

Abstract of Workplace Dispute Resolution in China

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Abstract:

This article defines what the ideal labor dispute resolution system should be like in China. As China undergoes a drastic economic reform over the last three decades ago, the author argues that China's labor dispute resolution system is designed primarily to alleviate labor tensions during the transition while guaranteeing workers' rights since its introduction in 1987. The article discusses not only the formal dispute resolution mechanism, but also preventative measures of mediations and conflict diffusions.

The article provides a historical legal overview for the basis of dispute resolution in China. Three different mechanisms are described before resorting to the formal three-stage dispute resolution process: labor supervision, tripartism consultation system (that involves the government, employer and employees), and conciliation (specifically salient during collective disputes).

The formal three-stage process includes mediation, arbitration, and litigation. For ADR's interest in the last stage of litigation, noticeably judges will require a second mediation before the court starts a hearing. If the conflict is solved through mediation, the court will draft legally binding agreements for the parties. The article embeds the dispute resolution system within China's disposition on the rule of law; it expresses what seems to be a potential problem is the CCP's priority of maintaining the workplace and the state's stability instead of the pursuit in the legitimacy of the legal regime and upholding the rule of law.

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