Abstract of Workplace Dispute Resolution in Malaysia

Subana Ahmad, S. (2001, November). *The Malaysian experience with ADR, with particular reference to the resolution of labor disputes*. Presentation delivered at the roundtable meeting law, development and socio-economic changes in Asia II, Bangkok, Thailand. Retrieved from http://d-arch.ide.go.jp/idedp/IAL/IAL001100_012.pdf

Abstract

This article examines the history of commercial and workplace dispute resolution in Malaysia. As excerpted from the author, "the concept of voluntary arbitration was introduced in Malaysia during the British Colonial era, when there was urgency in seeking expedient resolution of collective disputes and strikes. Subsequent legislation was enacted; however, it was unsuccessful due to the apathy of employers and preference by workers to resort to strikes. After independence from the British, the Malaysian State adopted the Essential Regulations 1965 to introduce compulsory arbitration for trade disputes in essential services, and the Industrial Relations Act 1967 (IRA) regulating resolution to trade disputes and unfair dismissals.

This paper discusses dispute settlement procedures of trade and workplace disputes, which are oftentimes initiated by a report by either the employer or trade union to the Director General of Industrial Relations (DGIR), who will then resort the parties to conciliation or any existing mechanisms agreed by both, or notify the Minister if the issue is deemed unsettled. The Minister then appoints a Committee or Board to conduct fact finding, or refers the dispute to the Industrial Court. The procedure to resolve unfair dismissals is similar except that the Minister can choose to settle the case at the ministerial level or refer it to the Industrial Court."

Noticeably, the paper suggests that the Industrial Relations Act of 1967 provides the Minister with broad discretion over the resolution arrangements and when to intervene in the process. The author later discusses the effectiveness of conciliation and Industrial Court as well as some shortcomings and challenges of the system such as no formal ADR training for conciliators, understaffing, and concerns towards a more legalistic Industrial Court.