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## **Graduate School of Development Studies**

### **Ideal Types of Trade Unions for Civil Servants in South Korea**

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# Table of Contents

## Chapter One: Introduction

1.1 Background to Study.....	3
1.2 Problem Statement.....	6
1.3 Objective of Study.....	6
1.4 Significance of Study.....	7
1.5 Research Question.....	7
1.6 Research Methodology and Source of Information... ..	7
1.7 Organization of Study.....	8

## Chapter Two: Theoretical and Conceptual Framework

2.1 Definition of Concept.....	9
2.2 Industrial Relation System theory.....	11
2.3 View on Government Organization .....	13
2.3.1 Unitarism.....	13
2.3.2 Pluralism.....	13
2.4 Difference Between Public and Private Sector .....	14

## Chapter Three: Industrial Relations of civil servants in South Korea

3.1 Legal Regulations on Industrial Relations of Civil Servants... ..	15
3.2 Actors.....	18
3.2.1 Tripartite Commission... ..	18
3.2.2 Government.....	21
3.2.3 Association of Korea Civil Servants.....	22
3.2.4 Trade Unions at the National Level.....	24
3.2.5 The Korea Employers Federation .....	25
3.3 Environment on Labor Right of Civil Servants.....	26
3.3.1 Political Environment.....	26
3.3.2 Economic Environment.....	28

3.3.3 Social and Cultural Environment.....	28
3.3.4 International Environment (ILO, OECD and WTO).....	30

#### Chapter Four: Analysis of Other Countries systems

4.1 Introduction.....	33
4.2 UK.....	33
4.3 The Netherlands.....	37
4.4 Japan.....	40
4.5 The United States.....	42
4.6 Conclusions.....	45

#### Chapter Five: The Ideal Types of Trade Unions for Civil Servants

5.1 Introduction.....	47
5.2 right to Organize .....	47
5.3 Right to Collective Bargaining.....	49
5.4 Right to Collective Action.....	52
5.5 Others.....	53
5.6 Conclusions.....	54

### Tables

1.1 Key Agreements of the 1 <sup>st</sup> Tripartite Commission ... ..	4
1.2 Trade Union Membership and Density .....	5
2.1 The number of civil servants ( 1 Sep 1999) ... ..	10
2.2 The trade unions for civil servants who are actually engaged in labor...	10
2.3 The Environment on Labor Rights of Civil Servants in South Korea.....	13
3.1 History of the Tripartite Commission.....	18
3.2 The government agencies related to labor rights of civil servants.....	22
3.3 Main Issues on Labor Law Reform in ILO and OECD in 2001.....	32
4.1 The Labor Rights of the Countries.....	46

## Chapter One: Introduction

### **1.1 Background to Study**

Civil servants in South Korea were major actors to set up and implement development strategies since 1960s. The legal system was needed to make sure that civil servants should not pursue their own interests. To guarantee the prohibition of private interests of civil servants by laws, the National Civil Servants Law and Local Civil Servant Law have restricted the labor rights of civil servants. Civil servants also thought that they were not workers but guardians of public interests. Therefore they did not complain about the restriction of labor rights of civil servants.

However, the situation changed since late 1980s. Firstly, the government could not set up and implement effective and efficient development strategies because the private economic sector had grown too big to control. The private sector demanded the government to reduce the functions of the government and the regulations on businesses because the government was thought as an obstacle to development, not as a major actor. Secondly, civil servants, especially low grades of civil servants, realized that their working conditions such as wages were very poor compared with the wages of private companies. Thirdly, in the process of public sector reform, which was one of efforts to overcome the financial crisis in 1997, the number of state civil servants was reduced by 13.2% and that of local civil servants by 17.0% from 1998 to 1999 (Ministry of Planning & Budget, 2000). Civil servants began to realize that the life long employment would not be guaranteed any more.

Meanwhile, to overcome the economic crisis and bounce back, the Tripartite Commission, composed of labor, management, and government representatives, was launched on 15 January 1998 as a Presidential Advisory Body.

The 1<sup>st</sup> Tripartite Commission produced the Social Compromise for Overcoming the Economic Crisis, which contains measures to overcome the various difficulties arising from structural reform and employment security and which lays the foundation for overcoming the crisis, in 6 February 1998. Table 1.1) shows the key agreements of the 1st Tripartite Commission (Ministry of Labor, 1999).

**Table 1.1) Key Agreements of the 1<sup>st</sup> Tripartite Commission**

Major issues	Key contents
Guaranteeing basic labor rights	<ul style="list-style-type: none"> <li>• Guarantee the basic labor rights of civil servants and teachers</li> <li>• Guarantee the basic labor rights of the unemployed to join industrial or regional level unions</li> </ul>
Building the flexibility of the labor market	<ul style="list-style-type: none"> <li>• Legalization of employment due to managerial reasons</li> <li>• Legislation of acts to protect dispatched workers</li> </ul>
Establishing a social safety net to cope with massive lay-off	<ul style="list-style-type: none"> <li>• Expansion of the application of the Employment Insurance Act</li> <li>• Livelihood protection for workers who have accumulated wages arrears</li> </ul>

Source: Ministry of Labor, "Labor Administration" in 1999

However, the agreement of the basic labor right of civil servants did not result from the collective movements of civil servants except for teachers. It seems that the agreement on the basic labor rights of civil servants resulted from the effort of 2 national level trade unions whose trade union membership has been decreasing since 1990. Trade unions for civil servants can contribute to increasing the trade union membership and to reshaping aspects of labor movements. Table 1.2) shows the change of trade union membership and density.

Table 1.2) Trade Union Membership and Density

(Unit: union, person, %)

Year	No. of Trade Unions in the private and public sector	Membership (Thousands)	Density (%)
1986	2,700	1,050	-
1988	6,164	1,707	19.5
1990	7,698	1,887	18.4
1992	7,527	1,735	16.4
1994	7,025	1,659	14.5
1995	6,606	1,615	13.8
1996	6,424	1,599	13.3
1997	5,733	1,484	12.2
1998	5,560	1,401	12.6

Source: Ministry of Labor, "1999 Yearbook of Labor Statistics"

According to the more detailed agreement, the Tripartite Commission agreed to allow the civil servants' right to organize trade unions step by step. The first step was that it would allow the Civil Servant Workplace Association (CSWA), which is pre-stage of trade unions. The second step was that it would allow the trade unions for civil servants, but the implementation should be done on the basis of public opinion and the revision of related laws. To implement the agreements of the 1<sup>st</sup> Tripartite Commission, the Korean government enacted the Act on Establishment and Operation of the Civil Servants' Workplace Association on 24 February 1998. The key contents of this Act, which has been enforced from 1 January 1999, include improving working environments, enhancing labor productivity, and handling grievances of civil servants (Ministry of Labor, 1999). As of September 2001, 250 Civil Servants Workplace Associations have been established among about 2,400 government agencies that can organize the Association with a membership of about 15,400 civil servants out of a potential membership of about 370 thousand civil servants (Association of Korea Civil Servants, 2001). The Civil Servants Workplace Associations have not taken an important role in enhancing working conditions of civil servants because the Associations cannot negotiate working conditions like trade unions and cannot establish the association at the national level which can talk with the government representative.

The Civil Servants Workplace Associations organized an association at the national level in March 2001, the Association of Korea Civil Servants, which is not allowed by the law. Furthermore, it is trying to establish a non-statutory trade union for civil servants in cooperation with Korean Confederation of Trade Union which is the strongest national center in South Korea (Association of Korea Civil Servants, 2001).

Meanwhile, the Tripartite Commission established the Subcommittee on Labor Rights of Civil Servants in July 2001 to discuss trade unions for civil servants. The Ministry of Labor, the Ministry of Government Administration and Home Affairs take part in the Tripartite Commission with one of two national level trade unions and a business association to discuss this issue. The subcommittee has held 14 conferences, which discussed the relationship between administration reform and trade unions for civil servants, the systems and functions of other countries and the directions of allowing labor rights of civil servants in South Korea (Tripartite Commission, 2001).

## **1.2 Problem Statement**

Although labor, employers and government representatives discuss labor rights of civil servants in the Tripartite Commission, they take very different positions, which make it difficult to reach an agreement. They also face difficulties in identifying specific issues to be discussed and expecting consequences of a possible new system on public services.

## **1.3 Objectives of Study**

The main purpose of this study is to make suggestions on ideal types of trade unions for civil servants in South Korea. To achieve the main purpose, this study intends to achieve the following objectives;

- To examine the current labor relations of civil servant and environment on prospects of labor rights of civil servants.
- To identify and evaluate the actors' arguments
- To examine other countries' systems of trade unions for civil servants

#### **1.4 Significance of Study**

The results of the negotiations on labor rights of civil servants in the Tripartite Commission will have a significant impact not only on working conditions of civil servants and public services but also on the labor movement in South Korea. This study can contribute to understand the current situation surrounding the negotiation and to examine the consequences of possible new systems and to suggest an alternative for the actor to reach an agreement.

#### **1.5 Research questions**

The following are the research questions that will help in the achievement of the stated objectives;

- (i) What are the arguments put forward by the actors involved?
- (ii) Why do the actors try to accomplish their positions on labor rights of civil servants?
- (iii) What is the environment on labor rights of civil servants, and what trends can be observed?
- (iv) Is it possible to solve the different positions among actors?

#### **1.6 Research Methodology and Source of Information**

Secondary data sources are used in this study. Statistical data is analyzed using simple descriptive statistics. Books, articles, journals, published and unpublished papers and documents, etc from the ISS Library, the internet and other sources in and outside of The Netherlands formed data sources. A comparative approach consists of one of the research methodology to find out adaptability of other countries' systems and alternatives to the positions of the actors in South Korea. A full list of the bibliography is presented at the end of the study to provide readers with a reference for further study. Discussions with my supervisor, other lecturers, friends and colleagues, were important in broadening and deepening the scope of the conceptual and analytical framework for the study.

