Report on the findings of the discussions with five focus groups from Royal Thai Ministries’ civil servants and the civil servants of the OCSC in Bangkok

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Executive Summary

Following the historic change to the Thai constitution to allow for the freedom of association, the beginning of union representation in the Royal Thai Civil Service is now in process of being implemented. The draft Decree has been formulated, awaiting approval by the Cabinet.

In order to obtain a better insight into the way union representation should function, 4 focus groups from 4 ministries and one from the OCSC were interviewed about the introduction of union representation.

The focus groups, being representative of the various grades within the civil service, provided a main finding that unionisation is welcomed, allowing for, for example, greater transparency, equity and the provision of a system of checks and balances. Equally, union representation will allow for more employee voice in the conduct of employee relations and the union can act as a facilitator between employees and management.

The feedback clearly indicated strong support for a single civil service union, with the opportunity for some unions to be based on specialism; profession or grade and most significantly that the union should have bargaining rights, not solely a system based on joint consultation. The former points further being supported by the express desire for the union to be independent from senior management and the employer.

The views of the focus groups indicated that through representation at departmental and ministry level, the minimum topics to be decided by means of collective bargaining should be salaries; promotion and day to day problems that arise, although a preference was expressed that more issues covering terms and conditions should be part of the collective bargaining remit for the unions.

The issues specifically relating to management revolved around their training provision and the ability to avoid a conflict of interest by either not joining a union or being able to have the issue dealt with by an independent person.

The conclusions drawn from the focus group discussions were that there is a strong desire for unionisation, based on an independent and collective bargaining model, with representation both at departmental and ministry level dealing with the terms and conditions and career aspirations of the Royal Thai civil servants.

This report recommends that the draft Decree is reviewed in the light of these findings and both the drafters of the OCSC and Cabinet clearly define their values in relation to the form of representation to be allowed and the underpinning model of representation on unionisation, prior to its implementation.
1.0 Introduction

1.1 Context

Thailand, as a member of the ASEAN Group of nations, a country of growing international standing, is also a member of the International Labour Organisation. Out of the core five conventions, Thailand has not yet ratified three of them, namely 87, 98 and 111. The concept of union representation has, however, been accepted for the Royal Thai Civil Service by the Government.

For the purpose of allowing union representation within the civil service, the Constitution has been changed to provide civil servants with the freedom to form and join a union. This process of union representation has been expressed in terms of a draft Decree that requires further discussion and subsequent approval by Cabinet.

1.2 Unionisation

In accordance with the draft Decree, joining a trade union is a requirement for civil servants, although the nature of the unionisation is such that each individual can establish a trade union, provided there are a minimum of 10 members and 20% of the department/section approve to form a Union.

The concept of the freedom of association is derived from the ILO conventions 87 and 98, although there is a further remaining question regarding the structure of unionisation. If freedom of association should be interpreted as a right for any person to be able to create any union, will this thus open the door for multiple unions to be formed as against an alternative approach, namely which union or unions should be recognized by the employer for consultation or collective bargaining purposes. This union recognition will also allow for the ease of evaluation if there is a need and merit in allowing a federation of professional unions and thus to become part of the union infrastructure.

As Thailand has currently not signed ILO Convention 87, the express right to be able to join a federation or confederation, as indicated in article 5, does not apply. The decision to allow for the formation of a federation will thus be a discretionary one, based on its sway of argument and its merits.

1.3 Comparison with other country models

In order to achieve a union structure and process of union representation that is most suited to the OCSC, alternative models are being looked at. The British Civil Service model has been selected as one of those from which examples can be derived. In addition World Bank recommendations include both the Japanese and Malaysian civil service models as possible models.

The need to consider the context of the Thai culture and thus how the union infrastructure is to be shaped is a strong one and models of good practice should be studied taking into consideration the different cultural aspects, if not the cultural setting within which the best
practice is to be adopted. Wholesale transportation from one country to another without considering the culture differences could lead to unnecessary complexities that are more difficult to correct later and/or could result in an infrastructure that is deemed unnecessary for the current and future requirements of union representation.

2.0 Research Methodology

In order to achieve the best possible research, within a time constrained activity, the research methodology applied was focus groups, whose members constituted a mix of gender, grade and length of service, in order to obtain a broad perspective of views on the introduction to civil service unionization.

The focus groups included grade 8 and 9 management members, allowing both their personal views and views from a managerial perspective to be obtained.

Four focus groups were taken from different Ministries, namely Finance: Public Health; Transport and Labour. In addition a focus group of the Office of the Civil Service Commission was included.

The process within the focus groups was based on general discussion, initiated by a pre-issued series of questions, with further specific questions relating to the perspective of union representation in conjunction with the execution of the managerial role.

