

**VIOLATIONS AGAINST WORKERS' RIGHT TO FORM AND  
JOIN TRADE UNIONS IN THAILAND: CASES OF DISMISSED  
WORKERS ESTABLISHING AND JOINING TRADE UNIONS  
IN EASTERN SEABOARD INDUSTRIAL ESTATE,  
RAYONG PROVINCE**


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**A THESIS SUBMITTED IN PARTIAL FULFILLMENT  
OF THE REQUIREMENTS FOR THE DEGREE OF  
MASTER OF ARTS (HUMAN RIGHTS)  
FACULTY OF GRADUATE STUDIES  
MAHIDOL UNIVERSITY  
2015**


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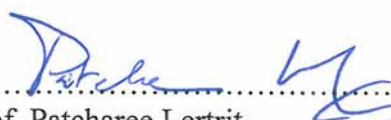
Thesis  
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was submitted to the Faculty of Graduate Studies, Mahidol University  
for the degree of Master of Arts (Human Rights)  
on  
December 2, 2015



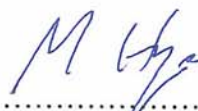
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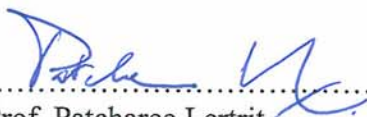
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## ACKNOWLEDGEMENTS

This thesis owes several supports, inspirations and kindness from people around me. Firstly, may I convey my heartfelt appreciation to my major advisor Dr. Michael George Hayes for his kind support and profound suggestion and I also would like to thank to his advice to restrain me from quitting the program because of all difficulties I was handling. And may I also express my deepest gratitude to Dr. Matthew John Mullen, my co-advisor for his friendly and kind understanding and advice. And I would like to deeply express my gratitude to Dr. Ruttiya Bhulaor, my external examiner for her professional academic advice to complete my thesis.

Secondly, I would like to express my gratitude to the State Enterprises Workers Relations Confederation (SERC) and Solidarity Center Thailand Office for my working experiences to be part of Thai trade union movement as an International Affairs Specialist for SERC. With these working experiences have brought me and opened my eyes to see all difficulties that the workers in Thailand have been violated against their union rights. Therefore, my next gratitude is for the brothers and sisters who are working in all industrial estates especially in Eastern Seaboard Industrial Estate to allow me to listen to their difficulties and I would like to cherish their strength to fight for their rights even if they were attacked so hard.

Next I would like to thanks to all my beloved classmate and friends, Phyu, Adam, Saul, Ping, Krieng and Ja who always support me and convince me to reach this achievement.

Fourthly, I would like to express my gratitude to helpful staffs at the Institute of Human Rights and Peace Studies for their administrative and logistical assistance during my study period in this program.

Lastly, I would like to express my deepest gratitude to my beloved family who always stand by my side during the pressure moment, their understanding meant a lot to me to move forward together with their kind support to bring me to this success.

Ussarin Kaewpradap

VIOLATIONS AGAINST WORKERS' RIGHT TO FORM AND JOIN TRADE UNIONS IN THAILAND: CASES OF DISMISSED WORKERS ESTABLISHING AND JOINING TRADE UNIONS IN EASTERN SEABOARD INDUSTRIAL ESTATE, RAYONG PROVINCE

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ABSTRACT

This research explored the violations of the workers' rights to freely form and join trade unions of their own choice to defend their rights. Union leaders in industrial zone, especially the auto and auto-related industries including auto parts producers in the Eastern Seaboard Industrial Estate were targeted when they formed and joined trade union to defend their basic labor rights. This research also examined the challenges and difficulties of the workers in this industrial park to freely organize and participate in labor union activities. Many challenges and difficulties reflected in this research were the obstacles against freedom of association and rights to bargaining collectively for the workers. However, the research lastly found some possible mechanisms that the workers could use to freely exercise their trade union rights.

Fifteen union leaders from 8 private sector unions in Eastern Seaboard Industrial Estate were chosen as interviewees for the qualitative research. This qualitative research was based on open-ended questions using in-depth interview methods. In addition, one hundred union members were selected for the survey questionnaire as part of quantitative research to collect data on their perspectives on the limitation of their freedom of association and collective bargaining rights.

Freedom of association and collective bargaining rights for the workers in Thailand were still limited. Many of the union leaders, establishers and members could not freely exercise their labor standards to establish labor unions. The Thai labor laws obstruct the workers to enjoy these basic labor rights, many of the workers were dismissed, intimidated, and discriminated against when they tried to form and join trade unions. While the workers were violated, there was no labor protection implemented as an instrument to protect the workers. The workers finally became victims of trade union rights violations against.

Freedom of association and collective bargaining rights are core labor standards. These two significant core labor standards should be recognized. Therefore, the ratification of the ILO Convention No.87 and 98 should be ratified by the Thai government together with the integration of the Thai labor laws to comply with the International Labor Standards. These are significant instruments to promote trade union rights on freedom of association and rights to collective bargaining for the workers.

KEY WORDS: TRADE UNION/ FREEDOM OF ASSOCIATION/ COLLECTIVE BARGAINING RIGHTS/ INTERNATIONAL LABOR STANDARD

95 pages

การละเมิดเสรีภาพในการจัดตั้งและการเข้าร่วมสหภาพแรงงานในประเทศไทย: กรณีศึกษาคนงานที่ถูกเลิกจ้างจากการจัดตั้งและเข้าร่วมสหภาพแรงงานในนิคมอุตสาหกรรมอีสเทิร์นซีบอร์ด จังหวัดระยอง

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#### บทคัดย่อ

การวิจัยในครั้งนี้มีวัตถุประสงค์เพื่อสำรวจการละเมิดเสรีภาพในการจัดตั้งและการเข้าร่วมสหภาพแรงงานอย่างมีอิสระภาพของคนงานซึ่งถือเป็นเสรีภาพที่แรงงานพึงมี ผู้นำแรงงานที่ทำงานอยู่ในนิคมอุตสาหกรรม โดยเฉพาะกลุ่มคนงานที่ทำงานในอุตสาหกรรมรถยนต์และอุตสาหกรรมที่เกี่ยวข้องกับรถยนต์ รวมทั้งขึ้นส่วนงานอื่นในนิคมอุตสาหกรรมอีสเทิร์นซีบอร์ด ผู้นำแรงงานเหล่านี้ถูกเป็นเป้าหมายโจมตีเวลาที่พวกเขาจัดตั้งและเข้าร่วมสหภาพแรงงานเพื่อต่อสู้เพื่อสิทธิแรงงานของพวกเขา และการวิจัยในครั้งนี้มีวัตถุประสงค์เพื่อตรวจสอบความท้าทายต่างๆที่คนงานในนิคมอุตสาหกรรมเผชิญต่อเสรีภาพในการรวมตัวและการเข้าร่วมกิจกรรมต่างๆของสหภาพแรงงาน และความท้าทายต่างๆสะท้อนให้เห็นถึงอุปสรรคต่อเสรีภาพในการรวมตัวและการเจรจาต่อรองร่วมของคนงาน และสุดท้ายการวิจัยฉบับนี้มีวัตถุประสงค์เพื่อค้นหาโอกาสที่เป็นไปได้เพื่อการส่งเสริมสิทธิด้านสหภาพแรงงาน

ผู้นำแรงงาน ๑๕ คนจาก ๘ สหภาพแรงงานในภาคเอกชนในนิคมอุตสาหกรรมอีสเทิร์นซีบอร์ดเป็นส่วนหนึ่งของงานวิจัยเชิงคุณภาพ งานวิจัยเชิงคุณภาพใช้คำถามในลักษณะปลายเปิดในการสัมภาษณ์เชิงลึก นอกจากนี้สมาชิกสหภาพแรงงาน ๑๐๐ คนในพื้นที่นิคมอุตสาหกรรมอีสเทิร์นซีบอร์ดเข้าร่วมในการออกแบบสอบถามซึ่งเป็นส่วนหนึ่งของงานวิจัยเชิงปริมาณเพื่อรวบรวมมุมมองของสมาชิกสหภาพแรงงานต่อข้อจำกัดของเสรีภาพในการรวมตัวและการเจรจาต่อรองร่วมของคนงาน

เสรีภาพในการรวมตัวและการเจรจาต่อรองร่วมในประเทศไทยยังถูกจำกัด ผู้นำสหภาพแรงงาน ผู้ก่อตั้งสหภาพแรงงานและสมาชิกสหภาพแรงงานไม่สามารถเข้าถึงมาตรฐานแรงงานในการก่อตั้งสหภาพแรงงานได้ กฎหมายแรงงานไทยถือเป็นอุปสรรคต่อคนงานในการเข้าถึงมาตรฐานแรงงาน ทำให้คนงานที่จัดตั้งและเข้าร่วมสหภาพแรงงานถูกเลิกจ้าง ถูกรังแก และถูกละเมิดสิทธิต่างๆ ในขณะที่คนงานถูกละเมิดเสรีภาพในการรวมตัวนั้นไม่มีความคุ้มครองใดๆภายใต้กฎหมายแรงงาน ที่คนงานจะใช้เป็นเครื่องมือในการคุ้มครองแรงงาน และในที่สุดคนงานเหล่านี้ต้องตกเป็นเหยื่อการละเมิดเสรีภาพในการรวมตัวเป็นสหภาพแรงงาน

เสรีภาพในการรวมตัวและการเจรจาต่อรองร่วมเป็นสิทธิแรงงานขั้นพื้นฐาน และถือเป็นสิทธิขั้นพื้นฐานที่สำคัญที่จะต้องได้รับการยอมรับ ดังนั้นการรับรองสัตยาบันในอนุสัญญาขององค์การแรงงานระหว่างประเทศฉบับที่ ๘๗ และ ๘๘ ถือเป็นสิ่งสำคัญยิ่ง รวมถึงการแก้ไขกฎหมายแรงงานไทยให้สอดคล้องกับมาตรฐานแรงงานในระดับสากล อนุสัญญาทั้งสองฉบับนี้เป็นกลไกที่มีความสำคัญอย่างยิ่งในการส่งเสริมเสรีภาพในการรวมตัวและการเจรจาต่อรองสำหรับคนงาน

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## **CHAPTER I**

### **INTRODUCTION**

Globalization has led to the formation of new social, economic and political conditions. In many countries, globalization is a major cause of economic and political development, especially in developing countries. Globalization has intensified economic competition among nations in order to increase competitiveness of the products to the global market (Rongshu, 2004). However, globalization has produced difficulties for workers and labor unions to function in traditional ways. Labor unions are organizations representing workers' interests and the voice of the working class through solidarity among the concerned workers. But labor unions are now facing various challenges including the growth of informal employment from the impact of globalized economy and irrespective of sector or country, political and conceptual challenges, legal and regulatory framework. The right to organize and form workers' organization is a prerequisite for sound collective bargaining and social dialogue. Still, there are many challenges for workers to exercise their right to adherence to these principles in many countries. In some countries workers are denied the right of association, workers are illegally suspended or interfered with, and many unionists are dismissed, arrested and killed for being involved with labor unions.

The fundamental principle of freedom of association and the right to collective bargaining is a reflection of human dignity. These two basic rights guarantee workers' ability to associate among themselves in order to defend their civil liberties on the right to life, security, integrity and personal and collective freedom. These two rights also guarantee the protection to workers from discrimination and all kind of harassment. The respect for the freedom of association and collective bargaining plays a significant role in promoting sound economic development, productivity and industrial peace. Business owners are tempted to reduce cost by decreasing conditions of employment, increasing long working hours, offering low

pay to the workers and managing the workplace in a way to bring about a deteriorating occupational health and safety standard. (Ethical Trade Initiative 2005, p.2.).

The growth of precarious work has become one of the problematic difficulties for workers throughout the world. Trade unions have initiated their efforts of the past decades to fight against precarious employment. (ILO, 2011). Labor unions on behalf of workers strongly fight for their jobs, rights and equality. Regarding to the International Trade Union Confederation (ITUC) report, despite international legal instruments that protect and promote freedom of association and right to collective bargaining, unions and their members are still exposed to severe violations against their rights. Many unionists have come under attack when they have tried to promote and defend the interests of workers. Union leaders or workers who get involved with union activities have been dismissed or subjected to discrimination and physical violence. Two Sierra Leone workers were killed by the police for protesting for better working conditions. At least 53 union leaders and members in Guatemala were killed, many of them were kidnapped and tortured (ITUC report, 2013 p.249). In Mexico, agreements negotiated between management and pro- management unions continue to obstruct legitimate labor organizing activity. These agreements always restrict workers' ability to obtain effective representation, undermining their ability to bargain collectively and earn benefits beyond the minimums mandated by Mexican law. Those workers who seek to organize independent unions risk to lose their jobs. These challenges have continued since there are loopholes in labor laws and poor enforcement failing to protect the workers from retaliatory dismissals. (Human Rights Watch, 2013, p.251).

Freedom of association (FOA) and collective bargaining (CB) rights always come together. These two rights have been categorized as "Civil Rights" for workers, which also mean "Civil Liberties" and "democracy" (Portes, 1994). However, millions of workers across the world in developing and industrialized countries are limited to exercise the fundamental rights on freedom of association and collective bargaining. Millions of workers have to work extremely long working hours in hazardous, low income and unhealthy working conditions. Thailand is one of the countries where rights to freedom of association are obstructed and invisible and where workers are limited to freely join and establish labor unions to promote

workers' rights and labor protection. The main reason behind this non- implemented action against fundamental rights to freedom of association is the weakness of the Thai labor laws, its enforcement and the failure to recognize international labor standards.

Thailand ratified the International Covenant on Civil and Political Rights (ICCPR) on October 29, 1996 and it entered into force on January 29, 1997<sup>1</sup>. Furthermore, Thailand ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) on September 5, 1999 and entered into force on September 8, 1999<sup>2</sup>. Moreover, the Universal Declaration of Human Rights, 1948 (UDHR) article 20 (1) provides that "Everyone has the right to freedom of peaceful assembly and association" and in sub- article (s) of the same article provides that "No one may be compelled to belong to an association". However, there are two significant ILO Conventions that the Thai Government has not yet ratified. Part of the failure of impractical freedom of association to freely join an established union means civil servants, teachers, fire fighters, police and government employees are not allowed to form unions to defend for their rights. In addition, vulnerable groups of workers such as workers in informal economy, migrant workers and domestic workers are prohibited to form trade unions.

In addition, Thailand is one of the founding members of the International Labor Organization (ILO) where the government must give the respect to the

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<sup>1</sup> In article 22 (1) of ICCPR stated that "Everyone shall have the right to freedom of association with others, including their right to form and join trade unions for the protection of his interests".

<sup>2</sup> In ICESCR article 8.1 (a) provides that "The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this rights other than those prescribed by law and which are necessary in a democratic society in interests of national security or public order or for the protection of the rights and freedoms of others" and in article 8.1 (c) provides "the rights of trade unions to function freely subject to no limitations others than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of right rights and freedom of others. Lastly in article 8 (d) provide "the right to strike, provided that it is the exercised in conformity with the laws of particular country.

international recognition of the core labor standard<sup>3</sup>. However the international labor conventions No.87 and No.98 have not yet been ratified by the Thai government. The two conventions Convention No.87, the convention related on protection against discrimination for joining labor union and taking collective action and Convention No.98, convention related on the right to collective bargaining with an employer through labor unions. These two compulsory conventions must be recognized to functionally allow workers to organize their unions for their interests and to defend for their basic working rights (ITUC, 2007, p.2.).

Nevertheless, Thailand has not ratified these ILO fundamental conventions for labor union rights ILO Convention No.87 on Freedom Association and Protection of the Right to Organize and ILO Convention No.98 on the right to organize and collective bargaining. Moreover, there are many legal difficulties restricting the right to organize a trade union. The Thai Labor Relations Act 1975 (LRA) allows the rights to form labor union for the workers in private sectors, which means anti-trade union discrimination is prohibited but there is no protection in the legislation to protect workers from the dismissals and harassment when they join labor union activities (IndustrilALL, 2015). While workers in state-owned enterprises have to follow a separate law under the State Enterprises Labor Relations Act 2000 (SELRA), under this act, state-owned enterprises employees are prohibited to go on strike and lock-outs, which are considered as significant tools for unions.

The Constitution of the Kingdom of Thailand has provided freedom for workers to exercise their fundamental rights to freely form and join labor union and to bargain collectively. But in practice, the Thai labor laws have been taking big influential limitations to reduce the power of the union, decrease union's membership, prohibit union activities and limit workers to exercise their rights on freedom of association and collective bargaining. Workers in the formal economy who are supposed to be freely organized under the Thai Labor Relations Act (1975) have to

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<sup>3</sup> Thailand ratified 5 fundamental conventions out of 8, which are Convention No. 29 on Forced Labor, Convention No.100 on Equal Remuneration, Convention No.105 on Abolition of Forced Labor, Convention No.138 on Minimum Age and Convention No.182 on Worst Forms of Child Labor. However, the 3 core labor conventions, which are Convention No.87 on Freedom of Association and Protection of the Right to Organize, Convention No.98 Right to Organize and Collective Bargaining and Convention No.111 on Discrimination (Employment and Occupation)

organize and form labor unions underground. And whenever employers learn about the organizing in their companies, there is no protection from legislation to protect the workers from being harassed and dismissed by employers. Workers can only do best to strengthen themselves through labor unions and collective bargaining, the rights where the United Nations and ILO Conventions and Declarations are recognized as fundamental and universally applicable as human rights and right on freedom of association and collective bargaining in Thailand need urgent improvement to allow workers to exercise their fundamental rights as they are human beings.

In practice and reality, the labor situation in Thailand especially the right to organize labor union and right to collective bargaining are still limited. Many union leaders, establishers and members could not freely exercise their standard of labor rights in establishing labor unions. As the function of the Thai labor law obstructs workers to enjoy their rights, many of the workers were dismissed and threatened during their organizing procedures. While the workers were waiting for the approval for the union registration from the Ministry of Labor, at the same time the company will be informed by the Ministry of Labor for confirmation of the company's workers proposing for registration. Normally, the company will use this opportunity to dismiss the workers before registration. There is no protection to implement as instruments for the workers to be protected while they are waiting for the authority approval for union registration. The workers have become victims of violations, which illustrates that the government and employers do not respect the core labor standard on freedom of association and right to collective bargaining.

