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Workplace Conflicts in The Guangdong-Hong Kong- Macau Greater Bay Area from the Legal Perspective

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Abstract

Outline Development Plan for the Guangdong-Hong Kong-Macao Greater Bay Area illustrates the policy of building a talented highland in the Greater Bay Area. With the continuous advancement of relevant policies, companies have gradually increased their staff turnover and diversified their interests. It is also inevitable that some intense employee conflicts will occur in enterprises. Social practice has proven that improper resolution of such conflicts may lead to more intense conflicts between employees and the company, which could not only bring negative effects to the economy and reputation of the enterprise but also may affect the benign industrial cooperation and high-quality economic development in the region. The cases discussed in this paper are selected from Hong Kong international mediation experience to seek advanced methods for employee conflict management. Through comparative analysis with Hong Kong international mediation methods, this paper extracts the deficiencies of traditional employee conflict resolution methods and explores mediation to resolve workplace conflicts. It is recommended that Guangdong enterprises try first and establish a long-term mechanism for employee conflict management which covering every process of recruitment under laws and regulations to minimize its negative impact on the economic development of the company and the Bay Area.

Keywords: Workplace Conflicts; Guangdong-Hong Kong-Macao Greater Bay Area; Legal Perspective



Background

Outline Development Plan for the Guangdong-Hong Kong-Macao Greater Bay Area was promulgated in February 2019 clearly defines the policy of building a talented highland in the Greater Bay Area. On March 22, 2019, the "*Deepening Cooperation on Human Resources and Social Security, Agreement on Promoting the Strategic Cooperation of Guangdong-Hong Kong-Macao Greater Bay Area*" focuses on building channels, strengthening weaknesses, enhancing advantages, and building platforms. In all aspects, the six major cooperation contents including the free flow of human resources elements were clearly identified. It is foreseeable that the positive policy for the talents in the Greater Bay Area can attract a large number of the talent. If implemented, the Plan will likely lead to talented employees from a multitude of different backgrounds working together in the Greater Bay Area. This will likely lead to increased workplace conflict.

Workplace conflicts can exist in various departments and stages of the enterprise. Classified according to the scope of adjustment, workplace conflicts include (1) conflicts between employees, (2) conflicts between employees and the company. According to its influence on the outside, it can be divided into (1) dysfunctional conflict, (2) functional conflict. This article explores mainly dysfunctional conflicts that occur between employees.

Inadequate conflict resolution can lead to negative outcomes as exemplified by the murder case at a school in Guangzhou in 2019. Due to a personal conflict between employees, a teacher ended up killing a colleague and his wife. While the incident shocked the public, some questioned whether it would even be possible to adjust the employee relationship management system to prevent crimes of passion stemming from employee's interpersonal relationships. The reality is that it is not uncommon for employees to argue with one another. Improper handling of employee conflicts not only affects employees' rights but also the long-term interests of the company. It is important to note that not all conflict resolution methods are satisfactory. This thesis attempts to select Hong Kong international mediation cases to find commonalities in employee conflict management in the Greater Bay Area. Through comparative analysis with Hong Kong international mediation methods, this thesis extracts the deficiencies of traditional employee conflict resolution methods and explores the efficacy of the use of mediation to resolve workplace conflicts. It is recommended that Guangdong enterprises try first and establish a long-term mechanism for employee conflict management which covering every process of recruitment



under laws and regulations to minimize its negative impact on the economic development of the company and the Bay Area. While it is recommended that Guangdong enterprises try to establish a mechanism for employee conflict management, such enterprises need to comply with applicable laws and regulations in order to minimize any potential negative impact on the economic development of the company and the Greater Bay Area.

The traditional solution and its limitations

I. Cases

A and B are employees of the same department in the same company in Hong Kong. A is young and ambitious. He hopes to be promoted at a young age. In order to be promoted, A needs to resolve more cases. B is an older employee and wants to earn more money to support his family. A and B wound up fighting over a client. Once, A and B quarrelled with each other because of the same client. What is the best way to resolve the conflict between these two employees? We analyse it with traditional solutions and its characteristics based on this case.