## **1.7 Organization of Study**

**Chapter Two (2)** presents the various theories and concepts that are of relevance to the study. This chapter discusses the relationship between government and civil servants, in general and in the context of South Korea and the approach of Industrial Relation Systems to analyze industrial relations of civil servants. **Chapter Three (3)** shows regulation of labor rights of civil servants, identifies the characteristics of the actors and examines environments on labor rights of civil servants. **Chapter Four (4)** discusses the other countries systems such as UK, Japan, the Netherlands and USA. The systems of these countries are often mentioned at the negotiation process in the Tripartite Commission, so it is useful to understand the systems of these countries and in some case to suggest alternatives based on the systems of these countries. **Chapter Five (5)**, identifies and evaluates the specific positions of the actors on the labor rights of civil servants and suggests the ideal types of trade unions for civil servants in South Korea.

## Chapter Two: Theoretical and Conceptual Framework

### **2.1 Definition of Concept**

**Trade union** refers to “any organization of workers, or constituent or affiliated organizations, whose principal purposes include the regulation of relations between its members and their employers, management or employers associations” (Farnham, 2000: 48). Trade unions exist to protect the interests of their members. “The essential rationale of trade unions, therefore, is to defend and extend their members individual employment interest, in both their market relations and managerial relations with employers, through collective organization and strength. The individual objective of trade unions include participating in:

- The determination of pay and conditions
- The maintenance and improvement of health and safety standards within the workplace
- How work and job tasks are organized
- Agreed employee relations procedures for resolving grievance, disciplinary and related issues
- Fair dealings with management
- Improving security of employment in the workplace” (Farnham, 2000: 49)

**Civil servants** mean those who are appointed by the laws and work at the state or local government agencies. Civil servants are divided into state and local civil servants. The criterion to distinguish state civil servants from local civil servants is who pays their salaries. If a civil servant gets a salary from state government, he or she is a state civil servant. If a civil servant get salary from local government, he or she is a local civil servant (State/Local Civil Servant Act). Therefore workers who work at national enterprises, public corporations and local public enterprises are not civil servants. The labor relations of these workers are covered by the Trade Union and Labor Relations Adjustment Act. In principle, the labor relations of these workers are same as those of workers in the private sector (Trade Union and Labor Relations Adjustment Act, 1997).

This study will also not deal with the labor rights of public school teachers and those workers “who are actually engaged in labor”<sup>1</sup> at Ministry of Information & Telecommunication and National Hospitals, even though they are civil servants, because their labor rights are guaranteed by the State/Local Civil Servants Act (See Table 2.1). The Table 2.2) shows the number of civil servants in South Korea.

Table 2.1) The number of civil servants (1 Sep 1999) Unit: person (%)

Category of Civil Servants	Number (%)
<b>Legislature or Judicial Part</b>	17,800 (2.0 %)
<b>The Administration Part</b>	866,859 (98.0 %)
State Civil Servants	551,542 (62.3%)
Public school teachers	287,092 (32.2%)
Police, fire fighters and employees of National Security Intelligence	114,039 (12.9%)
Civil servants in general services	83,348 (9.4%)
Other	67,063 (7.6%)
Local Civil Servants	315,317(35.7%)
<b>Total</b>	<b>884,712 (100 %)</b>

Source: Research on the size of government in OECD countries, Civil Service Commission of South Korea in 2000.

Table 2.2) The membership of trade unions for civil servants who are actually engaged in labor.

Category	Numbers
Railway	25,816
Postal office	23,492
National hospitals	227
<b>Total</b>	<b>49,535</b>

Source: Ministry of Labor, “Data for Submission to the National Assembly” in 2001

<sup>1</sup> The scope of civil servants that are actually engaged in labor is defined by various regulations but it usually means civil servants that do manual works at workplace. For example, civil servants who construct and maintain the railway are included in the scope of civil servants who are actually engaged in labor, but civil servants who set up the schedule of railway are not included. In South Korea, labor traditionally means simple and manual work or job of blue collars.

**The labor rights** mean workers' rights to organize, to collective bargaining and to collective action. Collective bargaining means "a voluntary process involving autonomous employers and independent trade unions to determine the terms and conditions of employment"( Farnham, 2000: 71). Industrial action refers to industrial sanctions against one another which both management and unions are prepared, in certain cases, to use in order to achieve their employee relations' goals. These sanctions, known as industrial actions, involve disruption of normal working and can take a number of forms. On the employers side, the lockout is the best known. On the union side, industrial actions include going slow, working to rule, banning overtime, working without enthusiasm and stoppage of work (D. Farnham, 2000: 90-91).

**The ideal types** means the systems that guarantees harmony between maximization of labor rights of civil servants, minimization of damage of public services and maximization of possibility of reaching an agreement among actors.

## **2.2 Industrial Relation System Theory**

The actors in South Korea are trying to make a new rule for labor rights of civil servants. To analyze this process, it is useful to use T.Dunlop's industrial relations theory developed in the 1950s. The aim of his theory is present a general theory of analysis: tools to interpret industrial relations' facts and practices. "He insists that every industrial relations system involves three groups of actors: (1) workers and their organizations, (2) managers and their organizations, (3) governmental agencies concerned with the work place and the work community" ( Schilstra, 1998: 13). "By interacting with each other, the three sets of actors establish rules which govern the workplace and the work community" (Ramaswamy, 2000:94). These rules may take a variety forms, ranging from decrees to customs and practices. Whatever form, the rules define actors' status and govern their behavior. "The actors however not free agents- their interactions are influenced by forces in the environment" (Ramaswamy, 2000:94). The environment is comprised of three interrelated contexts: the technology, the market or budgetary constraints, and the power relations and statues of the actors (Schilstra, 1998: 13). The

actors can resolve conflict by framing appropriate rules thanks to shared ideology among the actors (Ramaswamy, 2000:94).

It is needed to change some framework of the theory to analyze the situation of discussion on industrial relations of civil servants in South Korea. At first, the government acts as not only governmental agencies but also more importantly as an employer. In this case the role of the governmental agencies which are concerned with the relationship between workers and their organizations in the private sector may be minor or constricted. However, the role of the governmental agencies as employer is expected to be broader and decisive. The government as an employer is easily expected to resist civil servants to organize trade unions, not act as a neutral agency, even though there are some exceptional cases such as the government of UK encouraged civil servants to join trade unions and participate in their activity from 1919 to 1979 (Winchester and Bach, 1999). But, the methods of the resistance should be examined in the Korean context.

Secondly, the environment of political, economic and social and international environment is more important to affect a new form of rules on industrial relations of civil servants in South Korea than Dunlop's environment such as the technology, the market or budgetary constraints.

It is also needed to set up what the shared ideology between the actors in the process of rule making for labor rights of civil servants in South Korea. According to the reports of meetings at the Subcommittee on Labor Rights of Civil Servants, the actors appear to share some values of maximization of labor rights and minimization of damages of public services.

In this context, this study is to examine the characteristics and the position of main actors, which take part in the discussion on labor rights of civil servants. The government, Association of Korea Civil Servants, Federation of Korean Trade Unions and Korea Confederation of Trade Unions consist of major actors. It will try to look at the main institution to deal with this issue called as the Tripartite Commission.

The environment can support or constrain the positions of actors. The important aspects of the environment on labor rights of civil servants in South Korea are showed in the table 2.3).

**Table 2.3) The Environment on Labor Rights of Civil Servants in South Korea**

<b>Environment</b>	<b>Aspects</b>
Political environment	The Social Compromise in 1998 Presidential election in 2002
Economic environment	GDP growth rate, financial stability
Social environment	Public opinion on labor rights of civil servant
International environment	The positions of ILO , OECD and WTO

### **2.3 Views on Industrial Relations**

To enhance insight towards the recent debates on labor rights of civil servants in South Korea, it is useful to explore how the government and civil servant think of the industrial relation of government organization. There are three major views on the nature of employment organization including government organization: the unitary, the pluralist and the radical frame of reference (Schilstra, 1998). This study relies on the unitary and pluralist approaches because the radical approach may not be suitable for analyzing the relationship between civil servants and the government.

#### Unitarism

The unitary perspective assumes that all actors have the same interest, and the result the organization is in basic harmony. Conflict is unnecessary in this view and only occurs in exceptional circumstances and is introduced from outside. The role of management in this view may range from authoritarian to paternalistic but the right to manage is not doubted. The organization is thought of as integrated group of people with a single authority and loyalty structure, with one common set of interests, objectives and values ( Schilstra, 1998).

As long as labor rights of civil servants are concerned, in the original conception of public services there was legally no room nor need for employes' collective rights. "Their

existence was excluded in principle by the very nature of the relationship whereby the employee is servant of the nation and subject to the sovereign authority of the state employer. This authority in turn represented or was identified with the public interest and did not allow any conflict of interest with the employees. Within this framework the protection of employee rights and working condition was guaranteed by the rules of impartiality and fairness which shapes all the initiatives of the public authorities also when acting as employers ”(Treu, 1994:3).

### Pluralism

The pluralist perspective assumes that the organization needs to be managed through a variety of roles, institutions and processes. After all, organizations comprise dynamic tensions between the interests of the various sectional groups. These tensions can be managed through cooperation, coalition, or through conflicts. Pluralism perceives the organization as multi- structured and competitive in terms of groupings, interests, objectives, leadership, authority and loyalty ( Schilstra, 1998).

This view acknowledges the possible existence of conflict of interests and the need for collective self- help under the formally harmonious relationship of civil servants (Treu, 1994:3).

## **2.4 Difference Between Public and Private Sector**

Industrial relations in public sector especially in government organization have different aspects from those in the private sector. The different aspects will be reflected to make a new rule on industrial relations of civil servants.

**Monopoly.** Most private companies operate in a competitive market. But the government is often monopolistic. “If the product is unavailable because of a labor dispute, there may be no substitute, and if its cost rises because of a new labor agreement, the public may be forced to bear the cost (Coleman, 1990: 10)

**Bargaining issues.** In the private sector, almost every significant term and conditions of employment is negotiable. But in the government organization, the scope of bargaining is invariably narrower because of the fact that almost working conditions of civil servants

are regulated by laws and budget ( Coleman, 1990: 9). For instance, the National Assembly of South Korea has an authority to enact laws and decide on national budget, so representatives of the government are not free to discuss almost every significant term and conditions of employment (The Constitution of Republic of Korea, 1987)

**Multilateral Bargaining.** Bargaining in the private sector is a bilateral process. The terms of the collective agreement are, in fact, decided at the bargaining table. But in the government organization, bargaining is frequently a multilateral process. The multilateral character of government organization bargaining stems largely from the way authority is divided and the role played by the public (Coleman, 1990: 9).