### **1.1 The research objectives are:**

- To explore workers' rights violations to form and join labor unions in Thailand.
- To examine the challenges and difficulties for the workers to exercise standard of labor rights to organize and join labor unions in Thailand.
- To evaluate the availability of any protection mechanism for the workers to exercise their right to freely form and join labor unions.

## 1.2 The research questions are:

- What type of violations against worker rights to organize and join labor unions in Thailand?
- What are the reasons creating challenges and difficulties for the workers to form and join labor unions in Thailand?
- How to improve labor violations against worker rights to form and join labor unions in Thailand?

## 1.3 Operational Definition

### International Labor Standard (ILS)

○ The International Labor Standard are legal instruments initiated by the International Labor Organization (ILO) constituents, the recognition of the tripartite constituents (governments, employers and workers), that set out basic principles and rights at work. They are either conventions, which are legally-binding international treaties that may be ratified by the ILO member states, or the recommendations, which also serve as non-binding guidelines. These instruments are adopted at the International Labor Conference (ILC) and all Member States are required to submit them to their competent authority for consideration. In the case of Conventions, this means consideration for ratification. Ratifying Member States commit to apply the convention in national law and practice and report its application at regular intervals. Representation and complaint procedures can be initiated against countries for violations of a Convention they have ratified. There are now more than 189 Conventions and 202 Recommendations, supported by a comprehensive system of supervision.

### Freedom of Association (FOA)

○ Freedom of association refers to the rights of the workers to establish organizations which have the means to promote and defend the interests of their members. Without freedom of association, workers would not be able to create unions and enter into collective bargaining. Freedom of association is universally recognized as a human right.

### Collective bargaining (CB)

o Collective bargaining consists of negotiations between an employer and a group of employees representation or trade union, aims to determine the conditions of employment. The result of collective bargaining procedures is collective bargaining. Union are the representatives of the employees in bargaining.

### Committee on Freedom of Association (CFA)

o The Committee on Freedom of Association is a tripartite body set up in 1951 by the ILO Governing Body. It is composed of nine members and nine deputies from the Government, Workers' and Employers' groups of the Governing Body, and has an independent Chairman. The Committee on Freedom of Association meets three times a year and, taking into account the observations made by governments, is responsible for carrying out an examination of the complaints submitted under the special procedure, and for recommending to the Governing Body, as appropriate and including: that a case requires no further examination; that it should draw the attention of the government concerned to the problems that have been found and invite it to take the appropriate measures to resolve them; or, finally, that it should endeavor to obtain the agreement of the government concerned for the case to be referred to the Fact-Finding and Conciliation Commission.

## **1.4 Research Methodology**

This research was conducted by using both qualitative and quantitative data. This research was conducted in Eastern Seaboard Industrial Estate, an industrial park of more than 600 automobile, auto-part factories and many multinational companies located and operated the business there. With the purpose to create job opportunity in this industrial park and with internal migration, the local movement of the workers from agricultural industry shifted to manufacturing industries. However, there were violations and limitations against worker rights to access the rights of the workers in organizing labor union, numbers of union leaders and members were dismissed, threaten and violated from joining labor union in the area such that the anti-union action from the companies against the unions was obvious. The researcher decided for these reasons to conduct the research in Eastern Seaboard Industrial Park.

In-depth interviews were used to interview 15 dismissed union leaders who faced violations of their union rights; the respondents were victims of violations as they were union leaders. This research used the in-depth interviews to deeply find out the details and perspectives from these violated union leaders on their dismissal, physical harassment and prosecuted experiences. Basically these 15 union leaders were the union's president, vice president and union committees in their local enterprises. These 15 union leaders were the union committees of their own local unions from these following companies:

1. General Motors Workers' Union
2. Kawasaki Labor Union of Thailand
3. Thai Kansai Paint Workers' Union
4. Somboon Somic Workers' Union
5. NTN Thailand Workers' Union
6. NTN Nidec Thailand Workers' Union
7. Saint Gobain Sekurit Workers' Union
8. Sanko Gosei Technology Labor Union

The examples of the questions for in-depth interview were on these followings:

- What is trade union?
- What are the benefits of trade union?
- What are the reasons to join/organize trade union?
- What FOA and CBA can assist you?
- How do you think trade union can solve the problem that you are facing in your factories?
  - What are the violations that you had encountered with when you become trade union activist?
  - How do the labor laws can protect you from organizing trade union?
  - How do you think that labor union can fix the problem you are facing with at the workplace?
  - What are the violations are you facing with when you organize or join labor union?

- What strategies that the employers are using to stop you from joining labor union?
- After joining labor union, is there any trouble you are facing with? What are those problems?
- What are the protection mechanisms for you to freely exercise your right to organize and join trade union activities to defend for your right at the work place?

The data from these sample questions could clarify and reflect the violations against union leaders freely exercising labor unions rights and also the challenges obstructing the workers to establish and join union activities as well as some possible mechanisms that the workers viewed as tools to allow them to enjoy their union rights.

For quantitative research, survey questionnaires were randomly distributed to 100 of workers who were working in Eastern Seaboard Industrial Estate. Most of questionnaires were answered by the workers who accessed to Eastern Union Area Group office, the office for the workers to consult with the union organizers and experienced union leaders on topic related to labor law, labor violations, preparing for CBA and working conditions. There were estimated around 5-15 workers walked in to this office per day but many more visited during weekends. The purpose of this survey questionnaire was to obtain common views of the workers in Eastern Seaboard Industrial Estate of why the workers joined unions and what were the violations and troubles as being union members.

Documentary reviews focused on reports, books, academic thesis, article and journals on violations against freedom of association and collective bargaining rights from UDHR, ICCPR, ICESCR, ILO Convention No.87 and No.98 and Thai labor laws. In addition, reports by Global Union Federations (GUFs) ITUC, ITF, IndustriALL together with International Non-Government Organizations (INGOs) and Non-Government Organization (NGOs) were used as secondary information for this research.

## 1.5 Research Areas

There were around 370 enterprises operating factories in the Eastern Seaboard Industrial Estate in Rayong Province. But there were approximately 50 organized unions. The researcher mainly interviewed only private sector unions in this industrial estate as there were many cases regarding to labor violation against union rights in private sector union but mainly the respondents were the union establishers and leaders who were working in the factories located in this industrial park. As stated that the Eastern Seaboard Industrial Estate is one of the biggest production bases in Thailand, major enterprises producing global automotive brands and auto-parts. The eastern seaboard of Thailand was an emerging economic region that played a key role in Thailand's economy. It was Thailand's center for export-oriented industries and high value goods. Majority of the workers who tried to associate and establish new unions with regards to the case of private sector union were in this industrial estate. The respondents illustrated some strategies that had been used to violate union rights when workers tried to establish new union and propose collective bargaining agreement with the employers which will provide as part of this research for deeper information of violation against union rights since beginning stage of organizing. Workers who have been dismissed and harassed in the work place as they joined or established unions will be interviewed in this research.

Moreover, the recognition and achievement of the organized workers as labor unions in the manufacturing namely auto industries were very much successful comparing with other industries such as service industry or hospitality industry. Majority of the workers in this industry were extremely violated against basic rights as workers. Therefore they had to stand up and fight for their rights by organizing labor union. However, even if higher number of unionization in this industry was higher than other industries, violations and challenges for the workers to establish and freely join labor union activities were still widely existed. Therefore the researcher was strongly interested to highlight the research in this industry.

In addition, there were many labor organizations providing support and solidarity to protect union leaders from violations against union rights. Union confederations and federations in both national and international level that have followed cases; State Enterprises Workers Relations Confederation (SERC), Thai

Labor Solidarity Committees (TLSC), Federation of Thailand Automobile Workers' Union (TAW) while International Trade Union Confederation (ITUC), International Transport Workers Federation (ITF) both national and international organization. Moreover, there are some independent organization and NGOs, the National Human Rights Commission of Thailand and Friedrich- Ebert- Stiftung (FES), Solidarity Center (SC), IndustriALL, Confederation of Industrial Labor of Thailand (CILT) as well as the International Labor Organization (ILO). These organizations collected various significant research and reports that the researcher could study for this research.

## **1.6 Ethical Issues**

At the beginning of the research, the researcher firstly informed the informants and explained them about the research verbally. For the survey questionnaires, the researcher followed the regulations and instructions of the Mahidol University by ensuring the confidentiality of the informants' information and for any cases of inconvenience, the informants can stop answering the survey questionnaires or interview anytime. For the survey questionnaires, the informants filled up the survey with their confidence still the researcher verify in the survey for confidentiality and informed the informants very clearly for the consent, all the informant read the information carefully before filling up the questionnaires.

The researchers conducted the interview by records and kept the records which included names, background and violations against their rights confidentially including the survey questionnaires, these information were kept in secured location and all will be destroyed after the researcher pass the thesis. The workers names, company that they worked with were kept undisclosed, only their former positions in labor union were stated in this thesis. All the informants was selected from the suggestions of the Eastern Union Area Group's organizers, and most of the informants were dismissed and violated to exercise their workers' rights. However, all the informants as interviewees were in severe violations against their workers' rights so the researcher was very much concerned for the comfort of the informants whether they were willing to have some break during the interview, because many of them

were in hardship situation, some of the informants were still locked out and some of the informants were still prosecuted. Most of the informants were very convenient to reveal their privacy and difficulties, however the research informed them that they have rights to withdraw for the interview anytime that they feel uncomfortable. The researcher asked the informants' permission about the audio recorded interviews. One of the informants unwillingly requested the researcher to take note instead of recording the interview since he was still locked out and expected to be reinstated.

## **1.7 Structure of Thesis**

This thesis divided into 5 chapters.

Chapter I is the introduction of the background and general overview of this thesis which includes research objectives, research questions, research methodology, research ethics and the structure of this thesis.

Chapter 2 provides the existing studies highlighting the definition of labor union with the union density in Thailand, Constitution of the Kingdom of Thailand that allow the workers to freely organize labor union, the ILO Convention No.87 and No.98, Thai labor relation acts, freedom of FOA and CB rights in Thailand, and lastly the violations against labor union rights in Thailand.

Chapter 3 reflects the analysis from the survey questionnaires on the rights for freedom of association and collective bargaining among the workers in Eastern Seaboard Industrial Estate.

Chapter 4 reveals the challenges and difficulties faced the workers to establish and join labor unions. In addition, violations against workers rights to form and join labor union from intimidations, locking out, dismissal and prosecution against union leaders . Lastly, in this chapter also reveals some possible mechanisms that could allow the workers to freely join trade union rights and exercise freedom of association.

Chapter 5 concludes the findings and provides mechanism

## **CHAPTER II**

### **LITERATURE REVIEW**

This chapter reviews labor union density in Thailand and the definition of labor union in the first part of this chapter. This chapter also reviews the constitution of Thailand, the ILO Convention No.87 and No.98, the Thai Labor Relations Acts, rights for freedom of association and right to collective bargaining and lastly the violations against union rights in Thailand.

The impact of globalization has promoted the growth of country economies. However, globalization has not only motivated the growth of economy and politics but negatively globalization has created and caused social difficulties including the creation of unfair income distribution, especially in developing countries. Even if globalization has intensified economic competitions in the markets in the same time many countries adopted the neoliberal policy with numbers of legal restrictions on workers' rights. Regarding to the adoption of neoliberal policy under globalization, labor union in many countries have lost their basic rights as workers. As the concept of globalization strongly opened to advocate labor market flexibility, deregulating labor market and increasing the empowerment for the employers to hire, fire, determine wage and the use of labor. The consequence from the impact of globalization and neoliberal policies created the informal employment and cheap form of labor which became a big challenge for labor unions to protect worker's rights. (Rongshu, ACFTU, 2004). This article provides overall pictures for the impact of globalization to the worker rights, which reveal the overall effect from the globalization to the labor movement across the world.

However, the international agency both labor union and the International Labor Organizations have been working to promote the strategies to eliminate precarious form of employment through the recognition of decent work concept. Decent Work is a concept formulated by the ILO's constituents - governments, employers and workers. It based on the understanding that work is a source of

personal dignity, family stability, peace in the community, democracies that deliver for people and economic growth that expands opportunities for productive jobs and enterprise development. Decent work is a key element to achieving a fair globalization and decreasing poverty and achieving equitable, inclusive and sustainable development. Labor unions take very important responsibility to promote decent work around the world. Decent work agenda is based on the principles of freedom, equity, human dignity and security and the fundamental rights at work. Certain conventions are considered as core for the provision to ensure certain basic rights of the workers. Freedom of Association and Collective Bargaining rights are two of 8 core conventions. Precarious work has become a trend of employment where the producers try to keep their high profit through driving workers to work in long hours, low pay, poor working condition and no safety. The only way for the workers to protect and defend themselves is the strength of their negotiation power through uniting and bargaining collectively. Decent work agenda has shown the importance of the basic standard of the workers to organize and bargain collectively for the workers' interests (ITUC, 2008). This campaign to promote decent work is very significant process to promote the worker's rights especially the rights for the workers to freely exercise their freedom of association and collective bargaining. However, the action of the Thai workers to be aware of their decent work in Thailand has not yet been promoted much compared with other region and nations.

Thailand economy is export- dependent. Thailand recovered from the 2002 Asian financial crises. The economic recession was critical to job creation. In general, Thailand's employment grew faster in manufacturing and services than agriculture such that shifting in composition of job growth for labor productivity was basically higher in manufacturing and service than in agricultural sector (Jirathiwat and Mallikamas, 2010). Therefore the Thai economy moved to the manufacturing led economic growth with abundant and inexpensive labor and natural resources. The economic system was essentially a free enterprise system. Public services such as power generation, transportation and communication are state- owned and operated. The government started to privatize some state-owned enterprises in the wake of the financial crisis but with the timetable for privatization, some strong trade union from

state-owned enterprises mobilized against privatization with the civil society. (Sakdina, 2010, p 4.).

Thailand, a country known as an agricultural producer, has rice as the most important crop. Thailand is one of the leading exporters in the world rice market. But there are others significant goods such as fishery products, rubber, corn and sugar. Thailand also produces processed food products including canned tuna, pineapples and frozen shrimp. In addition, the growth of investment has increasingly diversified in others industries and manufacturing sectors such as computers, electronics, garments and footwear, furniture, wood product, canned food as well as high-technology products such as integrated circuits, auto, auto-parts and electrical appliance. These industries are now leading Thailand's export businesses. The automotive industries were recognized as one of the main industries for Thailand. The economic value was generated by these industries up to 10 percent of gross domestic goods originating from manufacturing. In 2012, these auto and related industries could create direct employment opportunity to 500, 000 workers. In addition, Thailand was recognized as the leading country in the region and globally as automotive manufacturer producer, which was ranked as the first among ASEAN countries and 15<sup>th</sup> in the world as regional production hub for motorcycle and auto parts. (Thailand Automotive Institute and Ministry of Industry, 2012).

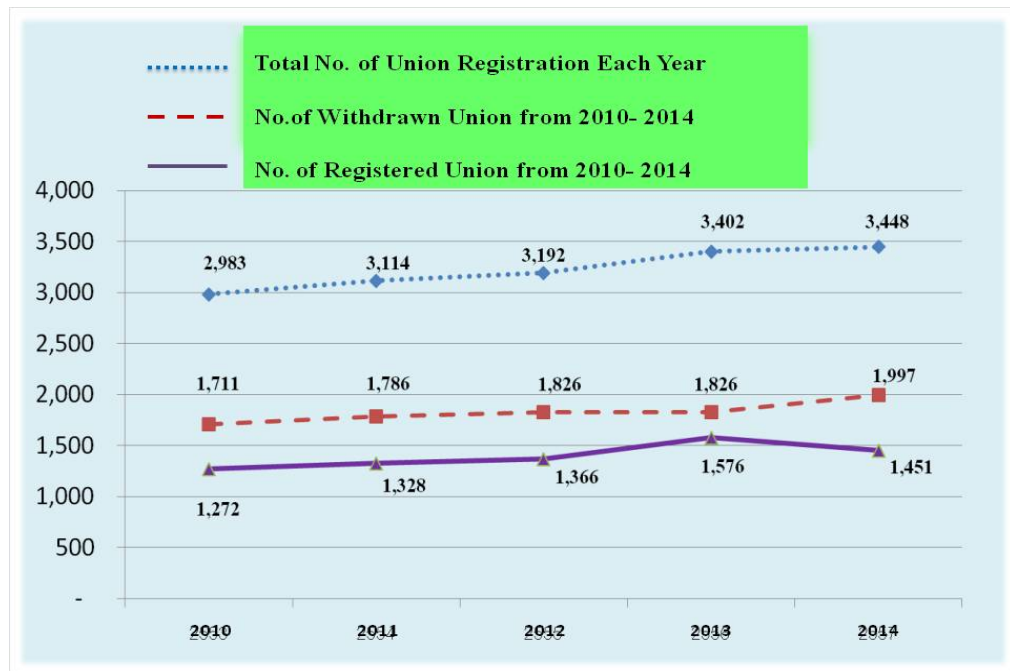
## **2.1 Labor Union Definition and Union Density in Thailand**

Freedom of association and the effective recognition of the right to collective bargaining are recognized as fundamental principles and rights at work as the respect of sound industrial relations and effective social dialogue. The representation of labor union and collective bargaining can assist in monitoring progress toward the realization of these core labor standards (ILO, 2011). Labor union is the most widespread employee's organization. Labor unions are based on gathering of the workers to form an organization together to protect the workers' rights by their own independence of membership dues in conducting activities and solidarity actions. But the difference between labor union and social association is that labor unions defend for themselves to protect their members from employers or industries. In

general labor unions representatives will represent their members to bargain collectively with the employers on the issues affecting working condition, occupational health and safety, unfair wages and long working hours. In any cases where the negotiation between unions and employers could not be finalized, workers under the standard of labor rights of any labor dispute can use their instrument to defend their rights with the employers, and that instrument is a “strike”. (MAP Foundation, 2012). The labor union is known as a continuous association of the workers to form their organization as purposes of improving the employment condition for their union members and the workers in general (Webb, 1920). Labor union also has its own characteristic as the production process that involves the gathering together of the workers, aiming to provide a greater opportunity for collective action (Alison, L, Booth, 1995). These characteristics, actions, demands and instruments that the workers should be allowed to freely exercise for their workers’ rights are still not been freely implemented and practiced among the Thai workers and especially workers in Eastern Seaboard Industrial Estate.

