

Improving Workers' Rights for Garbage Collectors through Social Force การส่งเสริมสิทธิแรงงานของพนักงานเก็บขยะด้วยพลังสังคม

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Abstract

Thailand has, in recent years, shown vigorous efforts to improve its labor standards and workers' rights in order to meet international benchmarks. Despite a series of action plans, meeting the goals are deemed a challenging task, especially in terms of implementation as these plans primarily count on the roles of government and private sectors in addressing the issue while underemphasizing the involvement of the civic component in the improvement of workers' rights and labor standards. This article aims at pointing out how a simple civic role can take part in humanizing garbage collectors' working conditions, which in turn can foster certain workers' rights, namely the right to work in a safe and secure environment, if such a role is properly shaped and sufficiently promoted to cultivate a public mindset charged with the responsibility to promote human dignity for all.

Keywords: labor standard, workers' rights, social force, civic role

บทคัดย่อ

ในช่วงไม่กี่ปีที่ผ่านมา ไทยได้แสดงความพยายามอย่างยิ่งยวดในการปรับปรุงมาตรฐานแรงงานและสิทธิแรงงานเพื่อให้มีความทัดเทียมกับมาตรฐานสากล แม้จะมีการวางแผนในระดับนโยบายที่หลากหลาย การบรรลุวัตถุประสงค์ดังกล่าว

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ยังคงเป็นปัญหาที่ทำนายในปัจจุบัน โดยเฉพาะในระดับปฏิบัติการ เนื่องด้วยแผนของภาครัฐล้าหลังเน้นบทบาทขององค์กรภาครัฐและเอกชนในการแก้ไขปัญหา โดยมีได้ให้ความสำคัญต่อการมีส่วนร่วมของภาคประชาชนและชุมชนอย่างเพียงพอเพื่อให้มีส่วนร่วมในการส่งเสริมมาตรฐานและสิทธิแรงงาน บทความวิชาการเรื่องนี้จึงมีวัตถุประสงค์ที่จะชี้ให้เห็นถึงบทบาทเบื้องต้นของประชาชนในการส่งเสริมสภาพการทำงานของพนักงานเก็บขยะให้มีความเป็นมนุษยธรรม ซึ่งสามารถมีส่วนช่วยส่งเสริมสิทธิแรงงาน กล่าวคือสิทธิที่จะทำงานในสภาพแวดล้อมที่ปลอดภัย หากบทบาทดังกล่าวของประชาชนได้ถูกสร้างอย่างเหมาะสมและได้รับการสนับสนุนอย่างเพียงพอ อันเป็นการสร้างจิตสำนึก ความรับผิดชอบในการส่งเสริมศักดิ์ศรีความเป็นมนุษย์

I. Introduction

Labor standards have been known as a key concept that aims at protecting basic workers' rights and welfares, which are arguably grounded upon certain fundamental human rights whose principles provide that all human beings are entitled to equality in *dignity and rights*".² Above all, these rights include the right to life, liberty and security of a person, which can be translated into the right to work in a safe, secure environment, the right to good health and well-being. Unfortunately, for a certain type of job, these kinds of rights may be more challenging to uphold due to the fact that the nature of the work itself is directly detrimental to a human health both physically and mentally. For these workers, their lives will always be trapped in an undesirable environment, especially when the government faces

² The Universal Declaration of Human Rights, art. 1, GA res. 217A (III), UN Doc A/810 at 71 (1948), available at <http://www.un.org/en/documents/udhr/>

limited budget, which leaves out the possibility of replacing human workers with machines to reduce human exposure to a degrading environment. A garbage collector is ranked first on such a list.

Research has shown major occupational hazards of a garbage collector which range from physical injury from the exposure to sharp objects such as razor blades, broken glasses or light bulbs, to illness and disease resulting from the exposure to bacteria, viruses and chemicals. This type of working condition also has mental and emotional impacts upon the workers.³ The study then concluded that the roles of the government and public sector (local authorities) are crucial to the improvement of the garbage collector's working conditions, especially through educating workers and providing them with proper occupational gear to reduce work related injury and sickness.⁴

The results of the aforementioned study may not be too surprising to most of us since we all know the definition of “trash” as unwanted, disposable items that come with all kinds of workers' health risks, but that does not in any way justify why we should not care about how we dispose of them. Despite the significance of the government's role in the improvement of the workers' rights asserted by the study, this article seeks to point out that the social component, namely the role of the community, is as equally important in alleviating undesirable working conditions for garbage collectors in the recognition of their rights to a safe and secure working environment as well as their rights

³ Silasakun, Siriporn (B.E. 2554). *Health Condition of Garbage Collector : A Case Study of Nakorn Pathom Province*, Unpublished Master Thesis, Silpakorn University, 17-18.

⁴ *Id.* at 45.

to good health and well-being.⁵ In order for a community action to take place, social force must be formed through fostering an individual's civic value. This type of public awareness is important in the sense that it encourages people to assert personal responsibility based on their understanding of equal dignity that lies in every human being.

