

http://dosfan.lib.uic.edu/ERC/democracy/1993_hrp_report/93hrp_report_eap/Thailand.html (accessed Dec 4, 2017)

see the highlight on p. 9.



TITLE: THAILAND HUMAN RIGHTS PRACTICES, 1993

DATE: JANUARY 31, 1994

AUTHOR: U.S. DEPARTMENT OF STATE

THAILAND

Thailand is a democratically governed constitutional monarchy with a history of frequent military coups and powerful military-bureaucratic influence over political life. The King exerts strong informal influence on carefully selected issues.

Thailand's return to democratic government was solidified in 1993, as the popularly elected civilian government has revitalized the country's democratic institutions. After prodemocracy protests were violently suppressed by the military in May 1992, free and fair elections were held that September. The military leaders responsible for the crackdown were removed from their positions or demoted but have not been prosecuted, although many were removed from their positions or demoted. According to government and nongovernmental organization (NGO) sources, approximately 48 protesters are still listed as "missing." Prime Minister Chuan, a veteran legislator widely respected for his strong democratic beliefs, heads a five-party coalition that enjoys a 12-seat majority in the Parliament. He has committed his administration to extending the benefits of Thailand's rapid economic growth to all sections of the country.

The Thai security apparatus has wide-ranging legal powers, largely deriving from past militarily controlled administrations. The military has been supportive of the new democratic government. Nonetheless, military leaders continued to have an informal but influential role in internal politics, especially in areas outside the capital. There continued to be credible reports of summary executions and physical abuse of detainees by police officers, as well as infringements by security forces on the right of peaceful assembly. It is unusual for victims or their families to initiate legal action against the police or military, in part because convictions are

rare. Enforcement of a broad range of laws and regulations by police is noticeably lax.

A newly industrializing country with a free enterprise economic system, Thailand continued to enjoy remarkable economic growth, averaging greater than 8 percent annual growth for the past 5 years. The Thai political system generally provides strong protection for individual economic interests, including property rights. Although the industrial sector is still expanding rapidly, 65 percent of the population still lives in rural areas and depends on agriculture as the chief means of livelihood. There has been little progress in rectifying the gap between urban and rural incomes.

Under the Chuan administration, the Government commitment to human rights and civil liberties has become more pronounced. The Government expanded protection of the right to freedom of speech and assembly, increased the number of women in government, sought to reduce child labor and prostitution, and visibly supported human rights organizations operating in Thailand. Government control of the media relaxed somewhat and several new newspapers were established. Areas of human rights abuse in 1993 included instances of extrajudicial killing and abuse of criminal suspects by police along with government failure to prosecute offenders; legal and societal discrimination against women; violence (including trafficking for purposes of prostitution) against women and children, persistent widespread use of child labor, and selected restrictions on free speech and press.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

There is no credible evidence that criminal suspects are systematically or regularly targeted for violence. However, there continued to be credible reports by legal organizations, reputable nongovernmental organizations (NGO's), and the press that police summarily executed criminal suspects, particularly in areas outside the capital. Reliable NGO sources who have access to court records report that over 60 deaths occurred either during arrest or while in police custody in 1992. These figures represent only the 34 district courts (of a total 95) that reported their 1992 statistics. It is difficult to determine what percentage of police homicides were justified. NGO legal advocacy groups pursued legal action against the

police in approximately 15 percent of the cases in 1993. Official government statistics on the number of criminals and suspects killed by police in 1993 were unavailable.

For example, on August 7, five police officers from Ban Pong district, Ratchaburi province, were accused of killing a vegetable exporter who ran a traffic light. The Ministry of Interior (MOI) agreed to conduct an autopsy and initiate an investigation into the incident. Relatives of the vegetable vendor have retained an attorney to help track progress of the MOI investigation, which was still in progress at year's end.

Although in the past there have been reports that police killed detainees to keep them from reporting abuse to authorities, there were no such cases reported in 1993. However, police beat to death a demonstrator during protests against falling rice prices. (See Section 2.b.)

Convictions of police in summary execution cases are rare, as evidence is often lacking due to witnesses reportedly being intimidated or paid not to testify. The law allows personal suits against police officers for criminal actions taken while making an arrest. However, due to flaws in the legal process and ingrained cultural attitudes, victims or their families rarely file suits against the police. During the initial police inquiry, most police investigations routinely determine that no wrongful action was taken on the part of the police; judges generally follow the prosecutor's recommendations. In cases of police homicide, a blood relative of the deceased has the legal right to sue. If pursued by the family, the case is handled by the same office, in some instances by the same prosecutor, who has already ruled that no wrongful death occurred. Reliable law advocacy organizations know of four cases that were filed against the police for homicide in 1992. There is no information to determine how many cases are settled out of court, but in cases where suits are filed, the family of the deceased often receives compensation from the Government and the suit is dropped.

In August the Pattani United Liberation Organization (PULO) Muslim separatist group was blamed for an attack on a train that resulted in one death. In August and September a wave of violence erupted in southern Thailand, resulting in the deaths of several soldiers and one civilian. Muslims and particularly PULO were blamed for the violence, but as of September, the Government had not produced any evidence to link PULO to the violence.

b. Disappearance

There were no new cases of disappearance in 1993.

After months of debate, NGO's, the MOI, and police officials agreed on a list of approximately 48 "missing" protesters following the military's violent suppression of prodemocracy protesters in May 1992. Local investigations into their whereabouts continue, and many family members and NGO's suspect the majority are dead. An amnesty decree, reaffirmed in November 1992 by the new administration, effectively protects military leaders and protesters accused of criminal activities during the May events from criminal prosecution. In response to the decree, NGO's and the relatives of the missing filed a civil suit against three of the top military leaders involved in the May violence. At year's end, the court had postponed the preliminary hearing on the suit while it considered a petition by the plaintiffs that they be allowed to sue in forma pauperis.

