

## ABSTRACT

A labor union is an organization of workers which is set up as the workers' representative to negotiate and bargain with employers for the benefits relating to the conditions of employment and better working conditions. A labor union with a large number of workers as its members will be strong and can effectively bargain with the employers for the increased wages and other benefits. At the same time, however, the employers will not want the workers to organize or become members of a labor union because the labor union will always demonstrate its role or represent its members in a collective bargaining with the employers for many activities to the workers. This will certainly upset the employers. The employers, thus, often exercise their power over the human resource management by unfair practices to workers, for examples, changes of the working positions or dismissal. As a result, the Law on Labor Relations has the provision to protect workers from the employers' unfair practices. The study has found the substantial problems as follows.

1. The Problem about the Protection to Workers. Under the Law on Labor Relations of Private Sector, there is a problem about the protection during the set up of the organization of workers in private sector because there is no clear provision in the Law on Labor Relations of Private Sector.

The study on the protection from unfair practices under international labor law and foreign labor laws has found that the Conventions of the International Labor Organization No. 87 and No. 98 have provided basic rights to workers on freedom of association and protection of the right to organize as well as the equal and same right to employers without discrimination under the law and without existing enforceable regulations as the barriers. The foreign labor laws have also had the provisions providing the protection to workers for setting up the organization. Thus, even Thailand has not yet ratified the mentioned Conventions, there should be such provision clearly written in the law in order to solve the problem whether workers are protected from such activity. If there is no such provision, there should be a guideline for such interpretation in accordance with international labor law and foreign labor laws so as to be able to effectively protect workers.

2. The Problem about the Protection to Employers. Under the Law on Labor Relations of Private Sector, there is a problem about the clear protection for employers when there is a need

of economic reasons to dismiss workers who are members of the labor union. According to the provisions of the Law, the employers cannot dismiss workers unless under the exceptions under Section 123 (1) – (5) of the Labor Relations Act, B.E. 2518. If a worker who is a member of the labor union is dismissed, it may be deemed as an unfair practice. Despite of the interpretation of the Supreme Court that if there is an actual cause for such dismiss and it is not deemed as the unfair practice, it is still not clear and does not cover all cases. The present provision on unfair practices under the current Act is not appropriate for the actual economic and social situations.

The study has been done on the protection to employers in some countries in case of dismissal even though there is no provision of law. For example, in France, there is a guideline for such action. That is, the employers can dismiss a worker if there is an actual and proper cause for dismissal and it is not deemed as an unfair practice. The right of employers, as a result, can be protected a step further.

The writer thinks that the protection to workers from employers' unfair practices should start from the beginning of the set up of workers' organization. This is an important matter for workers' security to exercise workers' freedom. After the labor union is organized, it will be the important organization to protect the rights and maintain benefits of workers. If the workers are unfairly obstructed to organize at the beginning, the labor union will not be organized. Thus, there should be clear provision in the Labor Relations Law of Private Sector by including the case of the set up of workers' organization as the unfair practices to prevent the problem in practice and the workers will be effectively protected. In case of the problem about the exceptions under Section 123 of the Labor Relations Act B.E. 2518, there should be an amendment to provide that the employers can dismiss workers after receiving the permission from the Labor Relations Committee or the Labor Court. In case where the Court considers that there is no unfairness and there is an actual and proper cause, the employers can dismiss workers and it is not deemed as an unfair practice. Such guideline for interpretation and amendment of the Act will provide fairer protection to both workers and employers.