II. Traditional solutions and their limitations

Traditionally, the first step for companies in Guangdong dealing with employee conflicts is to determine whether the suspected behaviour is criminal. If a serious crime is suspected, the matter will be directly transferred to the relevant department for processing. If no serious illegal activities are involved, the matter is resolved by the respective department. If the matter hasn't been resolved, it is then referred to the personnel department of the enterprise. The model of the internal department of problem-solving combines criticism plus preaching. The department heads, much like teachers criticizing students who break the rules, recite to the employees the existing rules and the rationale for why the company implemented those rules in the first place. A and B may appear obedient, but privately feel that rigid application of the rules does not adequately address their concerns. The supervisor then ends the meeting by demanding that employees ignore their personal conflicts. The consequence of this approach is that A and B's conflict remains unresolved and the pair will go back to work unsatisfied and with lingering contempt. Though the employees conduct may now be in compliance with the rules and policies of the enterprise, the interpersonal conflict between the two employees hasn't been solved properly. Punishment is another common method to deal with conflict between employees. Assume that instead of criticism and preaching, the employee supervisor decided to deduct the



employee's bonuses to punish the employees on the ground that their behavior had affected the morale and even the interests of the company. As a result, both A and B were depressed, and they dared not to visibly conflict, and the problem was not resolved.²To sum up, neither of the above two traditional conflict resolution methods can solve the problems effectively.

Traditional approaches may seem useful for a conflict at first glance, but the employees involved in the conflict, while seemingly obedient to the demands of their employer, may continue to harbor resentment. Additionally, they may also be labelled "unruly employees" by the company because of their involvement in the conflicts, which will can unnecessarily impede their career advancement. Since the conflict is not resolved, there remains a possibility that both parties could fight again in the future, like a ticking time-bomb. It may cause a negative impact on businesses. The above method has the following limitations.

1. The emotions of all parties have not been sorted out because of too much judgment

Companies spend too much time assigning blame to who they perceive to have caused the dispute. This practice does not protect each employee's emotions, and the result it that it remains difficult for the affected employees to cooperate at work.

2. The parties are under pressure because of the company's inflexible procedures

The two parties, A and B, felt uneasy in the face of the company's interviews, and the stern expression of the leaders. They may wonder what the consequences may be to their careers. Both the employees and the employer are under pressure to resolve the conflict. From the employer's perspective, they wonder whether the conflict can truly be resolved using this inflexible procedure. Under this inflexible procedure, all the involved people are highly nervous.

3. The employer makes comes up with the solution, which gives the employees have less freedom to negotiate

How to deal with it, whether to criticize education or fines or even to terminate labour contracts with employees, is up to the enterprise. Under the traditional method, there was little room for argument by the employees.

² Mo Daoyuan, Five Methods on Handling Contradictions among Employees, Foreign Trade & Economy, No. 12, 1998, p. 75.



4. Employers pay attention to legal rights at the expense of other interests

Enterprises are more concerned about whether there could potentially be legal liability resulting from the conflict. If not, they will try to minimize the loss as much as possible. The two employees, A and B in the case, did not violate the basic rules of the enterprise. Therefore, it is not suitable for fines or criticism of the employees. Also, it was even more unnecessary to terminate their labour contracts.

When traditional methods are not effective, should business leaders consider adjusting the original conflict management methods and adopting new methods to resolve conflicts? After case processing, in order to meet the needs of the long-term development of the company, the company also needs to promote employee relations through the development of a proper system.

