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Workweek plans not bringing fix

By Lin Terng-yaw 林騰鶴

Early this month, the convener of the legislature's Social Welfare and Environmental Hygiene Committee, Democratic Progressive Party (DPP) Legislator Chen Ying (陳瑩), passed the "one fixed day off and one flexible rest day" draft amendment to the Labor Standards Act (勞動基準法), which would also cut the number of public holidays to seven.

This move was not well received by labor organizations, who recently gathered 3,000 people in a protest outside the DPP's headquarters and the Legislative Yuan, which they pelted with eggs. Coincidentally, more than 50 youth organizations had also protested at the party headquarters several days earlier, when they criticized the DPP for having turned into a pro-capitalist party and said that nothing the government could offer in exchange for the seven days would be acceptable.

These demands for holidays based on the view that they are part of the basic human right to live in health is fully in line with 21st century mainstream thought on basic labor rights.

As early as 1948, Article 24 of the UN's Universal Declaration of Human Rights stated: "Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay."

Furthermore, Article 7 of the International Covenant on Economic, Social and Cultural Rights, which was incorporated into Taiwanese law in 2009, also states unambiguously that "the states parties to the present covenant recognize the right of everyone to the enjoyment of just and favorable conditions of work, which ensure, in particular: remuneration which provides all workers, as a minimum, with ... rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays."

However, data published by the Ministry of Labor recently showed that Taiwan ranked fifth in the world in terms of average annual working hours, at 2,014 hours per year. The only countries with a higher average were Singapore, Mexico, Costa Rica and South Korea. This makes it clear that Taiwanese are overworked and that rights to rest, leisure and holidays are not protected as stipulated by the International Covenant on Economic, Social and Cultural Rights.

According to Taiwan's current system, civil servants have two fixed days off per week, while 40 percent of all workers would only have one fixed day off and one rest day per week if the amendment is passed. This is different from two fixed days off per week, because the legal definition of fixed days off and rest days is different.

With exceptions for natural disasters, emergencies or other such events, employers cannot order someone to work on a fixed day off. If an employee agrees to work overtime, the employer must double their salary for the extra time worked and provide a day of compensatory leave. However, for rest days employers can ask employees to work overtime, without exceptions for disasters and the like. In addition, they only have to pay a certain portion on top of the base salary as overtime and they do not have to provide a day of compensatory leave.

The Civil Service Act (公務員服務法) clearly stipulates two fixed days off every week, although agencies with special operational requirements are allowed to use rolling work schedules or other solutions.

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In other words, civil servants can still get their fixed days off through such special measures.

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