

HUMAN RIGHTS IN THAILAND REPORT

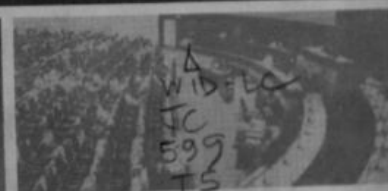
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July 1987 - April 1988

A rumour has been going around for a while now about the possible reshuffle of the Cabinet, dissolution of Parliament and perhaps, the resignation of Prime Minister General Prem, since the opposition parties submitted a censure motion for a "no confidence debate". The "January 10" Democrat dissidents [the Democrat MPs who were cast aside after their attempt to seize the party leadership from Bhichai Rattakul on Jan 10, 1987] by using various tactics in Parliament have attempted to undermine the government coalition: sometimes, they abstained from voting for government-sponsored bills; at other

times they joined the Opposition in voting against the Government, as in the vote on the Copyright Amendment Bill. This Bill supported by the Coalition, aimed at pleasing the US Government and allowing the continuation of the customs duty privilege or GSP (Generalized System of Preferences). The Bill was the subject of great dissension among the Democrats; about 30 Democrat MPs of the Group of January 10 did not follow the lead of the largest government party. After the Bill was passed by 183 votes to 134 in the final reading, the 16 Democrat ministers resigned on April 29, paving the way for the Prime Minister to reshuffle his Cabinet. A bigger surprise, however, was the subsequent Royal Decree proclaiming the dissolution of

the House of Representatives and announcing a general election on July 24. General Prem explained that a lack of discipline among MPs and a lack of unity in certain parties had prompted him to recommend the dissolution. It is the third time that the House has been dissolved during his 9 years-in office as Prime Minister.

The Military has for a long time spread the rumour about the possibility of a Constitutional amendment that would change the rule concerning election of MPs "one man, one vote" system instead of the present "up to three MPs per constituency" system. No suggestion was made, however, on the election of the Prime Minister. This "insecure atmosphere" was aggravated by the House dissolution. The workers' attempt to press for enactment of Social Security has had to be postponed, and other problems which need to be solved remain such as poverty in rural areas, violation of prisoners' rights by enforcement authorities and the oppression of women and child labourers.

The Government's struggle to overcome the Communists

Not long after the arrest of the 18 communist members on April 21-22, 1987, the Office of Internal Security and the Police Department stated on September 9 that there were only about 300 Communists left in the whole of Thailand. The 66/1980 policy of using politics before force, has been a great success in suppressing the Communist Party of Thailand.

Some military officers are, nevertheless, dissatisfied with this 66/1980 policy. Violent events have occurred such as the assassination and the prosecution on criminal charges of "Thai Nation Development workers" CPT defectors. General Chavalit Yongchaiyut, the Army Commander, decided to have the number of posts in the office of Internal Security and to reduce certain privileges in local administration. This reform caused discontent among local government officials who tried to claim the continuing existence of communist



insurgency as a reason to pursue closely these "Nation development workers." The mysterious assassination of the ex-CPT defector Sombat Na Sunthorn and 6 colleagues in the North is a good example of this violence. The police have not yet been able to arrest any murderer.

There has also been an application of Section 17 of the Anti-Communist Act in the South of Thailand. The alleged offender has been detained for legal proceeding, without being charged with any criminal offence. About 5 persons are on trial for murder and possession of firearms in

has lobbied for the amendment of the Press Bill in the House of Representatives. The Bill has been considered for 3 readings and has been sent to the Senate. An essential part of the amended Bill concerns the abrogation of the Notification N°42 of the Administrative Reform Party which authorizes the revocation of a Press license without legal procedures in the Court. This Bill also proposes the establishment of Press Council to protect the rights of journalists and consider revocation of Press license.

The Senate proposed that 37 sections of the Bill should be

Human Rights Situation

the Court of Nakorn Srithammarat. At the end of September 1987, 5 Communist defectors, who were supposed to be members of the Central Committee of the CPT, were released having been arrested with 13 other comrades in April, 1987.

The 66/1980 policy has been violated many times. It is necessary, thus, to raise its status by enacting it as a law for better control of the State.

Rights and liberties of the mass media

After the revocation of the license of the "Khao Sod" (The latest news) magazine, the Association of Journalists

re-amended, particularly the section concerning the Press Council Asserting that the Council, as a non-governmental agency, should not be more powerful than the State, the Senate returned the Bill to the House of Representatives for further correction. Even though the Joint-Committee of the 2 Houses was set up to reconsider the Bill, there were still conflictual disputes: Some MPs who had joined the Joint Committee walked out of the Assembly on August

20, 1987; 18 members of the Senate decided to retire from the Committee in September. A new Joint-Committee was thus set up on October, 29 to correct the amended Bill. But the House of Representatives maintained its support for the first amended Bill which had already passed 3 readings.

Apart from the revocation of the Khao Sod Magazine, the Siam Rath Newspaper and the TV wellknown announcer on channel 9, Dr.Somkiat Onwimol, received governmental caution for criticizing the Prime Minister. The subsequent resignation of Somkiat from his announcer's post was his own protest against the interference the mass media.

in the province of Chiengrai. Without being given the chance to prepare their belongings they were put into a wagon and taken to Doi Tung in Burma. Some Border Patrol Policemen burnt their villages and stole their ornaments and farm animals. Such violent events are a result of policies to push "illegal" highland "immigrants" out of the country.

and offences causing death, both before and after detention. During 1987, 5 prisoners died in suspicious circumstances in prison:-

1. Wimol Phianthamdee, a woman prisoner held on communist charges, was reported dead after falling down on the Bangkok Prison's floor in February 26, 1987.

2. Preecha Srisuk died mysteriously in Lopburi Prison on September 29, 1987.

3. Sophon Chankhong with 3 other colleagues failed to escape from Songkhla prison on August 23, 1987. He was found hung in prison the next day.

4. Som Saengsuwan was supposed to have been beaten to death in Songkhla prison on August, 1987.

5. Sakul Bunsiri was poisoned in the prison of Lopburi on December, 1987.

Human Rights Situation

General Human Rights Situation

During the past year, many human rights organizations have campaigned on 2 important issues : a Standing Committee on Human Rights in the House of Representatives, and an Amnesty for political prisoners.

Concerning the amnesty, human rights organizations joined the demonstration of His Majesty the King's Kindness to celebrate His 60th birthday. As the Royal Decree was issued for the pardon of about 20,000 prisoners throughout the whole of the country, the NGOs campaigned for the amnesty of 4 kinds of political prisoners:-

1. The September 9, 1985 coup attempt prisoners.
2. Alleged offenders and prisoners detained under the Anti-Communist Act.
3. Prisoners accused of lest-majesté.
4. Other political prisoners.

