

A COMPARATIVE STUDY ON LABOUR DISPUTE SETTLEMENT MECHANISMS IN MYANMAR AND THAILAND

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Abstract

Labour disputes, including concerns such as unhealthy workplaces, unprotected facilities, and equipment, pose pervasive challenges shared by nations worldwide. Recognizing the gravity of these issues, Myanmar and Thailand have dedicated substantial efforts to establish effective mechanisms for dispute resolution and ensure decent working conditions. This study delves into the occupational safety regulations of both countries, focusing on Myanmar's Labour Dispute Settlement Law (LDSL) enacted in 2012 and Thailand's Labour Protection Act (LPA) amended in 2019. The study begins with an exploration of Myanmar's LDSL, dissecting its multi-level framework designed to address disputes between employers and workers. Particular emphasis is placed on the challenges within Myanmar, highlighting the necessity to clarify and streamline resolutions for both individual and collective disputes. Shifting to Thailand, the research navigates through the amendments made to the LPA in 2019. This pivotal Thailand legislation serves as a robust instrument aimed at resolving labor disputes, fortifying worker protection, and ensuring overall well-being. The LPA imposes significant penalties on non-compliant employers, underscoring a commitment to fostering equitable work environments. Both countries grapple with challenges in achieving optimal fairness and equity, reflecting the complexities of evolving labor landscapes and distinct socio-economic contexts. By examining the occupational safety regulations and dispute resolution mechanisms in Myanmar and Thailand, this study contributes valuable insights to the ongoing efforts in both countries to create conducive working conditions and establish a framework for just and harmonized labor practices.

Keywords: *grievance, occupational safety, dispute resolution, workplace, productivity, economic growth*

Introduction

All employers and employees fall under Labour Disputes Settlement Law, 2012 in Myanmar and the protection of the Labour Protection Act of 1998 in Thailand (except for the government administration and state enterprises). The Act acts as a minimum legal protection for the mentioned parties and defines their working hours, welfare funding, holidays, days of sick or educational leave, overtime, safety and more. Furthermore, it also contains the rules regarding the end of an employment contract and the procedure to be followed in case of a wrongful dismissal (one of the most frequent labour disputes).

In Myanmar, the Settlement of Labour Disputes Law (2012) guides the labor resolution system, emphasizing the creation of Workplace Coordinating Committees (WCC) for workplaces with over 30 employees. Similarly, in Thailand, labor relations are governed by the Thailand Labor Protection Act (LPA), a comprehensive legislative framework setting minimum standards for pay and working hours. The Ministry of Labor and Social Welfare, charged with enforcing labor laws, conducts inspections across the country to ensure a fair work environment, protect against labor exploitation, and preserve workers' rights.

Workplace conflicts between employers and employees, known as employment disputes, can arise from various issues like working conditions, benefits, hours, wages, and more. These conflicts may extend to critical matters like terminations, social benefits, and compensation for accidents, leading to disruptions like strikes. It's crucial to address or, better yet, prevent these

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disputes swiftly. These laws cover essential aspects such as working hours, overtime pay, minimum wages, safety, vacation time, holidays, and maternity leave. Government departments, like the Ministry of Labour, oversee labor administration to ensure fair work environments.

This study delves into the intricate dynamics of labor dispute resolution mechanisms, focusing on the Labour Dispute Settlement Law (LDSL) in Myanmar and the Labour Protection Act (LPA) in Thailand. As the world emphasizes sound employment relations, understanding dispute resolution mechanisms becomes crucial, leading nations to enhance their systems for effective resolution services.

Method of Study

This paper adopts a simple descriptive approach in examining labor dispute settlement mechanisms in Myanmar and Thailand. Data is gathered from international conventions and national legislation relevant to the topic. Secondary sources include books, articles, online materials, and news, offering additional context. By using a descriptive method, this study aims to provide a clear and concise overview of the legal aspects related to labor dispute resolution in Myanmar and Thailand.

Definition of Labour Disputes

Worker means a person who relies on his labour to engage in economic activity or to generate a livelihood, including a daily wage earner, temporary worker, worker engaged in agriculture, domestic worker, government employee and apprentice under Section 2 (a) of the Settlement of Labour Disputes Law, 2019.

Employer means a person who carries out by hiring one or more worker on wages of mutual consent in any trade under the relevant employment agreement, including a person who manages, supervises and administers directly or indirectly and is responsible to pay wages to the worker and responsible for employing and terminating the employment of the worker.¹

Dispute means the labour dispute or disagreement between an employer or employers or employer organization which represents them and a worker or workers or the labour organization which represents them in respect of employment, working, termination of a worker or workers and in respect of working or service including pension, gratuity, bonus and allowances or compensation for work related grievance, injuries, accidents, deaths or occupational diseases or in respect of any other matters of worker including worker's holiday, leave.²

"Employee" means a person who agrees to do work for an employer in return for a wage, regardless of the name given to describe his status.³

"Employer" means a person who agrees to employ another person to carry out all or part of any work for his own benefit, in return for employment remuneration for satisfactory performance of the work.⁴

¹ Section 2 (c) of the Settlement of Labour Disputes Law, 2019. (Law No. 5 of 2012)

² Section 2 (m) of the Settlement of Labour Disputes Law, 2019. (Law No. 5 of 2012)

³ Section 5 (2) of the Labour Protection Act. (No.2) B.E. 2541(1998)

⁴ Section 5 (3), *ibid*.