Hong Kong experience in workplace conflict mediation

Based on the above cases, compared with the traditional method, Hong Kong international mediation mechanism has the following advantages:

1. Focus on the interests of all parties and focus on the future

First of all, the Hong Kong international mediation mechanism focuses on the interests of both parties and the interests of the business. In the case, A was a new employee and his goal was to be promoted to supervisor. To can meet the basic conditions for promotion, he needs to complete the necessary amount of work required by the enterprise. B is an older employee aiming to increase his income. The conflicts between two employees may have the following adverse effects on them personally: First, they will affect the people around them, causing worse interpersonal relationships; Secondly, the stress of the conflict could cause those involved to developmental issues and even depression symptoms; Thirdly, if the conflict cannot be solved, it will affect the manager's perception of those involved and the employees may lose out on career opportunities; Fourthly, time spent by employees on their interpersonal conflicts can lead to poor focus and poor work product, which ultimately may affect the employee's salary Thus, it probably influences their family life and increases financial burden.

It is beneficial for the enterprise to obtain more customers steadily and continuously. Employee conflicts may have the following adverse effects on the company. First, the incident will consume internal human resources. Two colleagues have to spend time dealing with their conflicts. The manager also



spends time on handling the disputes. Secondly, the employees will continue to feel stress from the conflict and may be less emotionally stable as a result. Thirdly, the employee's conflict also affects other employees. It may cause the employees to take sides and split into factions depending on which employee they support in the conflict. Fourthly, employees' poor performance or uncooperative attitudes could negatively influence employee productivity and lead to employee turnover, which could cause the company to suffer losses. In the end, it will affect the company's reputation and if reported to the public could lead to loss of clients.

2. The procedure is more flexible and depends on the wishes of the parties

The process of mediation is relatively flexible, and it is unknown whether mediation can resolve any given issue. In this case, the mediator had fully assessed the possibility of mediation after communicating with the personnel department of the enterprise and the employees of both parties before starting the mediation. The entire mediation arrangement takes into account the work needs of employees and corporate requirements. After the mediator negotiated with both parties, he decided that the mediation should occur on company property. Because the two employees are busy in the afternoon and evening, in order not to affect their daily work, mediation is scheduled to be held at 8 am. Everyone wants to resolve the conflict as soon as possible and hopes to find a solution within 4 hours.

The mediator was able to gain the trust and confidence of both parties and identified their interests. B stated that he had been preparing for several months and had done a lot of follow-up work for the client. He felt that because he had worked harder for the client than A that it was unfair for A to steal the client and take the commissions. He argued that the enterprise should determine entitlement to commissions paid to employees by the amount of work done by each employee—not by who ultimately closes with the client. A argued that he gained the disputed client's business not from a deliberate attempt to “steal” the client, but from his own talents. He believed B had only himself to blame for the loss of the client and that B should not be entitled to the commissions. The mediator found that what was really important to B was not the client itself, but the commissions. A was a younger employee, focused primarily on career development. He wanted to gain as many clients as he could in order to get promoted as quickly as possible. B, being an older employee with a family to support, was ultimately focused on the income from the commissions.



3. The outcome is determined by the parties and agreement is reached voluntarily

The mediator was finally able to get the parties to come to an agreement. The mediator was able to get A to concede that B had put a substantial amount of work into the transaction and that he deserved to be compensated. Because A was primarily interested in getting credit for the transaction and getting a promotion as quickly as possible, B agreed to give A credit for the transaction in return for half of the total commissions. Cooperation between the employees is recommended because it can improve the service of the enterprise. During the mediation, both parties were free to negotiate to arrive an acceptable solution, which is a win-win situation.

4. Focus on comprehensive interests

Mediators believe that workplace mediation is not conducted in accordance with Chapter 620 of the Hong Kong Mediation Ordinance, but seeks to provide informal and fast solutions to workplace conflicts. The mediation process provides a safe and confidential space for the parties to find their own solutions. The process not only protects legal rights but also the career development of the parties and the long-term interests of the company. There are four steps to a successful mediation process. First, the mediator should explore the problems and attempt to understand the feelings and concerns of the parties. The mediator needs to try to solve the problems together to rebuild a better relationship. Secondly, through mediation, both parties are able to understand each others' behaviours and can provide opportunities for the other party to change. Thirdly, mediators should assist the parties to develop their skills and get ready for workplace challenges. Mediators should also encourage communication between the parties and help both parties find a proper solution that can be fair and beneficial for both of them.

