

สิทธิแรงงานของครูต่างชาติในประเทศไทย



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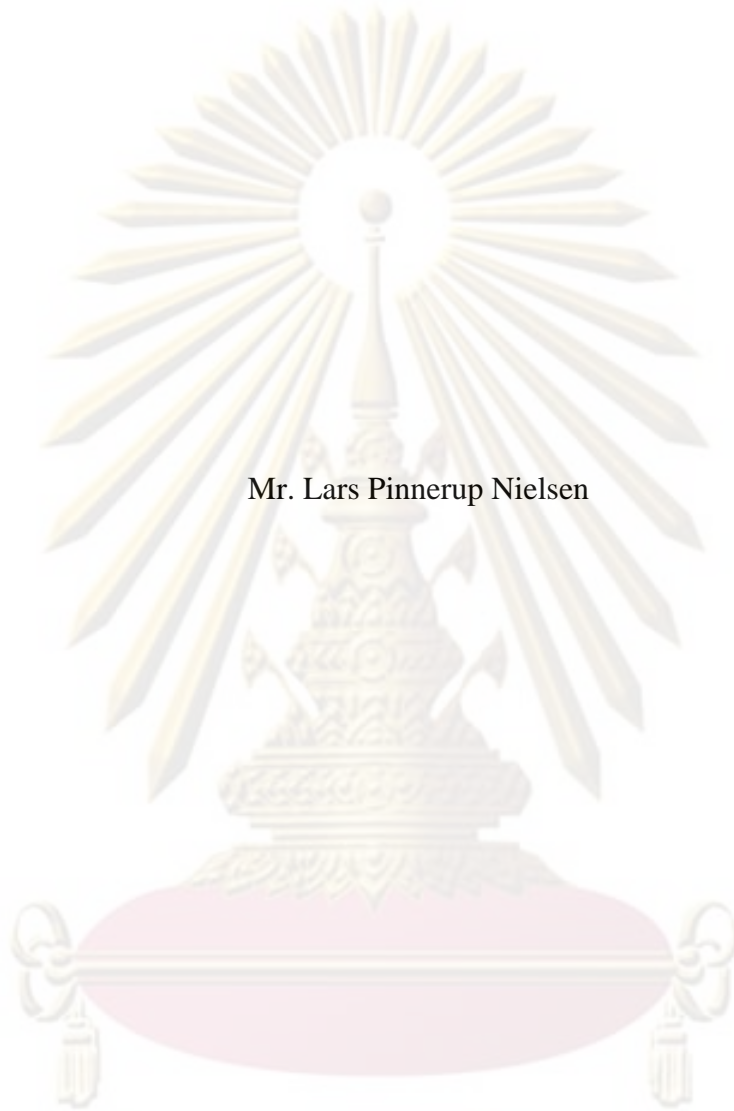
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LABOR RIGHTS OF FOREIGN TEACHERS IN THAILAND



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A Thesis Submitted in Partial Fulfillment of the Requirements  
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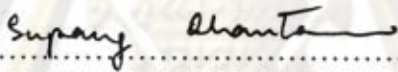
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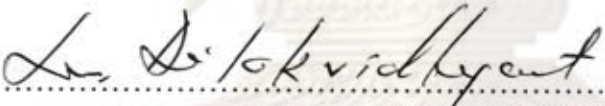
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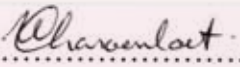
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ลาร์ส พินเนอร์อัท นิลสัน : สิทธิแรงงานของครูต่างชาติในประเทศไทย (LABOR RIGHTS OF FOREIGN TEACHERS IN THAILAND) อ.ที่ปรึกษาวิทยานิพนธ์หลัก: รศ. แล ดิลกวิทยรัตน์, 88 หน้า.

จำนวนของชาวต่างชาติที่เข้ามาประเทศไทยเพื่อทำงานเป็นครูโรงเรียนรัฐบาลและเอกชนเพิ่มเป็น 3 เท่าในรอบ 4 ปีที่ผ่านมา โดยครูชาวต่างชาติเหล่านี้ได้รับเงินเดือนมากกว่าครูชาวไทยถึง 3 เท่า แต่หลายโรงเรียนและองค์กรจัดหางานยังคงพบปัญหาเกี่ยวกับคุณภาพของผู้ที่จะมาทำงานในตำแหน่งครู แม้ว่าผู้ที่ใช้ภาษาอังกฤษเป็นภาษาแม่จะเป็นที่ต้องการ แต่ด้วยนายจ้างมักมีข้อจำกัดเรื่องกำลังจ้างจึงถูกบีบให้ต้องรับชาวตะวันตกที่ไม่ได้ใช้ภาษาอังกฤษเป็นภาษาแม่ หรือชาวต่างชาติอื่นๆ ที่ไม่ใช่ชาวตะวันตกแต่พูดภาษาอังกฤษเป็นภาษาแม่ เช่น ชาวฟิลิปปินส์ มาเป็นตัวเลือก

วิทยานิพนธ์นี้ได้ศึกษาสิทธิแรงงานของครูชาวต่างชาติในประเทศไทย โดยศึกษาเฉพาะกลุ่มครูโรงเรียนเอกชนและรัฐบาลในระดับประถมและมัธยมศึกษา มีการวิเคราะห์ข้อกฎหมายและการเปรียบเทียบระหว่างโรงเรียนเอกชนและรัฐบาล ผ่านประสบการณ์ในชีวิตของครูชาวต่างชาติจำนวน 50 คน เพื่อทำการประเมินผลทางทฤษฎี

แม้ว่าชาวต่างชาติเหล่านี้ได้รับค่าตอบแทนอย่างยุติธรรม แต่มักถูกละเมิดสิทธิบ่อยครั้ง สัญญาจ้างงานมีความไม่ชอบทางกฎหมาย หลายคนสอนโดยไม่มีใบอนุญาตทำงาน บางคนถูกเลิกจ้างโดยไม่ชอบธรรม ครูชาวฟิลิปปินส์มักเป็นตัวเลือกท้ายๆ ทั้งๆ ที่ในหลายกรณีจะมีคุณสมบัติเหมาะสมกับตำแหน่งมากที่สุด แม้ว่าครูส่วนใหญ่จะมีพื้นฐานการศึกษาที่ดี แต่ยังคงขาดความรู้เรื่องสิทธิแรงงานในการทำงานเป็นครูในประเทศไทย ข้อจำกัดทางภาษา การบังคับใช้กฎหมายที่ไม่โปร่งใส และความลึกลับในข้อกฎหมายได้สร้างความสับสนให้กับครูชาวต่างชาติเหล่านี้

ศูนย์วิทยุทรัพยากร

สาขาวิชา เอเชียตะวันออกเฉียงใต้ศึกษา  
ปีการศึกษา 2551

ลายมือชื่อนิสิต ...has Punen...  
ลายมือชื่อ อ.ที่ปรึกษาหลัก.....

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KEYWORD: FOREIGN TEACHERS / LABOR RIGHTS

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The number of foreigners working as teachers in Thailand at government and private schools has more than tripled over the last four years. These teachers receive wages up to three times higher than their Thai colleagues, but many schools and recruitment agencies still have problems finding enough qualified people to fill the positions. Native English speakers are preferred for the teaching jobs, but the employers are forced to, due to low supplies, to reinforce the workforce with non-native English speaking westerners and other native English speakers such as Filipinos in the listed order.

This thesis examines the labor rights of foreign teachers in Thailand. Focusing on the teachers in private and government schools at primary and high school level. A comparison between private and government schools is made, relevant laws are being analyzed and compared and the experiences of 50 foreign teachers are being used to measure the theoretical research with real life.

Even though being fairly paid these foreigners often experience their rights being violated. Their contracts are illegal; many teach without work permits, some are being fired without reason. Filipino teachers are last in line for jobs even though they in many cases are the most qualified for the positions. Even though most of the teachers have educated backgrounds their knowledge on their labor rights when working as teachers in Thailand is limited. Language barriers, lack of transparency in laws –and laws overlapping or contradicting each other confuses teachers on where to look.

Field of Studies Southeast Asian Studies

Academic year 2008

Student's signature.....

Principal Advisor's signature.....

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จุฬาลงกรณ์มหาวิทยาลัย

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## Chapter I

### Introduction

#### 1.1 Research goal and objectives

Teaching English or teaching courses in the English language is an educational area experiencing continuous growth in Thailand. In a globalizing world, where the economy gets harsher and only the strong survives, in a game where standards of performance and knowledge are constantly being raised, the ability to speak English is becoming essential for getting a good job<sup>1</sup>. Adds from International schools and bilingual Schools are recruiting new students through internet and student fairs daily. In Thailand studying with native English speaking teachers is by many seen as the best way to learn the language. This has created job opportunities for native English speakers and other foreigners in Thailand. The, in Thailand rather high, teaching salaries offered to these foreign teachers hired for the jobs are not high enough to convince a sufficient amount of qualified professional teachers from native English speaking countries to pack their suitcases and commence a new life as a teacher in a Southeast Asian country. In 2007 approximately 50 percent of all teachers were native English speakers<sup>2</sup>. The staffs are therefore supplied with non-native speaking westerners, Filipinos and also a slowly growing number of African teachers. A fifth group is a group consisting of people from all the previously mentioned groupings. What differs members from this fifth group with the members of the four other groups are that they are not qualified in terms of the minimum educational level Thai authorities expect them to have, when teaching in English in Thailand. As an additional note, many of the native English speaking teachers working in the country have educational backgrounds in other fields than education. According to the Ministry of labor Around 12387 foreigners are working in Thailand as teachers at primary and High school level. Five years ago in 2003 the

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<sup>1</sup> Information retrieved through interview with Ajarn Rashane Meesri of Chulalongkorn University, Consultant at The Provincial Administrations Nonthaburi Project, that tries to encourage schools to hire more native or native like English speakers.

<sup>2</sup> Statistics from Ministry of Labor enclosed in appendice



number of foreign teachers was 4519. Within five years the number of teachers in primary and High Schools has more than tripled<sup>3</sup>. And yet, according to schools and agencies, it is difficult to find enough qualified staff to teach.

What makes foreigners come to Thailand for teaching? For westerners the variety of answers is numerous, but one of the most frequent answers is for the sake of adventure or trying something new. A few give the reason that despite the lower salaries compared to similar teaching jobs in their home countries, the low costs of living enables them to have a better lifestyle than they would have in a similar job back home. Observation during this research indicates that most of the foreign western teachers are of male gender. This goes very well in hand with the statistics from the Ministry of Labor indicating the same thing<sup>4</sup>. Quite a few of the foreign western teachers are married to Thai women or have a Thai girlfriend. Amartya Sen talks about how;” The different regions of the globe are now more closely linked that they have ever been. This is so not only in the fields of trade, commerce and communication, but also in terms of interactive ideas and ideals”<sup>5</sup>. The world is smaller, traveling is easier but the links and understanding and bonding of people are also closer than ever. This means that people with different cultural backgrounds and ethics in terms of employer/employee relations are to be found many places in the world, including in Thailand.

Among Filipino teachers, which by far are the biggest group of non native English speaking teachers teaching in English in Thailand, the reasons for coming to Thailand for teaching were less diversified. Here the main reason for coming to Thailand for teaching is because of the wish to earn a lot of money. According to the teachers interviewed, the wages made from teaching in Thailand are a lot higher than wages from similar jobs in the Philippines. The gender mix was more equal in this group with a majority of females among the members of the group.

According to randomly asked schools and agencies hiring foreigners to teach in Thailand, there are not enough qualified foreigners available to teach in English. Rashane ....who holds a Phd. in Curriculum and instruction development has been

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<sup>3</sup> Information retrieved at the Ministry of Labor, enclosed in the appendix

<sup>4</sup> Statistics from the Ministry of Labor enclosed in the appendix.

<sup>5</sup> Amartya Sen. Development as freedom, Oxford University Press 1999, prefaces p.1.

involved in the Provincial administrations Nonthaburi Project, that tries to encourage schools to hire more native or native like English speakers. He agrees with the difficulties in finding enough qualified foreigners to teach. This is also indicated at the beginning of each term on job forums where last minute ads looking for teachers state that they are looking for teachers, with –or without a Bachelors degree, and that non-native English speakers can apply as well. The above mentioned factors therefore indicate that the supply and demand situation on paper should be favoring the teachers. It is reflected in the teaching salaries being a lot higher than those of their Thai colleagues, even though still quite low compared to the salaries in the teacher's home countries. But is it also reflected in the work conditions of the foreigners coming to Thailand to teach? Is the foreign teachers labor rights respected by employers, authorities and legislations? Do foreign Teachers have any labor rights? And are foreign teachers aware of these rights?

If it is difficult to acquire qualified labor, then an environment that makes the already existing labor stay and at the same time attracts more labor must be attempted established. This can be done through wages, benefits and of course through good, fair and just treatment of the staff. With other words respecting the labor rights of foreign teachers and then some...The word among foreign teachers is that such attempts are not being made at all in Thailand. The contrary seems to be the norm according to rumors and stories circulating among teachers. Stories of corrupt school directors, lying administrators, teachers being fired without reason, salaries being late, vindictive directors taking justice in their own hands, when settling the score with a teacher, who has been raising his or her voice, all pop up when talking to foreign teachers. Even though they are not poor, like other migrant labor groups coming to Thailand, it seems that foreign teachers also are vulnerable to violations of their human rights, although with less physical consequences than migrant workers doing manual labor. And, just like other migrant labor groups they often find themselves in difficult situations because they have no union or protective lobby in the host country, and similarly they are also insufficiently protected by the host country's legislation.<sup>6</sup>Or are they? According to Amartya Sen;" The twentieth century has established democratic and participatory governance as the preeminent model of political organization. Concepts of human rights

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<sup>6</sup> Folke Kayser, Defending Social Justice and Workers' Rights In a Globalised World, Friedrich Ebert Stiftung 2004, p.7.

and political liberty are now very much part of the prevailing rhetoric”<sup>7</sup>. This statement indicates that even in politics there are interests in promoting human rights and in relations to this – labor rights. When looking at labor movements in Thailand in general one gets the idea, that the movements in The Land of Smiles still suffers from the blows they took from counter communism strategies and implementations during the cold war, especially in terms of freedom of expression and association<sup>8</sup>. So are foreign teachers also suffering from this?

Is it really that bad to teach in Thailand?

It has not been possible to find any similar research done on this topic. Since education in English provided by English speaking instructors is going through a rapid growth in Thailand, as well as Vietnam, Laos Cambodia and China, it indicates that the research and findings gathered with this thesis can be of great help when trying improve the working conditions for foreign teachers but also improving the quality of foreign teachers working in South East Asia.

Objectives:

- To study the employment of foreign teachers working in the English Programs at government schools and private schools in Metropolitan Bangkok and identifying their problems related to labor rights
- Study the differences in access to protection for foreign teachers in English Programs at government and private schools in Metropolitan Bangkok at primary and high school level.
- To analyze the Labor laws of Thailand relating to the problems of foreign teachers in English Programs at government and private schools in Metropolitan Bangkok.

## 1.2 Definition of key words

<sup>7</sup> Amartya Sen. Development as freedom, Oxford University Press 1999, prefaces p.1.

<sup>8</sup> Vitit Muntharbon. Asian Discourses Of Rule Of Law, Routledge 2006, p. 347.

Employer: A person who agrees to employ an employee for monetary remuneration.

It also includes

- A person designated to by an employer to act on his behalf

Employee: A person who is employed by an employer for remuneration, regardless of what title that person is given.

Employment contract: A contract made orally or in writing where an employee agrees to work for another person, the employer, who agrees to pay remuneration throughout the period of employment.

Working day: The day where an employee is required to normally work.

Holiday: A fixed day where an employee enjoys a weekly or traditional holiday or his annual vacation.

Leave: A day where an employee takes sick leave, leave for sterilization, necessary leave to attend personal business, leave for military service, leave for training or developing his knowledge and ability, or maternity leave.

Basic pay: The money which the employer and the employee mutually agree is to be paid in return for work, on an hourly, daily, weekly, monthly or other periodic basis.

Overtime work: The work agreed to by the employer and the employee, which is performed on a working day or holiday beyond the normal working time or working hours in a day.

Overtime pay: The money an employer pays to an employee in return for work performed on a holiday.

Holiday overtime pay: The money that an employer pays an employee in return overtime work on a holiday.

Severance pay: The money an employer pays an employee upon the termination of employment, in addition to other monies which the employer agrees to pay the employee.

Special severance pay: The money an employer agrees to pay an employee upon termination of an employment contract due to special circumstances.

Employee contribution: The money an employee pays into an employee welfare fund.

Employer contribution: The money an employer pays into an employee welfare fund supplementing the money paid by the employee.

State Enterprise: Any enterprise or organization where the state has minimum 50 % ownership

Agencies: Businesses recruiting teachers or leasing teachers to schools.

Government Schools: are schools that are financed and run by the government

Private schools: Schools operated without funding from the government

English programs: Schools might offer an English program where major parts of the curriculum are taught in English, such as science, social studies, mathematics and English.

MOE: Ministry of education

MOL: Ministry of Labor

LPA: Labor protection act

### **1.3 Conceptual Framework**

Throughout history workers, claiming some sort of right, have attempted to pursue their interests. During the middle Ages, the Peasants' Revolt in England expressed demand for better wages and working conditions. Laborers often appealed to traditional rights. For instance, English peasants fought against the enclosure movement, which took traditionally communal lands and made them private.

Labor rights are a relatively new addition to the modern corpus of human rights. The modern concept of labor rights dates to the 19th century after the creation of labor unions following the Industrialization. Karl Marx stands out as one of the earliest and most prominent advocates for workers rights. His philosophy and economic theory focused on labor issues and advocates his economic system of communism, a society which would be ruled by the workers. Many of the social movements for the rights of the workers were associated with groups influenced by Marx such as the socialists and communists. However, moderate democratic socialists and social democrats supported worker's interests as well. More recent labor rights work has focused on the particular role, exploitation, and needs of women workers, and of increasingly mobile global flows of migration or guest workers. This is especially seen in the international organizations such as ILO, when dealing with labor and labor rights. In international forums the, much understandable focus seems to be on migrant labor that is worst off. Foreign teachers in Thailand do not fall into this group. That being said, it does not

mean that foreign teachers in Thailand does not deserve the same rights or have similar problems regarding their labor rights as unskilled migrant labor of for example Cambodia and Burma does.