**The Strike.** The issue of civil servants right to strike is controversial in many countries and the limitation to the strike varies in different countries. For instance, in Japan and the United States, the law prohibits a strike, a slowdown, or any other act of dispute by civil servants against the national or federal government while the need of advance notice is a common requirement for strike action by civil servants in Italy, France, Belgium, the Netherlands and Greece (Treu, 1997). The emphasis is increasingly stressed whether the services provided by government organization are essential to the general welfare of the citizens, and work stoppages would adversely affect the delivery of these vital services and create disorders in the community (Holley & Jennings, 1997: 570).

**Sovereignty** Labor relations of civil servants are influenced by a consideration- so called sovereignty doctrine. This doctrine holds that because government is responsible for the interests of the entire society, it should not be forced to compromise its management rights or to share its power with special interest groups (Coleman, 1990: 9). In many countries the sovereignty concepts stimulated much of opposition that delayed unionization of civil servants and today provide an ideological basis for restricting the scope of collective bargaining and for denying civil servants right to strike (Coleman, 1990: 11-12). However, “the purity of this conception has been altered in many European countries with the recognition to civil servants in general of the basic rights to organize i.e. of the positive and negative freedom of association. This recognition acknowledges the possible existence of conflicts of interests” (Treu, 1997: 7).

## Chapter Three: The Industrial Relations of Civil Servants in South Korea

### **3.1 Legal Regulations on Industrial Relations for Civil Servants**

The Constitution guarantees the basic labor rights of all workers in Article 33 Paragraph 1 that "to enhance working conditions, workers have the right to independent association, collective bargaining and collective action". But the Constitution also states in Article 33 Paragraph 2 that, "Only those civil servants that are designated by Act, shall have the right to association, collective bargaining and collective action". The Constitution contains a reservation of the rights of civil servants with exceptions specified by other laws. In accordance with the Constitution, the State Civil Servants Act and the Local Civil Servants Act, contain specific provisions to prohibit unionization for all government employees with the exception of technical and employed workers who are engaged in actual labor.

The Article 66 (entitled prohibition of collective act) of the State Civil Servants Act stipulates in Paragraph 1 that:

"No civil servants shall do any collective act for any labor campaigns, or activities other than public services: provided, that those who are actually engaged in labor shall be excluded."

The Paragraph 2 requires the by-laws or statutes governing the work of various government offices to provide definition or specification of those "who are actually engaged in labor" by stipulating that "The scope of civil servants who are engaged in actual labor, as referred to in the proviso of paragraph (1), shall be determined by various regulations, such as the National Assembly Regulations, the Supreme Court Regulations, etc.

The Local Civil Servants Act Article 58 (entitled, Prohibition of Collective Action) Paragraph 1 also states, "No civil servants shall do any collective action for any labor campaign, or activities other than public services, except for those who are actually engaged in labor"

The next paragraph requires the local or municipal authorities to enact by-laws or statutes to determine the limit of civil servants that are actually engaged in labor. As a result of these regulations, currently only those civil servants that are technical or employed workers at National Hospitals, and the Ministry of Information and Communication are allowed to organize or join trade unions.

Meanwhile, teachers are guaranteed the basic labor rights as regular workers, including the right to organize trade unions and the right to bargain collectively to conclude contracts, by the Act on the Establishment and Operation of Teachers' Trade Unions. It contains the scope of guaranteeing teachers' unions, bargaining structure, and so on. On 6 January 1999, the Act passed the National Assembly, granting the right to organize unions from 1 July 1999 (Ministry of Labor, 1999).

And a special law for the formation of Civil Servants Workplace Associations was enacted in early 1998 for a pre-stage toward trade union for civil servants in accordance with the agreement of the 1<sup>st</sup> Tripartite Commission. The enforcement decree adopted to guide the implementation of the law – prepared by the Ministry of Government Administration and Home Affairs defines the scope of activities and rights of the Civil Servants Workplace Association (Ministry of Labor, 1999).

The Civil Servant Workplace Association is established and operated by the central governments and the local government. Civil servants below level 6<sup>2</sup> who are not in positions of supervisors are allowed to join the association. The association discusses the enhancement of work environment, the enhancement of work efficiency and grievances. The coverage to join the association is about 370 thousand civil servants out of about 884,000 total civil servants. The police, teachers and firefighters are not allowed to join

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<sup>2</sup> Civil servants in South Korea are usually clarified from level 1 to level 9. Civil servants at level 5 in the local government or local authority are in the position of directors, but those who work at the headquarters of central government are not in the position of directors.

the association and civil servants who work for personnel, budget and confidentiality are also prohibited to join the association (Act on Establishment and Operation of the Civil Servants' Workplace Association, 1998). The associations are established and operated now by total 250 government agencies within Ministries, local authorities and local governments in September 2001.

### **3.2 The Actors**

In the processes of making a new system on labor rights of civil servants, the representatives of the government, the Association of Korea Civil Servants, Federation of Korean Trade Unions and Employers Association are taking part in the Tripartite Commission. This chapter tries to introduce background information on the actors and the basic positions of the actors on the labor rights of civil servants.

#### **3.2.1 The Tripartite Commission**

**History.** The Tripartite Commission was launched on 15 January 1998 as a Presidential Advisory Body to fairly distribute the burdens and achievements of the process of overcoming the economic crisis and structural reform. The nature of the Tripartite Commission is a social consensus-building institution where top representatives of labor, management and government assemble and resolve major labor issues through dialogues (see Table 3.1).

Table 3.1) History of the Tripartite Commission

1997	December 26	President- elect Kim Dae Jung proposed the formation of a tripartite consultation mechanism to overcome the economic crisis.
1998	January 15	The 1 <sup>st</sup> Tripartite Commission was established.
	February 6	The Commission adopted the Social Agreement for Overcoming the Economic Crisis (90 agreed- upon items were adopted).
	March 28	The Regulations on Tripartite Commission Rules were enacted as the Presidential Decree No. 15746.
	June 3	The 2 <sup>nd</sup> Tripartite Commission was launched <ul style="list-style-type: none"> <li>• Teachers' right to organize trade unions</li> <li>• Restructuring of public sector</li> <li>• Reduction of working hours</li> </ul>
1999	May 24	The Act on Establishment and Operation of the Tripartite Commission (Legislation No. 5,990) was enacted and promulgated.
	September 1	The 3 <sup>rd</sup> Tripartite Commission was inaugurated.

Source: The Tripartite Commission , 2000

**The Structure.** The Tripartite Commission is composed of the Plenary Committee, the Standing Committee, the Special Committees, the Subcommittees, and secretariat. Plenary Committee deliberates on such issues as labor policies concerning employment and working conditions, principles and directions of public sector restructuring, improvement of institutions, public conceptions and practices that are related to labor-management relations, and measures to support projects that promote labor-management cooperation.

The President appoints up to 20 members. These include a Chairperson, a vice chairperson, and representatives from labor, management, the government, and the public interest. The members representing labor and management consist of heads of labor and

management organizations, while ministers of pertinent ministries are appointed as the members representing the government. Members representing the public interest are selected from experts in their fields. They represent such social groups as the academia, media, lawyers, women, civic organizations, etc.

Standing Committee deliberates on and makes adjustments to the agenda to be presented to the plenary session and handles matters entrusted by the Plenary Committee. Special Committee discusses issues that the Plenary or Standing Committees find hard to deal with, and agenda that are urgent in nature or subject to an in-depth discussion. There are four Special Committees each on public sector restructuring, financial sector restructuring, unfair labor practices, and working hour reducing. Each subcommittee reviews and makes adjustments to the agenda to be presented to the Standing Committee. In addition, each handles issues entrusted to them by the Standing Committee and supports the activities of the Standing Committee. Each Subcommittee carries out preliminary work for the Standing Committee sessions. In this process, it listens to opinions from pertinent government officials and outside experts, the opinions of experts and the public through workshops and open forums.

Secretariats support the operation of the Tripartite Commission and handle the administrative affairs of the Commission. The Administration Bureau and the Office of External Cooperation are in operation as subordinate organizations to the Secretariat. Expert Advisors up to 10 experts are appointed from the sectors related to labor, economic, and social policies to carry out specialized studies and research on the agenda for various sessions.

**The Current Issues.** The 3<sup>rd</sup> Tripartite Commission is discussing i) preparation of a new framework for labor-management relations of the 21st century, ii) concluding of a social agreement on employment, welfare and growth, iii) wage payment to full-time union officials, iv) reduction of working hours, and v) elimination of unfair labor practices. Although the representatives of labor, management and government discuss these issues, the big gaps of their positions make it difficult to reach agreements.

**Discussion on the Labor Rights of Civil Servants.** When it comes to discussions on the labor rights of civil servants, the Tripartite Commission established the Subcommittee on Labor Rights of Civil Servants in July 2001 to discuss labor rights of civil servants. The Subcommittee carries out preliminary works for the Standing Committee sessions. The Subcommittee has up to 15 members including a Chairperson, who is also the public interest member at the Standing Committee. Other members are composed of those recommended by labor and management circles, as well as section-chief-level officials from pertinent government ministries. Although the levels of the representatives are low, for example the representatives of the governments are level of director, it is an important stage to discuss and identify specific issues to be discussed at higher levels.

As of 16 October 2001, it has held 15 meetings, which discussed as follows:

- Relationship between administration reform and trade unions for civil servants
- The problems of the Civil Servants Workplace Association
- Systems of other countries on labor rights of civil servants
- Laws on labor rights of civil servants such as organization of the trade unions, the coverage of labor rights, collective bargaining structure and issues, disputes settlement etc( The Tripartite Commission,2001).

### **3.2.2 The Government**

There are various government agencies related to the labor rights of civil servants in South Korea (See Table 3.2). Although the representatives of the government agencies take part in the Subcommittee of the Tripartite Commission, they are reluctant to express the specific positions of the government on labor rights of civil servants (the Tripartite Commission, 2001). It is natural for the government to be reluctant to allow the labor rights of civil servants because the government is in position of an employer. At the same time, the government can not refuse to discuss these issues because the government agreed to guarantee the basic rights of civil servants in 1998 and if the government

refuses to discuss these issues, other issues to be discussed in the Tripartite Commission will be affected negatively.

