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THE DEMAND FOR MEDIATION SERVICES IN CAMBODIA



A study conducted by BDLINK for the Arbitration Council Foundation of Cambodia to assess the feasibility of mediation services to diversify fee based services and income opportunities for the sustainability of the Arbitration Council Centre in Cambodia.

Disclaimer

Arbitration Council Foundation (ACF) contracted BDLINK (Cambodia) Co., Ltd. (BDLINK) to conduct this independent study. The study is made possible by the generous support of the American people through the United States Agency for International Development (USAID) and Levi Strauss Foundation (LSF). The contents are the sole responsibility of BDLINK and do not necessarily reflect the views of USAID, the United States Government, LSF, or ACF.



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The research team consisted of an author, Mr. Chanmono Oum; two field supervisors; Mr. Piseth Sarak and Mr. Pun Pao, and eleven researchers namely Ms. Pisa Kuch, Ms. Nita Sok, Ms. Sokantha Soung, Ms. Malin Nov, Mr. Sophey Phat, Ms. Channthorn Sreng, Ms. Ekmuny Tan, Ms. Sreymom Sothea, Ms. Thyda San, Mr. Yuthea Thou, and Ms. Nita Khem.

Executive Summary

The Arbitration Council (AC) of Cambodia is a national institution provided for under the Labour Law and mandated to resolve labour disputes in the Kingdom of Cambodia. Supported by the Ministry of Labour and Vocational Training (MoLVT), employers, and unions, the AC is internationally and nationally recognized as Cambodia's premier labour dispute resolution body. The AC is both financially and technically supported by the Arbitration Council Foundation (ACF), which is an independent and non-political non-profit entity. The ACF helps the AC in a technical capacity by providing the AC support in training & professional development of arbitrators, and dissemination of information on conciliation, arbitration, the Labour Law, and dispute prevention and resolution services. Financially, the ACF helps the AC to fundraise and ensure sustainability of the delivery of services that the AC is able to provide under the law. The roles of the AC and ACF are critical to improving the climate for investment, increasing economic growth and furthering social dialogues and development in the country.

Primarily, the ACF is interested in understanding if mediation is a high demand for reducing grievances; therefore, mediation can be set as an alternative approach in dispute resolution mechanism to improve Cambodian Industrial Relations across growing sectors. On the other hand, financial constraints persistently challenge the AC's sustainability and impede its ability to expand services to users of the centre. In a growing competitive environment, where donor funding and support is scarce, the ACF is currently looking at new ways of financing the AC so that it is not reliant on international donors.

The study on mediation services market reviews a variety of ways to examine demand of mediation and enhance sustainability of the institutions, enabling the institutions to remain neutral and not be influenced by any particular source of funds. This study aims to serve three key objectives: *1) to establish a legal rationale and framework for the fee based mediation services, 2) to provide an assessment of demand and risk for fee mediation and 3) to measure implications and provide recommendation for the Arbitration Council Foundation.* The study will enable the ACF and AC to utilize the findings to establish a strategic plan in order to disseminate their services and potential mediation services into labour market and later help to improve Cambodia's industrial relations.

Accordingly, this study considers the legal rationale for the ACF to provide fee-based mediation services, and also assesses the potential market demand for such fee-based mediation services.

With respect to the legal review, the study covers the legal rationales and mediation framework reviews by examining the current regulatory framework in Cambodia and providing an international comparative overview of mediation processes in other jurisdictions. This analysis helps to form the basis of a best practice mediation framework and eventually enable the ACF to establish a fee-based mediation service.

Based on the legal rationale and Cambodia's regulatory frameworks review, there is no general mediation law, no general mediation license or minimum mediation standards. Therefore, **there is no legal impediment to prevent ACF from establishing a fee-based mediation service.** Provided that demand for such a service is sufficient, the ACF should proceed to establish this service, and develop and disseminate a mediation framework based on international best practice but tailored to the Cambodian market, which will be critical for ensuring that parties can confidently engage with this new service.

To assess the market demand for fee-based mediation services, the research team conducted in-depth interviews using structured questionnaires with 370 employers and 509 employees in Phnom Penh across seven target industries, namely manufacturing, construction, accommodation, financial services, professional services, wholesale and retail, and transportation. The questionnaires cover a wide range of topics designed to provide insights into the types of employees and businesses that may be interested in using fee-based mediation services provided by the ACF. Survey participants were asked about their previous experience with labour disputes, their understanding of labour rights and industrial relations engagement, their awareness of the ACF and the AC, their understanding of mediation services, their interest in using fee-based mediation services, and their willingness to pay for these services.

When assessing the demand for mediation services by ACF, the key issues to consider are:

- Are there enough labour disputes in Cambodia that require mediation services?
- Are enough employees and companies interested in using an external mediator to help resolve disputes?
- Are employees and companies prepared to pay for mediation services, and if so – how much?
- Would enough employees and companies use a fee-based mediation service provided by the ACF if it offered such a service?

Based on the data collected from employees and employers for this study, **the findings suggest that the demand for a fee-based mediation service by the ACF is quite low**, and therefore it may be challenging for the ACF to generate sufficient demand for – and income from – this activity. The lack of demand for mediation services may reflect a range of factors, including an apparent decline in labour disputes in recent years, a lack of knowledge and awareness about the role that external mediation services can play, some uncertainty about the likely quality of service delivery as perceived by employees and employers, and challenges relating to affordability.

Employees and employers in some industries (such as professional services and financial services) are more willing to pay – and pay higher amounts – for mediation services than other industries. This may provide guidance to the ACF on where to focus their energies in terms of information dissemination and awareness raising.

A key challenge for the ACF is to increase awareness of, and trust in, the ACF and AC among employees and employers – particularly in those industries where there is greatest potential to charge fees for mediating disputes. Further work needs to be done on precisely which industries to target and how best to disseminate the information – in terms of both content and dissemination method. These methods may include social media, television and outreach activities to promote understanding of labour laws and rights at work, which may promote demand for mediation services in the future.

This report is structured as follows:

- Chapter 1 presents the background to the study, including its objectives, scope and limitations.
- Chapter 2 provides information on mediation services in general, including mediation services and processes in Cambodia and best-practice services and processes in other relevant jurisdictions.
- Chapter 3 outlines the research methodology applied to the employee and employer surveys.
- Chapter 4 presents the main findings of the study, with 4.1 covering the legal review and 4.2 covering the surveys.
- Chapter 5 presents conclusions based on the main findings.

Finally, additional details are provided in charts that are contained in an appendix. This appendix contains valuable information for readers wishing to “dig deeper” into the detailed survey results.

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Acronyms

ABC	Association Bank of Cambodia
AC	Arbitration Council
ACF	Arbitration Council Foundation
ADR	Alternative Dispute Resolution
CAMFEBA	Cambodian Federation of Employers and Business Associations
CBA	Collective Bargaining Agreement
CI	Confidence Interval
HKMC	Hong Kong Mediation Centre
HKMCMR	Hong Kong Mediation Centre Mediation Rules
ILO	International Labour Organisation
ISEC	International Standard Enterprise Classification
MFI	Microfinance Institute
MMR	Malaysian Mediation Rules
MoLVT	Ministry of Labour and Vocational Training
NIS	National Institute of Statistics
PPS	Probability Proportion to Size
SEZ	Special Economic Zone
SMCCC	Singapore Mediation Centre Code of Conduct
SMCMP	Singapore Mediation Centre Mediation Procedure
VEOHRCC	Victorian Equal Opportunity and Human Rights Commission
WTP	Willingness to Pay
ToR	Terms of Reference
IMICPC	International Mediation Institute Code of Professional Conduct

Definitions

Term	Definition
Alternative Dispute Resolution (ADR)	refers to “a variety of techniques that can be used to resolve dispute outside of the court litigation. The most common are negotiation, mediation, and arbitration.”
Arbitration	“is a process that looks similar to a court proceeding. The parties’ present limited evidence to the arbitrator, and then the arbitrator make a decision.
Binding	“refers to an agreement or decision that the parties must follow because it is legal enforceable. A binding arbitration decision is legally enforceable like a court judgement.”
Collective Bargaining Agreement (CBA)	“is to define the working and employment conditions and other condition of workers, including personal serving in the air and maritime transportation and to regulate relationships between employers and works or unions as well as between unions and employers associations.” ¹
Conciliation	“refers to all types of proceedings where a neutral person assists parties to reach an amicable settlement.”
Mediation	“is a process in which an impartial person – a mediator – facilitates the resolution of a dispute by promoting uncoerced agreement by the parties to the dispute. A mediator facilitates communication, promotes understanding, assists the parties to identify their needs and interests, and uses creative problem-solving techniques to enable the parties to reach their own agreement.” ²
Negotiation	“is an informal dispute resolution process where two or more parties discuss their respective positions and try to work out an agreement. This is the most common form of ADR.”
Non-binding	refers to “an agreement that parties are not legally obligated to follow because it is not legally enforceable. For example, a non-binding arbitration decision is not legally enforceable.”
Willingness to Pay	“refers to a maximum price a consumer accepts to pay for a given quantity of goods or service”. ³

¹ Law on Trade Union, 2016

² Law Council of Australia, Ethical Guidelines for Mediators (2011), Guideline 1, 4

³ Gall-Ely, M., 2009. Definition, Measurement and Determinants of the Consumer’s Willingness to Pay: a Critical Synthesis and Directions for Further Research, SAGE Publication, 2009, 24(2), pp. 91-113, retrieve from <<https://hal.archives-ouvertes.fr/hal-00522828/document>>

1 Background

The Arbitration Council (AC) of Cambodia is a national institution provided for under the labour Law and mandated to resolve collective labour disputes in the Kingdom of Cambodia. Supported by the Ministry of labour and Vocational Training (MoLVT), employers and unions, the AC is internationally and nationally recognized as Cambodia's premier labour dispute resolution body.⁴ The Arbitration Council Foundation (ACF) is an independent and non-political organisation that supports the AC through fundraising, training & professional development of arbitrators, and dissemination of information on conciliation, arbitration, the Labour Law, and dispute prevention and resolution services. The roles of the AC and ACF are critical to improving the climate for investment, increasing economic growth and furthering social dialogues and development.⁵

In the past, the finances needed to run the AC have come from donor programs and projects. This is not sustainable in the long term. The ACF has commissioned a variety of studies to review the feasibility of new services and financing options for the AC. Of importance to the ACF is ensuring that it remains neutral and not influenced by any particular source of funds.

As noted in the Terms of Reference (ToR), The 1997 Labour Law of Cambodia stipulates that a labour dispute can be referred to settle by any procedure agreed on by all the parties to the dispute, or other procedures under the law (Art. 309). This Law also states that the procedure for conciliation and arbitration shall be carried out free of charge (Art.316). It should be noted that the Ministry of Labour dispute resolution team, helps to mediate disputes at the workplace. If such a mediation is unsuccessful, the case, if a collective dispute, will be referred to the AC for a decision and award.

In this context, the provision of fee-based mediation services (in relation to individual labour disputes or other collective disputes) is a possible service that the ACF may be able to provide as a service, subject to the investigation and analysis of laws and practise, and the demand for such fee based services in Cambodia.

1.1 Purpose of study

The purpose of the study is to explore the feasibility of, and demand for, fee-based mediation services delivered through the ACF as a credible and independent institution, with a view to enhancing the financial sustainability of the AC (which at present has the mandate to provide labour dispute resolution services for collective disputes only, free of charge).

The study has three objectives, as set out in the ToR:

- 1) Objective 1: To establish a legal rationale and framework for fee-based mediation services.
- 2) Objective 2: To provide an assessment of demand and risk for fee-based mediation.
- 3) Objective 3: To consider the implications of the study's main findings and provide recommendations for the Arbitration Council Foundation.

1.2 Research questions

This study considers two central research questions:

- To what extent does the legal rationale and framework provide an opportunity for the ACF and/or AC to pursue mediation services?
- To what extent is fee-based mediation feasible for employers and workers, as a form of Alternative Dispute Resolution in Cambodia?

These central questions give rise to the following secondary research questions:

⁴ Terms of Reference (ToR)

⁵ Ibid.

Nature of mediation services in Cambodia

- What is mediation?
- How do mediation services work and how does mediation play a role in Alternative Dispute Resolution?
- What is the legal status for mediation services in Cambodia? Do they exist?
- Can the AC legally provide mediation services without a conflict of interest relating to AC's resources?

Demand for mediation services in Cambodia

- Is there a potential demand for mediation services in particular sectors in Phnom Penh?
- What are the motivations behind the demand for mediation services?
- To what extent can mediation services be established and expanded?

Fee based approaches for mediation services

- What are the existing Alternative Dispute Resolution services in Cambodia? Are there any fee-based services in Cambodia?
- Is there any evidence on how much users are prepared to pay for mediation services?
- What, if any, are the factors impeding the development of fee-based mediation services?

To address the two central research questions – legal rationale/framework and financial feasibility – this study conducted three key areas of research and analysis:

- Literature review of mediation services/processes in Cambodia and other relevant jurisdictions (chapter 2)
- Detailed analysis of the legal context relating to the ACF providing fee-based mediation services (findings in chapter 4.1)
- Surveys of employers and employees in Phnom Penh regarding the feasibility of, and demand for, fee-based mediation services (methodology in chapter 3; findings in chapter 4.2).

1.3 Scope and limitations of the study

This study provides valuable insights into the feasibility of providing fee-based mediation services in Cambodia through the ACF and AC. Nevertheless, readers should be aware of two limitations of the study relating to geographical coverage and survey participation.

First, as agreed between the ACF and the BDLINK team,

- (1) Coverage of the employer and employee surveys is limited to Phnom Penh. A diverse range of dominant industries are selected including manufacturing, construction, accommodation, financial services, professional services, wholesale and retail, and transportation. The team agreed if there is significant demand in the Phnom Penh, as the dominant industrial capital in Cambodia, then given resources available, provincial studies may be conducted later. Key areas with significant business activities, such as Siem Reap, Svay Rieng, and Preah Sihanouk that also have a number of Special Economic Zones (SEZ) where manufacturing firms and other industries are important secondary industrial hubs that could provide further insights for the ACF as to the need for fee-based mediation services.
- (2) There were some challenges regarding the willingness of some respondents to fully participate. Some factories that have been involved in individual or collective disputes were reluctant to express their views fully and openly. Moreover, some factories' regulations do not allow their workers to participate in any research or affiliate with any union. In some cases, this impeded the research team's ability to collect a complete set of data from respondents that had experienced labour disputes, particularly collective disputes. However, to coup with this issue, the research team followed garment workers to their home near the factor for the interview to make sure that they feel free to address the dispute they had.