Foreigners end up working as teachers for various reasons. Especially in terms of Philippine teachers it is interesting to use the Push and Pull model, to see what makes foreigners come –or stay in Thailand and work as teachers. The model sees migration as being caused by push factors: poverty, lack of land, natural disasters, overpopulation and so forth. The push and pull model claims that labor will migrate from low wage countries to high wage countries to high wage countries until the real wages are equalized, with the assumptions of the corporative static framework, homogenous labor, constant returns of scale, zero migration costs, and perfect competitive labor markets<sup>9</sup>. While it can be applied very well to the Philippine minority group of teachers, one can hardly claim that foreign teachers in general move to Thailand for financial improvements of their lives. However, applying elements of the push and pull model can still be attempted, as there are factors beyond wages making people come to Thailand for work. Interestingly enough with foreign teachers in Thailand, there seem to be a migrant group that moves from high wage countries to low wage countries. However, as mentioned above, the push and pull factors can with a little flexibility be used on these groups as well. With the Philippine teachers, a majority of the push and pull factors actually can easily be applied: They come here to make money and support their families back home, as the salaries for teachers in the Philippines are low and the competition for the jobs is fierce. So in their case the Push and Pull model is a highly relevant tool to use.

<b>Conceptual model</b>	
<b>Push factors</b>	<b>Pull factors</b>
- Poverty opportunity	- Economic
- Lack of work payment	- High wage
- Love regulation	- Immigration
- Economic hardship	- Remittances
- Over population	- Love
- Adventure	- low living costs.

Together with the Push and Pull Model, Labor Mobility can in this thesis be used to help insinuate answers and reasons to why foreign teachers choose to come to Thailand, but also why they choose to accept or not accept/ approve or not approve actions towards them on the labor market in Thailand. Labor mobility displays the means or the possibilities for laborers to take advantage of economic or work opportunities improving your living conditions. The easiest way to measure this mobility is to identify the potential obstacles preventing the mobilization from taking place. Obstacles preventing labor mobility can be divided into two classes: 1) Personal and 2) Systemic. While the personal obstacles include Physical location and physical and mental abilities, the Systemic obstacles can be educational opportunities as well as laws and political contrivances and even barriers and hurdles deriving from historical references. Migrant workers have less mobility when working in their “new country”. In most countries, including Thailand, migrant workers have limited rights. For example, migrant workers are not allowed to vote at political elections in Thailand.

In a study done by the European Commission they have found that even though more and more Europeans are getting more flexible and international in their outlooks, there are still obstacles hindering or putting restraints on their mobility. Moving to a new country means having to tackle problems with learning a new language, getting accustomed to different rules, regulations and administrative requirements<sup>10</sup>. According to the study adapting to a different language and culture must not be underestimated. Practical issues and psychological barriers often tend to be a bigger hurdle than legal and administrative problems. The fear of not being able to reintegrate into the work market back home also tends to be a deciding factor on mobility. Employment alone is rarely the only reason for a European to change country. More often occurring reasons for relocating to another country includes: Love, wellbeing, a better quality of life or to be with relatives<sup>11</sup>. And this study is based on Europeans moving from one European country to another, so one might assume that the factors will at least be slightly enhanced, when moving from one continent to another.

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<sup>10</sup> European Commission. “European Year will promote workers' mobility”, Social Agenda, The European Commission’s magazine on employment and social affairs, No. 12, 2005

<sup>11</sup> European Commission. “European Year will promote workers' mobility”, Social Agenda, The European Commission’s magazine on employment and social affairs, No. 12, 2005

In addition to the two previously mentioned theories it is important to include thoughts and knowledge taken from the Good Governance concept to the thesis. The UN definitions are chosen as the model of definition. Elements such as the transparency and communicative elements of Good Governance seem like important measurements to include. Especially when holding it up against the studies from the EU, showing, that cultural differences, language, different laws, regulations and administrative rules are obstacles that weakens their social mobility. Also the systemic labor mobility obstacles such as laws and political contrivances for example can be held up against the Good Governance and transparency in the doing.

"Governance" means: the process of decision-making and the process by which decisions are implemented, or not implemented. It is the process of decision-making and where decisions are implemented, an analysis of governance focuses on the formal and informal actors involved in decision-making and implementing the decisions made and the formal and informal structures that have been set in place to arrive at and implement the decision. In terms of this thesis this can be seen as the interaction between Ministry of Education, Ministry of Labor, Employers and employees. Government is just one of the players when speaking of governance. Other actors involved vary depending on the level of government that it involves, and where. In rural areas for example, other actors may include influential land lords, associations of peasant farmers, cooperatives, NGOs, research institutes, religious leaders, finance institutions political parties, the military etc. The situation in urban areas can be much more complex. At the national level, in addition to the above actors, media, lobbyists, international donors, multi-national corporations, etc. may play a role in decision-making or in influencing the decision-making process.

All actors other than government are grouped together as part of the "civil society."

Good governance has 8 major characteristics. It is participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. It assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making. It is also responsive to the present and future needs of society.





### **Participation**

Participation is of major relevance when dealing with good governance. Participation could be either direct or through legitimate intermediate institutions or representatives. Participation needs to be informed and organized. This means freedom of association and expression on the one hand and an organized civil society on the other hand.

This means that, according to the UN definitions, the affected players need representatives to handle their interests and also need to be entitled to or have provided an outlet, forum or other to express their views.

### **Rule of law**

Good governance requires fair legal frameworks that are enforced impartially. It also requires full protection of human rights, particularly those of minorities. Impartial enforcement of laws requires an independent judiciary.

This means for instance that an institution that has interests at stake in a conflict, should not have any say or influence on the judicial powers that handles or settles potential disputes.

### **Transparency**

Transparency means that decisions taken and their enforcement are done in a manner that follows rules and regulations. It also means that information is freely available and directly accessible to those who will be affected by such decisions and

their enforcement. It also means that enough information is provided and that it is provided in easily understandable forms and media.

### **Responsiveness**

Good governance requires that institutions and processes try to serve all stakeholders within a reasonable timeframe.

### **Consensus oriented**

There are several actors and as many view points in a given society. Good governance requires mediation of the different interests in society to reach a broad consensus in society on what is in the best interest of the whole community and how this can be achieved. It also requires a broad and long-term perspective on what is needed for sustainable human development and how to achieve the goals of such development. This can only result from an understanding of the historical, cultural and social contexts of a given society or community. In my point of view, this also indicates that communication in order to create understanding, acceptance and promotion of decisions, is a vital factor. Not only one way communication, but a communication platform, that enables voices from both sides of the fence to be heard, on both sides of the fence.

### **Equity and inclusiveness**

A society's well being depends on ensuring that all its members feel that they have a stake in it and do not feel excluded from the mainstream of society. This requires all groups, but particularly the most vulnerable, have opportunities to improve or maintain their well being.

### **Effectiveness and efficiency**

Good governance means that processes and institutions produce results that meet the needs of society while making the best use of resources at their disposal.

## **Accountability**

Accountability is a key requirement of good governance. Not only governmental institutions but also the private sector and civil society organizations must be accountable to the public and to their institutional stakeholders. Who is accountable to who varies depending on whether decisions or actions taken are internal or external to an organization or institution. In general an organization or an institution is accountable to those who will be affected by its decisions or actions. Accountability cannot be enforced without transparency and the rule of law<sup>12</sup>.

### **1.4 Research methods**

In this thesis the main source for gathering information has been through field work. Statistics and Law material and the few documentary elements available have also been incorporated.

The time period used for doing research has been approximately 12 months. Six months of participant observation, working as a foreign teacher at first a private school with an English Program and later as a teacher at a large government school also offering an English program. Neither teachers nor the schools were informed of real agenda of working at the schools.

Quite early in the process it was decided to use participant observation as one of the field research tools. This provided information that would not have been as easy to gather through other research methods. With the little knowledge most foreign teachers actually have about their labor rights in Thailand it is very difficult for them to come with specific examples on where their labor rights are being violated. Participant observation was done through employment as non native English speaking western teacher at two different schools, one semester at each school. One school was a government high school with an English program, while the other school was a private high school with an English program. Being able to see and experience things from a teacher's perspective made it easier localize areas of conflict and get a more detailed impression of the situation.

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<sup>12</sup> <http://www.unescap.org/huset/gg/governance.htm>

The fieldwork also consisted of interviews with involved individuals from various groupings; Teachers, employers, scholars, trade unions, Ministry of labor and education and many others. These interviews added much helpful information and have been a great help in getting to understand some of the more complex elements swimming around in the sea of labor rights for teachers.

50 teachers were interviewed,

- 18 Filipino teachers, 8 at the launch of a Filipino teachers association and ten randomly selected.
- 8 non-native English speaking teachers
- 24 Native English speaking teachers.

The teachers were found on the internet, by approaching them outside their schools, at cafes and bars known to be hangouts for foreign teachers and through the participant observation.

#### **1.4.1 Secondary data collection**

Various documents and former research papers relevant to the field of labor was collected. Various Ministries and NGOs dealing with Labor rights for teachers and labor protection was contacted and interviewed in order to collect these pieces of information.

#### **1.4.2 Primary data collection**

The interviews and the observation did not take place at the same time. It was at an early stage decided that in order to gather as much information as possible, participant observation without the knowledge of the involved participants was needed. When a teacher is sitting on vulnerable information regarding violations of labor rights at their work place, it makes them ease a little more, knowing that the person interviewing them is “a teacher” as well.

In terms of interviews the focus was strongly on qualitative interviews.

This choice has been made for various reasons. First, the preliminary research revealed that the majority of foreign teachers knew very little about their labor rights in Thailand.

The qualitative interviews would have to be very specific and that would make the process of interpreting the data almost impossible within the timeframe. Second, by doing qualitative interviews more in depth questions can be raised. When the teacher makes comments that at first glance might not mean much but when forced to elaborate by depth seeking questions it might reveal examples of labor rights violations that was not consider violations at first. Qualitative interviewing also provides the ability to switch between different interviewing techniques when interviewing the respondents.

Focus group interviews have also been conducted in some cases, for example regarding the discrimination on Philippine teachers. This was done with the idea in mind that when gathered they might be able to agitate each other to come with examples on being discriminated. The preliminary research showed that it was difficult to have them admit to being victims of discrimination when alone with the interviewer, while when being with a colleague the level of courage had a boost. Therefore focus group interviews were conducted with 8 Filipino teachers.

Interestingly enough the opposite seemed to be the case with a few of the Filipino teachers. During the focus group interview they were very quiet and non verbal especially when the talk was directly aimed at displaying personal experiences of labor rights violations. During the one on one talk's later, they broke the silence and put a lot of interesting examples on the table.

## Chapter II

### The Thai Labor Laws

#### 2.1 The Thai Labor laws

Out of necessity and lack of information it has been a careful choice to focus on the elements of the laws within the labor rights framework that directly affect or should affect foreign teachers working in the English programs in Metropolitan Bangkok. The selection of these elements are based on studies of the laws and acts as well as interviews with teachers regarding their jobs, participant observation and by interviewing experts within government, trade union and scholars on labor laws. Now this thesis will later reveal that teachers might not actually fall under the labor law. Even though the Constitution and labor laws allow the formation of trade unions in many sectors, the sectors within civil service are not allowed to do such<sup>13</sup>. But there is a lot of uncertainty about it, and even though it might be the case, the substitute for the labor laws, the regulations issued by various institutions tends to be very inspired by the labor laws when it comes to issues dealing with labor rights. A closer look at the labor laws, also in order to hold them up against the substitute regulations issued by above mentioned institutions. Furthermore it has been the choice more or less to let the core foundation of labor rights in Thailand, the labor laws mentioned here, function as the model that the conditions of teachers are being analyzed from. Even though teachers might not directly fall under these laws, research has come to conclude that the main laws that have or ought to/should have an impact on the labor rights of foreign teachers are; Labor Protection Act B.E 2541 (A.D. 1998), The State Enterprise Labor Relations Act B.E 2543 (2000).

The Labor Protection Act of 1998 establishes the minimum rights of employees working in Thailand, covering issues ranging from work hours, overtime, holidays, sick leave, maternity leave, severance and other basic rights of the employee.

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<sup>13</sup> Vitit Muntarbhorn. Human Rights in Asia, Routledge 2006, p. 330.

The State Enterprise Labor Relations Act of 2000 more or less covers the same things as the Labor Protection Act of 1998. Being an employee in a State Enterprise, a company or institution fully or partly owned by the state alters your labor rights slightly. This also indicates that the rights of foreign teachers vary according to whether they are working at a government school or a private school. Now various sources claim that teachers do not fall under the State Enterprise Labor Relations Act of 2000. Never the less, it seems that a lot of elements in contracts and work rules and so forth, is highly inspired by various paragraphs in the labor relations act.

Another law or act that has an impact on the labor rights of foreign teachers in the English Programs in Metropolitan Bangkok is Working Aliens Act B.E 2551. One of the interesting things about this act is that it states that *People who perform duties or mission for the benefit of education, culture, art, sports or other activities as may be described by the Royal Decree*, does not fall under this act. This could indicate that people working as teachers in Thailand are not entitled to any of the rights falling under this act; however the fees as described in the Working Aliens Act B.E 2551 in the chapter entitled Fee Rates are also being paid by employers when they employ foreign teaching staff. There seem to be some confusion here whether or not foreign teachers have to correspond to the Working Aliens Act.

In addition to these three acts, the Social Security Act, the Workers Compensation Act, rules on minimum wages, and the Revenue Code also have an impact on the on the rights and work conditions of foreign teachers in English programs in Metropolitan Bangkok.

### **2.1.2 Labor Protection Act**

As mentioned above, the principal Thai labor law is the Thai Labor Protection Act of 1998.

The Department of Labor Protection and Welfare under the Ministry of Labor and Social Welfare is charged with administration of these rights. The Department and Ministry issue regulations clarifies and sometimes modifies the rights under the Labor Protection Act.

The Thai Labor Protection Act of 1998 applies to all "employers" employing "employees" in Thailand. Under the act, "employer" is defined broadly and can include persons who do not have a direct employer-employee relationship in the traditional sense. Notably, "employer" includes persons designated to act on behalf of an employer, authorized directors of an employer and some firms that provide management services within the scope of the employer's responsibility.

Such persons or firms might share the actual employer's liability for compliance under the Labor Protection Act. Additionally, a special provision under the law can require contractors and sub-contractors to share the liabilities of an employer. In the field of education that this thesis deals with this means that; directors of English programs, agencies, when involved all share responsibilities of living up to the paragraphs of the Labor Protection act. It is my understanding that when hired through an agency, the school where the teacher have been sent to work bears the responsibility for the physical rights, while the agency is responsible for things such as pay, sick days, holidays, work hours etc.

The laws tend to conflict with each other. When decrees exempt teachers from being entitled to their labor rights this decrees seems to clash with other Thai laws and –or international agreements that Thailand has adhered to. It for instance seems to be a clear violation of the Constitution of Thailand that states that everybody should be treated equal no matter race, nationality, and language under the law<sup>14</sup>. Additionally it violates the international UN declaration of human rights and the ILO treaties that Thailand like most other countries in the world have agreed to follow<sup>1516</sup>. These different laws or conventions that all should in Thailand mention how discrimination of people is not accepted and that people should be granted the freedom to organize no matter who they are.

The same thing applies to the decision to not recognize teachers unions as legal in Thailand. That also appears to be a violation of the Thai constitution, the UN Declaration of Human Rights and The ILO treaties<sup>171819</sup>.

<sup>14</sup> Constitution of The Kingdom of Thailand 1997, Section 30.

<sup>15</sup> UN Declaration of human rights, article 2 and article 7

<sup>16</sup> ILO Convention, Part 1 article 1,2 and 3

<sup>17</sup> Constitution of The Kingdom of Thailand 1997, Section 30.

<sup>18</sup> UN Declaration of Human Rights, article 2 and article 7



And when foreigners in general not are allowed to form a union, only to join an existing one, then that leads to a comparison with the Thai Constitution that states: *“All persons are equal under the law and shall enjoy equal protection under the law. Unjust discrimination on the grounds of the differences in origin, race, sex, language, age, physical or health condition, personal status, economical or social standing, religious beliefs, education of political beliefs shall not be permitted”*<sup>20</sup>, and the UN Declaration of Human Rights that says: *“All are equal to the law and are entitled to without any discrimination to equal protection of the law. All are entitled to protection against any discrimination in violation of this declaration and against any incitement to such discrimination”*<sup>21</sup>. Interestingly enough this seems to be one of the points, the rights to organize, that the ILO advocates the most for, as displayed in the ILO part 1 article 2 that says that: *“Workers or employers without any distinctions whatsoever shall have the rights to establish and subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization”*<sup>22</sup>.

It furthermore leads to confusion that depending on what school or district you work in as a teacher there might be different rules and regulation applying to you. This insinuates that two teachers working the same type of job, receiving the same wages, working the same amount of hours but at different schools have to follow different rules and regulations and have different rights. That is not transparent and does not go very well in hand with the theories of good government described earlier in this thesis. Further more that is clearly a violation of the Constitution of Thailand, the UN Declaration of Human Rights and The ILO treaty, that all states that people are equal to the laws and should not be treated indifferently.

### **2.1.2.1 Firing a teacher**

A teacher can have his contract cancelled or to be more blunt laid off.

There has to be valid reasons though, and a list of procedures has to be kept and followed.

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<sup>19</sup> ILO Convention, Part 1 article 1,2 and 3

<sup>20</sup> Constitution of the Kingdom of Thailand, Section 30

<sup>21</sup> UN Declaration of Human Rights, article 7

<sup>22</sup> ILO Convention, Part 1 article 2

A teacher must be given notice of termination at least one pay period or one month in advance of termination of the job. This rule does not apply to employees being fired for “cause”.

"Cause" includes:

1. Dishonest performance of duties or an intentional criminal offence against the employer;
2. Intentionally causing harm to the employer;
3. Violating work rules or orders of the employer for which a written warning has previously been issued to the employee (serious violations might not require a warning);
4. Neglecting the employee's duties for three consecutive working days without justifiable cause;
5. Gross negligence causing serious harm to the employer;
6. Being sentenced to imprisonment.

If the teacher is not being fired for “cause”, examples are listed above, a full time teacher, who is having his job terminated by an employer must be paid severance pay. The severance pay varies according to the duration of which an employee has worked for the employer.

- 1) An Employee who has worked for at least 120 consecutive days but for less than one year shall be paid basic pay for not less than 30 days at the most recent rate of basic pay received by him or not less than the basic pay he received for work performed in the last 30 days in respect of an employee who is rewarded of his output.
- 2) An Employee who has worked continuously for at least one year but less than three years shall be paid the basic pay for not less than 90 days at the most recent rate of basic pay received by him or not less than the basic pay he received for work performed in the last 90 days in respect of an employee who is rewarded of his output.
- 3) An employee who has worked for at least three years but less than six years shall be paid basic pay of no less than 180 days at the most recent rate of basic pay

received by him or not less than the basic pay he received for work performed in the last 180 days in respect of an employee who is rewarded of his output.

