

Stopping anti-union discrimination in Thailand

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Thailand has one of the lowest unionisation rates in South East Asia. In 2017, the International Labour Organisation (ILO) estimated that only two per cent of Thai workers were members of trade unions.

There are three key factors contributing to the low unionisation rate in Thailand : Anti-union discrimination supported by the state, fragmentation of Thai enterprises, and a paternalistic regime.

Firstly, Thai workers face strong anti-union discrimination from employers during the organising process and whenever there exist industrial conflicts. The Thai judiciary and the executive facilitates such discrimination in law and practice.

Section 121(3) of the Thai Labour Relations Act 1975 (LRA) stipulates that an employer “shall not prevent an employee from becoming a member of a labour union...”. Yet the Thai civil court interprets that an employee can only enjoy these protections after officially registering with a labour union.

Moreover, the Thai labour authority requires workers to submit their demands to employers as a prerequisite of enjoying protection against unfair dismissal. This is indeed a double whammy of judicial and administrative obstacles for workers.

In addition, LRA covers only private sector workers. The Thai government enacted State Enterprise Labour Relations Act 2000 (SELRA) to govern civil servants and state enterprise workers, who are prohibited from organising any strike action. The segregation of public and private sectors workers undermines the unity of the labour movement.

In 2015, [IndustriALL Global Union](#) submitted 18 union-busting cases to the ILO on behalf of its Thailand affiliates in the private sector. These complaints revealed a repetitive pattern: when Thai workers attempted to register labour unions, companies quickly dismissed the union leaders and active union members. Labour inspectors from the ministry regularly advised workers to take compensation and leave the companies.

In a few cases, the police were brought in to intimidate workers. The company employed judicial harassment tactics, taking the unions from the first court to the supreme court for various reasons such as “defaming the company,” to exhaust the union’s resources and energy.

Even if union leaders successfully register a union, employers can use reasons of restructuring or downsizing businesses to lay off the leaders. When the labour court orders the reinstatement of union leaders, employers and labour authorities refused to act.

As a consequence, Thai workers fear to form or join labour unions due to the real threat of losing employment and income.

After examining the complaints, ILO Freedom of Association Committee concluded that the acts of anti-union discrimination violated the principle of freedom of association. ILO called on the Thai government to forbid and penalise union busting, to accelerate the amendments of the LRA and SELRA to ensure its compliance with the principle of freedom of association and collective bargaining.

Responding to the ILO recommendations, the [Ministry of Labour](#) said on 7 February 2020 that it was drafting amendments to LRA and SELRA in accordance with ILO's recommendations. The Thai government was preparing to ratify ILO Convention 87 on Freedom of Association and Convention 98 on Collective Bargaining.

This statement from the Thai government is a good step towards better labour relations and workers' rights.

The second factor that hinder workers' from organising is the fragmentation of the world of work in Thailand. According to a study of [Friedrich Ebert Stiftung](#), 70 per cent of enterprises in Thailand employed less than 10 workers.

Section 89 of the LRA requires at least ten workers to establish an enterprise union, which means the labour law, without considering the characteristics of enterprises in the country, literally prohibits 70 per cent of workers from organising into labour unions.

Moreover, given that approximately 54 percent of the total workforce are [informal workers](#) in food, accommodation, retail, transportation, communication and construction sectors, these self-employed workers are automatically excluded from labour unions.

The third factor causing low union density is a paternalistic regime that decisively shaped trade unionism in Thailand. On the one hand, the regime represses and controls the growth of the labour movement, on the other hand provides a variety of protections and security for ordinary workers.

According to [Wehmhörner](#), soon after the post-World War II the Phibun Songkram regime banned the pro-communist Central Union of Thailand (CUT) and promoted the pro-government Thai National Trade Union Congress (TNTUC). Subsequently, after Sarit Thannarat seized power through a coup d'état in 1956, his government abolished the Labour Act and made all labour unions illegal. The military regime instated after the 1976 coup banned workers' strike actions.

During the Cold War period, the military regime demonised labour union leaders as communists and radicals, making traditional Thai society turn its back on the labour unions. As a consequence of these repeated disruptions to democratic rule, grass-roots organising has been severely stifled, and the development of a strong labour movement in Thailand has been suppressed.

Conversely, Thai labour laws provide various protection for workers. For instance, if a company suspends its business, the company is required to give 75 percent of wages to its workers. The Thai Department of Labour Protection and Welfare's tripartite Labour Welfare Committee is empowered to require companies to give a special severance pay or provide any kind of welfare to workers. It also set up an employee welfare fund to provide monetary payments to workers dismissed by companies or in case of death.

Broadly speaking, the labour movement in Thailand faces two anti-union forces, from the owners of capital and from the state. The labour movement should make more efforts to build wider alliances with social partners, to push for democratisation and sustainable civilian rule.

It is vital for the labour movement to demand all political leaders to include demilitarisation in their

democratic programming. Labour unions can also easily find potential allies in the [student movement](#), as Thai students are actively fighting against paternalistic and hierarchical culture in the education system.

It is reported that unorganised young activists from the [Hong Kong pro-democracy movement](#) have started to organise into labour unions as a new platform to fight for greater democratic space and universal general elections within the special administrative region of China. Thai unionists should take a hint from this.

In fact, putting an end to the anti-union discrimination will benefit economic development in Thailand, as more foreign countries and investors demand host countries adhere to international labour standards.

For example, in 2019, the United States Trade Representative suspended the [Generalized System of Preferences \(GSP\)](#) that gave Thailand a variety of trade privileges. It affected 573 export products and was expected to cause loss of US \$1.3 billion annually.

The suspension of the trade privileges was a result of a petition from the American Federation of Labor and Congress of Industrial Organisation (AFL-CIO) for violation of workers' freedom of association and expression and right to strike in Thailand. AFL-CIO also criticised the Thai government for failing to accept Thai unions' demand for ratification of ILO Convention 87 and 98.

By ratifying the two ILO conventions that protect the workers' right to organise, and bringing the national labour laws into conformity with the conventions, there is still an opportunity for the Thai government to reverse the decision to suspend the GSP. Export industry players, including workers in the industry, will benefit from an immediate corrective action.

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