Labor union membership is the total numbers of the workers belong to union and they can further consider as indicator of the strength of labor union. Labor union density expresses union membership as proportion of eligible workforce and measures the extension of unionization. However, labor union density does not show any reflection of the bargaining power of the union. Especially in some countries like France, labor union density rate is comparatively low but the collective bargaining power plays significant role in regulating terms of conditions of employment and coverage of the workers through collective bargaining agreement is very high. (ILO:2011). Regarding to this report by the ILO, the labor union density rate for Thailand is only 1.4 percent. This union density reflects the challenges and difficulties for the workers to access core labor rights. The National Statistic Office reports that the total number of workforce in Thailand is 38.4 million workers from the total of 64 million of total populations. (National Statistical Office of Thailand, 2014). Thailand is one of the lowest trade union rates in the world (Yukongdi, V. 2008).

**Labor Union Registration Rate between 2010- 2014 (Ministry of Labor)**



This graph demonstrates uncertain sustainability of registered labor union in Thailand since 2010-2014, the figure released by the Ministry of Labor. The graph shows the increasing numbers of the registered union from 2,983 unions in 2010 to 3,448 unions in 2014. But every year since 2010 to 2014 many registered unions have been withdrawn. In 2010, there was 2,983 registered unions but within that year there was 1,711 unions were withdrawn their registration document and only 1,272 registered union remained. While recently in 2014 there was 3,448 registered union across the country, 1,997 of them were withdrawn which means that there were only 1,451 registered union across Thailand. Registration withdrawals caused by the registered unions have not continued any union activities for 2 years<sup>1</sup>, the union activities basically refer to union annual general assembly, annual financial report and other activities.

<sup>1</sup> In LRA Act 1975 Section 108, the labor union shall cause its account to be audited annually and shall propose its balance sheet together with an audit report of the auditor to the general meeting. If the balance sheet and audit report have been certified by the general meeting, each copy thereof shall be submitted to the Registrar within thirty days as from the date the certification of the general meeting has been made.

## Labor Union Density (International Labor Organization, 2012)

**Table 1. Trade union density**

Country	Year	Trade union density rate		
		A. Proportion of wage and salaried earners	B. Proportion of total employment	C. Reported proportion
<b>Africa</b>				
Cameroon	2005			3.5
Egypt	2007	*26.1	16.1	
Ethiopia	2007	12.9	1.0	
Ghana	2006	70.0		
Kenya**	2007	35.5	4.1	31.2
Malawi	2006	*20.6	2.7	2.5
Mauritius	2007	28.2	14.8	
Niger	2008		1.1	
Sierra Leone	2008	46.8	3.6	
South Africa	2008	39.8	24.9	25.0
Tanzania	2009	*18.7	2.2	2.0
Uganda	2005		1.1	
<b>Americas</b>				
Antigua & Barbuda	1998		55.6	
Argentina	2006	37.6		
Bermuda	1995	*24.6		
Bolivia	2006		26.6	
Brazil	2007	20.9	17.8	18.0
Canada	2007	31.4	26.6	31.5
Chile	2007	11.5	13.6	13.6
Colombia	1997	*28.7		
Cuba	2008	81.4	70.6	97.0
El Salvador	2008	11.9	6.7	10.0
Guatemala	2006	*12.9	2.5	2.8
Mexico	2008	17.0	11.2	15.6
Nicaragua	2006	*4.1	2.1	
United States	2007	11.4	10.7	12.0
Uruguay	2006	19.0	13.3	
<b>Asia and the Pacific</b>				
Australia	2008	19.1	17.1	18.9
Hong-Kong	1999	*21.5		
India	2005		2.4	
Japan	2007	*18.0	15.5	18.1
Korea	2006	*10.0	8.7	10.0
Malaysia	2007	*10.3	7.6	
New Zealand	2008	*20.8	17.2	17.3
Pakistan	2001	*15.7		
Philippines	2007	*3.2	1.7	
Singapore	2007	31.7	33.3	
Sri-Lanka	2003	*6.0		
Taiwan, China	2006	*35.9		
Thailand	2007	2.1	1.4	

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This table reveals a small percentage of labor union density in Thailand. There are only 1.4 percent of organized workers in Thailand from the total of 38.4 million workforces across the country.

## 2.2 Constitution of the Kingdom of Thailand

Article 64 of Constitution of the Kingdom of Thailand 2007<sup>2</sup> (Bureau of Technical and International Cooperation, 2007) allowed workers to form labor union to defend for their rights. While government officials and employees, like other citizens, also have the right to join groups but it shall have no impact on the administration of the country and consistency in the provision of public services as

<sup>2</sup> The constitution of the Kingdom of Thailand 2007 article 64 stated that “a person shall enjoy the liberty, union, league, farmer groups, private organization, private development organization and any other groups, private organization, private development organization or any other group.

provided by law. The restriction on such liberties shall not be imposed except by virtue of the provision of law specially enacted for protecting the common interest of the public, maintaining public order or good morals or preventing economic monopoly. Even if the most recent Thai constitution 2007 provided a provision guaranteeing the rights to organize but since that there has been no other organic laws have been passed to ensure that the workers are being protected under these rights (Chatrakul Na Authaya, 2010). This article strongly reflects the limitations for the workers to exercise their basic rights at work in reality in general. The Thai government could not provide labor protection for the workers when the workers are standing up to defend for their rights on freedom of association and bargain collectively. Thai labor relations laws have many restrictions for the workers to join and form trade unions. In addition, these labor relations laws have never been enforced and implemented. However, the details of limitations and difficulties for the workers in Eastern Seaboard Industrial Estate where the workers have been violated from organizing and joining labor union are needed for further study.

### **2.3 ILO Convention No.87 and No. 98**

ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organize Convention 1948 is one of the core labor standards. All the workers believe that this convention is one of the instruments to protect them from all kind of violation and they can initiate peaceful and moral environment to the workplace. ILO Convention No. 87 on Freedom of Association (FOA) includes the rights to join and form trade union for the protection of the workers' right and interests. Under the Preamble to the Constitution of ILO, freedom of association (FOA) is vital for the improvement of the workers' conditions for the achievement of the universal and lasting peace. The Convention applies rights to all workers without any distinction (ILO, 2009). Workers have the rights to join and establish their organizations of their own choice, regarding to this freedom they should not be authorized by any others authorization. This convention also guarantees to the workers 'organization to freely produce their own constitution and rules as instrument to select their own representatives to manage their administration and activities.

The ILO Convention No. 98 on Right to Organize and Collective Bargaining Convention, 1949 is recognized as twin convention of the ILO Convention No.87. It guarantees the workers to protect their rights against any acts of anti- union discrimination and working employment. Collective bargaining is the process in which working people through the representation of their trade unions negotiate with their employers to determine their working employment at the workplace including fair pay, benefits, working hours, leave, occupational health and safety and working conditions for the workers. Collective bargaining is known as an instrument for the workers to solve the problems at the work place and it can create good labor relations between workers and employers.

## **2.4 Review of the Thai Labor Relations Acts**

Even though the Constitution 2007 of the Kingdom of Thailand guarantees the rights to organize to all the workers, still there is no organic laws that have been passed to ensure for the protection to the workers. There are two labor laws supporting right to organize and collective bargaining for the workers in Thailand which are 1975 Labor Relations Act and 2000 State Enterprises Labor Relations Act. These two laws are mainly causing extremely low rate of unionization in Thailand because there are many restrictions for workers to form and join labor union freely.

1975 Labor Relations Act concerns on the labor relations between employers and employees. This act primarily provides rules, regulations and procedure between employers and employees to propose their demands to improve conditions of employment. Both stakeholders are allowed to settle their own organizations. Employers are allowed to settle association while workers are allowed to organize labor union for acquiring and protecting their interests. But this act does not apply to all the groups of the workers only private sector workers who work under the employers (ITUC, 2011). Workers in informal economy such as outsourcing, contracting and sub-contracting workers as well as self-employed workers are allowed to form themselves by groupings but this provisions are not allowed to bargain collectively like workers who are working in the formal workers. The most restricted and vulnerable group of workers are international migrant workers. Regarding to this

act, migrant workers are not allowed to set up their own labor unions but they are allowed to be members of existing Thai labor union. However, in reality migrant workers do not join Thai labor union because they are fear of further retaliation from their employers. However, the article has not yet provided the information on the labor enforcement and the loopholes of the Thai Labor Relations Acts that has not been implemented to protect the worker's rights to form and join labor union.

State Enterprises Labor Relations Act (SELRA) B.E. 2543 (2000) was reaffirmed the Thai parliament and become a law in 2000. This Act mainly concerns on labor relations fundamental between the state-owned enterprises management and employees. SELRA established the right to bargain collectively for improving the conditions of employment, the settlement of labor disputes, the establishment of labor union as an employees' organization aiming to protect the benefits of state-owned enterprises employment. (Doelman, 1993, p.64-74).

## **2.5 Freedom of Association and Collective Bargaining Rights in Thailand**

Precarious work, informality, subcontract and contract employment became major challenges as labor violations in Thailand. Government employees, civil servant, migrant workers, contract workers, sub-contract workers were limited to organize labor unions. In Thailand, there were 22.1 million or 57.6 per cent of the total workforce are workers (National Statistical Office of Thailand, 2014), who are working in the informal economy where they are restricted to exercise their rights on FOA. The organized labor movement in Thailand remains weak and divided as less than 2 per cent of the total workforce is unionized. (International Business Publications, 2008). However, the publication from International Business Publication still lack of the information on form of violations and challenges that the above mentioned worker such as sub-contractors, contractors, or even permanent workers who established the union are facing with.

As reported by the National Statistical Office of Thailand explains that the number of the workforce was very high but unionization rate was extremely low. Regarding to this statistic, it demonstrated the impact of Thai labor laws in restricting

workers to freely organize the union. Thai labor laws stated that employers must inform employees of any grievance mechanisms that exist in the workplace. Thai laws guaranteed the right to freedom of association and collective bargaining and prohibited anti-union discrimination still there are limitations on no freedom of association to non-nationals migrant workers, civil servants, government officials and teachers. Unions are required to have at least 20 per cent workforce representation to present collective bargaining demands and government can restrict any strike for “national security” reason (Kaewvarn, 2015). Officials were allowed to dissolve a union if its membership drops below 25 per cent from the total workforce.

In reality, the labor situation in Thailand was severely violated. The Labor Relations Act has not been implemented and did not provide any protection to the workers when they organize unions until the union was registered. Many of the workers were dismissed during the establishment of the union. Labor union without registration, the union establishers and can be dismissed without any legal protection. While the process of organizing and establishing union, many of the workers became victims of unfair dismissals, during this process of proposing for the registration, the Ministry of Labor will inform the enterprises or employers that their workers are now organizing union before the Ministry of Labor approve the registration, within this time basically the Ministry usually contacted the employers to confirm that that these workers were actually the company’s employees or not, when the employers found the name of the union establishers, the employers immediately took this opportunity to dismiss the workers legally before the process of registration was approved by the Ministry of Labor. The Thai Labor Relations Act 1975 in practice allowed the workers to be violated by the employers which did not comply with the international labor standard to respect the worker’s rights on freedom of association and right to collective bargaining (IndustriALL, 2015). This complaint letter to the Committee on Freedom of Association (CFA) demonstrated various cases of violation against the establishment of labor union Thailand with the details of 18 cases of workers and labor abuses. But there were more cases in Eastern Seaboard Industrial Estate to be revealed. The union establishers have not been dismissed alone as there were some other violence against the union organizers in the area as well.

## **2.6 Violations against labor union rights in Thailand**

Thailand has transformed to an export oriented, industrializing country. With the impact of globalization, the liberalization of financial market and deregulation of labor market in Thailand are the causes of the weakness of labor union position and capacity in Thailand. During the economic crisis in 1997, employers took the opportunity to eliminate the workers, the elderly and high income workers. Many of the union members were dismissed. Especially foreign investors strongly promote weak union and unorganized workers (Thanachaisethavut, 2001). These are the strategies of the employers to reduce the power of unions in Thailand that the employers and management used to dismissed the union leaders and shut down the factories where the strong unions were organized. But there were many more strategies that the employers used to obstruct the workers to establish the union. Especially this was the case in the industrial park namely Eastern Seaboard Industrial Estate where varieties of small, middle and big enterprises operated their business in this industrial park.

In private sector, employers always dismiss workers who get involved and tried to form labor unions so mostly workers have to organize the union underground, meaning that workers or union establishers had to establish the union secretly. Basically workers in private sectors have been fired when they are waiting for the registration of the union from the Ministry of Labor. Regarding to this sort of dismissal, there is no labor law protection to secure the workers from anti- union discrimination in Thailand. There are many violating cases against union rights. In 2011, 41 workers included union leaders and members were dismissed by Ricoh Manufacturing (Thailand) Ltd., the printer production Japanese-based company ordered the dismissed order to union leaders in Rayong industrial area, after the workers proposed the collective bargaining agreement to the company to improve working condition. Workers were forced to work for overtime, workers were recorded the duration of using the toilet and they had insufficient safety equipment. The company violated against union rights as stated that workers create the conflict between the employees and management (ITUC, 2012). In March 2009, 383 workers were locked out at the Michelin Tire Factory in Laem Chabang district, Chonburi province. Workers refused to withdraw their names from unilaterally imposed wage

cuts and the effects of a downturn in the tire market. The management took more action to suspend 8 worker representatives from the union by imposing 35 per cent pay cut and raise criminal charges against union leaders (IndustriALL, 2010). Nine employees from Tesco-Lotus Company were dismissed as they were attempting to form a supervisor union in center warehouse in Ayuthaya province on February 2009 (ITUC, 2010). Many more workers in private sectors have been violated, harassed and intimidated against their rights on FOA and CB rights by employers, which demonstrate that the legal framework in Thailand is not conducive to labor union activities.

In addition, not only worker in private sector have been harassed but worker in state- owned enterprises also been violated against their union rights severely as well. State-owned enterprises employees with the strong recognized and long- existed unions are also targeted by the management and government. Workers in state-owned enterprise unions are under the control of SELRA. Under this legislation workers in state enterprises are restricted to strike. The anti-union practices by the State Railway of Thailand (SRT) acted against the State Railway Workers' Union of Thailand (SRUT) by ordering to dismissed 13 unions leaders included the President of the union. An unfair dismissal in October 2009 occurred from a train derailment in Kao Tao Station, Prajuab Khiri Khun Province in the Southern part of Thailand. In this accident 7 passengers were killed and hundreds passengers were injured. The management claimed two drivers in the crash that they had fallen asleep on duty but even they had been working constantly for a month with just one rest day. SRT had never investigated on the accident where the external investigators from the International Transport Workers' Federation and the representative from the National Human Rights Commission of Thailand (NHRC) found out that the train system were not functioning and the problem with safety condition of the train (NHRC, 2010). Immediately after the accident, the union members refused to drive unsafe trains regarding to this action on the consideration of occupational health and safety. The SRT filed against the SRUT to the court imposing the union leaders' punitive damages and fired 13 union leaders (ITF, 2013). There are violations against workers rights for both private sectors and state enterprises. However, the area of Eastern Seaboard Industrial Estates are still lacking of clear study about the different form of violations

against freedom of association rights and challenges that look more severe in the area such as the union leaders become victim of prosecution, physical harassment and intimidation. There is no research specifically highlight the violations and challenges of the union establishers and members who are infringed by the management because the form and join labor union to defend for their rights as workers.

### **CHAPTER III**

## **FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING RIGHTS IN EASTERN SEABOARD INDUSTRIAL ESTATE IN RAYONG PROVINCE**

This chapter reviews the opinion of the workers in Eastern Seaboard Industrial Estate relating their difficulties to exercise their rights of association and collective bargaining. Both union members and union leaders participated in this survey to reflect their perspectives that limited them to freely establish and join trade union activities to defend for their workers rights. There were 100 workers participated in this survey questionnaire. The informants were the workers who worked in manufacturing in Eastern Seaboard Industrial Estate in Rayong Province. Manufacturing workers, namely automobile and auto-parts industries, “majority of the workers faced with various types of challenges in the workplace; heavy work, poor working conditions, lack of occupational health and safety, discrimination, poverty and etc”. (NTN Thailand dismissed worker, 33 years old). With all the problems that the workers were handled, it created the strength for the workers to stand up and fight for their rights. Therefore, automobile and auto-parts workers were very motivated to organize the union more actively comparing with some other workers in different industries such as service, hotel or construction. The automobile and auto- related industries seemed to be more active to establish and form trade union to fight for rights of the workers. However, the workers in automobile and related auto-part industries could not exercise their standard of labor rights in organizing labor union freely. Therefore, the workers’ view in this survey was a reflection of the problems and violations that the workers in Eastern Seaboard Industrial Estate had been violated. And in this chapter, the workers also demonstrated in the survey for some possible mechanisms that could assist and support them to freely exercise their freedom of association and collective bargaining rights. This survey questionnaire was conducted in the office of Eastern Union Area Group, located at Bowin District,

Sriracha, Chonburi, the area where the workers launched the complaint and consult about the labor law and labor rights with the professional labor union organizers in the area.

Violations and challenges against labor rights to freely exercise their rights in establishing and joining the union did not only impact the union leaders, but the workers who participated in union activities also in trouble. One hundred informants in this survey were union members and many of them were threaten by the management by using various strategies to stop them from being union members. In this survey analysis also reflected types of violations that the union members were violated by the management after they join union activities. Moreover, this survey also demonstrated that the union leaders were attacked severely by the management, many of the union leaders were dismissed and prosecuted when they tried to form trade union. Hence, this chapter reflects both challenges and violations faced by members and union leaders organize labor union to protect their workers' rights.