- 4) An employee who has worked for at least six years but less than ten years shall be paid basic pay of no less than 240 days at the most recent rate of basic pay received by him or not less than the basic pay he received for work performed in the last 240 days in respect of an employee who is rewarded of his output.
- 5) An employee who has worked for ten years consecutively or more years shall be paid basic pay of no less than 300 days at the most recent rate of basic pay received by him or not less than the basic pay he received for work performed in the last 300 days in respect of an employee who is rewarded of his output.<sup>23</sup>

The research has come across several examples of teachers being fired without proper cause. There are the teachers who were advised to hand in the resignation as it would look better on their papers than if they had been fired by the school. The school did not have any other reasons as to why the teachers were being fired than that they did not fit the program any longer. There is the American teacher who is being fired for taking a day off, who only later after approaching the school with the labor law in hand receives his remuneration. The examples can be studied more in detail in the chapter three. The American teacher reacting to be fired without proper cause is an exception to the rule. In general teachers who are fired do not complain or claim their rights. This can be due to lack of knowledge of rights, abundance of other jobs, or lack of faith in the system.

### **2.1.2.2 Work hours**

Working Hours should not exceed 8 hours per day and 48 hours per week.

Works which may be harmful to the health or safety of the employees as prescribed by Ministerial Regulations shall not exceed seven hours per day and not exceed 42 hours per week.

In general foreign teachers in the English programs in private and government schools in metropolitan Bangkok have between 18 to 24 contact hours. And the remaining hours up to around forty hours designed for preparation and planning.

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<sup>23</sup> Labour Protection Act B.E 2541 (1998), chapter 11, section 118

### **Rest Periods**

- During a working day an employer shall allow an employee a rest period of at least one hour once the employee has worked on that day for his first consecutive hours.

- The employer and employee may agree in advance to have each rest period of less than one hour, but not less than twenty minutes each time whilst the total rest period for the day shall not be less than one hour.

- Where the nature or type of work necessitates continuous performance, stoppage may damage the work, or it is an urgent, the employer may require an employee not to have a rest period with consent of the employee.

Foreign teachers usually have at least one hour of rest during the school day. Furthermore the hours to be used for preparation make it easy for teachers to have spontaneous small breaks during the day.

### **2.1.2.3 Holidays**

#### **Weekly Holidays**

- An employer shall let an employee have at least one day off per week as a weekly holiday and the interval between each weekly holiday shall be no longer than six days.

- An employee shall get his basic pay on weekly holidays (excluding daily workers, hourly workers, or works based upon output)

- An employee and employer may agree in advance to fix which day shall be the weekly holiday.

. - In case of unidentified weekly holidays, an employer shall notify an employee not less than 3 days in advance and report Labor Inspectors within 7 days since the day of notification.

Very few teachers work more than Monday to Friday for the same employer. Weekend work is in most cases taken on voluntarily. Unidentified and un-notified weekly holidays are not likely to occur, as the schools usually follow a national standard school calendar.

### **Annual Vacation**

- An employee who has worked continuously for one full year shall be entitled to an annual vacation of not less than six working days.
- An employee is entitled to get his basic pay on his annual vacation.
- For an employee who has worked for less than one year, the employer may grant the employee an annual vacation on a pro-rata basis.
- An employer is entitled to arrange an annual vacation and notify an employee in advance, or arrange as their agreement.
- An employer and employee may agree in advance that the annual vacation be cumulative and postponed and taken together with that of the following year.

In the matter of annual vacation foreign teachers and teachers in Thailand in general are a privileged part of the workforce. At government schools the teachers have from one month up till two months of vacation per year. Some private schools grant their foreign teachers the same amount of days off, but anything from three weeks to six weeks of annual vacation seems to be the rule at most private schools. Many schools and agencies when applying for teachers use their long vacations to sell the position.

#### **2.1.2.4 Leave**

##### **Sick Leave**

- An employee is entitled to sick leave and gets his basic pay at a rate equal to the basic pay for a normal working day for the entire time taken as sick leave for up to 30 working days per annum. If sick leave is taken for three or more days the employer may require that the employee acquire a medical certificate from a first class medical practitioner or from a government clinic. If the employee fails

to acquire such a certificate the employee shall provide the employer with an explanation.

As it will show later in the thesis this seems to be a part where employees dealing with foreign teachers tend to misinterpret the legislation or simply just change the rules to their own advantage in the contracts.

### **Training Leave**

- An employee is entitled to take leave for training or development of his knowledge and skills in accordance with the rules and procedures prescribed by Ministerial Regulations.

An employee shall not get his basic pay on his training leave.

### **Overtime work and holiday work**

- Where the nature or type of work necessitates continuous performance, stoppage may damage the work, or it is an urgent, the employer may require an employee to work overtime or work on holidays as necessary.

- An employer may require an employee to work on holidays if his business is that of a hotel, theatre, transport, restaurant, cafe, club, society, medical establishment, or such other business as is prescribed by Ministerial Regulations with consent of an employee for each time.

- When overtime work lasts for not less than two hours beyond normal working hours, an employer shall let an employee have a rest period of not less than 20 minutes before the employee starts to work overtime (excluding work which is of a continuous nature or type and which the employee consent to perform or is an urgent.)

### **Overtime Pay, Holiday Pay and Holiday Overtime Pay**

- Where the employer requires an employee to work overtime on a working day, the employer shall pay overtime at the rate of not less than one and a half times the rate of the hourly basic pay earned in normal working hours for the hours of overtime, or

not less than one and a half times the rate for each unit of output on a working day for employees who receive basic pay upon output.

- Where an employer requires an employee to work overtime on a holiday, the employer shall pay holiday overtime pay on holidays to the employee at not less than treble basic pay rate earned per hour or per unit of output on a normal working day.

- Where an employer requires an employee to work on a holiday during a period of normal working hours

- In respect of an employee who is entitled to receive basic pay on holidays, an additional amount of not less than one multiple of the hourly basic pay rate earned per hour on a normal working day, or not less than one multiple of the rate of basic pay per unit of output earned per unit on a normal working day for an employee who is paid on the basis of output;

- In respect of an employee who is not entitled to receive basic pay for holidays, he shall be paid an amount of not less than double the hourly basic pay rate earned per hour on a normal working day, or not less than double the rate per unit of output earned per unit on a normal working day for work done by an employee who is paid on the basis of output.

Most teachers interviewed or talked to refuse to have received overtime pay for attending parental meetings after work, meetings, and seminars in weekends or other similar things. Above mentioned claim from teachers, counts for teachers working at government –as well as private schools in Metropolitan Bangkok.

## **2.2 The State Enterprise Labor Relations Act**

The State Enterprise Labor Relations Act B.E 2543 (2000) is very similar to the Labor Protection Act B.E 2541 (A.D. 1998). It covers the government sector. In some cases the law limits the rights of the employees while it in other instances provides the employees with some tools and forums that provides the employee with rights or representative help that the employees in the private sector is not entitled to.

According to the Ministry of Education, government teachers do not fall under the State Enterprise Labor Relations Act. Apparently they fall under various sets of regulations from various instances. Yet work hour rules, rules regarding sick days and social security are to a certain extent very similar with the contents of the State Enterprise Labor Relations Act. The relevant paragraphs that could have influence on the labor rights of foreign teachers are therefore mentioned here. As it has proven very difficult to find the before mentioned regulations, this is the closest this thesis can come to the factual rights of the teachers at government schools. As to foreign teachers, some officials from the Ministry of Education claims that they do not even fall under the set of regulations their Thai colleagues have to adhere to. A careful answer on this from the same officials was” That the only rights foreign teachers at government schools have, are the ones listed in their contracts”.

### **2.2.1 Relations Affairs Committees**

There are instances above direct contact level with employees such as The State Enterprise Labor Relations Committee but when it comes to forums on a closer level to the employees it is important to point out that every State Enterprise shall have a relations affairs committee.

The purpose of this committee is to:

- 1) To consider and give opinions on an improvement of the operational capacity of the state enterprise as well as to promote and develop labor relations affairs.
- 2) To find out a method of harmony and to prevent labor disputes in such State Enterprise.
- 3) To consider improving rules and regulations that will benefit employers, employees and the State Enterprise.
- 4) To consult to solve problems in any grievance made by an employee or a labor union except a complaint concerning a disciplinary penalty
- 5) To consult to consider improvements of employment.

The relations affairs committee should consist of a member of the board of that State Enterprise that the board of the State Enterprise has appointed as chairman of the



committee. There should also be representatives of the employer appointed from management level. The number of employer representatives should not be less than five but not exceeding nine persons.

Representatives of the employees are appointed from the members proposed by a labor union of that enterprise. Similar to the representatives of the employer, the amount of employee representatives should not be less than five and not exceed nine persons. The appointed people hold membership of the committee for two years. They are entitled to be reappointed if needed.

If there are no labor unions at the State Enterprise or the union has been dissolved under section 65, the State Enterprise shall appoint employees in equal numbers as that of the representatives of the employer. Since most government and private schools does not have labor unions it is therefore the board of the school that gets to decide who is going to be the employee representatives in the relations affairs committee. Through my research I have not been able to come across any private or government school with an English program who has appointed one of their foreign teachers in their English program to sit in the relations affairs committee, if such a committee exists at all. When it is the board appointing the persons to represent the employees in the committee there can be a lot of negative factors attached to that:

1. The board can hire incompetent employees and thereby put the employees out of influence.
2. Some kind of corruption or foul play might occur, where the board makes deals with the employee representatives they select. I am not aware of whether or not things like this have happened or are happening in various committees at government and or private schools. I am just simply pointing out that with this system the possibilities of such a thing happening are enhanced.

### **2.2.2 Conditions of employment and settlements of labor disputes**

There must be an agreement on conditions of employment between the employer and the labor union. This agreement should not have duration over three years.

Similar to the relations affairs committee representatives on each side are respectively selected from the management level of the State Enterprise and from committee members of the present labor union. Employers and or employees may appoint advisors from the outside but these advisors should not exceed more than two persons for each party.

Once an agreement between employers and employees over conditions on employment has been reached it is binding between the employer and employees possessing Labor union membership. The employer is due to this binding agreement therefore not allowed to construct any employment contracts contrary to or inconsistent with the reached agreement, unless it is more favorable to the employees.

It does not specify in the State Enterprise Labor Relations Act who is entitled to and who should choose the representatives of the employers if there are no unions at the State Enterprise.

Does the State Enterprise get to choose which employees who will represent the employees on these matters?

If no agreement has been reached a labor dispute has occurred and the conciliation officer must be notified within 72 hours by the party presenting the demand. From there on a line of negotiations are ahead and if no agreements made ending with arbitration. No matter the results lock outs by employers or strikes by employees are prohibited according to section 33 of the State Enterprise Labor relations act.

When demands are presented, the employer is prohibited to dismiss or transfer any employee, employee representative, committee member or sub-committee member involved in the demand.

The exceptions to above mentioned are if the employee:

- 1) Dishonestly performs their duties or intentionally commits a criminal offence against the employer.
- 2) Intentionally causes damage to the employer:
- 3) Violates the rules, regulations or lawful orders of the employer after a warning or caution has been given by the employer within not more than a year from the date of which the employee has been informed about such a warning letter; provided that such rules, regulations or orders have not been issued to prevent such person from carrying out the demand and except in a serious case where the employer is not required to give a warning or caution.
- 4) Neglects his duty for three consecutive days without justifiable reason.

The employees, employee representatives, committee members and sub-committee of the labor unions involved in the demand are prohibited to incite to or cause a strike.

In section 35 of the State Enterprise labor Relations act it states that it is against the law for an employer to:

- 1) dismiss or commit any act which may result in an employees inability to continue working because of his proceeding to establish a labor union, labor federation, or being the member of a labor union, labor federation, the relation affairs committee, committee or sub-committee of the State Enterprise Labor Relations Committee, prosecution proceedings, being witness or rendering evidence to competent officers, the registrar, the Committee or the Labor Court against the employer;
- 2) Prevent the employee from becoming a member, or cause the employee to relinquish his membership of a labor union, labor Federation, the relations affairs committee, or agree to give money or property to the employee or labor

union staff on the condition that he shall not apply for or accept the employee to be its member or relinquish Labor Union membership.

- 3) Obstruct the operation of a labor union or a labor federation or the employee's rights of labor union membership.
- 4) Unlawfully interfere with the activity of a labor union or a labor federation.

Likewise the employee has similar obligations towards respecting the employer and his rights as noted in section 37 of the State Enterprise Labor Relations act.

### **2.2.3 Labor Unions and teachers:**

To set up a Union one must be employed in the same enterprise, but not on management level. Sui Juris and must be of Thai Nationality.

The fact that only people of Thai nationality being allowed to establish a labor union is unconstitutional and also a speaking against many of the international labor rights agreements and human rights agendas that Thailand has ratified under the wings of ILO and UN.

A labor Union in a State Enterprise must have a member list at the time of establishment containing as a minimum 25 percent of the total number of employees.

Like in the private and government sector, application for registration of a Labor Union must be submitted by minimum ten employees who all meet the requirements for setting up a labor union.

This makes it extremely difficult for teachers in an English program at a government school to organize themselves legally.

Furthermore there can only be one labor union present at each enterprise, so say if the local Thai teachers at a government school have set up a labor union already, then the foreign teachers have no other choice but to try and get under the wings of this labor union. Setting up a labor union at government schools for foreign teachers

only will also be more or less impossible. Since the English Programs of government schools only represents a small part of the schools activities it is more or less impossible to set up a union catering the needs of only a small part of the teachers working at the school. It is very unlikely that the foreign teachers at a government school are enough to represent 25 percent of the workforce at the school. It would also raise some questions about solidarity if only foreign teacher's needs, demands and rights were to be handled by such a labor union. The solution for foreign teachers at government schools seems to be to either team up with the Thai staff in order to set up a labor union, or join an already existing Labor Union.

Do note though, that it is illegal for teachers at government schools to form a trade union. Abovementioned merely functions as an indicator of the pros, cons, disadvantages and advantages related to teachers organizing unions at Government Schools, should it one day be possible.

But are foreigners allowed to join a labor union? And are Thai labor Unions obliged to accept foreigners as members? The answer to the first question is yes. The answer to the second question appears to be a no. According to the State Enterprise Labor Relations Act, Labor Unions in State Enterprises do not seem to be obliged to accept foreigners as members of their union. In section 57 point 5 of the act is says that *The Labor Union shall carry out, only upon the resolution of the general meeting, the following activities: The receipt of any person who is not of Thai nationality or juristic person by laws on aliens undertakings.*

I interpret this as the State Enterprise Labor Relations Act leaving it up to the individual labor unions to decide whether or not they want to welcome foreigners as members. This goes against the core principles of the constitution of Thailand, International agreements on labor and human rights that Thailand has adhered to and even ratified. Nobody should be treated different due to their nationality, race, ethnicity or language. So in case a legal opening for teachers to form a union, then there are still obstacles to be met by foreign teachers.

Should foreign teachers in the English programs have the itch to construct an organization or committee or even just a club for foreign teachers they have to be very careful with what they present as their agenda and what kind of issues they will

debate, discuss or even advise each other on. In the State Enterprise Labor Relations Act there is a strong disliking to informal structures of organized labor or unregistered or illegal labor unions. Sections 80-88 are examples of this

*A person who is a member of a Labor Union despite his knowledge that the Labor Union is not registered under section 45 shall be punished by an imprisonment of not more than one month or a fine of not more than one thousand baht or by both<sup>24</sup>*

Same thing applies to similar scenarios regarding Labor Federations.

In Section 81 it mentions how: *A person that starts the establishment of a Labor Union and does not comply with Section 49 or a member of the committee of a Labor Union who does not comply with Section 50 shall be punished by a fine of not more than 50 baht per day through the period of non-compliance.<sup>25</sup>*

Once again same thing applies to similar scenarios regarding Labor Federations.

Further more it also states that: A Labor Union which accepts members contrary to the provisions of Section 51 shall be punished with a fine of not more than five thousand baht. The same counts when accepting members into Labor Federations.

Too add some confusion to the mix there is one last thing that complicates labor rights issues under the State Enterprise Labor Relations Act: *Regulations, announcements, resolutions, arbitrations or the orders of the State Enterprise Labor Relations Committee which are final under the final under the State Enterprise Labor Relations Act B.E 2534 which ha existed before the date of this act comes into force shall continue to be in force.<sup>26</sup>* So forth any of the above mentioned elements have been decided upon before the introduction of the present State Enterprise Labor Relations Act, and then these elements are still valid and binding, no matter what the present act might say. This can be in either favor or disfavor of employees.

<sup>24</sup> State Enterprise Labor Relations Act B.E 2543, section 80

<sup>25</sup> State Enterprise Labor Relations Act B.E 2543, section 81

<sup>26</sup> State Enterprise Labor Relations Act B.E 2543, section 95

## Chapter III

### Violations of Teachers Labor Rights

#### **3.1. Discrimination foreign teachers meet within the law**

Foreigners can not form a union. Many decrees exempt teachers from a number of rights in the labor law.

Private school teachers and government school teachers are treated differently. Foreign teachers are not granted the same privileges as their Thai Colleagues. On that note, foreign teachers are in most cases being positively discriminated in terms of higher wages than their Thai colleagues.

Foreigners working at Government Schools are supposed to be members of the social security but are not entitled to the benefits from it, due to the fact that if a foreigner loses his job he has seven days to find a new job or leave the country.

In the laws it is demanded that work rules and regulations in Thai language must be available at work places with more than ten people working. There is no saying in the law that if a majority of the staff is foreign these work rules and regulations must be available in English also.

#### **3.2 The violations foreign teachers experience in Thailand**

The research has exposed numerous violations of foreign teacher's labor rights. This chapter will go through various violations that all have been detected through interviews with sources or by participating in or revising forums and websites related to foreigners teaching in Thailand. The interviewed sources consist mainly of foreign teachers. The forums and websites visited are [www.ajarn.com](http://www.ajarn.com) and [www.teflwatch.org](http://www.teflwatch.org). These two sites deal with foreigners teaching in Asia. As the reader will notice in this chapter, foreigners are in most cases treated like Non-Standard

Employment. In *Globalization and Labor in the Asia Pacific Region*<sup>27</sup>, standard employment is associated with: *A normal employment contract involving continuity and regularity of employment, mutuality and security in employment, and access to defined non-wage employment benefits.* According to the same piece, this makes non-standard employment be the embodiment of employment arrangements that deviates from standard employment forms. This includes part-time employment, self employment, fixed-term employment, outworking, working unsociable hours, temporary employment and casual employment. Furthermore it includes home working and agency working<sup>28</sup>. Since a great number of foreign teachers in English Programs in private –and government schools in metropolitan Bangkok work under fixed-term conditions, and are hired through agencies, the term Non-Standard Employment can be attached to a great deal of the jobs offered to foreign teachers. In *Globalization and Labor in the Asia Pacific Region* it is claimed that: *The characteristics of non-standard workers often place them outside of trade union representation*<sup>29</sup>. In the case of foreign teachers that seems to be the case as well. Quite a few of the foreign teachers are only passing through Thailand to work as a teacher for a couple of years before returning home or continuing in other careers. The will to work for changes or speak up is therefore minimal. They are also aliens in another country and therefore don't have the same easy access to, and understanding of rules, rights and dos and don'ts. Therefore they might be hesitant to complain about things if they are unsure of their lawful, social and hierarchical rights.