There were 114 political prisoners in total in jail.

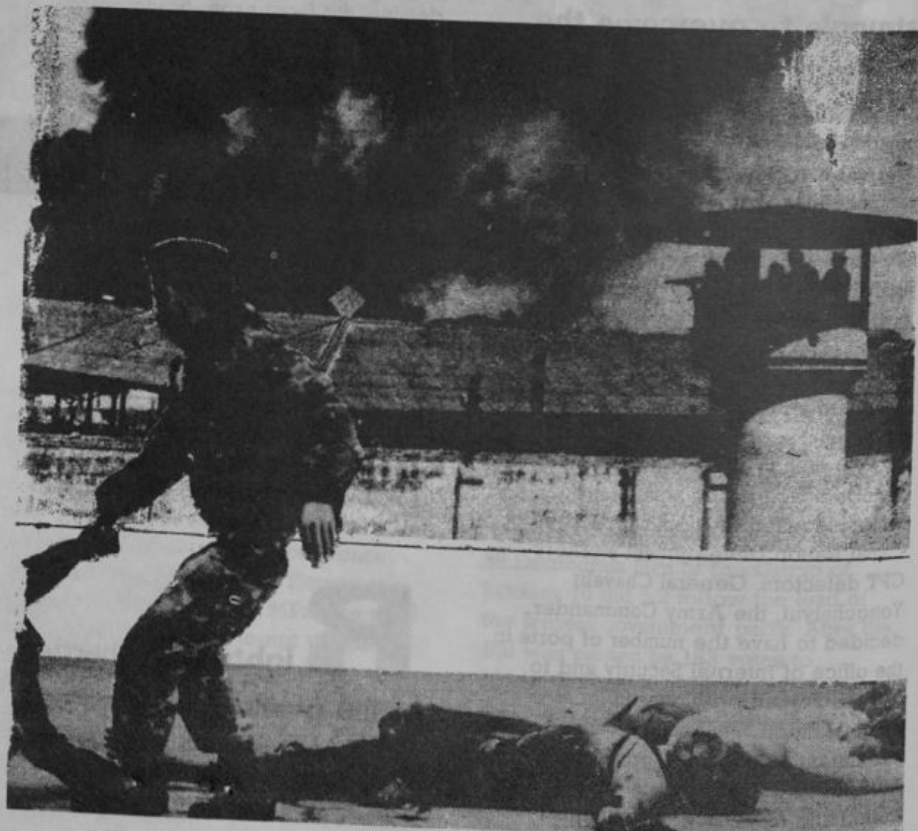
As a result of the campaigns the government issued an order dismissing the cases of 40 offenders of the September 9, 1985 coup attempt. Sanan Wongsuthee and the Police Major-General Anan Senakhan who had been imprisoned for lest-majesté were also released.

Violation of minority rights continued in regional areas. During 19-29 September 1987, hundreds of A-Kha highlanders were expelled from their villages in Amphoe Maechan,

Rights of detainees

Despite the control of the Department of Poilice and the Department of Corrections, corruption and abuses of power have often occurred among enforcement authorities and prison warders.

Local and central newspapers reported about 50 cases of violation of prisoners rights, including bodily harm, forced confessions, forced accusations



The rough, long road to a House Committee on Human Rights

As the present Constitution of the kingdom of Thailand sets out provisions for "rights and liberties", various groups of people, concerned with the promotion and protection of human rights, think that there should be a special body within the framework of the Parliamentary system to protect these rights. What steps have been taken to implement this idea? What problems and obstacles have been encountered?

I.A new public awareness on human rights.

In recent years, many universities have tried, to provide more education on human rights. Research on the "development of human rights in Thailand" was

carried out by the Institute of Thai Studies, Thammasart University; a study on "rights and duties in contemporary Thailand" sponsored by the Ford Foundation has been under taken by the Faculty of Law, Chulalongkorn University. A seminar on "the roles of the House of Representatives and the protection of Thai citizens' rights" was organized on December 4, 1986 at Thammasart University with the objectives of presenting cases of human rights violation and of encouraging members of Parliament to become more involved in human rights issues. During 20-21 December 1986, another seminar on "Theory and Practice of Human Rights in Thai Society" was organized by the Foundation for the Study of Democracy and Development and the Institute of Thai Studies, University of Thammasart. It concluded with a proposal to set up a Standing Committee on human rights in the House of Representatives.

Together with the movement in the universities, local Non-Governmental Organizations (NGOs), whose activities are related directly to human rights issues, have been campaigning for a House Committee to monitor and investigate civil rights violations. The Coordinating Committee of Human Rights Organizations (CCHRO) which is composed of the Union for Civil Liberty, (UCL) the Coordinating Group for Religion in Society (CGRS), the Justice and Peace Commission for Development, the Children Rights Protection Centre of the

Children Foundation, the Center for Child Labour Concern of the Children Development Foundation, the Hotline Asia and Pacific and the Friends of Women Group have lobbied for this initiative by submitting a letter to the House Speaker, Mr. Chuan Leekpai requesting his support by including this matter on the agenda of the House. Copies of the letter were presented to the two deputies of the House Speaker as well as to all heads of the political parties. Mr. Piyanat Watcharaporn, an M.P. and Secretary General of the Ruam Thai Party, proposed to rally together the opposition parties to a motion to set up a Committee. Mr. Narong Wongwan, Chairman of the Ruam Thai Party, promised to propose a draft amendment to the 1985 House Rule of Procedure, clause 74, in order to constitute a Standing Committee on Human Rights.

Not long after the campaign of the academicians and human rights workers, the House Affairs Committee invited representatives of the CCHRO to testify for the establishment of a House Committee on Human Rights. Most of the MPs who attended the hearing¹ were cautiously optimistic about the possibility of setting up such a committee. But official approval from the House is needed. To clear the ground for further steps in the parliamentary system, a human right worker, Charoen Kampeerapab, undertook the task of gathering relevant information to supply to the House Affairs Committee.

III. International Concern for the promotion of human rights in Thailand

Together with representatives from the Law Centre, University of Thammasart, and the Legal Aid Centre contacted Mr. Ravindran of the International Commission of Jurists (ICJ) for his support. To encourage the "Rule of Law" or equality



before the law, the International Commission of Jurists (ICJ) offered in response consultative and financial support to organize a national seminar on this subject. The Asian Legal Resource Centre, "Terre des Hommes" Novib (Netherlands) and Friedrich Nauman Foundation also contributed a substantial sum of money to carry out this project.

