

Reserved Occupation, A Specific Act against Foreign Labour—A View from Thai Context

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Abstract

The foreign labour is the important workforce for development. The importation of foreign workers is commonly seen worldwide. In some settings, there might be a specific legal control aiming prevention of the problem of occupancy by foreign labour. The case of specific Act on reserved occupation is very interesting. Here, the authors specifically discuss on the specific Act on reserved occupation for the Thai, which is an interesting unique law seen in Thailand, a tropical Indochina country.

Keywords: Law, labour, reserved, occupation

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INTRODUCTION

Human workforce is the important issue in management. It is the basic requirement for any activity. Labour is an important requirement for success of any work. It is an important part in the 4th basic requirement for management. The lack of worker is usually seen in several setting and the importation of the foreign labour is a common solution. An important fear regarding the important of the foreign labour is usually on the possible occupancy of the job by the alien worker that might result in jobless of the local people. Sometimes, there might be a specific legal control against working in a specific job for the foreigners. This is an interesting issue in labour law. Of interest, reserved occupation is not a reserved task that is specifically controlled for specialist practice such as medical subspecialist [1]. In that case, there might be a specific regulation to confirm the proficiency of the worker that is required for special responsibility in specific activities.

Regarding control of foreign labour, the concern on the immigrant workers as well as their families are important issues. This requires the good political planning and management by any local government [1]. In general, the migrant foreign workers wander to their targets aiming at a better life, increased income. The management of those alien workers has to be gently performed. The equality is an important

consideration but there are usually specific problems on the equity [2].

Liebman et al. recently studied the situation of alien foreign workers in USA. Liebman et al. noted that those workers working in agricultural jobs are usually affected by “a long history of *“exceptionalism” under the law as many regulatory protections specifically exclude this workforce* [2].” Kyriakides and Virdee mentioned for importance of internal and external immigration controls introduced with the aim of regulating migrant labour [3]. The migrant workers are usually neglected and there might be the forgotten problems among this population. Calvert G and Higgins noted that “it is important to continue to support and improve occupational illness and injury surveillance programs [4].” Hence, the issue on effective control of the foreign labour is usually interesting. The legal control is usually given on the rights of the workers. The health issue is also a common target of legal control [5 – 9]. However, the specific implementation of law is usually not common. The implementation of the specific laws regarding the migrant workers aiming at support the local people is an important issue on the other side of the coin. This kind of law is usually not mentioned. The good example of this kind of law is the law regarding the reservation of specific jobs or rights for the local ethnic people.

Table 1: List of the Act on reserved occupations prohibited for foreign worker (Thai specific words are also provided in the right side).