Table 3.2) the government agencies related to labor rights of civil servants

Government agencies	Related Issues	Role of the Commission
Ministry of Government Administration and Home Affairs	Personnel policy in general (recruitment, wages, training, welfare of civil servants etc.)	Participation
Ministry of Planning and Budget	Government and public sector reform	No participation
Civil Service Commission	Formulate basic and general policy for personnel management	Participation
Ministry of Labor	Regulation of industrial relations	Participation

Source: Mission statement of the Ministries.

The positions of the government on the labor rights of civil servants can be found indirectly from some policy documents of the government agencies. Firstly, the government does not think that the total working conditions of civil servants are poorer than working conditions of workers in the private sector. The wages of civil servants are 88.4% of wages of workers who work at private companies, which employ more than 100 workers. If employment stability of civil servants is taken consideration, the working conditions of civil servants are not poorer than working conditions of workers in the public sector (Ministry of Planning & Budget, 2000). Secondly, the government is planning and implementing public sector reform such as creating a smaller, more efficient government, introducing performance based reward system, changing personnel policies etc (Ministry of Planning & Budget/ Civil Service Commission, 2001). Thirdly, the government faces difficulties in anticipating the impacts of trade unions for civil servants on providing public services and on labor movements of the private sector (the Tripartite Commission, 2001).

### **3.2.3 The Association of Korea Civil Servants**

As of September 2001, 250 Civil Servants Workplace Associations have been established among about 2,400 government agencies that can organize the Associations with a membership of about 15,400 civil servants out of a potential membership of 370 thousand civil servants (Association of Korea Civil Servants, 2001). Many civil servants expected the association to enhance their working condition, but the function is confined to discuss the enhancement of work environment, the enhancement of work efficiency and grievances, so it cannot discuss the pay, welfare and working conditions. The staff for the association recognized that the association is not enough to enhance their working conditions. They began to try to organize the trade union for civil servants. At first step, they established the Research Association for Enhancement of National Civil Servant Workplace Association in February 2000 and established a non-statutory national umbrella, the Association of Korea Civil Servants in March 2001 (Association of Korea Civil Servants, 2001).

Although the representative of the Association are taking part in the Subcommittee on Labor Rights of Civil Servants in the Tripartite Commission, the Association does not expect the Tripartite Commission to produce a substantial agreement on the labor right of civil servants. It thinks that demonstration of power and will of civil servants is more important to guarantee the labor rights of civil servants (Association of Korea Civil Servants, 2001). In this perspective, the Association tries to enlarge the number of the Civil Servants Workplace Association and to do the Movements of Getting Signature of 900,000 Civil Servants for labor rights of civil servants and reform of the government since September 2001. As of 19 October 2001, signatures of 18,930 civil servants was collected (Association of Korea Civil Servants, 2001). Secondly, it will organize a rally of civil servants and their families which will be held on 4 November 2001 and are aimed at showing the will and power of civil servants and getting attentions of the public. The Association also decided to organize a non-statutory trade unions for civil servants in March next year to increase pressure on the government.

### **3.2.4 Trade Unions at the National Level**

Korean trade unions are represented on three levels: trade unions at the enterprise level, at industrial level and at national level. Enterprise union leaders are directly elected by the members and bargain collectively with their employer. The consequence of the enterprise union structure is that collective bargaining issues tend to be firm specific and regional council and industrial federations have only the rights to consult and discuss (Park Young- bum and Chris Leggett, 1998).

There are 45 industrial level organizations and 2 national level labor umbrella organizations. As of the end of August 1999, the FKTU (Federation of Korean Trade Unions) has 1,001,100 members in its 3,487 trade unions under 26 industrial federations, while the KCTU (Korea Confederation of Trade Unions), which has been legalized on 22 November 1999 after meeting all requirements, has 532,000 members in its 1,205 trade unions under 19 industrial federations as of April 1999 (Ministry of Labor, 1999).

Trade unions steadily expanded their organizations during the 1960s and 1970s when industrialization was in full swing, but they began to contract as Korea entered the 1980s. At the end of 1986, trade unions numbered about 2,700 with approximately 1,036,000 members. The number of trade unions tripled during the period from 1986 through 1989, but since then, the number of trade unions has been decreasing (Ministry of Labor, 1999).

The slight decline in union membership in the 1990s may be partly attributed to industrial restructuring. First, employment in mining and manufacturing, where unionization is usually strong, has been declining and many small firms in these sectors have collapsed. Consequently the number of unions fell, but the union presence is strong in large companies (Park Young- bum and Chris Leggett, 1998).

It appears that FKTU and KTCU have recognized the importance of the trade unions for civil servants as a vibrant component of its membership. For instance, the Teachers' Trade Union consists of about 12% of membership of KTCU. Which national umbrella

the future trade unions of civil servants will affiliate has a significant impact on their membership and power relations.

FKTU and KTCU are taking a pivotal role in supporting movements for trade unions for civil servants. FKTU is taking part in the Subcommittee on Labor Rights of Civil Servants and presenting its positions, and supporting the positions of the Association of Korea Civil Servants even though the positions on trade unions for civil servants are slightly different from each other<sup>3</sup>. KTCU has also taken important roles in setting up the agenda of labor right of civil servants in the Tripartite Commission. Guaranteeing labor rights of civil servants was one of three core activities of KTCU in 2000. The two other core activities were reduction of working hours and protection of irregular workers.

### **3.2.5 The Korea Employers Federation**

Korean employers are organized in several employers' associations, but the Korean Employers' Federation deals exclusively with labor matter. The KEF is a nationwide umbrella organization embracing 13 regional employers' associations, 20 economic and trade associations, and about 4,000 enterprises in the manufacturing, construction, transportation, banking and insurance sectors, and in certain service industries (KEF, 2001).

KEF is taking part in the Tripartite Commission as representatives of employers to advocate the positions of employers on labor issues. KEF is not actually in a position to represent the employers on labor rights of civil servants. The government is the employer of civil servants. However, the consequences of the negotiation on the trade unions for civil servants have substantial impacts on industrial relations in South Korea. When trade unions for civil servants are allowed to organize, the overall power of trade unions will

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<sup>3</sup> One of main differences is that KTCU has tried to introduce collective bargaining structure at the industrial level rather than at the enterprise level, so KTCU prefers trade unions for civil servants at the national level rather than at the Ministry level. However the Association of Korea Civil Servants prefers trade unions for civil servants based on Ministry level.

increase and the enhancement of working conditions of civil servants can give trade unions in the private sector a good reason to argue increase of wages in the private sector.

The positions of KEF on labor rights of civil servants are almost same with the positions of the government. The strategy of KEF is likely that it cooperates with the government and tries to minimize the impacts of trade unions for civil servants on industrial relations in the private sector(the Tripartite Commission, 2001).

### **3.3 Environment on Labor Rights of Civil Servants**

#### **3.3.1 Political Environment.**

The political environment on labor rights of civil servants can be evaluated by power relationship of the actors, and some political events that can affect the power relationship and the positions of the actors.

President Kim, the most influential actor to decide on the labor rights of civil servants, promised to allow civil servants to organize their trade unions when he was a presidential candidate in 1997. And the Tripartite Commission, which was established by the proposal of the President, agreed in 1998 to guarantee the basic rights of civil servants. Therefore, the President is not in a position to disagree explicitly on the trade union for civil servants.

The government takes part in the discussions on labor right of civil servants in the Tripartite Commission, but it is reluctant to express its positions on this issues. At the same time, it expresses a strong opposition on the establishment and activities of the non statutory Association of Korea Civil Servants. For instance, the police booked one of leaders of the Civil Servants Workplace Association, who addressed speeches in an assembly of the Association of Korea Civil Servants, for a breach of the Local Civil Servants Act which prohibits any collective action for labor campaign (Yonhapnews, 24 October 2001). The positions of the government can be summarized as follows:

- To take part in the discussions on the labor rights of civil servants to identify specific issues and prospects of trade unions for civil servants
- To crack down on illegal movement of civil servants to try to organize the trade unions
- To wait for political decision or agreement on the labor rights of civil servants

The Association of Korea Civil Servants has succeeded in getting supports of FKTU and KTCU but it has not succeeded in getting support and participation of civil servants and attention of mass media. As of September 2001, only 250 Civil Servants Workplace Associations have been established among about 2,400 government agencies that can organize the Association and about only 15,400 civil servants among about 370 thousand civil servants who can join the Association have joined the Association (Association of Korea Civil Servants, 2001). If the Association fails to get support of civil servants, it is very unlikely that the labor rights of civil servants will be guaranteed. The attention of mass media also depends on the level of support of civil servants.

Meanwhile, there will be presidential election in November 2002. Every candidate has to decide and express their position on labor rights of civil servants. It seems that every candidate will agree to guarantee the labor rights of civil servants, but they can have different opinions on the timing of the trade unions for civil servants and the scope of labor right to be allowed. It depends on level of support of civil servants and public opinion. In this context, it can be understood that the recent movements of the Association such as the campaign of Getting Signature of 900,000 Civil Servants, the organization of a rally of civil servants and their families, and the decision to organize a non-statutory trade unions for civil servants in March next year, are one of efforts to get support and attention of civil servants and public opinion (the Association of Civil Servants, 2001).