1.4 Significance of the study

This study will serve as an important input into future analysis and discussions on opportunities to enhance the financial sustainability of the AC – in this case through the provision of fee-based mediation services by the ACF. The study also provides a valuable dataset on the attitudes of employers and employees about fee-based mediation services, upon which the ACF can build with additional research and analysis in the future.

2 Literature Review

To better understand the survey findings presented in later chapters, this chapter provides some useful background information on mediation services, including mediation services and processes in Cambodia and best-practice services and processes in other relevant jurisdictions.

The Arbitration Council (AC) is Cambodia's premier dispute resolution body when it comes to resolving labour disputes. Established just fifteen years ago in early 2003, the AC plays an essential role in the ongoing development of secure and stable industrial relations in Cambodia. The AC has secured the widespread trust of industrial relations actors in recognition of its integrity, efficiency and professionalism. The AC has assisted parties in resolving over 75 percent of the industrial disputes which have been brought before it; almost a third of which were resolved by agreement of the parties, generally because of conciliation conducted by the AC.⁶

The Arbitration Council Foundation (ACF) was established in 2004 by the Arbitrators of the AC, with the support and endorsement of the Ministry of Labour, union federations and employer associations, and with the assistance of the ILO. The ACF is a non-government organization registered pursuant to the Law on Associations and Non-governmental Organizations (2015) (NGO Law), which supports the AC through the provision of technical, legal and management support.

It is useful for the reader, at this point, to be fully familiar with the Definitions provided above on page 10.

2.1 What is mediation and how does it operate?

The terms *conciliation* and *mediation* are often used interchangeably. Discerning an authoritative definition of the difference between the two terms is difficult and varies between jurisdictions. Both conciliation and mediation are processes involving the intervention of a neutral third party, and the process of each (whether called conciliation or mediation) may differ in process depending on how interventionist a role that neutral third party plays. For example, the conciliator or mediator may simply help facilitate a dialogue between the parties, without making any specific proposals for resolving the dispute. At the other end of the spectrum, the conciliator or mediator's role may include proposing terms of settlement, which the parties are free to accept or reject. In both conciliation and mediation, the responsibility for resolving a dispute lies with the parties involved, with the conciliator or mediator unable to impose a settlement on the parties. This aspect of conciliation and mediation is a fundamental element, which reflects principles of autonomy and voluntarism, both important features of genuine collective bargaining and freedom of association.

In some jurisdictions, the terms refer to the same type of procedure, while in others they are distinct procedures. For the purposes of this study, the term mediation is taken to mean both conciliation and mediation and the authors draw no distinction between the terms in the material referred. See Definitions on page 10 above.

Mediation is an important feature of alternative dispute resolution systems, evidenced in the Cambodian context by the AC's successful use of conciliation, and offers many well-documented benefits. These include the following:

- i. Mediation provides a quicker process by which to resolve disputes. Mediation can generally be arranged within a short timeframe and the process itself is generally not lengthy (often involving a single session, although this will of course depend on the complexity of the dispute). In comparison, litigation is often protracted and can be subject to procedural delays.

⁶ In the period May 2003 – April 2017 (inclusive) 2,679 cases were referred to the Council. A successful outcome is considered to be where the Council has either: (i) facilitated an agreement between the parties to settle their dispute (31 percent of these cases); (ii) issued an award which (even if a party filed an objection) has been fully or substantially implemented to resolve the dispute (42 percent of these cases); or (iii) issued an award which (although a party filed an objection) has formed the basis for a post-award settlement between the parties which has resolved their dispute (3 percent of these cases).

- ii. Mediation costs are generally lower than other dispute resolution options such as litigation and arbitration. Parties may choose not to be legally represented or where legal representation is sought, the cost will be less given the usual brevity of the process.
- iii. Mediation allows the parties to determine a settlement that will preserve their ongoing relationship, in contrast to a judicial or arbitral outcome which is more likely to be a “winner takes all” outcome.
- iv. Mediation allows parties to remain in control of the result. The parties themselves decide if there is going to be a settlement and on what terms.
- v. The mediation process offers parties privacy in relation to the process and the outcome. Parties can be confident that their discussions (including settlement offers) are not going to be matters of record or used as a precedent in the future.
- vi. Mediation tends to result in high rates of compliance with the settlement agreement as mediation allows the parties to design their own resolution. In the Cambodian context this is of particular importance given concerns over the effectiveness of enforcement processes.
- vii. The voluntary nature of mediated settlements makes participants less vulnerable to corruption.
- viii. Mediation can improve access to justice by providing an affordable, fast and informal process.
- ix. Mediation helps to develop parties’ negotiation and dispute resolution skills, which can lead to more confident, efficient and beneficial workplace-level dispute resolution and collective bargaining.

Mediation can occur in one of two different settings: (1) private mediation and, (2) mediation as a mandated process set out in law or regulation.

In **private mediation**, the parties agree to engage in mediation. That agreement might be made at the time of contracting or of reaching a collective bargaining agreement (CBA), well in advance of any dispute. Alternatively, the parties may agree to engage in mediation after a dispute arises. Private mediation is a voluntary process that operates as a complimentary adjunct to dispute resolution processes set out in law and regulation and is currently available in Cambodia in relation to disputes across a range of subject areas.⁷

The Cambodian legal framework makes provision for many mediation options including the following:

- With respect to collective labour disputes, the Ministry of Labour and Vocational Training (MoLVT) will mediate the labour dispute between employees and the employer, and can provide mediation at the parties’ request in relation to individual disputes;
- In family disputes, parties can seek mediation assistance from the local Commune Councils and are subject to mediation before formal divorce proceedings;
- With respect to land disputes, parties can request mediation from the government’s Cadastral Commission;
- Parties to a commercial dispute can seek mediation at the National Commercial Arbitration Centre; and
- With respect to litigation, judges are given the power to hold mediation sessions at any point in the litigation process.

2.2 The mediation process: International legal context

Mediation is a process which is used extensively in the region to resolve disputes and manage conflict. Mediation mandated through legal mechanisms (either compulsory, discretionary or voluntary) dominate the mediation landscape. Although the use of private mediation is also a feature of dispute resolution in the region, it is unfortunately the focus of limited analysis. This section therefore draws insight from the standards and rules developed by peak mediation and/or legal bodies in Australia, Hong Kong, Indonesia, Malaysia, Philippines, Thailand and the United States of America to

⁷ See for example, the Cambodian Centre for Mediation at www.ccm-mediation.org. This organization offers mediation services primarily in relation to land, family and commercial disputes.

provide an international comparative overview of mediation processes. In addition, the standards developed by the International Mediation Institute are also considered.⁸

The primary elements of the mediation process are as follows:

1. Initiation of the private mediation process
2. Choosing a mediator
3. Managing conflict of interest
4. Timeframes for mediation
5. Confidentiality
6. Duties of the mediator and mediation process
7. Determining the in-mediation process; and
8. Settlements and enforcement.

Each of these elements is examined in detail below.

2.2.1 Initiation of mediation

The initiation of private mediation can occur in different ways but may only proceed where there is agreement between the disputing parties. The way this agreement is reached is managed differently across the region and includes the following processes (1) Joint initiation, (2) Unilateral Initiation and (3) Pursuant to a mediation clause (either in the CBA or otherwise) all discussed further below.

2.2.1.1 Joint initiation

The Malaysian Mediation Rules (MMR) provide that parties may jointly submit a submission for mediation.⁹ This is arguably the most straightforward approach to initiating a mediation process.

2.2.1.2 Unilateral initiation

The MMR and Singapore Mediation Centre Mediation Procedure (**SMCMP**) provides that one party may file with the mediation centre a request to mediate, including the names and particulars of all other parties to the dispute. The mediation centre will then contact all of the parties involved and determine whether there is agreement between the parties to progress with mediation.¹⁰ The Pusat Mediasi Nasional in Indonesia and the Thai Alternative Dispute Resolution Office (of which the Thai Mediation Centre is part) operate in a similar manner.¹¹ The MMR and SMCMP provides that the MMC and SMC respectively must contact the non-initiating party within 14 days and in Thailand this contact must occur within 15 days, with agreement to participate reached within 21 days. The Hong Kong Mediation Centre Mediation

⁸ Australia, Thailand and the US have developed national mediation standards which act as guidelines for the practice of mediation. The *Australian National Mediator Practice Standards (Australian Practice Standards)* govern the mediation practice of Australian mediators who are operating under the National Mediator Accreditation System. Hong Kong, Indonesia and Malaysia's peak mediation bodies have developed internal mediation standards which govern the mediation processes undertaken by them. In the Philippines and Malaysia mediation is governed by legislation; the *Act to Institutionalize the Use of an Alternative Dispute Resolution System in the Philippines and to Establish the Office for Alternative Dispute Resolution, and for Other Purposes (2004) (Alternative Dispute Resolution Act)* in the Philippines and the *Mediation Act (2012)* in Malaysia.

⁹ Malaysian Mediation Centre, Malaysian Mediation Rules (1999), Rule 3.1

¹⁰ Malaysian Mediation Centre, Malaysian Mediation Rules (1999), Rule 3.2 – 3.3; Singapore Mediation Centre, Singapore Mediation Centre Mediation Procedure, Rule 1

¹¹ Pusat Mediasi Nasional, description at <<http://pmn.or.id/pmn/about-pmn/>>, accessed 7 May 2018; Alternative Dispute Resolution Office Out-of-Court Mediation Rules and Alternative Dispute Resolution Office Mediation Handbook, <<http://www.adro.coj.go.th/>> accessed 7 May 2018 (only available in Thai)

Rules (**HKMCMR**) provide that the initiating party must deliver a written request to the other party(s) and provide a copy of the request to the Hong Kong Mediation Centre (**HKMC**). Again, parties have 21 days in which to reach agreement to participate.¹² In all cases, should the other party(s) either not respond within a set timeframe or not agree to participate, the mediation does not go ahead. In contrast, the Australian state mediation body the Victorian Equal Opportunity and Human Rights Commission (**VEOHRC**) has no set time limit by which the non-initiating party must agree to participate. Rather conciliators employed by the VEOHRC contact non-initiating parties direct and actively seek to gain their agreement to participate, as opposed to leaving the agreement in the hands of the parties.¹³

Requirements relating to the detail in initiating documents vary between jurisdictions. For example, the HKMCMR provides that the request for mediation “shall contain a brief self-explanatory statement of the nature of the dispute, the quantum in dispute (if any), the relief or remedy sought and nominating a mediator or mediators considered to be suitable for the disputes”¹⁴ whereas the MMR requires that the mediation request only contain a brief statement about the nature of the dispute.¹⁵ Arguably, best practice would be that all parties with an interest in the dispute have a clear understanding of the subject matter of the dispute, the remedy that is sought and the outcome should mediation not proceed.

2.2.1.3 Pursuant to a mediation clause (either in the CBA or otherwise)

Parties may also enter private mediation pursuant to a pre-dispute contractual arrangement (which may include a CBA dispute resolution process). The HKMCR and the Singapore Mediation Centre provide sample clauses to assist parties in developing agreed dispute resolution procedures which include mediation:

Hong Kong: Any dispute or difference arising out of or in connection with this contract shall first be referred to mediation at Hong Kong Mediation Centre (HKMC) and in accordance with its then current Mediation Rules.¹⁶

Singapore: Any dispute arising out of or in connection with this agreement must be for mediation at the Singapore Mediation Centre (SMC) in accordance with SMC’s Mediation Procedure in force for the time being. Either/any party may submit a request to mediate to SMC upon which the other party will be bound to participate in the mediation within [45 days] thereof. Every party to the mediation must be represented by [senior executive personnel, of at least the seniority of a Head of Department] or its equivalent, with authority to negotiate and settle the dispute. Unless otherwise agreed by the parties, the Mediator(s) will be appointed by SMC. The mediation will take place in Singapore in the [English] language and the parties agree to be bound by any settlement agreement reached.¹⁷

2.2.2 Choosing a mediator

Once the parties have agreed to commence mediation a mediator must be chosen. With the exception of Singapore (where the Singapore Mediation Centre appoints the mediator), parties engaging in private mediation in the jurisdictions reviewed have control over the identity of the mediator who will mediate the dispute. Where agreement cannot be reached on the identity of the mediator within a set timeframe, the mediation service will appoint the mediator. For

¹² Hong Kong Mediation Centre, Hong Kong Mediation Centre Mediation Rules (2014), Rule 3-4

¹³ Whilst the Victorian Equal Opportunity and Human Rights Commission is a government funded conciliation body, it offers a free voluntary conciliation service with respect to discrimination complaints, before such complaints are escalated to arbitration, see <https://www.humanrightscommission.vic.gov.au/> accessed 8 May 2018.

¹⁴ Hong Kong Mediation Centre, Hong Kong Mediation Centre Mediation Rules (2014), Rule 3(a)

¹⁵ Malaysian Mediation Centre, Malaysian Mediation Rules (1999), Rule 4.1

¹⁶ Hong Kong Mediation Centre, Hong Kong Mediation Centre Mediation Rules (2014), Introduction

¹⁷ Singapore Mediation Centre, at <<http://www.mediation.com.sg/about-us/#approach-to-mediation>>, accessed 8 May 2018

example, the HKMCMR stipulates that agreement on the mediator's identity must be reached within 21 days, absent agreement the HKMC will appoint a mediator.¹⁸ The MMR stipulates that agreement on the mediator's identity is required within seven (7) days, absent which the MMC will appoint the mediator. The parties have an opportunity to object to the appointment and where there are reasonable grounds the MMC will make a further appointment.¹⁹ The Thai Mediation Centre provides that parties will have the right to choose their mediator unless agreement on the mediator cannot be reached.

In addition to choosing the mediator, the MMR also requires parties to enter into a formal agreement in relation to the appointment prior to the mediation commencing.²⁰

2.2.3 Managing conflict of interest

Best practice dictates that mediators should not mediate disputes where s/he has a conflict of interest arising out of the performance of mediation. This best practice approach is reflected across the reviewed standards governing mediation. Conflicts of interest are described in various ways, including:

- Acting for any of the parties, or employing people who act for any of the parties;²¹ and/or
- Having any financial or personal interest in the result of the mediation;²² and/or
- Any existing or past relationship with a party or foreseeable participant in the mediation.²³

Notably, the US Standards also provide that a mediator shall avoid a conflict of interest during and after a mediation.²⁴

The MMR, EGM, US Standards, Australian Practice Standards and HKMCMR require mediators to disclose any circumstances likely to create a presumption of bias. Should such a situation arise, the MMR and HKMCMR provides that another mediator will be appointed should the parties make an objection. The IMICPC, EGM and US Standards place the onus on the mediator who is required to refuse the appointment to mediate where a conflict of interest is present.

