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INTRODUCING UNION REPRESENTATION AND ITS COMPLEXITIES – A CASE STUDY OF THE ROYAL THAI CIVIL SERVICE

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Abstract

This paper deals with the result of the recognition under the ILO Conventions 87 and 98 of the freedom of association and subsequent introduction of union representation in the Royal Thai civil service. As a consequence, the Royal Thai Government has changed the Constitution to allow for union representation in its civil service. A decree has been drafted and focus groups have been interviewed to establish the views of a cross-section of civil servants on their expectations and desires in being allowed to form and join a union. The paper discusses the approach taken to union representation in terms of collective bargaining versus joint consultation and centralization versus decentralization and the discourse that has surfaced as a result of the interviews between the policy makers and civil servants, particularly with regard to its context of a high power distance culture. The analysis provides the best practice and effective approach to the introduction of union representation within the Thai Civil Service.

Keywords: Thailand, Royal Thai Civil Service, Freedom of Association, Union, Representation, Collective Bargaining, Joint Consultation

1. Introduction

The continuing focus in today's organizational activities on performance and customer service orientation is increasingly requiring management to review and re-engineer the organizational approaches and processes to achieve organizational objectives and consumer satisfaction. Management initiatives in the form of organizational support, rewards, empowerment and training are seen as the main drivers of excellent customer service (Babakus *et al.* 2003; Bohlander and Kinicki, 1988; Harline and Ferrel, 1996). A further factor, identified by Permarupan *et al.* (2013) in both the private and public sector are employee involvement and commitment, associated with quality of working life as contributors to organizational effectiveness and its management (Permarupan *et al.* 2013). The adoption of new public management around the world and in particular with reference to Thailand, the country's adoption of Western practices as reform tools, such as strategic management, decentralization, knowledge management and organizational learning has resulted in a difference in emphasis from the traditional process orientated culture to a result-orientated governance.

This in an increasing context of economic globalization and trade openness, relevant to Thailand and the ASEAN community, with interesting findings from research that Asian democracies are more responsive to demands for government provision than non-democracies and trade openness correlating with a larger public sector. Clear indications show therefore that not only does the public sector have an exponentially important role to play and in particular for

Thailand due to its increasing trade openness, but also that the effect of union membership through freedom of association is understood.

The discussion about the historical development in Thailand to make changes in employee relations by granting the freedom of association will highlight contrasts between a Western and Eastern perspective and stimulates interesting debate, particularly in the light of the stage and pace of institutional evolution.

The evolution of freedom of association through the compliance with ILO standards seems to be a natural extension to the country's development.

Following the decree by the King to allow for a change to the Thai Constitution, due to the elected compliance with the ILO Conventions 87 and 98, civil servants of the Royal Thai Civil Service can now exercise the freedom of association and form and become members of a union. The Constitution's Article 64 states: "A person shall enjoy the liberty to unite and form an association, a union, a league, a cooperative, a farmers' group, a private organization, a private development organization or any other group. Government and state officials shall have the liberty to assemble like other people provided their assembly does not affect the efficiency of public administration and the continuity of the provision of public services, as provided by law."

Mixed focus groups representing the four ministries in Bangkok and the Office of the Civil Service Commission have been interviewed to obtain their views on the introduction of the Freedom of Association and implementing union representation.

The desire by both the policy makers and civil servants to have unions finds a common voice and is reflected in the decree developed for this purpose. The structure and application of the union representation reflects ideological differences between management and civil servants, particularly in relation to the central issue of adopting collective bargaining or joint consultation in addition to which form of representation is best suited to the civil service.

Contextually this is not only interesting, it is significant due to the high power distance culture within which Thai society and the public sector in particular generally operates.

Siengthai and Bechter (2005) furthermore point out that the industrial labor relations in Thailand have been affected by the practices of the Middle Path in Buddhism, which discourages the Thai workers from believing in extremism, resulting in avoiding taking one side and wanting to co-operate with each other.

The recognition of the role and status of The Monarchy is central to the thinking of civil servants, leading to an organizational culture of serving the king (focus group members) and strongly recognized within society itself, reinforcing the acceptance of power distance.

These differences are creating interesting discussions on the appropriate approach and will be further developed in subsequent articles by considering alternative models of best practice, such as the Japanese, British and Malaysian civil service and spheres of influence by the unions to conclude on a model that culturally and operationally suits the Royal Thai Civil service in achieving its requirements of serving government and community.

The introduction of union representation, however, is of particular interest as due to the non- acceptance of collective bargaining how far is government thinking willing to accept full human rights?

2. Methodology

The approach taken for this research was by interviewing focus groups from several Ministerial departments of the civil service based in Bangkok.

Staff from four Ministries, including the Office of the Civil Service Commission (OCSC) formed the four focus groups that were interviewed, with each group consisting of a gender mix, representation of the various grades of civil servants and inclusive of upper middle management.