### **3.3.2 Economic environment**

The Korean economy has continued its downturn since the fourth quarter of 2000 mainly due to shrinking exports. The real GDP rose 3.7 percent in the first quarter of 2001 and 2.7 percent in the second quarter. These GDP growth rates are much lower than the 8.8 percent registered last year. Exports and imports decreased by 20.1 percent and 15.4 percent, respectively, in August, resulting in a trade surplus of US\$ 0.5 billion. In particular, exports of IT products dropped by 32.0% over the same period of time last year. Unemployment rate, however, did not worsen, as it stayed at 3.4 percent rate in August (Ministry of Finance & Economy, 2001)

The long-term economic prospects are not bright due to the recession of the world economy. According to the Korea Economic Research Institute (KERI), "The current sluggish economy requires more accommodating monetary and fiscal policies. Domestic demand needs further attention to prevent the Korean economy from lapsing into a prolonged downturn in the absence of rapid rebound of Korea's exports sparked by a rapid recovery in the U.S. and other advanced countries. If a prolonged downturn takes hold in Korea, a plethora of major and minor structural problems will surface and risk putting the Korean economy on the same slippery slope the Japanese economy stumbled onto more than ten years ago".(KERI, 2001)

This economic situation is likely to be a main obstacle to the approval of the labor rights of civil servants. For instance, the draft law on reduction of working hour was supposed to be laid before the National Assembly in September 2001, but it was postponed because of the terrorist attacks on the United States. It shows that how vulnerable the basic labor right to economic situation.

### **3.3.3 Social environment**

There are controversial debates on trade unions for civil servants in South Korea. People who agree on allowing trade unions for civil servants argue that it is basic right of civil

servants because civil servants are also workers. They also point out to the benefits when the trade unions for civil servants are allowed. First, the trade unions can contribute to reducing the corruption of the government through collective power of the trade unions. When there is no trade union for civil servants, they do not have capability to cure the problem even if they know the problem. Individuals can not challenge the systematic corruption practices. The second benefit is that trade unions can reduce the inefficiency, wrong practice of administration and waste of budget. When there is no trade unions for civil servants, the latter have to keep doing wrong practices, but when there are trade unions for civil servants they can point out wrong system and practices, and they can propose some alternatives. The argument is that collective voice is likely to be heard and trade unions for civil servants can contribute to enhancing their working condition, democracy and efficiency of administration and quality of public service (Hankookilbo, 2001).

There are also negative opinions on trade unions for civil servants in South Korea. They argue that countries with trade unions for civil servants are mostly advanced countries, so it is very difficult to allow trade union for civil servants because South Korea faces economic difficulties. When the trade unions for civil servants demand wages increase, it will be a big burden for government budget and it will be some signals to private sector. In other words, if the wages of civil servants go up, workers in private sector will also demand the increase of wages. It will affect negatively the national economy (Hankookilbo, 2001).

If trade unions for civil servants are organized, it is very likely that the trade unions for civil servants will connect with trade unions in the private sector such as the militant Korean Confederation of Trade Union. The public policies will be affected by trade unions (Nam Sung Il, 2001). The government reform policy can also be affected by the trade unions for civil servants. Such trade unions can not agree to the government reform policies that try to reduce the number of civil servants and privatize functions of government. They also argue that the government organization can be changed from an administration organization to a huge political power group. The trade unions for civil

servants can have different opinions on some issues with the administration but they can agree to strengthen government power and enlarge government organization (Nam Sung II, 2001).

The other important obstacle for the trade unions for civil servants is that many people think civil servants as rulers or suppressors of freedom of citizen, not as workers who are in poor working conditions. People think that civil servants get enough money to live from wages and bribes. In other words, people know that the wages of low grades of civil servants are very low to live, but they think that many civil servants are supplementing their low wages with bribes. People also have bad images on civil servants that civil servants provide poor and unfriendly services. That is why it is difficult for civil servants to get real support from people on the issues of trade unions for civil servants. People can agree on the issue, but it is unlikely that civil servants will get real support from people.

### **3.3.4 International Environment (ILO, OECD and WTO)**

#### **International Labor Organization (ILO)**

The International Labor Organization, whose members are composed of members of representing labor, management and governments, was established in 1919 to seek the promotion of social justice and internationally recognized human and labor rights. The ILO formulates international labor standards in the form of Conventions and Recommendations setting minimum standards of basic labor rights (ILO, 2000).

ILO convention No 87 “ Freedom of Association and Protection of the Right to Organize Convention”, the right to organize is to be granted to workers and employers, without distinction whatsoever (Article 2). Only the armed forces and the police may be exempted by national laws or regulations (Article 9). And the other convention “The Labor Relations (Public Service) Convention” (No. 151), has provisions on the right of civil servants to organize trade unions. According to the convention, high-level

employees whose functions are policy-making or managerial or which duties are of a highly confidential nature is determined by national law (ILO, 2000)

As long as freedom of association is concerned, the Korean government received a lot of pressure from the ILO through the mechanisms as follows:

- The Annual Review and the Global Report: the Korean government has not ratified the ILO fundamental conventions No. 87 and 98, so it has to submit annual report to ILO and expect domestic labor laws to be included in the Global Report every four years.
- Committee on Freedom of Association is a supervisory mechanism to examine complaints from governments, workers' and employers' organizations that member States of the ILO are not respecting basic principles of freedom of association. The Committee has recommended the Korean government to take steps to recognize, as soon as possible, the rights to establish and join trade union organization for civil servants.

### **Organization for Economic Cooperation and Development (OECD)**

Korea became the 29<sup>th</sup> member of the OECD in 1996. Since January 1997, the OECD's monitoring procedure of labor law reform in Korea was established twice every year to review on progress of reform of its legislation in line with internationally accepted standards, including basic rights as freedom of association and collective bargaining (Trade Union Advisory Committee to the OECD, 2000). In April 2000, the OECD decided to continue the monitoring procedure of labor law reform in Korea in 18 month because it admitted the progress of labor law reform in Korea but at the same time it recognized that more labor law reform should be done (Ministry of Labor, 2000).

Table 3.3) Main Issues on Labor Law Reform in ILO and OECD in 2001

The Korean labor law	The recommendations of ILO and OECD
Prohibition on labor rights of civil servants	To recognize, as soon as possible, the rights to establish and join trade union for civil servants
Broad definition of essential public service	To define essential public services narrowly for guarantying worker' rights of industrial action
The payment of full time trade union officials	Trade unions and employers have to decide this issue
Delay of plural trade union at enterprise level	To introduce necessary matters for establishing bargaining channels of plural trade unions

### **World Trade Organization (WTO)**

The WTO might be the strongest pressure on the government to allow trade unions for civil servants if the representatives of the 4<sup>th</sup> Ministerial Meeting in Doha in November 2001 agreed to talk about labor standard issues at a new round. Because it is expected that the final aim of the talks on labor issues is to impose trade sanctions on the countries that violate the international labor standards. However, the 4<sup>th</sup> Ministerial Meeting did not any progress on the labor issues<sup>4</sup> to enhance the possibility of reach an agreement to launch a new round because the representatives are aware of the fact that the labor issues were one of major reasons of the failure of the 3<sup>rd</sup> WTO Ministerial Meeting in Seattle in November 1999. Therefore, the importance of WTO as international pressure was reduced substantially.

### **Conclusion**

Both ILO and OECD recommend the Korean government to recognize labor rights of civil servants to organize their trade unions. The recommendations are expected to be used by the actors who insist the labor rights of civil servants in the process of the negotiation.

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<sup>4</sup> The 4<sup>th</sup> WTO Ministerial Declaration on labor issues: " 8. We reaffirm our declaration made at the Singapore Ministerial Conference regarding internationally recognized core labor standards. We take note of work under way in the International Labor Organization (ILO) on the social dimension of globalization."

## Chapter Four: Analysis of Other Countries' Systems

### **4.1 Introduction**

“It has been argued that international differences in industrial relations can best be explained not by variations in social and economic structure, but rather by historical divergences in institutional development resulting from the strategies and organization of trade unions, employers and the state” (Bean, 1994: 4). However, “the comparative approach can lead to greater insight into domestic issues by contrasting its industrial relations institutions and practices with those of other countries” (Bean, 1994: 5). The comparative analysis is also helpful to give country options of choice, when the country tries to introduce new industrial relations system.

This study examines public sector industrial relations of four countries such as UK, Japan, the Netherlands and the United States. It is important to understand the industrial relation systems in the public sector of these countries because in the process of discussions on labor rights of civil servants in South Korea, the industrial relations systems of these countries are often discussed.

### **4.2 UK**

#### **4.2.1 Overall Review**

The fundamental characteristic of labor rights of civil servants in UK is that there is no formal legal distinction between those and private labor rights (Honeyball, 1997). For that reason it is difficult to settle on a core meaning of what constitutes the public sector or civil servants. However in this paper, civil servants means “those who work at agencies which are funded directly from the public purse by way of central or local taxation. This excludes the nationalized industries and other public corporations” (Honeyball 1997).

From 1945 until the early 1980s, public sector employment increased continuously and it reached more than 7 million employees, nearly 30 percent of the employed labor force because major fuel, power and transport industries were nationalized and the reform of health, education and social security provision established the basis of a substantial welfare state. Since then it has declined to just over 5 million employees, or 20 percent of the workforce (Winchester and Bach, 1999:22). “The declining size and scope of public sector employment result from the policies of Conservative governments in office continuously from 1979 to 1997. Almost all the nationalized industries were privatized and many public service functions were sub-contracted to private firms. These changes were shaped by a strong ideological commitment to strengthen management authority and reduce the power of trade unions, not least through the creation of competitive and market relations” (Winchester and Bach, 1999:22).

As a result of the government policies, trade union density in the public sector has been on a significant downward trend from 92% in 1984 to 61% in 1997. However, this is a significantly higher proportion than in the private sector where, for example, trade union density is only 20% (Winchester and Bach, 1999:40). The radicalism, which has characterized in past years the attitude of public service unions, has been seriously challenged.

#### **4.2.2 The right to organize**

**Trade Union Membership** After the Labor government in 1946 revised labor laws, the civil servants were allowed to organize trade unions. In other words, industrial relations of civil servants also were applied to labor law. To join the trade unions or not depends on individual's choice. There are few legal obstacles to trade union organization and representation for most civil servants. The main exception to joining trade unions focused on the police, the armed forces and governmental communications headquarters (GCHQ). Following extensive union organization and a strike in London, the Police Act of 1919 prohibited trade union membership but introduced an alternative channel of collective representation through the Police Federation. In the amended legislation of 1964, membership of the Federation was made compulsory and the Federation acts as a

powerful pressure group for the welfare and efficiency of its members. In contrast, whilst members of the armed forces are not prohibited from joining a trade union, very few do so, as there is no form of collective representation, nor the right to strike (Winchester and Bach, 1999: 36). The government in 1984 denied union membership rights to governmental communications headquarters (GCHQ) justifying it with national security considerations (Treu, 1997: 8).

