

Legal measures to protect workers from incidents political unrest in Thailand

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1.1 Background and significance of the problem

The principles of right and freedom of the current Constitution prescribe the right to political assembly and collective bargaining on the basis of mutual reciprocity, free from violence and the use of weapons. Including foreign countries, they also adhere to basic human rights principles in the Universal Declaration of Human Rights as well. From the problems of political unrest in Thailand in the past and present, which have been affected to many problems, be it economic, social, and political problems. Politics due to pluralistic political opinions causing problems of unfair dismissal of employees from employers or entrepreneurs Just for expressing controversial political opinions, bullying behavioral expression bullying But there are many businesses where employers or business owners make false claims about economic problems. to bully employees Many employers tend to take advantage of economic problems to lay off workers. Inhumane mass layoffs to reduce production costs or to relocate production bases to other areas without paying compensation Just because they are on different sides politically Or in some cases, the employer announces the suspension of business temporarily citing political or economic problems. Moreover, at present, the government does not have clear measures to protect the rights of employees in politics. Until creating a legal gap for employers to take advantage of and take advantage of the political unrest

1.2 Study Objectives

1.2.1 To study the concept, background, meaning, pattern and important principles related to employment.

1.2.2 To study the problems of law enforcement regarding employment in the event of political unrest in Thailand under the Labor Protection Act. Labor Relations Act, Social Security Act and the Act on Establishment of Labor Court and Labor Case Procedure.

1.2.3 To study and analyze the law on employment protection in the event of political unrest in Thailand and abroad. Comparison with Thai law.

1.2.4 To study and find appropriate legal guidelines and measures for employment and labor protection in the event of political unrest in Thailand in order to amend or add Thai labor laws to be more suitable.

1.3 Scope of study

Study the problem of law enforcement related to employment in the event of political unrest in Thailand under the Labor Protection Act. Labor Relations Act Social Security Act and the Act on Establishment of Labor Court and Labor Case Procedure The study was compared with the labor law provisions related to employment protection in the event of political unrest in Thailand according to the International Labor Organization Convention. and laws of various countries such as England, France, Germany, etc.

1.4 Study method

This study used documentary research as the main method. The research was collected from documents, publications Both Thai and foreign languages It consists of journal articles, research papers, theses, legal texts, seminar documents, legal codes, and various academic articles. judgment of the Supreme Court Including information published on the Internet, etc.

1.5 Analysis of foreign legal measures and Thai legal measures

from the study of legal measures of different countries Related to the protection of employees from being terminated due to political unrest, the essence of providing employment protection, especially the termination of employment in many cases together. by considering the following

1. Application for dismissal from government officials. It is a legal measure applicable to employers who wish to terminate an employee for any reason. must submit or propose a matter or request for approval or permission for government officials which may be at the local level board level or ministry level had an opportunity to screen the employer's dismissal once more before the employer terminated the employment, according to the Labor Protection Act, BE 2541, Section 121 of Thailand. Has specified the reasons for dismissal of employees that the employer must notify the labor inspector, who is a government official, but only for the improvement of the agency Production, distribution or service process due to the use of machinery or changes to machinery or technology only According to foreign laws, as mentioned above, the reason for termination of employment covers the termination of employment in all cases, where the employer must always notify the relevant government officials of the reason for termination of employment. which is a wider scope of enforcement than Thai law.

2. An employee's strike to find a new job. According to German law Employees have been given the right to take time off to seek a new job. and continues to receive wages during that period as before By giving the employee the right to stop work to find a new job can be done as appropriate or as appropriate or as necessary For Thailand, there is no law to support the rights of such employees. There are only other leave rights as specified by law.

3. Determination of the right of employees to return to work first. The legal right requires employees to notify the employer within a specified period of time after termination of employment in case of overwork, but if he wishes to return to work if there is a job vacancy again. according to French law or the rights of employees who have been terminated To return to work before other people If the employer wishes to hire more employees later when there is a new position or new job or when the employee can return to work in the same position again As for Thailand, there is no law supporting the rights mentioned above for employees. When the employer has terminated the employment of the employee by law, the relationship between the employer and the employee shall be terminated. The rights and obligations of each party towards each other are inevitably terminated.

4. Helping laid-off employees to find suitable new jobs. pursuant to ILO Convention No. 158 and ILO Recommendation No. 166 on Employer-Initiated Termination of Termination for Political and Economic Reasons. technological changes and other similar reasons. or under an epidemic that affects entrepreneurs It requires employers to consult with relevant employee representatives. to discuss the change Suitability for possible effects As for the law of Thailand, there is no law to support such methods. There is only the issuance of a work certificate or through the employee's work according to the Civil and Commercial Code, Section 585 only.

5. Employees taking time off to find a new job. According to ILO Recommendation No. 119 on the Termination of Employment by Employers, the General Use Standards section stipulates that: "During

the termination notice to the employee in advance An employee shall have the right to take time off from work without loss of wages. In order to find a new job "and in the law of many countries, there are provisions in such matters as well, for example, according to the Civil Code Article 629 of Germany, giving employees the right to take time off to find a new job as appropriate. etc.

According to the law of Thailand, there is no law to support this method. The strike of the employee whether it is a stop or leave for any reason. The law assumes the right or power of the employer to allow an employee or not. except leave due to sickness or justifiable cause.

6. Employee termination protection by severance pay. Most of the laws of foreign countries will stipulate that If the employer terminates the employment of the employee The employer must always pay compensation to the employee at the rate specified by law. which will be based on the length of work of the employee and the wage rate that the employee received prior to termination of employment as criteria for determining whether How much severance pay should that employee receive? which is consistent and similar to the determination of compensation for termination of employment in the normal course of law in Thailand If there is a difference in the details of the length of work to be determined as the compensation rate for the employee which will be in accordance with the condition or status of the economy, society and politics as appropriate for each country only.