The seminar on "Legal Assistance for the people and the promotion of human rights in Thailand" was thus organized by the House of Representatives, the Law Centre of Thammasart, the Legal Aid Centre, CCHRO and the Matichon newspaper during 21-23 September 1987 at the House of Representatives. The 4 main aspects of human rights issues concerning problems of land ownership; labour law; women and Children; and inadequacies and injustice in the law and violation of political rights were the topics of discussion. This three-day seminar also drew the attention of the participants to the necessity of setting up a House Committee on Human Rights. Dr. J. Ravindran of ICJ remarked that "Thailand is the first country in Southeast Asia to contemplate the possi-

bility of setting up a parliamentary commission on human rights, and if it succeeds, countries in the region could well take the lead."

III. The Role of Representatives, the Practice in ensuring citizens' rights

Many MPs have dreamt about the House becoming an independent organization which has wide-ranging duties to protect people's rights. The roles of the House of Representatives are well qualified in Chapter VI. of the present 1978 Constitution of Thailand. Concerning the duties protecting the rights and liberties of citizens by legal procedures, the House is responsible for the enactment of a Bill.

"Section 76:A Bill may be enacted as law only by and with the advice and consent of the National Assembly."

¹The hearing was attended by Ms. Supatra Masdit (Democrat Party), Pol. Lieut. Chaovarin Lathasaksiri (Chartthai Party), Mr. Samak Sirichan (Thai Citizen Party), Mr. Pairoj Tiyanit (United Democratic Party) Dr. Peerapan Phalusuk (Democrat Party), Mr. Wisarn Techathiravat (United Thai Party), Dr. Surin Pitsuwan (Democrat Party), Mr. Virat Tayangkhanont (Social Action Party), Mr. Surin Laksanavisit (Democrat Party), Mr. Samphao Prachuabmoh (Chartthai Party).

...for requesting permanent government officials to consider and solve the problems of citizen rights violations.

"Section 135 : The Senate and the House of Representatives are, by virtue of this Constitution, vested with the power to control the administration of the State Affairs." and "Section 114 : At a sitting of the Senate or of the House of Representatives or at a joint sitting of the Parliament, words expressed in giving a statement of fact or opinion or in casting vote by any member are absolutely privileged. No charge or action in any manner what so ever shall be brought against such member."

...for interpellating the administrators and submitting a motion for general debate, including the debates on the protection of the citizens' rights.

"Section 136 : At a sitting of the Senate or of the House of Representatives, every member has the right to interpellate a Minister on any matter within the scope of his authority but the Minister has the right to decline to answer if the Council of Ministers is of the opinion that the matter should not yet be disclosed on the ground of safety or vital interest of the State.



"Section 142 : The Senate and the House of Representatives have the power to make the rules of procedure governing the selection and performance of duties of the President and the Deputy-Presidents of the Houses, and member of committees, sittings, introduction and consideration of bills, presentation of motions, consultation, debate, passing of resolution, interpellation, general debate; of the rules and order as well as other matters for the execution of this Constitution.

According to the Constitution, therefore, a MPs have, available to them ways to promote and protect the rights of citizens. But, the Constitution, as a documentary embodiment of constitutionalism in national governmental system, may manifest "constitutionalism" only in appearance. The belief of "constitutionalism" in transcendent principles of justice and rights, and the control on government by limiting its authority and establishing regular procedures for its operation is hard to be realized by means of many written Constitutions. In practice, the power of the House of Representatives in protecting human rights is limited for the following reasons.

First of all, the regular duties of the MPs frequently prevent them from coordinating with the governmental and non-governmental human rights organizations.

The enactment in practice of Bills that really protect the rights of the citizens or the amendment of unjust laws are carried out with difficulty. The bicameralism of the National Assembly composed of appointed and elected members might venture into the unbalanced power between the executive and the legislative. Moreover, not all of the representatives are determined to serve for the interests of the

people. The thorny process of the consideration of the Bills concerning the liberty of the Press and the radio broadcast of Parliamentary sessions are good examples of this.

Due to the incoherence of the parliamentary system, the power of MPs and permanent government officials is not well-balanced. The centralized administrative system also delays, and sometimes, interrupts the access of citizens' complaints.

As for the representatives themselves, the processes of introducing draft Bills, presenting motions, passing resolutions or interpellating for general debate is all too often slowed down by bureaucratic elements.

Despite these limits, there is another mechanism in the National Assembly : the Committees. This "Little Legislature" might be more flexible in maintaining the "checks and balances" and safeguarding human rights as the aforementioned human rights activists would hope.

IV. The Committee on Human Rights : a Standing or an Ad Hoc one?

By virtue of Section 139 of present constitution, the Senate and the House of Representatives have the power to select and appoint members of each House to constitute "a Standing Committee" and have the power to select and appoint members or other persons to constitute "an ad hoc committee" in order to perform any act, inquire into, or study any matter as may be assigned by the House and report its findings to the House.

The types of committees, as designed by the 1978 Constitution and the Rules of Procedures of both Houses, have been categorized by the qualifications of the members constituted as a committee or by the assigned activities which may be permanent or temporary, as each House deems appropriate. There may also be any committee which is constituted by the House in order to perform any act as authorized by the Constitution. At present the parliamentary committee can be categorized as follow :-

1. Standing Committees The Standing Committees, lasting the whole term of the House, have powers and duties which cover the activities of all Ministries. Up to 1988, there are a total of 18 Standing Committees for the House of Representatives and 12 for the Senate.

2. Ad Hoc Committees The Committees are set up by the Senate and the House of Representatives for a particular purpose, such as the consideration of an important Bill.

By virtue of Section 72 of the 1984 Rules of Procedure of the Senate, it shall be elected from persons proposed by the Council of Ministers from not more than one-half of all the Committees the sitting will elect the rest from the list proposed by members.

By virtue of Section 75 of the 1985 Rule of Procedure of the House of Representatives, it shall be elected from persons proposed by the Council of Ministers from not more than one fourth of all the Committees; the sitting will elect the rest from the list proposed by members.

3. Joint Committees Joint Committees of members of both Houses, usually chosen in equal numbers to consider either a particular subject or a Bill passed by the House of Representatives to which the Senate does not agree.

4. Committee on the Whole House Comprised of every member attending the sitting, this type of Committee is set up to consider a matter that is not too complicated to speed up the procedure. The consideration of the Committee on the Whole House shall be done only when requested by the Council of Ministers on a member submits a motion seconded by not less than twenty members and the sitting permits so.

The Human Rights Organizations which call for a Standing Committee on Human Rights would expect it to focus on the following tasks :-

- To work for the implementation by all government official of the Universal Declaration of Human Rights, adopted by the United Nations (UN) and the UN Covenants on Civil and Political Rights and Economic, Social and Cultural Rights.

- To review and consider, at the Second reading, all Bills concerning human rights.