**Table 3.1 Gender and Age**

		Age				Total
		Less than 20	20-29	30-39	40-49	
Gender	Male	0	19	39	12	70
	Female	1	19	10	0	30
Total		1	38	49	12	100

A majority of the respondents are men and majority of them are between 30-39 years old. There are 19 male respondents who are at the age between 20-29 years old and 12 of them are between 40-49 years old. The total respondents of women are 30 and majority of them are between 20- 29 years old. While 19 of female respondents are between 20-29 years old and 1 of them is less than 20 years old. This table demonstrates that majority of men are working in this area and majority of them are between 30-39 years old. Mainly men workers are working in automobile industries because in the auto industries are more physical work that suit to men workers. But in the auto-part industries, many of skilled women workers are working in the production line.

**Table 3.2 Gender and Origin**

		Origin					Total
		Local	North	Northeast (isan)	Central	South	
Gender	Male	0	27	38	2	3	70
	Female	1	11	18	0	0	30
Total		1	38	56	2	3	100

Majority of both male and female respondents originally migrated from Northeast of Thailand to work in Eastern Seaboard Industrial Estate, 38 of them are male and 10 are female. There are 27 male workers and 11 female workers come from the Northern part of Thailand accordingly. And there are 2 male workers come from Central part of Thailand and 3 come from the South. Lastly, 1 female respondent is the local worker. This table illustrates that majority of the respondents migrated from the North and Northeast of Thailand, which indicates that workers left the agricultural industry migrated from their origins to work in the industrial estate.

**Table 3.3 Gender and type of industry**

		What type of industry are you working for?		Total
		Automobile	Auto parts	
Gender	Male	49	21	70
	Female	1	29	30
Total		50	49	100

Mainly male respondents are working the automobile industry, there are 49 of them. And there are 21 of the male respondents work in the auto parts industry. Still majority of female workers, which is 28 of them are working in the auto parts industry and 2 of them are working in the automobile and metal industry accordingly. This table demonstrates that workers in Eastern Seaboard Industrial Estate mainly work in the auto industry and auto-related industries. Majority of men workers are working in automobile factories because automobile factories require more physical work, which men workers physically fit better to operate in the production line, they need to work with heavy machines. And female workers are working more in auto-part factories.

**Table 3.4 Gender and Company Nationalities**

		What is your company's nationality?				Total
		American	Japanese	Thai	Others	
Gender	Male	24	28	16	2	70
	Female	0	13	17	0	30
Total		24	41	33	2	100

A majority of male workers work with the Japanese national company, 28 of them are hired under the Japanese based industry. And 24 of male respondents are

working with American company, 16 with the Thai company and 2 is others nationalities. But a majority of female workers are working with the Thai nationality company and 13 of them are working with Japanese company. This table demonstrates that there are both foreign investment and Thai local investment operate their business in Eastern Seaboard Industrial Estate, numbers of male workers are working with American and Japanese auto producers companies, and female workers are mainly working in the auto parts industries for Japanese and Thai nationalities producers.

**Table 3.5 Company Nationality and Type of Industry**

		What type of industry are you working for?			Total
		automobile	Metal	auto parts	
What is your company's nationality?	American	24	0	1	25
	Japanese	24	0	17	41
	Thai	0	1	31	32
	Others	0	0	2	2
Total		48	1	51	100

The American and Japanese companies are mainly car producers, there are 24 respondents are working in both industry equally. There are 17 respondents are working with the Japanese auto parts producer and 1 with the American auto part company. But majority of the respondents are working with the Thai auto parts company, which is 31 of them are working with Thai national auto parts industry. And two of them are working in the auto part industry with different nationalities. This figure demonstrates that workers are working in both American and Japanese auto producers. And some of the Japanese and Thai investors produce the auto part.

**Table 3.6 Minimum wage of 300 baht**

	N
Do you receive minimum wage of 300 baht per day?	100

Hundred percent of the respondents received more than 300 bath daily minimum wage. Workers who are working in Eastern Seaboard Industrial Estate are not violated against the minimum wage standard. This table demonstrates that the respondents do not face with difficulties against their rights for the minimum wage. But the minimum wage is not sufficient; many of the workers are still working over time because their minimum wages have not yet covered all their necessity expenses. In addition, the minimum wage is not living wage. Thai workers are still handling with these difficulties.

**Table 3.7 Gender and Working Hours**

		How many hours do you work per day?		Total
		8 hours	More than 8 hours	
Gender	Male	22	48	70
	Female	6	24	30
Total		28	72	100

A majority of male respondents or 48 of them work more than 8 hours per day, while there are only 22 male respondents work 8 hours. There are 24 female respondents work more than 8 hours, and only 6 of them work 8 hours. This table demonstrated the violations against the workers’ rights to join union activities since both male and female workers have to work more than 8 hours in order to make more

income from over time. Union organizer claimed that working hours is one of the challenges to have workers participation to union activities, which the workers see that working for ever time important than joining labor union activities. (Sema Saubtrakul, Eastern Seaboard Union area group organizer). In addition, workers accept to work overtime because the minimum wage is not enough to support the workers and their families. While active union leaders and members normally refuse to work for overtime because they are apply the 3 eights principle to apply for their life; eight hours to work, eight hours to rest and last eight is for studying.

**Table 3.8 Gender and Do you want to work for over time?**

		Do you want to work for over time?		Total
		Yes	No	
Gender	Male	9	61	70
	Female	11	19	30
Total		20	80	100

A majority of the respondents both male and female respondent do not want to work for overtime. There are 11 female and 9 male respondents prefer to work for overtime. Regarding to this figure majority of both male and female workers do not want to work for overtime because they would like rest from long working hours but majority were forced to work for over time. And 20 percent of both male and female work for over time because their salaries are not enough for their monthly expenses to take care of themselves and their family members.

**Table 3.9 What type of industry are you working for? \* How much money do you earn monthly?**

		How much money do you earn monthly?		Total
		between 15,001-20,000 baht	more than 20,000 baht	
What type of industry are you working for?	automobile	30	20	50
	Metal	1	0	1
	auto parts	43	6	49
Total		74	26	100

The majority of the respondents receive their monthly salary between 15,001- 20,000 baht come from auto part industry and only 30 of the respondents in the auto industry receive the same range of the month salary. There are 20 respondents in the auto industry receive more than 20,000 baht. This table demonstrates that those workers who received higher pay more than 20,000 baht are male workers who are working in the auto industry and they are above 30 years old who have well developed skill. Therefore, this table can be analyzed that male workers in the auto industry receive higher salary. The minimum salary for automobile and auto-parts industries are 15,000 baht per month but this amount includes over time and annual bonuses in average.

**Table 3.10 Gender and Monthly Salary**

		How much money do you earn monthly?		Total
		between 15,001-20,000 baht	more than 20,000 baht	
Gender	Male	47	23	70
	Female	27	3	30
Total		74	26	100

There are 47 male respondents and 27 female respondents earn between 15,001- 20,000 baht accordingly. But 23 male respondents and 3 female respondents earn more than 20,000 baht for their salary. This table demonstrates that majority of young female and male workers receive their monthly salary less than male workers with long working experience. Men workers get paid higher than female workers.

**Table 3.11 Type of industry and Company Size by Number of Workers**

		What is the size of your company in term of number of employees?					Total
		Less than 100 workers	100-300 workers	300-500 workers	500-1,500 workers	More than 1,500 workers	
What type of industry are you working for?	Automobile	0	0	4	5	41	50
	Metal	0	0	1	0	0	1
	Auto parts	1	4	16	27	1	49
Total		1	4	21	32	42	100

Automobile companies are considered as big enterprises, a majority of respondents, who work in the automobile industries, have more than 1,500 workers in the factories. For auto parts industries, there is one respondent who is working in a

small enterprise with the numbers of workers is less than 100 workers. There are 4 respondents work in small enterprises of 100-300 workers. And 16 respondents are working in the middle enterprise of 300-500 workers. There are 27 respondents are working in a big auto parts company with 500-1,500 workers in the enterprises. This table shows that automobile companies hire higher number of workers compare with auto parts and metal enterprises. The automobile enterprises require big number of workers in the production line basically more than 1,500 workers in one company. While auto-parts industries operate from the small to medium enterprises from 100 workers to 1,500 workers.

**Table 3.12 Gender and Problem at the Workplace**

		Do you have any difficulties in the workplace?	
		Yes	Total
Gender	Male	70	70
	Female	30	30
Total		100	100

All respondents faced with difficulties at the workplace. This table shows that there are problems especially unfair labor practices, which the workers recognized as discrimination; all of the workers experience this inequality action by the management, the workers were refused for wage increase and promotion once they were not favorable workers to the management in Eastern Seaboard Industrial Estate, in this regard; the reason behind these difficulties might result from the anti-union establishment. Small percentage of labor union in Thailand can demonstrate that labor union rights are not recognized as defending tools for the workers in the enterprises. This is the reason why both male and female respondents are victims for difficulties in their workplace.

**Table 3.13 What are those difficulties at the workplace?**

	Frequency
Unfair wages	1%
Poor working Condition	76%
Long working hours	85%
Forced to work for over time	55%
Discrimination	99%
Precarious work	70%
Sexual harassment	1%

A majority of the respondents faced with discrimination (99%). Long working hours has become problematic for the respondents (85%). And the respondents feel like they are forced to work for mandatory overtime (55%). The respondents have to work under poor working conditions (76%) Many of the respondents are working under precarious form of employment (70%). While only (1%) of the respondent are faced with unfair wages. This table shows that majority of the workers in all industries; automobile, auto parts and metal industries in Eastern Seaboard Industrial Estate satisfied with their wage. However, the long working hours including over time are still problematic for the workers, many of the workers feel that they were forced to work for the over time. However, at this point there is confusion among the workers since the workers are satisfied with their wage but in the same time the workers are in needed to work for overtime because without working for over

time, the workers will not have enough money for their expenses. When the workers stated that they were forced to work for over time is the workers themselves are willing to do it for more wages. Almost hundred percent of the respondents feel discriminative against their job promotion, wage increase, and passing the annual key performance evaluation, regarding to this discrimination, the workers decided to organize the union and join the unions' activities. While 70 respondents are working in precarious working condition; contract workers, sub-contract workers, or even new type of precarious work that can be easily found in the auto and auto parts industry in Eastern Seaboard Industrial Estate are internship student workers. These groups of workers are working under temporary contracts, there is no job security and any protection for them, most importantly, and these groups of workers could not organize and join the union with numbers of limitations that obstruct them to be part and be protected by the union.

**Table 3.14 How do you solve the problem of those difficulties at the workplace?**

	Frequency
Consult with labor union in the workplace	58%
Consult with labor union area group	42%

Basically the respondents solved these difficulties by initiating a discussion with the labor union in their own factory to receive feedback (58%). And some of the respondents consulted with the labor union area group in Rayong Province (42%). This table shows that when the workers face with the above difficulties, they directly discuss and consult with the local union in their work place and many of them initially consult with the experienced union organizers in the area. Once the workers become more confident to discuss with the union representative and organizers to keep

their problem and to find out the solution, and many of the workers who firstly raise their issue with the experience unionists, they automatically join the union since they believe that the union can protect their working lives.

**Table 3.15 Are you a member of labor union in your workplace?**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid yes	100	100.0	100.0	100.0

Recently all of the respondents are members of labor union in their workplace. Majority of the workers join a labor union because they are faced with difficulties at the workplace.

**Table 3.16 Why didn't you be a union member when you first recruitment?**

	Frequency
Because I was afraid to be fired	94%
Because I was sub-contract workers, I can't join trade union	35%

However, this questionnaire related to Table No.18 there were two main reasons that 100 informants did not want to be union members since the beginning because the workers were afraid of being fired if they joined a labor union as members and ,secondly, the workers could not join labor union because of the legislative limitation for sub-contract workers to be union members. A majority of the respondents did not want to be the union members because there were afraid to be fired (94%). And the second reason that the respondents refused to be union members because they were sub-contract workers (35%). First table demonstrates the opinion of the workers before they join labor union. Majority of the workers were afraid that they

are going to lose their job if they join labor union as members. In some factory, the question about labor union existed in recruitment form or in some session during the orientation for the new recruitment, the workers were brainwashed by the company for negative impact of joining labor union (Mr.Somporn Keawnet, President of Eastern Seaboard Industrial Estate). Sub-contracted workers have been very influential for the company to use these form of employment. However, the Thai labor law, the Labor Relation Act 1975 is problematic obstructing subcontract workers from freely organize labor union for their interest. In the Labor Relation Act 1975, Chapter 7 on Labor Union, section 88 stated that “Persons who have the right to establish labor union shall be employee of the same employer or being employees who work in the same undertaking irrespective of the number of the employer, being *sui juris* and having Thai nationality”. Therefore, sub-contracted workers could not exercise freedom of association and collective bargaining as well as migrant workers who are actually more vulnerable compare to Thai workers.

In Thailand the labor laws and the court system interpreted the law to limit freedom of association and right to collective bargaining for “subcontracted workers”, types of precarious employment that spreading around in manufacturing industry. These workers make up a significant portion of the workforce in Thai industrial zones, especially in Eastern Seaboard Industrial Estate. However, around 50 percent of the workforce in the industrial zones, which majority of global brands factories are located; automobile, auto parts, and metal operate its business by using these temporary and short- term contract workers through the employment agencies. Under the Thai labor laws, these workers are not considered as employees of the manufacturing factories where they work. They are considered as workers of the agency companies which provide services to the enterprises, these groups of workers are allowed to form unions in service industries. (IndustriALL, 2015)

**Table 3.17 Age and Workers' Duration to Be Union Members**

		How long have you been a union member?				Total
		new member 1-6 months	more than 6 months	1-2 years	more than 3 years	
Age	less than 20	1	0	0	0	1
	20-29	6	4	25	3	38
	30-39	1	0	22	26	49
	40-49	0	0	0	12	12
Total		8	4	47	41	100

Focusing on the age of the respondents with the duration of being union members, majority of the respondents, who have been union members from 1-2 years and more than 3 years, are between 30-29 years old. And the 20-29 years old respondents, 6 of them are new union members 1-6 months, 4 of them have been union members for more than 6 months, 25 of them have been union members for 1-2 years old, and 3 of them have been union members for 3 years. There is only 1 respondent who is less than 20 years old that has been a new union member less than 6 months.

**Table 3.18 Type of Industry and Workers' Duration to Be Union Members**

		How long have you been a union member?				Total
		new member 1- 6 months	more than 6 months	1-2 years	more than 3 years	
What type of industry are you working for?	Automobile	1	2	24	23	50
	Metal	0	0	1	0	1
	Auto parts	6	2	23	18	49
Total		7	4	48	41	100

Focusing on the working industry and the duration of the workers as union members, there are 23 automobile respondents who have been union members for more than 3 years, while 24 of them who are working in the same industry have been union members for 1-2 years. And there are 23 respondents who are working in the auto parts industry have become union members for 1-2 years. And 18 of the auto part workers have been union members more than 3 years. This table demonstrates that workers in auto and auto parts industries have had labor union experiences. This table demonstrates that workers in automobile company and auto parts company both new recruitment and senior workers have been union members as stated that new and senior workers face with violations against their rights for working hours, job security, promotion and etc. However, there are massive numbers of workers who are not allowed to organize and be part of union members which are subcontract and contract workers.

**Table 3.19 Gender and Workers Participation in Labor Union**

	Have you ever join labor union activities?		Total
	yes	no	
gender Male	69	1	70
Female	30	0	30
Total	99	1	100

There are 68 male respondents that have joined labor union activities and 30 female respondents have actively joined labor union activities. There is 1 male union member who has never joined any of labor union activities. This table demonstrates the active participation of the workers in labor union. The activities that the workers basically joined labor union are labor union labor congress, strike and campaign activities. These are the activities that the workers can empower and share their solidarity to support each other. This table illustrates male and female workers' participation in labor union activities.

**Table 3.20 What are those difficulties when you join labor union's activities?**

	<b>Frequency</b>
I was threaten by the company	100%
I was threaten by the local mafia	11%
I was dismissed	15%
I was locked out	42%
I was not allowed to work	2%
I was prosecuted	11%

After joining labor union activity and becoming labor union members, all the respondents were threaten by the company management (100%) in different form, some organized workers shifted to work in different department without notification, some of the workers were threaten by the management verbally by saying that union members could be refused for annual wage increase, bonuses, and promotion. The management initiated various strategies to stop workers to join trade union. The union members respondents were locked out (42%) most of the experienced workers who support the union's strike also had locking out experience, dismissed (15%), threaten by the local mafia (11%) and prosecuted (11%). And only few respondents were not allowed to work (2%). This table demonstrates the difficulties after workers have joined union, workers were basically threaten by the management, many of the organized workers were shifted to work in new department without advance notification, some of the workers were refused for promotion, many of the leaders got the lowest grade for the annual evaluation "D", which means that they might not get annual bonuses, annual wage increase, and many of union members were physical and psychological harassed. In regards with the dismissal, majority of the respondents who were fired are union leaders and union establishers these are the groups of the workers that the management targeted as priority to dismiss in order to haul the union activities. However, part of organizing strategies for the workers is to form second

group of establishers, in many cases where the first group of the leaders got fired, the second group of the leaders can proceed for the establishment till the union received the official registration from the Ministry of Labor. (Sophon Thongsopa, union organizer in area). Furthermore, 42 percent of locked out workers can be described that most of the experienced workers who supported and participated the union's strike also had locking out experience. Regarding to this difficulty demonstrates strong violations against freedom of association where the workers were locked out because their participation in union strike but some of the union leaders were locked out for years because the company do not want these leaders to do or convince their fellow workers to do labor union's activities. Lastly, prosecution 11 prosecuted workers out of 15 dismissed workers were prosecuted under criminal charge and also the charge in the labor court. Some of the 11 workers were prosecuted under false drug charges created by the management, which aimed to eliminate the union leaders by dismiss without pay for compensation. While some of the workers were dismissed and charged by the company as union leader convinced the workers to go on strike and create bad reputation against the company, the company requested huge amount of damages in the charges against these union leaders.