**The Structure of the Trade Unions** Civil servants are organized in various trade unions mainly based on grade rather than on Ministry or local government agencies. Five unions represented the separate interests of manual workers, clerical staff, middle-ranking executive officers, professional and scientific staff, and a small elite group of senior staff. Each of the unions participated in a council to discuss general issues (Winchester and Bach, 1999:37). Public service trade unionism has been rooted in centralized and bureaucratic organization, reflecting the national structures of collective bargaining. However, all public service unions have implemented some changes in organization and services in response to the government police of market testing, some privatization and devolved collective bargaining (Winchester and Bach, 1999:37).

#### **4.2.3 The right to collective bargaining.**

Collective bargaining in UK has been the most important method of determining the public services' pay and conditions of employment, and regulation the relationship between employers and trade union (Winchester and Bach, 1999:40). The right to collective bargaining is allowed by voluntary system, not guaranteed positively by laws.

**Collective Bargaining Structure** From the mid- 1950s until the late 1980s, the civil service had a highly centralized structure of collective bargaining and the process for determining pay levels and increases based on the principle of fair comparison with the current remuneration of outside staffs employed in broadly comparable work (David Winchester and Stephen Bach, 1999:44,45). The Conservative government launched the reform polices to erode the principle of fair comparison and replace it with the criterion of affordability. Furthermore, the government enacted the Civil Service Act of 1992,

which enabled the Treasury to delegate its responsibility for negotiation and conditions to individual departments and executive agencies. Each agency or departmental unit would be expected to develop its own grading, appraisal, promotion, training and performance related pay schemes (Winchester and Bach, 1999:44,45)

**Issues of Collect Bargaining** The borderline of the issues of collective bargaining is not clear, but UK is one of countries which have recognized collective bargaining under the most liberal conditions (Treu, 1997).

**Effect of Collective Bargaining** Agreements which imply expenditure for the state budget can be implemented only after approval of the competent public bodies. This condition is indirectly applicable to almost any settlement, since there are always monetary implications (Treu, 1997). Therefore agreements don't have legal binding power in many cases. The agreement is considered as a gentleman's agreement and it is applied to the industrial relations for civil servants. People want to guarantee the independent enforcement with background of parties' power rather than to get legal interference caused by legal enforcement power (Kim Sung Hoon, 2001).

#### **4.2.4 The right to collective action.**

**Legal Provisions** There are no special legal provisions to prohibit collective action for trade union for civil servants (Honeyball, 1994: 235). An unprecedented wave of industrial conflict spread throughout the public services in the 1970s and early 1980s because of high level of inflation and government income policies (Winchester and Bach, 1999: 51). To reduce the collective action in the public sector, the Conservative government has strengthened the regulations against industrial actions that covered both the private and public sector: compulsory secret ballot before starting strike, the wider definition of unlawful political disputes, and the increasing liability of union officials and vulnerability of union funds to employers' litigation.

**The Impact** The government measures contributed, to some extent, to reduce industrial conflict in the public sector from average 1,271 strikes each year in 1980s to average 307 in 1990 (Winchester and Bach, 1999:51). However, public service disputes

still contribute significantly to the overall patterns of strikes in UK. Most disputes were a response to the restructuring of employment relations – for example, market testing, job losses and the imposition of new contracts affecting workloads and hours of work. There is also considerable survey evidence of an increase in other, less organized, expressions of conflict: high absence rate, low morale and high rates of labor turnover (Winchester and Bach, 1999:51-52)

### **4.3 The Netherlands**

#### **4.3.1 Overall Review**

There is no national regulation that covers all main aspects of the law regarding Dutch civil servants. Civil Service Statute only lays the basis for public authorities to formulate material norms. The material norms are laid down in Orders in council for civil servants of the central governments and in bye- laws affecting civil servants of other public authorities. So there are nearly as many civil service laws as there are public authorities, but the Orders in Council and bye- laws are in many respects similar to each other (VOS, 1997: 179).

Dutch civil service law is changing because of the government's policy of reducing the number of differences with the civil labor law. The policy of the Department of Interior, which is in charge of the industrial relations of civil servants, is aimed at a normalization of the terms of employment between the government and private sectors. Its view is that the government is not such a special employer and those civil servants are not such special employees ( VOS, 1997: 180).

#### **4.3.2 The right to organize**

**Trade Union Membership** All Dutch civil servants, including all military personnel, can join a union of their choice ( VOS, 1997: 184).

**The Structure of Trade Unions** There are a large number of trade unions for civil servants, three major ones and a considerable number of smaller and very small unions. These unions are organized in four civil service union federations and these federations may send representatives to the commission where the negotiations over the terms of employment are conducted ( VOS, 1997: 180).

### **4.3.3 The right to collective bargain**

The present right to collective bargain was introduced in 1954. In 1993 a new sectoral system of collective bargaining went into force (VOS, 1997: 180).

**The Structure of Collective Bargaining** Before the sectoral system of collective bargaining, the structure of collective bargaining was highly centralized, the negotiations on the most important terms of employment took place in the Central Commission between the minister of the interior and representatives of the civil service union congress. The outcome of these negotiations was binding for all 700,000 civil servants as well as for all public employers (VOS, 1997: 181).

Under the new system, the structure of the collective bargaining became decentralized. One Central Council for collective bargaining in civil service matters deals with a few matters for all civil servants and eight sectoral councils ( VOS, 1997: 181).

“These sectoral councils were established for the following sectors:

- Central government (116,700 persons- full time equivalents- not including the Defense sector)
- Municipalities (212,200 persons)
- Provinces (14,000 persons)
- Water control corporations (7,800 persons)
- Defense (121,000 persons civil and military personnel)
- Police (40,000 persons)
- Education (346,800 persons- full time equivalents)
- Judiciary (2,000 persons)” (VOS, 1997: 181).

**Issues of Collective Bargaining** The issues of the collective bargaining are relatively broader and the issues are discussed separately in the Central Commission and sectoral commissions. The Central Commission negotiates only a few matters: pensions, the statute regarding early retirement and the disability benefits for civil servants. All other matters fall within scope of the sectoral commissions, such as the increase in pay, unemployment benefits, the legal regulations on the civil servants within the sector etc (VOS, 1997: 181).

**Effect of Collective Bargaining** Collective agreement do not have binding effects on the interested civil servants (Treu, 1997: 16). They must be approved by the parliament. In other words, parliament can reject an agreement a minister has reached with the unions. In theory this can lead to conflicting legal obligations on a minister. He is faced with a problem if parliament rejects an agreement. It is important to keep a good working relationship between the parliament and ministers to prevent this possible tension (VOS, 1997: 182)..

#### **4.3.4 The right to collective action**

**Legal Provisions** In principle civil servants have the right to strike according to the ruling of the Central Appeal Courts in 1982 and 1983. The courts derived this right to strike from the general principles of law (P.L. DE VOS, 1997: 182). The right to collective action is a right of all civil servants. However, some groups are limited on the type of collective action they can take. For example, the police have no right to strike according to the case law. The case law has developed some other test to decide if a strike is legal. In the first place **the aim** of the strike is tested. Political strikes are not acceptable. The general legislation, which is the object of the strike, must have some bearing on the terms of employment for the strike to be legal. In the second place the collective actions are only allowed **after a breakdown in the negotiations**. In the third place the court will do **an aim- means test**. Two aspects can be distinguished: a) damage to the public interest b) damage to third parties. If the strike leads to unproportional damage to the public interests or a third party, it is illegal (P.L. DE VOS, 1997: 189).

## **4.4 Japan**

### **4.4.1 Overall Review**

The National Civil Service Law or the Local Civil Service Law regulates Labor relations of civil servants. The Civil Service Laws control salaries, hours and other working conditions for civil servants. The Diet, representing the nation's taxpayers, determines their salary scales, benefits and working hours. More specific working conditions are established under a legal mandate by the regulations of the National Personnel Authority (Hiroya Nakakubo, 1997: 165).

### **4.4.2 The right to organize**

**Trade Union Membership** Civil servants have the right to organize under Article 28 of the Constitution. However, their unions are called "employees organization" under the National Civil Service Law, and are distinguished from trade unions in the private sector. Nevertheless, such organizations are no different from trade unions in that they are the employees' self organizing body for the purpose of maintaining and improving their employment conditions (Hiroya Nakakubo, 1997). Meanwhile, police, fire, maritime safety, correctional facilities and Self Defense Forces personnel are prohibited from organizing trade unions. Violators are subject to criminal punishment (Hiroya Nakakubo, 1997: 171-172).

**The Structure of Trade Unions** Trade unions for national civil servants are organized by divisions relating to the various ministries and agencies and they form nationwide unions. The trade unions for local civil servants are established within the municipality or prefecture. The local government trade unions usually belong to a national organization corresponding to the category of the service involved (Hiroya Nakakubo, 1997: 168-169).

#### **4.4.3 Right to bargain**

**Structure of Collective Bargaining** An employees' organization of civil servants may engage in collective bargaining, representing its own members, with the department or division of the government which is in charge of the subject matter. The right of civil servants to bargain collectively is rather eviscerated, however, by the principle that law should determine their labor condition. The parties cannot change the conditions prescribed by law or by the National Personnel Authority regulations and their collective bargaining has no direct influence on recommendations made by the National Personnel Authority, although this does not necessarily mean that collective bargaining is not well- practiced (Hiroya Nakakubo, 1997).

**Issues of Collective Bargaining** The authorities and a registered employees' organization bargain over salaries, hours, and other working conditions of the employees, and incidentally concerning their mutual welfare and other lawful activities. However, the parties cannot change the conditions prescribed by law or by the National Personnel Authority regulations. Matters affecting the management and operation of the government are also excluded from collective bargaining(Hiroya Nakakubo, 1997: 173).

**Effect of Collective Bargaining** Any agreement reached by the authorities and the employees' organization, whether it is written or not, is legally unbinding but give rise to moral responsibility only. The agreement cannot supersede laws, ordinances, and regulations. A court upheld such a denial of binding collective contracts as constitutional, holding that the right to bargain of the civil servants was a matter of legislative discretion (Hiroya Nakakubo, 1997: 174).