Labour Disputes are controversies that may arise between employers and their employees.¹

An individual dispute arises from a disagreement between an individual worker and his or her employer over an aspect of their employment relationship.²

Problem Statement

In the realm of labor disputes, the challenge lies in navigating the delicate balance between protecting the rights of workers and fostering harmonious employer-employee relationships. With more conflicts arising, especially with changing work conditions, there's a real challenge in how to handle these disagreements. The central problem pertains to the efficacy of existing mechanisms in addressing the multifaceted nature of labour disputes, encompassing issues such as working conditions, termination protocols, and social benefits. As workers increasingly voice their concerns, there is a pressing need to critically examine the effectiveness of current labor laws and dispute resolution frameworks in ensuring fair outcomes for both employers and employees

Common Causes of Labour Disputes

Labour disputes often arise due to differences between employers and employees. One significant trigger is disparities in how they see things like pay, benefits, working conditions, and how the company operates. If not addressed, these disagreements can quickly turn into bigger issues. Poor working conditions, such as uncomfortable workplaces or a lack of facilities like parking or break rooms, also contribute to employee dissatisfaction, becoming potential sources of disputes.

Moreover, differing expectations between organizations and employees regarding working hours and conditions play a pivotal role in triggering disputes. Varied interpretations of organizational procedures and hours worked can lead to misunderstandings, fostering an environment ripe for conflicts. The legal framework and its implementation also significantly impact labour relations, especially in countries like Myanmar. Wage-related disputes have been a notable area of debate in Myanmar, with frequent demands for wage increases. The government responded to these issues by passing the Minimum Wages Law in 2013. Strikes and industrial relations challenges, particularly in private sector enterprises in Myanmar, have become increasingly common. These challenges encompass demands for wage increases and difficulties in implementing employment contracts and pay slips, indicating the complexity of labour relations in the region.³

In Thailand, the growth in the workforce due to thriving businesses has resulted in more labour disputes. These disputes often involve conflicts between labour and management, especially regarding benefits and employment conditions. Thailand has a set of laws covering

¹ <https://www.sciencedirect.com/topics/social-sciences/labour-dispute>.

² Anne Trebilcock, Chapter 21 - Labour Resources and Human Resources Management, Fourth Edition, 2011, pp-121-125

³ Thomas Bernhardt, S Kanay De, Mi Win Thida; Myanmar labour issues from the perspective of enterprises: findings from a survey of food processing and garment manufacturing enterprises, 2017, p-VIII, IX.

various aspects of labour rights, even for foreign workers. Resolving labour disputes in Thailand involves filing cases and attempting to find peaceful solutions. This could even lead to criminal cases. Violations of the rules set by these laws give employees grounds to file cases against their employers. Thailand courts consider either reinstating employees or compensating them based on factors like age, length of service, and hardship in cases of unfair termination. Recent changes in Thailand legal practices also acknowledge damages caused by emotional and psychological stress.¹

Thus, labour disputes in both Myanmar and Thailand stem from various challenges, from disagreements over pay and working conditions to how laws are enforced and how disputes are resolved. Understanding these common causes is crucial for finding effective ways to prevent disputes and build better relationships between employers and employees.

Regulatory Dimensions Impacting Labour Disputes

The realm of labour disputes is intricately woven with the regulatory fabric governing wages, overtime, and leave policies. Wage-related conflicts have been a focal point in Myanmar, prompting the enactment of the Minimum Wages Law in 2013. The minimum wage rate of 4,800 Kyat per day, effective since September 2015, spurred debates, especially within labor-intensive industries like the garment sector. Disagreements persist, with companies expressing concerns about competitiveness. The awareness of national labor laws and international standards remains low among both employers and workers in Myanmar, contributing to a complex legal landscape.

The current minimum wage in Myanmar stands at K600 per hour and 4,800 Kyat per day, according to the Minimum Wages Law. Starting from October 1, 2023, the total payment of 5,800 Kyat through 1,000 Kyat allowance has been effective, considering the economic situation in Myanmar. It's crucial to note that this daily rate is calculated based on an 8-hour workday and excludes overtime, bonuses, incentives, or other allowances, necessitating separate consideration. Part-time workers are entitled to payment on a pro-rata basis.²

About working hours, adult workers employed in factories, shops, and establishments are legally restricted from working beyond 8 hours per day or 44 hours per week. Rest periods are unpaid, and the organization of work within a given day must prevent employees from toiling continuously for more than five hours without a rest of at least 30 minutes. Regardless of the arrangement, the total duration of the workday, including work and rest intervals, should not exceed 10 hours.³

