



[Home](#) » [Under Secretary for Democracy and Global Affairs](#) » [Bureau of Democracy, Human Rights, and Labor](#) » [Releases](#) » [Human Rights Reports](#) » [2009 Country Reports on Human Rights Practices](#) » [East Asia and the Pacific](#) » [Thailand](#)

2009 Human Rights Report: Thailand

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

March 11, 2010

Thailand is a constitutional monarchy with a population of more than 66 million. The king is revered and exerts strong informal influence. In the most recent election for the lower house of the parliament, held in December 2007, the People's Power Party, led by Samak Sundaravej, won a plurality. After Constitutional Court rulings that forced two prime ministers to step down in 2008, a government led by Abhisit Vejjajiva was inaugurated in December 2008. In March 2008 voters elected 76 senators for the upper house of the parliament. The election process for both legislative bodies was generally viewed as free and fair, but there were widespread allegations of vote buying. The continuing internal conflict in the southernmost provinces led the government to restrict some rights and delegate certain internal security powers to the armed forces. Civilian authorities generally maintained effective control of the security forces.

The government's respect for human rights remained unchanged from the previous year. Security forces continued at times to use excessive force against criminal suspects, and there were reports that police tortured, beat, and otherwise abused suspects, detainees, and prisoners, many of whom were held in overcrowded and unsanitary conditions. There were numerous dismissals, arrests, prosecutions, and convictions of security forces in response to this behavior; however, official impunity continued to be a serious problem. Police corruption was widespread. A separatist insurgency in the southern part of the country resulted in numerous human rights abuses, including killings, committed by ethnic Malay Muslim insurgents, Buddhist defense volunteers, and government security forces. The government maintained some limits on freedom of speech, of the press, and of assembly. Human rights workers, particularly those focusing on violence in the south, reported harassment and intimidation. Trafficking in persons remained a problem. Members of hill tribes without proper documentation continued to face restrictions on their movement, could not own land, and were not protected by labor laws. Government enforcement of labor laws was ineffective.

Political unrest occurred in March and April in Pattaya and Bangkok, when opposition street protests led to the cancellation of an Asian summit in Pattaya and riots in Bangkok, with two civilians killed by antigovernment protesters. The government declared a state of emergency in the Pattaya area on April 11 and in Bangkok on April 12, and the military restored order in Bangkok on April 13-14.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were no confirmed reports that the government or its agents committed any politically motivated killings; however, security forces occasionally used excessive and at times lethal force against criminal suspects and committed or were connected to extrajudicial, arbitrary, and unlawful killings, including killings by security force personnel acting in a private capacity. Government law enforcement bodies and courts took action in some cases, including suspected extrajudicial killings by police in Kalasin Province.

According to the Ministry of Interior's (MOI) Investigation and Legal Affairs Bureau, between January and November, 733 persons died in prison and 24 while in police custody. Authorities attributed most of the deaths to natural causes. Police killed 50 suspects during the arrest process.

By year's end no member of Task Force 39 had been charged in connection with the death of Imam Yapa Koseng while in army custody in March 2008. There were three lawsuits pending in the case: the potential criminal proceeding against the military suspects, under consideration by the National Counter-Corruption Commission (NCCC) since June 2008; the civil lawsuit filed by Yapa's family in March against the Ministry of Defense, Royal Thai Army (RTA), and Royal Thai Police (RTP) that was put on hold pending the resolution of a jurisdictional problem; and a criminal lawsuit filed on August 20 by the family against the alleged perpetrators.

There were no developments in the 2007 death of Nopphon Chaiwichit in Nakhon Si Thammarat Province. At year's end the Crime Suppression Police Division in Bangkok continued its investigation.

At year's end the case of the 2007 shooting by Preecha Panpayap, a MOI security official, in Mae Hong Son Province that killed Karenni refugee Aie Oo had not reached the prosecution or trial stage. On January 27, authorities forwarded the matter to the provincial police, which established an investigatory committee but made no determination. The governor of Mae Hong Son brought the case to the Office of the Attorney General (OAG) in June 2008. In November the OAG decided that it would not prosecute Preecha for deliberate homicide.

The Department of Special Investigation's (DSI) Special Case Center accepted for investigation 10 cases suspected of being related to the 2003 "War on Drugs" campaign for investigation, although the killings occurred after 2003. The DSI forwarded eight of the cases to the OAG and one to the NCCC, and it continued to investigate one case. The DSI issued warrants for six police officers in Kalasin Province in relation to the killing of Kiattisak Thitboonkhong and the subsequent cover-up. In August the DSI submitted a brief to the state prosecutor; on September 9, the prosecutor filed criminal charges, including a charge of abuse of power for the three commissioned officers involved.