### **3.2.1 Contracts:**

The research for this thesis have found that the place where the most reoccurring and the most common violations of teachers labor rights takes place are in the contracts between the employer and the employee. Typed in black ink on white paper, these violations are easily detected, if knowledge on the most basic labor rights is possessed. As indicated later in this thesis though, teachers being aware of their labor rights when working in Thailand are a rare species. Actually even among people

<sup>27</sup> Chris Rowley, John Benson. *Globalization And Labor in The Asia Pacific Region*, Frank Cass Publishers 2000, p.99

<sup>28</sup> Chris Rowley, John Benson. *Globalization And Labor in The Asia Pacific Region*, Frank Cass Publishers 2000, p.99

<sup>29</sup> Chris Rowley, John Benson. *Globalization And Labor in The Asia Pacific Region*, Frank Cass Publishers 2000, p.95



working these issues professionally there seems to be a great deal of confusion on the topic. A look at the contracts of some of the interviewed foreign teachers, shows that contracts in general contains violations when it comes to specifying the teachers rights to sick days with pay, monthly salary installments and length of the contracts. Of all the contracts that have been examined, most of them state that the employee is entitled to less sick days per year than he is entitled to through the labor laws. According to Thai Labor Laws and employee is entitled to 30 sick days with pay per year. The laws further state that the employer has the right to ask to see a medical certificate from the employee after three consecutive days of absence. In quite a few of the contracts, a certificate was demanded after only two consecutive days of absence. Furthermore, in some of the contracts it also stated that during the first year of work the employee was only entitled to four sick days with pay. Any additional days would be deducted from the salary. Some of the schools operate with one year contracts, but only pay the teachers' wages in eleven out of the twelve months. The last violation which exists in every single contract looked at so far is a violation that makes the involved teachers extremely vulnerable. According to the contract the employer can choose not to prolong the contract after one year. That can leave a teacher in a bit of a dilemma as he/she in some of the interview cases has worked at the school for some years and have settled with spouse and kids in the area, and it therefore will be costly financially and socially to have to look for another job and possibly resettle in another part of Bangkok. Through the interviews and on various forums undocumented stories of schools that consistently change staff once every year or every second year by simply not renewing contracts have appeared. None of the teachers that interviewed had ever experienced such things on their own bodies though. It can be discussed whether or not the one year contracts provides a fair setting for the employee. How is it possible to offer work on a time based contract in a permanent job position. If a job is considered a permanent job, then you should not be hired on a time specified contract. A teaching job is in most cases not to be considered a non-permanent job. The contract seems to be more an available tool to get rid of unwanted labor than to protect labor from leaving their position before time. None of the teachers interviewed have heard of people facing any repercussion from leaving a job before the finishing date on the contract. Officials at the Ministry of Education are not happy about this arrangement and agree that it puts the

teacher in a vulnerable position, but as it seems to be the norm all over the job market in Thailand, they do not know what to do about it.

### 3.2.2 Pay:

In terms of payment there are a few examples of conflicts that have consistently popped up during interviews or when reviewing various forum posts on the internet. One of these examples is withholding parts of the salary for tax purposes. Many schools withhold parts of the salary for tax purposes without informing the employee that he/she every year can claim those money back if his/her wage level entitles him/her to it. Some incidents have been detected where schools have claimed to withhold parts of salaries for tax purposes without reporting it to the responsible authorities.

Other schools have a policy of withholding percentages of an employers pay, so that this percentage can be confiscated if the employee doesn't fulfill his contract or commits any mistakes or causes damage during his or her work.

On Teflwatch.com there is a report on how a certain school in Metropolitan Bangkok, takes part of the employees salary in deposit for the first three months of work, the so-called probationary period. If the employee proves not to be qualified for the job after all, the school will keep the money deposited.

This school is being debated heavily in a thread on the Teflwatch.org forum. One of the teachers describes his experience with the schools retention system like this:*I worked for the school briefly and left when I got my first paycheck and noticed that they had kept 12.000 baht for my credential and would so until I passed probation. ( Gee that is some incentive for them not to let me pass probation. An additional 5.000 baht was deducted in case I left early. At the interview I was told I had to make one Visa run and pay for it(At that time I held a valid one that did not expire for months).Then later I had to pay again to have my visa extended. Then I noticed in the contract, that I would also have to pay for my work permit fees. Enough I said and went back to the beach. Quite a few teachers contribute to the thread with their own personal experiences with the school. Above listed example is one of those experiences.*

The same teachers also describe how the school asks for marital status, religion and other kinds of information, that as the contributor states: Would not be permitted to ask for at an employment interview in USA<sup>30</sup>. Another one adds details to the retention issues with examples on how he every month had 7.000 baht deducted from his paycheck. Out of these 7.000 baht, 4.000 baht was deducted monthly for the first four months and would be withheld either until the end of the contract or when reaching two years of work for the school. The remaining 3.000 baht was taken out of the payment every month for a bonus salary payment<sup>31</sup>.

### 3.2.3 Other violations:

Of the more radical examples of accusations of violations this thesis have come across is found in the induction of a certain school in Bangkok to the Teflwatch Hall of Shame. According to the induction, the school told two teachers to get fake degrees and then stood by while the two teachers were caught and sentenced to three months in prison. The short version is that the school knowingly hired the teachers without the qualifications needed to obtain work permits, and then asked them to obtain the fake degrees. When the Immigration Police came, the school happily turned the two teachers over to face jail time. The following version of the incident is found on the Teflwatch.org site and is a contribution by an anonymous guy who goes by the alias of Eddie.

*Friday, January 12th, 2007, members of the immigration police visited several schools, including xxxxx School. Most of the teachers at this school were led to the roof in order to hide out until the coast was clear. Two teachers were not. They were summoned to the office and turned over to the immigration police, just like a couple of sacrificial lambs.*

*The immigration police knew these teachers did not have proper documentation. One of the teachers was hired by the school with just a 2 year diploma. The school was desperate for teachers and, at the time, felt that this would be sufficient to get a work permit and teacher's license for the teacher. They were wrong and the Thai Ministry of Education asked for a 4 year from the teacher. xxxxxx School told the*

<sup>30</sup> <http://www.teflwatch.org/bangkok-christian-college-enters-hall-of-shame-200629.html>

<sup>31</sup> <http://www.teflwatch.org/bangkok-christian-college-enters-hall-of-shame-200629.html>

*teacher that he should obtain a fake degree and they would use that to submit to the MOE. The teacher complied and he received his teacher's license only to have it revoked a short time later because the MOE discovered it was fake. Big surprise, right?*

*Ever desperate for a good teacher, the school administration used one of its sister companies to hire the teacher with the position of graphic designer. The teacher didn't think anything about it. After all, this is Thailand. He had a work permit, 1 year visa and was continuing to teach at the same school. What more did he need? Obviously a lot more.*

*The immigration police came to xxxxx School looking for this teacher and any other that they could get their grubby little paws on. They arrested him along with another teacher. They were thrown in jail and it has been reported that they were sentenced to 3 months in jail for their offence. What happened to the school administrators? Nothing, nothing at all. Never mind the common law Thai wife of one of the teachers or the Filipina wife of the other teacher. Mai pen rai, isn't that a Thai expression.<sup>32</sup>*

At a school in Ladprao one teacher describes how her Australian colleague was fired without reason. According to the teacher who wrote the thread her colleague was qualified to teach math, but was all of a sudden given the boot. Not until after he had marked a huge pile of math exams though. Even when asking, they could not come up with any reason for why they had to fire him<sup>33</sup>.

On the TEFLWATCH Hall Of Shame front page, a contributor by the name "of Jack", describes how the English Program of a certain school in Pathumtani; *Hire a new staff every year because they feel they can hire "new-meat" for cheaper wages<sup>34</sup>*

One of the foreign teachers that were interviewed to establish how much, foreign teachers know about their labor rights told a story of how he due to misinformation from the agency he worked for spent over six months in Thailand with no medical insurance. James is a 32 years old man from England. He was backpacking

<sup>32</sup> Teflwatch, <http://www.teflwatch.org/teachers-in-jail-2007226.html>

<sup>33</sup> <http://www.teflwatch.org/the-hall-of-shame->

<sup>34</sup> <http://www.teflwatch.org/the-hall-of-shame->

through Thailand when he discovered the opportunity to explore the country further by working as a teacher teaching English. He has a university degree in psychology, but did not have any previous teaching experience before he came to Thailand. James got offered work through an agency that posted an add on the internet and he soon found himself working in a small private school with an English program around On Nut. His salary was 35,000 baht per month on a one year contract where he was allowed to have nine sick days with pay per year. The first month was a big confusing arrangement. There were no teaching materials, so John had to construct everything himself. Having to teach anything from three different kindergarten levels to Pathom 1 to four that was kind of a challenge John recalls. The teacher's assistants spoke very little if no English at all; most of the times they would leave the class room leaving the foreign teacher alone with the students to teach English and maintain class room discipline without being able to communicate with the students, whose English were too poor for the curriculum they were expected to follow. John took a tesol certificate at night while working at the school and were very engaged in his work. While being this much involved James were at the same time struggling with a very serious issue when you want to be a law abiding foreign citizen working and living in Thailand. He was struggling getting his work permit. Now, as part of his contract, the agency he was hired by promised to pay and provide work permit and provide medical insurance, while working for them. It took the agency and the school in collaboration more than six months to get James to the last stages of getting a work permit, something that according to the Ministry of labor should not take more than two weeks. And at the end they did not manage to provide James with a work permit. Over these six months James had to pay for the expenses for three visa runs since his work permit was not ready. Within no time James had prepared all the documents he had been told to have ready by the agency. Police clearance, original exam documents, letters of recommendation, health certificates and photos. The photos where not good enough though. James had not buttoned the top button in his shirt, so he was told he had to take new pictures. Second attempt of supplying the work permit application with acceptable pictures failed as well. This time James did not have any borders on his photos. Third time James passed the phone to the photographer and had the agency explain in Thai how the pictures were supposed to be like. Since the photos worked something else had to go wrong. Apparently the picture chaos had helped James medical certificate to expire, so

he had to get a new certificate done. His visa was once again very close to expiring so the agency told him to go on a visa run and get a 30 days tourist visa done, because they could later transfer that to a work permit. James was not sure about that and personally contacted the ministry of labor who told him that that was not possible. The agency insisted it was possible and demanded James to go on the visa run. When he came back the tourist visa as James had been explained by the labor department could not get transferred to a work permit, so he had to leave the country again and come back to apply for a work permit. Unfortunately the school and agency had forgotten to attach some logos and stamps to the application so James got rejected. He went to the agency and asked for compensation for all the visa runs he had made for no use because of their mistakes. After some arguing they agreed to pay for the last visa run. James accepted the solution and sent the agency a list of the expenses totaling six thousand baht. A few days later he is being contacted by the agency that says they will not pay for this visa run but will pay for the next visa run he will be on. This caused James to inform the agency that he wanted to quit the job. The agency owners then gave James some very shady explanations on why things had went wrong, legitimizing their actions. But James had double checked all incidents and information with all the involved sources and could dismiss all reasons as lies. He at the same time found out that no teacher working at the school for the agency had ever managed to get a work permit. Around the same time James finds out that he has not been insured by the agency as promised in the contract. When confronted with this the agency's explanation was that they could only insure employees with a valid work permit. Now if you have paid a little attention to English speaking media in Thailand over the past years you know how expensive a mistake it can be to run around in Thailand with no medical insurance so of course James was furious. The reason James had started to think about the promised insurance was because he had gone seriously ill with a bad food poisoning forcing him to stay at home for several days. He later only received sick pay for the first day. He told the agency that he was promised the insurance and if he did not get it immediately he would quit the job. The agency asked him if he would stay if they paid for his insurance. James was tired of the whole thing. He liked the school and the students and just wanted to teach, so he accepted the proposal and thought he would have the insurance within short time as promised. He then spent over one month waiting for his insurance card. He regularly called his agency and they kept replying that the policy was signed they were

just waiting for the card. He then asked the agency if they could give him the policy number. Their answer was that it was not necessary since the card was right around the corner. James got suspicious and called the insurance company himself who told him they had never heard from the agency and no insurance had been ordered for him. James had at that time had enough and quit his job on the spot. James is still in Thailand looking for another job as a teacher. He likes teaching and feels it would be a waste if he didn't put the tesol certificate he has taken to use. There is just one thing. He does not want to work for agencies again. When asked about what he knows about his labor rights in Thailand and if he knows where to go when he has problems or where to seek help, his answer is identical to the answers of the majority of the other teachers interviewed. He does not know.

### **3.2.4 The blacklisting**

During the research rumors of a blacklist arrangement, where schools could intimidate teachers, make it difficult –or even prevent them from getting work as a teacher in Thailand, should they leave or have a bad standing with their present or most previous employing school, were encountered on numerous occasions. Despite lots of efforts put into it, it had not been possible to find any substantial evidence regarding this arrangement, nor had it been possible to get in touch with any teachers who had actually experienced being threatened to be put on or actually being put on such a black list.

That was until a French woman, who had taken a job as a French teacher in a government school in the outskirts of Bangkok was interviewed. She was hired to teach French and was told that her schedule would be supplemented with a few hours of Basic English and Computer classes to meet the required hours for a full time position. When the term started she found out that she was to teach way more English and Computer classes than French, which she did not understand as being part of the original agreement between her and the school. She confronted the school with it but they did not seem very willing or capable to let her schedule be more in the context of the original agreement. So she took a decision and decided to inform the school that she would quit the job. At this time she had been working at the school for approximately one and a half month. During the meeting where she informed the director of the English program of the school of her resignation (Even though being a French teacher,

she belonged to the English program at this school), he told her she could not resign now. And if she did, she should pay the school back all the money they had invested in her Visa and Work Permit. He also told her that if she really was serious about quitting the job, he would see it necessary to blacklist her at the Ministry of education, which would mean that she would not be able to get any teaching jobs in Thailand at all. This is clearly a violation of the French woman's labor rights. First of all, in the labor law it clearly says that there is a mutual trial period of three months in the beginning of any hiring agreements between an employer and an employee. Threatening her with being blacklisted at the Ministry of Education on a list whose even existence is highly doubtful is a clear intimidation to force the teacher to work under unacceptable work conditions against her will. Demanding that she pays back the money the school has invested in her Visa and work permit is a little bit trickier. An employee is not entitled to have his or her visas or work permit expenses covered by her employer according to the labor law. However, if the contract between the two parties state that the employer will take care of and pay for the expenses regarding these issues, then the employee is not deemed to pay the expenses back, should he/she decide to resign. An informal talk with one of the staffs responsible for the recruitment of teachers revealed that it is extremely difficult to find enough teachers to fill the positions needed at the school. So when one teacher decided to resign before time of in the middle of a term it would leave the school with a lot of problems covering the leaving teacher's hours, finding a new qualified replacement etc. Similar things have been put on the table when interviewing other schools and agencies regarding the supply and demand situation of qualified foreign teachers in Bangkok. It is a known fact for less qualified teachers such as Filipinos, non native English speakers and people with out the required degrees that the closer you get to the beginning of a term, the easier It is to get a job. This is only natural. If supply is lower than demand then the price either goes up, or you must lower the requirements.

At the Ministry of Education they deny the existence of such a list, and further elaborates that if such a list existed, then the school submitting a teacher name to the list, would have to come up with so much documentation why the name should be on the list, that the school most likely would not bother going through the trouble.



### 3.2.5 Discrimination:

The constitution of Thailand leaves no free room for discrimination on gender, ethnicity, origin, citizenship, religion, age etc. It clearly states that every body regardless of above mentioned should be treated equal. Yet examples of discrimination because of ethnicity or nationality keep appearing in the research material. One of the biggest groups of foreign teachers teaching in English, apart from the native English speakers of course, are Filipinos. Out of the 12387 registered teachers at primary and secondary school level in Thailand in 2007, 3185 were of Filipino nationality.<sup>35</sup> This makes it by far the biggest nationality represented in the primary and secondary school system, representing almost one fourth of all teachers. It also makes them the biggest group of non-English speakers and teachers with other skin complexions than white.

The discrimination starts even before applying for the jobs. One quick glance at job adds for teachers for English programs in Bangkok in news papers and online, shows that there is a clear preference for, in this order, native English speaking westerners, non native English speaking westerners, and non native English speakers with a skin complexion different from white. It has not been possible to come across any native English speakers with other skin colors than white. They are existent but represent a very small part of the native English speakers teaching in metropolitan Bangkok.

Many job-ads for teachers in most cases specifically look for native English speakers. However, a significant amount of ads goes even further and clearly states at the bottom of their ads, that Pilipino teachers do not need apply. Following sentence is copy pasted directly from a job add on the internet from an agency looking for teachers to teach English in Bangkok: application:

*“Part Time Young Children’s Teacher*

*Experienced Part Time Young Children’s Teacher NATIVE SPEAKER FROM UK US CAN AUS NZ ONLY.*

*WE apologize but we are UNABLE to employ teachers from the PHILLIPINES”.*

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<sup>35</sup> Statistic information received from The Ministry of Labor, information appears in appendices.

Other adds describes the teachers they are looking for as being native English speakers or Europeans. According to a letter on Ajarn.com regarding the discrimination of Filipino teachers, from a native English speaking teacher, it is not the academically qualifications that keeps agencies and schools from hiring Filipinos. Out of the selected Filipino teachers interviewed only one out of the eight teachers talked to did not have a relevant education for his or her job as a teacher. Some of the teachers were even over qualified being doctors in dentistry with a degree in education as well teaching English to high school kids in Thailand. Most of the Filipino teachers interviewed had at least a bachelor degree in education or teaching English, mathematics or science. Of the Native English speaking teachers interviewed. Only one had a degree in education. This makes perfectly sense as native English speakers with degrees in education through nationality and qualifications can work at international schools that pay more than three times the salaries of the English programs at government and private schools. It is therefore more the exception than the rule that a native English speaker with an educational degree chooses not to teach at an international school. The general native speaking English teacher tends to have a degree or other educational background that is not relating to education.

Further the general wage policy when it comes to Filipino teachers is to pay them significantly less than native English speakers or non native English speaking Caucasians. By browsing through various job adds and talking to several Filipino and western teachers an estimate average salary for a native English speaking or non-native English speaking teacher in the English Programs in public and private schools in metropolitan Bangkok is somewhere around 35,000 – 40,000 baht per. Month. For a Filipino teacher teaching in the same schools, the salaries tend to be lower most likely around 20,000 baht per. Month. It is not uncommon with lower salaries. Examples of 15,000 baht have been encountered. During interviews there have been mentions of 8,000 baht, but it has not been possible to find any documentation for this. Filipinos receiving the same wages as their native English speaking or Caucasian colleagues do exist but most of the times Filipinos putting the same amount of money into their bank account every month as their native English speaking colleagues, are teaching subjects such as mathematics and science, an area where employers apparently have a real hard time finding qualified staff among westerners. One director of an English program of a large public school in Pinklao informed that they normally did not hire Filipinos, except

for mathematics and science teaching positions. And in these positions, they actually had started to favor the Filipino teachers, because they had the proper background for teaching the subject and better teaching methodologies.