- To study legal obstacles curtailing human rights in Thai Society and explore methods of removing them.

- To increase awareness in Parliament about human rights abuses by submitting, to the House, legal aspects of concrete cases of violations for further corrections.

- To establish contacts with the Parliamentarians, inter-governmental agencies and NGOs concerned with human rights so as to have systematical compilation of information and appropriate approaches.

Mr Chan Kaewxusai; Chairman of the Legal Aid Centre, indicated at the seminar

on human rights at the National Assembly that the 18 House Standing Committees have not particularly worked on human rights issues with a long-term perspective.

Taking a closer look into Thai politics, those who call for the Standing Committee on Human Rights must be aware of the dominant power of the Executive. The executive team comes from the political parties having the most Seats in the House of Representatives. As for the Committees, the third paragraph of Section 139 of the present Constitution mentioned that "The number of members of a Standing Committee to be appointed shall be in proportion to or in close proportion to the number of members of the House of Representatives of each political party or group of political parties in the House of Representatives." Consequently, the members of the Committees mostly come from the majority who also have their hands in the Executive. Could the Committees or the Little Legislature be independent enough to perform the checks and balances duties required?

In theory, the powers and duties of the Standing Committees cover the activities of all Ministries. The execution of these activities is, however, hard to realize in practice due to insufficient staff. According to the research on Role of Standing Committee in the House of Representatives, carried out by Sopa Sa-Nguankiat, the Committees are assisted by a staff of about 40 regular governmental officials from the Secretariat of the National Assembly. Moreover, there are only few professional staff. If the Standing Committee on Human Rights is officially approved in the future, the Committee might have to search for helping hands from other agencies as the content of its activities is extremely wide-ranging.

The primary duty of the Committee is the consideration of a Bill at its second reading. During 1979-1986, most of the tasks were confided to Ad Hoc Committees and the Committees on the Whole House. The roles of the Standing Committees were thus reduced during this period. In general, they were assigned to take care of less complicated Bills.

Another important duty of the Committee is "to inquire or study any matter as may be assigned by the House."

During 1976-1979, the act of inquiry or study had to be approved by the parliament. Its role was upgraded again after 1979. The Standing Committees could have

the autonomy in inquiry or investigation through and over the session.

Having the better position of permanent throughout the whole term of the House, the Standing Committee, in the eyes of the campaigning movement, would be more appropriate to work on human rights issues. But don't forget all the circles that can interfere in its functioning the "Little Legislature." Had it been hindered by the inner mechanism of the parliament, some people have suggested to rely from the beginning on an Ad-Hoc Committee which will work on a case-by case basis.

Epilogue: The Storm over the Parliament

This year, the motion on a House Committee on Human Rights was waiting for consideration but will now have to wait as the House of Representatives was dissolved on April 29, by Gen. Prem Tinsulanonda because of the lack of unity among political parties. This refers evidently to the dissension among the Democrat Party on the controversial Copyright Bill. About 30 Democrat dissidents joined the Opposition in voting against the government sponsored bill which sought to provide copyright protection to US intellectual works, and which passed the third reading by a majority of 183 to 17 votes. All the 16 Democrat ministers therefore, resigned, to pave way for the Prime Minister to rebuild the government stability by bringing more parties into the coalition, perhaps the United Democrat and for Ruam Thai and a Democrat Party without the "January 10" dissident faction. Instead of reshuffling the Cabinet, Gen. Prem dissolved the House-only ten days before the scheduled non-confidence debate.

Who Thereby discarded basic "democratic rules."? The Democrat rebel who refused to "play by the rules of the democratic game" by opposing the bill as Prem stated...or the one who wanted to hide behind his post, but will never run in the elections?

It is the third time that Prem has dissolved the House in his almost nine years in office. Prem, the most permanent, above all the chaotic elements.

Those who strive for the House Committee on Human Rights will have to wait for the next era after the general election on July 24.

General conditions on Human Right

This article is a summary of papers and recommendations presented at the seminar on "Legal Assistance for the people and the promotion of human rights in Thailand" (on 21-23 September 1987) and the report "Assisting the Thai Parliament in human rights affairs" by Charoen Kampeerapab.

I. Current loopholes and inadequacies in Thai law

Under current land law, those people who possess only a preliminary certificate or certificate of utilization, and who are deprived of the "Title deed" can be easily evicted from their land as the law limitation for the period of land occupation is only one year. The length of time legally

authorized for temporary occupation of land should be extended for the sake of the underprivileged.

- The Land Code and provisions for the expropriation of immovable properties, such as the Royal Decree on reservation of waste land for government use must be amended, in order not to violate citizens' rights.

- Loopholes in the law concerning hiring services and protecting labour have to be remedied.

- Provisions and regulations issued by the Department of Corrections concerning the protection of detainees' rights must be improved.

- The power of the Military Court has to be limited, so as not to transgress the boundary of the Civil Court of Justice.

- There must be measures to counter the arbitrary proclamation of Martial Laws.

- Amendments in the law on women and children's rights and its enforcement should be more practical.

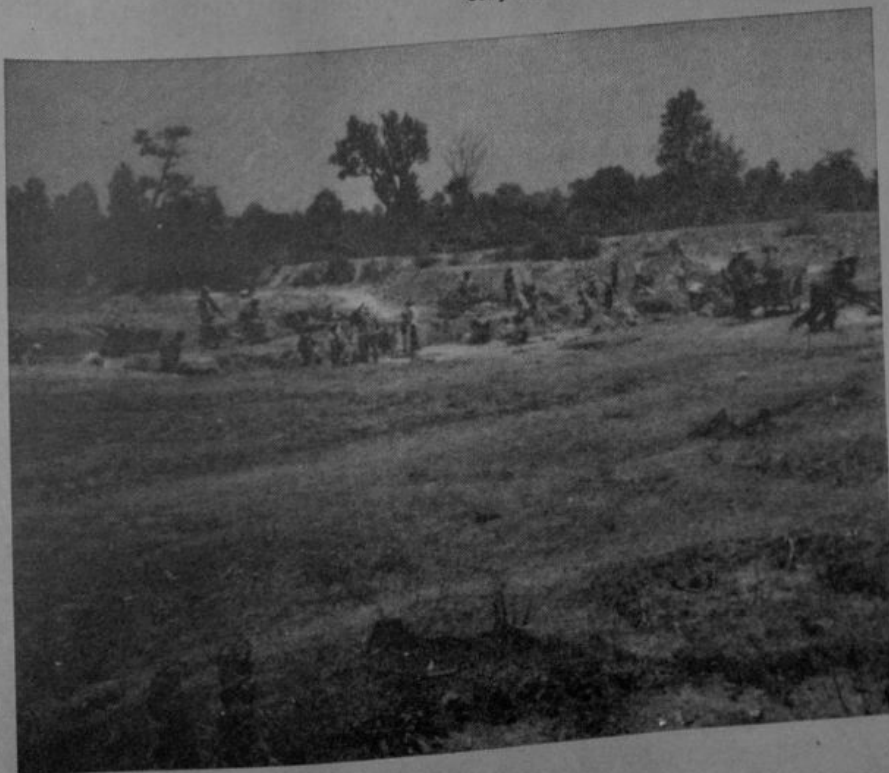
- To reduce problems of running easily into debt provisions relating to hire-purchase or selling on credit should be amended.