Also in response to the May 1992 violence, legislation was passed in July requiring full Cabinet approval before military force can be used to quell civil disturbances. There was no progress in the cases of eight Cambodian criminal suspects who disappeared after being turned over to Thai police in April 1992. With the closure of all Cambodian displaced person camps earlier this year and the repatriation of all displaced Khmer to Cambodia, the Government appears to have dropped this case.

No instances of disappearance at the camps for displaced persons along the Thai borders were reported. On March 2, the MOI charged a police lieutenant colonel with the kidnaping in February 1990 of a Saudi Arabian businessman suspected of involvement in the 1989 murder of Saudi Arabian diplomats in Bangkok, but in September the charges were dropped. The businessman and two other Thai suspects have been missing since 1990 and family members believe they are dead. The families of the two Thai suspects claim that police repeatedly harassed the men and eventually detained them to try to elicit a confession. The police have no official record of arrests or release of any of the three involved, but all were last seen in police custody.

One lingering disappearance case that began in 1991, that of Labor Congress of Thailand (LCT) President Thanong Po-An, remained unresolved at year's end. The LCT continued to press the current administration to make a more serious attempt to locate Thanong. A government-appointed committee reported in August that it had no additional evidence to determine the fate of Thanong. It is widely believed that Thanong was kidnaped and killed because of his criticism of the military regime that

took over the country in February 1991.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although Thailand's Criminal Code forbids cruel, inhuman, or degrading treatment or punishment, there continued to be credible reports of police beatings of prisoners and criminal suspects. Security forces do not use systematic physical abuse or violence to target any particular group. However, criminal suspects regularly complain of police attempts to secure confessions or evidence through the use of torture such as electric shocks.

In general, access to prisoners is not restricted. The foreign prison population regularly receives visitors, and there are scheduled visiting times for both Thai and foreign prisoners. Solitary confinement is sometimes used to punish difficult prisoners.

Conditions in most prisons do not, in general, threaten the life or health of inmates. However, there have been continuing unsubstantiated reports of sporadic physical abuse of both Thai and foreign prisoners by prison guards in response to disciplinary problems. International observers have commented that conditions at the Suan Phlu immigration detention center are so bad as to constitute cruel and unusual punishment, noting extreme overcrowding and lack of medical care. Immigration detention facilities are not administered by the Department of Corrections and are not subject to many of the regulations found in the regular prison system, such as those mandating exercise and medical care or limiting length of detention. Detainees are therefore held for extended periods without being allowed to leave their cells or exercise and may be incarcerated for an indefinite period of time. Thai immigration law requires that prosecutors formally charge detainees in court within 91 days of their detainment. However, some detainees unable to put up bail or pay deportation costs, or detainees whose countries refuse to readmit them, can and have been held longer.

d. Arbitrary Arrest, Detention, or Exile

Thailand's Criminal and Penal Codes are based largely on Western European models. Except in cases of crimes in progress, arrest warrants are generally required. Specific charges must be brought against detainees within 48 hours, but police have the authority to extend the detention period to 7 days if required to complete an investigation. Detainees do not have the right to have their lawyers present during

questioning.

There is a functioning bail system, but it is also evident that judges have considerable discretion in determining eligibility for bail. In a recent prominent case of an alleged plot to assassinate the President of the Supreme Court, the presiding judge denied bail to two of four co-defendants, releasing the others (including the alleged mastermind) on bail. The only legal basis for detention without specific charges for long periods (up to 480 days) is the Anti-Communist Activities Act. No one has been detained under the act's provisions since 1984. Nevertheless, some detainees at the Suan Phlu immigration detention center reportedly have been held as long as a year. In response to the amnesty decree, all remaining detainees arrested during the May 1992 events were released from police custody and charges were dropped.

Of the approximately 50,000 inmates in Thailand, it is impossible to ascertain what percentage are pretrial detainees. Prison officials do not maintain statistics on sentencing and detention and pretrial detainees are not segregated from the general prison population.

e. Denial of Fair Public Trial

The Thai legal system provides for the presumption of innocence and access to courts or administrative bodies to seek redress. The civilian judicial system has three levels of courts: courts of first instance, courts of appeal, and the Supreme Court. A separate military court hears criminal and civil cases pertaining to military personnel as well as those brought during periods of martial law. Also, Islamic courts hear civil cases concerning members of the Muslim minority. A serious flaw in providing due process rights is the lack of appeal from decisions of a military court. Trials for misdemeanors are decided by a single judge, although two or more judges are required in more serious cases, in courts of first instance, and by a panel of judges at the appellate level. While most trials are public, the court may order a trial closed. This is most often done in cases touching on national security or the royal family.

Career civil service judges preside over the courts. Judicial appointments and structures are not subject to parliamentary review. Although generally regarded as independent, commentators frequently charge the judiciary with venality and complain of competition for preference among judges. In March a former Supreme Court judge filed a malfeasance suit against former Prime Minister Anand for failing to comply with a resolution concerning the reassignment of judges. The lawsuit

stemmed from Anand's 1992 effort to increase executive branch control over the Judicial Commission, which is responsible for assigning judges.

The widely publicized lese majeste trial against Sulak Siwarak began June 2 after his return from self-exile in December, 1992. The trial was open to the public and Sulak Siwarak remained free on bail during the court proceedings; the trial is expected to continue until mid-1994.

The trial continued in the lese majeste and secession case of four Shiite Muslims, who have been held in prison since their arrest in Pottanim in 1990. Suspects in other similar cases have been released on bail, but repeated attempts to secure bail for the four have been denied without justification.

The 10 officials of the former Chatchai government found to be "unusually wealthy" filed suit to recover assets seized by the former military junta, following a Supreme Court ruling that the decree under which the assets were seized was unconstitutional. In the wake of a subsequent lower court ruling in favor of one of the plaintiffs, the Government announced it would not appeal the order to return the seized assets. It also decided that as a result of the precedent set in this case, it would return the assets of all "unusually wealthy" politicians (minus any outstanding taxes owed) without waiting for the courts to rule on each case. At year's end, the assets of most of the 10 politicians had been returned.