II. Upholding Legal Standards: An inadequacy of Domestic Efforts

For a long period of time, Thailand's labor standards have been subject to criticisms due to falling behind international standards. Despite being a Member State to the International Labor Organization (ILO), there are over a hundred technical conventions that Thailand is not a party to, some of which include safety and health related conventions and protocols.⁶ To date, there are close to three hundred conventions promulgated under the ILO, which cover a wide range of

⁵ This article does not suggest the absence of injuries and illness in the recycling industry, of which issues should be addressed separately through the requirement of safety standard measures. Its main argument is rather to point out the potential role of the public in reducing injuries and illness of garbage collectors through voluntary actions.

⁶ The Conventions that have been ratified by Thailand include Force Labor Convention (1930), Equal Remuneration (1951), Abolition of Forced Labor Convention (1957), Minimum Age Convention (1973), Worst Forms of Child Labor Convention (1999), Employment Policy Convention (1964), Weekly Rest (Industry) Convention (1921), Equality of Treatment (Accident Compensation) Convention (1925), Final Articles Revision Convention (1965), Employment Service Convention (1948), Abolition of Penal Sanctions (Indigenous workers) Convention (1955), Final Articles Revision (1961), Maximum Weight Convention (1967), Vocational Rehabilitation and Employment (Disabled Persons) (1983), See, <http://www.ilo.org/dyn/normlex/en/f?p=1000:12001:0::NO::>

labor issues such as freedom from forced labor, freedom of association, social security or labor standards, while Thailand is capable of joining only fourteen conventions. There are a number of factors, such as the influx of migrant workers, inadequacy of domestic legislations and law enforcement that contribute to the country's limited capacity in compliance with a more comprehensive international benchmark.

The challenges noted above by no means suggest that Thailand has been indifferent or paid little attention to the issue. Efforts undertaken by the government to improve the labor standard of workers range from voluntary practice to mandatory measures reflecting in the campaign promotion for corporate social responsibility (CSR) for private sectors which itemize human rights and labor treatment as some of the main issues⁷, the series of amendment of Labor Act B.E. 2541, the enactment of a specific legislation on health, environment and safety standards for workers⁸, as well as the undertaking of serious action in their enforcement.⁹

⁷ The Ministry of Industry (TMB Technical Management Board) has provided guidance on social responsibility in accordance with ISO 26000 which promotes and prepares private sectors to conduct their business based on such principle. Ministry Announcement on Industrial Products Standard Pursuant to Corporate Social Responsibility (B.E. 2553), available at <http://www.ratchakitcha.soc.go.th/DATA/PDF/2554/E/018/1.PDF>

⁸ Labor Act B.E. 2541, art. 5, 9-11, 14/1, 16-18, 23, 38-39, 50-51, 65, 67, 75, 79, 82, 84, 87-89, 90-91, 93-94, 115/1, 119-120, 124-125, 135, 141, 144, 150-151, 155 (amended B.E. 2551) (thail.), Labor Act B.E. 2541, art. 100-107, 144, 146, 148, 151, 154-155 (amended B.E. 2553) (thail.) Occupational Safety, Health and Environment Act B.E. 2554 (thail.)

⁹ See Thailand's Progress Report on Anti-human Trafficking Efforts, available at <http://www.mfa.go.th/main/contents/files/media-center-20150430-161606-980768.pdf>

Relying solely on the efforts of public and private sectors in the hope of improving labor standards seems to be a conventional approach, but has proven inadequate. While public sectors will usually encounter the issues of budget, ineffective administration and law enforcement, counting on private sectors requires a leap of faith due to the absence of relevant domestic legislations. What we often overlook when dealing with the issue of social justice is the role of “civic sector” that is even more powerful than any other sectors in bringing about change if properly guided and empowered.

The relationships among the terms, working conditions, workers’ rights and human rights are intertwined underneath the concept of labor standards, but are closely linked within the framework of national and international legal instruments. The former Constitution of Thailand (B.E. 2550) provided the duties owed to the state in the protection of human dignity, rights, liberty, and equality of the people,¹⁰ while touching upon labor standards relating to the issue of working conditions was specifically affirmed by Article 44 with “the right to receive the guarantee of personal safety and security at his or her work”¹¹ Along this line, in the assurance of workers’ right to a safe and secure environment as part of a fundamental human right, a specific legislation concerning occupational health, safety and environment (B.E. 2554) (“Work Condition legislation”) was enacted in connection with the Labor Act (B.E. 2541), which had previously repealed a section on worker’s health and safety in an attempt to replace with more comprehensive rules and regulations, like the Work Condition legislation. The legislation

¹⁰ CONST. (2007), art. 4 (thail.) (repealed 2014).