**Table 3.21 Have you ever been dismissed from joining labor union's activities?**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Yes	15	15.0	15.0	15.0
No	85	85.0	85.0	100.0
Total	100	100.0	100.0	

15% of the respondents used to be dismissed from joining labor union's activities

**Have you ever been locked out from joining labor union's activities?**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Yes	42	42.0	42.0	42.0
No	58	58.0	58.0	100.0
Total	100	100.0	100.0	

42% of the respondents were locked out from joining labor union's activities

**Have you ever been prosecuted from joining labor union's activities?**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Yes	11	11.0	11.0	11.0
No	89	89.0	89.0	100.0
Total	100	100.0	100.0	

11% of the respondents were prosecuted from joining labor union's activities

**Table 3.22 What are the reasons you have been violated, threaten, dismissed, locked out and prosecuted when you join labor union's activities?**

	Frequency
Because I am a union leader	26%
Because I am a union member	74%

A majority of the respondents believe that they have been violated against their union rights through threatening, dismissing, locking out and prosecuting because they are union members (74%). And the respondents believe that they have been violated against their freedom of association rights as they are union leaders (26%). This table demonstrates that both union leaders, union leaders also refer to president, vice presidents of the union and union executive committees members and union members were violated against their right for freedom of association, but most of the union leaders are victims of severe dismissal, unfair prosecution, locked out and intimidation. While, union members are victims of threat, lock out and job discrimination.

**Table 3.23 What should be done to support and promote FOA and CBA for the workers?**

	Frequency
To improve the Thai Labor Relations Act to integrate with the international labor standards	93%
To ratify ILO Conventions 87 and 98	100%

The respondents agreed that improving the Thai Labor Relations Act in order to integrate with the international labor standard could support the promotion of freedom of association and collective bargaining rights for workers (93%). And all respondents believe that the ratification of the ILO Convention No. 87 & No. C.98 by the Thai Government will promote union rights (100%). This table demonstrates that the respondents agreed that the workers will be protected under Thai Labor Relations Act 1975 if the law is revised to integrate with the recognition of the international labor standard naming; ILO Convention No. 87 and Convention No. 98 on freedom of association and collective bargaining rights. However, 3 percent of the respondents who did not agree with the revise of Labor Relation Act 1975, can be analyzed that even the Labor Relation Act 1975 is revise to integrate with the international labor standard but the enforcement of the labor law will not be fixed, the ruling class persons, government official or even the employers are still having the same negative attitude against the workers right to freely exercise their freedom of association, however, revising the law will not be able to fix the existing difficulties that the workers are facing with. (Sawit Kaewvarn, General Secretary of SERC). The improvement of labor relation act related to the importance for the ratification of ILO Convention No. 87 and Convention No. 98, all the respondents agreed that to the ratification of these two core labor standard will assist the workers to promote freedom of association and collective bargaining rights. However, the ratification will not allow the workers to freely exercise their rights if the national law enforcement will not be implemented.

**CHAPTER IV**  
**VIOLATIONS AND CHALLENGES AGAINST UNION LEADERS**  
**TO ESTABLISH AND JOIN LABOR UNION ACTIVITIES IN**  
**EASTERN SEABOARD INDUSTRIAL ESTATE IN RAYONG**  
**PROVINCE**

Freedom of association and collective bargaining are under heavy attack in many countries. In United States, every year, thousands of charges are filed against employers alleging discrimination against workers. In 2013, the National Labor Relations Board ordered the employers to pay the workers back pay and fines with the total of 110 million dollars and more than 2,700 workers who were illegally terminated were ordered for reinstatement. It has become common on anti-action against organized workers, however, the employers obstruct organizing by giving benefits and welfare to the workers who are not union members but the workers who are union members are denied the same benefits. This common tactic has been used to suppress the workers' rights to organize and engage in collective bargaining and it seems to be very effective for the employers to continue acting against labor union rights. (ITUC, 2015).

In this chapter, the researcher found many challenges and difficulties faced by the workers to independently exercise their basic rights at work in Eastern Seaboard Industrial Estate. In addition, this research explored forms of violations against the workers' rights. Lastly, this research found out the possible mechanisms that the workers believe that those tools will assist them to exercise their freedom of association and collective bargaining rights freely. There are many difficulties and challenges that the workers in Eastern Seaboard Industrial Estate are facing up to: discrimination, precarious work, overtime work, corruption, companies' policies to save the cost of production, welfare, and many of workers were violated against occupational health and safety.

Many of the workers in Eastern Seaboard Industrial Estate were faced with many difficulties both before and after organizing union. Many companies violate the rights on occupational health and safety. Workers at NTN Nidec Bearing Thailand Company Limited, which majority are women workers employed at this factory and various pregnant workers on the production line, many of them were forced to work in hazardous areas. Thai Kansai Co, LTD is another company where the workers had to work in chemical environments. While bigger companies, such as, General Motors Thailand never considered the issue of occupational health and safety, the company management sped up the production line to produce more cars to match the customer demand. Workers were forced to speed up the production line from normally 22 cars per one hour to 30 cars per one hour. In any case that the cars on the production line broke, workers in the area had to lift up the car using manual labor instead of robotics or heavy lift machinery to support the cars out of the production line in order to increase productivity.

“Since I was working at GM for the first time in November 6, 1999, I had to lift up both SUVs and trucks with my colleagues, recently I am 38 years old but my back will never be back to normal, I have got herniated disc that because of many years working in the production line and I had to lift up many cars. These days only lift a small tank of water I can’t do it”, (Former Vice President of General Motor Workers’ Union, 38 Years, [April 17, 2015], Eastern Union Area Group Office, Chonburi).

“After the fire accident on August 4, 2015 at Sanko Kansei Technology Thailand Limited, a Japanese auto-part producer, night shift workers had to continue their work immediately after the fire was extinguished. The production zones were burnt and full of dust and burnt chemical, the night shift workers were given the mask to run the production line but all the workers got their eyes and irritation, sore and dried throat, the company only focused on the production but the company did not concern about the workers health and safety at all.

(Sanko Kansei Technology Labor Union's Committee, 35 years, [September 10, 2015], Eastern Union Area Group Office, Chonburi).

In addition, the rights of union representation have been violated intensively in many countries. The consequences of this attack created inequality across the world. Thailand is another country where the union rights and collective bargaining rights have been violated.

“Workers do not have many choices, with the recent and the past economic difficulties, it was very difficult for them to find new jobs. Many of them were afraid to lose their job if they do not follow the company's order. Part of the challenges for organizing is this problem that the workers are afraid to lose their job and they are also afraid be promoted and get wage increase”. (Union Organizer, 35 years, [April 17, 2015], Eastern Union Area Group Office, Chonburi).

## **4.1 Violations against worker rights to organize and join labor union activities**

### **4.1.1. Intimidation and physical assault to union leaders**

The Committee on Freedom of Association (CFA) stated that a climate of violence in which the murder and disappearance of labor union leaders go unpunished constitutes as a severe obstacle in exercising union rights. These acts to punish people who violated the union rights require serious measures to be taken by the authorities (Digest, para 76. CFA, 281<sup>st</sup> report Case No.1273). There were numbers of the complaints filing to the CFA, shown that the main difficulties encountered by labor union organizations ,leaders and members relate to basic labor right, in particular to the right to security of the person, freedom of assembly, freedom of opinion and expression and the right to protection of union property and premises. In addition, the CFA agreed that labor union rights violations may result from legislative problems,

which may sometimes be taken for genuine economic motives that may favor individual rights to the detriment of collective rights. Therefore, the employers can weaken union through legislative measures (ILO, 1994).

The anti-union tactics of employers are at the heart of workplace intimidation and rights suppression. There are many high levels of corporate interference and intimidation that the employers use to perform anti-union campaign to influence workers. Once the worker faced with this kind of situation they basically faced harassment, intimidation and the risk of being dismissed when they tried to exercise their basic rights to organize labor unions. Many companies often make illegal intimidation to threat union demands rather than suffer themselves for the costs and unwanted distractions associated with fighting the unions. (Joel Barras, 2014).

In the recruitment process during the interview, many of the applicants were questioned if he or she knows labor union or not. During the company's orientation for the new recruitment workers, the management by the Human Resource representatives raised the session on anti- unionism to threat the new recruitment from joining a labor union.

NTN Nidec Bearing Thailand Company Limited, a Japanese electronic compartment producer, is was a middle size factory with the total number of 1,300 workers, and the majority of 1,450 were female workers, working in the production line. One of the former union leader, who was appointed to be a treasurer of the union said that:

“There was no union since I was firstly recruited, the number of female workers was big, and many of them were pregnant. Pregnant workers were forced to work with chemical equipment; they had to smell IPA<sup>1</sup>every working day. Even the workers tried to negotiate with the management by gathering, and strikes in order to communicate with the management but it never reached the workers demand. Therefore, I and my 17 co-workers decided to organize by consulting with the organizers in the union area group, we started to process organizing the

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<sup>1</sup> Isopropyl Alcohol (IPA) is an organic compound with the formula (CH<sub>3</sub>)<sub>2</sub>CH(OH). This clear, colorless liquid is widely used as a solvent

union secretly. Until the union was registered at the end of 2008, by this time the union leaders were attacking very badly from the management. Female union leaders received death threats via phone from strangers, if she did not stop running any of the union activities; demanding, increasing membership, or even striking against the company, she was targeted by the stranger, whom the union believed that the company hired them to attack union leaders. These strangers called the union leader and threaten them to death, the union leaders still keep the evidence of the voice record that if the stranger could kill the union leaders, they could be paid 80,000 from the employer. While another female union leader was beaten while she was driving back to her accommodation, a man kicked her motorcycle while she was riding until she fell on the street, regarding to this threat, her clavicle broke and she was in the hospital for couple weeks. And the company also hired some gangsters in the area to throw rocks and glass bottle to the union leader's houses which damaged the cars and houses". (NTN Nidec former committee member, 35 years, [April 18, 2015], Eastern Union Area Group, Chonburi).

Union committee of NTN Nidec Bearing were trying their best organize and increase membership, they finally had 800 organized members. But finally in 2010 the company announced for closure as the management claimed that the union created many troubles and it became difficult to maintain the production. The company firstly shutting down the factory through introducing voluntary resignation program to the workers, which majority of workers resigned and received some compensation. But there were 120 workers who stood up to fight for the justice, mostly are union members, this group of workers were legally dismissed with some compensation payment.

This intimidation and physical assault against union leaders demonstrates the violations affected the union leaders in Eastern Seaboard Industrial Estate from freely exercise their core labor standard on freedom of association and collective bargaining. These violations extremely oppose the basic labor rights and totally

undermine human rights standard. The protection from violence, intimidation and violations of civil liberties in CESCRC has been concerned about actions targeted union leaders which infringe the right of unions to freely function the union rights. CESCRC has strongly criticized the intimidation, harassment or threats against the union leaders and members. (Ben Saul, David Kinley, 2014). Intimidation and harassment against union leaders are widely used as tactic to frightening the union leaders and members not to be involved with labor union activities. Regarding these violations, it is also another achievement of the management to reduce labor union participation. Many of the workers do not want to involve with labor union activities. (Former President of General Motor Workers' Union, 39 Years, [April 17, 2015], Plauk Deang District, Rayong).

#### **4.1.2. Violations against job promotion, welfare and bonus to union leaders and members who involve with labor union**

In Sweden, the collective bargaining agreements are covered and applied to all the workers in the workplace. The majority of Swedish factories have collective bargaining agreement (CBA) between unions and employers. And these CBAs are used to regulate wages and working conditions, which include health and accident insurance. Importantly, these CBAs guarantee that the same regulations must apply to everyone and establish the minimum acceptable terms of employment in that sector (Swedish Institute, 2015). However, in Thailand, the practice under the CBA between the employers and union are not well implemented but also the union leaders and committees are discriminated to receive the equal welfare compare with non-union workers. Many of the organized workers also have not been promoted because they are union members.

Welfare and bonus are another significant violation that workers handling with. Before the union was organized, GM workers received minus bonuses, the management deducted their bonuses by counting the workers day off, late clock in, sometimes workers had to spend their salary to pay to the company if they request day off. These are the reason that the formers leaders of the union organized the labor union to protect the workers from these violations. Workers in other company faced the same difficulties before the unions were organized as well.

“In 2009, the company announced one month bonus for the workers, but regarding to our heavy work and numbers of order from the customers, we found out that one month bonus was very low because we are union members”. (Former vice president of Thai Kansai Paint Workers’ Union, 37 years, [April18,2015], Eastern Union Area Group, Chonburi).

“Since I had become the union leader, I did not get wage increase for 2 years, the company gave me the lowest “D” grade for the annual key performance evaluation as they claimed that I was a full time union president, I did not contribute any productivity for the company”. (Former President of General Motor Workers’ Union, 39 Years, [April 17, 2015], Plauk Deang District, Rayong).

Targeting union leaders by refusing job promotion, increasing annual wage increase and bonuses to union leaders and members are considered as unfair labor practices. This action demonstrates that the companies could do anything to bust the union activities through job promotion, refusing the increase of annual wages and bonuses to union leaders and members.

#### **4.1.3. Locking out union leaders and union members from organizing and joining labor union**

Lockout is a total or partial temporary closure of one or more places of employment, or hindering normal work activities of employee, by one or more employers with a view to enforcing or resisting demands or expressing grievances or supporting other workers in their demands or grievances. Lockout is one measure of the failure of social dialogue. (ILO, 1993).

Somboon Somic Manufacturing Co., Ltd., a Japanese- Thai (Thai hold 1.2 percent of the stock) auto parts producer, which has its branches in the United States, Indonesia, Japan and Thailand, exported its products to big brands such as Honda, Toyota and Isuzu. Somboon Somic is a middle size company of 700 workers. In 2013, after the annual collective bargaining agreement, workers and management could not find an agreement. Therefore, the union used the last defending mechanism to strike.

But finally the union leaders received lock out letter from the management. They were not allowed to enter the factory compound. There were 5 union leaders including the union president. After five union committees stayed out for a month, the company sent the case to headquarters in Japan. The company claimed that the union leaders were locked out because of the strike, which created 200 million baht damages to the company. But the fact was during the strike, the machine broke down and the workers could not work in the production line, the Thai management took the opportunity of the broken machine to blame the union strike. Therefore, headquarter responded without any investigation by offering 3 million baht to dismiss 5 union leaders. But all the five union leaders refused the offer of 3 million baht from the company. Union members started to pressure the company by refusing to work for over time. Together with the support from both internal union members and external labor movement, from State Enterprises Workers Relations Confederation (SERC), and the Federation of Thailand Automotive Workers Union (TAW), there were 500 people gathering in front of the company in Eastern Seaboard Industrial Estate. With these support and solidarity struggles, the union also filed the complaint to the Japan Embassy in Thailand, with all the pressure; the company allowed the 5 union leaders for reinstatement and enters the company.

Kawasaki Motor Enterprise Thailand Limited, Japanese motorcycle producer exported to Europe, North America and South America with a workforce of 2,500 workers, the majority of 1,800 being male. Kawasaki Auto Mobile Workers Union of Thailand was established on July 3, 1998. But the latest strike was on 2009. The impact of the economic crisis on 2007 attacked those big enterprises like GM and Ford that announce massive layoffs. Kawasaki management set its own policy to save the highest profit. The company determined the policy and changed the agreement without listening to union comments. In the new agreement, the workers had to work from 8 hours to 8 hours and 30 minutes in order to save for the overtime payment. June 22, 2009, one thousand workers protested against this policy in front of the factory against this new agreement. Many of the workers were forced to sign to accept the new agreement because they did not understand the details of agreement and many of them were afraid to be dismissed if they did not signed that paper. At first the company sent a dismissal order to kick out the 11 union committee members but some

of them were also sitting in the employee committee, to dismiss the union committee and employees committee, the employers are required to receive the court permission for issuing dismissed order. At this point, the company management was trying to pressure the union by offering huge amount of money to stop this strike and to permanently dismiss union leaders. After the offer by the company to 11 union leaders could not reach the company's satisfaction, the company increased its measure by announcing the order to dismiss 1,000 workers who participated in the strike. A couple days after the company sent out its supervisors from each department to stand in front of the company, the company using this strategy to reinstate some workers who did not want to join the strike, but only few of them reinstated.

Locking out is another common violation that the employers use to bust the unions in Eastern Seaboard Industrial Estate. It has become an ordinary violation against workers' rights in the industrial parks. Many of the dismissed workers filed the case to the labor court and when the court order for reinstatement, many of them were still locked out as the companies do not respect the court orders. Therefore, it is very clear that the companies are not friendly with labor union and act against labor union rights.

#### **4.1.4. Dismissals labor union establishers from organizing labor union**

No union is no rights, as quoted by United Automobile, Aerospace and Agricultural Implement Workers of America (UAW). The employers can discipline or dismiss the workers at any time for any reason. For the workers who have no union or being union members are victims of these violations. Regarding to the principles upheld by the ILO Committee on Freedom of Association (CFA) of considered that all illegitimate any discrimination act against union leaders for organizing labor union. Regarding to CFA, which stated that no person shall be prejudice in his or her employment by reason of his or her are union memberships. The FOA stated that "the use of extremely serious measures by dismissing the workers who participated in a strike or joining union activity implies a serious risk of abuse and constitutes a violation of FOA. (ILO, 1998). Dismissal has become another popular strategy that the employers use to violate freedom of association and collective bargaining rights. There

are many union leaders in Eastern Seaboard Industrial Estate were fired by the company. Dismissal has been used to attack the leaders of the unions, basically the elimination of the union's leaders is the most effective result to obstruct labor union activities; collective bargaining, labor dispute, or even strike. Unions found that employers systematically violate the law by threatening and firing workers who are willing to join a union, "In one fourth of worker campaign for collective bargaining, workers are fired", (Schiffer, 2007).