Defendants tried in ordinary criminal courts enjoy a broad range of legal rights. Although they have no right to counsel during the investigative phase of their cases, detainees are granted access to a lawyer of their own choice before and during the trial. A government program provides free legal advice to the poor, but indigent defendants are not automatically provided with counsel at public expense. Most free legal aid comes from private groups, including the Thai Lawyers' Association and the Thai Women Lawyers' Association.

Well-informed legal sources estimate that there are at most 10 political prisoners in Thailand. Political affiliation and questionable evidence may influence the ability of the accused to receive a fair trial or fair punishment.

The trial of 2 members of the outlawed Communist Party of Thailand indicted in 1991 on charges of having joined in a 1982 plot to assassinate the Queen, the Prime Minister, and the army commander continued in 1993. Ex-Major General Manun Rupkhachon, accused of masterminding the plot, returned to Thailand in November 1992 to face similar charges and was

released on bail. Little progress was made in the case since his return; only two of 134 state witnesses have testified, and several others refused to appear in court. Attempts to speed up the judicial process were unsuccessful.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law requires that police possess a search warrant prior to entering a home without the owner's consent. However, search warrants are issued by the police with prior approval only from the MOI or provincial governor and are not subject to prior judicial review. There have been credible reports that officers sometimes endorse warrants in advance and then allow their noncommissioned subordinates to apply them as needed. The Anti-Communist Activities Act allows officials engaged in "Communist suppression operations" to conduct searches without warrants, but these powers rarely have been invoked in recent years and were not invoked in 1993.

Thai society is essentially an open one; membership in political organizations is voluntary and the unmonitored exchange of ideas is generally permitted. However, it is widely suspected that security services monitor persons espousing leftist or controversial views.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for, and Thai citizens generally enjoy, a substantial measure of freedom of speech, especially with regard to criticism of government personalities and policies. However, criticism of the royal family (*lese majeste*), threats to national security (or advocating a Communist system of government), or speaking in a manner likely to incite disturbances or insult religion are not permitted under the law.

The Government permits open criticism of its policies by both journalists and private citizens. Privately owned newspapers and periodicals practice some self-censorship especially with regard to the monarchy and national security issues. Strong criticism of political parties, personalities and the Government is common and quite robust. In the past, there were rare instances of journalists being killed in order to suppress, or retaliate for, their reporting; there were no such cases in 1993. In fact, journalists report they feel free to comment on government activities without fear of reprisal.

The Government maintains tighter control over the electronic media than it does over the print media. Radio stations are government licensed and operated by government, military, and private entities. They are required by law to broadcast government-produced newscasts four times daily and a military-produced commentary once a day. However, in 1993, two prominent university stations refused to broadcast the military commentary. There was no government retaliation for their actions.

Although programmers are generally free to determine the content and nature of television broadcasts, a government committee set up in 1975 reviews television and radio programming. It is common for internal censorship boards to edit or "blackout" portions of programming deemed politically sensitive. In January a popular politically oriented talk show was censored because the frank and open conversation was considered too controversial.

Authorization for the establishment of two new, privately owned television channels was approved last year, and the bidding process began in October. Of the existing five national television channels, two are run by the army and three by the Government. Two cable networks (totalling nine stations) are available in the capital and operate without significant government interference; satellite television is also available in other areas of the country.

Representatives of the Thai film industry continued to criticize the police-controlled film censorship board, which regularly deletes all references in films to a number of topics deemed politically sensitive or considered pornographic. Among the topics subjected to censorship are police corruption, criticism of the Thai military, misconduct by members of the Buddhist clergy, and the 1976 student uprising. Thai domestic publications continued to present a wide range of political and social commentary in 1993.

Unless critical of the royal family or the monarchy, foreign and domestic books normally are not censored and circulate freely. The 1941 Press Law empowers the police Director General to prohibit the import of printed matter deemed dangerous to public order and morals. He publishes a list of books barred from import in the "Royal Gazette" each year. While the list mainly consists of literature widely regarded as pornographic, it also still includes books written by Communists. The Government imposed no new permanent or temporary bans on the import of foreign publications during 1993; the last case of a foreign publication being barred from import occurred in 1989. Academic and technical research was

conducted freely, including widely publicized research on corruption in political parties and the police, in 1993 .

b. Freedom of Peaceful Assembly and Association

While the Thai legal system generally recognizes the right to peaceful assembly, in practice government officials at times act to restrict this right.

Official intolerance of public demonstrations appears highest in rural areas, particularly in the northeast of the country. Residents of these areas who stage peaceful public protests are sometimes detained for inciting unrest and assembly of 10 or more persons with intent to commit violence; rarely are protesters actually charged. In one ongoing case, students were charged with inciting unrest after arranging a protest in which one student committed self-immolation; the trial began in 1990 and all defendants are free on bail.

In 1993 there was one notable incident of violence during a peaceful protest. Thousands of farmers in Kamphaeng Phet protested falling rice prices and their rally blocked the main roads leading to the provincial hall. After several days of peaceful protest, farmers allegedly injured several policemen monitoring the scene. Police responded by beating the protesters with batons, causing 25 injuries and one death. After one farmer died from massive head injuries while in police custody, local politicians demanded an investigation into the killing. Soon after the incident, relatives of the victim decided not to pursue legal action against the police after receiving an amount equivalent to \$4,000 from the provincial administration. Local officials deny that the compensation was awarded to the relatives to persuade them to stop legal action. An interim report by the government panel investigating the death that was leaked to the press in June absolved the Government of responsibility for the violence. A police probe to identify those officers responsible for beating the farmer is ongoing.