II. Labour Law

A) Law on General Labour Protection

1. Provision on labour

There are currently many provisions concerning labour, such as the Civil and Commercial Code Book III, Title VI, the



General conditions on Human Right

Announcement of the Revolutionary Party N° 103 (1972), a series of Notifications of the Ministry of Labour on labour protection, the Labour Relations Act, ± 975, the Act on Establishment of Labour Courts and Labour Court Procedure, 1979. Such a variety of provisions, inconsistent in content, sometimes leads to confusion in interpretation. Moreover, it is inconvenient for ordinary citizens to learn about their rights and liberties. These provisions should be amended to form a more compact and consistent Labour Code.



2. Hiring of Services

a. employment contract Clauses concerning employment contracts are not precise enough to protect the rights of the employees. In order to avoid labour oppression, these clauses should be defined more clearly and precisely, particularly regarding the conditions and period of employment.

b. labour discrimination Labour activists are often prevented from being reemployed? The State should consider possible measures to protect their rights.

c. insurance The insurance premium is sometimes arbitrarily fixed by the employers. A measure to protect the poverty-stricken workers by adequate insurance cover should be enacted.

3. Labour Employment

Though labour protection law covers the sphere of general employment, length of working day; rest periods; holidays;

wages and over time pay; the use of female and child labour; welfare and work safety; compensation and severance pay, there are inadequacies and injustice on certain points. First of all, the law indicates the employers' rights only in terminating a contract if the employee makes a serious mistake. The necessary proceedings before termination of employment are not clearly defined. The law does not oblige the employer to present a written notice, explaining the reason for an employee's dismissal.

With regards to the other areas and overtime employment, and the appointment and transfer of positions, the provisions in labour law haven't sufficiently protected the rights of the employees. The number of working hours should be reduced for some hazardous occupations. Maternity leave and claims for medical expenses by women workers should be increased.

4. Legal Assistance to governmental and non-governmental organizations

A. Labour Courts The Labour Courts are responsible for reconciling labour disputes, examining and making a final decision in labour cases, and organizing training courses on labour law and procedures in the Courts. Up until now, the Courts haven't yet supplied the lawyers for conducting cases for poor citizens. Human rights workers have, thus,

campaigned for the free service of law when needed in such cases.

B. The Department of Labour, the Department of Public Prosecutor, the Labour Union and Labour Federation

Having the objectives of protecting the rights of workers and disseminating knowledge on labour law and legal procedures, these organizations should have more contacts and cooperation in order to solve more effectively the problems arising from violations of labour rights.

At present, the Department of Labour still has the following limitations:

- Working during the day, and sometimes hindered by employers, employees do not have much flexibility and opportunity to contact the jurists from the Labour Department.

- Employees, who are concerned with their job security are not willing to give oral evidence in the Court.

- The official jurists have to be determined enough to maintain justice in labour disputes.

III. Violation of Women and Children's Rights

A. The condition of women and children's rights violation



1. Physical Abuses

a. Bodily harm, such as a blow, or any other arbitrary infliction of punishment.

b. Sexual oppression: rape, obscene acts, forced prostitution.

2. Kidnapping of children for sale in Thailand and abroad.

3. Certain legal provisions restrict the rights of women in many aspects, for example, prevention from holding some governmental positions unequal rights in the Family Act, the nationality of married

women whose husbands are not Thai citizens,

4. Problems of children's rights in the following case :-

- abandoned children
- slum children who are deprived of birth certificates and civil records
- mentally handicapped children
- Children used in criminal crimes.
- physically oppressed children
- abuse of child labour

B. Causes and motives of the violation

1. Prejudices in traditional concepts and customs towards the roles of women and children.

2. Inadequacies of substantive law and legal procedures covering women and children. Moreover, many provisions, enacted under the form of Notification or Declaration of the Revolutionary Party, contradict each other.

IV. Imperfection in political and administrative systems concerning human rights.

Problems which are economically and politically deep-rooted in Thai society have been aggravated by the following factors.

1. Defects in laws and legal procedures

There are many unjust laws which have been enacted without due legislative procedures including about 460 of the Revolutionary Council or the National Administrative Reform Council Declarations and Notifications.

According to the Criminal Procedure Code, law enforcement authorities have too much power, especially with regard to search, detention, inquiry and charge of bail. To avoid abuses of power, there must be an authority with judicial power to "check and balance".

The Penitentiary Code is vaguely enacted. The ministerial regulations enacted by the Executive are sometimes irrelevant to the general code and not in line with the United Nations Covenants regarding this subject.

2. Administrative flaws

In spite of substantive provisions, citizens rights have been abused by government officials themselves, for example:-

- Neglect and inertia in carrying out their duties.
- Prejudices of law enforcement authorities.
- Abuses of power, such as unfair treatment of the detainees.

3. Ineffective and insufficient procedures of control and evaluation.

4. People's lack of awareness of their rights.

5. Discrimination and uncertainty about government policies concerning minorities.

V. Land disputes in national reserved and public domain.

1. Disputes over the land on the boundaries of a national reserved forest and public domain.

- By virtue of Section 12 in the Act on National Reserved Forest, the Ministry of Agriculture has the right to determine the boundaries of the permanent forest and national reserved forest by ministerial regulations. Anyone who has been living on and making use of the land prior to the date of the regulation with or without having a certificate of ownership, has to inform the head of an amphoe (subdivision of a province or his assistant (palad) within 90 days and has to guarantee estate rights and utilization of the land; if this is not done, the land can be expropriated.

As the majority of people are not aware of the enactment of such a ministerial regulation, they often easily lose their land. Some jurists have stated that the regulation is enacted to remove the right of the people to earn their living. According to Section 33 of the present Constitution, "the expropriation of immovable property shall not be made except by virtue of law specifically enacted for the purpose of public utility...and fair compensation shall be paid in due time to the owner thereof as well as to the person having the right thereto." This ministerial regulation, is, thus, contradictory to the Constitution

on the matter of legal procedure and compensation.