Regarding overtime work, in scenarios requiring overtime work, workers in shops and establishments are limited to 16 hours per week, with the additional stipulation that overtime work should not extend beyond midnight. Factories adhere to a directive, restricting overtime hours to 20 per week for non-continuous work, such as 15 hours from Monday to Friday (3 hours x 5 days) and 5 hours on Saturday. Employees exceeding 8 hours per day or 44 hours per week are entitled to twice the ordinary wage rate for overtime hours, excluding allowances. Adult male

¹ Ekachai Keesookpun , Labour Situatio in Thailand HIDA/Employers' Organizations Joint Study Workshop and Bilateral Meeting, January 19-22, 2016, Kuala Lumpur, Malaysia, Country Report by Thailand,2016,p-6.

² Thomas Bernhardt, S Kanay De and Mi Win Thida , Myanmar Labour Issues from the Perspective of Enterprises , Findings from a Survey of Food Processing and Garment Manufacturing Enterprises ,2017, p- X,IX.

³ Section 59, The Factories Act,1951 (Act No. 65 of 1951)

workers engaged in continuous work in factories start accruing overtime at twice the ordinary wage rate after surpassing 48 hours in a week.¹

In the context of public holidays, employees required to work on public holidays receive double the normal rate plus a cost-of-living allowance. Importantly, public holidays coinciding with a rest day or another holiday may not be rescheduled. Non-Buddhist workers can negotiate the observance of religious holidays with their employers, and such leave does not necessarily have to be paid.²

Concerning medical, maternity/paternity leave, employers are obligated to grant leave without wage deductions for medical treatment when workers are incapacitated due to illness. Workers presenting a medical certificate are eligible for paid medical leave, up to 30 days per year, provided they have worked for a minimum of six months. Those with less than six months of service may take unpaid medical leave. Pregnant employees are entitled to six weeks of prenatal leave and 8 weeks of postnatal leave, totaling 14 weeks of maternity leave. Additionally, fathers are granted 15 days of paternity leave.³

Amidst these regulations shaping Myanmar's labor landscape, Thailand, where recent amendments to the Labor Protection Act (effective May 5, 2019) signify a commitment to enhancing working conditions. The Thailand regulatory framework encompasses various facets, from payment of wages to necessary business leave.

As outlined in Section 54 of the Labour Protection Act, the fundamental principle is that all wages must be disbursed in Thai currency, unless the employee explicitly consents to alternative payment methods such as cheques or foreign currencies. The minimum daily wage is not uniform across Thailand, with rates ranging from 148 Baht in certain provincial areas to 203 Baht in Bangkok. The enforcement of this wage structure has been in effect since June 1, 2008. Section 55 emphasizes that wage disbursement should typically occur at the employee's workplace unless an alternative arrangement is mutually agreed upon. Moreover, Section 70 sets the timeframe for wage payments, generally stipulating at least a monthly frequency, with specific provisions for overtime pay, holiday pay, and holiday overtime pay.⁴ In the unfortunate event of employee dismissal, Section 70 mandates that the employer promptly settles basic pay, overtime pay, holiday pay, and holiday overtime pay within three days from the termination date.⁵

Regarding overtime pay, section 61 of the Act provides clarity on the calculation of overtime pay. Employers are obligated to remunerate overtime at a rate not less than one and a half times the hourly basic pay earned during normal working hours for the overtime duration. For employees receiving basic pay based on output, the overtime rate should similarly be at least one and a half times the output-based rate for each unit on a working day.⁶

In the context of severance pay, employees with an uninterrupted service period of 20 years or more are entitled to severance pay equivalent to 400 days of the most recent pay rate. Notably, recent changes have increased the severance pay for those with ten or more years of

¹ Section 73, The Factories Act, 1951 (Act No. 65 of 1951)

² Section 16-22, The Leave and Holiday Rules, (69/2018)

³ Section 46-48 The Leave and Holiday Rules, (69/2018)

⁴ Section 54-55, the Labour Protection Act (No.2) B.E. 2541(1998).

⁵ Section 70, the Labour Protection Act. (No.2) B.E. 2541(1998).

⁶ Section 61, the Labour Protection Act. (No.2) B.E. 2541(1998).

continuous service from 300 to 400 days. Section 118 clarifies that these provisions do not apply to employees with definite-term employment contracts, restricted to specific projects, occasional work, or seasonal employment, provided that a written contract is established at the commencement of the employment.¹

Related to maternity leave, under section 41, maternity leave spans 98 days, inclusive of weekends and public holidays. Employers are required to pay a minimum of 45 days at the most recent pay rate during the maternity leave. Additionally, maternity leave encompasses periods for medical appointments and examinations before delivery.²

Concerning necessary business leave, employers are obliged to grant employees a minimum of three days of paid necessary business leave per year. While the Labour Protection Act acknowledges the existence of necessary business leaves, the specific criteria for implementation are left to the discretion of the employer, typically outlined in the work rules.³

Navigating the complexities of labor laws in Myanmar and Thailand is crucial for understanding the factors contributing to labor disputes and fostering fair and harmonious labor relations. Decent work principles play a pivotal role as these countries grapple with regulatory intricacies, serving as critical touchpoints in the pursuit of equitable and respectful employment relationships.