After reaching the agreement after mediation, their company was also very satisfied with the results and immediately arranged the accounting department to adjust the record of this sale and change the commissions, which were divided equally between A and B. As for the two-employee sales model, the company plans to make a new arrangement in three months and carry out within 6 months. Subsequently, the mediator also promised to follow up and keep in touch with the employer and employees until the plan is fully implemented. The mediator will



check whether the measures have been successfully implemented and determine whether the agreement needs to be modified in the next 3 weeks to 3 months.

By comparing Hong Kong international mediation experience with traditional workplace conflict resolution experience, the author finds that Hong Kong international mediation approach is more in line with the needs of the coordinated development of the Greater Bay Area. Although companies can learn from the use of the Hong Kong international mediation approach, resolving employee conflicts through Hong Kong International Mediation method only helps companies deal with individual cases. In order to build an employee conflict management system, companies should design a better way based on the actual condition.

In order to study the improvement of employee conflict management in the Guangdong-Hong Kong-Macao Greater Bay Area, the author conducted a workplace conflict questionnaire. The questionnaire survey was conducted in 9 cities throughout the Greater Bay Area and the author received 211 valid questionnaires. With reference to relevant data and combined with practical experience, the author attempts to raise the issue of improving the workplace conflict management system of Guangdong enterprises in the Greater Bay Area from a legal perspective.

The improvement of workplace conflict management

1. Use Hong Kong International Mediation to resolve employee conflicts

The questionnaire survey conducted by the author shows that 86.73% of enterprises in the 9 cities of the Pearl River Delta use traditional conflict resolution methods such as education, criticism, and punishment. Employees' satisfaction with the company's resolution of employee conflicts based on the above methods is only 58.77%. This shows that traditional employee conflict resolution methods still have room for improvement. General Motor Company divides the appeal and negotiation process into several steps, and resolve disputes at the grassroots level through a full bottom-up internal communication mechanism.³ Hong Kong international mediation approach is to resolve disputes at the grassroots level through adequate communication mechanisms.

³ Li Yuqing, Re-thinking the Mode of Labor Dispute Mediation in China, Journal of Nanyang Normal University (Social Science Edition) No. 10, 2015, p. 4.



- i. The Hong Kong International Mediation should take both principle and flexibility into account

Enterprises should flexibly apply Hong Kong international mediation skills in terms of actual conditions. However, the basic principles of mediation should be observed. For example, mediators should always follow the voluntary principle throughout the mediation process and ensure that the process is standardized. (1) Mediators could try to create a relaxing and harmonious atmosphere at first through a casual introduction or greetings to establish an affinity relationship. The parties need to be comfortable with the mediator as well as the process of mediation before the mediator attempts to start resolving the conflict between the parties. The mediator can build rapport between himself and the parties by making sure to introduce himself and thoroughly explain the voluntary nature of mediation. Although mediation is voluntary, it's important at this stage for the mediator to confirm that the parties involved in the mediation actually have the authority to participate and approve any resulting agreement. At the same time, it is necessary to confirm that all parties and representatives are free to participate in mediation and approve the agreement. Mediators should also help the parties get familiar with the entire process of mediation; (2) Mediators should help parties identify the source of the conflict and the issues most important to them by conducting joint meetings as well as individual interviews. It's the role of the mediator to help the parties' find their common interests and to create a list of those interests for the parties to discuss. (3) Mediators help the parties to formulate a mediation plan through the final joint meeting; (4) The mediator's role doesn't end after settlement. The mediator should track the implementation of the settlement and monitor the enforcement of the agreement.