NTN Manufacturing (Thailand) Company Limited, Japanese national auto-parts producer with 800 workers working in the enterprise. Regarding to all discrimination on promotion, annual evaluation, and double standard by the company management, workers had to stand up and organize a union. In 2006, the former president and his colleagues formed the union under the consultation from the organizers in Eastern Union Area Group. During organizing, the company management released an order to fire 7 union establishers from the total of 16 establishers. Even if the union establishers were trying their best to organize the union underground, regarding to the dismissal order, the company claimed that they had to fire 7 workers because of the organizational restructure. In addition, every year of the collective bargaining agreement season during March-April, the company always ended up with confrontation against labor union. The most recent violation that the company acted against labor union was in 2014 CBA on working condition and welfare. The union proposed the CBA to improve the working condition and welfare. Management did not agree with the union, leading to 70 percent of union members calling in sick leave to defend for their CBA with the union. The company claimed that union committees convinced the workers to take leaves. The company prosecuted 36 union committee members and company's selected employees committees for criminal charges. The primary court verdict on January 2015, decided to dismiss the president of the union as convincing the workers to take leaves, which created the damages for the company production. The court verdict ordered for immediate reinstatement for 35 workers. However, the company still acted against the court order by locking out 35 workers and pressures them very strongly to resign. The company management offered huge amount of money for this 35 workers but now there are two workers who still insist to fight for the justice, which meant that the other 33 workers

had already accepted the offer from the employers to resign. However, the president of the union had already continued his charges to the appeal court to defend for himself. While the other two workers are still locked out even when they received the monthly payment, but the company does not allow them to enter the factory compound, they have to present themselves every week, the company set up the desk, which is long distance from the factory for the two union members to sign for their presence. This is how the company pressure and violated against union members and committees.

The former vice president of Thai Kansai Paint Workers' Unions right's were violated very badly from the anti-union action of the company management. Thai Kansai Paint Com, Ltd., the Japanese national company produces auto paint, which exported to Toyota, Honda, Nissan, and etc. There were 120 workers in this small enterprise, 20 female workers and 100 male workers.

“In 2009, I was one of the union establisher with my 17 co-workers, we could not be patient with all kind of discrimination, all the workers were forced to work for overtime, but the company did not pay the overtime, we could not accept the unfair behavior of the company when the company announce for one month bonus in 2009, which was not possible as the company claim that, the company lose the profit. But compare to the work and overtime, the bonus should be higher than one month. After consulting with the Eastern union area group's organizers on labor law and strategies to organize union, we finally formed a registered union on November 12, 2009, 99 percent of the workers were union members. However, the company management had strongly negative attitude against labor union. In 2012, the company did not agree with the CBA proposed by the union on bonus, working condition and welfare. During the negotiation, the management offered 1 million baht to dismiss me as a vice president of the union but I refused that offer. Since the agreement could not reach the satisfactory, it became the labor dispute, workers increase their struggle to strike, regarding to this level of struggle, the company increased the measure to fight back to me through prosecution”, (Former vice president of

Thai Kansai Paint Workers' Union, 37 years, [April18,2015], Eastern Union Area Group, Chonburi).

From the above sample of dismissal it demonstrates severe violations against freedom of association and collective bargaining rights. Workers in Eastern Seaboard Industrial Estates are victims of violations against their core labor standards. Dismissal is another intervention where the employers disrespectfully violate the rights of the workers. Many of the company using dismissal strategies to haul the function of the union in order to maintain highest profits and cost of the company without any consideration of morality and respect human dignity of the workers.

#### **4.1.5. Prosecution against union leaders and establishers**

Prosecution is another violation that the companies use to eliminate union leaders and to at least reduce union activities against the company managements. Mostly the company targeted to the union leaders, however, there are some union members affected on such violations.

In 2012, the Thai Kansai Paint Company prosecuted against the union leader. After the company dismissed the union leader, the company prosecuted him on drug related charges and accused that the union leader was addicted to methamphetamines. The company organized a fake annual health checkup, However, the primary court verdict decided to withdraw the case since there was no evidence to prove on that the union leader was under the influence of drugs and the court ordered for the immediate reinstatement, but the company decided to lock him out of the factory, the company still pays him a monthly salary until now, but he is not allowed to enter the factory. He has to present himself at the security desk in front of the factory every week. He has been locked out for 3 years, with the negotiation of the present union committees proposed the company to allow him for reinstatement, but the company still keeps this lock out strategy to pressure him to resign.

“The company set up a fake health checkup session for the workers by the company’s first-aid staffs and from this health checkup, I was found meth during the checkup and after that the company

immediately dismissed me and filed my case on criminal charge as I was addicted to meth”. (Former vice president of Thai Kansai Paint Workers’ Union, 37 years, [April 18, 2015], Eastern Union Area Group, Chonburi).

NTN Manufacturing (Thailand) Company Limited prosecuted 36 union members as creating the damages to the company’s reputation by leading the workers to strike against the company. This prosecution included the young, 33 years old former president of the union and he was appointed as a company employee committees. The company claimed that the former president convinced the workers and members to go on strike in 2013, there was 70 percent of the workers went on strike against the company working condition. Among 36 prosecuted workers, in December 16, 2014 primary court verdict ordered the immediate reinstatement for the 2 workers, but since the court order until now the 2 workers are still locked out, they have received monthly salary but they are not allowed to enter the company compound. Another 28 union members, the primary court verdict ordered to dismissed, which means that the workers legally dismiss and the company paid the dismissal compensation. And another 5 of the union members are still waiting for the court verdict. Lastly, the primary court verdict ordered to dismiss the president of the union without any payment or compensation from the company.

“I was so scared to be fired if I joined labor union, but now I have been prosecuted claimed by the company that I lead my brothers and sisters from my company to go on strike since the company did not accept our peaceful CBA to improve the working condition. It does not make sense at all because with all of these improvements, the company will get benefit from the workers to produce better quality of the products if we are living in good environment and justice payment and bonuses. I was a legal unionist, freedom of association and collective bargaining rights in Thailand are still very poor, the employers do not respect these basic rights of the workers, which are the basic rights of

human beings”, (Former president of NTN Manufacturing Workers’ Union, 33 years, [18 April, 2015], Eastern Union Area Group, Rayong).

In 2013, a labor strike at General Motors Company Limited (Thailand) in Rayong of 2,000 assembly line union members could not agree with the new policy of the company to add a Saturday shift without offering the overtime pay. This American Chevrolet producer has its plants in Eastern Seaboard Industrial Estate. 80 per cent of its products exported to Europe, America and Asia and the Pacific. In 2013 there were 3,000 permanent workers and 2,000 sub-contract workers. The union members and leaders tried to negotiate with the management to withdraw this new policy to add a Saturday work shift without paying for over time, the workers said that weekends is the time for them to spend with their family members or many of the workers have to attend school for their further qualifications. But the company required them to work on Saturday with the normal daily pay offer. Regarding to this strike, the president of the union, 15 committees members and 123 union members were prosecuted on trespass to land of the factories since the union organized the strike in front of the plants in Rayong. In addition, the president and union committees were locked out, and the management ordered the dismissal to the court to legally fire union committees.

Prosecution is another violation that the companies apply to stop and violate against labor union. Many of the union leaders lost their job and could not apply for another job because they have criminal record. While many of the union leaders have to separate from their family because the family could not live with difficulties with them; no job, no money, and being prosecuted. This prosecution practice by the management against union leaders demonstrates strong disrespectful action against union without any concern on human rights and the respect of human dignity.

#### **4.1.6. Establishment of human resources club in Rayong area to obstruct labor union activities**

In this recent labor-management relations environment, there are union avoidance strategies, which have been developed to maintain union free workplace. In

this workplace environment there are many forms of union avoidance strategies. In general, the power in the labor management relations environment is very much on the favor of the management due to the political, economic and from the union factors, which further create imbalance posture for the employers to develop workplaces where the union avoidance strategies are there. These strategies include the influence in workers representation election; hiring workers from external resources to fragment the percentage of employees. (Mark Carter, 2004)

Furthermore, the employers violated the union through setting up Human Resources (HR) Club in the area of Rayong. This HR Club keeps the record of blacklisted collection of the targeted union workers who were fired, locked out or even joining union activities from different plants. In case that the union members got fired from one factory, the name of dismissed worker will spread around in the HR club, and all the company will blacklist those workers not to apply for jobs in others factories.

“During I was locked out, I was trying to find another job, I sent my application around the area in Rayong. Until I got to know that my name was in the blacklist of HR club. Last year, there was an announcement for security guard position in one company, I applied for that job but again this small company refused my application as they said that I am blacklisted in HR club”. (Former President of General Motor Workers’ Union, 39 Years, [April 17, 2015], Plauk Deang District, Rayong).

“While I was waiting for the primary court verdict after the company dismissed me. I did not have the money to send back to my parents in Korat (NakornRatchasrima Province). I was sure that my ability and my work experience as a technician as my latest position at NTN Manufacturing Thailand was senior technician. It should not be difficult for me to apply for a new job in others factory. But all the companies and plants in Rayong and nearby area in Chonburi refused my application since my name was blacklisted in HR Club”, the former president of NTN Manufacturing Thailand Workers’ Union.

In addition, there are numbers of human resource management meetings in Rayong and surrounding provinces every year, which is called “Hamaraj Annual Roundtable Management”, which basically hosted by the management of the plants in Rayong area with the cooperation from the local authority: police, employers, and the ministry of labor in the provincial area. The agenda of this meeting mainly focused on topics such as “Labor dispute prevention and resolution measures for factories in Rayong” presented by the Deputy Commander of Rayong Provincial Police.

This HR club reflects another negative perspective of the management destroying the rights of the workers. The companies try to fight against labor union rights, rather than peacefully respect the rights of the workers to form labor unions to defend for their rights or even to create peaceful labor relations and environment between the employers and workers. If the managements are still acting against labor union, negatively against their basic rights, showing no respect to human dignity, how could the workers work happily to produce good quality of products to serve to the market?

The impact of these violations directly affected to the workers lives. Many of the workers could not find new jobs, they could not apply for jobs in the new factories in the industrial parks in surrounding provinces. They have become unemployed. Some of the dismissed workers worked as street flower sellers. (Union Organizer, 42 years, [April 18, 2015], Eastern Union Area Group, Rayong). The former president of NTN Manufacturing Labor Union said that since he was fired, he did not have the money to send to his parents back home in Korat, Nakorn Ratachsreema Province. Moreover, the indirect impact from these violations also invaded to the families of the workers, some of the workers experienced broken family, their wives divorced because the wives could not accept the difficulties living condition to be with unemployed husband who were fired.

“My wife took my kid along with her and she asked for divorce. I have not seen my kid for a while. I wished that my family could understand me. But I am all alone by myself”. (Former vice president of Thai Kansai Paint Workers’ Union, 37 years, [April18, 2015], Eastern Union Area Group, Chonburi).

## **4.2.Challenges to establish and join labor union activity in Eastern Seaboard Industrial Estate**

### **4.2.1. The influence of sub-contractors precarious employment limiting workers to access trade union**

Uncountable numbers of workers are now suffering from precarious employment, which could be called, insecure, uncertain, and unpredictable working conditions. These days' workers are handling with non-decent work, low wages, long-working hours, and unstable status. (ACTRAV/ILO, 2012) There is no security or social protection or even the access to their basic rights as human beings for the workers. The 2007 global financial economic crisis had brought and pushed the workers into these precarious, temporary and insecure employment; many of the workers have been cut their wages, but in the same time, the working hours is getting longer.

Precarious work also refers to the forms of work, which characterized by a typical employment contracts that limited social benefits and statutory entitlements, high degrees of job insecurity, low job tenure, low wages and high risks of occupational injury and disease, more importantly, precarious work shifts social risks away from employers and government and pass the risk on to individual workers and their families. The cost of production for the employers can be reduced by hiring precarious employees, since the cost of production are too high for employers and the state to handling, but the vulnerable workers themselves are much worse to bear the cost of precarious employment to their lives. The risk is passed to the workers, but the affect is not only impact to vulnerable workers, but even worse to their families and society at large. It is very obvious that the companies use cost reduction as an instrument to keep their profit to the highest through using precarious employment strategies. Eastern Seaboard Industrial Estate is another area where precarious employment has become very popular to save the production cost for companies. These precarious works were adjusted among small, medium and big enterprises in general. Precarious works were discussed in 1997 and 1998 in the International Labor Congress (ILC) as started from the examination of the item on contract labor. The

categories of contract workers include workers with temporary contracts, workers who are hired by the agencies and subcontractors (ILO, 2011).

Labor unions found and perceived that workers with precarious employment have faced a difficult battle. Workers with precarious employment are often reluctant to form and join labor union activities. Basically the reason for fear is mainly resulted from refusing to join and form labor union and its activities. Principally, many workers feel that forming and joining labor union will lead to their termination, treated or some of the workers might have to renew their contract and transfer to different department or company. (Evans, John; Gibb, Euan, 2009 ILO).

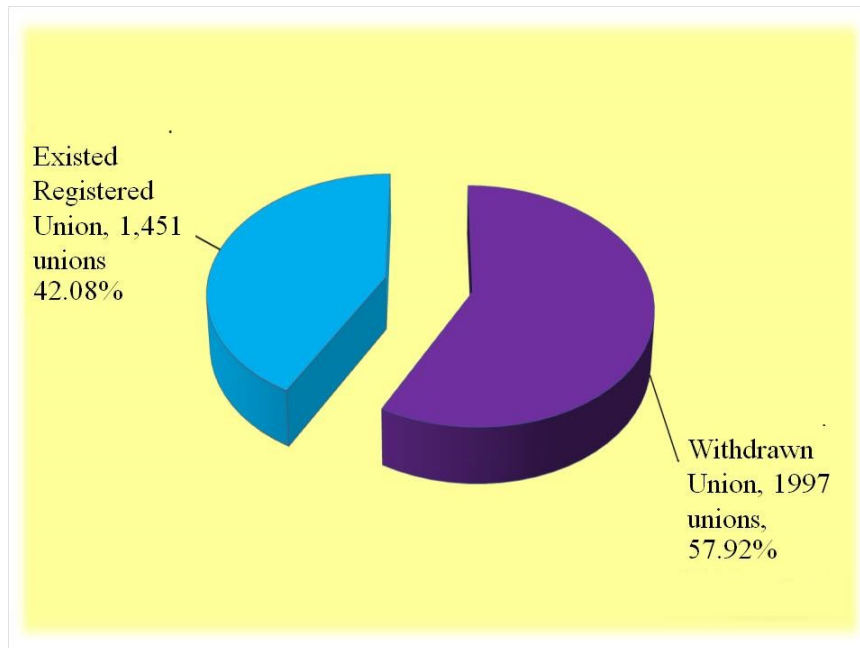
A small enterprise like NTN Manufacturing (Thailand) Company Limited, which the majority of the workers are contract workers, the workers have no job security to guarantee the workers for losing job if the contract is ended. Big enterprises like General Motor (Thailand) Limited, there were estimated 3,000 permanent workers while over 2,000 were sub-contract workers in 2013. Another big enterprise like Kawazaki Motor Enterprise Thailand Limited has 2,500 workers in total but there are 500 sub-contractual workers working in the same production line.

Regarding to the Thai Labor Relations Act 1975, section 88 in Chapter 7 on Labor Union has stated that “Person who have the right to establish the labor union shall be employees of the same employer or being employees who work in the same undertaking irrespective of the number of the employer, being *sui juris* and having Thai nationality”. This is the limitation in the Thai labor legislation obstructing contract and sub-contract workers, workers who are working under the precarious employment which include migrant workers to form their employees’ organization to represent the voice of the workers as union. Part of the reason that that number of union density in Thailand is known as one of the lowest union density in the world comes from this precarious employment.

These sub-contract and contract employment, these workers in an informal economy are not allowed to organize, and many of them are facing with violations. Regarding to the Labor Relation Act 1975, these sub- contract workers who are working in the production line similar to permanent workers, but under the contract agencies they are being hired under service Industry Company. Therefore this group of workers can’t organize and form union.

“I was hired to work with GM on November 6, 1999 as a repair maintenance technician under body department as sub-contract worker for 8 months and there were 3,000 sub-contract workers and 6,000 permanent workers in 2000; I became a permanent worker in June 2000. In 1999, the workers were forced to speed up the production line, as sub-contract workers, my colleagues and I worked non-stop like machine, no lunch and no break, we were not allowed to get break, we had to switch with another colleagues in the same production line to get some short break”. (Former Vice President of General Motor Workers’ Union, 38 Years, [April 17, 2015], Eastern Union Area Group Office, Chonburi).

**The Existing Registered Union and Registered Union with the Withdrawal Status (Ministry of Labor, 2014)**



Precarious employment is characterized by insufficient absence of labor union rights. Workers under the precarious employment will not be able to access to collective bargaining rights as well as the weakness of legislative system, in many countries and in Thai labor laws forbid workers who are employed through the third party from joining unions of permanent workers. Therefore, those workers hired through agencies or subcontractors cannot join the existing permanent union, which

mean that they are excluded from the collective bargaining agreement, basically means that they are denied the right to bargain collectively, they are limited to join labor union. Regarding to this prohibition, it impacts to the declining of labor union membership and leading to the weakness of the collective bargaining power of labor union. (ILO, 2011).

#### **4.2.2. Discrimination against union members**

Hundreds of millions of people across the world are suffering from discrimination in the world of work. Discrimination is not only violates their basic human rights but it also impacts to their social and economic consequences. In addition, discrimination creates social tensions and inequalities. Promoting decent work is part of the reason in combating discrimination. It is part of the ILO task in bolstering the freedom of association and collective bargaining rights to be promoted, for seeking to prevent discrimination against workers' rights and labor union members (ILO, 2015).

Discrimination is defined under ILO Convention No.111 on Discrimination (Employment and Occupation Convention), as any distinction, exclusion or preference made on the basis of race, color, sex, religion, political opinion, national extraction or social origin, which has the effect or nullifying or impairing equality of opportunity and treatment in employment or occupation. This is the natural discrimination practices against the workers. In addition, discrimination can perpetuate poverty, stifle development, productivity and competitiveness, and ignite political instability (ILO, 2007).