Settlement Mechanisms for Labour Disputes

The Settlement of Labour Dispute Law (SLDL) in Myanmar delineates a comprehensive process for dispute resolution at various levels: workplace, township, regional, and national. The process accommodates individual and collective disputes, involving input and support from knowledgeable parties to facilitate agreement. Individual disputes involve employers and one or more workers, while collective disputes concern employers (and employer organizations) and labor organizations.

The Workplace Coordination Committee (WCC) initiates the process, comprising stakeholders from both labor and employer sides. Employers with over 30 workers must establish a WCC for collective agreement negotiation and grievance resolution. Comprising two employer and two worker representatives, the WCC functions more effectively in labor-dominated workplaces, resolving 50-90% of issues. Unresolved disputes proceed to the Township Conciliation Body (TCB), composed of 11 members representing government, employers, unions, and distinguished persons. The TCB's four-person panel hears disputes, with the option to involve eight members for complex cases. If disagreements persist, the case advances to the relevant Arbitration Body (AB) at the regional or state level. ABs, like TCBs, consist of 11 members, deciding cases based on a majority vote within seven days. Dissatisfied parties have seven days to submit disputes to the Arbitration Council (AC), the highest arbitration level. While AB decisions are binding, parties can appeal to the Supreme Court if unsatisfied.⁴

¹ Section 118, the Labour Protection Act. (No.2) B.E. 2541(1998).

² Section 41, the Labour Protection Act. (No.2) B.E. 2541(1998).

³ <https://orbis-alliance.com/orbis-news/new-amendments-on-labor-laws-thailand>.

⁴ Ediger, Laura and Chris Fletcher, "Labor Disputes in Myanmar: From the Workplace to the Arbitration Council.", 2017, p-11.

On the other hand, Thailand's approach to labor dispute prevention and resolution emphasizes information exchange, joint consultation, and collective bargaining to modernize labor-management relations. The Labour Relations Act establishes bipartite committees, such as Labour Welfare Committee, fostering consultation on working conditions, safety, health, and welfare. However, collective bargaining occasionally fails, leading to disputes. Tripartite cooperation involves organizations like the National Advisory Council for Labour Development, aiming to prevent and solve labor issues. The Labour Relations Act provides procedures for negotiations, mediation by labor officials, and arbitration by the Labour Relations Committee. If negotiations fail, a labor dispute may be referred to the Conciliation Officer, with further appeals to the Minister of Interior. The Act encourages consultative employees' committees, promoting bipartisanship.¹

Both Myanmar and Thailand employ multi-tiered mechanisms for labor dispute resolution. While Myanmar's SLDL emphasizes workplace committees and hierarchical arbitration, Thailand's approach integrates bipartite and tripartite committees, highlighting cooperation and negotiation.

• Myanmar's Labor Dispute Resolution: SLDL Mechanism

The Settlement of Labour Dispute Law (SLDL) was enacted in 2012 in Myanmar aims to ensure workers' rights, foster peaceful workplaces, and expedite just resolution of employer-worker conflicts. This legal framework replaced the 1929 Trade Dispute Act, marking a significant shift in the resolution of disputes between employers and workers. The revised system introduces various levels of dispute resolution bodies, including the Workplace Coordinating Committee (WCC), Township Conciliation Body (TCB), Dispute Settlement Arbitration Body, Dispute Settlement Arbitration Council, and Courts.

The law addresses occupational diseases, deeming them as injuries by accident unless proven otherwise by the employer. Part B of Schedule III outlines specific diseases, and if certified by a qualified medical practitioner to be work-related within twelve months, compensation is recoverable from the last employer in the relevant field.² A case study involving Maung Nyunt Sein³ illustrates the intricacies of compensation claims, emphasizing the significance of timely reporting. Maung Nyunt Sein was an employee serving as the driver of a lorry owned by U Shein Gyi. On April 3, 1962, an unfortunate incident occurred when the lorry caught fire, resulting in injuries to Maung Nyunt Sein. Subsequently, on January 5, 1963, Maung Nyunt Sein applied for compensation to the Commissioner of Pyi State. The basis for his compensation claim was a medical certificate that certified a 70% reduction in his capacity to perform work duties due to the injuries sustained in the incident. As a result, he was granted a compensation amount of 5292 MMK. U Shein Gyi, the owner of the lorry, decided to appeal the decision. The appeal contended that Maung Nyunt Sein's delayed application for compensation, which came after a period of two and a half years following the injuries, was in violation of Section 10(1) of the Workmen's Compensation Act, 1923. Additionally, it argued that granting compensation based solely on a medical certificate, without an actual interview with the doctor,

¹ Ekachai Keesookpun, Labour Situation in Thailand HIDA/Employers' Organizations Joint Study Workshop and Bilateral Meeting, January 19-22, Kuala Lumpur, Malaysia, Country Report by Thailand, 2016, p-5.