In October several police officers and civilians exhausted their appeals in relation to the kidnapping and murder of the wife and son of jeweler Santi Sithanakhan during the investigation of the Saudi Arabian palace jewel theft in 1994. The Supreme Court upheld the death sentence of former police commissioner Chalo Koetthet for masterminding the scheme. Similarly, it upheld the life sentences received by one police officer and two civilians. As for the remaining defendants, another officer and a civilian died in prison, the last two civilians received minor sentences, and a final officer was acquitted.

According to the Thailand Mine Action Center, during the year there were 10 injuries due to landmines, occurring in Buriram, Kanchanaburi, Sakaew, Sisaket, and Trat provinces. The government continued significant public awareness campaigns, including sending landmine awareness teams to the affected villages and landmine education teams to local schools to inform students about the risk and prevention of landmine injury.

The C
Affair
the U
Exter
cons:
polici

There were at least four violent incidents between Thai border rangers and Cambodian illegal loggers during the year. For example, on September 11, border rangers shot at a group of Cambodians illegally logging on the Thai side of the border in Surin Province. One Cambodian was killed and another wounded in the incident. On November 27, border rangers allegedly shot and killed one individual among a group of seven Cambodian illegal loggers in Kap Cheung District, also in Surin Province.

b. Disappearance

There were no reports of politically motivated disappearances. There were no confirmed reports that individuals disappeared after being questioned by security officials in the southern provinces.

On December 11 in Narathiwat Province, relatives reported that Abduloh Abukaree disappeared after failing to return home from a nearby tea shop. He was a key witness in a DSI case against high-ranking police officials, connected to the disappearance of Somchai Neelaphaijit (see below).

There were no developments in the February 2008 case of Kamol Laosophaphant, a businessman in Khon Kaen Province who disappeared after going to a police station to lodge criminal complaints against local officials concerning state railway land deals. However, the DSI accepted it as a special case and was investigating it.

Utsaman Awaenu, a navy draftee stationed in Sattahip, Chonburi Province, who disappeared in February 2008, was located in mid-2008 by his family with the assistance of the Muslim Attorney Center and the Cross Cultural Foundation.

There were no developments in the 2007 abduction of Anukorn Waithanomsak, an assistant to a leader of the United Front for Democracy Against Dictatorship (UDD).

On March 19, a civil court declared Muslim attorney and human rights activist Somchai Neelaphaijit legally missing, five years after his disappearance. In January his wife, Angkhana Neelaphaijit, met with Prime Minister (PM) Abhisit, who subsequently pressured the DSI to pursue any remaining leads in the case. The DSI conducted several searches and declared there was no new evidence. In March the DSI stated that Police Major Ngern Thongsuk, convicted in 2007 of coercion for his role in forcing Somchai into a car, was living in a neighboring country and had not died in a September 2008 mudslide in Kanchanaburi Province as previously claimed. On March 11, Deputy PM Suthep Thaugsuban stated that those involved in Somchai's abduction would be prosecuted; however, at year's end no additional individuals had been charged. Somchai's disappearance in 2004 was thought to be connected to his legal representation of criminal suspects who allegedly had been tortured by high-ranking police officials. At year's end that case was before the NCCC, and one of the key witnesses, Abduloh Abukaree, disappeared on December 11, before he was able to testify.

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

The constitution specifically prohibits such practices, but there is no law that specifically prohibits torture, and it is not punishable as an offense under criminal law. Nongovernmental organizations (NGOs) and legal entities continued to report that members of the police and military occasionally tortured and beat suspects to obtain confessions. There were newspaper reports of numerous cases in which citizens accused police and other security officials of using brutality. At year's end no military personnel had been charged or prosecuted; however, there were criminal actions against RTP officers.

RTP Captain Nat Chonnithiwat and seven other police officers in the 41st Border Patrol Police unit were convicted by two separate Bangkok courts on charges of assault, illegal detention, extortion, and receiving bribes. Many of the victims were beaten, subjected to electric shock, and had plastic bags placed over their heads to force them to confess. Others were forced to pay bribes of cash and jewelry to have charges reduced against them. At least 61 individuals filed complaints

against these officers; in July they were sentenced to three years in prison, and in December they were sentenced to an additional five years.

