

Abstract of Workplace Dispute Resolution in Cambodia

Zack, A. (2009, January). *International trends in workplace ADR—an Asian view*. Speech presented at LERA Annual Meeting, San Francisco, CA. Retrieved from http://www.law.harvard.edu/programs/lwp/people/staffPapers/zack/INTernational_trends_in_ADR_SF_Jan_2009.pdf

Abstract:

The premise of this speech to LERA is that contrary to common sense, globalization has made statutory protection of works even more illusory than in the past. The global supply chain has increased worker exploitation and disregard of legal obligations. The new reality is that in the world of globalization, particularly in Asia where governments play an increasing role in managing or controlling private enterprise workplaces, ADR has become its tool in co-opting the players in an environment of increasing government control.

As excerpted from the author, “in 2002 the ILO launched its Labor Dispute Resolution Project in Cambodia, establishing a national tripartite Arbitration Council to resolve collective labor disputes as part of the 1999 USA-Cambodia Trade Agreement on Textile and Apparel. Among the topics arbitrated are illegal recruitment of workers during a strike, failure to disperse gratuities billed to hotel guests, discrimination based on union membership, etc. Decisions are rendered within 7 days, and are published on the Council’s web page.

In its first three years of operation, the Council had received 182 cases involving enterprises employing over 150,000 workers. 36% of the cases were resolved through conciliation by the arbitrators, 31% were resolved by decision, 9% were settled after the award, and in 23% of the cases the award was not implemented. Most importantly, the Council has been held responsible for a 96% decrease in strikes and a 97% decrease in lost time due to strikes since its creation.

In assessing the project, Booz Allen Hamilton attributed its success to the following:

- Politically neutral selection of the pool of arbitrators with assistance from international donors, with arbitrators of high experience, education and integrity
- The tripartite selection process from the three panels increases the parties’ confidence and eliminates bias toward either party
- Reasoned decisions are promptly published and disseminated and serve as precedent for the parties and for the Council’s future decisions
- The fact that most decisions are non-binding eliminates the incentive for corruption since if one party is believed to have bribed a panel the other party can simply reject the decision
- Both sides have a strong incentive to resolve a dispute quickly—a lengthy court battle in the midst of a strike could cost the worker’s salary and the employer productivity”

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