Predetermined questions were made available to the group members for preparation and subsequent discussion. A translator was available, able to facilitate questions and issues that needed further discussion and the key issues were manually recorded for reference purposes.

3. Discussion

3.1. Union Representation

A number of international proclamations such as the UN Declaration on Human Rights, and the UN International Convention on Economic Social and Cultural Rights call on business firms to support and respect basic human rights and make sure they are not complicit in human rights abuses. The fundamental UN Declaration to be found in Article 23.4 stating that it is recognized that "the right of people to form and join trade unions was recognized as a fundamental human right" (ILO, 1998). These proclamations include explicit references to labor rights and the rights of workers to organize and bargain collectively without corporate authorization or interference. In 1998 the International Labor Organization (ILO) adopted the Declaration on Fundamental Principles and Rights at Work that defined the core conventions of decent work (ILO, 1998).

This declaration highlights an important, if not fundamental point, namely that trade union membership is an entitlement for employees outside, if not within the organization itself (without corporate organization interference – author), but is it effective as an employee representative body due to being subject to the national employment laws on trade union recognition by an employer, if not the employers ideological position to this recognition and thus the union(s) ability to act on behalf of an employee or employees collectively?

Is thus employee democratization within the civil service being enhanced or only recognition given to a fundamental human right that will function outside the organizational infrastructure?

Among the four fundamental principles and rights at work is freedom of association and the effective recognition of the right to collective bargaining derived from ILO Conventions 87 and 98 respectively (ILO, 1998 cited in Dawkins, 2012). Together these are known as the Freedom of Association Conventions and are customary rules above the conventions such that all ILO members are bound to respect them even if they have not been ratified in their respective countries (Human Rights Watch, 2010 cited in Dawkins, 2012).

Thailand, although an ILO member has not signed the three conventions 87,98 and 111 although it is now recognizing the customary rule of the freedom of association, resulting in the civil servants being allowed to form and join a union. Labor rights are the sub-set of human rights that are confined to human experience within the context of employment. Adopted in 1948, the Universal Declaration of Human Rights states in Article 4 that a worker has "the right to form and join labor unions for the protection of his interests" (United Nations, 1948). That principle is reaffirmed in the UN International Covenant on Economic, Social and Cultural Rights, the UN Global Compact Principle 3 and the ILO Declaration on Fundamental Principles and Rights at Work.

The basic principle of the freedom of association is therefore being recognized with the introduction of union representation within the Royal Thai Civil Service, although as discussed later in the paper, questions are raised about the full implementation of the universal declaration and its customary rules over and above the conventions. In addition, Thailand has introduced a change to its Constitution to incorporate this issue of human rights. The Constitution's Article 64 states: "A person shall enjoy the liberty to unite and form an association, a union, a league, a cooperative, a farmers' group, a private organization, a private development organization or any other group. Government and state officials shall have the liberty to assemble like other people provided their assembly does not affect the efficiency of public administration and the continuity of the provision of public services, as provided by law,".

Acceptance of the conventions and the principle of human rights subscribe to the ethical and ideological aspects of labor rights but do not provide a justification as to the validity for union representation or organizational gain in its introduction. This aspect needs further discussion in order to determine if compliance with the convention is one of organizational expedience or one of ideological conformity.

To consider the ideological perspective the debate enshrined in the European Union's fourth Lome Convention provides a good basis from which consideration can be given to the

acceptance of freedom of association, if not the principles of the ILO Convention (Kristoffersen and Huber, 1995).

The Lome Convention indicates that human rights are universal, indivisible, and interdependent. Whether civil and political or economic, social and cultural in nature, human rights must be respected and promoted in their entirety. If labor rights and human rights are interdependent, it follows that disrespect for labor rights is inconsistent with respect for human rights. Business firms and governments contradict the broad human rights consensus by restricting the right of association; labor rights are instrumental to human rights because they are the means through which human rights are obtained (Kristoffersen and Huber, 1995).

There is thus clarity about the ideological dimension as to why freedom of association should be considered and thus union representation be allowed. However the added value from freedom of association to an organization is an argument requiring further exploration, particularly in relation to the case study of the Royal Thai Civil Service, to determine the significance of the implementation of union representation.

A possible starting point for the analysis is provided by Compa (2000) and the Human Rights Watch, namely collective activity provides workers the means to protect their interests rather than depend on free market forces or the goodwill of their employers to do so. Self-determination and dignity in the workplace are more readily protected collectively than individually. To that end Human Rights Watch, although it arduously avoids promoting unionization, views labor unions as "vital components of societies where human rights are respected" (Compa, 2000, p.10).

Thus from the perspective of the employee, the freedom of association and thus labor unions is an added value to ensure the promotion and protection of individual interests. According to Dawkins (2012), policies and actions that restrict workers' freedom of association are inconsistent with a socially responsible firm.