In addition to ensuring there is no conflict of interest, the EGM, US Standards, Singapore Mediation Centre Code of Conduct (SMCCC) and Australian Practice Standards require that mediators remain impartial and must ensure that despite their own personal views the appearance of partiality or prejudice is avoided.²⁵

2.2.4 Time frames for mediation

One of the great advantages of mediation as a form of dispute resolution is the speed of the process. Some of the standards in the region provide for set timeframes. In addition to those timeframes discussed above in relation to initiation of mediation, the MMR and HKMCMR provide that mediators who are unable to commence the mediation

¹⁸ Hong Kong Mediation Centre, Hong Kong Mediation Centre Mediation Rules (2014), Rule 5

¹⁹ MMR, Rule 5.1 – 5.2

²⁰ MMR, Rule 7

²¹ MMR, Rule 5.4

²² MMR, Rule 6; HKMCMR, Rule 6; Alternative Dispute Resolution Act, s.13(a)(1); International Mediation Institute Code of Professional Conduct (IMICPC) cl. 3; Law Council of Australia, Ethical Guidelines for Mediators (2011) (EGM) Guideline 3

²³ Alternative Dispute Resolution Act, s.13(a)(1), IMICPC, cl. 3, EGM, Guideline 3, US Model Standards of Conduct for Mediators (**US Standards**) Standard III

²⁴ American Bar Association, US Standards, Standard III

²⁵ EGM, Guideline 2 and associated comment; US Standards, Standard II; SMCCC), cl.2; Rule Australian Practice Standards, Standard 5

promptly may be replaced (via a similar process to situations where there is a conflict of interest).²⁶ The HKMCMR also specifies that mediation “shall commence ... as soon as possible after his appointment and shall use his best endeavours to conclude the mediation within 42 days of his appointment.”²⁷

2.2.5 Confidentiality

Confidentiality is a significant benefit of mediation and is governed comprehensively by each of the reviewed standards, including:

- The discussions during the mediation are without prejudice and confidential;
- That the mediation sessions are private (only the parties and their representatives may attend the mediation, all others may only attend with the consent of the parties and mediator);
- All documents provided to the mediator are privileged;
- The mediator will not be compelled to recount documentary information provided during the mediation or to testify as a witness, consultant, arbitrator or expert in regard to the mediation in any arbitral judicial or other proceedings; and
- The parties shall maintain the confidentiality of the mediation and shall not rely on the views expressed and admissions or proposals made in the course of any other proceedings.

In addition to requiring confidentiality, the IMICPC also provides for several exceptions to the rule of confidentiality and allows mediators to disclose having previously served as a mediator in a mediation involving one or more of the parties, provided none of the details of that case are disclosed.

2.2.6 Duties of the mediator and mediation process

The detail with which the mediation process is described in the standards varies. Some of the standards, such as the Australian Practice Standards, provide a comprehensive description of the process while others, such as the HKMCMR, give only a very general description. The US Standards do not provide a set process but rather stipulate that mediators should conduct the mediation to enable the parties to determine the process.²⁸ The EGM takes a middle course by providing some requirements of the mediator and some mandated steps in the process, including that mediators should have the necessary competence to undertake the mediation,²⁹ they should explore the parties’ authority to make a settlement and provide information about the process.³⁰ Likewise, the IMIPC provides that mediators will conduct the mediation with procedural fairness to all parties, explain the ability to seek legal or other advice, the parties’ ability to withdraw from mediation at any time and “ensure that before the mediation begins, the parties have understood and agreed to the terms and conditions which will govern the mediation including those relating to Mediator and party obligations to respect Mediator confidentiality.” The IMICPC further provides that these agreed terms should be committed to a written Agreement to mediate³¹ a requirement replicated in the SMCMP.³²

²⁶ MMR, Rule 6.2 and HKMCMR, Rule 6

²⁷ HKMCMR, Rule 7

²⁸ US Standards, Standard 1. A

²⁹ Also a feature of the US Standards at Standard IV.

³⁰ EGM, Guideline 1 and associated comment

³¹ IMICPC, Rule 4.1 – 4.3

³² SMCMP, Rule 2. The SMCMP also provides a series of template documents for use in the mediation process, including a Model Mediation Agreement.

2.2.7 Settlements and enforcement

Ensuring that settlements are formalized is paramount to the success of mediation. Where a settlement agreement is reached between the parties, the mediator should assist the parties to formalize the agreement in writing prior to concluding the mediation process. The different standards have varying detail about how this matter should be concluded. For example, the Alternative Dispute Resolution Act provides a comprehensive process which sets out that the parties are responsible for committing the agreement to writing with only the assistance of the mediator.³³ As per the Philippine model, the best approach is for the parties themselves to draft their agreement with assistance from the mediator as required. This approach ensures that the mediator does not inadvertently assist one party over another by operation of the drafting or be construed as providing legal advice.

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³³ Alternative Dispute Resolution Act (2004), s. 17

3 Research Methodology

This chapter describes how the employer and employee surveys were designed, conducted and analysed. (The survey findings are contained in Chapter 4.2.

3.1 Target population and sampling

For the **employer survey**, the target population studied is all establishments located in Phnom Penh with operations in seven industries of most interest to the ACF. These include manufacturing, construction, accommodation, financial services, transportation, professional services, and wholesale/retail. These seven industries were proposed by BDLINK and with executive management of ACF, finalised and agreed upon. Employers were selected from management level including owners, country directors, general manager, human resource manager, and senior human resource officers etc who play a role in facilitating and coordinating dispute resolution.

Estimation of the target sample size for each industry is based on the number of establishments recorded in the Economic Census of Cambodia 2011 (National Institute of Statistics, Ministry of Planning). Specifically, sampling is based on the number of establishments located in Phnom Penh with operations in the seven target industries *that are registered with the Ministry of Commerce (MoC)*.

In total, the 2011 census recorded 95,848 establishments operating in Phnom Penh, of which 6,511 were registered with the MoC. Of these 6,511 registered establishments, a total of 4,320 operated in the seven target industries. This number is the “population” upon which sampling decisions are based.

For the **employee survey**, the target population to be studied is all persons aged 15 to 65 who are currently working in Phnom Penh in one of the seven target industries. Estimation of the target sample size is based on the Cambodia Labour Force and Child labour Survey 2012 (National Institute of Statistics, Ministry of Planning). This gives a population of 564,056 workers upon which sampling decisions are based.

To determine sample sizes, the study applies a 95% confident interval and a 5% margin of error on the selected employer and employee populations of 4,320 and 564,056 respectively.

A stratified random sampling with probability proportion to size (PPS) is used to estimate the employer and employee samples. For both the employer and employee surveys, target sample sizes are distributed across the seven industries based on each industry’s proportion of registered establishments in Cambodia (which assumes that the proportion of each industry in Phnom Penh is the same as for Cambodia as a whole).

The tables below provide details of the target populations and samples, as well as the actual number of persons surveyed, for the employee and employer surveys.

Table 1

Employee Samples (by industry, N= 509)

Employees (Phnom Penh)	Population	Percentage	Target sample	Actual Sample
Manufacturing	84,276	15%	120	154
Construction	3,228	1%	30	33
Accommodation	98,998	18%	60	64
Financial Services	51,994	9%	30	39
Transportation	13,500	2%	30	36
Professional Services	6,603	1%	30	36
Wholesale and Retails	305,457	54%	150	147
	564,056	100%	450	509

BDLINK calculation

Table 2

Employer Samples (by industry, N=370)

Employers (Phnom Penh)	Population	Percentage	Target sample	Actual sample
Manufacturing	646	15%	60	64
Construction	25	1%	25	25
Accommodation	758	18%	60	66
Financial Service	398	9%	20	15
Transportation	103	2%	20	19
Professional Service	51	1%	20	17
Wholesale and Retail	2,340	54%	155	164
	4,320	100%	360	370

BDLINK calculation

3.2 Data collection and quality control

The research team selected participants for the employer and employee surveys as follows:

- Employer respondents are located in the Phnom Penh administrative area and operating in one of the seven target industries. The persons responding on behalf of the employer generally hold a management position (usually in Human Resources, Operations or other functions involved in labour relations) and/or are the owner of the business.
- Employee respondents are aged 15 to 65 and are currently working in the Phnom Penh administrative area in one of the seven target industries. Respondents were randomly selected and interviewed at their place of work or in a public place (often near factories or construction sites, for example).

Most employer surveys, and all employee surveys, are conducted through face-to-face interviews using structured questionnaires. In addition, online survey for employer is employed by sending to approximately 12,000 existing employer emails across sectors in Cambodia. Due to low response rate from the online survey, collected samples were consolidated into the interview survey for the analysis. The questionnaires contain mostly closed questions (where respondents choose from a list of possible answers or provide a numerical answer) plus a small number of open questions (where respondents have the opportunity to provide or expand on their answer in their own words). Employer interviews took around 30 to 45 minutes to complete, while interviews with employees typically took around 20 minutes.

Data collection for both surveys commenced on 21 April 2018, with the 370 employer questionnaires completed by 15 June 2018, and the 509 employee questionnaires completed by 12 May 2018.

In order to ensure the accuracy of the collected data, a variety of quality control procedures were employed prior, during and after the data collection. These data collection measures include:

- Enumerators were required to double check questionnaires straight after the interview to ensure all questions were answered before leaving the respondent
- Enumerators had to make sure there was no blank page or question in the questionnaire prior to the submission to their field supervisor
- Field supervisors checked and validated every completed questionnaire and cross-checked with enumerators on any answers that required clarification. In some cases, enumerators made follow-up phone calls to respondents to verify the answers and later validate with their supervisors
- Supervisors reviewed and validated all completed questionnaires before proceeding to data entry.
- Data entry teams entered the validated questionnaires into the database. Any unclear point was discussed with a supervisor who sought clarification with enumerators if required, in particular on qualitative inputs.
- The project manager checked the final dataset before proceeding to data analysis.

3.3 Data analysis

Information from validated questionnaires is entered into SPSS and STATA format. The SPSS package is essentially used for cleaning, updating, data mining and synthesizing the data, while STATA used for analysing the data and generating survey findings.

Most of the data analysis involves the use of charts, tables and descriptive statistics. In addition, multivariate logistic regression models were used to measure the factors (or variables) that may influence respondents' willingness to use or pay for mediation services (from both employer and employee perspectives).

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4 Findings

4.1 Cambodia legal context

The ACF is looking to deliver a new service: a fee-based mediation service for labour disputes, whether collective or individual disputes. The purpose of which would be to generate income to support the AC's operation. The following provides an analysis of relevant laws and associated regulations to determine the legality and viability of introducing a fee-based mediation service undertaken by the ACF.

4.1.1 The Arbitration Council Foundation (ACF)

The ACF is a registered "domestic non-governmental organization",³⁴ which provides technical, legal and management support to the work of the AC. The ACF is specifically mandated by its statute to:

- (1) Support and facilitate the work of the AC;
- (2) Enhance the independence, reliability and efficiency of the AC's work; and
- (3) Develop individuals and institutions' ability to resolve labour disputes.³⁵

The ACF is overseen by the AC's Arbitrators who form the decision-making majority on the Board of Directors, while the ILO is represented on the Board as a non-voting member. The ACF currently employs approximately 25 staff.

The NGO Law promulgated in 2015 regulates the operation of non-government organizations (domestic and foreign) operating in Cambodia, including the ACF. In addition to requirements relating to registration, the NGO Law requires non-government organizations: to notify the Ministry of Interior of changes to their statutes (within 15 days from the date the change is made), remain neutral towards Cambodian political parties and submit activity and financial reports annually.³⁶

In considering whether the ACF can lawfully conduct a fee-based mediation service as proposed, thought must be given to whether this activity is in accordance with the ACF statute. Certainly a mediation service which acts as a complimentary addition to existing dispute resolution mechanisms in the industrial relations arena, appear to be compatible with the ACF statute in that, by offering additional avenues to mediation, this will: (1) enhance the efficiency of the AC's work (in that more disputes may be resolved, leaving the AC to focus on more serious, less easily resolved matters), (2) assist in the resolution of individual disputes which if left unresolved may grow into collective disputes, and (3) assist in the development of individuals' and institutions' ability to resolve labour disputes.

It is unlikely that offering fee-based mediation services for disputes outside the labour sphere will accord with the current ACF statute and will thereby be in contravention of the NGO Law. Consequences of contravening the NGO Law include suspension of operations and removal of the organization from the register.³⁷

It should be noted that amendments can be made to an organization's statute, by informing the Ministry of Interior in writing within 15 days of the change.³⁸ An amendment may be prudent should there be a concern that a fee-based mediation service for labour disputes may not fall within the terms of the current ACF statute, and it will be necessary should the ACF seek to offer mediation services across a range of dispute areas.

Last, offering a fee-based mediation service in relation to non-labour disputes seems discordant with the strong reputation for subject matter expertise in the industrial relations arena and the ACF's organizational mandate.

³⁴ As per Art. 4 of the Law on Associations and Non-governmental Organizations (2015) (NGO Law).

³⁵ Statute of the ACF, registered with the Ministry of Interior by letter no. 121 SCN, 02/09/2004 as described in ACF, Study on Mediation Services Market Terms of Reference, 37 (note that the ACF Statute was only available in Khmer at the time of writing)

³⁶ Art. 10, 24 and 25 of the NGO Law

³⁷ Art. 30 of the NGO Law

³⁸ Art. 10 of the NGO Law

4.1.2 Mediation processes

As mentioned above, the Cambodian legal framework makes provision for many mediation options, including the body which will conduct the mediation. These include both compulsory and voluntary options and encompass disputes across a wide range of subject areas. The table below sets out these processes and the applicable legal frameworks.