² The Settlement of Labour Dispute Law (The Pyidaungsu Hluttaw Law No. 5/2012), March 28, 2012.

³ 1996, B.L.R., H.C., p-991

was against the law. In response to the appeal, Judge U Sein Thin presided over the case and held that Maung Nyunt Sein's compensation claim was significantly delayed, thus contravening Section 10 of the Workmen's Compensation Act, 1923. This section specifies that no claim for compensation shall be entertained unless notice of the accident is given as soon as practicable and the claim is preferred within two years of the occurrence of the accident. The case underscores the importance of timely reporting in compensation claims and adherence to statutory timelines, as failure to meet these requirements can impact the validity of the claim. In regards to this, there are still many challenges and issues to ensure that disputes cases could be resolved in an effective and efficient manner, with no backlog of disputes. Currently, the resolution bodies under SLDL mechanism do not have enough capacity to move the cases quickly in a timely manner.

Despite timely reporting, challenges persist, particularly in distinguishing individual and collective disputes. The law defines individual disputes as those between an employer and one or more workers, while collective disputes involve an employer (or employer organization) and a labor organization. In practice, discerning the nature of a dispute remains complex, often leading individual disputes to navigate the arbitration system for perceived effectiveness.¹

To enhance Myanmar's dispute resolution process, several recommendations are proposed.² Ongoing amendments to the SLDL based on practical experiences, fostering collective bargaining for comprehensive agreements, and supporting the training of labor officials are essential. The call for a consistent and professional decision-making process, improved enforcement mechanisms, and transparent selection processes for dispute resolution bodies is crucial.

Moreover, the contributions of labor organizations, NGOs, employers, and international buyers are pivotal in navigating and improving the dispute resolution system. Stakeholders are encouraged to strengthen their roles through collective bargaining, training initiatives, or transparent participation in dispute hearings. Employers play a crucial part in raising awareness, communicating within organizations, and negotiating in good faith across all resolution levels.³

Furthermore, international buyers have a unique opportunity to influence the process by requiring functioning WCCs, incorporating dispute resolution into due diligence procedures, and encouraging training in supplier factories. Buyers and investors value a fair, efficient, and consistent dispute resolution process, contributing to upholding the rights and obligations of both workers and employers.⁴

The varied perspectives on the effectiveness of Myanmar's dispute resolution system underscore the challenges inherent in establishing a new framework. Time, effort, and stakeholder collaboration are vital in building confidence and trust, ensuring the system evolves into a fair, efficient, and equitable mechanism for all parties involved.

¹ Ediger, Laura and Chris Fletcher, *Labor Disputes in Myanmar: From Workplace to Arbitration Council: An Overview of Myanmar's Labor Dispute Resolution Process in Practice*, May 2017, p-6.

² *ibid*

³ Myanmar Times, Vol.14, No.263,2015, p-3.

⁴ *ibid*

- **Thailand's Labor Dispute Resolution: Labour Protection Act**

The Labour Protection Act in Thailand is designed to regulate the rights and responsibilities of both employers and employees, establishing minimum standards for various aspects of labor, including general workforce utilization, regulations concerning women and child labor, remuneration, severance, and the Employee Welfare Fund. The primary objective is to ensure fairness in employment practices, promote occupational health, and contribute to the overall development of the nation.

Thailand introduced a new version of the Labour Protection Act, incorporating amendments that came into effect on May 5, 2019. The central focus of these changes is the enhancement of compensation, leave allowances, and overall protection for workers. The amendments seek to improve the well-being of employees, bring stability to employment conditions, and provide clarity on existing entitlements.

Key amendments include changes to default interest imposition, procedures for changing employers, business leave entitlements, maternity leave duration, and provisions for temporary cessation of business operations. Furthermore, adjustments have been made to severance pay rates and regulations regarding the relocation of workplaces.¹

Despite these positive developments, certain aspects of the amended law, such as the definition of "necessary business," remain unclear, leaving room for interpretation. The interpretation of such circumstances is often at the discretion of employers and their respective policies. It is strongly recommended that companies review and revisit their work rules and regulations to ensure compliance with the amended laws. Non-compliance may lead to penalties, even though the current regulations no longer mandate the registration of work rules and regulations with the Labor Department.²

Thus, the amendments not only extend penalties for non-compliance but also introduce significant benefits for employees and impose additional duties on employers. These changes highlight the importance for employers to thoroughly review their employment agreements and work rules, ensuring alignment with the new rules to avoid severe penalties. The amendments reflect a commitment to prioritizing employee protection while emphasizing the responsibility of employers to comply with the updated regulations.