However, discrimination against freedom of association in Thailand is defined by Thai labor unions as the negative practices or unfair labor practices that the management practices against the workers. The favorable workers or who are closer and obey the management's order will have better opportunity for wage increase, promotion and annual bonus. While, workers who do not have any close relation with the management they will not be prioritized for those opportunity. (Wilaivan Seatea, [September 1, 2015], President of Thai Labor Solidarity Committee). For the company that has no labor union, most of the workers felt very discriminative by comparing their welfare and salary with the workers from different company in the same

industries in the area. In some factories, the line production workers, leaders, and office workers are classified even all them are the workers. The situation in the company cafeteria, line production workers were not allowed to eat or sit in the same area with the company officers, the workers felt discriminated against. (Sanea Hongthong, [August 12, 2015], Labor Cooperation Center). For those organized workers, they will be treated differently compared with non-organized workers. The unfair labor practices to union establishers were very obvious, many of the organized workers were refused a promotion, wage increase, and bonuses, these unfair labor practices, the union leaders called this action “discrimination”, this act extremely opposes freedom of association and collective bargaining rights. (Bundit Thanachaisethawut, [September 1, 2015], Arom Pongpagnan Foundation). These practices reveal the discrimination against the worker’s rights to exercise their standard of labor on freedom of association and collective bargaining. Most of potential union establishers always be targeted for discrimination; lower wage increase, lower annual key performance evaluation, and lower bonuses. Discrimination against labor union rights reflects the difficulties and challenges of freedom of association and collective bargaining rights for the workers in Eastern Seaboard Industrial Estate. It is very difficult for the workers to defend for their rights. If their labor standards are still violated to form and join union activity through discrimination, the workers will not be able to form the union to increase better economic status and development for their future struggle.

Labor unions play very significant roles in fighting all grounds of discrimination by using means of actions and tools; negotiation with the employers ensuring that discrimination in the work place is eliminated (European Union, 2010). Discriminative action will be conducted by the company’s management to treat especially to some unfavorable workers because of his or her personal characteristic. Many of the workers in Eastern Seaboard Industrial Estate were victims of discriminatory since he or she was not a union member. Part of the reason for the workers to stand up and organize labor union, by studying on the standard of worker rights, labor law related to labor union and collective bargaining, basically came from the pressure on discrimination that they had experienced.

The workers at Kawasaki Motor Enterprises Thailand Limited were discriminated to receive permission to take days off, many of the favorable workers to the management were easily permitted to get days off anytime they want, while many of the workers were not permitted to get days off even they went to the process with advance notification and follow the company's regulation. In addition, Kawasaki workers faced with extreme challenge on promotions, only favorable workers who obey the company management could be promoted. There is no different in General Motors (Thailand) Limited; workers were discriminated to increase salary and promotion, many of the workers offered bribe to the management in order to pass the evaluation even they did not perform well while they worked in the production line (Kawasaki Labor Union's President, 37 years [April 18, 2015], Pluak Deang, Rayong). And every year workers at NTN Manufacturing (Thailand) Company Limited could be promoted and increased wage if they pass the company key performance evaluation, but only workers who were very close to the management were primarily selected, regarding to this unfair labor practices of the management, many of the workers felt very discriminative.

All enterprises that stated above, the workers who were found to be the leader of the union or any of the workers who become more educated in basic labor rights and tried to defend their basic rights at work, they automatically became victims of discrimination. Many of the union establishers in all enterprises were rated the lowest "D grade" in the annual performing evaluation, which mean they were not promoted, they received the lowest rate of annual bonus or some did not receive bonus, and many of them did not get the annual wage increase.

"My co-workers and I were motivated to organize and establish union since we had been discriminated against our basic worker rights for long period of time, we worked so hard but we were not promoted and we got the lowest score in annual performance evaluation that because the management had some personal attitude against us. It went worse when the union was formed, the management targeted us and treat us like we were their enemy; threatening, discriminating, shifting us to work in some other position

without any skill training and advance notification, or even firing organized workers, and I was one of the dismissed worker because I was union leader”. (NTN Former President of NTN Manufacturing Workers’ Union, 33 years, [April 18, 2015], Pluak Deang, Rayong).

“Before I joined the union, I was a quality control team leader working in the production line, the production line workers got 6 percent wage increase annually; these groups of workers are called salary workers. While hourly workers, which are office workers got 8.5 percent wage increase. It was big differences, which was very discriminating against workers in the production line. It’s even worse after I became union member. I was ineligible for wage increase for 2 years since the company claimed that I was full time union president”. (Former President of General Motor Workers’ Union, 39 Years, [April 17, 2015], Plauk Deang District, Rayong).

Regarding to discrimination is one of primary challenges for the workers to exercise their freedom of association right and their right to collective bargaining. The workers decided to consult with the outsiders such as the representative from union area group, discuss with their colleagues to fight for union rights. Discrimination reflects as one of the obstacle for the workers to enjoy their union rights. This obstacle spread around the entire manufacturing zone and not only in Eastern Seaboard Industrial Estate or only in other industrial park. But discrimination has spread across the world to limit workers to exercise their core labor standards to defend for their rights as labor union.

#### **4.2.3. Company Management’s Complicity**

The anti-union action against labor union’s activities basically caused from corruption at management level. It is another big challenge for the workers to organize and join labor union activities. Corruption is another significant obstacle that the workers have witnessed. The organizers in the area and union leaders in Eastern Seaboard Industrial Estate insist that the employers especially in Thai management

have attitudes against labor union since the union could intervene and reveal their corruption.

“We the union committees from GM, as the workers representation, we were responsible to investigate the selection process of the bus company, the transport bus carried workers from the accommodation to the plant. The union found that the bus company was owned by one of the Thai executives at the top level of GM Thailand, regarding to the selection process, the passengers, who were the workers submitted the evaluation that the buses was not secure and no safety standard, the driver drove fast and the bus was old and there were many accidents, which caused from the old model of the bus. However, the complaint by the union sent to the management, could not reach the Executive Director. All the complaints were handed to the management who own the bus company. Regarding to this challenge, many of the union members who found out the corruption were targeted by this Thai management, many of the union members were threaten and many were shifted to work in different position”. (Former President of General Motor Workers’ Union, 39 Years, [April 17, 2015], Plauk Deang District, Rayong).

Another corruption was done by the top management of Human Resource department and financial department on workers’ bonus.

“NTN Nidec Thailand Bearing Workers Union found the evidence on the company balance sheet of the year 2008. The company headquarter announced 5 percent bonus to all workers. But there was a corruption, which was done by Human Resource management cooperatively worked with financial management to deducted 2 per cent of the workers’ bonus and kept for their own. The workers received only 3 per cent of bonus in 2008. The management of those two department produced fault balance sheet of 5 per cent bonus to submit to headquarter. However, the union found evidence and reported the corruption to headquarter”. (Former Treasurer of NTN Nidec

Workers Union, 35 years, [April 18, 2015], Eastern Union Area Group Office, Chonburi).

There are some other corruptions which conducted by the management level that the unions found and reveal the evidences to the union members and file the corruption the headquarter company.

“Eastern Seaboard Industrial Estate is the hub of auto and auto-parts industry in Thailand. Most of the materials using in these industries are metal. Many of recycle trash needed to be destroyed properly, but some of management using these recycles trash to make extra income. The unions in the area investigated these recycle trash were stolen and sold in the dark market. Many of the Japanese national companies, where the Thai managements are sitting at the management level have done this”. (Union Organizer, 35 years, [April 17, 2015], Eastern Union Area Group Office, Chonburi).

Furthermore, “another type of management action that the unions considered as corruption is the cooperation between Thai management and Japanese management acting like recruitment broker agency, these group of management convinced and looked for the workers with high skilled ability to work in Japan, in order to work in Japan, these workers need to proceed everything through these group of management to have the process to be done easier. Most of the workers believed that they should be paid more than the salary that they received Thailand. This is another corruption process where these management brokers deducted the actual salary of the workers whom they sent to work in Japan, and keep those deducted money for their own”. (Union Organizer, 42 years, [April 17, 2015], Eastern Union Area Group Office, Chonburi).

Last corruption case, the union proposed the annual demands for bonuses and wage increase by calculating from the company balance sheet submitted to the

government official annually. However, cases of the company like Saint Gobain Serkurit Limited, a French national glass producer, has never had peaceful collective bargaining agreement with the union representatives because the company informs the union roughly the number of annual sales instead of sending the company balance sheet to verify its sale and profit. The company intends to hide the actual sale and profit to the authority, they rather pay fine by breaking the law only to keep the secret of the actual sale and profit to avoid the union to have actual information to calculate for bonus and wage increase.

The management's corruption is another challenge for labor union to establish workers' organization to defend for their workers' rights. However, the management perceived that labor unions are barriers and intervention for their corruption. Therefore, obstructing labor union activity or intimidating union establishes is one of the strategies for the management to stop all intervention from the union to investigate the company corruption. Thus, the management's corruptions that obstruct the union activity, reflects as another difficulties that the workers in Eastern Seaboard Industrial Estate are handling with. Trade union can assist the company for investigation, as the union stated that corruption actions have done by the Thai local management. Most of these mentioned corruption, the headquarter companies do not investigate and never know about the corruptions. Therefore, the company should take the opportunity for the workers to exercise the rights on freedom of association and collective bargaining by organizing unions to investigate for the company. The unions do not only defend for the rights of the workers but the unions are also able to protect the companies from these corruptions as well.

#### **4.2.4. Management negative attitudes against labor unions**

Basically the company's management has negatives attitudes toward individual workers. Firstly the workers in their perception are viewed as malleable factor in production, the employers are the one who give order. Secondly, incentive was conceived of in financial terms. Thirdly, unions and their members have no place in the scheme of things. Next, the term "management prerogatives" is a redundancy, not a discussable issue. And lastly, the concept of identity will be defined and implemented by management. Generally most of the management and the company

accept the union, but it is the idle to pray for an end to conflict. (Doughlass V. Brown Charles A. Myers, 1957). The attitude about labor union through human resource management is still strongly problematic; basically unionized workers are still a factor in the workplace. Therefore, the human resource professional or line managers must be able to deal knowledgeably with that situation if it still exists in their factories. But in general it is very important to understand that what the conditions and reasons are the workers participate with union. However, there are many factories in Eastern Seaboard Industrial Estate act against as labor unions are their enemy by revealing their attitudes against union's members.

Labor union in Eastern Seaboard Industrial Estate found the negative attitudes from the company at the management level against labor unions. Many of the employers view labor union as their enemy. Mainly these negative attitudes against union were very clear among Thai management whom the union found corruption.

“The employers do not like labor union because we found that our bonus was deducted and added to the management pocket”. (Former Committee of NTN Nidec Workers Union, 35 years, [April 18, 2015], Eastern Union Area Group Office, Chonburi).

“I believed that the GM management headquarters in America do not know any corruption here because GM union in America is very strong and the employers respect the union. The problem in Thailand basically comes from the corruption of the Thai management, they are afraid that the union will reveal their corruption. And they do not know anything about labor rights”. (Former President of General Motor Workers' Union, 39 Years, [April 17, 2015], Plauk Deang District, Rayong).

While many of the employers who extremely against labor union because they believe that labor union reduce their profits. And many of the employers do not respect the basic rights of the workers.

Thailand is a country where people do not understand or are aware of their rights. Most of the workers do not know that as workers they have their right on

freedom of association and collective bargaining. Because of the lack of educational background and there is no courses on union rights in the schooling system in Thailand, therefore, workers are not aware of their basic rights as workers to freely defend for their rights through labor union. In this regards, the lack of educational background and exploitation against workers' rights by the management, workers in Eastern Seaboard Industrial Estates were pressured and exploited against their standard of labor rights because of the negative attitudes against union. The managements are more likely to have anti-union attitude because the workers' demands; the highest profit that the company made should not be shared to stakeholders' namely the workers who hardly work in the production line. The strike or any actions against the company creating negative reputation against the company also create these negative attitudes of the management to bust the union and its activities. This negative attitude to anti-labor union demonstrates another challenge for the workers in Eastern Seaboard Industrial Estate to freely exercise their fundamental rights on freedom of association and collective bargaining.

#### **4.2.5. Long working hours in obstructing trade union participation**

Thailand started to integrate into the world of economy since the middle of 1880s. But the modern Thai economic growth began in late 1950s switching from agricultural to industrial country (Somboon, Siriprachai, 1994). The beginning of international investment to Thailand was as cheap labor. Regarding to this cheap labor, Thailand has still kept pressure on the workers by giving the minimum wage standard instead of the consideration of a living wage.<sup>2</sup> The offer for overtime to the workers illustrates that the minimum wages that the workers receive recently are insufficient for the workers. This is another weakness, which reflects as another challenge for the workers in Eastern Seaboard to organize labor union. The company use this opportunity to influence the employees to work in order to make more money. The

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<sup>2</sup> According to ILO Conventions 95 and 131, ILO Recommendations 131 and 135 and the Universal Declaration of Human Rights Article 23: *Wages and benefits paid for a standard working week should meet at least legal or industry minimum wage standards and always be sufficient to meet basic needs of workers and their families and to provide discretionary income.*

potential of working overtime is to avoid workers' participation with labor union activities.

According to ILO research there are 3 ways of defining long work hours, which are firstly, hours exceeding the normal statutory hours: this highlights the fact that the normal statutory hours determine a socially acceptable level of working time; secondly, hours exceeding the maximum hours of work beyond which negative consequences on workers are known to be visible: the effects on health and safety are crucial; lastly, hour exceeding those which workers prefer to work. In addition, the definition of the overtime in the ILO Reduction of Hours of Work Recommendation (1962) states that overtime means all hours worked in excess of normal hours (ILO, 2011). An expecting employee to work excessive overtime is a common practice in the developing countries particularly in the manufacturing industry (Dawson, 2004). In China over 93 percent of 142 Chinese supplier factories were reported to have practices of excessive overtime during 2002- 2003. Case of Indonesia, PT Dae Joo Leoports factory are required the workers to perform at least two hours of overtime per day. Regarding to this excessive overtime, the employers stated that the management endeavors to meet the tight deadlines, which imposed by various global buyers. Therefore it is necessary for the company to require frequent overtime to the employees (JICAWR, 2005). However, in the developing countries basically workers are willing to work for overtime voluntarily because of their low hourly wages (ILO,2009) as their very low salaries could not meet their basic needs (Kang and Dannet, 2010). In the Philippines, more than 90 per cent of the workers works more than 48 hours per week since the workers are willing to earn more salary (Mehran, 2005).

In virtually all modern economies a considerable fraction of the working population performs overtime hours and many countries the workers supply their extra overtime hours for free. There are numbers of explanations why workers are willing to perform their overtime, even if many of them are unpaid. One signal is that the workers would want to have higher value to the company, which refers to job promotion and retention.

It became usual for the workers in Eastern Seaboard Industrial Park had to work for over time. Since, their salary could not be parallel with the living cost.

Workers had to work as much as they can for making money. Many of the non-union members do not want to be union members because they have to work for overtime. While, many of the union members rarely join labor union activities because they have to work mandatory over time. The reason that the management offered the overtime for the workers is to stop the workers to join labor union activities.

“Before I joined the union I always prioritized to work for over time, my coworker and I never refused for overtime since we could survive with over time. Even it was very exhausted, but I could not feed my family without working for over time”. (Former Vice President of Thai Kansai Paint Workers’ Union, 30 years, [April 17, 2015], Eastern Union Area Group Office, Chonburi).

“Since I have become a union president at Kawazaki, I have refused to work for over time. I use 3 eights strategy; 8 hours to work, 8 hours to be with family and rest and 8 hours to study. Since I came from poor family, my parents could not support me for higher education, but with this 3 eights strategy, I could give my time to study and learn for the right of human and workers to protect my brothers and sisters in my union”. (Kawazaki Labor Union’s President, 37 years [April 18, 2015], Pluak Deang, Rayong).

### **4.3 Possible mechanisms to promote freedom of association**

It is very challenging to find a concrete solution to promote freedom of association and collective bargaining for the union rights in Thailand. There are big differences between the workers and capitalists. There is no equality for the workers to exercising freedom of association compared to employers. However, there are possible mechanisms that the union leaders and workers in Eastern Seaboard Industrial Estate believe that it can assist them to exercise their union rights. Law enforcement is one of the big difficulties that the workers realize for improvement, which also related to the Thai labor law reformation to integrate with the international labor standard. And the ratification of the international labor standard on Freedom of Association and

Protection of the Rights to Organize and Right to Organize and Collective Bargaining are needed.

The Thailand Labor Relation Act 1975 and its enforcement are very significant. However, the union leaders experienced that the Thai labor relations act has not been implemented well among the workers. The law does not have any mechanism to protect the workers from being dismissed if the workers organize and form labor unions. Even the Labor relation Act 1975 Chapter 9 on Unfair Practices<sup>3</sup> has identified the prohibition to unfairly dismiss union leaders and members. Nonetheless, it became very easy for the employers to break the law by proposing some amount of money to fire the workers in order to refuse for having labor unions in the workplace. In case of any violation against the workers' rights to organize labor union by the employers, there is measures of punishment by law. However, the employers have never faced with any difficulties from violating against rights to organize labor union. In some cases where the workers were fired and the workers struggle through the labor court, many of the court verdict ordered for immediate reinstatement, nonetheless, the employers acted extremely against the court order by locking out the workers, or proposing the money for the workers to voluntarily leave the company. The reason behind all of these negative acts against the labor union is the employers refuse to have the labor union in the workplace.