Table 3

Mediation processes mandated in the current Cambodian Legal Framework

SUBJECT	MEDIATOR/CONCILIATOR	PROCESS	APPLICABLE LAW
LABOUR DISPUTES			
COLLECTIVE DISPUTES (RIGHTS AND INTERESTS)	Ministry of Labour and Vocational Training Conciliator	Compulsory process, to be undertaken prior to escalation to arbitration	Labour Law (1997), Art. 302 - 308
	Ministry of Labour and Vocational Training Conciliator	Alternative dispute resolution procedure as agreed between the parties in a CBA	Labour Law (1997), Art. 302
	OR		
	<u>Other</u>		
INDIVIDUAL DISPUTES (RIGHTS)	Ministry of Labour and Vocational Training Conciliator	Voluntary process may be undertaken prior to escalation to court	Labour Law (1997), Art. 300
	OR		
	<u>Other</u>		
FAMILY DISPUTES			
	Local Commune Council	Compulsory process, to be undertaken after filing of divorce and before escalation to court	Law on Marriage and Family (1989), Art. 42
	Judiciary	Compulsory two-stage mediation process before trial	Law on Marriage and Family (1989), Art. 45-46, 51, 53
LAND DISPUTES	Cadastral Commission	Compulsory mediation to be undertaken prior to escalation to the court	Land Law (2001), Art. 237; Sub-Decree on Organization and Functioning of the Cadastral Commission (2002), Art. 12
COMMERCIAL DISPUTES	National Commercial Arbitration Centre arbitrators	Voluntary mediation to be undertaken at request of both parties prior to escalation to arbitration	Law on Commercial Arbitration (2006), Art. 38
LITIGATION	Judiciary	Compulsory mediation to be undertaken at preparatory proceedings for oral argument or at other stages of litigation at the courts discretion	Code of Civil Procedure (2006), Art. 97, 104

The provision of legally mandated mediation options (whether compulsory or voluntary) does not formally exclude the ability of organizations to offer private mediation services in these areas. However, the desirability for parties to access private mediation that is additional to a compulsory mediation process is conceivably quite limited. Doing so would likely delay the dispute resolution process and cause parties to “cover old ground”. The limited exception to this may be where

a compulsory mediation process is conducted by an ineffective mediator (either perceived or actual), and the post-mediation process is lengthy enough that engaging in private mediation is unlikely to delay the resolution of the dispute (for example in a litigation scenario).

There is likely to be a greater desire to engage in private mediation where the legally mandated mediation option is voluntary. In these processes, parties have a choice to undertake the mediation option mandated in law (by the mediator identified) or choose not to. Should a party choose not to, it remains open to them to choose to undertake private mediation instead. Again, it is more likely that a party will seek out private mediation in this scenario if the legally mandated mediation option is undertaken by an actor that is perceived as ineffective. This may be the case with respect to individual labour disputes. It should be noted however, whilst mediation of individual rights disputes is voluntary (that is, the process must be initiated by one of the parties), once initiated the other party is required to participate. This will not be the case should a party seek to initiate private mediation in its stead.

In consideration of the strong reputation for subject matter expertise in the industrial relations arena, the ACF's organizational mandate and the "gaps" in legally mandated mediation processes, the most likely uptake of private mediation undertaken by the ACF is as follows:

- Where an alternative dispute resolution procedure has been included in a relevant CBA for the resolution of individual disputes. If the dispute resolution clause in a CBA provides that mediation will be conducted by a mediator agreed between the parties (either expressly named or to be agreed at the time of the dispute), then this will provide the ACF with the opportunity to assist parties through a fee-based mediation service;
- To assist parties in reaching CBAs (where the mediation takes on the character of a "facilitated negotiation");
- In circumstances where a dispute has not yet developed but can be anticipated; and
- Where there is a dispute involving two or more employees, but not the employer.

4.1.3 Conduct of mediation

In Cambodia, there is no general law which governs mediation practice, no general mediation license or minimum mediation standards. Should the ACF choose to establish a fee-based mediation service the organization will be free to determine who will best deliver the service and the manner in which they are contracted and remunerated, as an example.

4.1.4 Legal efficacy of settlements arising from private mediation

As noted above, private mediation can take place prior to a dispute escalating to litigation, or during the litigation process. If a settlement is reached:

- Prior to a dispute escalating to litigation: any settlement reached would be subject to the laws of contract for the purposes of enforcement as per the Civil Code (2011); or
- During private mediation in a litigation scenario: any settlement reached can be formalized by the presiding Judge.³⁹

4.1.5 Legal review conclusion

There is no legal impediment to prevent the ACF from establishing a fee-based mediation service. Should the ACF proceed to establish this service, development and dissemination of a mediation framework based on international best practice (as explored in this report) but tailored to the Cambodian market will be critical for ensuring that parties can confidently engage with this new service.

³⁹ Art. 220, 222 of the Code of Civil Procedure (2006)

4.2 Survey findings

This section presents the main findings of the employee and employer surveys.

4.2.1 Sample characteristics

In order to assess the market size and demand for fee-based mediation services, it is important to first identify the characteristics of the employee and employer samples.

Table 5 below describes each sample's distribution by industry and by the gender of the respondent. Overall, both samples have quite balanced gender representations, although there are some notable differences for particular industries.

In the employee survey, females comprise 46% of the 509 employees interviewed across all seven industries. Females have the highest representation in the manufacturing industry (76%) and comprise fewer than half of respondents in each of the other industries. (Further details about the characteristics of the employee survey are presented under the sub-heading "EMPLOYEE SURVEY" below.)

In the employer survey, females account for 56% of the 370 respondents. Female representation is highest in the wholesale and retail industry (73%) and lowest in construction (20%). Other sectors have broadly balanced representation between male and female respondents. (Further details about the characteristics of the employer survey are presented under the sub-heading "EMPLOYER SURVEY" below.)

Table 4

Samples distributed by Industry and Gender

Industries	Employee				Employer			
	Female	F-%	Male	M-%	Female	F-%	Male	M-%
Manufacturing	117	76%	37	24%	33	52%	31	48%
Construction	13	39%	20	61%	5	20%	20	80%
Accommodation	30	47%	34	53%	25	38%	41	62%
Financial Service	6	15%	33	85%	7	47%	8	53%
Professional Service	15	42%	21	58%	5	29%	12	71%
Wholesale and Retail	45	31%	102	69%	120	73%	44	27%
Transportation	7	19%	29	81%	11	58%	8	42%
Total	233	46%	276	54%	206	56%	164	44%

4.2.1.1 Employee Survey

The two figures below show the employees' gender breakdowns by industry (figure 1) and by education level (figure 2).

Overall, male respondents have higher levels of education than female respondents. A combined total of 78 males (28% of all males) have at least some bachelor or master education, compared to just 36 females (15% of all females). At the other end of the spectrum, 50 males (18%) have primary or no education, compared to 88 females (38%).

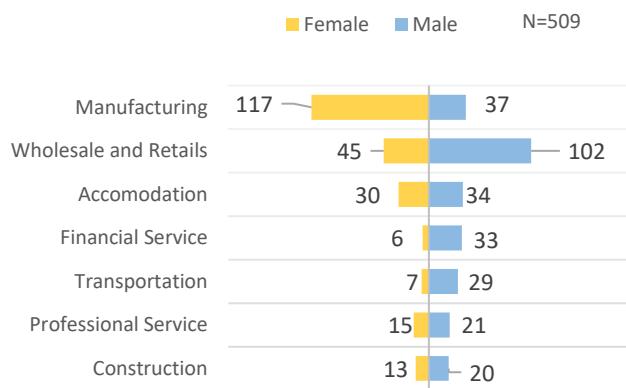


Figure 1. Industry Classification (Gender)

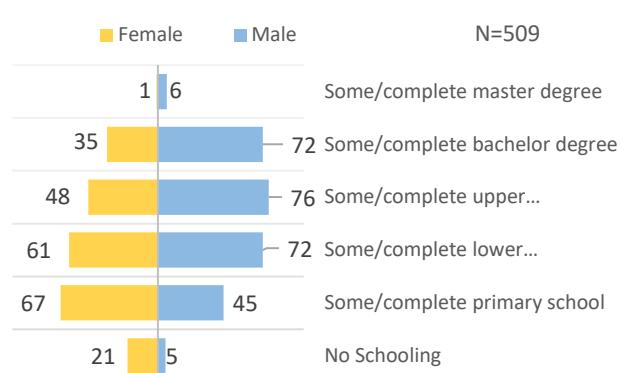


Figure 2. Education Level (Gender)

An employee's level of income may be an important factor in assessing their financial capacity and therefore their willingness to pay for mediation services.

Most respondents earn less than USD 200 (40%) or between USD 200 to USD 400 (53%). In addition, there is a small proportion of respondents earning more than USD 400, particularly in professional services and financial services.

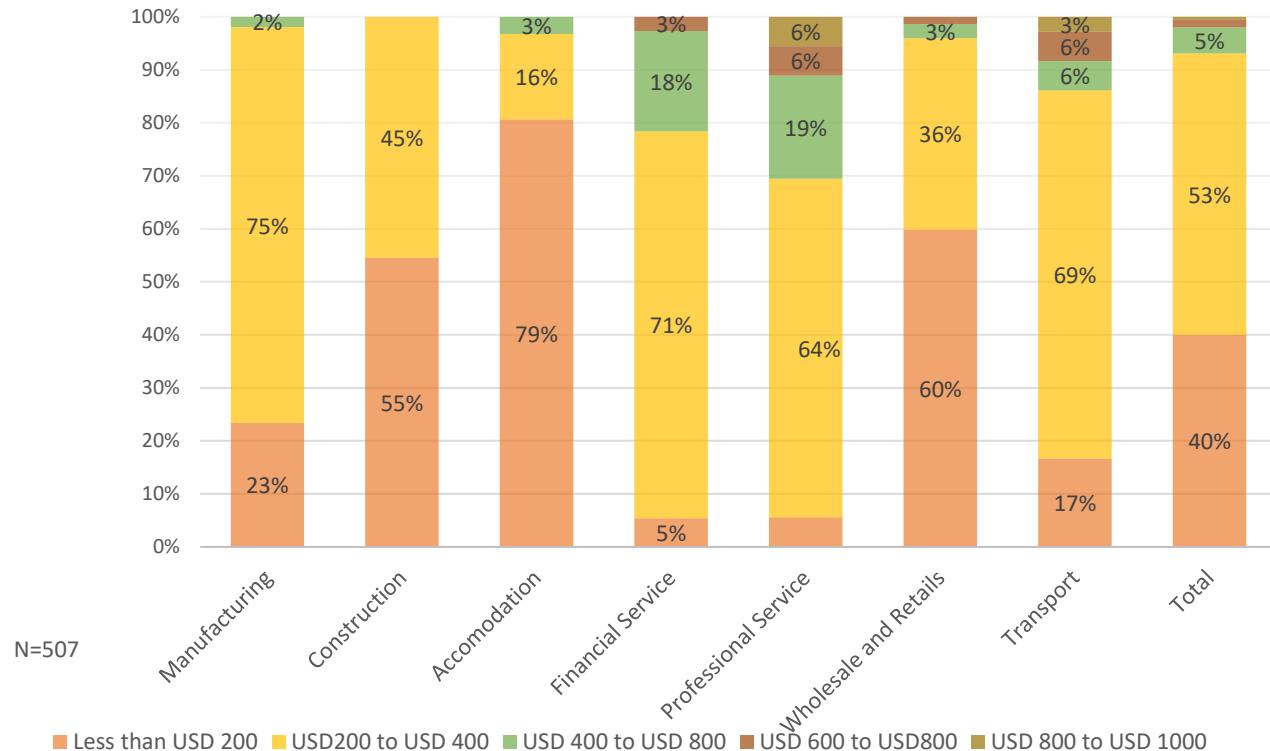


Figure 3. Income Level (Industry)

There are some slight differences in terms of income level by gender. Males in this sample tend to earn more than females, with 177 males (64% of all males) earning at least USD 200, compared to 130 females (56% of all females).

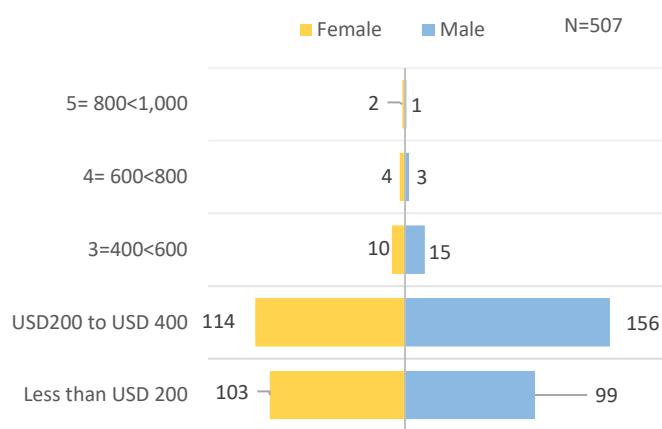


Figure 4. Income (Gender)

4.2.1.2 Employer Survey

To interpret the findings of the employer survey, it is important to understand the industry breakdown of the survey's 370 respondents. As shown in figure 5 below, respondents in the whole and retail industry account for 44% of the sample, followed by accommodation (18%), manufacturing (17%) and construction (7%). There were fewer than 20 respondents in each of the other sectors, and therefore readers should exercise caution in drawing strong conclusions based on the responses in these sectors.

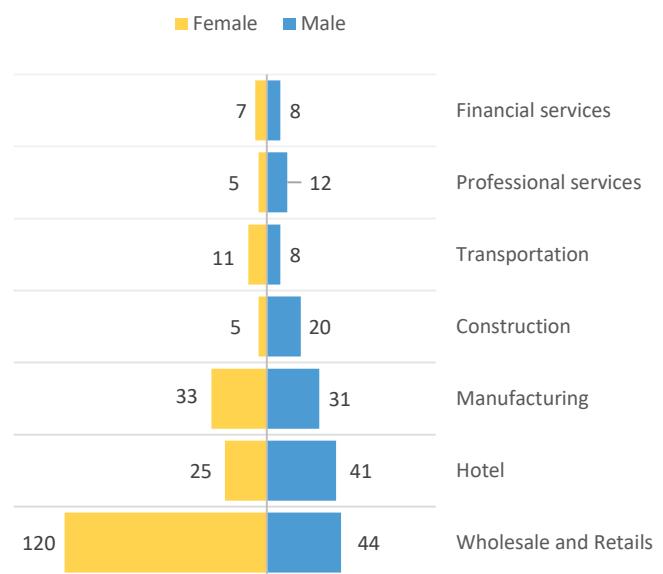
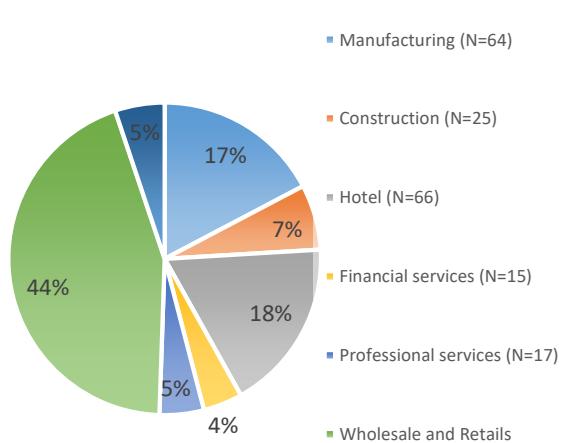


Figure 5. Which Industry are you working in? (EMPLOYER)

Figure 6. Industry Classification (Gender)

Cambodian ownership accounts for 79% of the total establishments, 14% are fully foreign-owned and the remainder are mixed Cambodian/foreign owned. Wholesale/retail and construction have the highest rates of Cambodian ownership, while foreign-owned firms are more common in manufacturing and financial services.

