

Abstract of Workplace Dispute Resolution in Cambodia

Samphy, Y. (2008, December). *Cambodia's arbitration council: Arbitration of individual versus collective labor disputes*. A thesis presented to the faculty of the Graduate School of Law at Nagoya University, Nagoya, Japan. Retrieved from http://apirnet.ilo.org/resources/cambodia-arbitration-of-individual-versus-collective-labor-disputes/at_download/file1

Abstract:

As excerpted from the author, "This master's thesis analyzes matters over the two main categories of labor disputes in order to clarify the concerned legal provisions and the jurisdiction of the Arbitration Council over individual labor disputes. Also the purpose is to provide recommendations on certain criteria the Arbitration Council should consider in determining the dispute categories. The study is based primarily on relevant arbitral decisions made by the Arbitration Council from its inception in 2003 until 2008. The plain text meaning theory of statutory interpretation also serves as major means of explaining the related articles of the labor law and regulations regarding the two types of labor disputes. The findings of the paper suggest that the existing legal texts do not restrict the Arbitration Council's jurisdiction to only collective labor disputes and that the arbitration body should improve its legal reasoning about the issues."

The thesis also examines the existing laws and regulations to find out what the silence in law means regarding the establishment of private arbitration procedures for labor dispute resolution. The purpose is to expand the already reliable and expeditious alternative system to justice in Cambodia. A variety of legal instruments in effect are used including the New York Convention on the Recognition and Enforcement of Foreign Arbitration Awards (which Cambodia ratified in 1960), the Constitution, the Code of Civil Procedure, the Law on Commercial Arbitration, the Labor Law, and other regulations.

The results of the analysis reveal that parties may legally opt for arbitration to settle their disputes, collective or individual. The findings also suggest that the Arbitration Council Foundation, which provides technical and financial support to the Arbitration Council, is in the best position to take the initiative to establish such procedures. However, the study recommends that Cambodia needs a uniform arbitration law to govern arbitration system, both state-sponsored and private."

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