Abstract

The intent of the Constitution of Thailand B.E. 2550 (2007) protects the freedom of government officials and State officials to association on the basis of equality. Thus, their association can be a meaningful means for engagement in the negotiation with government in striving for better protection and/or employment conditions.

Despite the fact that the status of most public universities has been changed to State Autonomous Universities, they still have a unique characteristic when comparing to other state enterprises, public agencies and private sectors. This means that instructions and researches proceeded by those universities are needed to take into consideration both academic freedom and autonomy. This thesis, thus, aims to shed the light to the freedom of the establishment of labour unions in the State Autonomous Universities in Thailand. Hence, definitions, principles and significance of labour unions will be explored in order to translate them into a guideline in this regard. For this reason, a comparative study with respect to the establishment of labour unions in public or state universities in Canada, United Kingdom and the U.S. is made.

The study reveals, on the one hand, that laws related to labour relations in public sector that grant labour union establishment right to all government officials are found in Canada and United Kingdom. For the U.S., discussions will pay the specific attention to California due to its Higher Education Employer-Employee Relations Act (HEERA). By virtue of HEERA, rights of certain employee e.g. confidential employees, supervisory employees and those in administration positions are restricted; meanwhile the scope of negotiation is clearly specified.

According to the study, the author envisions that the guideline on the establishment of labour unions in State Autonomous Universities in Thailand should take into account the following viewpoints.

1. Employee Relations in State Autonomous Universities Act should be enacted due to the uniqueness of universities' role, particularly in light of academic

freedom and autonomy. Consequently, it may be inappropriate if the similar labour relations act as enforced in other state enterprises, public agencies or private sectors is applied in the context of academic institutions.

2. The Act should allow two types of labour unions: Faculty Union and Union for Clerical Support Employees to be established. Two reasons can be raised to support this claim. First, these two employees have different roles and responsibilities. For the faculty, its works closely involves academic freedom. Therefore, the faculty union should be specifically established not only to protect faculty's rights and academic freedom but also to be a forum where the faculty can share its common attitudes and ideologies.

Second, the establishment of single union may not only restrict employees' right to choose but also affect their willingness to join the union. Further, single union may be incompatible to International Labour Organisation Convention that grants employees' rights to establish/participate the union freely without any prior consent of employers or public agencies. Nonetheless, one can argue that full freedom to establish labour union in universities may likely cause dilemma too. That is to say, on the one hand, that "too much" unions in one university may lead to the powerlessness and weakness during the course of negotiation process. On the other, university administrators may also face a considerable amount of difficulties in realising resolutions or solutions.

3. The Act should govern the scope of collective negotiations on employment conditions and the issue of educational and vocational administration. This is due to the fact that the educational administration, especially in higher education institutions is rather distinct from managerial practices found in other public and industrial sectors. Clear stipulations in this regard can partially reduce the ambiguity of disputes erupted in the university.

4. The Act should clarify university employees' eligibility to establish or to join the union and restrictions of particular employees' rights. One can say that such restrictions should be applied to university administrators, e.g. rector, vice rector,

dean, director of a/an centre, institute or office. This is due to the fact that they can be regarded as an employer's representative due to their responsibility of university administration and of policy planning and implementation. Likewise, rights of confidential employees and supervisory employees in establishing or participating the union should also be restricted.

5. It depends on legal policy of individual state to restrict the right of the employees of State Autonomous Universities to strike. However, if such right is restricted, alternatives to strike should be provided, e.g. collective negotiations, process of compromise for dispute settlement and arbitration via State Autonomous Universities' tripartite committee, which can be comparable to the one constituted in State Enterprise Labor Relations Act. However, for the latter, it may likely render to misinterpretation of employment conditions. As a result, I would recommend developing fact-finding process as a measure to be used prior to the referral of the matter to tripartite committee. In this regard, the tripartite committee should set up a tripartite sub-committee in order to proceed compromise and fact-finding processes. All relevant information should then be made available publicly or through mass media: newspapers, televisions and radio broadcasting. This is to allow the public to be better informed about the actual root of the problem or dispute as well as to promote their participation in dispute settlement.