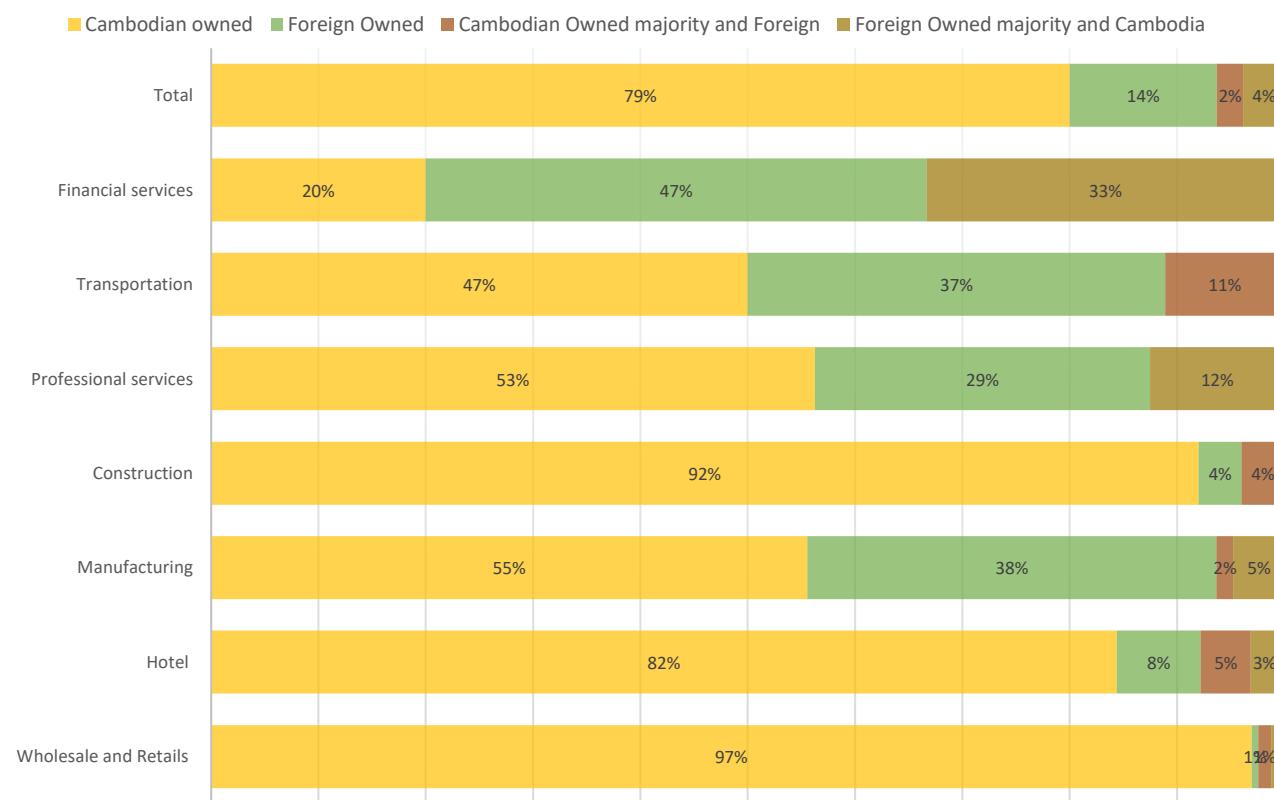


Figure 7. Ownership of the Establishment

For the purposes of this study, micro enterprises are those with fewer than 10 employees, small enterprises have 10 to 50 employees, median enterprises have 51 to 100 employees and large enterprises have more than 100 employees.⁴⁰

In total, 63% of the establishments in this sample are micro enterprises, with the proportion highest in wholesale and retail. At the other end of the spectrum, large enterprises make up 18% of the sample, mostly in financial services and manufacturing.

Table 5

Industry Classification by Numbers of Employee

Industries	Micro (1-9 employees)	Small (10-50 employees)	Medium (51-100 employees)	Large (More than 100 employees)
Manufacturing	39%	7%	2%	52%
Construction	38%	50%	8%	4%
Accommodation	62%	17%	3%	17%
Financial Service	0%	20%	0%	80%
Professional Service	31%	38%	6%	25%

⁴⁰ Ibid.,

⁴¹ SME's definition, Notification on The Registration for Small, Medium Enterprise and Services at One Window Office in Ministry of Industry and Handicraft , 2014

Industries	Micro (1-9 employees)	Small (10-50 employees)	Medium (51-100 employees)	Large (More than 100 employees)
Wholesale and Retail	88%	9%	2%	1%
Transportation	22%	50%	11%	17%
Total	63%	16%	3%	18%

Another measure of firm size is the level of turnover. In 2017, 37% of the total sample had turnover less than USD 500,000; 7% between USD 500,000 and USD 1 million; 8% between USD 1 million and USD 2 million; and the remainder above USD 2 million. (See figure 41 in the Appendices for details.)

4.2.2 Membership and representation

Interest in mediation services may be influenced by the extent to which employees and employers are represented by unions or associations, respectively.

Regarding **union representation**, both employee and employer surveys indicate low levels of union involvement in all industries with the exception of manufacturing. In the employee survey, only 16% of employees across the total sample are members of a union, with another 8% indicating they do not know. Manufacturing is the only industry with significant union representation, with around half of employees unionised. Similarly, in the employer survey, only 8% of employers have a union established within their firm, with manufacturing (39%) the only industry of note.

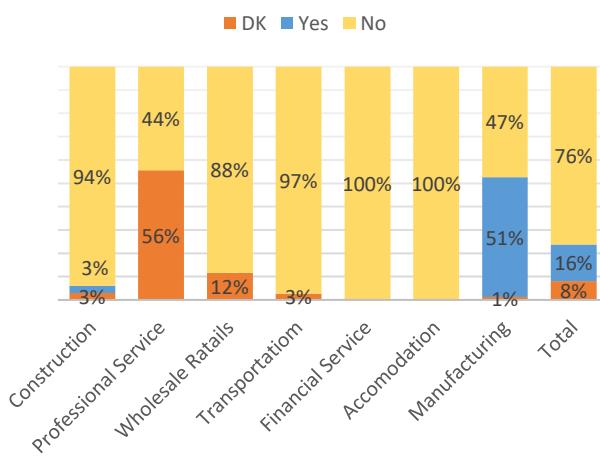


Figure 8. Are you a member of a union? (EMPLOYEE)

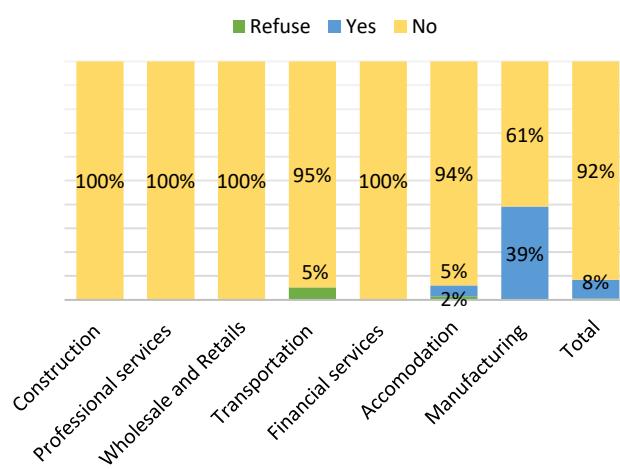


Figure 9. Do you have any union established in your company? (EMPLOYER)

Some employers feel that unions would escalate tension within the firm when a labour dispute arises, and that disputes are more effectively handled through human resources departments and related procedures. Some factories even impede their workers from being affiliated with any union.

Interestingly, even among the 51% of manufacturing employees who say they are currently a member of a union, they are more likely to be able to give the name of the union official than the correct name of the union. This could imply that many unionized workers may have limited knowledge about the workings and functions of the union.

Moreover, 56% of employees in professional services report that they do not know if they are members of a union.

Regarding **internal dispute resolution processes**, employees were asked whether their work place has a unit or department that deals with labour disputes. Not surprisingly human resource departments are the most common internal mechanism for handling disputes, followed by a variety of other individuals such as employer, manager or supervisor.

Other units/departments such as in house legal counsel and dispute resolution department are not commonly used. In the employer survey, respondents were asked whether their firm has a HR unit, in-house legal counsel unit, dispute resolution unit and/or some other similar unit or mechanism for handling labour disputes. The most common response was human resource unit, followed by a range of other units or individuals. These findings suggest that **the human resource units play an important role in internal dispute resolution.**

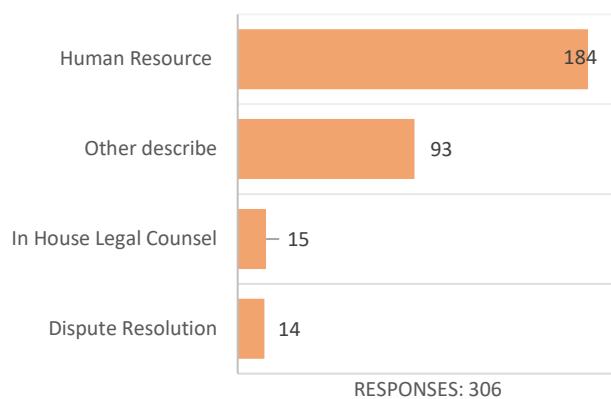


Figure 10. Departments or Unit help to deal with disputes (EMPLOYEE)

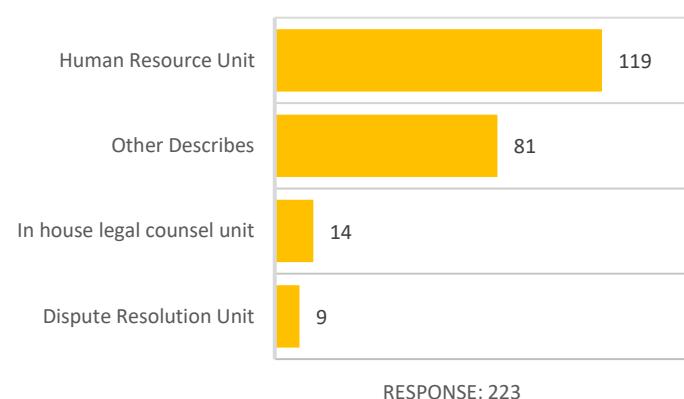


Figure 11. Which of the following unit/department does your company have? Select all relevant (EMPLOYER)

The extent of **employer representation** may provide insights into how firms handle labour disputes and whether they require the services of a mediation provider. In total, 19% of all employers are members of an association. There are substantial differences between industries. For example, 80% of financial service firms are member of one or more associations, including Cambodian Federation of Employers and Business Associations (CAMFEBA), Association of Banks in Cambodia (ABC) and Cambodia Microfinance Association (CMA) (Figure 46 in appendix). In manufacturing, 44% of employers are members of an association, most commonly Garment Manufacturing Association in Cambodia (GMAC) and CAMFEBA. On the other hand, very few construction firms are members of an association.

4.2.3 Experience in industrial relations and solving problems

In the employee survey, respondents were asked if they had experienced any collective or individual disputes, or complaints, in the last three years. Of the 509 employees surveyed, 15 respondents had collective disputes, 5 had individual disputes and another 31 had complaints (some of which may have the potential to escalate into a dispute). Most labour disputes are in the manufacturing industry, accounting for 11 of 15 collective disputes (73%), 2 of 5 individual disputes (40%) and 18 of 31 complaints (58%).

Table 6

Collective and Individual Dispute, Complaints, distributed by sector during the last 3 years (EMPLOYEE, N=51)

Industries	Collective Dispute		Individual Dispute		Complaints	
	Cases	Percentage	Cases	Percentage	Cases	Percentage
Manufacturing	11	73%	2	40%	18	58%
Construction	0	0%	2	40%	0	0%
Accommodation	0	0%	0	0%	2	6%
Financial Service	2	13%	1	20%	5	16%
Professional Service	0	0%	0	0%	0	0%
Wholesale and Retails	2	13%	0	0%	4	13%
Transportation	0	0%	0	0%	2	6%
Total	15	100%	5	100%	31	100%

In the employer survey, respondents were asked if their firm had ever experienced disputes or complaints since the firm was established. Of the 370 employers surveyed, 18 respondents reported collective disputes, 37 reported individual disputes and 29 reported complaints. Most collective disputes (15 of 18) are in the manufacturing industry, although there is a broader spread of individual disputes across industries, including manufacturing, transportation and financial services. Similarly, complaints are spread across all industries.

Table 7

Collective and Individual Disputes, Complaints distributed by sector during the last 3 years (EMPLOYER, N=84)

Industries	Collective Dispute		Individual Dispute		Complaints	
	Cases	Percentage	Cases	Percentage	Cases	Percentage
Manufacturing	15	83%	14	38%	7	24%
Construction	1	6%	3	8%	4	14%
Accommodation	1	6%	4	11%	6	21%
Financial Service	0	0%	6	16%	4	14%
Professional Service	0	0%	3	8%	5	17%
Wholesale and Retails	0	0%	0	0%	2	7%
Transportation	1	6%	7	19%	1	3%
Total	18	100%	37	100%	29	100%

Interestingly, a majority of employers believe the **number of disputes has declined** over the last three years. For collective disputes, 52% of respondents feel that disputes have declined rapidly, with another 10% saying they have declined gradually. The trend is similar for individual disputes based on employer's experiences. However, in relation to individual dispute, the data provided by department of dispute resolution, MoLVT shows conversely to the survey. Numbers of individual disputes increased from 216 cases in 2015 to 476 cases in 2017.

Employees are less certain about the overall trends in disputes, with more than two thirds of employee respondents saying they don't know if disputes are rising or falling. Nevertheless, more employees believe disputes are falling than rising.