A Comparative Analysis of Labour Disputes Resolution Frameworks

The Law of Labour Disputes Settlement (SLDL) in Myanmar demonstrates strengths in its comprehensive framework designed to address a wide spectrum of labor disputes. At various organizational levels, from the workplace to national forums, the SLDL provides a structured and multi-tiered approach for the resolution of conflicts. Notably, this framework encompasses both individual and collective disputes, reflecting a commitment to fostering a fair and inclusive labor environment. The involvement of stakeholders from both labor and employer sides, facilitated through mechanisms like Workplace Coordination Committees (WCC) and Township Conciliation Bodies (TCB), contributes to a balanced and participatory decision-making process. However, challenges are evident within the SLDL, particularly in the face of capacity constraints within resolution bodies. The current limitations in capacity result in delays in handling cases,

¹ Pimvimol "June" Vipamaneerut, Partner, Tilleke & Gibbins. (2019), Thailand's new Labour Protection Act

² <https://www.thailand-business-news.com/law/71906-thailands-new-labour-protection-act.html>

potentially undermining the overall efficiency and effectiveness of the dispute resolution process. Another notable weakness lies in the complex nature of distinguishing between individual and collective disputes. This complexity often leads individual disputes to navigate arbitration system, causing inefficiencies and procedural challenges. Addressing these challenges requires ongoing amendments based on practical experiences, with a focus on enhancing the overall efficacy of the SLDL.

In contrast, the Labour Protection Act in Thailand stands out for its recent amendments aimed at enhancing worker protection. The focus on improved compensation, extended leave allowances, and an overall commitment to worker rights reflects a proactive approach to creating a fair and supportive labor environment. The Act further strengthens workplace relations through the establishment of bipartite committees, including the Employees' Committee, Occupational Safety, Health and Environment Committee, and Labour Welfare Committee. These committees provide platforms for meaningful consultation on various labor-related issues, fostering cooperation and communication. However, challenges persist within the Labour Protection Act, primarily related to unclear definitions. Ambiguities, such as those surrounding the definition of "necessary business," create room for interpretation and potential inconsistencies in application. Additionally, the discretionary nature of employer policies introduces a potential weakness, as the interpretation of circumstances often relies on the discretion of employers, leading to variations in application and understanding of the law.

Comparing the two legal frameworks, both Myanmar's SLDL and Thailand's Labour Protection Act share a commitment to addressing labor disputes and enhancing worker rights. Myanmar's SLDL employs a multi-tiered approach with structured arbitration bodies, while Thailand emphasizes bipartite committees and tripartite cooperation. Myanmar faces capacity constraints within resolution bodies, leading to delays, which is a challenge explicitly addressed in Myanmar's context. In contrast, while Thailand's capacity constraints exist, their impact on the efficiency of the resolution process is not explicitly highlighted.

Examining the interconnectedness of effective labour disputes resolution mechanisms with the Sustainable Development Goals (SDGs) which emphasize the crucial role of decent work and economic growth in building resilient and sustainable societies, Myanmar's SLDL is instrumental in aligning with SDG 16, which advocates for peace, justice, and strong institutions. The establishment of arbitration bodies and structured dispute resolution mechanisms under the SLDL contributes to the creation of strong institutions that foster fair and just labor practices. By addressing disputes systematically, Myanmar's legal framework aligns with SDG 16's objectives of promoting peace within workplaces and ensuring access to justice for all. Likewise, the recent amendments to Thailand's Labour Protection Act demonstrate the country's commitment to addressing poverty concerns (SDG 1) and promoting inclusive employment practices (SDG 10). SDG 1 aims to eradicate poverty in all its forms, and the amendments, emphasizing improved compensation, extended leave allowances, and overall worker rights, contribute significantly to this goal. Furthermore, the emphasis on inclusive employment practices aligns with SDG 10, aiming to reduce inequalities. The amendments in Thailand's labor laws contribute to the broader vision of creating more inclusive and equitable societies by ensuring fair treatment of workers across different sectors.

Furthermore, the provisions related to maternity leave and anti-discrimination measures in both Myanmar and Thailand's labor laws address workplace issues that may disproportionately

affect women. Achieving gender equality in the labor market is crucial for realizing SDG 5's objectives, which include ending discrimination, violence, and harmful practices based on gender.

Thus, both legal frameworks demonstrate unique strengths and weaknesses in their approaches to labor dispute resolution. Ongoing amendments, capacity-building efforts, and a commitment to transparency are vital for both Myanmar and Thailand to address existing challenges and create more effective and equitable disputes resolution mechanisms for the benefit of workers and employers.

Findings

Both Myanmar and Thailand demonstrate a commitment to enhancing their labor dispute resolution mechanisms by implementing timely amendments to existing laws. In Myanmar, the Settlement of Labour Dispute Law (SLDL) was enacted in 2012, replacing the outdated Trade Dispute Act of 1929 and amendments were made in 2019. This shift marked a significant step toward addressing the evolving needs of employer-worker relations. Similarly, Thailand introduced amendments to the Labour Protection Act in 2019, focusing on improving compensation, leave allowances, and overall worker protection. These legislative changes reflect a proactive approach by both countries in adapting to the dynamic nature of labor relations.