2. Permission for private cultivation of forest

Due to the State's policy of encouraging private cultivation of the forest, many communities suffer from environmental deterioration, leading to continuing protests from Tambol Councils, especially in Non Lan Forest, Amphoe Uthumpisai, in the province of Srisaket

The Nature Conservation Groups from 15 Higher-Education Institutes have also protested on the plundering of natural resources by privately cultivated forests in the areas of Roi-Et, Srisaket and Surin. (North-eastern provinces).

This pressure group has suggested that the Department of Forest and non-governmental organizations should coordinate their efforts to support Cooperatives or that reliable Public Enterprises should be put in charge of reforestation.

3. Responsibilities of governmental officials

This deterioration of natural resources may be aggravated by the corruption of governmental officials in certain agencies.

4. Disputes over the Royal Decrees on Reservation of Waste Land for official use.

As the Reservation of Vacant Land as Public Domain Act. B.E.2478 (1935 A.D.) was replaced by a series of Royal Decrees on Reservation of Waste Land for official use, the boundary of waste land has to be defined by a special map. A number of Royal Decrees, such as, the one determining the waste land in Puk Nam Pho, Phayuhakiri, Krokphra Amphoes in the province of Nakorn Sawan, were enacted without an adequate survey of the area which was already inhabited. These careless legal procedures have, thus, brought about controversial disputes concerning land rights.

5. disputes over the land for public animal husbandry.

These disputes also originate from a lack of careful surveying and record keeping, including the lack of cooperation between the Department of Land and Local Administration

The Call of Allah in Southern Thailand

A recent rally of Muslim students at Yala Teachers' Training College protesting against the Islamic dress ban in their classrooms and the reported threat against the lives of governor of the Expressway and Transit Authority of Thailand (ETA) and the Deputy-Minister of Internal Affairs (February-March 1988) both responsible for the proposed construction of Bangkok expressways



that would cut through an Islamic village, mosques (masjid) and cemetery at Ban Krua reveal a wide difference of opinions between the State and the Muslims. To understand this difference, an appreciation of the historical relationship between the Muslims, especially those in the South and the Thai State is needed.

The early seventh century saw the beginning of a Malay settlement in the area that is now called Pattani. Islam

probably reached the North of the Malaya peninsula, including the Pattani area, by the fourteenth century. "Hikayat Pattani" or Greater Pattani has been, from time to time, a tributary state of the Thai Kingdom since the late thirteenth century. The kings of Ayuddhaya never imposed either a political or cultural system on Pattani. The real southward expansion began during the reign of King Rama I (1782-1809) in the eighteenth century

(1785) and resulted in the submission of Pattani into becoming an integral part of the Kingdom. A series of "rebellions" led Bangkok to reduce Pattani's strength and semi-independence by a policy of "divide and rule" splitting Pattani into seven smaller "muang" or provinces. Due to difficulties in communication, however, these distant provinces were, able to maintain partial autonomy from Bangkok until the end of the nineteenth century. This indirect control was terminated when King Rama V (1868-1910) introduced a policy of administrative centralization known as the "thesapiban" system of provincial administration. The Thai rule was not well accepted by the seven Muslim State rulers. But opposition collapsed with the deposition and exile of the Rajas of Pattani and "Ra-ngae." Moreover, with some administrative modifications in 1909, Pattani, Yala, Nurathiwat and Satun became "the Four Southern Border Province." After the change from absolute monarchy to constitutional monarchy in 1932, the new provincial system accelerated the centralization process.

Later, as an intensely nationalistic and charismatic leader, Field Marshal Pibul Songkhram contrived to instill the three national symbols originated by King (Rama VI) (1911-1925) Vachiravut : nation, religion and monarchy into the Thai national consciousness. Due to the nationalistic policy of advancing the state for the Thai race, "That Rathaniyom" Malays were no longer allowed to wear their traditional dress, have their own Malayo-Arabic names and speak their own language. Through compulsory religious education, the government was determined to convert non-Buddhists into "Thai speaking subjects." Amidst these repressive measures, however, there was a coordinated Islamic underground movement with some support from international allies. Tengku Mahyiddin, the son of Raja Abdul Kadir of Pattani, left Thailand to orchestrate the movement for the liberation of Pattani. During the Second World War, he actively encouraged the Malay-Muslims' struggle for independence. After the fall of Field Marshal Pibul Songkhram (P.M. 1938-1959) in July 1944, a more conciliatory government designed a series of programs and policies know



as "The Patronage of Islam Act of 1945" to institute a link between the central Thai authorities and religious activists of the Muslim community. The mosque councils "culamá", the "madrasa" and the office of the "Shaikh al-Islam" [= Chularajamontri, chief of the Central Islamic Committee] were integrated into the state's officialdom. Nevertheless, the "Pondox Institutions" (madrasas), which were both religious and educational, were changed into a simple Islamic educational institution named "The Islamic College of Thailand."

The attempt to incorporate the Muslim leaders into the state bureaucracy collapsed with the November 1947 military coup d'état of Phibul Songkhram. Cham Phromyong the "Chularajamontri" had to flee the country with his political mentor, Pridi Bhanomyong (1900-1983) Hajji Sulong had agreed to become the Chairman of the Provincial Islamic Council in 1945 in the belief that there would be in political cooperation without cultural interference, but had been disappointed in this because of causes of violation of rights and infringement of freedom by government officials, and the persistent problems of corruption and extortion. On April 3, 1947, the Malay-Muslims, headed by Hajji Sulong, submitted to the Thai Government a seven - point plan calling primarily the cultural autonomy of the Four Border Provinces. Fearing that Thailand would disintegrate if it yielded to these requests, the government decided not to change the structure of power relations between the Muslim Southern provinces and Bangkok. In response, Hajji Sulong applied more pressure by threatening to boycott the general election scheduled for January 1948, and was then arrested along with his son and three colleagues. They were charged with "preparing and conspiring to change the royal traditional

government and threatening national sovereignty and security by external forces" Spontaneous uprisings occurred in the Southern Region, and international pressure mounted. The Hajji Sulong affair brought the Pattani issue to the attention of the Arab League and the United Nations. After four years of detention, Hajji Sulong was released in 1952 and is presumed to have been drowned by the police in 1954. But he is still a "cause célèbre" of the Greater Pattani's independence movement.

The rise to power of Sarit Thanarat (P.M.1908-1963) in 1975 introduced the ideology of nation-building through socio-economic development efforts. The new "integration policy" aimed cultural and political assimilation by directly addressing the people's welfare. In order to reduce the social distance between Thai Buddhists and the mass of the Malay population, the government determined to bring in some uniformity and standard to the Islamic religious education. The "Pondoks" Institutions which were the target of government penetration were transformed into regular private schools with special emphasis on religious education. Finally, a secular curriculum was introduced into the system in the hope that its graduates would be better prepared to participate in the affairs of the Thai state. The Thai language was imposed on this organized educational system. The role of *culama*, commonly known as *To'Khru* (venerable teachers), who could politically influence Muslim students, was deliberately reduced.