#### **4.4.4 Right to Strike**

**Legal Provisions** The National Civil Service Law, in Article 98(2), prohibits a strike, a slowdown, or any other act of dispute against the national government. Attempting, conspiring to effect, instigating, or inciting such an action is also prohibited. Violators are subject to criminal offence, to dismissal or to disciplinary measures (Hiroya Nakakubo, 1997).

### **The Impact**

The sweeping prohibition does not guarantee no industrial action. For instance, in 1990, when the total number of labor conflicts involving acts of dispute was 1,698, 990 of them occurred in the civil service. Characteristic of all of the industrial action in the civil service were short strikes lasting for less than half a day. However, in line with the decline of industrial actions in Japan generally, strikes have dropped markedly in the public sector in recent years (Hiroya Nakakubo, 1997: 170).

## **4.5 The United States**

### **4.5.1 Overall review**

Industrial relations in the public sector in the United States are various and decentralized due to the characteristics of the system of federation. Federal laws, state laws and municipal laws rule the labor relations in the public sector. The contents of the laws are different each other. I would like to focus on the federal sector labor relations in order to avoid complexities.

Federal sector labor relations are governed by the Civil Service Reform Act (CSRA), which was passed in 1978. It regulates industrial relations but also merit system principles, civil service functions, performance appraisal, adverse actions, staffing, merit pay, and senior executive services (W.H. Holley, K.M. Jennings, 1997: 557).

### **4.5.2 The right to organize**

#### **Trade Union Membership**

According to the law, federal employees have the right to form, join, or assist a trade union of their choice or not to do such acts (Coleman, 1990: 64). There are no special provisions to prohibit certain positions from organizing trade unions. However, certain positions are generally excluded from the bargaining unit, such as confidential employees, management and supervisory personnel, personnel employees, and professionals (Holley & Jennings, 1997: 559).

### **The Structure of Trade Unions**

The form of trade unions for civil servants are very complicated and various. There are trade unions that only consist of civil servants, while others have a mixed membership with workers in the private sector. Some trade unions for civil servants are organized based on ministries or agencies, others are organized by specific occupation or professional. The trade unions for civil servants may join national levels confederations such as AFL- CIO.

### **4.5.3 The right to collective bargaining**

#### **The Structure of Collective Bargaining**

The appropriate bargaining units for exclusive recognition may be established on an agency, plant, installation, function, or other basis in order to assure a clear and identifiable community of interests among employees and to promote effective dealings with efficiency of the agency operations. The criteria used for determining community of interests are similar to those that have been used in the private sector. These include common duties and skills, similar working conditions, and common supervision and work site (Holley & Jennings, 1997: 558-559).

#### **Issues of Collective Bargaining**

There are three kinds of collective bargaining issues: mandatory subjects, permissible subjects and prohibited subjects. Mandatory subjects of collective bargaining means, such as certain personnel policies and practices and working conditions, to the extent that appropriate laws and regulations allow such negotiations (Holley & Jennings, 1997: 56). The permissible subjects means that the parties are allowed to bargain over subjects, but the Civil Service Reform Act does not require negotiation over permissible subjects- so one party can legally refuse to negotiate these issues. Permissible subjects include numbers, types, and grades of positions assigned to any organizational unit, work project, or tour of duty: technology of the workplace: and methods and means of performing the work. "Subjects prohibited from negotiations include wages and the following management rights:

- To determine the mission, budget, organization, number of employees, and internal security practices.
- To hire, assign, direct, lay off, and retain employees in accordance with applicable law.

- To suspend, remove, reduce in grade or pay, or take other disciplinary action.
- To assign work, subcontract, and select employees for promotion from properly ranked and certified candidates and other appropriate sources.
- To take whatever actions may be necessary to carry out the agency mission during emergencies” (Holley & Jennings, 1997: 560).

Although the Civil Service Reform Act limits the negotiable subjects, the parties have ample opportunity to negotiate many issues. However, federal unions and management representatives do not have a totally free hand in negotiating these items, and either party may run the risk of committing an unfair labor practice by refusing to negotiate its mutual working conditions concerns in good faith. The fact that management and the unions are required to bargain in good faith means that the parties must intend to reach an agreement (Holley, Jennings, 1997: 560).

**Effect of Collective Bargaining** An agreement has a binding effect on both parties. An agency cannot enforce regulations that conflict with a negotiated agreement (Holley & Jennings, 1997: 558-559).

#### **4.5.4 The right to collective action**

**Legal Provisions** most strikes of civil servants are prohibited. The federal government bans all strikes of its own employees (Coleman, 1990). Exceptions to outright prohibitions, in case of the states governments, are twofold: either they are not mentioned in the statute, or the states allow strikes only under specific circumstances. Many states have sanctions varying from injunctions to dismissals, jail sentences, substantial fines, and loss of union recognition when a strike occurs. In state allowing a limited right to strike, certain employees, such as police, fire fighters, hospital employees, and correctional employees, are usually named as not being allowed to strike under any circumstances (Holley & Jennings, 1997: 550). Services of these employees are deemed to be critical to the health and safety of the citizens.

### **The Impact**

“The number of public employee work stoppages has grown with the spread of collective bargaining, and the trend remains upward. But strikes in government are shorter than private sector strikes” (Coleman, 1990: 235). The strikes seemed to occur whether they were lawful or not. Meanwhile, public sector strikes are concentrated at the local level. For example, in 1980, only one strike occurred in the government, while 223 strikes at the local governments (Coleman, 1990: 235-237).

### **4.6 Conclusions**

The industrial relations of civil servants in the four countries have different systems, which were mainly influenced by their own environmental context. However, it is useful to clarify the systems getting some insights in the process of discussing the labor rights of civil servants in South Korea.

Firstly, the government employee in the countries is also servant of the nation and subjects to the sovereign authority of the state- employer like that in South Korea. However, the countries have admitted the possible existence of conflict of interests and need for collective rights of civil servants. The compatibility of the collective right with the public nature of the government is now widely accepted in the world (Treu, 1997: 7). The discussion on industrial relations of civil servants in South Korea should be made on the basis of the comparability. Secondly, in terms of labor rights of civil servants, the countries guarantee almost same levels of labor rights even though forms and operations of the systems is different (See Table 8). The rights to organize and collective bargaining are broadly guaranteed but the rights to industrial actions is prohibited or restricted. Roughly speaking, it is a result of compromise between labor rights of civil servants and protection of public services.

Table 4.1) The Labor Rights of the Countries

Countries	Occupations	Right to Organize	Right to Collective Bargaining	Right to Collective Action
UK	General civil servants	Guaranteed	Guaranteed	Procedural obstacles
	The police	A form of association	Actually guaranteed	Prohibited
Netherlands	General civil servants	Guaranteed	Guaranteed	Aim-means tests by courts
	The police	Guaranteed	Guaranteed	Prohibited
Japan	General civil servants	Guaranteed	Guaranteed	Prohibited
	The police	Prohibited	Prohibited	Prohibited
U.S.A	The federal civil servants	Guaranteed	Guaranteed	Prohibited

Thirdly, the limitation to right to organize in the four countries are either non existent or restricted to specific cases and categories of employees: police, armed forces, judged, firefighters or managerial and confidential civil servants. When the actors in South Korea decide on restriction of some categories of civil servants from organizing or joining trade unions, it can be decided by negotiations. However, as long as general civil servants are concerned, it not reasonable to categorize civil servants based on their grades. No countries prohibit the right to organize on the basis of grade. Fourthly, in most cases collective agreements do not have binding effect and they must be approved or implemented by an act of the executive or the parliament (Treu, 1997). It is important for the government to keep good working relations with the parliament for negotiating properly and implementing an agreement because the laws and budget decide on most working conditions of civil servants in South Korea. Finally, the experiences of the four countries show that legal prohibition or limitation to collective action has not guaranteed any strikes. It depends on tendency of industrial action in the private sector, government policies such as privatization and income policy, organization rate and the relationship between the government and trade union. It is important to recognize the possible causes of strikes for preventing damages of public services.

## **Chapter Five: The Ideal Types of Trade Unions for Civil Servants**

### **5.1 Introduction**

The new systems of labor rights of civil servants result from interacting with each other actors. There is a conflict of interest between the actors (Ramaswamy, 2000: 94). The system of labor relation in government is also influenced by a complex set of forces in the environment (Coleman, 1990). In the process of negotiating a new system on industrial relations of civil servants, there are a lot of conflicts of interest between actors but there are also shared ideology: the compatibility between labor rights of civil servants and public services.

This chapter introduces the positions of the actors on the industrial relations of civil servants in the Tripartite Commission and suggests alternatives of the positions. This chapter is based on the reports of the Subcommittee on the Labor Rights of Civil Servants in the Tripartite Commission. It focuses on the positions of the government and the Association of Korea Civil Servants. If there is no clear position of them, it introduces the positions of Federation of Korean Trade Unions (FKTU) and the Korean Employer Federation (KEF).

### **5.2 The Right to Organize**

#### **5.2.1 Trade Union Membership**

There are different kinds of civil servants at the government agencies in terms of grade, occupation and service. The question is that who will be allowed to join trade unions for civil servants. FKTU argues that the civil servants of below grade 5 should be allowed to join the trade unions but the civil servants that are in managerial position can be excluded. All occupations of civil servants except for the military forces, the police, National Information Service members and secretariats should be allowed to join the trade unions. Its arguments are based on other countries' systems and ILO conventions.

Most countries allow civil servants to join trade unions no matter what the grade, occupation and service are. And according to ILO convention No. 87 and No.151, only the armed forces and the police may be exempted by national laws or regulations (Article 9 Convention 87), and high-level employees whose functions are policy-making or managerial or whose duties are of a highly confidential nature is determined by national law (Convention 151).

The position of the government on this issue is that civil servant below grade 6 can be allowed to join the trade unions and civil servants that are in managerial positions should be excluded. The job analysis is needed to decide which categories of civil servants should be allowed to join the trade unions. Its arguments are based on the fact that civil servants at grade 5 are very high level civil servants and working conditions of civil servants below 6 are in needed of improvement. To minimize the damage of public services, some categories of civil servants should be excluded to join the trade unions.