Freedom of association is generally guaranteed for Thai citizens as long as it is not perceived to threaten national security. Private associations must register with the Government, but permits are not required for private meetings or gatherings unless held on public property.

c. Freedom of Religion

Freedom of religion is generally practiced and protected by law and custom. The de facto state religion is Theravada Buddhism,

but other faiths are not restricted. Religious publishing, regardless of faith, is allowed. Foreign clergy are permitted to preach freely, although there are limits on the number of foreign missionaries admitted.

There are no restrictions on religious ceremonies or instruction, or on conversions from one faith to another, but members of minority religious movements have on occasion been subjected to legal action. One example of this has been the ongoing trials (begun in 1990) of dissident Buddhist leader Phra Potirak and his followers, who have been accused of violating the law governing the Buddhist ecclesiastical hierarchy and impersonating Buddhist monks or nuns. Phra Potirak and his followers remain free on bail and have continued their religious activities.

Like other private associations, religious groups are generally required to register with the Government. Since the 1970's, in an effort to limit the number of separate registrations by Christian denominations, the Government has required Christian church bodies to register with one of five umbrella groups. Fixed numbers of work permits for Muslim and Christian missionaries and religious workers are allocated to each umbrella group.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The right of citizens to change their residence or workplace was unabridged. Travel was restricted in certain border areas where foreign or vestigial domestic insurgent groups remain active. Longstanding restrictions on the travel and place of residence of certain Chinese and Vietnamese aliens living in Thailand remained in place in 1993. In addition, some long-term noncitizen residents of Thailand must seek permission from local authorities for domestic or international travel.

Foreign travel by women may be restricted by a new regulation enacted by immigration authorities which requires women to list their marital status. The Government states the new regulation is intended to help reduce trafficking in women for purposes of prostitution. There is also a law dating to the last century that requires women to obtain their husbands' permission before traveling outside Thailand. Available evidence indicates this law is used only to combat trafficking in women for purposes of prostitution. An additional, often criticized requirement that female passport applicants under age 36 sit through a series of interviews regarding their employment records and finances remained intact. Passport applications by single Thai women

and children under the age of 14 must also be approved by the Department of Public Welfare. These provisions are intended to prevent the export of children for sale and women for purposes of prostitution.

The Government has not revoked citizenship for political reasons.

While not a party to international conventions on the status of refugees, Thailand has acted impressively in the spirit of those agreements by providing first asylum to over 1 million people from Laos, Cambodia, and Vietnam since 1975.

In May Thai police and soldiers removed 563 Cambodians from the Site 2 border camp and transported them to a U.N. High Commissioner for Refugees (UNHCR) reception center in Cambodia. The group had refused to join the UNHCR repatriation convoys that returned 370,000 Cambodians from camps in Thailand between April 1992 and April 1993. Although the return of the 563 was involuntary, they were not entitled to third country resettlement, and there is no evidence that excessive force was used.

Thailand continued to provide first asylum to Vietnamese and Lao asylum seekers and to process them in accordance with the Comprehensive Plan of Action (CPA) agreed to in Geneva in 1989. There were no reports of any pushoffs of Vietnamese asylum seekers in 1993.

While there were unconfirmed reports of pushbacks of Lao asylum seekers by Thai government officials in 1993, Lao asylum seekers in Thailand continued to be screened under provisions of the CPA to determine their eligibility for refugee status. Thailand announced that all Lao camps are to be closed by 1995 and continued to cooperate with the UNHCR and Laos in a trilateral program to facilitate the voluntary repatriation of certain Lao in Thailand.

Official Thai policy since April 1, 1989, has designated Burmese asylum seekers in Thailand as illegal immigrants subject to deportation. However, senior Thai officials stated on several occasions in 1993 that no Burmese recognized by the UNHCR as a "person of concern" would be deported. In November 1992, the Government opened a first asylum camp in Ratchaburi province, commonly referred to as the "Safe Area", for Burmese dissidents residing in Bangkok. Residents of the Safe Area have regular access to UNHCR which has concluded that the conditions at the safe site meet broadly accepted international standards for the protection and welfare of asylum seekers. The camp provides legal status for eligible Burmese who have

been subject to arrest and deportation as illegal immigrants. About 150 of the 738 Burmese explicitly authorized to live in the camp resided there by year's end. Despite threats of a crackdown, the majority of eligible Burmese refused to move to the camp. Some cited a fear of summary deportation, while others preferred the relative freedom of life in Bangkok. In September the UNHCR temporarily withdrew its contractor from the camp in response to acts of violence by a few residents against her and her property.

Approximately 1,500 Burmese young people, students, and dissidents live in camps along the Thai-Burma border. By year's end, there were also about 73,000 ethnic minority Burmese residing in some 30 camps in Thailand near the Burma border. In 1993 there were increasing reports that some of these camps served as support bases for combatant activities in Burma by ethnic insurgent groups against the Burmese military. On this basis, the Thai Government ordered the relocation of several camps to Burma. The Thai Government continued to permit voluntary agencies to provide food, medical, and sanitation assistance along the border. Thailand also allowed the UNHCR greater access to Burmese border camps in Thailand.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The right of Thai citizens to criticize and peacefully alter their government increased in 1993. The democratically elected coalition Government was generally successful in its efforts to strengthen democratic institutions. Although Thailand's history has been marked by frequent military coups and powerful military-bureaucratic influence over political life, since the May 1992 violence the military's role in politics has significantly declined. The multiparty elections held in September 1992 were widely deemed the most free and fair in Thailand's history. Although future military intervention in politics cannot be ruled out, the coalition Government of Prime Minister Chuan is strongly committed to protecting democratic principles. Thailand's current military leadership appears genuinely supportive of the civilian government and of democracy.