It is generally recognized that this approach to research provides for the ability to capture the variety of opinions and through freedom of expression, the views and values held in conjunction with the subject under discussion. (Saunders, M. et al., 2012)

3.0 Findings

3.1 Main aspects arising from the discussions with the Civil Servants on unionisation

- The value of unionisation
- Providing opportunity for employees to be given “voice” (A say in shaping decisions)
- Greater transparency
- Greater equity
- Monitoring ability and sharing of common problems in the work place
- Greater consultation ability
- Ability for representation which currently is done with the assistance of one’s own lawyer
- Monitoring of Process, such as careers
- A system based on checks and balances of executive power
- Ability to negotiate higher salaries
3.2 Significance of a structured approach to employee participation

- 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.

- The Union to be independent from the control of the management hierarchy.

3.3 Values

- Ability to re-enforce independent rights

- Almost all participants agreed that there should be no strike action, as civil servants are there to serve the Crown and King, as well as the public.

- There is consensus amongst the majority view that the State and individual members should pay 50% each of the Union membership fee.

- Some members expressed the view that, in order to have truly independent trade unions, the membership fee should be paid for by members.

- The general view was that there should be one Civil Service union, although participants from the Public Health Ministry also indicated that each department should have their own union, such as the Medical Science Union.

- Each group has a representative and thus allowing for a voice from every group

3.4 Union Involvement and influence

- Subject Areas for discussion

  The expectation is that the minimum areas for discussion between management and the unions are:
  - Salary issues
  - Promotion
  - Day to day problems
  with the expectation that the range of subject areas for negotiation will cover the following:
  - Setting the bonus payment
  - Structural changes
  - Pay; pensions; grievances; discipline; work-life balance; working conditions; allowances
  - Healthcare
  - All operational issues

- Union influence and representation

  - 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.
• The union representation also to be at Departmental and Ministry level, with a central committee consisting of ministry representatives to be established which could negotiate or consult with the OCSC.

3.5 Consultation or Negotiation

❖ Approach to unionisation by management

• Overwhelming agreement that, although contrary to the decree, collective bargaining rights should be given to the unions.
• There was a qualification to this statement, namely that it will be dependent upon the issue and who has the authority. If, for example, the area for discussion is owned by the OCSC a consultative approach is applied.

3.6 Appeals

❖ Appeal structure

• The general consensus is that the appeal structure and process should be an independent one, although there was no unanimous view if independence meant only based on an organisation outside of the civil service.
• Consideration needs to be given to the role of the Administrative Court in the light of unionisation.

4.0 Aspects arising from the discussions with the Managers

❖ Conflict of Interest

• Conflict can arise for a professional, such as in the role of HRM Manager and thus membership of a union would be inappropriate.
• Managers would exclude themselves from dealing with issues that would cause conflict of interest.

❖ Training

• Explanation about unionisation by the OCSC
• How to deal with membership of the union
• How to deal with staff who want to be a member of a union
• Negotiating skills
• Presentation kills
• Conflict Management skills
5.0 Conclusions

The introduction of the freedom of association, acknowledged in the ILO conventions 87 and 98 although not yet ratified by the Thai Government, has brought a fundamental change to the Constitution and the possibility for the introduction of union representation of the Royal Thai Civil Service.

Through the use of focus groups, drawn from 4 Bangkok based ministries and the OCSC, views about unionisation were drawn from mixed groups.

The trends shown from the discussions are that unionisation is strongly welcomed, generally based on a representation model of one civil service union; the union independent from management and representation at both Departmental and Ministry level.

The perceived value gained from unionisation is that there will be an opportunity for employees’ views to be heard, resulting in more transparency and engagement of employees with management and also through the ability to monitor management activity, providing a stronger check and balance system than is hitherto the case.

Although independence for the union is sought, it is also clear that the inability to strike is a fully accepted concept, as the civil servants are there to serve the King and the community. However, there is a majority expectation that the State will be supportive in its approach to unionisation, namely through the payment of 50% of the union dues.

The responses of the focus groups with regard to the areas of influence of the unions clearly indicates that there is a request for maximum coverage of subject area and issues that should be allowed to be negotiated, although the minimum subjects to be covered to be salaries, promotion and day to day issues. Where there is disagreement and an appeals process is to be applied, the majority response indicated that this appeals process should be an independent one.

However, how this was to be put into practise and how the role of the Administrative Court would align with this needs further clarification.

The discussions thus clearly indicated the desire for unionisation with the ability to have strong representational rights, although further research needs to be carried out.

6.0 Recommendations

- Review the draft Decree in the light of these findings.
- Define and/or reconfirm by both the OCSC and Cabinet the values held relating to union representation regarding:
  - collective bargaining or joint consultation
  - union independence or state dependency
  - the need to compulsorily join a union or allow for freedom of association
  - the areas of influence the unions can have.
- To conduct further research into the Japanese and Malaysian models and conduct a comparative analysis of the three models, including the British civil service, with the view to deciding the levels that best will allow for union representation for the Royal Thai Civil Service.
Following the additional research in the provinces and into the three models to determine the levels at which union representation should be established within the Ministries, OCSC and departments.