An Australian teacher has written a piece called "Discrimination on Filipino teachers in Thailand". The piece is posted on Ajarn.com and here the Australian teacher, who has chosen to use the synonym X instead of his real name, shares his observations on the topic with the users of the site. When describing Filipino teachers and their work ethics X describes them like this: *Generally, most Filipino teachers spend more time in preparation and making materials than most other teachers I have witnessed*<sup>36</sup>. He also describes how he is of the belief that the salary of a Filipino rarely comes close to that of the native English speaker. He too makes a mention of how many job ads ask for native English speakers only. But he also claims that the excuse of wanting a native English speaker rather deals with the fact that the schools want teaching staff with the right skin color. In this case that color is white. He exemplifies it with this: *Part of this is a mix of quasi cultural / business prerequisite on the part of the employer. Face does play a part of business relations in Thailand. If a parent is paying 30 - 60 000 baht per semester for their child to attend an English program or a bi-lingual school, sometimes the parent is not happy to see that child being taught by someone other than a native speaker. Some schools are acutely aware of this. One particular school I have witnessed has gone so far as to take the most sickening of measures, by trying to disguise Filipino staff as Thai staff*<sup>37</sup>. He describes how he witnessed that female Filipino teachers were forced to wear Thai staff uniforms while the western female teachers had a different dress code.

Mr. X goes on talking about how not being a native speaker does not mean your English always are worse than the English of a native speaker and brings an example of an African teacher with English grammar skills far superior to his own. Yet the African teacher worked at a salary way lower than his<sup>38</sup>.

It is not all rosy red and in favor of Filipino teachers though. Mr. X also reveals that Filipino teachers *with education degrees, beautifully prepared material and lesson*

<sup>36</sup> <http://www.ajarn.com/Filipino/articles/discriminationagainstfilipinos.htm>

<sup>37</sup> <http://www.ajarn.com/Filipino/articles/discriminationagainstfilipinos.htm>

<sup>38</sup> <http://www.ajarn.com/Filipino/articles/discriminationagainstfilipinos.htm>

*plans*, Still sometimes makes him wonder what the heck it was that they just said<sup>39</sup>. Mr. X is clearly talking about the pronunciation and the oral English skills here. But as he later states that understanding the pronunciation of English words from certain native English speakers from Scotland or Australia for instance can be just as difficult for the students.<sup>40</sup>

Ajarn Rashane Meesri who holds a Phd. in Curriculum and instruction development from Chulalongkorn University has been involved in the Provincial Administrations Nonthaburi Project, that tries to encourage schools to hire more native or native like English speakers. Through his research and work as a consultant he has been exposed to native English- and non native speaking teachers, Filipinos included. He is of the belief that the accent is not important when it comes to learning English as long as it is not too bad. He claims that the wish for native English speaking teachers or teachers with white skin and blonde hair is more a demand from the parents than it is from the school. But since the school is depending on the enrollment of the students they have to subdue to the wishes of the parents to some extent. It limits the amount of potential qualified teachers when the preferred choice is native English speakers, and Ajarn Rashane has experience with Filipino teachers actually being better in the classrooms since they understand Asian mentality better than westerners, have in many cases degrees in education providing them with the right tools for teaching, but he admits that when the choice between hiring a Filipino with educational degrees and a native English speaker with out educational background then in most cases the native English speaker will be hired. According to him the lack of qualifications can be evened out with the native speaking language skills. It is also a balance between satisfying the parents of the students who from his experience expects their child to learn to speak English with native speaking accent, so therefore there appears to be some pressure on the schools to deliver native English speakers, a pressure that apparently makes them willing to compensate with the academic qualifications. In general his experience is that teachers with educational background are more dynamic in the classroom, knows classroom psychology and have better teaching methodologies than teachers without educational backgrounds.

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<sup>39</sup> <http://www.ajarn.com/Filipino/articles/discriminationagainstfilipinos.htm>

<sup>40</sup> <http://www.ajarn.com/Filipino/articles/discriminationagainstfilipinos.htm>

Maria, 38, from the Philippines is a doctor in dentistry. She furthermore has a second course in education. Her English is as good as any native speaker. She lives and works in Bangkok where she teaches English. She has been in Thailand for eight months now. She said she applied for at least thirty jobs before being hired where she teaches now. She will not reveal what her salary is but admits it to be less than thirty thousand baht per. Month. She is hired on a one year contract. She cannot remember how many sick days with pay she is entitled to per year, but does not think it is as many as the thirty days the law prescribes. She is not aware of her labor rights as a foreign teacher in Thailand and has no idea where to look or where to seek help should her labor rights be violated. Many of the places she went looking for work they replied that they only hire native English speakers or that to teach you need to have been certified to teach in Europe.

She once overheard some parents at the school where she teaches, as the only Filipino teacher, argue with the principal. *They were saying, why is there a Pilipino teacher at this school, we are not paying a lot of money for our child to study at an international school to have her being taught by a Pilipino,* is what she heard before she went on with her proceedings pretending not to have heard anything. The reason why she finds herself in Thailand despite being a victim of discrimination and violations of her labor rights is that she can earn more money as a teacher in Thailand than she can in the Philippines.

Isabel, 38, teaches at a school in the Ramkhamheng area. She is working part time. She is paid 250 baht per hour. The 250 baht per lesson is also covering the extra hour she uses for preparation for each class. She has been working in Thailand for four months. She does not have a contract with the agency she works through and they have not managed to provide her with a work permit yet either. So she is working illegally as a teacher on her fourth month now. Her educational background from the Philippines is a bachelor's degree in secondary education and a master degree in teaching languages. She does not know where to go should she end up feeling her labor rights are being violated, especially not now where she does not even have a work permit to work as a teacher.

Carlos, 35, is in a similar position. Like Isabel he has been working in Bangkok for four months. He works at a public school in Silom where he is the only foreign English teacher. He is employed through the same agency as Isabel. So like her, he does not have work contract or a work permit. His salary is the same as Isabel. He has a degree in Hotel and Restaurant management from the Philippines but has not been able to find work with in that field in Thailand. Like Isabel he is not aware of his labor rights in Thailand but has a feeling that it is similar to back home in the Philippines where he has experienced being in the labor court two times. He does not know where to find information on his labor rights in Thailand nor does he know where to seek help and advice should he have his rights violated.

Adriana, 29, works in a public school in Lad Prao where she earns 35.000 baht per. Month. Her western colleagues earn 40.000 baht per. She feels it is unfair, but thinks nothing can be done about the five thousand baht difference. She is the only Filipino teacher at the school and believes the only reason she got the job is that the school could not find other qualified western candidates to teach mathematics and chemistry. She holds a bachelors degree in elementary education from the Philippines. She is hired on a one year contract and cannot remember how many sick days she is entitled to have per year in the contract. She does not know how many sick days with pay she is entitled to have according to Thai law. Should she experience having her labor rights violated she has no clue on where to go for help, assistance or advice.

Hector, 26, former chemist is an exception to the rule. He receives the same salary as his fellow native English speaking teachers. Every month he puts more than 50,000 baht in the bank as a Science teacher. But it was not supposed to be like that according to Hector. They wanted to give me a much lower salary but I told them that I deserved just as high a salary as my colleagues at the English department at the school and if they were not able to give me that I would not work for them. I was able to play tough in the negotiation phase because I know there are a shortage and a huge need for qualified Science teachers in Bangkok. Although situated in a nice job now Hector has earlier experienced having his labor rights violated while working in Bangkok. The first place I worked they promised me 38,000 baht per month but after the first month they only gave me 28,000. The schools explanation was that they felt that it was

not a fair deal and felt I did not deserve as much as first agreed, and listed in my contract, so they had decided to change it in a negative direction. I kept the first months salary and left the school to find another job, explains Hector who never considered getting the remaining ten thousand baht back he was supposed to receive for one months work. Today Hector works on a one year contract. He too, cannot remember how many sick days with pay he is entitled to per year in his contract, but feels that it is definitely less than the 30 days that the law entitles him to.

At the same time, though it hardly can be described as discrimination, interviews with some native English speaking teachers have indicated a negative attitude towards Filipino teachers. This presence is not strong but was found particularly among western teachers without the required qualifications to teach in Thailand. By granting Filipino teacher's rights, recognition and equal terms the unqualified western teachers to some extent would feel threatened on position, status and job. Among western teachers with the required Bachelors degree or four years certificate no negative or critical comments regarding granting Filipinos recognition, rights and more equal terms in relation to their western colleagues were encountered. The critical comments regarding Filipino teachers were that, they were not good class room entertainers, they did not understand or represent Native English speaking culture, such as slang, humor and other ways of acting, something that the interviewed teachers claimed was just as much a purpose of having a foreign teachers as it was to teach the students English or teach them in English. Furthermore they came with examples of parents openly admitting to not wanting their kids to be taught by a non native English speaking teacher. This indicates that these groups of native English speaking teachers who are in a vulnerable position see their positions and jobs being threatened. They do not have the required qualifications to teach in terms of a Bachelors degree and sees their status as a native English speaker as their biggest qualification. If Filipino teachers were to be granted more rights and less emphasis were to be put on the native English speaking status, then they would be even more vulnerable. Some of those teachers have been teaching here for numerous years, since the requirements to the qualifications of a foreign teacher were more flexible or vague. Now they are beginning to feel cornered and have problems seeing how they can change their situation to the better. Most of these teachers have acquired the teaching English as a second language certificates that

many schools demand as an extra qualification. These certificates, like for example TESOL and CELTA can be earned at public and private schools and Online as well. But with more and more demands of BA degrees and MA degrees to teach at various schools these teachers have less and less job opportunities. However, it seems that there might be a lifesaver thrown to these foreign teachers with the introduction of the new teacher's license from may 2009. The new teacher's license is described further down this thesis.

The push and pull factors convincing Philippine teachers to teach in Thailand, such as pay, economical security and the ability to save up money and send money home to the Philippines (Pull), and lack of jobs, low wages and high competition over jobs in the Philippines (push), makes them very flexible in terms of giving up on their rights or accepting violations or being paid lower wages than other foreign teachers.

### **3.3 Foreign teacher's awareness of their labor rights**

Foreign teachers working in the English Programs at public and private schools in the metropolitan area of Bangkok are not aware of their own labor rights. Even teachers who have been victims of their violations of their labor rights reveal insecurity when asked questions on the matter.

At an interviews, taking place at the Pilipino embassy on a day where numerous Pilipino teachers were gathered to join as members of a newly founded organization for Pilipino teachers in Thailand, helping, supporting with labor rights issues among other things. The knowledge on labor rights among the eight teachers, randomly selected for qualitative interviews, was very limited.

At a rather simple questionnaire posted on a forum for foreign teachers on [ajarn.com](http://ajarn.com), the answers were a bit more nuanced than with the people who were interviewed face to face. This of course could indicate that people with an interest in labor rights probably have been more prone to answer the questionnaire. If you have no interest in the topic, why would you click into the forum and even bother answer the questionnaire? However, the answers from the forum generally revealed little



knowledge about labor rights and where to go should problems regarding labor rights arise.

During a number of qualitative interviews with randomly selected native English speaking teachers it showed that knowledge on labor rights in Thailand among this group of foreign teachers also was and is very limited.

In general people do not know of their labor rights, they do not know what to do or where to go for help or assistance should their labor rights be violated and if they do, they do know where to go or what to do, they do not think it matters of will benefit them to do something about it.

The general answer from foreign teachers on how to handle of cope with violations of labor rights is to just accept it or find a new job. This is the most logical solution they can come up with.

As a little interesting anecdote, while at the same time serving as another example of foreign teachers having their labor rights violated is the story of Daniel. He is an American, who has taught in Thailand for several years. He does not have the required minimum of a four year degree, for teaching in English in Thailand. Yet, it has not stopped him from doing so for many years. He has been teaching in Thailand on a tourist visa and have been going on the, among teachers, notoriously famous Visa-runs. Neither has it stopped various schools and institutions from hiring him. He lives in the outskirts of Bangkok around Min Buri, where he also used to teach until recently. On the same day he was interviewed he informed that he had been fired by the school he had been teaching at for the last year. According to him the reason for firing him was that he had called in sick with out really being sick. But as you can read in the following lines there was a reason for him doing that.

“I had with more than one months notice informed my supervisor if I could take a day off on a certain date, because my father was coming to visit me from USA. The supervisor then told me, that It would be better if I just called in sick, since the schools policies were not to allow any employees to take days off. So I did, which eventually led to the supervisor firing me for having an unauthorized day off”. Later when

interviewing a Scottish teacher by the name of Adam who has been teaching at the same school for more than two years, information was put forth, that the school has put up a note in the foreign teachers office stating that, “Teachers are not allowed to take any days off for what ever reasons”.

Inspired by the interview for this thesis, the American Teacher David started looking into his labor rights by browsing for the Thai labor laws on the internet. With his newly acquired findings he approached the management at his now former school and said he did not believe they had been fair to him and that he seriously was considering taking the episode to the labor courts. This threat made the school offer him one month of extra wages as a compensation for his firing. David did not get his job back though, and are currently looking for a school willing to hire him as a teacher despite his lack of required qualifications. Until then he teaches at an after school tutoring company where he works full time, no days off and without a work permit.

As mentioned earlier, a questionnaire was also posted on Ajarn.com where teachers were asked to answer a number of questions regarding their labor rights, and their knowledge of those very same rights.

Only five people responded, but more interesting several people posted comments and remarks in the thread I made in order to post the questionnaire. When it comes to the question regarding organizing in Thailand as a foreign teacher the knowledge was very limited. One respondent answered that she was not aware if she needed to be a member or a union or not. One answered very bluntly, that there were no unions for foreign teachers and even if such an option did exist he had given up tilting at windmills a couple of decades ago.

On the opened forum thread one of the posts humorously states that; *It is...as always, Rule #1, To form an association (or union or foundation), must be a Thai national.. No more pesky unions! There's an election to be bought (er, won)!.*<sup>41</sup> But is this true? Is it impossible for foreigners to form a union in Thailand? The answer can be found in one of the previous chapters, where it states that foreigners are not allowed to form unions, but they are not prohibited to join an existing one.

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<sup>41</sup> <http://ajarnforum.net/vb/staffroom/25843-your-labour-rights-please-read.html>

One commentator cleverly pointed out in the forum on ajarn.com that *government employees might not fall under the Labor Laws.*<sup>42</sup> Is this to the benefit of the foreign teacher or not? As we have seen, the constitution on paper grants the foreign teacher to the same rights as his Thai colleagues and international laws also recognizes this as shown earlier in this paper.

Schools, agencies and recruiters seem to be very aware that the majority of foreign teachers do not possess sufficient knowledge on what their labor rights are while working in Thailand. This is illustrated in the following fresh case taking place right in the beginning of the semester start in May 2008. An English program at a number of schools in Nonthaburi, run/supervised by, what is considered to be the number one University in Thailand, took advantage of the teacher's lack of knowledge of their rights when they wanted to replace the teachers. The English program at various government schools in Nonthaburi is run by the prestigious university as a testing ground for bilingual teaching. The program is supervised by personnel and professors from the university, who plan, overlook and monitor the progress of the program and the foreign teachers. One would suspect that when people from the faculty of education of one of the most prestigious faculties are involved in such a project one would believe that things are run in a manner where no laws or ethical work standards are violated. That seems not to be the case. Quite a few examples of negligence of the labor laws can be found at these English Programs, such as differentiating between employees because of nationality, not giving overtime pay for extra hours etc. The one example I want to bring forth here is about the dismissal of unwanted teachers. Some teachers were approached close to semester start and were told that they did not fit into the program any longer and that the program therefore would like to continue the project without the involvement of the teachers. The directors could not come with any specific reason why the teachers did not fit into the program any longer. Instead of letting them go with remuneration pay, the program tried to brush it off on the teachers telling them that it would be in the teachers own interest if they resigned themselves. They used the argument that being fired from a project run by this university would look very bad on the teachers C.V.

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<sup>42</sup> <http://ajarnforum.net/vb/staffroom/25843-your-labour-rights-please-read.html>

### 3.4 Government employees and labor laws

So does the government employees' fall under the labor laws or not? To find out one needs to take a look at the State Enterprise Relations act of 2000<sup>43</sup>. The State Enterprise Relations act of 2000 section six states that<sup>44</sup>: *State Enterprise includes: any government organization under the law on establishment of government organizations or an enterprise of the state under the law establishing that enterprise, including business entities owned by the state or.....* Now a decree exempting teachers does exist apparently to this. But if you without the knowledge of the existence of this decree look at these words, they sure makes one think that teachers fall under the State Enterprise Relations act of 2000.

### 3.5 Is organizing, legal or illegal?

Negotiation power and the ability to claim your rights are better and bigger when done by a group and not individually. The old term united we stand divided we fall definitely comes to justice in this matter. It wasn't until workers in Northern Europe organized that their demands for better treatment were heard. And it is easy to see that the strong collective bargaining power of the trade unions of Scandinavia is one of the reasons why the minimum wages of that region are so high. In western countries there is a strong tradition for involving trade unions or similar institutions when having disputes or conflicts with employers. That goes for teachers too. Interestingly enough the foreign teachers in the English programs have no clue whether there exists a trade union for teachers or not in Thailand. When asked, most of the teachers interviewed admit that they have not even bothered to find out on available sources of communication such as the internet.

Public servants are prohibited from forming and joining labor unions, but the laws allow having employee "associations" that are barred from bargaining collectively. This means that teachers at public schools and public universities are to be counted as civil servants. Or are they? Falling into this category they are not allowed to

<sup>43</sup> [http://www.mol.go.th/download/laborlaw/labourStateRelation2000\\_en.pdf](http://www.mol.go.th/download/laborlaw/labourStateRelation2000_en.pdf)

<sup>44</sup> [http://www.mol.go.th/download/laborlaw/labourStateRelation2000\\_en.pdf](http://www.mol.go.th/download/laborlaw/labourStateRelation2000_en.pdf)

form or join unions. In 2003 the Private University Act extended this prohibition and exempted employees of private universities as well from coverage under the LRA and Labor Protection Act<sup>45</sup>.

Trade unions for teachers do exist in Thailand. Problem is that they are not recognized or legal. The NTTU is not legal since their members mostly count civil servants who are not entitled to organize according to the Thai labor laws. Instead they have registered as an association under article 45 of the 1997 constitution that guarantees them the rights to form and be members of an association. This means that NTTU are in a position where they are not allowed to bargain on pay and benefits. They are also prohibited to handling grievances on promotion, transfers, and disciplinary actions. The only ways to advocate the needs of their members are to make surveys and analyses and the present the results of these to the government at seminars, through the media and other forums. In the Thai labor law it says that the ten founding members of a trade union have to be Thai citizens, but it does not say that foreigners are not allowed to join a trade union as members. Still, this knowledge seems to have been spread to neither the unofficial trade unions in Thailand nor the teachers. And if this knowledge actually has managed to spread why have the Thai labor unions or associations not done anything to try to welcome foreigners into their organization.