However, the workers believed that the law has been implemented and enforced well enough. Employers should receive the punishment if they break the law

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<sup>3</sup> Section 121, no employer shall: (1) terminate the employment or act in any manner which may cause an employee, a representative of the employee, a director of labor union or a director of labor federation being unbearable to continue working with due to the fact that the employee or labor union calls for a rally, files a complaint, submits a demand, participates a negotiation or institutes a law suit or being a witness or submits evidence to the competent officials under the law on labor protection or to the Registrar, conciliation officer, labor dispute arbitrator or Labor Relations Committee under this Act or to the Labor Court, or due to the fact that the employee or Labor union preparing to do so; (2) terminate the employment or act in any manner which may cause an employee being unbearable to continue working with due to the fact that such employee is a member of the labor union; (3) obstruct the employee from being member of the labor union or cause the employee to resign from membership of the labor union, or give or agree to give money or property to the employee or officer of the labor union in lieu of the refusal to apply for membership, or to admit the applicant to be membership, of the labor union or in lieu of the resignation from the labor union.

and they do not respect the basic rights of the workers. Therefore, law enforcement complying with the international labor standard could be a very beneficial protection mechanism for the workers to exercise their unions' rights independently.

“The law was written well but the enforcement is very weak. In practice, the law enforcement by the government authority is very weak; the employers easily violate the worker rights to organize labor union by dismissing the workers and locking out the workers in case that the court ordered for the reinstatement”. (Somboon Somic' Union Committee, 40 years, [April 18, 2015], Eastern Union Area Group, Chonburi).

Ratifying conventions adopted by the International Labor Organization creates legal obligation to improve labor standards. The ILO Conventions are considered as devices for the prevention and mitigation of regulatory “races to the bottom” among trade rivals. The ratifications expect the states of ratification to the ILO conventions to commit the international labor standards primarily to get states to commit to, and comply with the same standards. The international labor standards are imperative as work is crucial to a person's dignity, well-being and development as a human being. The core labor standards, freedom of association, child labor, forced labor, discrimination, migrants and domestic workers are the conventions as protections of fundamental human rights. The states are expected to ratify conventions to endorse and express a public and legally binding commitment to a universally valid conception of human dignity. (Baccini and Koenig-Archibugi, 2011).

The ratification of the ILO Conventions No.87 and No.98 will be part of the instruments to reduce the current labor relations problems in Thailand. The ratification will also improve workers' rights, which will further improve workers' satisfaction that will result in higher productivity. The country will receive the advantage to the country industrial and economic growth. In addition, the ratification of these two conventions will also help Thailand's competitiveness in globalization, and in many countries use labor standards as barriers to trade. For the long term benefit of the ratification, the ILO Convention No.89 and No.98 will reduce the income gap and create the social equality to the society. (Pong-Sul, Ahn, 2012).

“The Thai labor movement has been campaigning for the ratification of the ILO Convention No.87 and No.98 for more than 20 years. But the Thai government has not yet ratified these two conventions as the government and the employers are very concerned about the national security. The employers said that they are scared of the strike of migrant workers. Recently, the strike of the Thai workers during the labor dispute had made the employers headache. If the Thai government ratifies ILO Convention No.87 and 98, and migrant workers are allowed to strike, it is going to turn chaos. And the employers will not be able to continue their business. However, the Thai unions and labor movement will continue our campaign and future plan to push forward to the ratification until the government ratify these two conventions. (Former President of TLSC, [October 7, 2015], Thai Labor Solidarity Committee).

The ratification of ILO Convention No.87 on Freedom of Association and Protection of the Rights to Organize and No.98 on the Right to Organize and Collective Bargaining is very significant mechanisms for the workers to exercise the union rights freely. Since Thailand was a founding member of the International Labor Organization (ILO), but the Thai government has not ratified these two core labor standard. Thailand should urgently ratify these two conventions in order to comply the Thai labor acts with the international labor standards in order respect the workers' dignity. The workers believed that if the Thai government ratifies the ILO No.87 and No.98, the workers will automatically be able to exercise their labor union rights more independently and in the same time the country of ratification will have to comply the national labor legislations to integrate with these international standards. The workers believe that the ILO conventions on No.87 and No.98 will be instruments to reduce social inequality through organizing and collective bargaining rights. However, even if the ratification of these two conventions will possibly happen in the future together with the integration of the Thai labor relations acts to adoption of these two convention. But if the law enforcement could not be implement in practice. It could

continue the further violations against freedom of association and collective bargaining in the future.

## **CHAPTER V**

### **CONCLUSION**

This chapter summarizes the violations against workers' rights to form and join labor union activities, and the challenges and obstacles against workers' rights to exercise their freedom of association and collective bargaining rights. There are possible protection mechanisms to be implemented to allow the workers to exercise their standard of labor rights freely in running labor union activities for their own interest in order to protect and defend their labor rights. This chapter also provides some recommendations to support the workers to exercise the union rights

#### **5.1. Summary of Finding**

Regarding the research, it demonstrates that there are many challenges and violations against freedom of association and rights to collective bargaining for the workers to freely exercise their basic labor rights in Eastern Seaboard Industrial Estate.

The challenges that this research discovered as difficulties for the workers to freely exercise their fundamental rights in forming and joining labor union activities are: firstly, precarious employment. It is considered as the form of non-decent employment that many of the workers in Eastern Seaboard Industrial Estate are facing. From big to small factories, many companies hire the workers through subcontracted agencies to work in the production line and this group of workers cannot form the union. Next, the discrimination against union rights is another practice that can easily be found in the area; workers, who joined the union activities as members and leaders are targeted to be discriminated from being promoted, salary increased and regarding to the survey, 100 of the informants are working under the pressure of discrimination from their companies. The company management corruption is significantly part of problematic obstruction for the workers to exercise freedom of association, many of

the company management are afraid of the investigation of the union into the management system, it has become part of challenge for the workers to organize and join union activities for their interest. In addition, the overtime employment has now practiced as usual activity for the company, 85 percent of the informants are working with long working hours even if all the respondents received 300 baht/ day minimum wage<sup>1</sup> but they still need to work for overtime since 300 baht minimum wages is not adequate to look after their family. Regarding to this difficulty, numbers of the workers do not want to join labor union and its activities.

From the research, there are many types of violations in Eastern Seaboard Industrial Estate area that affect the workers to freely exercise freedom of association and collective bargaining. Firstly, intimidation and physical assault to the union leaders, many of the workers, especially the union leaders, were harassed by the mafia in the area, regarding to the survey, 100 percent of the respondents were threaten by the company after joining the union activities, while 11 percent of them were intimidated and physically assaulted by the local mafia in the area. Next common violations that this research explored is unfair dismissal and lockout, 15 percent of the respondent were dismissed by the company because they join labor union activities and around 26 of them agreed that they were violated because they are union leaders. While, 42 percent of the respondent used to be locked out, 74 respondents were locked out because they are union members. Thirdly, many of the union members were refused to increase their annual wage and promotion, the company target these group of workers to have the lowest annual key performance evaluation because they involved in labor union activities. Last violation in this research is the violation by prosecuting against union leaders; there are 11 respondents who were prosecuted by the company as they were union leaders.

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<sup>1</sup>In earlier 2011, the Cabinet announced that it proposed to implement its election promises to increase the national daily wage to 399 baht per day, the resolution was made by the cabinet in November 2011, following decision by the Wage Committee on 17 October 2011. Based on this policy, starting from April 1, 2012, the 300 baht daily minimum wage was implemented firstly in 7 provinces, namely Bangkok, Nonthaburi, Pathum Thani, Samu Prakan, Samut Sakhon, Nakhon Pathom and Phuket. However, the daily rate in the remaining 70 provinces will rise to 300 baht minimum wage in January 2013. While the 7 provinces launching earlier maintained their minimum wage at 300 baht. In 2014-2015 the minimum wage could be increased to an equal rate nationwide.

The research finds out that 93 percent of the respondents agree that workers can freely organize the union and exercise their collective bargaining rights if the Labor Relations Act is improved to comply with the international labor standard. And 100 percent of the respondents believe that the ratification of the ILO C.87 and C.98 will allow workers to enjoy their freedom of association and collective bargaining rights as the fundamental rights for the workers.

## **5.2. Recommendations**

The research has explored various challenges and violations against workers' rights in Eastern Seaboard Industrial Estate, such as the difficulties of discrimination, prosecution, unfair dismissal. The anti-action against unionism does not only demonstrate the negative perspectives of non- respect to the international labor standard but it also creates the difficulties to violate workers to peacefully continue their living and support their family economically and socially. Thereby, this part of the research provides possible recommendations for the workers in Eastern Seaboard Industrial Estate to continue their struggle in fighting for the freedom of association and collective bargaining as part of their labor rights standard.

### **5.2.1. File the complaint to CFA**

The ILO's Committee on Freedom of Association (CFA) was set up in 1951 with the purpose to examine about violations of workers' ad employers organizing rights, whether or not the country concerned had ratified the relevant conventions. CFA is a governing body committee with the compose of an independent chairperson and 3 representatives from the tripartite constituents; governments, employers and workers, if the CFA decides to receive the case, it basically establishes the facts in dialogue with the government concerned, if the committees find that there has been a violation on freedom of association and standards or principles. The CFA will take issues and produce the report through the Governing Body and makes recommendations on how the situation could be remedied. And after that each government of the member states are subsequently requested to report on the implementation of the written recommendation from CFA. Therefore, basically the

CFA is responsible for carrying out an examination of the complaints concerning infringements of freedom of association and collective bargain rights around the world. In any case that the country has ratified the relevant conventions, the legislative aspects of the case may be referred to the Committee of Experts. The CFA may choose to propose a direct contract mission to the government to address the difficulties directly with the government officials and social partners by using dialogues. Since the establishment of the CFA in 1951, CFA has examined over 3,000 cases from more than 60 countries across the world. However, the ILO does not have any legal authority to enforce its recommendations on governments to violate basic ILO Conventions; it does have a great deal of moral persuasion in having a government reconsider its actions to respect the international labor standards through the recommendation. The effective case of CFA in Canada; the ILO rulings have had a major bearing on decisions of Canadian court. The ruling of the Supreme Court of Canada in 2007, the legislation known as Bill 29 declared collective bargaining a constitutional right for all Canadians. The quote is directly from the Supreme Court ruling: “the Charter should be presumed to provide at least a great level of protection as is found in the international human rights document that Canada has ratified.... The interpretation of these conventions (ILO), in Canada and internationally not only supports the proposition that there is a right to collective bargaining in international law, but also suggests that such a rights should be recognized in the Canadian context on freedom of association” (Nupke, 2014). CFA and the ILO experts are very beneficial for the workers as mechanism to defend for the rights of the workers. Filing the case to the CFA on any violations case against freedom of association and collective bargaining is strongly recommended as tool to promote international labor standards on Freedom of Association and Collective Bargaining. However, there are numbers of violations against worker rights in Thailand. And in this thesis particularly the research field in Eastern Seaboard Industrial Estate, based on the finding, many union leaders and workers who join the union activities are being violated against their rights to associate and bargain collectively. But so far since the ILO has been established, there are only 11 cases on labor violation from Thailand file to the ILO as follows;

1. Case No 202 (Thailand)- International Confederation of Free Trade Unions
2. Case No 1015 (Thailand)- The Bank Labor Union Group (BLUG)
3. Case No 1110 (Thailand)- The World Confederation of Labor (WCL)
4. Case No 1142 (Thailand)- World Confederation of Labor and the International Federation of Textile and Garment Workers
5. Case No 1581 (Thailand)- The International Confederation of Free Trade Unions (ICFTU), the Public Services International (PSI), the Postal Telegraph and Telephone International (PTTI), the International Transport Workers' Federation (ITF) and the International Federation of Commercial, Clerical, Professional and Technical Employees (FIET) and the International Federation of Building and Woodworkers (IFBWW)
6. Case No 2125 (Thailand)- The ITV Labor Union
7. Case No 2181 (Thailand)- The Bangchak Petroleum Public Co. Ltd. Employees' Union (BCPEU)
8. Case No 2466 (Thailand)- The Thai Industrial Gases Labor Union (TIGLU)
9. Case No 2634 (Thailand)- Federation of Thailand Automobile Workers' Union (TAW)
10. Case No 2760 (Thailand)- Textile Garment and Leather Workers' Federation of Thailand (TWFT)
11. Case No 3022 (Thailand)- State Railway Workers' Union of Thailand (SRUT), State Enterprises Workers' Relations Confederation (SERC), International Transport Workers' Federation (ITF) and International Trade Union Confederation (ITUC)

Freedom of Association principles have been elaborated by ILO's supervisory bodies. CFA has the responsibility to explain its views in all cases and there are more than 3,000 cases have been filed to the CFA already. With the cooperation from the ILO Committee of Experts on Application of Conventions and Recommendations (COE), who provide insights from long-term perspectives as well as examining the reports of the countries which have ratified the ILO's convention on FOA and also provide the explanation of the obstacles for the country that have not ratified. And the

conference committees will be responsible for bringing up its tripartite influence to bear on the application of FOA standards and principles. And in some contexts freedom of association standards and its principles have had an impact; in many member States, the law have been changed, individual union leaders released from prison, the rights to organize and bargain collectively is expanded. Therefore, filing the violated case to CFA is very significant for the workers to file to the CFA for the future improvement of the Thai Labor Relation Act. In the future, the recommendations from CFA can be used to push forward the Royal Thai Government to reform the labor law to comply with the international labor standard especially for the respect of the FOA and Collective Bargaining Rights. However, the numbers of the complaints filing to FOA are still relatively low comparing to some other countries; member States from North- America, Latin America these countries submitted massive number of company. But from Thailand are only 11 complaints from Thailand filing to FOA.

### **5.2.2. Promote Organizing to Workers in Eastern Seaboard Industrial Estate**

The existing of neoliberal globalization is considered as the death sentence for the labor standard and labor organizations. (Jamie K, 2013), undermined protections and placed the national working classes in competition with one another. However, to fight against and to protect the working class, “Unions are about people, they are membership organizations created by working people as a mean of mutual protection and collective advocacy for economic and social justice.” (Susan Wood, 1998). And for the union, union diversity is considered as an organizing issue; an issue for fair representation through race, gender, ethnicity, sexual orientation, ability and etc. In addition, the issue of workplace representation is also part of the success of creating union organizations. Many people think of labor union as a kind of special interest group, those people who are looking for their own narrow economic interests. Or many people interpret that the dramatic decline of union as indicating that workers no longer want labor unions and many understand that all the interest of the union only to serve the union leaders. However, many people still don’t realize that there are some alternative views of labor union where the union can distribute to improve the

economic power in the capitalist system. And the union can also be part of the nature of political power under its relations to collective association in a democracy. For the economic power, workers as individuals are at an inherent disadvantages in bargaining with employers because they have fewer options. And in fact an employer has many potential employees that can fulfill their production in all jobs. And basically it hurts an employee more to be fired than it hurts an employer for an individual employee to quit, which means that the employers have more power than the workers. There are many ways to rectify the imbalance of power in the labor market; through the government by imposing regulations and labor contracts, it is one way to reduce the ability of employers to dictate employment agreement. While the second way to rectify the imbalance of the power is through the function of labor union namely collective bargaining instrument, if the union are strong, the employers must come to a collective bargaining agreement contract. It means that the workers have capacity to punish the employers for failing to agree to a satisfactory contract. Therefore, labor union are using as range of strategies to combat precarious work, workplace discrimination, long working hours, non- occupational health and safety, job security, welfare and benefits, these are part of the economic power that the union can be economically beneficial for all the workers and society. Thereby, recruiting more members to build up union power for the workers in Eastern Seaboard Industrial Estate is a dramatically significant activity and responsibility for the organized workers to continue.

### **5.2.3. Campaign for the ratification of ILO C87 and C98**

The ratification of ILO Conventions No.87 and Convention No. 98 is a strong recommendation to the Royal Thai Government. The ratification of these two conventions will guarantee effective recognition of labor union. In addition, the ratification will also be significant part to promote the industrial harmony and to avoid labor management conflict, which will also be part of sustainable labor relations management-friendly between workers and the management. Regarding to good relationship between workers and employers, this will also be part of the country economic development. Allowing employees to form unions and to exercise the collective bargaining rights over the wage and working condition is consistent with

economic freedom. In the countries where the governments intervene against unionization would be violation of economic freedom. The respect of freedom of association and collective bargaining play an important part in sound economic development. As stated that the FOA and CBA are very significant for the economic development, the positive effect from FOA and CBA to economic development can be ensured if the economics of growth is shared together with the promotion of productivity under peaceful labor relations. The impact of the union's growth and prosperity can be examined as, firstly, the impact of the union contract in local and industries level. Secondly, the impact of the union that be part of labor law's improvement. Lastly, the fundamental of freedom of association and the right to bargain collectively is a reflection of human dignity, which guarantee the ability of employers and workers to join and defend their civil liberties rights; rights to life, security, integrity and collective freedom. And it is protections instruments to fight against discrimination, violations and harassment. During the meeting on August 30, 2012, the meeting between the former Thai Labor Minister HE. Mr.Phadermchai Sasomsub and the Director of the Bureau of Workers' Activities (ILO/ACTRAV), Mr.Dan Cunniah, "It is important that the government ratify these conventions in context of a regional campaign for the ratification of these two legal instruments of the ILO". (Dan Cunniah, 2012). The Director of ILO/ACTRAV further added that "Thailand is a country with very diverse industries that employs millions of workers. The ratification of ILO Conventions would give strong signal to the international community that Thailand wants to respect fundamental rights and support the implementation of international labor Conventions". Thailand is one of the five Asian countries among India, Malaysia, Nepal and Vietnam, which are covered by the campaign for ratification of ILO C87 ad C98, this program has been initiated by ACTRAV under the call for the universal ratification of these two conventions by 2015.

#### **5.2.4. Promote Decent Work Agenda for All the Workers**

Decent work for all the workers is a significant concern that the workers, labor unions, and all stakeholders, employers and government should consider. Decent work is a human right. Decent work is a concept of an agenda, which was introduced

and promoted by the International Labor Organization (ILO) in 1999. The ILO defines “Decent Work” as being productive work for women and men in condition of freedom, equity, security, and human dignity, which involves opportunities for work. The productive work delivers a fair income; provides security in the workplace and social protection for workers and further to their families. As well as providing the workers the freedom to express their concerns, to organize and to participate in decisions that affect their lives that guarantees equal opportunities and equal treatment for all. (ITUC, 2008). Promoting decent work agenda is truly significant activities to be part of promoting freedom of association and collective bargaining rights.

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