While there are no legal restrictions on political participation, women are generally underrepresented in national politics and in high governmental positions. However, the number of women in local and national politics increased in 1993 as a result of more progressive government attitudes and the 1992 MOI decision to abolish regulations that banned women from serving as deputy district officers. In January the Cabinet approved Thailand's first female governor and deputy

governor, and in March the first 13 women were appointed deputy district officers by the MOI's Department of Local Administration (DOLA). In May three more categories of civil service positions were opened to women, and the first female police major general was named in August. Also, in September, a woman was named deputy minister of public health--the first woman to be appointed to a Cabinet position by the current Government.

Although there are no laws that prohibit participation of ethnic and religious minorities, these groups remain noticeably underrepresented in national politics. Ethnic minorities in the north often lack documentation of Thai citizenship, effectively barring their participation in the political process. (See Section 5.)

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Local human rights organizations, which operated without government restriction, were more visible than previously in their attempts to press the Government to institutionalize democratic reforms. Local human rights organizations have been credited with helping to bring about changes in laws concerning child prostitution, publicizing environmentally threatening development, and promoting the status of women. They also continued to pressure the Government to account for those still missing after the 1992 demonstrations.

The Government took a more active role in human rights issues in 1993 and has generally received positive assessments from NGO's and other groups concerned with the protection of human rights.

In February the Government allowed a group of seven Nobel Peace Prize Laureates, including the Dalai Lama and Bishop Desmond Tutu, to visit Thailand and advocate the release of fellow Laureate Aung San Suu Kyi, who has been under house arrest in Burma since 1989. The decision to allow the Nobel Laureates to visit Thailand was significant as it reaffirmed the Government's commitment to human rights, even in the face of some military and civilian opposition.

International human rights NGO's have worked freely in Thailand on potentially controversial and sensitive issues including AIDS, narcotics, and refugees. Although the Government often criticizes these groups for being politically motivated and biased, it has not penalized or repressed human rights

observers.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

Women

Women generally have equal legal rights, with specific guarantees of equality with men in the areas of education, matrimonial property, the right to choose habitation and employment, and child custody. There has been a National Commission on Women's Affairs since 1991. Inequality remains in the area of domestic law. A man may sue for divorce on the grounds that his wife has committed adultery, while a woman faces the additional legal burden of proving her husband has maintained or honored another woman in a manner equal to his wife. There are no laws in place to punish men who refuse to pay child support.

Though no Thai law specifically addresses domestic violence, the Criminal Code's provisions on assault and abuse make both spousal and child abuse criminal offenses. While reliable statistics are hard to come by, one NGO that counsels abused women states that in 1993, 175 cases of spousal abuse were reported. This NGO notes that between 1980 and 1993, there were an estimated 2,598 reports from battered wives. NGO's concerned with these issues believe the number of abuse cases is rising, and women's rights groups have set up counseling and shelters for victims.

Although the Government denounces domestic violence, law enforcement has not been vigorous; physical abuse often goes unreported. There is no legal procedure to combat domestic violence short of criminal prosecution. Rules of evidence often make prosecuting such cases difficult, especially when the victims are children. Due to these reasons and ingrained cultural attitudes that permit spouse abuse, police are often reluctant to pursue these cases. Private women's and children's rights groups provide limited legal assistance to victims of abuse.

Prostitution is acknowledged as one of the country's most pervasive and troubling social problems. Estimates of the numbers of women and children engaged in prostitution vary widely. According to the Public Health Department, there are approximately 75,000 prostitutes in Thailand. The large number of temporary sex workers and the migratory nature of prostitution in Thailand makes an accurate estimate of the number of women involved in the sex industry difficult. Several well-informed NGO groups estimate that the number of

prostitutes at any given time ranges between 200,000 and 500,000; other credible sources place the figure at close to a million. However, all NGO's generally discount the 75,000 figure reported by the Government as grossly misleading.

Women engaged in prostitution typically come from poor rural areas, particularly from the north. With scant economic opportunities in their home villages, many turn to working as prostitutes in urban areas as a way of fulfilling familial obligations and improving the standard of living for themselves and their families. It is common for procurers to advance the parents of young women a substantial sum against their future earnings; the money frequently is used to pay off debts or to build a new house. The women are then obligated to work in a brothel for a fixed period of time in order to pay back the loan. No data are available on the number of women forced into prostitution against their will. Human rights monitors believe that the majority of the women who engage in prostitution are not kept under physical constraint, although such cases exist, particularly with women lured into prostitution from Burma.

In order to combat the lure of prostitution, the Government in January set up a vocational training rehabilitation program to keep women and children from reentering the sex trade. The Government and NGO's also initiated efforts to educate women in rural areas about the dangers of prostitution.

The trend of trafficking in women from hill tribes and neighboring countries continued. Brothel operators reportedly favor such women because they are cheaper to buy and their inability to speak Thai makes them easier to control. In a widely publicized brothel raid in Ranong in July, 150 Burmese women were arrested by police as illegal immigrants and prostitutes. Many of the women claimed they were tricked into coming to Thailand by offers of employment. The women were kept locked in dormitory style rooms, and many complained they were physically abused by the brothel operators if they refused to work as prostitutes. Because they are considered illegal immigrants, the women have no right to legal counsel or health care while imprisoned. Women's rights groups lobbied the Government to allow them to provide basic health care to the women until they are deported back to Burma, but were denied access to the jail.

There have also been a number of well-documented cases of local networks that "export" women for prostitution to such countries as Germany, Japan, and the United States. Recent press reports publicized the return of 2,000 Thai prostitutes who had been working illegally in Japan. Recruiters reportedly receive \$12,000 for each prostitute who successfully enters Japan,

thereby making the export of women lucrative for both the procurer and the women themselves, who can earn significantly more money abroad.

