren't held accountable and political inequality makes it hard for people to participate in democracy. Cologna et al. (2021) present empirical evidence that substantiates this viewpoint, demonstrating that diminished trust in governments markedly elevates the probability of individuals employing strikes as a medium for political expression to articulate their positions.

The difference between these two positions shows that there are deeper disagreements about the basic idea behind strike rights. The negative perspective prioritizes contractual order and institutional bargaining frameworks, while the affirmative perspective underscores constitutional citizenship and democratic engagement. The resolution of this tension ultimately hinges on the extent to which one interprets the functional purpose of the strike system within Taiwan's legal framework.

3.4. International Perspectives

International labor law is starting to see the right to strike as a basic human right that is connected to the right to join a group. ILO Conventions Nos. 87 and 98 don't say anything about strikes, but they have been read to protect them. ILO case law allows protest strikes that are about social and economic issues but not purely political strikes that don't have anything to do with labor. Nonetheless, this protection is not unconditional; it is constrained by the principle of proportionality and the demands of necessity within a democratic society. In recent years, the delineation between state regulatory authority and the extent of the right to strike has been a focal point of vigorous doctrinal dispute internationally (Leyton-García, 2017). The International Trade Union Confederation (ITUC) published a report by Álvarez Díaz (2025) that showed this tension. It said that the right to strike is getting weaker all over the world, even though international organizations agree that strikes are good for both economic bargaining and democratic participation. Comparative law also shows that there are different models. For example, European law, such as the European Social Charter and the EU Charter of Fundamental Rights, broadly protects strike rights. Many scholars allow socio-economic political strikes as long as they are proportional. However, Germany and Japan are more strict and do not allow political strikes at all.

4. Conclusion

This study has examined the legality of political strikes within the framework of Taiwanese collective labor law. Conceptually, the analysis demonstrates that the combined target–purpose approach provides the most workable framework for identifying and defining political strikes. By clarifying the relationship between strike objectives and the institutional structure of labor disputes, the study contributes to the theoretical discussion on how political and economic dimensions of strike actions should be distinguished in legal analysis.

From a doctrinal perspective, the prevailing interpretation in Taiwan continues to deny legitimacy to purely political strikes. Because such strikes do not fall within the scope of interest disputes and typically address matters outside the employer's sphere of control, they are generally regarded as lacking purpose legitimacy under the existing legal framework. At the same time, the analysis shows that socio-economic political strikes—particularly those connected to workers' labor conditions or social security systems occupy an intermediate position that cannot be dismissed through a categorical prohibition.

Based on this finding, the article argues that Taiwanese law should move toward a more structured evaluative framework rather than a blanket rejection of political strikes. In particular, short-term demonstrative political strikes related to socio-economic labor interests should be assessed through proportionality and last-resort principles instead of being automatically considered unlawful.

Accordingly, a possible reform model would clarify in legislation that while purely political strikes aimed solely at influencing general government policy remain outside the protected scope of strike rights, demonstrative political strikes closely connected to workers' economic interests may be permissible if they satisfy the requirements of subject legitimacy, procedural safeguards, proportionality, and necessity. Such an approach would maintain the stability of the collective bargaining system while aligning Taiwanese labor law more closely with contemporary developments in international labor law.

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