The issue about freedom of association is further re-enforced by the ILO Committee on Freedom of Association, which cited the superior bargaining power of employers and due to this superiority Member States needing to encourage collective bargaining.

Thus the employee perspective indicates that for the interest and protection of the employee and their interest, the application of freedom of association and collective bargaining is the required approach. This is of course in line with what the ILO Convention stipulates, but is further seen as reflecting the social consciousness of an organization and thus its reputation accordingly

This concept of organizational social consciousness was introduced by Kofi Annan at the World Economic Forum in Davos in January 1999, in the form of the UN Global Compact, calling for business to be socially responsible and do its part by "demonstrating good global citizenship wherever it operates" (Pangsapa and Smith, 2008, p.487). While the UNGC should be seen as a statement of principle summing up the aspirations of the global community, it marks an important development in developing a general set of expectations about responsible business practice. Originally based on nine principles that came from three categories: general human rights, labor standards and the environment, with an additional ILO principle added in 2004, dealing with political corruption, the Global Compact's ten principles are derived from the Universal Declaration of Human Rights, the ILO's Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development, and the UN Convention on Corruption (United Nations Global Compact, 2000). Thus the recognition of freedom of association and collective bargaining is a further indication of best practice in business by enhancing corporate social responsibility.

The issue of collective bargaining also brings into contrast the conflict pertaining to a social context of high power distance and the acceptance of employer power. The ILO promotes collective bargaining in part on the basis of employers' superior bargaining power and thus advocating democratization, but can this be in keeping with a different social norm based on high power distance? Interesting previous research provides relevant insight into this issue, namely that the labor relations system seems to be under the control of the management. "Thai employees are not eager to organize labor unions because of cultural factors," (Siengthai, 1993; Levine, 1997; Suthakavatin, 2005; Siengthai and Bechter, 2005). Most Thai employees view

themselves to have a low rank in the organizational hierarchy; thus, they pay respect to managers whom they believe to have a higher rank within the organization. Therefore, they prefer not to create adversarial relationships with managers establishing labor unions to protect their own rights (Brown, 2004).

Taking the discussion into the business dimension and in particular human resource management, we can associate the approach to freedom of association as defined by the various conventions with the John Storey classification of soft HRM (Storey, 2001). Recognizing, as outlined by Storey (1993), the importance of seeing employees as assets and as viewed by the author that employee commitment can be achieved through its management and its Human Resource strategy and policies, can supplement the analysis of the added value to an organization of the freedom of association as discussed above. To provide employees the opportunity to protect their own interests through representation including the ability to retain their dignity can but only be an indication of the way an organization makes reference to its employees and a re-enforcement of the belief that staff are an asset to the organization. Thus by accepting and applying a soft HRM approach to human capital management within the Royal Thai Civil Service, the OCSC as policy maker is thus acknowledging not only the essence of human rights, but also seeing the added value of enhancing employee commitment, through the application of the freedom of association.

The discussion so far has recognized that freedom of association has an ideological value to an organization and its effect on the employees, but does it add value to the organization, its management and overall performance?

Thailand as a developing country is only since 2010 accepting the principles of the ILO Conventions 87 and 98, although do not require to adopt them not having signed up to these. However, is this adoption of the freedom of association going to impact on its economy? Few developing countries have strong labor movements and although organized labor is largely viewed as an obstacle to labor markets, the World Bank has concluded that unions are more likely to improve than harm developing economies (Aidt and Tzannatos, 2002).

However, does this adoption of the freedom of association also apply to the organizational dimension?

Shore *et al.* (1995) looked into the effects of the type of employee voice on the level of endorsement and performance evaluations given by managers. Their views are that the more committed to the organization the employees are rated by their managers, the more the employees generate more positive expectations. These expectations led managers to believe that loyal employees are concerned with and behave in ways that positively impacts on the organization. The granting of freedom of association, as described above, could thus well be a first step in achieving commitment and thus taking the views by Shore and colleagues, to achieving positive expectations and organizational improvement.

There is though more conclusive analysis needed to draw conclusions about freedom of association and organizations and its management. A substantive point was raised by Bellante *et al.* (2010), namely that in the US, despite union membership being at an all-time low in 2010, union membership in the public sector was growing. The consequence being that this unionization has led to a high labor cost, in the form of generous collective agreements that have been struck (Bellante *et al.* 2010).

A further insight, relevant due to the introduction of NPM on a more global basis, is the repeated attempts by Bangladesh governments to corporatize a few state entities having failed because of pressures of trade unions.