The position of the ILO on this is that the criteria to decide the membership of the trade unions should be based on the positions of civil servants, not the grades of civil servants (ILO Convention 151). The characteristics of occupation and service can be also taken into consideration based on job analysis.

### **5.2.2 The Structure of the Trade Unions**

The Association of Korea Civil Servants argues that in case of the state government, the trade unions for civil servants should be organized at the Ministry level and in case of the local government, the trade unions should be organized at the Municipal level. Its arguments are based on the fact that each Ministry has different internal rules on personnel and welfare of civil servants, so a trade union at each Ministry is needed to negotiate working conditions. When the trade unions at Ministry level are organized, umbrella unions at the national level should be organized to negotiate the common working conditions of all civil servants.

The government has not expressed its positions on the structure of the trade unions. The position of the Korea Employers Federation is that in case of the state government, the trade unions should be organized at the national level and in case of the local government, the trade union should be organized at the provincial level. The reason is that the laws regulate almost working conditions of civil servants, so to organize the trade unions at the each Ministry level is not efficient.

Since the working conditions of civil servants mainly depend on laws and budget, which regulate civil servants in a same manner, it is more efficient to organize trade unions at the national or provincial level. However, this system can limit the choice of civil servants and trade unions at the national or provincial level can not reflect the opinion of members fully because there are a lot of different type of occupation within government organizations. It is also difficult to negotiate specific issues of each agency or ministry.

It is reasonable to organize the trade unions at the national or provincial level to negotiate common working conditions and to use the Civil Servant Workplace Association to discuss the specific issues at the Ministry level.

### **5.3 The rights to collective bargaining**

#### **5.3.1 Issues of Collective Bargaining**

The Association of Korea Civil Servants argues that the issues of collective bargaining at the national level should include wages, working conditions and policies on civil servants and the issues of collective bargaining at the Ministries level should include grievances, personnel, welfare and other working conditions. The position of the government appears that the issues of collective bargaining should include wages and working conditions, but they can not include policies on civil servants because policy making is not object of collective bargaining and policies on civil servants can affect public services, so collective bargaining between the trade unions and the government should not decide policies on civil servants.

When the actors want to decide on negotiable subjects in collective bargaining, it is important to make negotiable issues clear. Otherwise labor disputes on procedure and method of collective bargaining are highly expected. For example, in case of Japan in 1967, wage problems constituted the central issue of disputes but there were many disputes over the procedures and method of collective bargaining. The negotiable and prohibited issues should be clearly described in laws and regulations. Negotiable issues can include (a) wages, and other benefits, working hours, rest periods, days of rest, and vacation, (b) promotion, demotion, transfer, dismissal, suspension, seniority, and disciplinary standards, (c) occupational safety and health, and civil servants' compensation, and (d) other matters regarding working conditions. The system of the United States can be an example to decide on subjects prohibited from negotiations (See page 43-44)

### **5.3.2 The Representatives of the Government**

The Association of Korea Civil Servants insists that the chief representative of the government should be Prime Minister because there are many government agencies related to working conditions of civil servants (See Table 3.2). Only Prime Minister can implement the agreements of collective bargaining. The Korea Employer Federation argues that the representatives of the government should consist of the representative of related Ministries such as Minister of Government Administration and Home Affairs, Minister of Commission of Civil Service and Minister of Planning & Budget.

It is reasonable for a minister of Ministry of Government Administration and Home Affairs to be a chief representative of the government because he or she is in charge of civil servants affairs. Representatives of other related ministries can take part in collective bargaining. Prime Minister as the chief representative can lead to increase of complexity and politicization of collective bargaining.

### 5.3.3 The Effects of Collective Bargaining

The government argues that it should guarantee the right of trade unions to collective bargaining, but it can not guarantee the right to conclude a collective bargaining agreement that binds both parties. Since the collective agreements includes various kinds of working conditions which should be decided by law and should be supported by budget, deciding law and budget is responsibility of the parliament. If the authorities and trade unions for civil servants can conclude a collective bargaining agreement that binds both parties, the relationships between the collective bargaining agreement and the authorities of the parliament can be controversy.

The Association of Korea Civil Servants insists that the rights to conclude a collective bargaining agreement should be allowed otherwise the implementation of the collective agreements can not be guaranteed.

“In most cases collective bargaining agreement, even though signed by the competent organization, do not have binding effect on the interested civil servants. They must first be approved and/or implemented by an act of the public authority- usually the executive, sometimes Parliament” (Treu, 1994: 16). In the United States, the parties can reach a collective bargaining agreement and the government approves it if it is legal. In Japan any agreement reached by the authorities and the employees’ organization, whether it is written or not, is legally unenforceable but gives rise to moral responsibility only.

Actually, laws and budget decide many bargaining issues. However, there are still many issues that can be decided within current laws and without changing current budget. So new system can allow the parties to reach an agreement that binds them. But if the agreement requires current laws, the government has an obligation to prepare a new law in accordance with the agreement. When the parliament approves the new law, the agreement will be in effect. If the parliament does not approves the new law, the clause within the agreement become ineffective. If some clauses of the agreement require a new budget, the government has to prepare the new budget proposal. After the parliament approve the new budget, the clause of the agreement will be effective. This system can be compatible between the right to collective bargaining and the authorities of the parliament.

It is important for the government to build the trust relationship with the trade unions for civil servants through enough communication. The government also has to try to keep good relationship with the parliament to prevent possible tensions between the government and the parliament (VOS, 1997).

#### **5.4 The right to Collective Action**

The position of the Association of Korea Civil Servants is that the right of general civil servants to strike should be allowed but the right of the police, prison officers and fire fighters to strike can be not allowed. The argument is based on the fact that the right to strike is a core component of labor right, so if the right to strike is not guaranteed, the trade union can not play an important role in improving working conditions of civil servants.

The government argues that the right to strike should not be allowed because public service strikes inflict damage on the public and interrupt essential services, which the government provides to the population. It also argues that it is very risky to allow right to strike at the first stage of the system of trade unions for civil servants.

Almost all countries prohibit civil servants from taking industrial actions because of the need to protect the users of the services (Treu, 1994). Industrial actions are seen as criminal offences or disciplinary offences. There are various forms of limitations specific to the strike action of civil servants. In Japan and the United States, the law prohibits a strike, a slowdown, or any other act of dispute by civil servants against the national or federal government. The need of advance notice is a common requirement for strike action by civil servants in Italy, France, Belgium, the Netherlands and Greece (Treu, 1997). In case of UK, the legal restrictions on strikes introduced by Conservative government – especially compulsory strikes ballots, the wider definition of unlawful political dispute, and the increasing liability of union officials and vulnerability of union funds to employer's litigation – covered both the private and public sector.

The question is which mechanism to limit the strikes actions should be adopted. At first stage of the system on labor rights of civil servants, the overall prohibition will be more reasonable because both parties are not familiar with industrial relations and the trade unions are likely to try to demonstrate their power. In the long run, procedural regulations and approach to keep balance between labor rights and disruption of public services should be introduced.

## **5.5 The Others**

### **5.5.1 The Timing of Guaranteeing the Labor Rights of Civil Servants**

The position of the Association of Korea Civil Servants is that the government should enact the law in 2001 which guarantees the labor rights of civil servants, because it is basic labor rights of workers including civil servants so there is no reason to delay the enactment. Otherwise it will organize a non- statutory trade union in March 2002.

The position of the government is likely, even though it has not expressed its position yet, that labor rights of civil servants can be guaranteed after the Korean economy recovers. It is very difficult for the government to allow the trade unions for civil servants in current recession because it is expected that the trade union will insist the enhancement of the working condition and it will also affect labor movement in the private sector.

It is important for the government to try to keep its promises at the Tripartite Commission in 1998, so the government should enact the law as soon as possible. If non statutory trade union is established, it will be likely to be militant in the process of demonstrating the power of the non statutory trade union and resisting the government's policy to crack down on the illegal labor movements. It is widely accepted that one of main causes of labor militancy in South Korea is political repression against organized labor (Ho Keun Song, 1999). At the same time it can also be expected that the civil servants may not unionize if the government delay the enactment of the law or crack down on the labor movement, but the fundamental problems will remain. Civil servants

may become demoralized, may perform at minimum levels, and may resist changes instituted by the government (Coleman, 1990: 87). But time is also needed to prepare for new system and to wait for economic recovery. An alternative is to enact laws in 2002 and to implement it from 2004.

### **5.5.2 The System of the Law**

The position of the government is that a special law should be enacted to regulate the industrial relations of civil servants because civil servants have different characteristics from workers in the private sector.

The position of the Association of Korea Civil Servants is that industrial relations of civil servants should be regulated by revising the Trade Union and Labor Relation Adjustment Act, because the government's intention to enact a special law is that it tries to restrict the labor rights of civil servants more.

In case of other countries, UK and the Netherlands have no special law to distinguish the labor rights of civil servants from the labor rights of civil workers. If they want to restrict specific rights such as right of strike, they regulate the restrictions in labor law. But Japan and the United States have special laws such as the Civil Service Law to regulate civil servants' labor rights.

The system of the law depends mainly on how much the labor right of civil servants will be guaranteed. If there are a lot of special treatments on industrial relations of civil servants, a special law will be efficient. If there are few special treatments on industrial relations of civil servants, the revision of the Trade Union and Labor Relation Adjustment Act will be more efficient.

## **5.6 Conclusions**

Some progresses have been made to introduce a new system on industrial relations of civil servants in South Korea. The discussion in the Tripartite Commission has been

moved into more specific areas and the almost actors has expressed their position on the labor rights of civil servants. However, the outcome of the process is not clear: when the labor rights of civil servants will be guaranteed and which forms of the new system will be introduced etc. The outcome of the process is likely to be influenced negatively by passive attitude of civil servants, passive position of the government, bad economic situation and low people's attentions. However, the process can receive momentum as a result of the upcoming presidential election next year and the supports of trade unions in the private sector and international organizations are also positive aspects for the outcome of the process. The interaction among the actors under the environments will decide the timing of the new systems and scope of the labor rights to be allowed. The process of the interaction is also important because it affects to establish or hurt trust relationship and the direction of the activities of the future trade unions.

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