Despite occasional high profile raids on brothels, laws against prostitution have not been effectively enforced. In many cases, brothels pay off local government representatives and police. One NGO has reported publicly that it knows of many instances where Thai police drove Burmese women into Thailand in police vehicles and delivered them directly to brothels. In the much publicized raid against brothels, hundreds of prostitutes were arrested while very few brothel owners or police were arrested. Of these, only a small number were charged and even fewer prosecuted. There are currently four laws designed to combat adult and child prostitution, but observers note that these laws are rarely enforced. Under the Penal Code, prostitutes are considered criminals, whereas brothel owners, procurers, and clients are not subject to criminal statutes. In September a Cabinet resolution was passed to begin drafting a revision of the antiprostitution laws to include customers, procurers, and brothel owners and to reduce punishments for the prostitutes themselves. Poor legislation, police corruption, and ingrained cultural norms are widely blamed for the lack of effective measures against prostitution.

Statistics compiled by NGO's concerned with women's issues note that women represent half of the economically active population; women outnumber men in nonfarm enterprises. Women are also more likely to migrate to urban areas for employment, and female workers dominate the primary export industries of textiles, shoe manufacture, food production, and tourism.

The number of women in professional positions has increased, and government regulations require employers to fix the same wages and benefits for similar work regardless of sex. However, discrimination in the workplace continue to exist, and there is a significant gap between average salaries earned by men and women as a result of the concentration of women in traditionally lower paying jobs. In rural areas, sex stereotypes are more pronounced with regard to employment and social status, but even urban women face discrimination and negative stereotypes.

NGO's concerned with the status of women became more active in 1993. Local NGO's have been credited with pressing the Government to abolish discriminatory practices within the civil service (see Section 3). Primarily privately financed and run, women's organizations focus on providing legal assistance, health care, and counseling for victims of abuse. These groups

report that while they receive generally positive feedback from the Government and other NGO's, they face difficulty in combating ingrained cultural stereotypes of women.

Children

There is widespread abuse of children in prostitution and child labor. The Government is committed to eliminating child prostitution, and the Cabinet passed a resolution in September to begin revision of the existing Criminal Code to include clients and procurers of child prostitution. As in the case of adult prostitution, the current laws against prostitution have not been adequately enforced. Although NGO's have attempted to track the number of children involved in the sex industry, there are no accurate statistics. In the past few years, NGO's and government agencies have begun to counsel young people about the dangers of prostitution and the threat of AIDS.

The Criminal Code provides for the protection of children from abuse, and laws on rape and abandonment provide for harsher penalties when the victim is a child. As in the case of domestic violence against women, police are often reluctant to pursue abuse cases, and rules of evidence makes prosecution of child abuse cases difficult.

National/Racial/Ethnic Minorities

Progress in integrating ethnic minorities into Thai society has been limited. Only half of the estimated 500,000 to 700,000 members of hill tribes are believed to possess documentation as Thai citizens, which prevents them from exercising their basic rights, including participation in the political process. Advocates consistently cite the difficulties faced by many hill tribe members in obtaining Thai citizenship as the primary obstacle to their successful integration into society. The hill tribe population has higher incidences of disease, unemployment, drug abuse, and prostitution than other groups in Thailand.

Vietnamese who entered Thailand prior to 1900 enjoy all the rights of ethnically Thai citizens. However, the approximately 45,000 Vietnamese who fled Indochina in the 1940's and 1950's and reside in northeastern Thailand live under a set of laws and regulations restricting their movements, residences, education, and occupations. As the threat to Thai national security declined, the Government has seen it in Thai interest to incorporate the Vietnamese population into Thai society. The Government has pursued a more lenient policy toward longtime Vietnamese residents in recent years and moved quickly

to process naturalization applications of approximately 30,000 third generation Vietnamese born in Thailand who became eligible for citizenship in 1992. Vietnamese residents must apply for permission to travel within Thailand or to study in the universities, but permission is usually granted. Noncitizen Chinese and their descendants who migrated to Thailand in the 1960's and live in border areas must seek permission from local authorities to travel.

Religious Minorities

Muslims represent a significant minority within Thailand as a whole and constitute the majority in the four southernmost provinces that border Malaysia. Although the Government has attempted to integrate the Muslim community into Thai society through development efforts and expanded educational opportunities, recent violence in the south demonstrates that divisions remain. The southern provinces are not only separated by religion but by language and culture as well. Discrimination against Muslims is widespread. There are no de jure restrictions on Muslim participation in the political process and several Muslims hold powerful positions within the Government. However, Muslims remain underrepresented in postsecondary education and consequently in many professions.

Following a spate of arson attacks and other violence in southern Thailand in August 1993, security forces arrested and charged four Muslim suspects believed to be supporters of the separatist PULO. The trial of the first suspect arrested has begun, but could take several years as over 40 prosecution witnesses are scheduled to take the stand. The Government has been criticized by some Muslims for its decision to try the suspects in Bangkok in order to protect witnesses from being intimidated. In the wake of the violence, army troops have engaged PULO fighters in occasional skirmishes which have produced minimal casualties on both sides.

People with Disabilities

Since the disabled rehabilitation bill was approved by Parliament in 1991, the Government has taken few steps to implement the bill's provisions. The bill established a quota system and employer incentives for hiring the disabled, but did not include provisions for special education or training in the workplace. There are no laws or regulations mandating access for disabled persons.

Section 6 Worker Rights

a. The Right of Association

The Labor Relations Act of 1975, as amended in 1991, grants freedom of association only to private sector workers. The 1975 Act extends to these workers the right to form and join unions of their own choosing without prior authorization; to decide on the constitutions and rules of these associations and unions; to express their views without government or employer interference; to confederate with other unions; to receive protection from discrimination, dissolution, suspension, or termination by any outside authority because of union activities; and to have employee representation in direct negotiations with employers. However, no law explicitly protects workers from discrimination due to their participation in organizing new unions which have not yet been officially registered. There are widespread reports that workers seeking to organize unions face discrimination from employers. The 1975 Act specifically withheld from government workers the right to form unions. Nonetheless, civil servants may and do form "employee associations," which are influential in determining salary scales, benefits, and conditions of employment.