1.6 Conclusions and recommendations

from the study of legal measures of different countries Related to employment protection, it is important to provide employment protection, especially the termination of employment in many cases together. which each country has its own method The same and different procedures and criteria are as follows:

1. Set criteria for applying for permission to terminate employment from government officials. by stipulating that it is clear, fair, transparent and appropriate to the problem of violence related to the political situation as a criterion that In a situation where the employer faces problems related to the political situation that causes the employee to leave the job because it is related to economic problems or the liquidity of the business or as a cause for conflicting opinions in politics Do not allow employees to exercise their political rights. or dishonest wages for the work of employees who may not pay wages or paying labor costs that are not in accordance with the law Which the aforementioned cause is a consequence and related to the problems arising from the political situation in Thailand

2. Set rules for taking leave of absence for employees to find a new job. Employees can exercise their right to take time off to seek a new job. and continues to be paid during that period

3. Determination of the right of employees to return to work first. Require employees to notify the employer within a specified period after termination of employment in the case of overworked people that they wish to return to work if there is another vacancy.

4. Helping laid-off employees to find suitable new jobs. if the employer takes the initiative in respect of dismissal for similar political reasons It requires employers to consult with relevant employee representatives. to discuss the change effects that may occur Including measures to eliminate or mitigate the impact that may occur.

5. Employees taking time off to find a new job. In the case of termination of employment by the employer as the termination of employment, the standard for general use has stipulated that "During the termination notice to the employee in advance An employee shall have the right to take time off from work without loss of wages. in order to find a new job."

6. Employment protection under the Civil and Commercial Code. improve Civil and Commercial Code Add the following to the last paragraph of Section 582 of the Civil and Commercial Code: If the employee is still working with the employer without leaving the job immediately Employers must allow employees to have the right to take time off to find a new job as appropriate. and to receive wages during such work stoppages as well.”

7. Employment-based protection The Labor Protection Act B.E. 2540. agreed to amend the following matters:

(1) Amendment Section 121, paragraph one, on permission to terminate employment with state officials. Section 121, paragraph one, as follows: Section 17 paragraph two shall not apply. and the employer to notify the date of termination of employment Reasons for dismissal and list of employees to the Labor Inspector and employees to be terminated not less than sixty days prior to the termination of employment. In this regard, the labor inspector shall have the power to consider the reasons for such dismissal in order to mediate or compromise. If unsuccessful, the opinions shall be submitted to the Director-General for an order granting or not granting the termination of employment further. But this does not deprive the relevant person of the right to appeal such order to the Minister for a final decision.”

(2) prescribing measures for screening or examining reasons for termination of employment prior to termination of employment. in section 118 paragraph one as follows: “An employer shall not dismiss an employee. Unless there is a reasonable cause due to the behavior or ability of the employee. or the necessity for the operation of the business, business or place of business of the employer Including other important causes that prevent the employer and the employee from being able to maintain the relationship or continue to work according to the labor contract ”and amending Section 146 as follows: "Any employer who fails to comply with ... Section 118 paragraph one ... must liable to a fine not exceeding twenty thousand baht.” This is to limit or reduce the employer's discretion in terminating employees. Which, if the termination of employment does not make sense to dismiss the employee, then the employer cannot terminate the employment of the employee.

8. Employment-based protection Labor Relations Act B.E. 2518 on Unfair Termination of Employment. It is imperative for employers and employees to use a reciprocal principle in negotiations between employer and employee representatives in the event of a dilemma. The employer must show the facts to all parties if they want to receive assistance in order to prevent the employer's business from being closed. The employer must disclose information showing transparency in business operations. clarify the problems that arise and try to do everything possible to fix the economic way to be able to pass

9. The government should accelerate the issuance of a Royal Decree on unemployment compensation under the Social Security Act, 1990 to be effective for employees in case of losing their jobs due to economic crisis problems and to bring money from the Social Security Fund. To replace the insured employees according to the objectives of the law and to help the state save budget that will be used to help employees who face political problems.

10. Other measures to solve political employment problems Solving. the problem in order to prevent employers from having to close the business requires a different approach from the past, where the introduction of the law as it is currently in operation is not enough to overcome the economic scourge that is currently plaguing Thailand. can be down at present by relying on various measures Along with the use of legal measures as follows

(1) the use of tax measures. As for exports and imports to be sold within the country, tax relief should be granted to prevent unemployment problems because it is a burden for entrepreneurs.

(2) the use of financial measures. The government should come in to remedy liquidity in order to have working capital in the business cycle of entrepreneurs to pay for expenses, materials and labor costs. Providing long repayment periods to those who are facing liquidity shortages and state guarantees

(3) Use of marketing measures. By using measures, for example, there is a policy to encourage people in the country to use the products that those entrepreneurs produce.

(4) Measures on oil in the world market. Governments must come to their aid through direct contact with oil-producing countries. By bringing products produced in the country that are promoted according to government projects, whether industrial or agricultural sectors to exchange with oil from countries that are oil manufacturers, direct solutions

(5) Labor relations management. Labor relations management It is part of the human resource management system. It plays a large role in policy implementation. Or formulate a strategy for reducing the size of human resource management. Because the goal of labor relations management is to create a good understanding between employers and employees or between employees together. to prevent and resolve conflicts Incomprehensible or unacceptable attitude must pay attention to understanding building acceptance of **cooperation**

(6) take measures to delay termination of employment. The state should set measures to delay the termination of employees by issuing laws in the form of ministerial regulations.

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