In view of the opportunity afforded to the civil servants in the Royal Thai Civil Service, these elements cannot be ignored, as the granting of union representation will invite union formation and increasing membership as a consequence. In terms of employee performance, Whiting *et al.* (2008) also found that employees who were seen as loyal were rated as better performers. In contrast, less loyal employees are likely to be viewed with suspicion because of uncertainty as to whether they intend to help the organization. This uncertainty likely leads managers to scrutinize and discount contributions made by them. Thus, those engaging in challenging voice should be endorsed less and rated as poorer performers by managers than those who engage in supportive voice, in part because they are viewed as being less loyal. This

view held by Whiting *et al.* (2008), brings into the discussion an important dimension, namely the significance of a challenging voice and what is deemed to be disloyalty. This needs to be considered further within an Asian social context.

The basis of allowing the freedom of association and thus the formation of a or multiple unions, inherently accepts the realism of challenge, due to the very nature of what a union is and the role of protecting and advancing the interests of its members. This could thus, according to Whiting *et al.* (2008) result in a managerial perspective of disloyalty on the part of the employees and in particular the trade union officials, who are likely to be more in conflict with the organization. A union has as its major role advancing economic and social interest of its members (Carrel *et al.* 1995) not only does this involve power relationships, but also creating rules governing the workplace (French and Bell, 1995) and thus the realization of tension between two major stakeholders, management and employee. Brown (2004), from research into unionism in Thailand, found that most managers have a negative perception of labor unions and thus do not welcome the establishment of labor unions within their workplace. Some managers also view labor unions as self-interested since some labor unions are established for personal rather than public purposes (Brown, 2004).

Thus is the provision of freedom of association in the best interest of the organization? Considering in general terms the American model of anti-trade unionism and emphasis on managerialism in organizational performance, does this model still retain therefore its value as the viable model? Equally Western countries are seeing a distinct decline in trade unionism and evolution to alternative forms such as employee involvement and partnerships (Rose, 2004). This decline and evolution to alternative forms reinforces the need to assess the value of granting union representation through the adoption of freedom of association.

Whiting *et al.* (2008) bring in a particular perspective focusing on perception of loyalty by management, although not providing the full answer and thus requiring further debate to explore the organizational gains from the freedom of association.

As explored above, an underlying principle associated with the freedom of association is the right to be represented and thus the employee voice heard within the employee relationship.

There is an abundance of research available on employee involvement and employee voice (O'Brian, 1995; Phipps, 2013; Mowbray *et al.* 2015) indicating the value of providing the employee the opportunity to engage with organizational activities and possibly organizational decision making.

Interestingly the message that can be deduced from employee empowerment is complimentary to what Whiting *et al.* (2008) are saying, namely that through the process of empowerment/employee participation the employees are more committed to the organization and thus could be more loyal, resulting in managers seeing them as better performers and ending up improving the organization. This is an outcome that provides the organization's justification for granting freedom of association.

However, Whiting *et al.* (2008) further also indicate that those engaging in challenging voice should be endorsed less and rated as poorer performers by managers than those who engage in supportive voice, in part because they are viewed as being less loyal. This clearly falls into the realm of union representation. Although the employees themselves might not be challenging, the collective body can do so on their behalf affecting the nature of employee relations.

Can the discourse therefore lead to under performance? This aspect of the debate requires further analysis as is the difference between trade unionism as a challenger to managerial thinking and thus less loyal to the organization causing underperformance or perceived underperformance as indicated by Whiting *et al.* (2008)? Furthermore, from an organizational perspective can this also be a cause that adversely affects the achievement of the Government's aim to achieve the mission of the civil service?

The second development strategy, initiated by a previous Thai government covering the period 2552-2556 BE, was put in place for measuring the administration of manpower in the public sector, indicating that planning and monitoring the effective utilization of manpower including guidelines for the implementation of the improved performance of manpower to meet the mission of the government was a central focus.

Can this role as a challenger therefore focus the value of trade unionism differently and in a possible negative light? The additional view expressed earlier by Siengthai and Bechter (2005) indicates that Thais do not like extremism and prefer to co-operate with other, does that also undermine the role of the challenger to management? A contributing dimension is provided by Farmer (2011) who pointedly argues that the unionization of the public sector is the ideal situation, as the trade union movement can control if not monopolize the supply of labor and thus effect the price of labor. The ability to control stems from the lack of competition in terms of job opportunities and can thus be more readily seen as monopolistic. Farmer (2011) further argues that because the consumer has little choice in the purchase of government services, which tend to be essential services paid through our taxes, their supply is mainly monopolistic. Thus by controlling the supply of labor that provides these essential services, puts the trade union movement in a powerful position.

This is of course particularly relevant when considering the Royal Thai Civil Service, those employees being the key providers in the service provision to communities. In addition it supports and strengthens the view held by the ILO, namely that the ILO promotes collective bargaining in part on the basis of employers' superior bargaining power and as Farmer (2011) indicates through the ability of the trade union to have power.