Since the advent of the democratically elected Chuan Government, the labor environment has improved. On September 23 a new Ministry of Labor was created to take over functions which were previously the responsibility of the Ministry of Interior, reflecting a change from the traditional tendency in the Government to view organized labor as a security problem. In 1993 the Government also passed laws which improved maternity and overtime benefits for state enterprise workers.

In April 1991, the military-appointed National Legislative Assembly amended the 1975 Act to exclude state enterprise workers, who represented half of organized labor in Thailand, and enacted a new State Enterprise Labor Relations Act (SELRA), which dissolved all unions in this sector. In place of unions, workers in each state enterprise could form a single "association" after at least 30 percent of the enterprise's employees submitted a petition to the Department of Labor to register such association. These associations may submit employee grievances to management and propose changes in benefits and working conditions, but may not negotiate wages. Associations do not have the right to confederate or to join private sector federations. Unofficial contacts between public and private sector unions have continued, however, and the democratically elected Government that took office late in 1992 has not interfered with these relationships. A number of associations have maintained affiliations their predecessor unions had with international labor organizations.

The SELRA, like the 1975 Act, denies all state enterprise workers the right to strike. In the past, public sector unions circumvented this prohibition by holding "extraordinary meetings" which took workers off the job for days at a time. The SELRA requires associations to hold general meetings only on weekends and holidays, with severe sanctions for holding unauthorized meetings during work hours. Also, under Announcement 54 of 1991, both management and labor must select outside advisers from those who have been certified by the Ministry of Labor as having the requisite qualifications. The ministry offers training courses for those not fully qualified on the basis of prior experience. Advisers can be removed for violations of the government-established standards. Labor leaders maintain that government involvement in the selection of labor advisers weakens their ability to organize and to bargain collectively. Seven labor leaders from the state enterprises have been certified as labor advisers, out of a total of 600. However, many state enterprise labor leaders refuse to apply to become labor advisers, believing that to do so would lend credibility to a system which they do not want to support. Announcement 54 also requires that a proposed strike in the private sector be approved by a majority of the union members in a secret ballot.

In November 1991, the International Labor Organization (ILO) strongly criticized the SELRA. The ILO faulted it for dissolving unions, transferring their assets, limiting the number of associations which may be formed in each state enterprise, setting unusually high minimum membership requirements for associations, denying associations the right to affiliate with private sector unions, and completely forbidding strikes in state enterprises. Enforcement of these restrictions, like enforcement of laws generally, is less than complete. The ILO continues to request that the Government rescind the law. The Chuan Government proposes to replace the SELRA with a new version of the law which effectively restores the rights enjoyed by state enterprise workers prior to the promulgation of the SELRA. The proposed law has been endorsed by state enterprise labor leaders. It has been approved by the Cabinet and by the Juridical Council, but the last parliamentary session in 1993 ended before the legislature could consider the bill. The Government has said the new SELRA will be a priority agenda item when the parliament reconvenes in May 1994.

With respect to the private sector, under the 1975 Act the Government has the authority "to restrict the right to strike whenever a strike would affect national security or cause severe negative repercussions for the population at large." The Government seldom invokes this provision and did not do so

in 1993. However, local enforcement officers often threaten to use this provision when dealing with strikes in progress. Thai labor law also forbids strikes in "essential services," defined much more broadly than the ILO standard. No strikes were disapproved on those grounds in 1993.

Labor unrest has been relatively minimal since a period of social upheaval in the mid-1970's. Because of the red tape involved in getting government approval for a work stoppage and the lack of understanding of proper labor procedures on the part of many union leaders, the number of approved strikes has averaged fewer than 10 annually for the past 15 years--there were 7 in the first 6 months of 1993. Unauthorized strikes are far more numerous, with 103 occurring from January to June. In these work stoppages (deemed "unauthorized" because the law's procedures had not been followed) management often ends up making some of the concessions demanded by workers. However, gains from such strikes are frequently won only at the cost of excessive acrimony (by Thai standards) which could be avoided by a more effective bargaining process. There were also seven lockouts in 1993. In two of these instances, the Ministry of Labor determined that management had not bargained in good faith, as required by the 1975 labor law, so as to justify the lockout.

Almost 60 percent of the work force is employed in the largely unorganized agricultural sector. Even before the dissolution of state enterprise unions, less than 3 percent of the total work force, or about 12 percent of the industrial work force, was unionized. Factors discouraging the growth of organized labor are the antiunion sentiment and paternalistic approach of employers, the Thai preference to avoid confrontation, and a provision of Thai labor law permitting the formation of private sector labor unions with as few as 10 members. This provision has resulted in a proliferation of small, weak unions--about 700--grouped into 7 national federations. It also helped to create a type of labor hustlers who formed small unions and threatened strikes in order to extract payoffs.

While violence against labor leaders is rare, the 1991 disappearance of leading labor activist Thanong Podhiarn remains unsolved. There are often reports of intimidation of union leaders by management. In one highly publicized case, the management at the Thai Durable Textile Company announced a layoff of 376 workers to pave the way for increased productivity. Those to be laid off included the senior local union management. The Government intervened on behalf of the workers, and the Interior Minister threatened to invoke the law and order the company to reinstate the workers. The company

then agreed to offer a relatively generous severance package to all workers to stimulate voluntary departures. More than 500 took the offer. However, six union leaders whom the company insisted on dismissing at year's end were still fighting in the labor court to keep their jobs.