The RTP continued its investigation of the January 2008 alleged torture of university students Ismael Tae and Amisi Manak by Yala's Task Force II and soldiers from a camp in Pattani. The relatives of the victims also filed a civil suit against the RTA, which was pending at year's end.

The case of Rayu Korkor, arrested in March 2008 by members of Task Force 39 along with Imam Yapa Koseng and four other men, continued under NCCC investigation. Rayu alleged that he witnessed Yapa's death at the hands of Task Force 39 officials (see section 1.a.) and that he was tortured. The RTP forwarded the case to the NCCC, and Rayu's relatives also filed a civil lawsuit against the RTA that was pending at year's end.

Prison and Detention Center Conditions

Prison conditions were poor. Prisons and detention centers were overcrowded. There were approximately 200,000 prisoners in prisons and detention facilities designed to hold 100,000. Sleeping accommodations were insufficient, medical care was inadequate, and communicable diseases were widespread in some prisons. Seriously ill prisoners at times were transferred to provincial or state hospitals.

Prison authorities sometimes used solitary confinement of not more than one month, as permitted by law, to punish male prisoners who consistently violated prison rules or regulations, although the Department of Corrections maintained that the average confinement was approximately seven days. Authorities also used heavy leg irons to control prisoners who were deemed escape risks or harmful to other prisoners.

Approximately 14 percent of the prison population consisted of pretrial detainees, who were not segregated from the general prison population. Men, women, and children often were held together in police station cells pending indictment. Separate facilities for juvenile offenders were available in all provinces. In rare instances juveniles were detained with adults.

Conditions in immigration detention centers (IDCs) remained poor. The Immigration Police Bureau, reporting to the Office of the Prime Minister, administered IDCs, which were not subject to many of the regulations that governed the regular prison system. There were reports that guards physically abused detainees in some IDCs. Overcrowding and a lack of basic medical care continued to be serious problems. There were also complaints of inadequate and culturally inappropriate food, especially by Muslim detainees.

International observers reported continued overcrowded conditions for detainees in Bangkok's Suan Phlu IDC. Observers alleged that detainees were abused while in detention. There were reports that detainees, including children, were not permitted to exercise at some facilities.

Access to prisons was not restricted, and the government permitted visits by independent human rights observers and the International Committee of the Red Cross (ICRC). ICRC representatives were allowed to meet prisoners without third parties present and made repeated visits. However, at year's end the military had not approved ICRC requests to visit military detention facilities in the four southernmost provinces, where detainees allegedly were mistreated. Authorities also continued to deny the UN High Commissioner for Refugees (UNHCR) access to detainees at the Suvarnabhumi Airport IDC in Bangkok. UNHCR officials were able to interview detainees in Suan Phlu IDC, and access for third countries to process recognized refugees for resettlement continued.

d. Arbitrary Arrest or Detention

The constitution specifically prohibits arbitrary arrest and detention; however, government forces occasionally arrested and detained persons arbitrarily. Martial law, which gives the military authority to detain persons without charge for a maximum of seven days, remained in force in 31 of the country's 76 provinces.

The Lawyers' Council of Thailand (LCT) received 115 complaints during the year from residents of the southern provinces about security force operations, including improper searches and arrests made by citing the emergency decree and presenting warrants afterwards.

Role of the Police and Security Apparatus

The RTP has the authority to minimize threats to internal security and suppress criminal activity. It is under the direct supervision of the prime minister and a 20-member police commission. The police commissioner general is appointed by the prime minister and subject to cabinet and royal approval. The Border Patrol Police has special authority and responsibility in border areas to combat insurgent or separatist movements.

The February 2008 implementation of the Internal Security Act (ISA) created the Internal Security Operations Command (ISOC) as a state agency under the command of the prime minister, who acts as the ISOC director. The act includes broad powers for the military. Military and civilian personnel make up the ISOC staff; ISOC is intended to function as a national security force to suppress unrest. The ISA was invoked in July for the Association of Southeast Asian Nations (ASEAN) Regional Forum in Phuket and repeatedly in the fall for UDD rallies. Human rights organizations and academics criticized the government for repeatedly utilizing the ISA, with approval of the cabinet, to respond to alleged threats to national security by restricting fundamental rights. However, invocation of the ISA did not prevent peaceful assembly of protesters.

Corruption remained widespread among members of the police force. There were numerous incidents of police charged with sexual harassment, theft, and malfeasance. There were reports that police tortured, beat, and otherwise abused detainees and prisoners, generally with impunity. Police officers were arrested for drug trafficking, reportedly involved with intellectual property rights violations, and convicted on extortion charges.