The amendments made in the labor laws of both Myanmar and Thailand contribute to the creation of decent work conditions for employees. In Myanmar, the SLDL aims to ensure workers' rights, foster peaceful workplaces, and expedite just resolution of disputes. Specific provisions address issues such as occupational diseases, compensation claims, and the importance of timely reporting. In Thailand, amendments to the Labour Protection Act emphasize various aspects, including minimum wages, working hours, maternity leave, and necessary business leave. These changes collectively aim to enhance working conditions, promote fairness, and provide a framework for equitable employer-employee relations.

The amendments in labour laws play a crucial role in reducing grievances between employers and employees in both countries. In Myanmar, the SLDL establishes a multi-tiered mechanism for dispute resolution, involving workplace committees, township bodies, arbitration councils, and courts. This structured approach provides avenues for addressing both individual and collective disputes, contributing to the reduction of conflicts. In Thailand, the amended Labour Protection Act introduces changes in default interest imposition, procedures for changing employers, and provisions for various types of leaves. These adjustments contribute to clearer guidelines, potentially minimizing disputes arising from ambiguities in labor regulations.

Furthermore, it becomes evident that Myanmar and Thailand's legal amendments hold implications for achieving Sustainable Development Goals (SDGs). The emphasis on decent work conditions and equitable employer-employee relations aligns with SDG 8, which advocates for sustained economic growth and decent work for all. Furthermore, the amendments address poverty concerns (SDG 1), reduce inequalities (SDG 10), and contribute to gender equality (SDG 5) through provisions such as enhanced maternity leave and anti-discrimination measures.

Despite these positive strides, challenges persist, particularly in Myanmar, where the SLDL mechanism faces capacity constraints. This underscores the need for ongoing practical

amendments, collective bargaining, and comprehensive training initiatives to further align with SDG 4 (Quality Education) by enhancing the skills of labor officials. Stakeholder collaboration, a key element in both countries' efforts, resonates with SDG 17 (Partnerships for the Goals), emphasizing the importance of cooperative endeavors for effective labor dispute resolution.

In conclusion, the collective endeavors of Myanmar and Thailand in amending their labor dispute resolution mechanisms highlight not only a shared commitment to fostering equitable employer-employee relationships but also a recognition of the dynamic nature of establishing effective dispute resolution systems. To fully align with SDGs, continual improvements, stakeholder collaboration, and targeted initiatives are imperative, ensuring that labor laws contribute significantly to the broader global goals of sustainable development.

Recommendations

Myanmar and Thailand have undergone significant legislative reforms in their labor dispute settlement mechanisms, reflecting a commitment to promoting workers' rights. Myanmar's commitment to legislative reforms in labor dispute settlement mechanisms under the Settlement of Labour Dispute Law (SLDL) can be further fortified through targeted initiatives. Capacity building for key dispute resolution bodies, as outlined in the SLDL, should be prioritized. Also, comprehensive training programs are essential to address existing capacity constraints, ensuring these bodies can efficiently navigate and resolve disputes. Efforts to expedite dispute resolution processes within the multi-tiered mechanism should be intensified. Streamlining procedures and fostering collaboration among resolution bodies is vital to prevent backlogs and maintain effective labor relations. Moreover, conducting workshops and awareness campaigns, particularly targeting employers and employees, will empower stakeholders with legal awareness. This proactive approach enhances understanding of rights and obligations, contributing to more effective dispute resolution. Besides, advocacy for regular reviews of labor laws is crucial. Periodic assessments will enable Myanmar to address emerging challenges and ensure alignment with international standards, fostering a fair and adaptable legal framework. In addition, encouraging collaborative engagement among labor organizations, employers, and government bodies is essential. Dialogue and cooperation will help identify challenges and collaboratively develop solutions that prioritize the well-being of all involved parties.

Likewise, Thailand's significant legislative reforms under the amended Labour Protection Act present opportunities for further improvement. Implementing targeted training programs for bodies overseeing labor protection is imperative. Strengthening the skills and knowledge of these bodies will contribute to more effective dispute resolution. Furthermore, fine-tuning and improving mechanisms for timely resolution outlined in the amended Labour Protection Act is necessary. This includes revisiting default interest imposition, procedures for changing employers, and provisions for various types of leaves. Moreover, launching campaigns aimed at raising legal awareness among both employers and employees will empower stakeholders to navigate the dispute resolution process with greater understanding. Also, advocating for periodic reviews of labor laws is essential to address emerging challenges and maintain alignment with international standards. Regular updates will contribute to a fair and adaptable legal framework. Additionally, promoting collaboration across sectors, including government bodies, labor unions, and employer organizations, is crucial. Building a collaborative approach will enhance

understanding, trust, and cooperation among stakeholders, contributing to a positive working environment.

These recommendations underscore a commitment to equitable and efficient labor relations, ensuring a positive working environment that upholds the rights and well-being of all stakeholders involved.