- ii. Training is necessary for employees to learn more about self-management and how to deal with conflicts

(1) Establishing regulations including necessary training

Enterprises should consider the principles of successful mediation conjunction with characteristics of their enterprise when establishing their internal employee conflict resolution system. The legal representative for the company should work as the director of the committee. The Office of the Workplace Conflict Committee should be set up under the committee. The head of the Office should be held by the manager of the legal department, and the deputy director should be held by the manager of the human resources department. The head of the office is held



by the manager of the legal department, and the deputy director is concurrently held by the manager of the human resources department. Under the organization of the committee, the company has established a conflict management knowledge platform for employees from on-boarding, in-service to leaving, and continuously improved its related management capabilities.⁴ In order to promote the efficiency of corporate training, it is recommended that the relevant departments of the Guangdong Provincial Government support it to improve self-improvement and self-service. Also, it helps attract more qualified institutions in the Greater Bay Area to participate in mediation to form an effective supply mechanism of public services to achieve sustainable development of enterprises.⁵

(2) Construction of scientific enterprise training mode

After building a relevant training system, the enterprise should clarify the purpose of the training to the employees. It is important to link the training purpose with the enterprise's overall strategy. Employees can effectively improve their conflict management capabilities and skills while better understanding the company's strategy and future plans. The implementation of such a system will improve retention of talented employees. It is advisable for the human resources department of an enterprise to establish an employee relationship management position which would have the responsibility to communicate with employees in order to establish the employee's plan for advancement. It is suggested that the human resources department can set up an employee relationship management position which has the responsibility to communicate with employees to make a further career plan. The position could also be responsible for developing the promotion and incentive system and for encouraging internal recruitment.⁶

2. Construction of workplace conflict management system

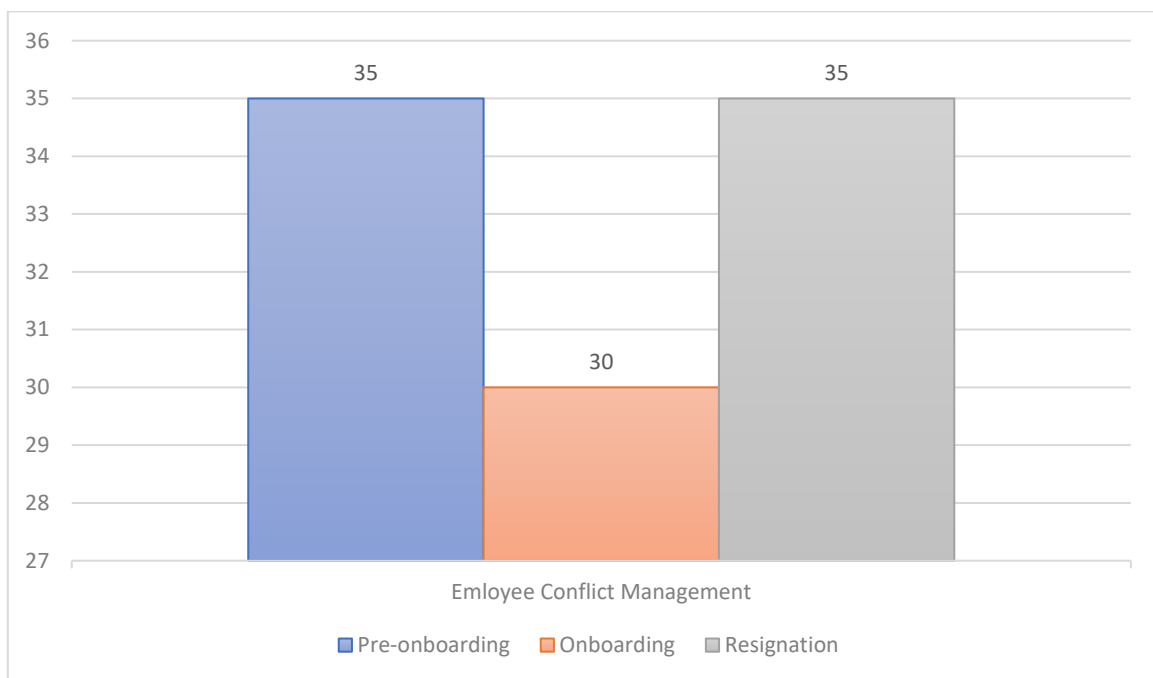
The aforementioned survey questionnaire shows that employees have a high recognition rate on how to resolve conflicts through system improvement. The establishment and improvement of regulations and systems reached 60.65%. Among them, the establishment and improvement of regulations and systems reached 27.01%, the establishment and improvement of personnel management

⁴ Yang Xibin, The Enlightenment of EU Cross-border Financial Consumption Dispute Resolution Platform to China, Financial Report, No.11, 2016, p.79.