In certain regions and situations where the military plays a security role, soldiers were arrested and charged with drug trafficking and arms trafficking. In July the RTA dismissed 38 noncommissioned officers for fraud and extortion for demanding money for rank and duty promotions.

There were press reports that former police chief Patcharawat Wongsuwan interfered in the investigation of the April attempted killing of People's Alliance for Democracy leader Sondhi Limthongkul. In July arrest warrants were issued for two soldiers and a police officer. In October the NCCC charged Patcharawat with malfeasance for his handling of the violent crackdown on the October 2008 political protesters, leading PM Abhisit to transfer him. The case was forwarded to the OAG but then moved to a joint NCCC-OAG committee in November; at year's end it had not been resolved.

Complaints of police abuse can be filed directly with the superior of the accused police officer, the Office of the Inspector General, or the police commissioner general. The National Human Rights Commission (NHRC), LCT, NCCC, Court of Justice, Ministry of Justice (MOJ), and Office of the Prime Minister also accept complaints of police abuse and corruption, as does the Office of the Ombudsman. At year's end there were 22 petitions pending with the LCT seeking assistance to pursue abuse of power cases against the police.

When the police department receives a complaint, an internal investigation committee first takes up the matter and may temporarily suspend the officer during the investigation. Various administrative penalties exist, and serious cases can be referred to a criminal court. The NHRC received approximately 95 complaints of police abuse between October 2008 and the end of the year.

Procedures for investigating suspicious deaths, including deaths occurring in police custody, require that a prosecutor, forensic pathologist, and local administrator participate in the investigation and that in most cases family members have legal representation at the inquests. However, these procedures often were not followed. Families rarely took advantage of a provision in the law that allows them to bring personal lawsuits against police officers for criminal action during arrests.

Arrest Procedures and Treatment While in Detention

With few exceptions, the law requires police to obtain a warrant from a judge prior to making an arrest. In practice the system for issuing arrest warrants was subject to misuse by police officers and a tendency by the courts automatically to approve all requests for warrants. By law persons must be informed of likely charges against them immediately after arrest and must be allowed to inform someone of their arrest. The law provides for access to counsel for criminal detainees; however, lawyers and human rights groups claimed that police often conducted interrogations without providing access to an attorney. Lawyers working in the southern provinces reported that under the emergency decree they were denied adequate access to detained clients, and some individuals in the southern provinces reported they were denied permission to visit detained family members. Foreign detainees sometimes were pressured to sign confessions without the benefit of a competent translator. The MOJ and OAG sought to provide an attorney to indigent detainees at public expense.

Under normal conditions the law allows police to detain criminal suspects for 48 hours after arrest for investigation. Court permission is required to extend detentions for additional periods (up to a maximum of 84 days for the most serious offenses) to conduct investigations. Lawyers reported that police rarely brought cases to court within the 48-hour period. Laws and regulations place offenses for which the maximum penalty is less than three years under the jurisdiction of the district courts, which have different procedures. In these cases police are required to submit cases to public prosecutors within 72 hours of arrest. According to the LCT, pretrial detention of criminal suspects for up to 60 days was common.

The law provides defendants the right to bail, and the government generally respected this right. However, some human rights groups reported that police frequently either did not inform detained suspects of their right to bail or refused to recommend bail after a request was submitted. There were several instances of denial of bail in lese majeste cases; both Boonyuen Prasertying and Suwicha Thakhor were denied bail for three months between their arrests and guilty pleas. In July 2008 police arrested activist Daranee Charnchoengsilpakul (also known as Da Torpedo) on lese majeste charges following speeches at UDD rallies. The court refused her bail on several occasions, and she remained in detention for more than a year before she was sentenced on August 28.

Under martial law the military has the authority to detain persons without charge for a maximum of seven days.

Amnesty

Early in the year, authorities completed the release of 31,149 prisoners pardoned by the king as part of a royal amnesty marking his 80th birthday in 2007.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary. Although the judiciary generally was regarded as independent, it was subject to corruption and outside influences. According to human rights groups, the lack of progress in several high-profile cases involving alleged abuse by the police and military diminished the public's trust in the justice system and discouraged some victims of human rights abuses (or their families) from seeking justice.

The civilian judicial system has three levels of courts: courts of first instance, courts of appeal, and the Supreme Court of Justice. In addition there is a Constitutional Court, charged with interpreting the constitution, and the Administrative Court, which adjudicates cases involving government officials or state agencies. Justices nominated to the Supreme Administrative Court are confirmed by the Senate after being recruited by a judicial commission consisting of 10 judges and three officials appointed by the Senate and the cabinet. Other judges are career civil servants whose appointments are not subject to parliamentary review.