Farmer (2011) further re-enforces the significance of this monopolistic aspect through the use of the strike weapon, as the means to extract demands. As he indicates, the underlying nature of the strike weapon is a political one, as opposed to the private sector approach being an economic one. This means that trade unions have the ability to unilaterally and only they can do so, deprive communities of essential services.

This is clearly re-enforcing the view of Whiting *et al.* (2008) about the negative and mistrusting perception by management of those employees in a challenging mode and thus seen as less committed and good performers. A powerful base from which trade unions can represent the interests of the employees and enhance their employment conditions and thus re-enforcing the aspect of the basis for the freedom of association and protection of employee rights.

Proponents of public sector unionism have argued in the past that collective bargaining is advantageous, as it reduces the causes of strike action due to providing the formal channels for resolution and can thus be seen as an organizational incentive to support trade unionism and an advantage to an organization, if not the civil service (Farmer, 2011).

Drawing on the ILO standards of the right to collective bargaining, can collective bargaining therefore be seen as a contributor to the successful performance of the organization? Research carried out by Oxenbridge and Brown (2002) indicates that most managers identified the main benefit of co-operative management and trade union relationships as being the assistance in managing change (for example, the implementation of flexible working arrangements such as multi-tasking and team-working structures).

This in itself gives an indication of how, although dealing with partnerships more than collective bargaining, a trade union presence can enhance the organizational performance.

Furthermore through the process of a co-operative approach, what is often the most desirable but more difficult process in organizational management, namely change management, is therefore achievable through co-operative industrial relations.

An indication of how effective employer – employee relations can thus result in a positive contribution to organizational performance. Further empirical results from the case study indicate that even perceived good employee relations can be advantageous to sustaining commitment and thus organizational performance. "The Union acts as a facilitator and a mechanism to present individuals' rights and views; a monitoring ability by a representative body and also sharing common problems in the work place," (Pontier, 2012, p.3).

The above discussion has provided grounds for positively considering union representation, be this on ideological and good practice grounds, to supportive employee relations assisting organizational performance.

However, how union representation is perceived in practice can be a further indicator if it is of organizational value and its adoption is supportive to good human resource management and its best practice.

The results from the discussions with the focus groups in the Bangkok constituency of the Royal Thai Civil Service provide an interesting supporting insight into the expectations of union representation for civil servants.

Main aspects arising from the discussions with the Civil Servants on unionization (Pontier, 2012):

- Providing opportunity for employees to be given “voice” (A say in shaping decisions)
- Greater transparency
- Greater equity
- A monitoring ability by a representative body and sharing of common problems in the work place
- A greater ability for consultation on workplace issues.
- Ability for representation which currently is done with the assistance of one’s own lawyer
- The monitoring capability of Process, such as careers
- A system based on checks and balances of executive power
- Ability to negotiate higher salaries

The above elements of the empirical findings so far are indicating that the introduction of union representation will be such that there is not only a clear expectation of greater employee involvement, if not participation, but importantly the ability to create a counterbalance to managerial actions and influence managerial decision making.

These empirical findings find resonance in the research carried out by Napathorn and Chaprateen (2011b) which concluded at micro level that the strength of labor union membership resulted, in descending order, from the success in collective bargaining; labor union policies and union member unity, as well as others (Napathorn and Chaprateen, 2011b).

The findings of the focus group indicates the important dimension of power in the employee relationship, articulated by Wilton (2013) as “reflecting the ability of one party – whether management or employees as individuals or a collective group with shared interests-to shape or control the conduct or behavior of the other in a desired manner,” (p.250). The nature of trade unionism, i.e. their status, form and origins shaping their power and independence from management to represent the interests of their members and the approach to union representation, project employee expectations and as a consequence start to require re-consideration of the management approach and management style adopted in the Royal Thai Civil Service to be initiated.

What is further significant is the implication from these findings that management in the civil service has an autocratic and non-consultative tendency with less emphasis on employee relations practices that are more commonly practiced in the western hemisphere. This is further re-enforced by Thailand not having signed the ILO Convention 87, although now recognizing the freedom of association.

Research carried out by Fenton-O’Creevy (1998) puts into further context the possible views held by management who have experienced the historic economic context of trade unionism in Thailand and thus shaping their views from that time to the present day.

The conclusion drawn was that the study supports the view that middle managers may resist employee involvement practices in response to threats to self-interest (managerial job loss and delayering). However, lack of congruence between organizational systems and structures and the goals of employee involvement (EI) and divided or unclear senior management support for EI were also found to be strongly related to middle management resistance (Fenton-O’Creevy, 1998).

Further analysis and discussion on this being a historic value system, if not a cultural indication, is worthy for further research, as it is not the subject of this paper.

Having granted the freedom of association, resulting in the ability to form trade unions, can this new process to the Thai civil service be constructed in a way that is beneficial, but also that the expectations of the civil servants can be met, to make the process effective for both parties in the employment relationship?

