

## Mediation in a rights dispute

### Case - PTTEP International

PTTEP International Limited is a foreign investment company and it has 80% of Zawtika Offshore Oil and Gas Field in Motetama Offshore in the Territory of Myanmar together with Myanmar Oil and Gas Enterprise (MOGE), which has 20%.

In hiring Myanmar workers, firstly PTTEP International Limited hired them as Field Technicians through the employment contract provided by the company from October 1, 2011 with the payment of F.E.C 380 per month (Foreign Exchange Currency).

According to the statement made by workers, when they were interviewed, the company management said that their payment would be from USD 600 to 800. But, in the practice, they have not received that payment amount.

Workers said that in working in the workplace, their working system is 28 working days and 20 days-off. During the 28 working days period, working hours is from 7:00 am to 7:00 pm. During this period, they are not entitled to receive the overtime wages and to have public holidays. Only if their working hours is beyond 12 hours, they are entitled to an overtime pay of two times normal hourly wage. They have no rights to take earned leave and casual leave. If a worker is ill, he is entitled to take 30 days medical leave within one year. They have no rights to take Myanmar Traditional Water Festival Holidays.

In terms of other benefits, workers also said that the company provides 2.2 times of their payment as a bonus based on the profit of the company, and they receive yearly increase of their payment. They are entitled to get 24 times of their base pay as a life insurance, and if a worker is sick, he/she can claim the cost of the medical treatment up to USD 400 per year. While they started work in Zawtika Oil field, their base pay was USD 520 and by the end of the year 2015, their payment became USD 600 per month.

The employer stated that the 28 days-on / 20 days-off work schedule is due to the nature of work, in reality the working system is 28 working days and 20 days-off. Because of the nature of their Off-Shore Oil field, workers are Rotational Staff, the employer provides them not only annual increase of their payment but also other kinds of benefits (not cash benefits).

The PTTEP has not recognized the labour organization established at the company. The employers argument is that there is uncertainty on the organisation's name. He claims to know the organisation by a name which is slightly deviating on the organisations letterhead.

Under the Employment and Skill Development Law (2012) of the Ministry of Labour, Employment and Social Security, the company has to provide 8 working hours per

day under ILO Convention No. 1. The company has to provide the double wages and cost of living allowance if workers have to work on the public holidays in the off-shore workplaces, and provide casual leave and earned leave due to the working system is 28 working days and 28 days off and workers are entitled to have 30 medical days.

## Considerations

1. Is the dispute based on the nature of the Offshore Oil and Gas field, and is that nature different from the nature of work carried out in the land?
2. Can the base pay of a worker for 12 working hours include the overtime wages?
3. In the present situation in Myanmar, the law and rules relating to the Offshore Oil and Gas field have not been stipulated yet. What rules should then be followed, and can there be made exemptions for special areas like oil and gas exploration.
4. How can the labourorganisation recognition dispute be solved?

## Question:

*Which possible solutions are there for the parties to resolve this issue: the existence of a high and low production season and the security of the employees?*

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### Stakeholders

Define the Stakeholders, how can they influence the case.

Stakeholders on your side	How can they influence the result

From who do you need a mandate?

Stakeholders on their side	How can they influence the result

External Stakeholders	How can they influence the result

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### **Facts of the case**

What are the facts of this case

**What happened?**

**What was the reason for the situation ?**

**What occurred before the situation?**

**Is there a way to avoid the situation - Some other action which can be taken**

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## Labour law - Case law

Your legal argument

Which labour law and case law you can use to support your case and your arguments?

Which is the best paragraphs and which prior cases can you use to support your case and your arguments?

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## Best alternatives

Prepare for negotiation - spend some time on this.

What can you live with if you do not get your primary result?

Is there another result, which will satisfy your stakeholders?

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### **Put yourself in your opposing party's position**

**What is your opposing party's position**

**Why is this your opposing party's position?**

- Interest of their stakeholders?
- How do they see what happened?

**What is your opposing party's basic interest - what do they want to achieve?**

**What is your opposing party's Best Alternative? -**

- What can they live with?
- What will they do if they do not achieve their goal?
- Is there a completely different result which will satisfy them?

## Case - PTTEP International

### For Conciliator

#### Finding solutions

Looking at the primary target and best alternatives of the two parties, find 5 different solutions that meets the interest of at least one of the parties without contradicting the other parties' interests

Employers	Solution	Trade Unions
1.		
2.		
3.		
4.		
5.		