

Abstract of Workplace Dispute Resolution in China

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 article 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, dispute resolution has become its tool in co-opting the players in an environment of increasing government control.

In 2008 a new law in China for mediation and arbitration of labor disputes went into effect. The inherent problems are many. First, the single trade union ACFTU does not represent workers, who end up being on their own primarily as individuals. Second, there is no collective representation by a union for an arbitration clause, and there is no joint funding of arbitrators. This helps to keep the arbitrators honest, responsible and diligent. Third, the mediators and arbitrators are from government staff. There is no independent body of neutrals from which disputants makes their joint selection. The author concludes in observing that the Chinese workplace arbitration procedure is an expedited vehicle for removing from the courts the prevailing disputes, generally over non or delayed payment of wages.

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Scheinman Institute on Conflict Resolution
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