1. hard object carrier	1. งานกรรมกร
2. agricultural farming	2. งานกสิกรรม งานเลี้ยงสัตว์ งานป่าไม้ หรืองานประมง
3. carpenter	3. งานก่ออิฐ งานช่างไม้ หรืองานก่อสร้างอื่น
4. wood carving	4. งานแกะสลักไม้
5. vehicle driver	5. งานขับขี่ยานยนต์ หรืองานขับขี่ยานพาหนะ
6. shop seller attendant	6. งานขายของหน้าร้าน
7. market seller	7. งานขายทอดตลาด
8. accounting	8. งานควบคุม ตรวจสอบหรือให้บริการบัญชี
9. gemological artisan	9. งานเจียระไน หรือขัดเพชรหรือพลอย
10. barber	10. งานตัดผม งานตัดผม หรืองานเสริมสวย
11. handmade weaving	11. งานทอผ้าด้วยมือ
12. mat making	12. งานทอเสื่อ หรืองานทำเครื่องใช้ด้วยกก หวาย ปอ ฟาง
13. handmade paper making	13. งานทำกระดาษสาด้วยมือ
14. Thai lacquerware making	14. งานทำเครื่องเขิน
15. Thai musical instrument making	15. งานทำเครื่องดนตรีไทย
16. local art box making	16. งานทำเครื่องถม
17. silverware making	17. งานทำเครื่องทอง เครื่องเงิน หรือเครื่องนาก
18. local bowl making	18. งานทำเครื่องลงหิน
19. local Thai doll making	19. งานทำตุ๊กตาไทย
20. bed making	20. งานทำที่นอนผ้าห่มนวม
21. Buddhist pot making	21. งานทำบาตร
22. silk weaving	22. งานทำผลิตภัณฑ์จากผ้าไหมด้วยมือ
23. Buddha image making	23. งานทำพระพุทธรูป
24. knife making	24. งานทำมีด
25. umbrella making	25. งานทำร่มด้วยกระดาษหรือผ้า
26. shoe making	26. งานทำรองเท้า
27. hat making	27. งานทำหมวก
28. sale gent	28. งานนายหน้า หรืองานตัวแทน ยกเว้น งานนายหน้า
29. civil engineer	29. งานในวิชาชีพวิศวกรรม สาขาวิศวกรรมโยธา
30. architect	30. งานในวิชาชีพสถาปัตยกรรมค่านำ
31. handmade dress making	31. งานประดิษฐ์เครื่องแต่งกาย
32. pottery making	32. งานปั้นหรือทำเครื่องปั้นดินเผา
33. cigarette making	33. งานมวนบุหรี่ด้วยมือ
34. tourist guide	34. งานมัคคุเทศก์ หรืองานจัดนำเที่ยว
35. wandering seller	35. งานเรขายสินค้า
36. Thai letter typing	36. งานเรียงตัวพิมพ์อักษรไทยด้วยมือ
37. silk thread making	37. งานสาวและบิดเกลียวไหมด้วยมือ
38. secretary	38. งานเสมียนพนักงานหรืองานเลขานุการ
39. lawyer	39. งานให้บริการทางกฎหมายหรืออรรถคดี

The specific laws on reservation of some occupations can be seen in some setting. The details might be varied based on the specific setting. Here, the authors specifically discuss on the specific Act in Thailand, a tropical Southeast Asian country. This Act is on

preserving some specific occupation for the Thai nationality only.

THAI RESERVED OCCUPATION ACT

Thai reserved occupation Act is an old Act

that has been issued for several decades. The Act has been continuously improved and updated. Historically, in the recent version of

However, there was a recent attempt for revision in the last year (2018), however, it is still not effective.

The main aim of this Act is to control the invasion of the foreign workers. Reservation of some specific occupations for the Thais is issued. There are several occupations that are prohibited for the foreign labour such as barber.

DISCUSSION

The concern on the effect of migrant worker is usually a topic for discussion. Many ones look directly to the legal control for promoting the migrant workers' rights whereas some also mention for the important of the local ethnic people who might be affected by the coming of the foreign migrant workers. In fact, the local people might be affected by immigrant in several ways such as the health effect [10 – 12]. Nevertheless, the effect might be seen in other less mentioned form such as the occupancy of the local job resulting in increased difficulty to find the journal of the local ethnic people.

The reservation of some specific occupation might be useful in prevention of occupancy by the aliens coming to the other non-native country. This might support the job finding of the local native persons. Also, some specific occupations are the traditional artisan, which should be reserved as national wisdom. It is reasonable that the ethnic related national artisan job should be protected as a national treasure. However, in the other hand, it might be considered an unfair action [2]. The same regulation including to taxation implementation might be set for both native and alien foreign labours.

The details of the specific Thai Acts on reserved occupation for the Thais is interesting. This is an old Act and the content might not be updated. Some specific occupations such as barber or noodle seller might be considered important, but it has ever important occupation in the past. To further

Act (version BE 2522; 1979), there were prohibited occupations for the foreigners as this list in Table 1. implementation, the updating of details should be considered if this kind of Act should be further used. However, if it is open to free trading and competition system, the same rule for controlling of labours, either native or non-native ones, should be also considered.

Conflict of interest: None

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