



International
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Office

Geneva

Resolving Individual Labour Disputes

A comparative overview

Edited by

Minawa Ebisui
Sean Cooney
Colin Fenwick

Resolving individual labour disputes

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International Labour Office, Geneva

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Preface

This volume provides a comparative assessment of individual labour dispute settlement systems in nine OECD countries (Australia, Canada, France, Germany, Japan, Spain, Sweden, the United Kingdom and the United States), together with a synthetic overview of the key features across these systems.

In response to a dramatic increase in the number of individual labour disputes observed across the globe, together with associated widespread concerns regarding access to dispute prevention and resolution systems, the recurrent discussion on social dialogue at the 102nd Session of the International Labour Conference (ILC) in 2013 highlighted the need for the International Labour Office (ILO) to analyse *which dispute resolution mechanisms work best in different contexts and why*, recognizing the diversity among national mechanisms.

The Governing Body of the ILO further discussed and endorsed a plan of action to follow up on this ILC discussion. The plan called on the Office to conduct research on the performance of dispute resolution systems for individual labour disputes, in order to identify guiding principles for effective dispute resolution. The chapters in this volume were developed as part of the global research programme launched by the ILO in response to this call. The publication and dissemination of a selection of other country studies focusing on developing countries will follow.

In carrying out this global research programme the ILO has sought to capture the reality of dispute resolution practices and experiences. To this end, it has established a range of external partnerships, for example with dispute resolution agencies, specialized labour court/tribunal judges, academics and research institutions. These partnerships are of value in several ways, offering those who work in the field a sometimes rare opportunity to learn from one another, enhancing the quality of evidence-based technical advice, aiding in the search for practically useful experience and knowledge, and providing information on a range of innovative solutions to challenges faced by different countries in different contexts.

This volume is the fruit of one of these partnerships. Through a memorandum of understanding between the ILO and the Japan Institute for Labour Policy and Training (JILPT) for a joint seminar, the ILO commissioned studies on the nine OECD countries covered in this book, with full funding support from the JILPT. The original papers were delivered and discussed at the joint seminar, which took place in February 2015 in Tokyo. The coverage of a selection of OECD countries responds to ILO constituents' demand for comparative information on advanced mechanisms and practices.

The successful collaboration embodied in this joint project is underpinned by the ILO's long-standing relationship with the JILPT. The Japan Institute of Labour (JIL) was founded in 1958 and restructured in 2003 as the JILPT, an independent administrative research institution whose objective is to contribute to the planning and implementation of labour policies by conducting both national and comparative research on labour-related issues. The JIL was one of the founding members of the International Industrial Relations Association, now the International Labour and Employment Relations Association (ILERA), whose secretariat is hosted by the ILO.

We would like to extend our sincere appreciation to all the authors who have contributed to this volume: Anthony Forsyth (Australia); Stéphanie Bernstein (Canada); Isabelle Daugareilh, Allison Fiorentino, Joël Merkhantar, Sylvain Niquège, Mireille Poirier, Nicolas Sautereau and Sébastien Tournaux (France); Bernd Waas (Germany); Ryuichi Yamakawa (Japan); Adoración Guamán Hernández (Spain); Jenny Julén Votinius (Sweden); Benjamin Jones and Jeremias Prassl (United Kingdom); and Aaron Halegua (United States). All are outstanding labour law scholars and/or practitioners with expertise in their home jurisdictions, and with extensive comparative experience. The views expressed are, however, the responsibility of the authors and do not necessarily reflect those of the ILO.

We are grateful to Corinne Vargha, Director of the ILO's International Labour Standards Department, for launching this global research project. We wish to thank the project team for their extensive work to make this joint project possible, and to coordinate it throughout: Minawa Ebisui, Sean Cooney, Colin Fenwick and Youcef Ghellab. We also wish to extend our sincere appreciation to JILPT colleagues for their excellent preparation and organization of the joint seminar and the follow-up, which contributed so much to the success of this collaboration: Mitsuji Amase, Hideyuki Oshima, Shinichi Nakamura and Kayo Amano. We are grateful to Xavier Beaudonnet (ILO) for introducing the project team to the Centre for Comparative Labour and Social Security Law (Centre de droit comparé du travail et de la sécurité sociale: COMPTRASEC), whose researchers jointly authored the chapter on France. Special thanks also go to Professor Takashi Araki, University of Tokyo, for his valuable suggestions and participation in the discussion at the joint seminar; to the ILO Office in Japan, for their support for the joint seminar; and to Akira Isawa, who at the time was Assistant Minister of the Ministry of Health, Labour and Welfare (MHLW) of Japan, for his contribution to obtaining the support of the MHLW, which made possible this joint ILO-JILPT project in support of the ILO's research agenda.

We wish to thank our colleagues in the Labour Law and Reform Unit: Valérie Van Goethem, Sara Martinsson, Luz Rey Novas, Valerio De Stefano, Yoshie Noguchi and Carmen Bernales-Guibo for their editorial or logistical assistance at the final stage of this publication. Finally, we would like to thank Chris Edgar and José Garcia (ILO) for providing invaluable support in the final stages of preparation for publication, as well as the three anonymous peer reviewers for their comments on the original manuscript.

This volume is intended to encourage an exchange of experience and innovation. We hope that it will be valuable reading for a wide range of people involved in the

settlement of individual labour disputes, including employers and workers; practitioners, including both judges and conciliators/mediators/arbitrators; members of labour inspectorates and similar enforcement agencies; academics and researchers; and policy-makers charged with improving national systems. We hope also for further collaboration between the ILO and the JILPT, in support of our shared commitment to global research in the areas of labour law and dispute resolution.

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