

Abstract of Workplace Dispute Resolution in Japan

Brown, R. (2012). Comparative alternative dispute resolution for individual labor disputes in Japan, China and the United States: Lessons from Asia? *St. John's Law Review*, 86, 543-577. Retrieved from http://www.upf.edu/gredtiss/_pdf/2013-LLRNConf_Brown.pdf

Abstract:

As excerpted from the author, “Resolving individual labor rights disputes in East Asia and the United States in recent years has taken on new significance and prominence for both domestic and multinational corporations. New legal approaches have been put into place in Japan, China, and the United States that deal with individual rights under either individual and/or collective contract or statutory labor disputes. The United States Supreme Court has approved the use of private arbitration under individual and collective contracts to resolve both contractual and statutory labor disputes. How these approaches compare may provide thought of reform for the U.S., no matter how unlikely.

The processes of dispute resolution in Japan are housed in government institutions and vary depending if the right is individual or collective. Statutory or individual claims go to the courts or Labor Commission. Private labor arbitration is the exception. The Labor Tribunal uses arbitration whose decision is enforceable only if the parties agree to it. Arbitrators may be private citizens or government officials. Japan culturally values mediation. Mediators can be non-judges. Mediation agreements are enforceable in court. An unsuccessful mediation leads to an arbitration decision that is a non-binding recommendation. If not accepted, it moves to court. Like China, Japan provides a friendly one-stop consultation and mediation agency.”

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