Although there is a legacy of corrupt public sector union leaders who were exploited by the military, politicians, or employers for their own purposes, private unions generally operate independently of the Government and other outside organizations. The 1975 Act encourages this policy by exempting union officials from prosecution in pursuing the interest of their followers "provided that the activity does not involve politics." Unions are free to associate internationally with other trade union organizations and they maintain a wide variety of such affiliations.

b. The Right to Organize and Bargain Collectively

The right to organize and bargain collectively is recognized for Thai private sector workers under the 1975 Act, which defined the mechanisms for such negotiations and for government-assisted conciliation and arbitration in cases under dispute. Despite the law, genuine collective bargaining probably occurs only in 10 to 20 percent of workplaces which are unionized. In practice, bargaining in most instances continues to be characterized by traditional paternalistic attitudes on the part of employers and a lack of education on labor organization and/or willingness to be assertive on the part of workers. Under the SELRA, state enterprise employees may propose changes in working conditions, but not wages, to a government-dominated labor relations committee in each state enterprise. The ILO's Committee on Freedom of Association, however, questions whether true collective bargaining takes place within the labor relations committees established by SELRA, since their proposals require approval by the relevant ministry and enterprise.

The Government sets wages for both civil servants and state enterprise employees. A system of labor courts created in 1980 exercises judicial review over most aspects of labor law for the private sector. However, when courts determine that a worker has been unjustly dismissed, they usually order severance pay compensation rather than reinstatement. Workers may also seek redress for their grievances from a tripartite Labor Relations Committee.

The SELRA has no explicit provision allowing state enterprise employees to appeal to the labor courts. Instead, they may apply to an overall State Enterprise Labor Relations

Committee. Though no precise records are kept of the determinations of the State Enterprise Labor Relations Committee, it typically hears two or three cases a month and labor leaders have not indicated dissatisfaction with the treatment their concerns have received in this forum.

There are several special export processing zones (EPZ's) in Thailand, with many more planned to stimulate the growth of export-oriented industry. No separate labor legislation applies to EPZ's, where wages and working conditions in fact usually exceed national norms. There are some trade unions and a few collective bargaining agreements in EPZ's.

In August 1993, the Government, for the first time intervened to force resolution of a case where a private company was refusing to bargain in good faith. Workers at the Thai Pattaporn Company had been legally on strike for 10 months when the Government called on both sides to reopen the factory, prompting an illegal lockout. The Minister of Interior invoked Article 35 of the Labor Act of 1975, which forced the Thai Pattaporn Company to end the lockout. After reopening for a time in accordance with the Government's order, the company chose to close permanently rather than submit to arbitration.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or compulsory labor except in the case of national emergency, war, or martial law. The ILO has criticized provisions of legislation which in theory could punish with imprisonment or forced labor acts of labor indiscipline, participation in illegal strikes, or propagation of Communist ideology. At the request of the Government, an ILO direct contacts mission went to Thailand in September to investigate.

d. Minimum Age for Employment of Children

The legal minimum age for employment is 13. The law permits the employment of children between the ages of 13 and 15 only in "light work." The employment of children at night (10 p.m. to 6 a.m.) is prohibited. The Government has estimated that there are 100,000 children between the ages of 13 and 15 in the labor force, but the actual number is probably much greater. Stated government policy is to increase the minimum age to 14 by the end of the Seventh National Economic Plan in 1996, with an expectation to raise the minimum to 15, the ILO standard, by the end of the Eighth Plan in 2001. The Government has initiated a teacher training and school construction program, that when completed, will allow it to increase the number of years of compulsory education from 6 to 9.

Child labor continued to cause considerable domestic and foreign criticism in 1993. The Chuan Government has committed itself to enforce the existing child labor laws. In June 1993, the ILO, which in 1991 issued a "special paragraph" against Thailand, welcomed the Government's commitment to eliminate exploitation and illegal use of existing child labor but stressed that much more needs to be done.

In 1992 the Department of Labor more than doubled the number of inspectors specifically responsible for child labor issues. In addition, the number of general labor inspectors increased from 500 to 618 in 1993. Prosecutions against employers for illegal child labor rose from 7 in 1991 to 29 in 1992 to 34 in the first 8 months of 1993. As of December, 22 violators had been fined and two had been jailed. Nonetheless, police raids continued to find children under age 13 working illegally and others employed in dangerous, unhealthful, or otherwise harmful circumstances. Enforcement of child labor laws remained inadequate. There are no export industries in which child labor is significant.

e. Acceptable Conditions of Work

A tripartite wage committee consisting of government, employer, and worker representatives in 1993 again increased the daily legal minimum wage. Minimum wage rates now vary between \$4 and \$5 per day (100 to 125 Baht) depending on the cost of living in different provinces. The wage is not adequate to support a worker and his family, but as the Thai often live in extended families with financial contributions from several members, often including single members working away from home and sending a portion of their wages back, the minimum wage provides the basis for a marginally adequate standard of living overall. Unskilled migrant workers who pour into Bangkok from the poorer countryside often work at less than the minimum wage, as do many in the agricultural sector. The Government has not mandated a uniform workweek for the entire labor force. Commercial employees work a maximum of 54 hours per week, employees in industry 48, and those in "dangerous" work such as in the chemical, petroleum, mining or other industries involving heavy machinery 42. Transportation workers are restricted to no more than 8 hours per day. Enforcement of these standards is spotty.

Working conditions vary widely in Thailand. In medium and large-size factories, government health and safety standards are often maintained. However, in May 1993 fire broke out at the Kader Toy Factory near Bangkok and nearly 200 workers lost

their lives in the worst factory fire in Thai history. The majority of those who died were women, many of whom had brought with them their children, who also perished. The tragedy was a vivid reminder of the lax enforcement of safety standards that continues to be all too common even in large enterprises. As of December, the Government was pursuing actions against the company owners in the courts. Thailand's large informal sector is subject to even less effective inspection. Employers are able to ignore safety regulations in part because workers do not have access to safety and health standards and are thus unable to report violations.

[end of document]



[Return](#) to 1993 Human Rights Practices report home page.

[Return](#) to DOSFAN home page.

This is an [official U.S. Government source](#) for information on the WWW. Inclusion of non-U.S. Government links does not imply endorsement of contents.