3.2. Value of Consultation

The empirical findings indicate not only the significance of the role of consultation, but also the degree of the consultative process, i.e. collective bargaining.

The royal decree indicates that there will be a process of joint consultation and not negotiation with the to be established trade unions, which has created an expectation gap between civil servants and managing civil servants. There is overwhelming agreement that the unions should be given collective bargaining rights, although the decree states that the process will be one of Joint Consultation. This expectation gap needs to be further explored, to consider the value and appropriate approach to consultation and the implication for retaining the gap.

The historical decision to grant the freedom of association and allow civil servants to be able to form and join their trade unions is a new concept for the Royal Thai Civil Service and equally the process of consultation with a representative body. This above mentioned context is a highly significant factor in the analysis and prospective approach to the process of consultation, following the formation of Unions. By the very nature of the initiation into the process of consultation, the OCSC and the Royal Thai Government have started to define their values, which need to be further explored in conjunction with the context and the concept of consultation. But what is this concept of consultation, typically referred to as employee voice? As Gollan and Wilkinson (2007) argue, "employee voice through participative forms can differ in the scope of decisions, the amount of power workers can exercise over management and the organizational level at which the decisions are made. Some forms are purposely designed to give workers a very modest role in decision-making, while others are intended to give the workforce a substantial amount of power in organizational governance," (p.1133). As the above indicates, consultation refers to the process of getting employees' views and the ability for employees' to influence the managerial decision making process.

The model outlined below provides an indication of how the consultation process can shape itself and thus, as argued by Gollan and Wilkinson (2007), there is a transfer of power to employees in this process (see Figure 1).



Figure 1. Continuum of consultation

Source: Blyton and Turnbull (1998, p.224).

There is a clear picture indicated by the continuum how the increasing degree of involvement and ultimately power that employees can receive is dependent upon the extent to which management wishes to involve employees.

As discussed later in this paper, the approach taken by the policy makers of the Royal Thai Civil Service is one of caution, resulting in participation, but clearly retaining managerial control. If considered in the light of the definition provided by Hyman and Mason (cited in Rose, 2004, p.384), "practices and policies which emanate from management and sympathizers of free market commercial activity and which purport to provide employees with the opportunity to influence and where appropriate take part in the decision making on matters which affect them", the proposals in the Royal Decree and as evident from the discussions in the focus groups indicate the approach to be taken by the policy makers of the Royal Thai Civil Service is one of Employee Involvement through the process of joint consultation.

Looking at the empirical evidence of the author's research, there is a clear message as to what the employee voice approach should be and the purpose of the process. "There was unanimous expression that a representative infrastructure was preferable over only allowing for a participative style of management. This allows therefore for all points of view to be heard. Some participants expressed that there is strength in negotiation through a collective voice," (Pontier, 2012, p.2).

Interestingly, the issue of transference of power is not raised, although an inference can be made through the desire to have a collective bargaining approach. Research carried out by Bennett (2010) shows overall findings suggesting a general support for the concept of employee voice and its potential to give employees a “greater say” whilst also having a positive impact on the organization. As Table 1 below indicates, when asked about the efficacy of employee voice both HRM and union representatives supported its positive effect in terms of increasing shared vision in the organization, improving performance and having an influence on strategy.

Table 1. A comparison between HRM and Union representatives' perceptions of employee voice and its efficacy

		<i>n</i>	Mean	SD
Membership of the EU has a positive influence on employee relations in the workplace	HRM	66	3.29*	0.82
	Union	74	3.70*	0.98
Government policy on employee relations has a good balance between the interests of the employer and the employee	HRM	75	2.40*	0.92
	Union	66	3.21*	0.71
Employee voice can build a shared vision the organization amongst all staff	HRM	66	4.21*	0.87
	Union	75	3.84	1.1
Employee voice means consulting with staff on strategic issues	HRM	66	3.65	1.1
	Union	75	3.99	1.14
Employee voice has a positive impact on organizational performance	HRM	65	4.31	0.66
	Union	75	4.23	0.89
How familiar are you with the ICE Regulations?	HRM	66	2.95*	1.33
	Union	74	2.32*	1.35
To what degree do you see the Regulations as a positive initiative?	HRM	59	3.45*	0.56
	Union	67	3.15*	0.78

Notes: * *T* values statistically significant at $p < 0.05$ level.

Source: Bennett (2010, p.449).

The above research findings are useful as they indicate that not only is the infrastructure allowing employee voice of value but the process itself is recognized by both parties to the process to add value to employee relations and to the organization itself.

This is further supported by the empirical research the author carried out, as indicated by the some findings below:

- Value of employee voice over structure. There was unanimous expression that a representative infrastructure was preferable over only allowing for a participative style of management. This allows therefore for all points of view to be heard. Some participants expressed that there is strength in negotiation through a collective voice.
- The Union acts as a facilitator and a mechanism to present individuals' rights and views.