⁵ Jin Huiliang, A Brief Introduction to the Mediation System in Hong Kong, Legality Vision, No. 1, 2014, p. 209.

⁶ Hu Xin, Xu Chang, The Causes and Prevention Strategies of Human Resources Management Risks in Private Enterprises, Marketing Management Review (Late), No. 8, 2016, p. 89.

systems reached 24.64%, and the establishment and improvement of performance management systems reached 9%. The legal department assisted the personnel department in managing employees for “more frequently” up to 25.12%. It is feasible for the legal department to assist other departments to improve management through assistance. The workplace conflict management system should be constructed from Pre-onboarding, Onboarding, and Resignation, as shown in the figure below.



Workplace conflict management system diagram

i. Pre-onboard Employee Conflict Management

The author believes that employee conflict management should begin with recruitment. The Workplace Conflict Management Committee may establish a recruitment question bank. The question bank should include, at the very least professional quality and job skills, and comprehensively test their character and skills. Employee conflict cases should be included in the necessary examination questions for professional quality. A recruiter is primarily concerned with evaluation of the strength of the potential employees, which includes their professional knowledge and skills but also the applicant’s inherent values and potential. Recruitment is mainly about knowing people which emphasizes their knowledge and skills, as well as their inherent values and potential.⁷ In addition

⁷ Jiang Shimei, Meng Jing, Zhang Yuyao, Li Xiaochun, Liu Fang, Management Mode of Knowledge Worker: Case Study on Huawei, Technology Economics, No.5, 2017, p.49.



to the personal characteristics of a potential employee, companies should consider whether the employee is a good fit for the culture of the enterprise. At the same time, when recruiting employees, companies should also pay attention to observe if they match with the company. Through face-to-face communication, companies should examine the attitude, personality, and interests of candidates, and choose those who match their culture.⁸ Enterprises should be reminded that Article 8 of *Labor Contract Law of the People's Republic of China* stipulates that when an employer hires an employee, it shall faithfully inform him of the work contents, conditions and location, occupational harm, work safety state, remuneration, and other information of which the employee is entitled to be informed.

After an employee has been hired, the legal department shall assist the human resources management department and the employee to sign the Labor Contract and plan a probation period under *Labor Contract Law of the People's Republic of China*. Companies should avoid unnecessary employee-enterprise conflicts come out due to non-compliant operations.

ii. Onboard employee conflict management

As shown in the previous questionnaire, only 50.71% of the employees are satisfied with the implementation of the reward and punishment measures. On the question of how to improve employees' recognition of corporate conflict management, the author suggests that there can be improvement in two ways: spiritual encouragement and material reward. Companies could set up rewards, such as "activists" and "progressive awards" to allow more employees to obtain awards which may reduce the possibility of conflicts among colleagues due to competing for few awards. In addition to reducing competition for existing awards, the establishment of new awards could also have the effect of increasing the enthusiasm of the award-winning employees. As for the material rewards, employees are encouraged to work harder by increasing benefits such as post allowances and annual leave. In short, enterprises should take care of employees' diverse choices and multiple needs to create an equal, eager-to-learn, relaxing, and pleasant working atmosphere. Employees could truly feel their importance at work and then they will be loyal to the company. The cultivation of the labor-management autonomy atmosphere is more conducive for the government to

⁸ Jiang Shimei, Meng Jing, Zhang Yuyao, Li Xiaochun, Liu Fang, Management Mode of Knowledge Worker: Case Study on Huawei, *Technology Economics*, No.5, 2017, p.47.



reduce the investment cost and burden in the labor-capital contradiction, and make the government a rule-maker and a rule-execution supervisor.⁹