Again when looking at labor unions and – associations on a broader scale in Thailand, not just in the area of teaching, you might get a less innocent reason. ACIL, explains in their book *Justice for all - The struggle for labor rights in Thailand*, that the Thai Union movement, has for the most part, been indifferent or even hostile to the situation of migrant workers. Some of the reasons for this are historical and based on ethnic bias, as in the case of the Burmese, who have been traditionally regarded as enemies. Many Thai workers also share a misconception of migrants taking Thai jobs and undercutting wages<sup>46</sup>. Now obviously and proven, foreign teachers do not undercut wages, and they do not directly take jobs from Thais. Since most schools operate with one assistant Thai teacher for every foreign teacher in the class room, the foreign teachers do to some extent create new jobs, or at least maintain status quo. Westerners and Filipinos are not traditionally and historically regarded as enemies, at least not in as direct a sense as with Burmese. When it comes to foreign teachers my experience tells me that we might operate with two different factors. One is the fact that teachers unions, such as NTTU

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<sup>45</sup> *Justice for all - The struggle for labour rights in Thailand*, ACIL, 2008, p. 36

<sup>46</sup> *Justice for all - The struggle for labour rights in Thailand*, ACIL, 2008, p. 82

are not that far in their process as to start focusing on incorporating foreign teachers into their agenda. They have other bigger issues to look into first, Such as being recognized as a Labor union with the blessings of the law. Another one has its offspring in direct work relation between foreign teachers and their Thai colleagues. When interviewing foreign teachers, westerners as well as Filipino teachers, many mentioned, some even expressed concern with jealousy from Thai teachers at their schools over the higher salaries that foreigners receive. Could the significant differences in heights of wages create the indifferences and hostility towards siding with foreign teachers? With wages as high as four to five times the wages of a Thai colleague, why should a Thai teacher take his foreign colleagues complaints serious? As banal as it might sound I agree with ACIL when they claim that an institutional lack of capacity and language barriers also are candidates for being the reasons why foreign teachers and teachers associations in Thailand have not joined forces yet<sup>47</sup>. Also, as earlier mentioned, with many foreign teachers falling into the category of Non-Standard Employment, you could raise the question whether or not they are being used to undermine standard employment conditions, if not for teachers in Thailand in general, then definitely for foreign teachers<sup>48</sup>. In the light of this one might claim or sense that there could seem to be some barriers of various kinds between Thai teachers, Thai teachers unions and foreign teachers. Should these barriers between the two groupings be there be existent or not? And how can the union respond to foreign teachers?

In “Globalization And Labor in The Asia Pacific Region” the union has four potential responses in terms of non-standard workers. These responses can easily be attached to this case as well. The responses are: 1. ignore, 2. exclude and oppose, 3. limit their numbers and regulate, and 4. recruit and integrate<sup>49</sup>. Since none of the teachers I have been in touch with have ever been approached by any teachers unions we must assume that response 4 is not on the agenda of the unions. Since, to my knowledge no foreign teachers have ever asked for, nor been rejected membership of a union we cannot know whether or not response 2, exclude and expose is an issue. It is not likely to be the case as there does not seem to be any existing history of unions opposing foreign teachers either. Since we have not heard any statements from unions regarding foreign teachers

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<sup>47</sup> Justice for all - The struggle for labour rights in Thailand, ACIL 2008, p. 82,

<sup>48</sup> Chris Rowley, John Benson. Globalization And Labor in The Asia Pacific Region, Frank Cass Publishers 2000, p.95

<sup>49</sup> Chris Rowley, John Benson. Globalization And Labor in The Asia Pacific Region, Frank Cass Publishers 2000, p.103

and the unions seems to have very little influence on regulations in the Thai educational system we can eliminate response number three as well. But does eliminating the possibility of three responses mean that we automatically can take the last response, response number one for granted as the answer? Are the Teachers Unions ignoring the existence of foreign teachers and their problems?

In *Globalization And Labor in The Asia Pacific Region* it is mentioned that: *non-standard employment is fragmented, has high turnover rates is often located in small enterprises and is largely outside the traditional interests and focus of trade unions*<sup>50</sup>. It also claims that: *Unless trade unions begin to assess how they can recruit and expand membership among non-standard workers, their position will continue to be eroded*<sup>51</sup>.

Recently at a party at the Embassy of the Philippines, an organization was formed that is supposed to assemble and unite the Filipino teachers working in Thailand<sup>52</sup>.

But why are there not any dialogue between the foreigners interested in organizing and the already existing Thai run unions?

According to the Foreigners who actually do try to get organized or involved they have not been contacted by the existing trade unions.

As mentioned before to start a trade union in Thailand you need at least ten promoters at the work place to hand in an application for registration of the union. The application must contain these people's names, ages, occupation and addresses. Included in the application has to be a draft of the bylaws/regulations of the union<sup>53</sup>.

The ministry of labor then issues the registration, which is published in the government gazette<sup>54</sup>. It is important to note that the union promoters have no protection under the law for their actions until the union is registered<sup>55</sup>.

<sup>50</sup> Chris Rowley, John Benson. *Globalization And Labor in The Asia Pacific Region*, Frank Cass Publishers 2000, p.104

<sup>51</sup> Chris Rowley, John Benson. *Globalization And Labor in The Asia Pacific Region*, Frank Cass Publishers 2000, p.99

<sup>52</sup> This party took place on February 22 2008

<sup>53</sup> *Labour Relations Act B.E 1975*, section 89.

<sup>54</sup> *LRA*, sec 91 and 92.

<sup>55</sup> *Justice for all - The struggle for labour rights in Thailand*, ACIL 2008, p. 27.

Within 120 days after registration, union promoters convene a general meeting to elect a committee, whose members will serve as officers of the union. At this general meeting they shall also seek to approve the bylaws as amended by the general meeting<sup>56</sup>.

Within 14 days after the general meeting, the union submits to the Ministry of Labor the names of the elected committee and the bylaws as amended<sup>57</sup>.

Union members elect a negotiating committee of up to seven members<sup>58</sup>.

The Union submits written demands to the employer along with the names of the Negotiating Committee. Members of the union must be at least twenty percent of the total workforce in order for the union to be able to submit demands<sup>59</sup>.

Negotiations must begin within three days after submission of demands<sup>60</sup>.

If there are no negotiations in the three day period, or there is no agreement after the negotiations, then a Ministry of Labor conciliation officer will try to effect a settlement within five days after being notified of the impasse<sup>61</sup>.

If a settlement can not be reached after five days of conciliation, the parties may agree to appoint an arbitrator; if arbitration is not selected, then the union can strike and the employer can lock out<sup>62</sup>.

When looking at the chronological steps needed to be taken in order to form a union, the risk of retaliation from the employer with out having any legal protection exists. In the labor relations act there are several provisions that protects union members from retaliation from the employer. The interpretation of these measures is that they do not count until the union has been recognized<sup>63</sup>. This provides

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<sup>56</sup> LRA, sec. 93

<sup>57</sup> LRA, sec. 93

<sup>58</sup> LRA, sec. 14

<sup>59</sup> LRA, sec. 15

<sup>60</sup> LRA, sec. 16

<sup>61</sup> LRA, sec. 15

<sup>62</sup> LRA, sec. 22

<sup>63</sup> Justice for all - The struggle for labour rights in Thailand, ACIL 2008, p. 28.



the employer with a certain time span to react upon employees attempting to form a union should he want to do so. As soon as the application letter to form a union gets known to the employer, the employer has until the actual approval of the union by The Ministry of Labor to try to get rid of the founding members through various means. The only preventive steps that the founders of the union can take to prevent such things from happening is to submit collective bargaining demands to the employer simultaneously with the application to form a union to the ministry of labor<sup>64</sup>. There is no guarantee that this move will offer them protection under the law, but the fact that they have been involved in a demand before application approval might win them sympathy with the judge in case of them being discharged<sup>65</sup>.

When the dangers and personal risks attached to establishing a union are as present as they are displayed here, then that obviously represents a heavy factor contributing to the weakening of the incentives in taking the initiative to form a union. ACIL have in their 2008 publication, *Justice for all – The struggle for workers rights in Thailand*, revealed examples on how employers in other fields of labor have punished or retaliated against people pursuing the establishment of a union at their work place<sup>66</sup>.

And with the uncertainty on whether or not there are actual laws banning teachers from forming unions, and then it is no wonder why there is hesitance among foreigners to get involved.

### **3.6 Reactions:**

A natural question to pose related to this topic is what the reactions are to some of the actions taken on the teachers. Since most teachers do not have sufficient knowledge on their legitimate rights nor possibilities to claim them in Thailand, and further does not seem to know where to seek the help, what do they do?

For teachers, especially native English speaking westerners, the most normal reaction when being treated unjustly or being in conflict with an employer is simply to pack the bags and leave. The jobs are plenty and it doesn't take long to find a

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<sup>64</sup> *Justice for all - The struggle for labour rights in Thailand*, ACIL 2008, p. 29.

<sup>65</sup> *Justice for all - The struggle for labour rights in Thailand*, ACIL 2008, p. 29.

<sup>66</sup> *Justice for all - The struggle for labour rights in Thailand*, ACIL 2008, p. 29.

new job in Bangkok it seems. They have given up claiming their rights through the normal channels and as earlier mentioned does not have sufficient knowledge on their rights and where to seek help or go with problems either. So for them, the easiest solution is to pack the bags and leave.

At some schools teachers have told that they when having major issues with the school over salaries, curriculum and other professional matters they have actually tried to call a meeting with the direction. At these meetings they explain many things are promised but never kept, so they have given up on this solution. This serves as an explanatory factor to why some teachers does not think that being verbal and complaining by going through the normal channels helps at all.

It appears that no foreign teachers in the English programs in the metropolitan area of Bangkok have ever tried to take a dispute to a higher instance than the school boards. This is confirmed at the Ministry of Labor who informs that they have never seen any labor disputes involving foreign teachers reaching their doorstep. Same thing goes with the Ministry of Education who cannot recall having any teachers approaching over disputes over labor rights issues.

For Filipino teachers a normal reaction is to swallow the pride, accept the unfair treatment and continue working. Packing the bag and leaving right away is not an option like it is for western teachers as jobs are not in abundance for Filipino teachers. However, when a conflict with the employer occurs or unjust treatment gets too much looking for another job is also a reaction for a Filipino. They are not in a position to take chances to the same extent as the white skinned western teachers are, since job adds posted normally attracts applications from at least ten Filipinos and since they automatically are second priority to native speakers and white skinned teachers, they have to stay put until they know they have another job on the hand for sure.

A website has been constructed. It is called TEFLWATCH and is an anarchistic page that serves teachers teaching English as a second language. The site seems to have been created for teachers by teachers, so it is definitely a project on grass roots level. The TEFLWATCH site is for teachers all over the world teaching English as a second language, but the contributors or the information on the site mostly relates to

issues in Asia. On this site, forums have been created where teachers can discuss and debate various issues and get advice from each other. This also includes advice on issues dealing with their labor rights. However, the most interesting and drastic initiative on this website is The Hall of Shame. The Hall of Shame is a list of schools that the teachers themselves find to be treating teachers unjust. When the administrators of the site have noticed a remarkable amount of complaints or negative remarks about a school they release what they call a warning to the school on the site. It has not been possible to find out if the school is directly notified about this warning. If the administrators of TEFL WATCH keep seeing complaints and negative comments popping up about the school they will put the school on their hall of shame list. It lists schools that they recommend teachers not to apply for jobs at. It does not say anywhere how or when the school deserves to be taken of the Hall of Shame list. On the site they mention how some schools have been taken of the list after having improved on the points of critique.

The Hall of Shame list is long and contains quite a few names of schools in Thailand.

On the site there is evidence that schools in Thailand feel threatened by this initiative, as there is posted an example of a school that in a letter to the home site threatens with legal measures to stop the site from letting teachers post negative comments about their school on the site. However, the school will not be able to succeed with that, as the server is registered in the USA. This is a reaction that seems to be efficient in the sense that schools feel intimidated and try to have the site closed, and it at the same times appears to be risk free compared to the individual teacher going through the official channels with his or her problems. And at the same time if you hold the reaction from the schools towards the hall of shame up against the reactions from schools when having had meetings about issues with the foreign teacher staff then it appears that attention giving complaints or manifestations that can reach beyond the involved parts seems to be the reaction that packs the most punch. It is doubtful whether this confrontational kind of reaction is beneficial to solving actual problems.

Question is, as with the example of American teacher Daniel in chapter previously in this chapter, whether or not foreign teachers will use standard channels for complaints and solving of disputes, if they know more about their rights and where to

go and who to talk to, like it was the case with Daniel, who until being interviewed for this thesis, seemed to have just accepted being fired. However, after gaining knowledge and learning about where to look for information and assistance he re-approached the school and actually gained something positive out of that.

Two different groups of Filipino teachers are trying to form an organization for Filipino teachers. The purpose of both organizations is to be a forum of information, knowledge and advice with in the field of teaching but also in terms of other issues such as labor rights. The establishment of the groups is both at the early stages. One of the groups that have its offspring from the Pinoysiam.com homepage, a website for Filipinos in Thailand, seems to be furthest in the process. The project was catalyzed by debates and comments on the discussion forum on the site. And on several occasions the founding of an organization handling these issues for Filipinos was suggested. The suggestion gave birth to the group of Filipino teachers, mostly teachers from Bangkok but Filipino Teachers from other parts of Thailand are also involved in giving birth to the organization. According to the group they have the blessing of the ambassador of the Philippines in Thailand to create the organization. One of their initial steps are to, based on an extensive and thorough survey, monitor the problems Filipino teachers are facing in Thailand. With this information they aim to create a data base for documentation and other purposes. They see no problem in later incorporating foreign teachers of other nationalities, but they feel they need to establish themselves in their own back yard first before they can welcome others to join. This opinion is based on logistic reasons as well as the wish to move slowly, so that they do not make hasty decisions that might damage the organization. One of their fears is to be a sacrificial pawn on somebody else's agenda. They also choose this approach to protect themselves as they are aware of the dangers attached to launching a project like this. As mentioned earlier in this thesis these two organizations are walking on thin ice. Setting up an organization dealing with labor rights directly or indirectly can prove to be a violation of the paragraphs in both the Labor Protection Act as well as the State Enterprise Labor Protection Act.

The same violation can be applied to a happening initiated by one of the column writers on Ajarn.com who is gathering signatures in order to show the amount of teachers he has mobilized to protest against the new Teachers License for foreign

teachers arrangement that is being introduced later this year. In one of his columns he mentions how he, with the signatures in his hand is going to arrange a meeting with the president of The Teachers Council of Thailand. The purpose of the meeting is to have a constructive talk with a representative of the council regarding the new teacher's license. Can his approach and mission be interpreted as union work, and is it also a potential violation of the paragraphs mentioned earlier in the Labor Protection Act as well as the State Enterprise Labor Protection act?

### **3.7 ILO versus Thai Labor laws:**

Since its birth in 1919, ILO has tried to achieve universal labor standards. One of their original arguments was that unregulated cross-border trade and investment flows would depress labor conditions and create hardships for workers. To ensure its effectiveness, the above mentioned tool to prevent this would be to convince all market interacting countries that they should obey the same set of norms. So far this has resulted in 185 legally binding conventions. Furthermore, an even greater number of recommendations have been adopted by the International labor conference (ILC). All in all these are known as the International Labor Code. ILO has also put forth core labor standards. These are also known as workers fundamental rights and include freedom of association, the right to organize and to collective bargaining, the elimination of all forms of forced and compulsory labor, the effective abolition of child labor and the elimination of discrimination in respect of employment and occupation. Other standards put forth by the ILO are standards that deals with; minimum wages and wage payment, hours of work, holidays and periods of rest, the protection of workers with special needs, occupational safety, and health, employment security, social security, and social services. There are more than 174 member states of the ILO, and the total number of ratifications exceeds 7164 with ratifications of the fundamental conventions around 1214<sup>67</sup>

According to Werner Sengenberger in Labor Standards and globalization a convention is not necessarily respected or implemented just because it has been

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<sup>67</sup> John D.R Craig and S, Michael Lynk. Globalization and the Future of Labor Law, Cambridge University Press 2006, P 332

ratified<sup>68</sup>. He states that studies have found little evidence or statistical links between ratification of ILO conventions and actual working conditions. *Massive violations ILO norms are observed, even regarding the eight core conventions. All ILO members, by virtue of their acceptance of the ILO constitution agreed to respect these conventions and to promote and to realize them in good faith independently from their ratification*<sup>69</sup>.

ILO is a voluntary organization. It therefore has little means and power to correct or punish its member countries.

ILO's Asia-Pacific Regional Office is situated in Bangkok. In Thailand the ILO mainly cooperates with the Ministry Of Labor. Projects in Thailand that the ILO is involved in are numerous and include projects such as: protection of child labor exploitation, AIDS prevention, employment promotion, human resource development, social security system development, and promotion for the role of employee's and employers' organizations. Although MOL being the biggest cooperating partner of the IOL in Thailand, the organization also collaborates with other agencies and organizations in government, as well as private sectors.

The mission of the ILO is to attempt to create compliance from member countries to the labor standards that has been endorsed by the International Labor Conference. These Labor Standards are expressed through the Conventions and recommendations of the ILO. A Convention works the same way as an International Declaration. It is when a country ratifies a convention that they are obligated to follow the writings and laws of that convention. A recommendation does not require ratification. They serve as extended provisions of conventions or certain issues.

Important to notice is that as an ILO member Thailand is obligated to abide to ILO's Constitutions, especially the following constitutions that sort of serves as an icebreaker for ILO's other conventions and recommendations.

- Compliance with Article 19: Requiring members to bring Conventions and Recommendations of the ILO before the Parliament. The Conventions and

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<sup>68</sup> John D.R Craig and S, Michael Lynk. Globalization and the Future of Labor Law, Cambridge University Press 2006, P 332

<sup>69</sup> John D.R Craig and S, Michael Lynk. Globalization and the Future of Labor Law, Cambridge University Press 2006, P 332

Recommendations brought before the Parliament are the Conventions are those that has been passed by the International Labor Conference during their latest sessions. If requested by the ILO the member country is also obliged to make reports on un-ratified Conventions.

- Member countries have to, according to Article 22, submit progress reports on compliance with Conventions that has been ratified.
- Article 23 that states that member countries to submit reports and information of employers' and employees' organizations.

ILO does seem to have a lot of influence on the labor rights of its membership countries, at least if you look at the ILO conventions that the member countries have ratified.