Conclusion

The effective resolution of labor disputes relies on the responsible participation of key stakeholders, namely employers, employees, and the government. Employers play a crucial role by adhering to established rules and regulations and fostering work environments that prioritize fairness and well-being. Decent workplace should be provided according to rules and regulations to reduce complaints and grievances of the labour force. Similarly, employees contribute to a healthier workplace by demonstrating commitment and dedication to their roles, enhancing overall productivity. The government, as a regulatory authority, plays a pivotal role in ensuring the enforcement of labor laws. The government needs to maintain a system of checks and balances, ensuring that rules are effectively implemented and followed by both employers and employees. When these stakeholders fulfill their respective responsibilities, the occurrence of labor grievances diminishes. Reducing conflicts between employers and employees not only improves working conditions but also fosters economic growth through increased productivity by aligning with the broader goals of sustainable development. The collaborative efforts of all parties involved contribute to a balanced and successful work environment. Therefore, to ensure equitable labor relations and foster economic growth in alignment with SDGs, it is essential to establish effective mechanisms for resolving labor disputes. By fulfilling these roles and resolving disputes collaboratively, stakeholders can reduce grievances, improve working conditions, combat inequality and poverty, and enhance productivity, thereby supporting sustainable economic development.

Acknowledgment

I extend my heartfelt gratitude to Dr. Khin Phone Myint Kyu, Professor and Head of the Law Department at the University of Yangon, Dr. Tin Htay Ei, Professor and Head of the Law Department at Yangon University of Distance Education, and Dr. Daw Than Nwe, Professor and former Head of the Law Department at the University of Yangon (retired). Their unwavering encouragement and valuable suggestions have been instrumental in shaping and enriching this work. In addition, I would like to express my sincere appreciation to my parents, family, and friends for their love, encouragement, and belief in my pursuit of knowledge.

References

Acts, Laws and Rules

Labour Protection Act. (No.2) B.E. 2541(A.D.1998)

Labour Protection Act, .(No.7) B.E. 2562(A.D.2019)

The Factories Act,1951 (Act No. 65 /1951)

The Settlement of Labour Disputes Law, 2012. (The Pyidaungsu Hluttaw Law No. 5/ 2012)

Minimum Wages Law, 2013. (The Pyidaungsu Hluttaw Law No. 7/2013)

The Leave and Holiday Rules,2018 (Ministry of Labour, Immigration and Population No.69/2018)

Journals and Articles

- Anne Trebilcock , Chapter 21 - Labour Resources and Human Resources Management, Fourth Edition, 2011, pp-121-125
- Aung Min & Toshihiro Kudo (2012), New Government's Initiatives for Industrial Development in Myanmar, In Economic Reforms in Myanmar: Pathways and Prospects.
- Ekachai Keesookpun (2016), Labour Situatio in Thailand HIDA/Employers' Organizations Joint Study Workshop and Bilateral Meeting, January19-22, 2016, Kuala Lumpur, Malaysia (Country Report by Thailand)
- Gillan, Michael, & Htwe Htwe Thein. (2016) "Employment relations, the state and transitions in governance in Myanmar." *Journal of Industrial Relations* 58.2: 273-288.
- International Labour Organization (1994a). Employers' organizations. World Labour Report. Geneva
- International Labour Organization (1994b). Freedom of Association and Collective Bargaining: General Survey by the Committee of Experts on the Application of Conventions and Recommendations. Geneva.
- International Labour Organization (1995a). Freedom of Association: Digest of Decisions and Principles of the Freedom of Association Committee of the Governing Body of the ILO. Geneva.
- Pimvimol "June" Vipamaneerut, Partner, Tilleke & Gibbins. (2019), Thailand's new Labour Protection Act (<https://www.thailand-business-news.com/law/71906-thailands-new-labour-protection-act.html>)
- Thomas Bernhardt, S Kanay De and Mi Win Thida (2017). Myanmar Labour Issues from the Perspective of Enterprises: Findings from a Survey of Food Processing and Garment Manufacturing Enterprises.
- Lwin Kyaw Soe (2013). *The evolution of labour politics in post-colonial Myanmar* (Doctoral dissertation, City University of Hong Kong).
- Wickramasekara, P. (2006, February). Labour migration in Asia: Role of bilateral agreements and MOUs. In *Presentation at the JIPLT workshop on International Migration and Labour Markets in Asia, Tokyo, February* (Vol. 17).
- Thomas Bernhardt, S Kanay De, Mi Win Thida; Myanmar labour issues from the perspective of enterprises: findings from a survey of food processing and garment manufacturing enterprises; International Labour Organization; Myanmar Center for Economic and Social Development; Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH; International Development Research Center. Yangon: ILO, CESD, GIZ and IDRC, 2017

Online Sources

- <https://www.sciencedirect.com/topics/social-sciences/labour-dispute>.
- <https://orbis-alliance.com/orbis-news/new-amendments-on-labor-laws-thailand>.
- <https://www.thailand-business-news.com/law/71906-thailands-new-labour-protection-act.html>