It is thus evident, that the concept of consultation has its value to both the employee relationship and the organization itself. But should the process be only based on collective bargaining, in order to make it work, or is the process of joint consultation an equally successful process to achieve the aim of good employee relations and organizational performance.

3.3. Collective Bargaining

Under the Labor Act of 1956, collective bargaining was formally recognized in Thailand, although 1958 legislation was introduced to abolish collective bargaining and the so-called “dark ages of Thai labor” from 1958 until 1972 were introduced (Galenson, 1992). Strikes were made illegal and unions were banned under the claim that they were “obstacles to economic development” and “gateways for communism to enter Thailand” (Wehmhorner, 1983; Mabry and Srisermbhok, 1985).

During the mid-1970's there was a burst of worker activism but this activism could not withstand the state balkanization policy through the Labor Protection and Labor Relations

Ordinance of 1972, which limited the formation and legislation of trade unions to a single establishment or province. This policy was deliberately designed to encourage only the development of weak and small labor organizations (Doelman, 1993).

Under the new legislation enacted in April 1991, unions in state enterprises which were the centre of organized labor and the trade union movement and included more than half of its unionized workers, had to be reorganized along strict enterprise lines. Furthermore, unions were banned, and more circumscribed employee associations were allowed instead. This three-year ban, spanning the 1991–1993 period, on state enterprise unions substantially weakened the labor movement. The new associations were stripped of the rights to strike and to bargain collectively. Furthermore, they were prevented from belonging to national labor federations (Manusphaibool, 1993). Enterprise unions account for 90 percent of all labor unions in Thailand since 2005. There are only a few industrial unions in the metal and textile industries¹ with key findings from research carried out by Napathorn and Chanprateep (2011a) into the strength of labor unions in companies and state enterprises demonstrating that 13 factors tend to affect the strength of labor unions in companies and state enterprises in Thailand. Represented in descending order of influence, the national-level factors include labor union association; mass media; cultural factors; labor relations law; economic, political, and population changes; and the role of government. The firm-level factors in descending order of importance are: success in collective bargaining; labor union policies; union member unity; employer policies; financial status of labor union; union president and board committees and the relationship between labor union and employer.

It is clearly evident from the above that successive governments' approaches to industrial relations is non-union and where it is allowed it is retained in the weakest possible form, namely through enterprise unions and banning collective bargaining.

In addition, from several interviews conducted during the research by Napathorn and Chanprateep (2011a) with several labor union leaders in Thailand, they agreed that one of the biggest problems regarding the labor movement in Thailand is the lack of unity among labor unions and labor organizations in Thailand. Put simply, labor organizations in Thailand are fragmented. They have been established in order to serve the personal interests of labor union leaders, not the general interests of workers.

It is thus an explanation as to why the draft decree has opted for joint consultation as opposed to collective bargaining, but also reflects an important ideological approach to industrial relations by both the OCSC and the previous Government.

This further focuses on the discourse between those expressions made by the focus group members and how the OCSC and subsequent government could wish to have the legislation formulated.

But are there grounds for banning collective bargaining and thus per se opting for joint consultation as a process for industrial relations? It has already been indicated above that collaborative relationships with trade unions can lead to enhanced management of the organization management, particularly in the area of change.

But does collective bargaining have a harmful impact on organizations? Before developing this analysis further, it is beneficial to identify what is meant by collective bargaining. A useful and all embracing definition is provided by Rose (2004), namely "collective bargaining is the process whereby representatives of employers and employees jointly determine and regulate decisions pertaining to both substantive and procedural matters within the employment relationship; the outcome of this process is the collective agreement," (Rose, 2004, p.306).

Collective bargaining therefore deals with the issue of power in the relationship as well the important aspect of influencing managerial decision making in organizational management, resulting in a joint agreement. Not only does this translate itself in to a democratic approach, it also of course challenges the prerogative of the right to manage.

Collective bargaining suits any union structure and recognition by employers and the state for the purpose of bargaining stabilizes and legitimizes existing union structures (Clegg, 1976). Therefore, the claim of the union to represent its members no longer rests on its own

¹ See Thai Department of Labor Protection and Social Welfare (2005).

strength alone under collective bargaining. Rather, the underlying position of the union becomes essentially defensive. Collective bargaining thus bring with it intensified tension, conflicts, and struggles among the tripartite actors to institutionalize a union structure that will maximize its own benefits. This is why the locus of power – politics – among the actors at the onset of the collective bargaining era is critical in determining the dominance of a certain type of union structure in the following decades and why we propose a socio-political framework to explain it (Jeong and Lawler, 2006).