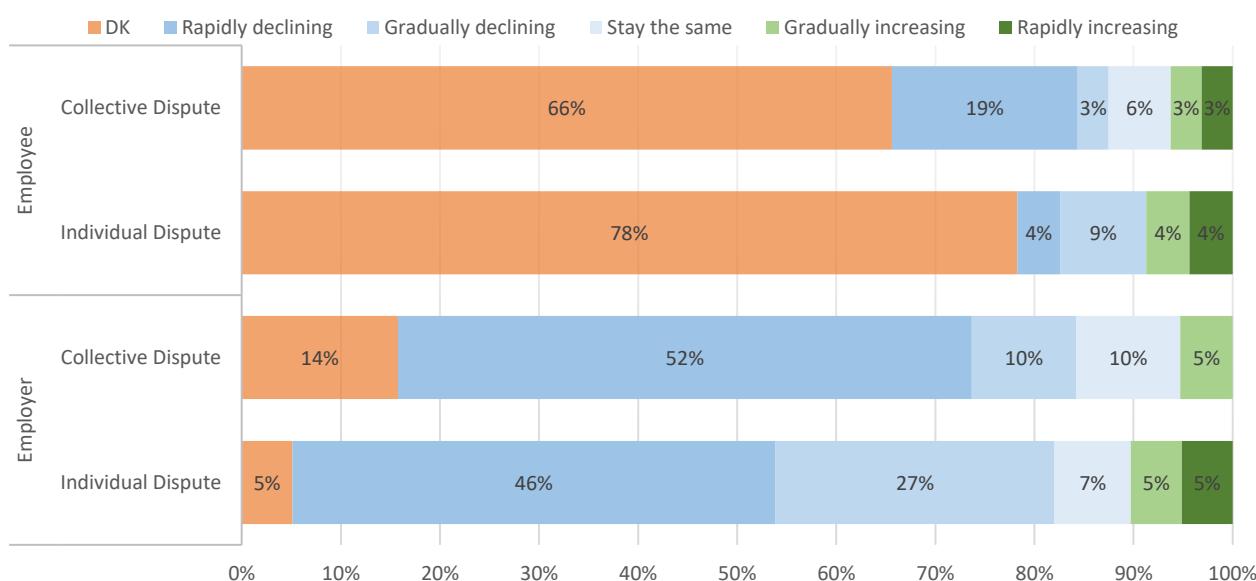


Figure 12. Can you say whether the number of disputes is increasing or decreasing in the last three years?

This decline in the number of disputes may in part be the result of **improved understanding by employees regarding the labour law and their workplace rights**. In the employee survey, around half of respondents believe that their understanding of the labour law and their workplace rights has improved compared to three years ago, and this is fairly consistent across all industries. (See figures 29 and 30 in appendix for details.) This result is consistent with employers' perceptions of the improved knowledge of their employees (see figure 57 in appendix for details).

It is clear to see that workers seem to have more knowledge about labour law while employers provide better working environments and have positive attitudes toward mitigating and resolving labour dispute. The results from the survey suggest that there has been significant declines in both collective and individual disputes in the last three years. It was also suggested that some disputes, particularly those in manufacturing, may sometimes have a political dimension, and therefore the reduction in disputes may be influenced by any changes in the political situation.

In terms of where employees get their information on the labour law and workplace rights, the most common **source of information** is from neighbours and friends, followed by other sources (mainly from company management), union officials and shop stewards, Facebook and television. Less common sources include human resource departments, radio, NGOs, Ministry of Labour and newspapers.

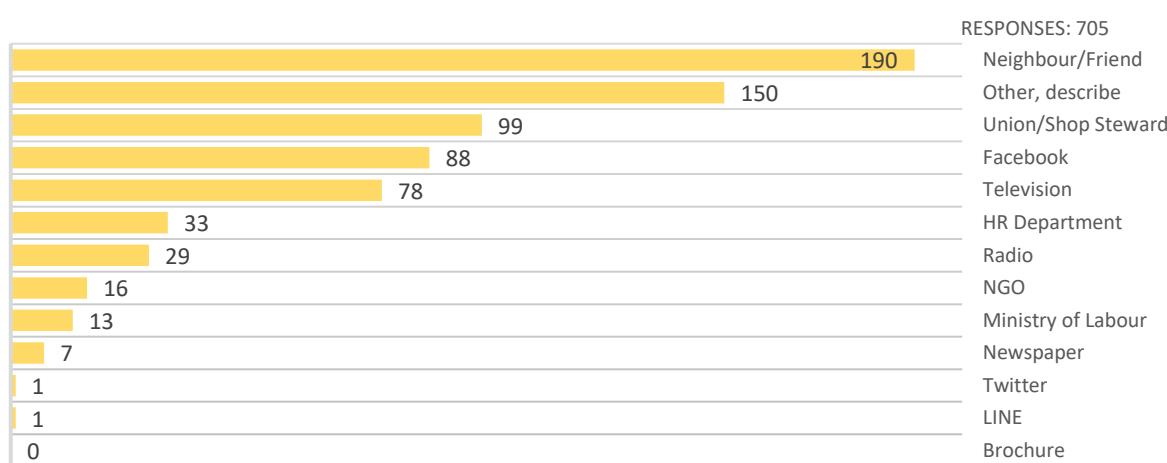


Figure 13. Where do you get most of your knowledge about labour law and your rights? (EMPLOYEE)

From an employer's perspective, a key issue regarding labour disputes is the **cost of resolving disputes**. Those employers who had experienced labour disputes were asked whether the costs of resolving disputes – in terms of dollars, loss of business and loss of working hours) have increased or decreased over the last three years. Respondents' detailed responses are presented in figures 54, 55 and 56 of the appendix.)

In summary, around 50% to 60% of respondents believe that the costs of disputes – in terms of lost business and lost working hours – have declined for both collective and individual disputes, with 20% or fewer respondents believing costs have increased (the remaining responses were "no change" or "don't know"). Strangely, a majority of respondents did not know whether the dollar cost of disputes had risen or fallen, but this may reflect that persons responding to the survey may not be fully across all financial aspects (legal, administrative, penalties, foregone wages, etc.) of a dispute. Overall, employers' perception that dispute costs have fallen is consistent with their perception that the number of disputes has fallen.

Employers who had experienced disputes were asked about their **use of third parties** to help resolve disputes. Out of the firms experiencing disputes, 33 firms did not use an external third party for any type of dispute resolution. For those firms using external third party, the main reasons for doing so are: when they cannot resolve the dispute internally (10 responses), due to the size of claim the employee is making (7), all disputes go to third party (2), and if the firm has technical difficulties or challenges in dealing with disputes (1).

Table 8

Using external third party to help resolving disputes, (Employer)

Items	Percentage
Technical difficulty of challenges	5%
All our disputes go to third party	10%
Size claim employee is making	33%
Only if cannot resolve, then go to third party	52%

In terms of **which third party** the employers used, 35% of the firms used the Ministry of Labour and Vocational Training, 29% used independent individual arbitrators, 14% used independent individual lawyers, 14% used law firms, and 7% used another independent person.

Table 9

External third party

External Third Parties	Percentage
An independent	7%
Law Firm	14%
Independent/individual lawyer	14%
Independent/individual arbitrators	29%
Ministry of Labour and Vocational Training	36%

4.2.4 Individual disputes

In this section, further details are provided about individual disputes from both employee and employer perspectives, including the nature of the dispute, the external third party used to resolve the dispute, and the whether the dispute resolution service was paid or unpaid.

4.2.4.1 Employee

As presented in Table 7 earlier, employees only reported 5 individual disputes – 2 in manufacturing, 2 in construction and 1 in financial services.

Below, table 11 shows the nature or reason for the dispute. The disputes relate to reinstatement, allowances and the suspension of payment. In addition to these 5 individual disputes, there are some complaints related to the delay in wage payment (especially in construction), poor attitude of the supervisor and employers in term of language usage, and other complaints connection to leave payment and overtime payment.

Table 10

Type of cases in Individual Disputes (EMPLOYEE)

Types	Number of cases
Reinstatement	1
Food/Meal allowance	1
Accommodation and	1
Suspension payment	2
Total	5

Since the 5 individual disputes were relatively minor, none of the disputes used an external third party to resolve the dispute (although a union official provided support in one of the cases, where the worker paid 1 USD for union membership). Most of the disputes were handled using internal sources, particularly human resource department and their supervisor.

4.2.4.2 Employer

Employers were asked about recent individual disputes that the firm had encountered in 2017.

In total, 24 firms dealt with 78 individual disputes in 2017. As shown in the table below, only 5 of these 24 firms used a third party to solve any of their disputes.

Table 11

Number of firms, using and not using third party (by Industry)

Type of Industries	Not using third party	Percentage	Using third party	Percentage
Manufacturing	10	53%	1	20%
Construction	3	16%	0	0%
Accommodation	1	5%	1	20%
Financial Service	2	11%	0	0%
Professional Service	0	0%	2	40%
Wholesale and Retail	0	0%	0	0%
Transportation	3	16%	1	20%
Total	19	100%	5	100%

The table below shows the nature of the disputes, and which of these disputes relied on a third party to resolve it. The most common dispute involved discipline, termination or transfer, followed by attendance bonus and reinstatement. The “other” category includes the use of inappropriate language and employee’s attitude at the work place. Of the 5 disputes where a third party was used, 3 were in connection to the termination compensation and 2 were in relation to additional benefits which had not been delivered.

Table 12

Type of Cases in Individual Dispute, EMPLOYER

Cases	Not using third party	Use third party
Reinstatement	9%	0%
Food/Meal allowance	4%	0%
Attendance bonus	9%	0%
Termination compensation	4%	60%
Leave Payment	4%	0%
Accommodation and Transport allowance	4%	0%
Demand for discipline, termination and transfer	30%	0%
Other, describe	35%	40%
Total	100%	100%

Employers were asked additional questions regarding their anticipation about the trend of individual disputes in the future. In total, 19 of the 24 firms (79%) experiencing disputes believes that disputes will decline while 4 firms (17%) suggest disputes could stay the same and 1 firm (4%) thinks disputes may gradually increase.

In addition, 62% of these firms believe the complexity of individual cases will decline, 25% suggest the complexity will remain unchanged and 8% predict there will be a gradual increase in complexity.

4.2.5 Collective Disputes

Below, further details are provided about collective disputes from the employee and employer perspectives.

4.2.5.1 Employee

In the employee survey, the most common issue behind collective disputes is food/meal allowance, followed by discipline, termination and transfer disputes (see table 14 below for details). The “other” response category includes disputes relating to the 13th month salary payment, commission payments, productivity bonuses and overtime payments.

Table 13

Type of Cases in Collective Dispute, EMPLOYEE

Cases	Percentage
Reinstatement	10%
Food/Meal allowance	19%
Attendance bonus	10%
Leave Payment	10%
Demand for discipline, termination and transfer	14%
Suspension payment	5%
Other, describe	33%
Total	100%

In terms of dispute resolution means, 2 cases were brought to the Ministry of Labour and Vocational Training, and another 10 cases used the services of a shop steward or union. This may suggest that third parties beside Ministry of Labour and Vocational Training and Union still play a limited role in collective dispute resolution. In another words, it appears that internal efforts to resolve collective disputes are the first course of action, and only disputes which cannot be resolved internally would go to the MoLVT for further facilitation to end the dispute.

4.2.5.2 Employer

In the employer survey, 8 firms encountered a total of 17 collective disputes in 2017. Around 87% of firms experiencing collective dispute were from the manufacturing sector, with the remainder from the construction sector. Only 3 firms (37%) reported that they used a third party to help them resolve disputes, namely individual lawyers, other independent individuals and the AC.

Table 15 below shows that the most common reasons for collective disputes relate to food/meal allowances and disciplinary issues, followed by reinstatement and accommodation/transportation allowances.

Table 14

Type of Cases in Collective Dispute, EMPLOYER

Cases	Percentage
Reinstatement	14%
Food/Meal allowance	21%
Attendance bonus	7%
Leave Payment	7%
Accommodation and Transport allowance	14%

Cases	Percentage
Demand for discipline	21%
Suspension payment	7%
Other, describe	7%
Total	100%

The table below shows the nature of the collective disputes, and which of these disputes relied on a third party to resolve it. As only 3 firms used an external party to resolve any of their disputes, it is difficult to draw conclusions from this data.

Table 15

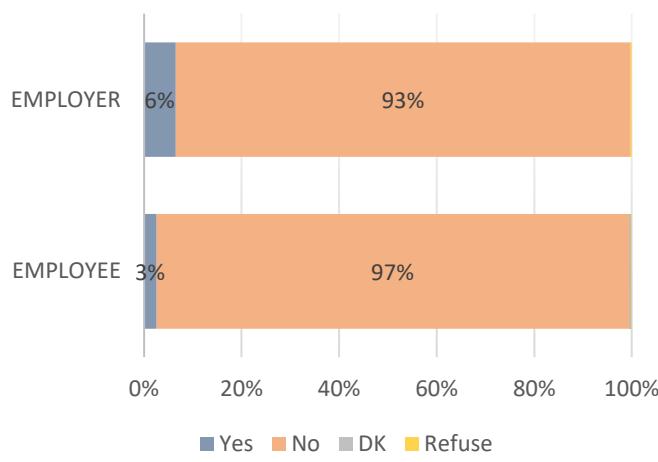
Type of Cases in Collective Dispute, using and not using third party, EMPLOYER

Cases	Not using third party	Use third party
Reinstatement	22%	0%
Food/Meal allowance	11%	40%
Attendance bonus	0%	20%
Leave Payment	11%	0%
Accommodation and Transport allowance	11%	20%
Demand for discipline,	22%	20%
Suspension payment	11%	0%
Other, describe	11%	0%
Total	100%	100%

Employers were asked additional questions regarding their anticipation about the trend of collective disputes in the future. In total, 4 firms believe that the number of collective disputes will decline, 2 firms believe disputes will be staying the same, and 2 firms reported they do not know.

In terms of the complexity of collective disputes, 4 firms believe that the complexity will decline and only one firm predict that the complexity of collective dispute will increase.

4.2.6 Understanding of mediation and dispute resolution processes



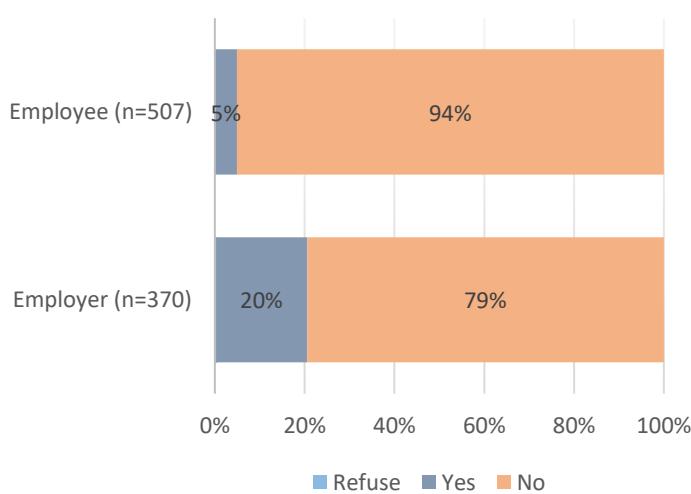
This section examines employees' and employers' knowledge and understanding of mediation and their experiences involving the ACF, AC, and MoLVT.