Regarding the politics of higher education, a quota for Malay-Muslim students for admission into Thai universities and other institutions of higher learning was authorized by the Cabinet in 1970. About 20 years ago, the University of Songkhla Nakarin was founded in Pattani to serve the national goal of political integration and development. Nevertheless it should be noted that there were only a small number of Muslim students in this Southern University.

The strategy of encouraging the Muslims to be civil servants in the South in order to create better understanding between the State and the local communities is also fanciful. The report of the Department of Local Administration stated that the Muslims



were not sufficiently interested in education. Perhaps, they were not motivated by the centralised system of education. As a result, the majority of civil servants in the Four Border Provinces continue to be non-Muslims. Moreover, bureaucratic attitudes toward the Muslims tend to be negative. The Malay-Muslims are frequently discriminated against by Buddhist officials. Some examples from the southern magazines "Thang Nam" (Guiding Post) and "Sanyalak" (Symbol) in 1986 well illustrate this. When a soldier from Sirinthorn Camp in the province of Yala asked for permission to take leave for the "Id-al-Fitr" Day (the day to celebrate the end of Ramadan. The fasting month of the Muslims, one of his superiors sarcastically told him to emigrate to Malaysia. Concerning employment discrimination, the application form of the Hospital of Yala allows only Thai Buddhists to apply for high-ranking administrative posts. The last example is a ban of traditional dress worn by a civil servant Muslim women in Pattani. When she presented the complaint to the Governor, he retorted that it was his own policy to discourage Muslim dress among civil servants. It seems that Malay bureaucrats in the South do not have respect nor understanding of the cultural norms of the local people.

In addition, the state's intrusion into the sacred domain of religious beliefs has been unacceptable to the Malay-Muslims. A 30 million baht Buddha image, sponsored by the State,



was established at the Khao Kong temple atop a small hill in the middle of a Muslim community whose Central Masjid (mosque) cost only 4 million baht. It has no function for the majority of the area. From the Malays' point of view, this government action is an affront to their cultural dignity as Islam vehemently abhors images of every kind. More recently another case of violation of religious rights occurred. A Deputy-Minister of Education, passed a set of regulation which resulted in the placing of Buddha statues in classrooms of Southern which are under the control of the Board of National Primary Education. The Muslims of Satun ardently protested until the regulation was annulled.

Aside from the socio-cultural trends that keep the Malay-Muslims apart from the mainstream, economic situations have considerably widened the gap. The average income of the people in the Malay provinces is much lower than that of the whole Southern Region, and that of the whole country.

Most of them are rubber plantation workers, small land-holders, proprietors of small shops in rural areas and farmers; nearly all of the middle and large scale economic activities are in the hands of the Chinese, and to a lesser extent, the Thai Buddhists. With the rising cost of living, their sufferings are similar to poor peasants in other parts of Thailand.

As the Qur'an Says :

"And fight them on
Until there is no more
Tumult and oppression,
And there prevail
Justice and Faith in God"
(II : 193)

As Given the problem of poverty and injustice, some Muslims in the South turn to violent revolution in the name of Jihad. The violence in the South seems to be a manifestation of discontent against the efforts of the Thai State to reduce the Malay-Muslims, a group bound by religious, linguistic and ethnic ties, to an insignificant component of the nation. A sharp rise in political agitation and violence in the Malay South has shown that the conflict is structural, from socio, cultural and historical dimensions.

The Holy Qur'an also reminds the people of their common origin : "And mankind originally was one community, but then they differed" (X : 20). The concept of universal brotherhood was supreme in the mind of the Prophet Muhammad who wanted peaceful co-existence with the non-Muslims. Perhaps, the politics of integration has to be revised in order to offer all different groups social justice civil rights and corresponding duties.

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Jailbreak Attempt at Songkhla Prison

In the afternoon of August 21, 1987, 4 prisoners, armed with a hand grenade and grass clippers, took 4 other people hostage. Negotiations went on throughout the night between the Director of the Prison, the Deputy Governor, the Local Police Chief of Songkhla, and the prisoners who demanded to be given 4 M. 16 assault rifles, a radio transmitter and free passage.

At the same time, police sharpshooters were sent in to lay siege to the prison.

After tense and unsuccessful negotiations, the prisoners set a one-storey warehouse in the prison on fire.

Parents and relatives of the four prisoners were brought to the prison to talk to them through megaphones, asking them to give themselves up. The prisoners finally surrendered on August, 23.

Thai Rath, Bangkok Post, 22-23 August, 1987.

Jailbreaker found hanging in jail

Sophon Chankhong, one of the 4 prison inmates who had attempted to break out of the jail in Songkhla, was found hanging in his cell on the morning of August, 24.

Sophon was reportedly detained in solitary confine-

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ment without being but not allowed to have even a piece of loincloth. He probably made a noose by unraveling the strands of a length of rope attached to an excrement bucket, tying them together to make a longer rope, and then took the fatal step off the bucket.

Sanit Rujinarong, the Chief of Corrections Department, said that the cause of death will be looked into as there were often suspicious suicide cases after abortive jailbreak attempts. This is the first time that a senior official has publicly made such a promise concerning the rights of prisoners.

New Na, Bangkok Post, 25 August, 1987.

Warder helped convicts escape from prison

Sathaporn Taenhamrung, a warder who had once been suspended from his duty in 1982 for assaulting an inmate in a prison in the southern province of Chumphon and was reinstated in Surathani prison, was bribed by 7 prisoners in their escape on August 31, 1987.

By unlocking the door of the third sleeping quarter, housing about 60 inmates, Sathaporn allowed 7 of them to escape by climbing over the prison wall. One of them

was unable to jump from the wall, but the other 6 managed to escape. The provincial and border patrol police were called in to hunt for them all over Surathani.

Another jailbreak attempt occurred on the same day in Chonburi. A prisoner detained for possessing firearms escaped by climbing over a wall on the day the prison commander was on sick leave.

Matichon, Nation, 1 September, 1987.

16 Juvenile detainees escaped just for a "wander around"

During the night of October 21, 1987, 16 youngsters escaped from the Chiangmai Juvenile Detainment Centre and began to make their way up to Chiangmai.

About 80 policemen were called in to intercept the escaping youths by searching all cars going in the direction of Chiangmai until they found all the prisoners.

The 16 detainees confessed that they had plotted the escape just to wander around for their amusement. By cutting the bars of their cell with a saw stolen from the workshop and tying sheets together to make a rope long enough to reach the ground, they had succeeded in climbing over the prison wall.