Define within the Decree the need to adopt *one civil service union and one senior management union* as the union representation infrastructure, with the possibility for professional unions to be established within the one civil service union.

Define within the OCSC the employee terms and conditions which can be discussed/negotiated upon by the unions.

Initiate a phased programme of training to fulfil the managements’ training requirements once Cabinet has agreed the Decree

### 7.0 Further Research
To have discussions with focus groups from the provinces.

To analyze alternative civil service union models.

To establish and evaluate the current managerial approach to managing civil servants.

To review the Performance Management system with the view to consider the introduction of competency based pay.

### Addendum

**Rationale for or against having a Federation of professional Unions.**

Although Thailand has not ratified ILO Conventions 87 and 98, despite this, consideration is being given to allowing professional unions to form a Federation.

Below is an analysis of the merits and demerits of allowing the formation of a Federation.

The purpose of a Federation is to allow for individual trade unions to benefit from a collective approach and taking the example of the British Trade Union Congress, bringing unions together to draw up common policies under the role of the central coordinating body of the trade union movement in the UK. (Salamon, M. 2000)

In an international context, a Federation can enhance its international agenda through a more collective approach, indicated by the German Civil Service Federation (Deutscher Beamtenbund, DBB) which is a national trade union centre in Germany. It has a membership of 1,250,000, and is affiliated with the European Confederation of Independent Trade Unions.

The strength therefore from a union perspective is that the federation will provide a stronger collective approach to pursue both matters directly related to its members’ interests, allow for the ability to develop common approaches and policies, mobilising more trade unionists in the pursuit of the unions’ aims and areas of interest and have a strong lobbying voice on the international stage.

This will thus provide the unions with the strength of enhanced collectivism and increased lobbying capacity with government and international institutions such as the ILO, as practiced by for example the British TUC, the WFTU and the Public Service International.
With professional unions the same can apply and with the advance of the ASEAN 2015 country co-operation, the possibility of cross country co-operation is of course enhanced.

A further example is the solidarity and development project of the PSI provides training and capacity support for trade unions on the ground especially in countries where trade unions are having difficulty in gaining recognition. These are thus indications of what additional influence and potential power can be gained from forming a Federation.

Taking a further example of the General Trade Union Federation, their Research Service to the affiliated unions provides extensive support as indicated below:

- bargaining related issues are a core of the work and can involve company analysis, pay determination, conditions, and comparative data and so on.
- other areas of major concern are legal & contractual questions, European Community issues, international concerns, pensions, social security, equality issues, union rules and legal requirements, negotiating strategies etc.

The indication from this example is that by having a Federation, the affiliated unions will have access to extensive data and become sophisticated partners in the collective bargaining or joint consultative process.

In contrast to the above, the ability to develop a federation is acknowledging the increased power that becomes available to lobby and pursue union interests. This can work against a managerial perspective or agenda, as the increased ability to influence beyond the organizational boundaries could work against the aims and objectives management is wishing to pursue.

By being in a federation the professional unions can therefore exercise more influence where need be and should there be collective bargaining, through the collective voice, exert greater influence in securing their claims at the expense of other unions. This issue might be relevant should the federation of professional unions start to lobby the ILO and thus seek to have conventions introduced through external means to the OCSC or Royal Thai Government.

The ability to deal with unions who have commonality of approach through their common policy can be beneficial to management in their dealings with the professional unions.

Due to this common approach, the process of collective bargaining should be easier, having to thus deal with one view on issues. If this is to occur in practice and the assumption that the common approach is adopted by the federated unions, it however needs to be viewed with caution, as the likelihood of having a common approach is questionable.

As indicated by Michael Salamon (2000) in relation to the British Trade Union Congress, “the TUC’s role is limited by the fundamental principle that each union retains its independence to protect and pursue the interests of its members “.

In addition, Ed Rose (2004), states that the TUC remains a loose coalition of affiliated unions, weakened by the fact that a large number of unions are not affiliated.
Summary

The recognition of a federation for professional unions can not only result in dealing with sophisticated partners, but also a potential powerful influence outside of the civil service.

If commonality of approach is maintained, this can work in favour of management in their dealings with the trade unions, although it needs to be recognized that federations do not necessarily represent the views of all the unions in the profession. Not all professional unions might wish to join the Federation.

Recommendations

- Discuss the issue within the OCSC
- Have a phased approach, dealing with the union representation of professions first and once this has been imbedded into the civil service infrastructure and the management approach to union representation is clear and experience gained, to review the merits of allowing a Federation to be established for professional unions.