Awareness of the ACF is very low among employers and employees. As highlighted in figure 14 below, only 3% of employees and 6% of employers know of the ACF. For employers, awareness of the ACF is highest among firms in professional services (35%), transportation (16%) and financial services (13%), and lowest among firms in wholesale and retail trade (zero) and construction (4%). (See figure 60 in the appendix for a detailed breakdown by industry.)

Figure 14. Do you know the Arbitration Council Foundation?

These findings are perhaps not surprising since the ACF is an administrative body and unless a business or individual is engaged with the ACF or AC in a manner that requires knowing ACF, it is not likely that the general individual would understand the structure and relationship of ACF and its relationships with AC.

Regarding **awareness of the AC**, the organization is known by 5% of employees and 20% of employers. For employers, awareness is highest among firms in professional services (76%), financial services (53%) and manufacturing (45%), and lowest among firms in wholesale and retail trade (2%). (See figure 61 in the appendix for a full industry breakdown.) These findings are also perhaps not a surprise. The industries that are more aware of the AC, are those with more highly educated individuals including, service firms that would know general legal systems, while manufacturing is the industry with the most cases at the AC. Still, the percentage of firms that know about the AC is too low.



In the context of the work of the AC, which has over the years been in majority working on cases referred from the manufacturing sectors (Garments and footwear in the overwhelming majority), followed by small increases in the tourism sector, the results are not surprising but do highlight important points, the most important being that (1) there is a lot of scope to raise awareness of the ACF itself as well as the AC, both among employees and employers. (2) Raising awareness about the services and what the ACF and AC do, can lead to more "needs" being generated by industry and associations and (3) to deliver services, requires that industry as well as the general workforce, is aware of who you are and what you do. It is critical for the ACF and AC to build a brand, beyond the garment and footwear sector moving forward.

Figure 15. Do you know the Arbitration Council?

Regarding survey participants' **experiences with the AC**, employees and employers were asked if they had ever been part of a collective dispute and if the AC had been involved in resolving any such dispute.

Among employees, 3% of employees have been involved in a dispute that went to the AC, with another 16% of employees involved in a dispute that did not go to the AC. (The remainder have not been in a dispute.) Employees working in construction have had the most experience with the AC, with 9% being in a dispute that went to the AC. (See figure 34 in the appendix for sector breakdowns.)

Among employers, 2% of employers have been involved in a dispute that went to the AC, with another 3% in a dispute that did not go to the AC. In manufacturing, the corresponding figures are 11% (dispute to AC) and 13% (dispute not to AC).

While awareness of, and experience with, dispute resolution bodies is important, the **perceived credibility and effectiveness** of these bodies is also very important. Accordingly, employees and employers were asked to score the credibility and effectiveness of the ACF, AC and MoLVT in terms of dispute resolution on a scale from 1 to 10, where 1 is the weakest and 10 is the strongest.

Not surprisingly, only a limited number of employees and employers felt they were able to judge the effectiveness and credibility of these bodies, as not all survey participants have had experience with them.

The judgements of those who were able to respond are presented in table 17 (credibility) and table 18 (effectiveness) below.

With respect to credibility:

- ACF: 13 employees gave average score of 3.9 out of 10, while 24 employers gave average of 4.9.
- AC: 22 employees gave average of 5.0, while 75 employers gave average of 4.0.
- MoLVT: 85 employees gave average of 5.5, while 87 employers gave an average of 3.3.

Table 16

Credibility of Selected Institutions

Institution	Employees		Employers	
	Observation	Mean	Observation	Mean
Arbitration Council Foundation	13	3.9	24	4.9
Arbitration Council	22	5.0	75	4.0
Ministry of Labour and Vocational Training, Department of Labour Dispute Resolution	85	5.5	87	3.3

With respect to the effectiveness of arbitration procedures:

- AC: 25 employees gave average of 4.0, while 68 employers gave average of 4.2.
- MoLVT: 92 employees gave average of 5.7, while 81 employers gave an average of 3.5.

Table 17

Effectiveness of Selected Institutions

Institution	Employees		Employers	
	Observation	Mean	Observation	Mean
Arbitration Council	25	4.0	68	4.2
Ministry of Labour and Vocational Training, Department of Labour Dispute Resolution	92	5.2	81	3.5

It is difficult to make direct comparisons of the above results, due to the different numbers of respondents judging each institution. One tentative conclusion may be that employees have a slightly more favourable view of the MoLVT while employers have a slightly more favourable view of the AC. A clearer conclusion is that there is plenty of scope to improve perceptions of credibility and effectiveness for all three bodies among both employees and employers.

4.2.7 Level of willingness to pay

To assess the willingness of employees and employers to pay for mediation services, the process of mediation was first explained to respondents in order to help them understand how a mediation service might be useful to them. This section contains some of the most important findings in this study, as it can help the ACF to assess the demand for fee-based mediation services in particular industries.

Table 19 presents the average willingness to pay (WtP) for mediation services, by employees and by employers, across the seven industries. The final column to the right (% by Employer) shows the share of the total amount (employee plus employer) that the employer is willing to pay.

Across the seven industries as a whole, employees are willing to pay USD 16 per day, while employers are willing to pay USD 56.20 per day, giving a total of USD 72.20.

Table 18

Level of willingness to pay for the mediation service, EMPLOYEE vs EMPLOYER

Industry	Employee			Employer			Total Amount Per Day	% by Employer
	Observation	(WTP- Per day)	(WTP- 2days)	Observation	WTP- Per day	WTP- 2 Days		
Manufacturing	130	\$ 10.20	\$ 20.30	39	\$ 107.00	\$ 214.00	\$ 117.20	91%
Construction	25	\$ 15.40	\$ 30.80	8	\$ 18.40	\$ 36.90	\$ 33.80	54%
Accommodation	48	\$ 13.00	\$ 26.00	28	\$ 34.10	\$ 68.20	\$ 47.10	72%
Financial Services	35	\$ 27.50	\$ 55.00	8	\$ 121.90	\$ 243.80	\$ 149.40	82%
Professional Services	30	\$ 36.80	\$ 73.70	10	\$ 126.30	\$ 252.50	\$ 163.10	77%
Wholesale and Retails	113	\$ 15.00	\$ 30.00	75	\$ 24.90	\$ 49.70	\$ 39.90	62%
Transportation	31	\$ 15.80	\$ 31.60	9	\$ 63.90	\$ 127.80	\$ 79.70	80%
Overall	412	\$ 16.00	\$ 32.00	177	\$ 56.20	\$ 112.50	\$ 72.20	78%

(WTP- Per day): An average amount of money willing to pay for a day mediation.

(WTP- 2days): An average amount of money willing to pay for 2 days mediation.

% by Employer is the percentage of the total amount that the employer is willing to pay.

It is important to note that there are significant differences between industries in their willingness to pay. For both employees and employers, the willingness to pay is highest in professional services and financial services, with their total willingness to pay more than double the sample average of USD 72.20. This reflects that nature of the sector and its higher paying jobs where employees and employers, are more familiar with using a professional service such as mediation.

There are also differences between industries in the proportion of the total willingness to pay that would be paid by the employer. For most industries, the responses of employees and employers mean that employers would end up paying around 70-80% of the total amount. However, there are two notable differences. In manufacturing, employees' willingness to pay (USD 10.20) is lower than in any other industry, while employers' willingness to pay is the third-highest. As a result, the responses indicate that employers would end up paying 91% of the total amount in that industry. In the construction industry, by contrast, employers' willingness to pay (USD 18.40) is lower than any industry, and as a result their willingness to pay only accounts for 54% of the total for that industry. This may suggest that it will be difficult for the ACF to generate demand for paid mediation services in the construction industry.

On another issue, a legally binding outcome of a mediation would require a written agreement that is validated and stamped by a lawyer. With this in mind, employees and employers were asked how much they would be prepared to pay to have an agreement stamped by a lawyer. As shown in table 20 below, employees on average would be prepared to pay USD 39.71 for the stamp to validate the mediation agreement while employers could pay USD 73.10. Employees in professional services are willing to pay the highest amount for the stamp, while for employers the greatest willingness to pay is by firms in transportation and professional services.

Table 19

Estimated Fee Employee Prepares to Pay Lawyers for the Stamp

Industry	Employee		Employer	
	Observation	Mean	Observation	Mean
Manufacturing	110	\$ 26.41	39	\$ 96.50
Construction	27	\$ 30.07	11	\$ 89.10
Accommodation	40	\$ 37.75	30	\$ 43.00
Financial Services	35	\$ 57.91	11	\$ 93.20
Professional Services	28	\$ 60.89	11	\$ 138.60
Wholesale and Retails	97	\$ 45.12	73	\$ 48.60
Transportation	24	\$ 41.56	9	\$ 146.70
Overall	361	\$ 39.71	184	\$ 73.10

4.2.8 Intention to use mediation services in future

While the previous section explored employees' and employers' willingness to pay for mediation services, this section considers their interest in, and their intention to use, fee-based mediation services in the future. Employees and employers were asked "**If a mediation service existed that you could access for a fee provided by the Arbitration Council Foundation (ACF), how likely are you going to use the service?**" Respondents answered using a scale of zero to 10, with zero being "not going to use", 10 being "going to use", and the numbers in between indicating some degree of uncertainty. (Most respondents chose zero, 5 – which could be interpreted as "not sure" – or 10.)

In total, 5% of employees say they would use a fee-based mediation service provided by the ACF (giving a score of 10), with another 20% giving a score of 6 to 9 which may indicate some level of interest. At the other end of the spectrum, 20% of employees are clear that they would not use the service (score of zero).

Among employers, 11% say they would use a fee-based mediation service (score of 10), with another 15% giving a score of 6 to 9. A total lack of interest in the service was expressed by 34% of employers (score of zero).

Table 20

Levels of Willingness to Use the Mediation Service

Industry	0= Not going to use	1	2	3	4	5	6	7	8	9	10= Going to use
Manufacturing (EMPLOYEE)	24%	3%	5%	6%	3%	34%	8%	8%	2%	0%	6%
Manufacturing (EMPLOYER)	21%	7%	7%	9%	2%	36%	4%	4%	2%	2%	7%
Construction (EMPLOYEE)	19%	3%	3%	16%	6%	28%	6%	6%	3%	6%	3%
Construction (EMPLOYER)	53%	0%	5%	0%	0%	26%	0%	0%	0%	5%	11%
Accommodation (EMPLOYEE)	21%	5%	7%	10%	12%	26%	9%	10%	0%	0%	0%
Accommodation (EMPLOYER)	36%	3%	0%	9%	7%	17%	3%	12%	2%	2%	9%
Financial Services (EMPLOYEE)	21%	0%	6%	9%	6%	29%	3%	12%	9%	0%	6%
Financial Service (EMPLOYER)	29%	21%	0%	14%	0%	14%	7%	0%	0%	0%	14%
Professional Services (EMPLOYEE)	12%	0%	0%	9%	12%	38%	0%	12%	3%	3%	12%
Professional Service (EMPLOYER)	6%	13%	13%	25%	6%	0%	6%	6%	6%	6%	13%
Wholesale and Retails (EMPLOYEE)	22%	3%	4%	2%	7%	39%	7%	7%	4%	1%	5%
Wholesale and Retails (EMPLOYER)	43%	1%	1%	6%	4%	21%	4%	3%	1%	1%	15%
Transportation (EMPLOYEE)	3%	0%	3%	11%	3%	46%	9%	17%	6%	0%	3%
Transportation (EMPLOYER)	0%	6%	0%	6%	6%	29%	18%	29%	6%	0%	0%
Overall (EMPLOYEE)	20%	3%	4%	7%	7%	35%	7%	9%	3%	1%	5%
Overall (EMPLOYER)	34%	4%	3%	8%	4%	22%	5%	6%	2%	2%	11%

As the table above demonstrates, many employees and employers chose the middle point in the scale (score of 5). It is never easy to correctly interpret middle points on scales, because such responses may reflect a lack of understanding or interest in the question, a reluctance to provide a negative answer, or genuine uncertainty or neutrality. Nevertheless, it is reasonable to conclude that these responses indicate that employees and employers are reluctant to commit to a firm decision on the use of a mediation service because (1) they are not familiar with the service, including how it would operate and what level the fee would be (2) they do not know the ACF and AC to start with and therefore do not want to commit to a yes or no on the service delivery offering. A better understanding of the ACF and AC as well as an effectively introduced service offering may quite likely sway the thoughts and views of those who have not taken a firm stance. To support this, the next section performs a multivariate logistic regression.

On another issue, employees and employers were asked about the critical motivations for them to use a mediation service in the future. In other words, what features of a mediation service would be attractive to them?

In terms of the most critical factors that would encourage them to use the service, the speed of the mediation process is the most common response for both employees and employers. Other critical factors are the neutrality and independence of the mediators, and the cost-effectiveness of the mediation process. (See figure 16 below for further details.) Interestingly, the enforceability of the agreement is not considered a critical factor, which may reflect the perception that mediation is a voluntary arrangement and therefore should not be binding.

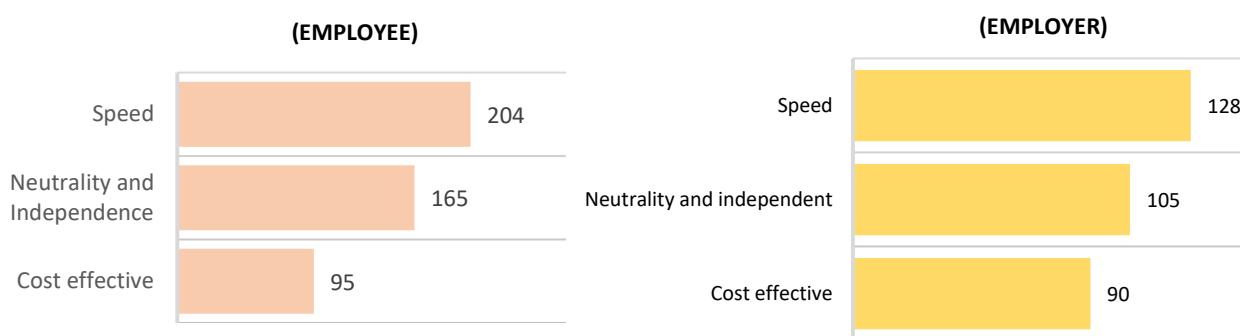


Figure 16. Critical Incentive for a mediation service to be used in the future

In terms of the most appropriate forum for conducting the mediation, both employees and employers strongly prefer to do mediation in person.

Table 21

Accept mediation through following methods

Methods	Employees	Employers
	Percentage	Percentage
In Person (Both Parties)	89%	93%
Phone Call	10%	5%
Video Conference	1%	1%
Social Media	0%	1%
Other	0%	1%
Total	100%	100%

Regarding the choice of mediator, majority of both employees and employers would prefer to choose the mediator based on the agreement between the two parties, followed by the mediator body choosing the mediator, and finally the mediator being chosen randomly.