Some of the 13 conventions that the Thai government has ratified are:

- Convention 14: weekly rest (Industry) Convention, 1921: convention concerning the Application of the Weekly Rest in Industrial Undertaking.
- Convention 19: Equality of treatment (Accident and Compensation) Convention, 1925: Convention concerning Equality of Treatment for National and Foreign Workers as regards Workmen's compensation for Accidents.
- Convention 29: Forced Labor Convention, 1930: Convention concerning Forced or Compulsory Labor.
- Convention 80: Final Articles Revision Convention, 1946: Convention concerning the Organization of The Employment Service.
- Convention 88: Employment service convention, 1948: Convention concerning the Organization of the Employment service.
- Convention 100: Equal Remuneration Convention, 1951: Convention concerning Equal remuneration for Men and Women Workers for Work of Equal Value.
- Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955: Convention concerning the abolition of penal sanctions for Breaches of Contract Employment by Indigenous Workers.

- Convention 105; abolition of Forced Labor Convention, 1957: Convention concerning the Abolition of Forced Labor.
- Convention 116: Final Articles Revision Convention, 1961: Convention concerning the Partial Revision of the Conventions.
- Convention 122: Employment Policy Convention, 1964: Convention concerning Employment Policy.
- Convention 123 Employment Policy Convention, 1964: Convention concerning the Minimum Age for Admission to Employment Underground in Mines.
- Convention 127: Maximum weight convention, 1967: Convention concerning Maximum permissible weight to be carried by one worker
- Convention 138: Minimum Age Convention, 1973: Convention concerning Minimum age for Admission Employment.
- Convention 182: Worst Form of Child Labor Convention, 1999: Convention concerning the Prohibition and immediate Action for the Elimination of the Worst Form of Child Labor.

Thailand has ratified a number of conventions under ILO, but even though Thailand has not ratified a convention under ILO does not mean that Thailand has the right to not respect that convention.

Internationally the same thing seems to happen. The Labor relations act does not cohere. This is also pointed out in a piece on the Thai Labor Campaigns website. *The right to freedom of association and the right to form and join trade unions are protected under Article 22 of the United Nations International Covenant on Civil and Political Rights to which Thailand is a party by ratification on 29 October 1996. Article 8 of the UN International Covenant on Economic, Social and Cultural Rights, ratified on 5 September 1999, states the right to form and join trade unions of choice for the promotion and protection of workers' interests. Article 23 of the Universal Declaration of Human Rights also protects these rights*<sup>70</sup>.

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<sup>70</sup> [http://209.85.135.104/search?q=cache:yIJL\\_a5qs-AJ:www.thailabour.org/wnews/050801a.html+To+form+an+association+\(or+union+or+foundation\),+mu st+be+a+Thai+national&hl=da&ct=clnk&cd=1](http://209.85.135.104/search?q=cache:yIJL_a5qs-AJ:www.thailabour.org/wnews/050801a.html+To+form+an+association+(or+union+or+foundation),+mu st+be+a+Thai+national&hl=da&ct=clnk&cd=1)



So is there any reason for Thailand to not cohere to the ILO conventions. Thailand has ratified many of the conventions set by the ILO, but they have not ratified all. Among some of those conventions Thailand has not chosen to ratify are;

Convention No. 87 on Freedom of Association and Protection of the Right to Organize (1948)<sup>71</sup>

Convention No. 98 on the Right to Organize and Collectively Bargain (1949)<sup>72</sup>

Convention No. 111 on Discrimination (Employment and Occupation) (1958)<sup>73</sup>

These conventions that Thailand has chosen not to ratify are dealing with many of the issues that are being dealt with in this paper. However, even without ratifying or signing any of these conventions, Thailand is still obliged to respect and uphold the fundamental conventions. The reason is that as a member of the ILO Thailand is supposed to uphold the fundamental conventions. The three conventions that Thailand has chosen not to ratify are such fundamental conventions and they are customary rules of international law and are to be followed by all. The rules apply to citizens as well as migrants. However, Convention No. 111 on Discrimination (Employment and Occupation) (1958) is not obligatory in this regard. And in terms of the other conventions Thailand has chosen not to ratify we learned earlier in this chapter that respecting conventions is something the majority of the 177 membership countries tend to neglect.

Thailand also has ratified Convention No. 122 on Employment Policy (1964). As mentioned by an ILO standards specialist, under Article 3 of Convention No. 122, employment policies (including migration for employment) should be designed with the fullest involvement of employers' and workers' organizations "with a view to taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support for such policies".

But since it is illegal for foreigners to organize in Thailand this cannot take place. Without any organizations representing the foreign teachers such a forum cannot exist.

<sup>71</sup> <http://www.ilo.org/ilolex/english/convdisp1.htm>

<sup>72</sup> <http://www.ilo.org/ilolex/english/convdisp1.htm>

<sup>73</sup> <http://www.ilo.org/ilolex/english/convdisp1.htm>

And therefore Thailand is not cohering to this convention even though they have ratified it.

### 3.8 Perspective:

At the same time there seem to be some major changes on its way in regards to the requirements to foreign teachers in Thailand. As from may 2009 the Ministry of Education is going to launch following requirements to foreigners who wish to teach in Thailand.

It seems more and more a specific need that you as a foreign teacher need to obtain a Thai teachers license in order to teach legally in Thailand. This has been one of the requirements now and earlier as well, but seems to never have been enforced full heartedly. A teacher could teach for years without having or receiving a teacher's license and obtaining the license didn't require much apart from patience. Together with the school the teacher simply just applied for the application at the local teacher's council who would then issue one when they had the time.

Now the teacher's license seems to be one of the tools in an effort to up step the qualifications of foreign teachers working through out Thailand. With the new approach teachers have been divided into three categories and there are four different ways to obtain a teachers license.

But before even determining what category a teacher is in and what way the license should be obtained, all must fulfill following requirements:

- The applicant must have a valid Non-Immigrant Visa.
- Must attend and successfully complete the 20-hour Foreign Teachers Thai Culture Training Program, designed by The Teachers Council of Thailand. The course is a four day course that normally is taken on weekends over a month. The price of the course is 8,000 baht.
- Finally you must possess a valid work permit.

### **Applicant Type 1 - Method 1**

this way applies to any teachers possessing a Bachelor Degree, or higher in Education

People in this category must possess, obtain and or complete the following:

- The applicant must have at least one full academic years' teaching experience and be able to provide documentation to prove it. University teaching internships do count for teaching experience.
- Must have a certified translation of all academic documents. This includes: transcripts, diplomas, certificates etc.
- Two 1 inch color photos
- A receipt for the 500 baht application for the teachers license itself. This can be obtained from The Teachers Council of Thailand in Bangkok.

If all these points have been reached then a teacher's license can be applied for.

### **Applicant Type 2 - Method 2**

This is for persons possessing a Bachelors Degree or higher in a field other than education. People falling into this category must possess, obtain and or complete the following:

- The applicant must possess a Bachelors Degree from an internationally accredited institution.
- Must complete a Teachers Licensing Course, Baw Bundit in Thai. This course takes one year to complete. It is a 30 credit course and will be taught at accredited institutions. These institutions will be approved by the Teachers Council of Thailand. The price of the course will be approximately be 60,000 baht. The 20-hour Foreign Teacher Thai Culture Program will be included in the program. It seems that the course will be held on week nights and in the weekends.

There are different approaches and ways to do this and with the new regulations there are also alternate ways to do things. The below listed method 3 explains one of those alternate ways.

### Method 3

After you have passed the 20-hour 'Foreign Teacher Thai Culture Training Program' you can then take a four-part exam (instead of the one-year long Teachers Licensing Course) If you pass the four-part exam (each exam will cost 1,000 baht) you will then receive a teacher's license for the Kingdom of Thailand.

### Applicant Type 3 - Method 4

with the last applicant type there seems to be reopened or introduced some flexibility to the teachers with no bachelor degrees. These teachers have been tried pushed out of the system by The Ministry of Education through changes in educational requirements over the last many years. But with this, they seem to be opening up for teachers with no degrees to obtain teachers licenses and work permits again.

As mentioned above this category is for persons possessing a High School Diploma, or less, but no Bachelors Degree.

Persons in this category must possess, obtain and or complete the following:

- A letter from the school the person is currently teaching at
  - o Stating how long the person has been teaching there.
  - o Signed by the principal
  - o Stating that the school does not have the budget to hire qualified teachers, as they demand a much higher salary.
  - o Stating that the person is a great teacher and despite the lack of certified credentials the person is indeed capable of teaching and is a huge benefit to the school.

It is up to the teacher's council to decide whether or not this person should be granted a teachers license or not. Even before the council has made their decision, and before the letter of request for a teacher's license is sent to them, the person applying must have completed the 20-hour Foreign Teacher Thai Culture Course.

Every foreign teacher in Thailand has to obtain a teachers license. Even teachers who have already obtained a teachers license earlier need to have a new one issued.

There seems to be two reasons for that:

The Teachers License is a lifetime license. According to The Teachers Council of Thailand, there has never been a licensing procedure for Non-Thai teachers, as comprehensive and thorough as this one. With the new procedures foreign teachers will more or less have to go through the same program as Thai teachers do in order to get a teachers license. This should put foreign teachers on the same level as Thais with Bachelors Degree in Education. Furthermore the new teachers license is not employer dependent and the teacher can in the future work for many educational institutions on the same license, private as well as government. Earlier under the old process, private schools would request a teacher's license from O.P.E.C, Office of the Private Education Commission ([www.opec.go.th](http://www.opec.go.th)) office in their province, before they could go to Immigration to request a one year Non Immigrant Visa on the applicant teachers behalf. This teacher's certificate had no value and seemed to be just one step in the process toward gaining a visa. All a private school had to do was give basic information about a teacher and the license would be granted.

A natural question is who is in responsible for applying for a teacher's license, the teacher or the employer? The fact is that the teachers themselves are responsible for applying for a teacher's license. Since the lifetime teaching license follows you when you go from one employment to another it is now the responsibility of the individual, and not the school to prove that they are licensed to teach through proper channels. Question is though, who is going to pass this information on to teachers who are fresh of the boat? And how many teachers will consider this to be too much hassle for teaching English for one- two years before continuing on with their lives somewhere else? Will they choose China, Vietnam, Korea or Japan over Thailand instead?

When looking at all these initiatives one can question the reasoning behind charging 60,000 baht for a teacher's license course? Most teachers do not seem to hang around for very long, so the thought of them being willing to invest heaps of time and money in a license they might only need for a couple of years seems very unlikely. As the shortage of teachers are already present, especially the qualified ones, one might consider that this actually would force some schools to encourage teachers to violate the regulations in order to be able to let supply of teachers meet the demand for teachers. That is also the opinion of Dr. ....from Thailand Research Institute, who in an interview

states that this arrangement encourages employees as well as employers to violate the laws. Application three methods four seems to be the path most teachers will choose to follow. Method four would then work as a lifeline to those teachers who fail the exams, as well as being a way to obtain a teachers license for teachers without Bachelor Degrees.

If these initiatives result in an even bigger shortage of foreign teachers in Thailand will that be to the advantage to those foreigners who actually choose to teach in Thailand. Will the salaries go up? Will the employers be forced to cater and nurture the needs and well being of the teachers more in order to make them remain at the school? While the initiatives according to Dr. Worawan Chandoevmit from Thailand Development Research Institute encourages employers and employees to violate the law, she also feels that this actually might trigger a climb in the size of salaries to foreign teachers, as she suspects the amount of qualified teachers to decrease. Or does it mean that the school will try to force more work out of the fewer teachers?

The Thai Culture Course for foreign teachers that we have seen mentioned or referred to in numerous places in this thesis has been around for a heartbeat now. But it has already stirred up much controversy and sparked a lot of debate among foreign teachers. On ajarn.com one teacher gives a very detailed description of what the course contains and what his impressions of the course are. His views are shared with many of the teachers interviewed who have actually taken the course. Most teachers see it as a complete waste of time and another invention created with the only purpose to suck money out of the foreign teachers and put the same money into the pockets of the organizers. The price for the course is eleven thousand baht. And the teachers are expected to pay for the course out of their own money. Many schools agree to pay all or parts of the Thai Culture Course for Foreign Teachers though. I have seen a copy of the educational material used at the Thai Culture Course for Foreign Teachers at a prestigious university and can vouch that the descriptions of the content by the teachers matches what I have seen. During the course teachers are given a short three hour introduction to the Thai language, vowels tones and the alphabet. It is mentioned in the piece how the author considers the language learning of the course to be way too information heavy. He quote, says that: *We have now gone at least ten times over the*

*daily quota of new information for the adult language student*<sup>74</sup>.

Thai food is also part of the program and the teachers are taught, not to cook, but about the food culture and the ingredients of Thai dishes such as Pad Thai. The leaflet about food is a handout from TAT, Tourism Authority of Thailand. The teacher writing the piece asks how this is going to make him a better teacher<sup>75</sup>. Other things on the agenda include an afternoon of learning Thai dance. The only parts of the culture course the writer and other teachers seem to appreciate are the case studies and discussions on ethics where the teachers have to come with their own opinions. This seems to be an element where the foreign teachers who have taken the course all agree was something they benefited from. An argument from many interviewed teachers is that they think the course might prove to be a good idea for teachers who are fresh off the boat, and have never experienced living in Thailand before. However, they feel that for the teachers who have already been teaching in Thailand for a year or more, the majority of the contents of the Culture Course are a waste of time. They also consider the material handed out, to be of a very low standard. Teachers, who have taken the culture course at two different institutions in Bangkok, all describe the materials used in the course as being copy pasted from the internet, consisting of tourist brochures from TAT (Tourism Authority of Thailand) etc.

<sup>74</sup> <http://www.ajarn.com/Contris/tazzajuly2008.htm>

<sup>75</sup> <http://www.ajarn.com/Contris/tazzajuly2008.htm>

## Chapter IV

### 4.1 Conclusion:

Having interviewed numerous teachers, talked to government officials, school directors, NGOs, experts on the labor law, done secret participant observation as a teacher, a deep and thorough insight in the chosen area of research has been received.

The labor laws in Thailand are in general good and sound, with a few minor areas and points that could need some corrections. The problem is that some groups of working people seem exempt from being entitled to the rights of the labor laws of Thailand. Like teachers (foreign teachers included). Instead they are tossed around between various regulations depending on where, or for whom they work. According to the ministry of education these regulations, also contains elements of labor rights for the employed teachers. The Ministry of Education also states that teachers do not fall under the standard labor laws. However everything relating to social security seems to follow the rules of the labor law. The same seems to go for a large group of other regulations that seems very inspired by the standard labor laws. It has proven very difficult to get to see these regulations, so the knowledge gained is based on oral explanations from government officials from the Ministry of Education. Even among people working at the ministries, schools, teachers and NGOs there are a lot of confusion on where to fit in teachers and their rights. In terms of the transparency and communicatory thoughts and strategies applied to Good Governance, there need to be enough information provided and that this information is provided in easily and understandable forms and through best possible sources, including the media. There seems to be a lot of confusion even among authorities, what rules, laws and regulations that precisely applies to teachers in Thailand. Regarding foreign teachers the Ministry of Education admitted, that the only regulations or laws that for the moment can be applied to teachers are the ones that are written down in their contracts, as they have never considered or thought of the need for such a thing to be carried out. The fact that these government institutions grant the rights to their employees through regulations instead of laws applying the staff with a set of rights correspond very well with the historical



tendency to emphasize duties rather than rights in Thailand<sup>76</sup>. But no matter what rule, law or regulation we are dealing with, it seems not to be in the actual paragraphs that the foreign teachers experience having their rights violated. True, there are a few questionable spots, where one could wish that the Thai labor law would adjust more towards the ILOs they have cohered to. But then again, as mentioned by Werner Sengenberger<sup>77</sup>, there seems to be very little linkage between ratified conventions of the ILO and actual work conditions. It is therefore of my opinion that ILO is not going to be the catalyst for changes. And yes, a lot of the decrees excepting teachers or certain groups of teachers from the rights they as a normal employee would be entitled to need a closer examination as well, by perhaps governments, teachers themselves and their employers.

At the Ministry of Education they point out a problem that they see as one of the biggest obstacles for clearer and more just legislation in terms of rights and obligations for teachers. They think that a more unison code of laws where all teachers, private, government and civil servants fall adheres to the same set of rules and are granted the same rights and furthermore only answers to one institution. That will in the ministry of Educations eyes create more transparency. That is also what Vitit Muntharbhorn recommends in *Asian Discourses of the Rule of Law: More reforms of laws, policies, and practices which conflict with the rule of law and human rights; more mainstreaming of the rule of law and human rights into the work of national mechanisms, institutions, and related personnel*<sup>78</sup>. When things are easier to understand and when one law doesn't bypass another and everybody, no matter who they are, are equal to the law and has the same rights, then things are more graspable and creates a forum where doubt, confusion and lack of trust in institutions does not hold the most weight.

Having compared English programs at government schools with private schools it appears that the two different types of schools do not differ from each other when it comes to labor rights of the foreign teachers. The same conflicts and violations appear both places without discrimination. English programs at government schools

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<sup>76</sup> Vitit Muntharbhorn. *Asian Discourses of the Rule of Law*, Routledge 2006, p. 348

<sup>77</sup> John D.R Craig and S, Michael Lynk. *Globalization and the Future of Labor Law*, Cambridge University Press 2006, P 332.

<sup>78</sup> Vitit Muntharbhorn. *Asian Discourses of the Rule of Law*, Routledge 2006, p. 348

tend to operate as little independent units, so the set up and the structure of English programs reminds very much of the structures of a private school. One place where private schools tend to violate the rights of foreign teachers the most tends to be in terms of postponing the completion of work permits. It is mostly teachers at private schools who report about this sort of thing happening. Only on a few occasions have similar things happened to foreign teachers working at government schools.

The major area where violations of teachers labor rights takes place is at the actual workplace between employers and employees, between schools and teachers, agencies and teachers. These disputes rarely make it further than this stage. Plenty of examples in this thesis indicate why. The trust in rights and faith in the Thai judicial system are at a minimum among the foreign teachers. At the same time the cooperation and collectiveness between Thai teachers and foreign teachers are virtually non-existent. Besides the involved parts are too confused about their rights, where to go with their problems that it becomes merely a battle, where the one with the muscles and not the one who is right win.