Siam Rath, 23 October, 1987.

Sulak's call for Thai Amnesty

Wellknown Buddhist commentator Sulak Srivaraksa and Koson Srisang, former secretary of the Church of Christ in Thailand, in letters dated October, 21, urged international organizations to support an amnesty for Thai political prisoners including the September 9 coup suspects. They suggested that supporters send telegram to His Majesty the King Prime Minister Prem Tinsulanonda, Parliament President Dr. Ukrit Mongkhonavin and House Speaker Chuan Leekpai.

The same campaign had been launched by the Student Federation of Thailand and Human Rights Groups in Thailand.

Apart from trying to gain support for political prisoners, these pressure groups also lobbied for an Amnesty Bill, being drafted by the Democrat Party.

Bangkok Post,
24 October, 1987.

Prime Minister Dropped Charges Against 5 Top CPT Suspects

Army Chief-of-Staff General Wanchai Ruengtrakul and Special Branch Police Commander Major General Kasem Saengmitr told a Press Conference that General Prem, as general director of the national communist suppression agency, had approved the proposal to release the five Top Communist Party of Thailand (CPT) member suspects, arrested in two coordinated swoops in Bangkok and Chachoengsao in April, 1987.

They are Sin Termlin, alias Pravat (62 years old), Prachuab Ruangrat, alias Siam (67 years old), both alleged members of the politburo of the CPT, Chamnarn Ban-chengkliang, alias Sri (55 years old), Vibul Chen-chaiwat, alias Tung (61 years old) both alleged members of

the Central Committee, and Noppadol Pakdi, alias Sawai (33 years old), an alleged radio-communication staff of the party.

Under Article 17 (7) of the Anti-Communist Act, the interrogators can recommend to the director of the Internal Security Operations Command (ISOC) the release of suspects who are willing to give up their communist ideologies and undergo up to 6 months of reeducation. As these 5 senior CPT members had given ISOC authorities useful information and had vowed to turn their backs on the CPT, it was announced that they would be under the surveillance of the authorities for up to 6 months and then allowed to be free.

Thai Rath, Nation
22 September, 1987.

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prisoners. Vichit and Lamyong, one of them brandishing a knife, ran past the warder, out of the building and raced towards the prison wall. As they were scaling the 12 metre wall, prison warders radioed their colleagues to prevent them escaping. While heading for a klong, Vichit was shot in the chest on the bank. He was serving a one year sentence for illegal firearms possession and awaiting sentence on charges of robbery and murder.

Daily News, Bangkok Post,
21 November, 1987.

Judge beaten by enforcement authority

In the middle of the night of August, 8, 1987, Damrongsak Pongsawad, the provincial Judge of Chumphon, accompanied by his brother and friends, was driving on the one-way road leading to the Thai Hotel in Nakorn Srithammarat. He became involved in a serious dispute with Rapeeparn and Suphaporn Thongsamak who wanted to drive their car in the opposite direction. These two telephoned their friend, a police official, to arrest the judge under a charge of possession of firearms and being drunk.

Prisoner Killed During Jailbreak attempt in Chonburi

Vichit Limcharoen, 22 years old, was shot dead by prison warder as he was attempting to escape but another inmate, Lamyong Chanruang, 30 years old successfully escaped.

The incident happened at about 4.00 pm. When the warder, Chun, was about to round up a group of



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Damrongsak was beaten by investigation authorities until he managed to identification that he is a judge. He has demanded the prosecution of these investigation authorities on the grounds of bodily harm and abuses of power.

Daily News,
11 August, 1987.

workers, have been detained under the Internal Security Act which allows indefinite detention of communist suspects without trial.

Sithipong Kallanee, a student representative of the Thailand Student christian Movement (TSCM), stated that these arrersts were a grave



Students rallied at Singapore Embassy

On August 9, 1987 representatives from students and human rights organizations rallied and laid a wreath in front of the Singapore Embassy, protesting against the arrest of 16 people in Singapore alleged to be communist sympathizers. These Singaporeans including 10 Roman Catholic Church

violation of human rights as, according to the Universal Declaration of Human Rights, suspects should not be considered guilty until the charge has been proved in an open court.

An immediate release was demanded by these groups, who had already written a letter of protest to Singapore Prime Minister Lee Kuan Yew.

Nation
6, 10 August, 1987.



The Supreme Court Dismissed a Case of murder against by 9 policemen

On February 19, 1984, 7 suspects were shot in the head by policemen during a swoop in Lopburi. Their bodies were laid in a circle, next to used automobile tyres, ready to be burnt. There was no trace of the suspects fighting with the authorities.

Police Lieut. Gen. Sanroeng Muikhum and 8 other policemen involved the swoop were charged by the Lopburi Public Prosecutor with intentional murder. The Provincial Court found them guilty and sentenced them to 15 years imprisonment.

Having appealed to the Court of Appeals in 1985 and the Supreme Court in 1987 all the 9 detainees were acquitted and the case was dismissed.

Thai Rath,
20 October, 1987.

Textile Strikers urged the Government to end dispute

The government order on August 10, 1987 the management of Srikao Textile Company in Samut Sakhon rehire 36 laid-off workers, invoking Article 35 of the Labour Relations Act. This order to reopening of close factories or to order striking workers to return to work the work stoppage is considered harmful to the economy, national security society.

Government intervention took place long after the 100 days of protes by the dismissed workers. After the lonely fight, the Labour Congress of Thailand, the Trade Unions Congress and the Students' Federation of Thailand (S.F.T.) joined in supporting the sacked workers. A letter was submitted to the government asking them to settle the

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controversy, and stating that if it was not resolved, the workers would stage a hunger strike. On August 4, 1987, Interior Minister Prachuab Suntrangkoon who did not want a hunger strike asked the parties in dispute to compromise. The second round of negotiations between senior government officials and the company management began on August, 5. The first tripartite talks had failed to settle the problem of over 100 workers fired since March, 8 workers, including 6 women, and a student leader shaved their heads, on August, 8 as a protest against the government's failure. Workers, led by Ekkachai Ekharakamol, a leading unionist, also organized a demonstration

with banners criticizing the government at Sanam Luang, on August, 9.

Various forms of protest continued in the first two weeks of August. The House Labour Affairs Committee summoned all parties concerned in the dispute to Parliament for further talks. On August, 11, the government finally intervened by ordering the reinstatement of the 36 workers. The House Committee said it would work after this towards a solution concerning the future of the 95 other fired workers.

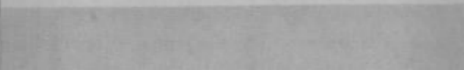
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