Finally, it is important to look at the preferred venue for the mediation to take place. Both employees and employers strongly prefer to conduct the mediation at the company or workplace.

Table 22

Preference in term of where mediation will take place

Venues	Employee	Employer
At company/ workplace	78%	72%
at ACF office/ Neutral place	7%	10%
At an agreed place by employer and employee	6%	8%
Other	4%	0%
Do not know	2%	9%
Refuse	3%	1%
Total	100%	100%

4.2.9 Multivariate logistic regression

To examine relationship of independent variables (Preferred variables to estimate logistic regression for both employee and employer can be found in Table 26 and 28 in the Appendix) and demand on the fee based mediation service, a multivariate logistic regression was employed on selected variables assuming those variables have an effect on the willingness to use the mediation service. The datasets were transformed to fit in the regression model as a binary dataset (0 and 1). Prior to running the regression model, numbers of statistical tests were considered including: the multicollinearity, heteroscedasticity, and the over estimation to ensure the results are consistent. However, performing the logistic regression systematically overcomes the linearity assumptions.

4.2.10 Regression results

4.2.10.1 Employee

From the table 23, the regression shows that Social Media, Dispute Resolution department, and selected industries namely Accommodation, financial service, and construction indicate statistically significance at 1, 5, and 10 percent level indicating relationships with the dependent variables taking other variables in the regression model, $\chi^2(5)= 17.87$, $p = .0031$. **The result suggests that the demand for a fee based mediation service is relatively low.** There are four variables illustrated negative relationships between outcome variable and predictors, yet a particular independent variable, Social Media indicate a positive association with the willingness to pay.

The finding suggests that respondents whose workplace equips with dispute resolution unit are less likely to use the mediation service since this might suggest that dispute resolution unit has been considerably effective to cope with disputes.

Importantly, the selected sectors were employed to understand demand in sector. **The result concludes that hotel and accommodation, financial service, and construction sector have no demand for mediation service. This suggests that apparently, the three sectors, has not encountered with serious disputes leading to less demand for third party involvement.**

In contrast, we found that manufacturing, professional service and wholesale and retails are statistically insignificant, $\chi^2(3)= 1.85$, $p = .6046$. The P-value of these sectors are more than 5 percent level. **The result implies that there is a probability of demand for a fee based mediation service only if the ACF and AC increase awareness through the effective dissemination channels through social media as it is evidently supported that it has a positive effect on the willingness to pay the mediation service to target those industries and allow publics to be familiar with services and procedures of the mediation service beforehand. Therefore, trust and awareness would define a probability and feasibility of using the fee based mediation service.**

Table 23

Employee's Multivariate Logistic Regression Analysis

Willingness to Use	Coefficient	Standard Error	z	P>z
Social Media	0.698086**	0.2899148	2.41	0.016
Dispute Resolution unit	-1.896064**	0.9197564	-2.06	0.039
Construction	-1.078931*	0.5873041	-1.84	0.066
Accommodation	-1.365985***	0.5281324	-2.59	0.01
Financial Service	-1.153567*	0.590105	-1.95	0.051
Constant	1.643085	1.615989	1.02	0.309

Willingness to Use	Coefficient	Standard Error	z	P>z
Number of Observation	471	-	-	-
Wald Chi ² (χ^2)	25.36	-	-	-
Prob>Chi ²	0.28	-	-	-
Pseudo R ²	0.0458	-	-	-

Note: P-value<0.01 (**); p-value<0.05(**); p-value<0.1 (*)

Note: The Analysis of Variance (ANOVA) Table can be found in the Appendix Table 27

4.2.10.2 Employer

The logistic regression examine four models to explore the relationships between the dependent variables of demand for mediation service and the willingness to use the service and to understand factors that might affect the decision to use the service in the future (Table 24). List of independent and dependent variables is available in the Appendix for detail.

The first model shows that only variables controlling for ownership are statistically significant with negative signs, χ^2 (2) =7; $p = .0302$. This suggest that when it comes to consider ownership of the establishment, both Cambodian and foreign owners are unlikely to use the mediation services. The model 2 examines the effects of industry classification and whether the respondent knows ACF and AC which take the value between 0 and 1 on the level of willingness to use the mediation service. All selected industries indicate negatively statistics significance at 5% level, χ^2 (6) =9.73; $p = .1366$. It is consistent that there is a high proportion of percentage contributing to not going to use the mediation services from manufacturing, construction, accommodation, financial service, professional services, and wholesale sector. However, taking the recognition of ACF and AC into account, the result yields insignificant outcome implying that there is no evidence to support that a management level person whether knowing ACF/AC have impacted on the decision to use mediation service in the future. The third model indicates alike outcome to model 1 and 2 in term of significant variables. It still yields statistically significance with negative signs χ^2 (8) =22.61; $p = .0039$.

Table 24

Employer's Multivariate Logistic Regression Analysis

Willingness to Use	Model 1	Model 2	Model 3	Model 4
Cambodian Ownership	-1.1809** (0.5010)	- -	-1.5901*** (0.4731)	-1.274** (0.540)
Foreign Ownership	-1.3378** (0.53345)	- -	-1.3084** (0.5198)	-1.597*** (0.55819)
Arbitration Council Foundation	- -	0.9594* (0.5607)	- -	0.838 (0.584)
Manufacturing	- -	-1.2232** (0.6029)	-1.0931* (0.5701)	-1.153** (0.649)
Construction	- -	-1.6800** (0.6920)	-1.5832** (0.6857)	-1.667** (0.713)
Accommodations	- -	-1.4327** (0.6085)	-1.3703** (0.5914)	-1.458** (0.634)
Financial Service	- -	-1.8885**	-2.1654*** (0.6857)	-2.221*** (0.713)

	-	(0.7769)	(0.7624)	(0.771)
Professional Service	-	-2.1211***	-1.7443**	-1.939**
	-	(0.7904)	(0.7722)	(0.815)
Wholesale	-	-1.3140**	-1.2595**	-1.048*
	-	(0.5661)	(0.5692)	(0.610)
Constance	0.5112	0.8320	2.3373***	2.0381***
	(0.5196)	(0.5435)	(0.654)	(0.7814)
Number of observation	370	370	370	370
Wald chi ² (χ^2)	18.62	13.7	22.61	31.98
Prob > chi ²	0.0453	0.0899	0.0039	0.0221
Pseudo R ²	0.0433	0.0381	0.0472	0.0717

Note: P-value<0.01 (**); p-value<0.05(**); p-value<0.1 (*)

Note: The Analysis of Variance (ANOVA) Table can be found in the Appendix Table 29

The last model incorporated all explanatory variable into account $\chi^2 (18) = 31.98$; $p = 0.0221$. The result shows that there is no major change concerning significant variables in model 1, 2, and 3. Both Cambodian and Foreign ownership still yield statistically significance at 1% and 5% level while all selected industries indicated also statistically significance with negative signs. These results implies that there is a low demand in all selected sectors which can be presented in low interest and the level of uncertainty to use the fee based mediation service. Therefore, ACF and AC should focus on increase awareness and reputation in potential sectors giving more weight on willingness to use the mediation service such as professional services and transportation (Table 24).

5 Conclusion

This report has examined the feasibility of the ACF providing fee-based mediation services, from both a legal and market demand perspective. The market demand part of the report reviews the perceived need for fee based mediation services in Phnom Penh only.

Based on the legal review, **there is no legal impediment to prevent the ACF from establishing a fee-based mediation service**. Should ACF proceed to establish this service, development and dissemination of a mediation framework based on international best practice (as explored in this report) but tailored to the Cambodian market will be critical for ensuring that parties can confidently engage with this new service.

As to whether there is sufficient demand for fee-based mediation services, **the findings suggest that the demand for this service is quite low**, and therefore it may be challenging for the ACF to generate sufficient demand for – and income from – this activity. The lack of demand for mediation services may reflect a range of factors:

1. That because there is an unfamiliarity with ACF and/or the AC, the demand for a service by the institution is perceived as not needed
2. Overall lack of conflict and limited number of conflicts in the work places. Most employers outside of the garment sector have not had experience with costly labour disputes, especially not collective, therefore, do not have an understanding of the potential “value” that mediation services can provide.
3. A general perception that disputes are declining
4. A lack of knowledge and awareness about the role that external mediation services can play, some uncertainty about the likely quality of service delivery as perceived by employees and employers, and challenges relating to affordability.

Willingness to pay for services: employees and employers in some industries are more willing to pay for mediation services than other industries. Firms in professional services and financial services appear willing to pay significantly higher daily fees for mediation services than other firms in the sample.

A lack of a definitive demand, in other words, a resounding “yes”, we need mediation services, should not discourage further understanding and research into the provision of mediation services. Employers are definitely willing to pay for services; however, is that payment sufficient, to cover the cost of the service. Without a doubt, as Cambodia’s economy diversifies and more and different industries emerge and develop, access to different professional services is going to continue to grow. As a first and interim step, it seems that increasing the profile, awareness and importance of ACF and AC in Cambodia to the general public and industry is essential to build trust, credibility and an understanding of labour arbitration services. In addition, important tools for the ACF/AC using for dissemination are social media and television. AC should involve and establish outreach activities to promote understanding of labour laws and rights at work at employee’s workplace leading to increase demand in mediation in the future.

6 References

- Adler, D., Brown, S., Meng, L., & Van Noord, H. (2004). *The Arbitration Council and the Process for Labor Dispute Resolution in Cambodia- Law & Commentary*, 2nd. Phnom Penh: Community Legal Education Center.
- Ahmad, S., & George, M. (2002). *Dispute Resolution Process in Malaysia*. IDE Asia Law Series No. 17.
- American Bar Association . (2005). *Model Standards of Conduct of Mediator*.
- Austermiller, M. (2010). *Alternative Dispute Resolution: Cambodia, a textbook for essential concepts*. Phnom Penh: USAID. Retrieved from https://www.americanbar.org/content/dam/aba/directories/rol/cambodia/cambodia_adr_book_english_01_19_09.authcheckdam.pdf
- Austermiller, S. (2010). *Alternative Dispute Resolution: Cambodia*.
- Bitonio, B. (2008). *Labor Dispute Resolution Systems in the Asia Pacific Region: A nine country comparison*. Bangkok: ILO Working Paper Series No. 41.
- Bitonio, B. (2012). *Industrial relations and Collective Bargaining in the Philippines*. Geneva: ILO Working Paper Series No.41.
- Federal Court of Australia. (2007). *Australian National Mediator Standard: Practice Standards*. Retrieved from http://www.fedcourt.gov.au/services/ADR/mediation/mediation_standards.pdf
- Gall-Ely, M. (2009). Definition, Measurement and Determinants of the Consumer's Willingness to Pay: a Critical Synthesis and Direction for Further Research. 24(2), 91-113. Retrieved from <https://hal.archives-ouvertes.fr/hal-00522828/document>
- Heng, N. (2016). *Alternative Dispute Resolution: Cambodia and Japan*. Retrieved from https://www.pic.org.kh/images/2016Research/20170523%20ADR%20in%20Cambodia&Japan_Eng.pdf
- Hong Kong Mediation Center. (2014). *Hong Kong Mediation Center Mediation Rules*. Retrieved from <http://www.mediationcentre.org.hk/en/services/MediationRules.php>
- International Labor Organization. (2001). *Labor Legislation Guideline*. Geneva: ILO. Retrieved from <http://www.ilo.org/legacy/english/dialogue/ifpdial/lbg/index.htm>
- International Labor Organization. (2007). *Collective Dispute Resolution through Conciliation, Mediation, and Arbitration: European and ILO Representative*. Geneva: ILO. Retrieved from http://www.ilo.org/wcmsp5/groups/public/-europe---ro-geneva/documents/meetingdocument/wcms_366949.pdf
- International Mediation Institute. (2016). *International Mediation Institute Code of Professional Conduct*. Retrieved from <https://www.imimediation.org/practitioners/mediation-rules/>
- International Mediation Institute. (n.d.). *International Mediation Institute Code of Professional Conduct*. Retrieved from <https://www.imimediation.org/practitioners/code-professional-conduct/>
- Law Council of Australia. (2011). *Ethical Guidelines for Mediators*. Retrieved from http://learnedfriends.com.au/getmedia/b72ee6c5-cbf4-4c8f-b170-cd7bc66fd5cf/Walker_Ethical-Guidelines.aspx
- Limparangsiri, S., & Sillapamahabundit, M. (2012). *Mediation Practice: Thailand's Experience*. Retrieved from <https://www.aseanlawassociation.org/11GAdocs/workshop5-thai.pdf>
- Malaysian Mediation Center. (1999). *Malaysian Mediation Center Mediation Rules*. Retrieved from <http://www.malaysianmediationcentre.org/what-is-mediation/mediators-rules-code-of-ethics/>
- MLMUPC. (2000). *Sub-decree on the Procedure of Establishing of Casdastral Index Map and Land Register*.
- MoLVT. (n.d.). *Prakas No. 317 of 2001 on Procedures for Settlement of Collective Labor Dispute*.
- MoLVT. (n.d.). *Prakas No. 318 of 2001 on Procedures for Settlement of Individual Labor Disputes*.
- MoLVT. (n.d.). *Prakas No. 99 of 2004 on the Arbitration Council*.
- National Institute of Statistics. (2011). *Economic Census of Cambodia 2011*. Phnom Penh: Ministry of Planning.

- National Institute of Statistics. (2013). *Cambodia Labour Force and Child Labour Survey 2012*. Phnom Penh: Ministry of Planning.
- Singapore Mediation Center. (2014). *Singapore Mediation Center Mediation Procedure*. Retrieved from <http://www.mediation.com.sg/assets/downloads/commercial-mediation/6-Mediation-Procedure-30Dec14.pdf>
- The Ministry of Justice. (2006). *Code of Civil Procedure*.
- The National Assembly of Cambodia. (1989). *Law on Marriage and Family*.
- The National Assembly of Cambodia. (1993). *The Constitution of the Kingdom of Cambodia*.
- The National Assembly of Cambodia. (1995). *Law on the Status of Lawyers of the Kingdom of Cambodia*.
- The National Assembly of Cambodia. (1997). *Labour Law*.
- The National Assembly of Cambodia. (2001). *Land Law*.
- The National Assembly of Cambodia. (2006). *Law on Commercial Arbitration*.
- The National Assembly of Cambodia. (2014). *Law on the Organization of Courts*.
- The National Assembly of Cambodia. (2015). *Law on Associations and Non-Governmental Organization*.
- The National Assembly of Cambodia. (2016). *Law on Trade Union*.
- The Parliament of Malaysia. (2012). *Mediation Act*. Malaysia.