In order to promote harmonious relationships among employees, the author recommends that employee relationships should be included in the annual assessment scope. The Workplace Conflict Management Committee can organize a staff relationship coordination salon once a week based on Guangdong traditional cultural features such as morning tea. The committee can try to set up mutual assistance groups to conduct employee relationship communication activities through free registration. A friendly interpersonal network among employees also strengthens employees' sense of belonging to the company.¹⁰ It should be reminded that according to the second provisions of Article 4 of *Labor Contract Law of the People's Republic of China*, where an employer formulates, amends or decides rules or important events concerning the remuneration, working time, break, vacation, work safety and sanitation, insurance and welfare, training of employees, labor discipline, or management of production quota, which are directly related to the interests of the employees. Such rules or important events shall be discussed at the meeting of employees' representatives or the general meeting of all employees, and the employer shall also put forward proposals and opinions to the employees and negotiate with the labor union or the employees' representatives on an equal basis to reach agreements on these rules or events. Corporate legal management departments should assist relevant departments to improve relevant processes to avoid unnecessary employee-enterprise conflicts.

iii. Resignation Conflict management

The questionnaire showed that only 47.87% of employees were satisfied with the resignation management of the company. When outstanding employees resign from the company, the fairness of the incentive system should be considered; when employees resign from the company at various departments, the company needs to pay more attention to the rationality of the daily management system.¹¹ The unemployment of a group of workers can cause the workers to become anxious and to take aggressive measures, potentially attracting social attention.

⁹ Meng Quan, He Qin, The Extraterritorial Conclusion of the Neutral Labor Dispute Mediation Model, *Chinese Workers*, No.11, 2015, p.15.

¹⁰ Zhao Lan, Social Work Intervention of Enterprise Labor Relations, *Modern Business Trade Industry*, No.6, 2017, p. 72.

¹¹ Hu Xin, Xu Chang, The Causes and Prevention Strategies of Human Resources Management Risks in Private Enterprises, *Marketing Management Review (Late)*, No. 8, 2016, p. 89.



Timely psychological counselling is effective to quell worker anxiety and may be necessary. Many cases prove that if management fails to use timely and effective management methods to have further communication and resolutions, it can aggravate the escalation of labor-management conflicts and even larger-scale labor disputes. In addition, improper involvement from governments will also contribute to the immaturity of the management.¹² According to Article 4 of the Labor Contract Law of China, the employer shall make an announcement of the rules and important events which are directly related to the interests of the employees or inform the employees of these rules or events. Enterprises should handle the resignation procedures for their employees in compliance with the law. At the same time, they should resolve the conflicts between employees and the company in a peaceful way that demonstrates understanding and tolerance to resigned employees.

Conclusion

The Guangdong-Hong Kong-Macao Greater Bay Area is one of the most influential regions in China. The economic development of the Greater Bay Area is inseparable from the development of enterprises. The author suggests that Guangdong can try to explore a useful workplace conflict management system in terms of its advantages in location and developed mediation experience from Hong Kong to ensure the long-term sustainable and healthy development for the enterprise. In summary, in addition to effective conflict management on a case-by-case basis, healthy and harmonious employee relationships require continuous management by corporate managers through daily management, and maintained by all employees. Positive employee relationships not only reduce conflicts but also improves the employee's professionalism and quality, enhance the corporate image, effectively prevent and resolve management crises, which is the most effective way for enterprises to attract and retain talented employees.¹³

Proper handling of employee conflicts will become the driving force for the development of the enterprise. Employers can try to use new methods to solve their problems. The Hong Kong international mediation approach is able to provide a new method for employee conflict resolution and promote the sustainable and healthy development of enterprises in the Greater Bay Area.

¹² He Yuancheng, Intervention of Social Organizations and Operation of Collective Labour Relations in China —A Tentative Model in Labour Disputes Resolution, Labor Relation, No.15,2015, p.95

¹³ Zhang Yanqin, Employee Relations in Human Resource Management in Foreign Enterprises, Modern Business, No. 12, 2019, p.169.



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