The most common cases of violations are illegal paragraphs in contracts, withholding pay, deducting money from salaries without lawfully just reasons, discrimination in the hiring process, slowing down work permit applications on purpose and tricking the employees to pay for the Visa-runs themselves. Now, it is not mandatory that an employer pays for work permits, visas and expenses. It is not a demand according to the law either. It is standard though, that most employers cover these expenses. And if a school or agency hires a teacher under the conditions and terms that work permit expenses will be paid for by the employer, then it is a move sowing seeds of distrust in the relationship between teacher and employer. Earlier, in the introduction of this thesis an assumption was made, that if supply is lower than demand then conditions and terms must be in favor of supply. In this case this means that to attract more qualified teachers one of the incentives are of course to offer competitive wages, but also through good working conditions and also through good employer employee relations in terms of improved or upgraded labor rights. After all, Neo-classical market theory claims, *that unfettered market forces and a purely market determined income distribution create not only the best, but also the fairest economic*

results, and are therefore in the best interest of workers<sup>79</sup>. Alfred Marshall also points out, that; *the free market establishes the “true standardization” of work and wages. Competition forces firms to be good employers that pay full attention to efficiency in the work place*<sup>80</sup>. Another point of view regarding this can be found in the realms of ILO who: *From its early years always has insisted that economic growth and alone does not suffice to ensure the improvement of working and living conditions, or to alleviate the vulnerability of certain individuals and groups in the labor market.* So, in the case of foreign teachers working in the English Programs of government and private schools, who is right? It is market forces and market determined income distribution that has pushed the salaries of foreign teachers to where they are now, not collective bargaining and cross border wage agreements. Supply and demand makes it difficult, if not impossible, to attract foreign teachers at lower salaries than described here. Salary is also not one of the issues where foreign teachers most often have raised their voices. And in the case of the teachers and work efficiency it is mentioned earlier in this thesis, that most labor disputes between teachers and their employers arise due to disagreements over professional matters such as quality of teaching materials. The number of students in a classroom, schools not allowing teachers to fail students who perform poorly and many other things.

In order to improve the work conditions and be able to claim their labor rights with out repercussion from employers foreign teachers need to attempt forming a labor union or association or at least team up with an existing Thai labor unions, associations or initiate dialogue and cooperation with the Ministries of Education –and Labor. *Migrant workers in Thailand, many of them undocumented, are hardly in a position to organise, represent them in court, or even access the legal system, except to recover back wages. Given the relatively powerless position of migrant workers, it will take significant legal reform and strong enforcement before they are accorded their basic human and worker rights*<sup>81</sup>. But to being aliens in a country that has a long history of policies limiting or restricting the movement, presence and rights of foreigners, teachers, just like other foreign migrant workers need help from within the country,

<sup>79</sup> John D.R Craig and S, Michael Lynk. *Globalization and the Future of Labor Law*, Cambridge University Press 2006, P 334.

<sup>80</sup> John D.R Craig and S, Michael Lynk. *Globalization and the Future of Labor Law*, Cambridge University Press 2006, P 334.

<sup>81</sup> *Justice for all - The struggle for labour rights in Thailand*, ACIL 2008, p. 90

from the local population. They need support from Thai organizations in order to resist the pressure that inevitably will be on them when they form a union. Amartya Sen states that; *"What people can positively achieve is influenced by economic opportunities, political liberties, social powers and the enabling conditions of good health, basic education, and the encouragement and cultivation of initiatives. The institutional arrangements for these opportunities are also influenced by the exercise of people's freedoms, through the liberty to participate in social choice and in the making of public decisions that impel the progress of these opportunities."*<sup>82</sup> The ability to organize or improve the conditions or to claim the labor rights, as defined internationally is affected by political liberties and the encouragement to seek these political liberties. Also he states that there need to be some sort of institutional support to make this happen. People need to be granted the freedom to take part in actions that help with the progress of these things. With the restrictions of labor rights, the denial of rights to organize, one can conclude that these factors are not present.

At the same time there has to be a dialogue between the other involved parts. The grass root reactions such as the TEFL Watch's Hall of Shame are not the way to gain results. A dialogue with the direct employer which or the indirect employer, which in most cases are the Ministry of Education, are vital if positive changes are to be made.

Many of the violations and conditions foreign teachers work under are technically the same as the conditions other migrant workers work under in Thailand.

- Contracts are made only on a short term basis.
  - o Most contracts are on a one year basis only, giving the school the right to not rehire the teacher at the end of each year.
- Production is being sub-contracted and out-sourced to smaller supplier firms in order to devolve business risks and responsibilities for the work force
  - o A large number of schools use agencies to recruit teachers. With the teachers technically being hired by the agencies, the schools are free to change the teacher when ever they feel the mutual cooperation is not satisfactory.

This of course has consequences to the teachers:

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<sup>82</sup> Amartya Sen. Development as freedom, Oxford University Press 1999, p 5

- Less employment security and less social security

It creates insecurity with the teachers who might feel less motivated to complain or get into an argument with the management because they might suspect the school or agency of not renewing their contracts at the end of the year as punishment. For the younger western teachers this does not matter, as there are jobs in abundance, but for the teacher who have settled in a district with wife and kids this could mean he had to resettle his family in another setting, kids changing schools etc. Not to mention the Pilipino teachers who unlike the western teachers have difficulties finding a new job.

- Fewer chances for the less competitive. Workers with low labor qualifications are especially vulnerable.
  - o Teachers who because of the changing requirements to teachers qualifications at the MOE, work at the mercy of their employers. It is not easy for them to find new jobs, so they are vulnerable and likely to tolerate more violations than the teachers with the right qualifications, such as a BA.

It is obvious that with the low knowledge on their labor rights and Thai legislation on the topic, teachers are in a weak bargaining position. Folke Kayser describes how workers in manufacturing companies need negotiators who: “Have in-depth knowledge and understanding of the business sector and the management of the company”<sup>83</sup>. I find this to be similar when it comes to foreign teachers need for negotiators. To go toe to toe with a school or even the ministry of education, or the ministry of labor, you need in-depth knowledge and understanding of the laws of Thailand and educational business in Thailand. One can not expect the average foreign teacher to possess the needed tools or knowledge to do that.

According to Kayser Folke<sup>84</sup>, “collective agreements facilitate the planning of business activities and the calculation of labor costs. Furthermore, fair and decent

<sup>83</sup> Folke Kayser, *Defending Social Justice and Workers' Rights*, Friedrich Ebert Stiftung 2004, p.14.

<sup>84</sup> Folke Kayser, *Defending Social Justice and Workers' Rights*, Friedrich Ebert Stiftung 2004, p.125.

working conditions motivate the workforce and encourage workers to bring in their producers knowledge which in turn increases productivity. Modern and successful employers therefore encourage unions, promote collective labor agreements, and provide decent work conditions.” This is a comment related to workers in the manufacturing industry but a lot of these arguments make sense in the world of teaching as well.

Fair and decent work conditions should motivate teachers as well and should encourage them to bring in their knowledge to create better lessons plans and though that up step the quality of the teaching in the class rooms.

A solution of allowing even teachers at government schools to organize in unions or organizations is recommended. It is important that in a global world Thailand keeps up with the rest of the world and grants teachers their basic labor rights such as organizing. But this also requires an effort from the teacher’s side. It is important that the unions are powerful, democratic, and independent and is being run in a responsible, competent and coordinated way. At the same time for this solution to work the counterpart, the employer’s organizations must be democratic, independent, responsible and competent as well. In that way a relationship of trust and competence can be built between workers and employers. In this case, teachers and –or schools and the Ministry of Education.

We also need to break with the traditional set up and pattern of labor unions in Thailand. There need to be created possibilities allowing employee representatives to bargain for employees at multiple workplaces. There should also be opened up for more flexible union structures and greater inter-union cooperation. In that way you could allow foreign teachers to have a representative in a bigger teacher’s union structure taking care of their specific needs, where as now, unions are limited to one work place.

Further more a dialogue between representatives of the teachers the employers and the ministry of labor is needed. In that way informative and good social dialogue and good professional relations can be promoted. A joint forum like this could together agree on policy upgrades, labor force qualification. This goes very well in hand with the elements of Good Governance theory mentioned in the chapter on conceptual frameworks. Dialogue helps create transparency and that can be achieved through a

communications-platform, where the involved parts has a chance to be informed but also give constructive criticism and debate over relevant issues.

Social dialogue is important and as Folke Kayser points out, it can create transparency, reduce misunderstandings and build trust between workers and employers organizations.<sup>85</sup>

A legal and recognized union representing all the teachers in the English programs is needed if things are to improve. Without such an organization teachers can only rely on sporadic chances to have any say on decisions affecting them.

Further more, as indicated in this thesis. The confusion about which laws covers what and who and which laws do not is a major obstacle. One of the problems is that labor laws that are easily understandable has been watered out and made incomprehensible by decrees and organic laws that bypasses the original laws. Laws that covers everybody over one broad spectrum, so that information, rights or obligations and responsibilities are not to be searched for through various channels are for instance recommended by the Planning Department at the Ministry of Education as one of the solutions that will help promote understanding and transparency of the labor rights of foreign teachers.

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<sup>85</sup> Folke Kayser. Defending Social Justice and Workers' Rights, Friedrich Ebert Stiftung 2004, p.30.

## REFERENCES:

Worawan Chandoevwit. Social Security Systems in Thailand Thailand: Thailand Development Research Institute, 2006.

Kris Olds, Peter Dicken, Philip F. Kelly, Lily Kong and Henry Wai-Chung Yeung. Globalisation and the Asia-Pacific London, Routledge, 1999.

Baker & McKenzie. To The Point: Clear Commentary on Contemporary Thai Legal Issues: Bangkok, Baker & Mckezie, 2003.

Solidarity Center. Justice for All – The Struggle for Worker Rights in Thailand - A REPORT BY THE SOLIDARITY CENTER: Bangkok, Solidarity Center, 2007.

ILO. Labor and Social Trends in ASEAN 2007:Bangkok, ILO, 2007.

Folke Kayser. Defending Social Justice and Workers' Rights In a Globalised World: A manual of globalization and labor standards: Jakarta, Friedrich Ebert Stiftung, 2004.

Rebecca Elmhirst and Ratna Saptari. Labor in Southeast Asia – Local processes in a globalised world: London, Routledge, 2004.

John D.R Craig and S. Michael Lynk. Globalization and the Future of Labor Law: New York, Cambridge University Press, 2006.

Amartya Sen. Development as freedom: Oxford, Oxford University Press, 1999.

Prema-Chandra Athukorala, Chris Manning, Piyasiri Wickramasekara. Growth, Employment and Migration in Southeast Asia-Structural Change in the Greater Mekong Countries: Cheltenham, Edward Elgar Publishing INC., 2000.

Chris Rowley and John Benson. Globalization And Labor In The Asia Pacific Region: London, Frank Cass & Co. Ltd., 2000.

Philip Alston. Labor Rights as Human Rights: Oxford, Oxford University Press, 2005.



Richard Maidment, David Goldblatt and Jeremy Mitchell. Governance In The Asia-Pacific: London, Routledge, 1998.

Michael Hill. Social Policy In The Modern World – A Comparative Text: Oxford, Blackwell Publishing, 2006.

Randall Peerenboom, Carole J. Petersen and Albert H.Y. Chen. Human Rights In Asia – A comparative legal study of twelve Asian jurisdictions, France and the USA: Oxon, Routledge, 2006.

Randall Peerenboom. Asian Discourses of Rule of Law – Theories and implementation of rule of law in twelve Asian countries, France and The U.S.: London, Routledge, 2004.

Carl A. Trocki. Singapore – Wealth, power and the culture of control: Oxon, Routledge, 2006.

H.G Quaritch Wales. Ancient Siamese Government and Administration: New York, Paragon Book Reprint Corp., 1965.

Christopher Pierson and Francis G. Castles. The Welfare State: Cambridge, Polity Press, 2006.

Labor Protection Act B.E 2541 (A.D 1998) Fifth Edition

The State Enterprise Labor Relations Act B.E 2543 (2000)

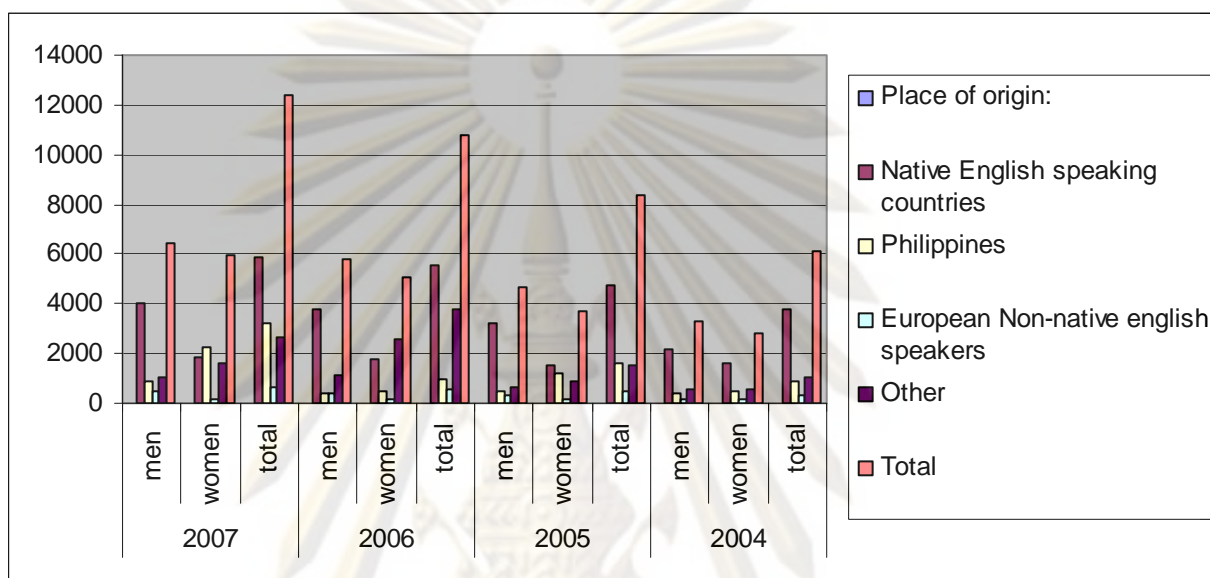
Working of Aliens Act B.E 2521 + B.E 2544

[www.ajarn.com](http://www.ajarn.com)

[www.teflwatch.com](http://www.teflwatch.com)

## Appendices:

A: The number of foreign teachers at primary and high school level.



Year:	2007			2006		
Gender:	men	women	total	men	women	total
Place of origin:						
Native English speaking countries	4017	1877	5894	3783	1768	5551
Philippines	915	2270	3185	424	503	927
European Non-native english speakers	451	199	650	398	183	581
Other	1073	1585	2658	1165	2583	3748
Total	6456	5931	12387	5770	5037	10807
Year:	2005			2004		
Gender:	men	women	total	men	women	total
Place of origin:						
Native English speaking countries	3217	1496	4713	2191	1604	3795
Philippines	465	1169	1634	424	494	918
European Non-native english speakers	342	172	514	187	164	351
Other	648	879	1527	532	546	1078
Total	4672	3716	8388	3334	2808	6142

## B: Information on respondents interviewed

## Information on respondents interviewed

Nationality	Gender		
	Male	Female	Total
Filipino	4	14	18
Non native English speaking westerners	8	0	8
Native English speakers	21	3	24
Total	33	17	50
Nationality	Age		
	20-30	30-40	40-50
Filipino	8	9	1
Non native English speaking westerners	6	2	0
Native English speakers	5	18	1
Total	19	29	2
Nationality	Educational background		
	Non degree	Degree	Educational degree
Filipino	2	4	12
Non native English speaking westerners	0	6	2
Native English speakers	6	18	0
Total	8	28	14
Nationality	Legal status		
	with a work permit	Without work permit	
Filipino	11	7	
Non native English speaking westerners	5	3	
Native English speakers	18	6	
Total	34	16	

### C: Questions for the Ministry of Labor and Ministry of Education

1. Do teachers fall under the Labor laws of Thailand?
  - a. If not, what laws do they fall under, and where can the rights of the teachers be localized and identified as?
  - b. Are there any differences in the rights and obligations of teachers working at private schools, teachers working at government schools and teachers who are registered as civil servants?
  - c. If question b is affirmative: Why are there differences in the rights and obligations of teachers at private and government schools? Wouldn't it be easier if all had the same rights and responsibilities?
2. Where do teachers go, if they have a dispute with their employer?
  - a. Does a decision made by the MOE regarding a labor dispute in the fields of education pack more punch than a decision by the MOL
  - b. Can decisions by the labor court overrule decisions made at the MOE?
  - c. How many disputes does the MOE mediate in on an average year?
  - d. How many disputes between foreign teachers and their employers have the MOE mediated in or registered?
3. To what extent are teachers allowed to organize and form unions or organizations?
  - a. Are unions allowed to have regional and/or national forums and abilities to bargain and represent more than one school?
  - b. What is the ministry of education's attitude towards teachers organizing?
    - i. Pros?
    - ii. Cons?
  - c. What is the ministry of education's view of foreign teachers organizing?
    - i. Pros?
    - ii. Cons?

4. Are one year contracts a legal mean of employment when hiring a teacher for a permanent teaching position?
5. Quite a few government schools say they use standard job contracts from the MOEs website when hiring teachers. Do you have a copy of this contract that I can have/see?
6. Is it legal to hire teachers on a 12 month contract, but only pay them in eleven out of the twelve months?
7. Is it legal for an employer to deduct money from the teachers' salaries in cases of absence due to sickness?
8. Can you confirm the existence of a blacklist at the ministry of education –or labor, where if a teacher is put on this list is denied access to work or work permits in Thailand?
9. Are there any official requirements that need to be met for foreigners want to teach in Thailand?
  - a. Are Toefl, Celta and other certificates accepted as a valid claim of teacher's qualifications by schools?
10. With less and less teachers being hired as civil servants, are there any plans of introducing any financial retirement plans or aid for teachers?
11. Are the amount and quality of teachers in Thailand sufficient?
  - a. Now?
  - b. In the future?
  - c. Planning?
12. Are the amount and quality of foreign teachers in the English Programs in government and private schools in Thailand sufficient?
  - a. Now
  - b. In the future
  - c. Plans/initiatives?
13. Is there a department at the Ministry of Education dealing with education in English and the qualifications and needs of foreign teachers working and living in Thailand?
14. How many teachers are there approximately in Thailand?
15. How many foreigners working as teachers is their approximately in Thailand?

16. Are there any issues regarding Labor rights and obligations relating to teachers that the MOE would like to see changed or debated?
17. What are some of the things that needs to be corrected in terms of foreigners teaching in English programs, according to the MOE
- Qualifications?
  - Further education?
  - Supply and demand?
  - Curriculums?
  - Quality of the programs?
18. How much influence does the MOE have on the educational material being offered at government schools and private schools?
- Thai programs
  - English programs
  - What options do teachers at grassroots level have, if they want to have their say, or comment on suitable educational material?



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## Biography

Lars Pinnerup Nielsen was born in Randers, Denmark in 1976.

He graduated as a journalist from the Danish School of Journalism in 2006. In between he did one semester at New York State University in the United States where he studied Asia Pacific Politics, and Communication between Cultures. In 2006 he enrolled in the Masters program in Southeast Asian Studies at Chulalongkorn University.

Lars Pinnerup has worked as a freelance journalist through out Europe and Southeast Asia, before, during and after his studies, covering a wide range of topics including the 2004 Tsunami in Southeast Asia and the 2006 military coup in Thailand.

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