The inherent tension and need to determine the type of union structure as mentioned above is a key aspect, as the feedback received and analysis made of the responses of the focus groups, clearly indicate not only the desire for collective bargaining but in equivalence expectation that collective bargaining will be an integral part of union representation.

This is a significant area as this is the central platform of the difference between the policy makers and those actors needing to function and operate within a unionized environment. The draft decree, by having defined the locus of power and union structure based on joint consultation, is thus potentially avoiding the intensification of tension between actors, if not internal conflict, as the dominance of the union structure is predetermined due to the maintenance of managerial control.

By adopting the joint consultative process the principal actors, management, remain in control having thus limited disturbance to their position power, as will be further developed below and although needing to function within a now defined representative environment, not needing to make substantive change to their managerial skills and authority.

3.4. Joint Consultation

Recognizing that joint consultation has the advantage of not only having to establish the locus of power or wishing to have the locus determined and remaining within the managerial domain, what can be gained from introducing a joint consultative approach in the Royal Thai Civil Service?

The determination of the locus of power can be more clearly analyzed by looking at the nature of joint consultation. But with the issue of power, it is inevitable that power differentials will exist in an organization due to the nature of its stakeholders. These struggles may not be dissipated through the process of the Joint Consultative Committee. Marchington (1994) argues that in firms with a strong union membership the inequality of power may be focused towards the benefit of employees. However firms where there is no union power can rise more greatly towards management (Kaufman and Taras, 2000).

Rose (2004) makes interesting distinctions within the concept of joint consultation by identifying not only the purpose for the consultative process, but also the level of engagement in the decision making process. Rose (2004) further signifies that there are four Models that identify the purpose of joint consultation, namely the non-union model, preventing workplace union organization; the competitive model which is seeking to reduce the influence of collective bargaining; adjunct model which is involved in joint problem solving concerning high-level, strategic information and the marginal model which is very low key considering trivial matters.

Survey results reported by Palmer and McGraw (1995) indicate that, whilst Joint Consultative Committees (JCCs) in companies pursuing enterprise bargaining deal with core business and operational issues more often than non-enterprise based companies, their overall decision making power does not appear to be significantly greater. These findings are indicating a pertinent point relating to Thailand, where previous discussions have clearly shown that the national shaping of industrial relations is strongly focused towards enterprise representation. Also the power issue recognizes the view that the nature of joint consultation in even enterprise bargaining units as a decision making ability remains relatively weak.

The shape of the joint consultative process in the Royal Thai Civil Service has not yet been formalized and cannot be part of this paper.

4. Conclusions

Following the research on the intending approach to union representation, two strands of approach have emerged, commonly recognizing the need and value for union representation, but opposing views about giving recognition to bargaining rights as opposed to the process of joint consultation which is incorporated in the Royal Decree. The first strand relates to the reason and benefits for granting union representation and the second to the process that will follow as part of managing the presence of union representation.

The empirical research from the focus groups clearly indicates that the civil servants themselves are keen participants in the move to forming unions and the OCSC and government committed to allowing the formation of unions by the various categories of civil servants.

Despite not having signed the three ILO conventions there is the recognition and institutionalization due to the change to the Constitution that the freedom of association becomes an accepted principle within the Royal Thai Civil service, granted as a constitutional right by the Constitution under Article 64.

The empirical evidence derived from the focus groups indicates that union representation is a desired feature to be introduced, with the process to be based on collective bargaining. Consideration needs to be given to the added value of granting the freedom of association to an organization, its employees and management.

The analysis indicates that the freedom of association does have a positive contribution to make on ideological grounds although recognizing that there are cost implications due to possible wage claims and power re-distribution in the managerial/employee relationship. The effectiveness of the democratization needs also to be considered in the context of the social structure of high power distance, recognizing the social norm of stratification and behavior to elders and senior members of staff.

Despite the indications of possible dangers to the country's strategy on talent management and employee relations within the civil service, a challenging approach by union representation and collective bargaining can be advantageous. However, currently there is an expectation gap between the policy makers and civil servants regarding the approach to consultation, expressed in terms of policy makers desire to introduce joint consultation and the civil servants desire to have collective bargaining.

Collective bargaining was recognized in 1956 in Thailand, although abolished in 1958 and successive governments maintaining a non-union policy.

The analysis has shown that consultation is of value to both employee relations and the organization itself, but Thai administration has even where consultation is recognized, kept it in its weakest form. This is in part the result of the weakness of the trade union movement itself, due to its fragmentation and self-interest of its leaders.

Collective bargaining as a process challenges the right to manage and this is so far not the approach the policy makers wish to adopt and thus have concluded the draft royal decree with a joint consultative process. As indicated by Rose (2004), there are five models of joint consultation, allowing for simplistic to more sophisticated involvement and thus within this process it can still be possible to go some way to meeting the civil servants' expectations.

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