¹¹ CONST. (2007), art. 44 (thail.) (repealed 2014).

provides a broad meaning of “safety, health and environment in the workplace” to encompass an act or a working condition that is free of threats to physical, mental injuries or personal health due to occupations.¹² Overall, the Work Condition legislation provides a laundry list of employers’ duties and responsibilities in ensuring a safe environment for their employees such as providing proper training, capacity building and occupational gear, conducting occupational risk assessments and filing reports. In terms of duties imposed on the public sector, policy framework concerning occupational health and safety standards are administrated through a specialized committee and institute. Nevertheless, it must be noted that a labor treatment standard guaranteed by these legislations only apply to *private sector’s employees*, while government employees are governed by a ministerial regulation which requires basic conditions in a workplace such as clean water, health care facilities on site as far as the issue of worker’s health and safety are concerned.¹³ These domestic efforts have been made pursuant to the principal objectives of the ILO, one of which is to ensure the right of every person to just and favorable conditions of work, specifically speaking, the protection of the worker against sickness, disease and injury arising out of his employment.

III. Shaping Social Force as a Supplemental Means

While legislation is silent about civic duty to partake in the improvement of working environment, and it is, in fact, a little odd to impose such responsibility as the law is intended to govern the

¹² Occupational Safety, Health and Environment Act (B.E. 2554), art. 4 (thail.)

¹³ Ministerial Regulation on Public Welfare in Workplace (B.E. 2548) (thail.)

relationship between employers and employees, it does not mean that the role of the community should not be expected. As a matter of fact, creating social force as a supplemental means to help improve the basic conditions of workers' environment can be effective for different reasons. To a certain extent, the approach can help bridge a policy gap concerning public and private employees which are currently subject to different laws in terms of occupational health and safety standards in the long run, since it is the society that sets up the benchmark, and not the law. Furthermore, when personal discipline in the recognition of social responsibility and in the respect of others' rights and dignity is shaped, and enforced through a positive culture as opposed to a legal instrument, its effects last longer, and thrive through time.

The term "social force" can be understood as a phenomenon in which a consensus of a sufficient number of the members of society is derived to bring about social change or social action. If social force is measured by what it is capable of doing, it can then be defined as activity on the part of individuals in their group life driven by any stimulus.¹⁴ Thus, we must seek the right type of "stimulus" in order to foster and channel this energy into the direction that we wish to achieve, in other words, creating a social value shared among individuals. Securing public involvement in the process as part of policy implementation to improve workers' working conditions and environment can serve as a stimulus for social force. The idea is based on the participatory democracy model which believes in the

¹⁴ Malcom M. Willey & Stuart A. Rice (1923-1924). William Jennings Bryan as Social Force, *Journal of Social Force* 2, 338

enhancement of the citizens' roles in managing public affairs as a way to cultivate civic ideals, and to develop an individual's judgment in the direction of the community.¹⁵

In the sample case of garbage collectors, the inducement of public involvement can be done locally through promoting public awareness about the worker's health conditions and living standards, setting up examples and campaigns for recycling and trash sorting, and facilitating the practice through providing recycling bins with proper instructions in the community. Civic education in a less formal manner is absolutely required to ensure sufficient public understanding. This includes a simple display of pictures or small billboards with captions and statistics of workers' injury and illness resulting from their occupation, which can convey more than just a message, but also sympathy.

The approach may sound familiar, but its focus is shifted away from the environmental issues to the concerns of workers' health and well-being. An environmental campaign can be trickier to promote in the sense that people often feel distant about environmental issues as opposed to human lives. The diversion of public attention to the issue that is closely related to them can be more effective. Thus, the campaign must be persistently reinforced not simply in a way for the public to cooperate for the sake of following the policy, but rather in the way that it should foster the people's belief in the workers' equal rights to a safer working environment as well as in their dignity as human beings. The focus of the campaign should therefore be on the lives of garbage collectors by using a "putting yourself in their shoes" type of

¹⁵ Barber, Benjamin R. (2003) *Strong Democracy* (P. 117) : University of California Press.

campaign to demonstrate how our actions can have impact upon others' health and well-being, and how simple personal negligence or irresponsibility can mean a mistreatment of others. This is the kind of stimulus that can create a shared value necessary to form social force through the power of caring for others.

The logic flows naturally how this type of social force can contribute to the reduction of occupational injury and illness of garbage collectors due to the fact that their primary work involves collecting, sorting and handling waste and recyclable items around the clock. And when people are willing to do a preliminary screening for toxic waste or sharp objects at home to help prevent foreseeable injuries, and as a way to help reduce trash through recycling to make the workers' job a little more bearable, it is not an overstatement to acknowledge our role and responsibility in the improvement of the garbage collectors' rights to a safer, more secure working environment and well-being. The roles of public (government) and private sectors in securing workers' rights and in improving labor standards are certainly required, cooperation from the civic sector, albeit sounds weak, is in fact undeniably important. It can serve as a propelling force in directing the way we want to live, and the way we will live in the next generation.

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