A separate military court hears criminal and civil cases pertaining to military personnel as well as those brought during periods of martial law. Islamic (Shari'a) courts hear only civil cases concerning family and inheritance matters between Muslim parties in Yala, Pattani, Narathiwat, and Satun provinces.

Trial Procedures

There is no trial by jury. A single judge decides trials for misdemeanors; two or more judges are required for more serious cases. The constitution provides for a prompt trial, although a large backlog of cases remained in the court system. While most trials are public, the court may order a closed trial, particularly in cases involving national security, the royal family, children, or sexual abuse. NGOs criticized the closure of the trial of political activist Daranee Charnchoengsilpakul in June, which resulted in an 18-year sentence. Her attorneys appealed the constitutionality of the trial closure; in December the Constitutional Court declined to accept the petition, reasoning that her conviction could be overturned by either the appeals court or the Supreme Court.

The law provides for the presumption of innocence. In ordinary criminal courts, defendants enjoy a broad range of legal rights, including access to a lawyer of their choosing. A government program sought to provide free legal advice to the poor, but indigent defendants were not automatically provided with counsel at public expense. The MOJ and the OAG remained committed to providing legal aid in both civil and criminal cases but did not allocate sufficient resources. The LCT budget was reduced by more than 25 percent in the year. The legal aid provided was often done on a pro bono, ad hoc basis, and it was of a low standard. Some NGOs reported that legal aid lawyers pressured their clients into paying additional fees directly to them. The court is required to appoint an attorney in cases where the defendant disputes the charges, is indigent, or is a minor, as well as in cases where the possible punishment is more than five years' imprisonment or death. Most free legal aid came from private groups, including the LCT and the Thai Women Lawyers Association. There is no discovery process; consequently, lawyers and defendants do not have access to evidence prior to the trial. The law provides for access to courts or administrative bodies to seek redress, and the government generally respected this right.

Several NGOs expressed concern over the lack of adequate protection for witnesses, particularly in cases involving alleged police wrongdoing. The MOJ's Office of Witness Protection had limited resources and primarily played a coordinating role. In most cases witness protection was provided by the police, but six other state agencies participated in the program. Witnesses, lawyers, and activists involved in cases of alleged police abuse reported that protection was inadequate and that they were intimidated by the police sent to provide protection.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. The law provides for access to courts and administrative bodies to bring lawsuits seeking damages for, or cessation of, a human rights violation, and the government generally

respected this right. However, sections 16 and 17 of the emergency decree, which was in force in the three southern border provinces, expressly exclude scrutiny by the Administrative Court or civil or criminal proceedings against government officials, although victims may seek compensation from a government agency instead.

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

The constitution specifically prohibits such actions, and the government generally respected these prohibitions in practice. However, martial law gives military forces the authority to conduct searches without a warrant, and this authority was used on some occasions. In addition, the emergency decree covering the southern provinces also allows authorities to make searches and arrests without warrants. The LCT received multiple complaints from persons in the south claiming that security forces abused this authority, but the decree provides security forces broad immunity from prosecution.

Security services monitored persons, including foreign visitors, who espoused extremist or highly controversial views.

In contrast with 2008, there were no reports that police conducted warrantless searches in the northern provinces or that members of indigenous hill tribes were subjected to forced evictions and relocations.

g. Use of Excessive Force and Other Abuses in Internal Conflict

The internal conflict in the ethnic Malay, Muslim-majority, southernmost provinces (Narathiwat, Pattani, Yala, and portions of Songkhla) continued throughout the year. Insurgents carried out almost daily bombings and attacks that caused deaths and injuries. The emergency decree in effect in this area gives military, police, and civilian authorities significant powers to restrict certain basic rights and delegated certain internal security powers to the armed forces. The decree also provides security forces broad immunity from prosecution. The 2006 martial law, which also remained in effect in the provinces of Narathiwat, Pattani, and Yala, gives a wide range of power to security forces.

Killings

Human rights groups accused government forces of extrajudicial killings, arbitrary arrests, and torture of individuals suspected of involvement with separatists. As a result of a series of attacks by suspected insurgents, tension between the local ethnic Malay Muslim and ethnic Thai Buddhist communities continued to grow, alongside a distrust of security officials.

On March 12, suspected insurgents shot prominent human rights activist Laila Paaitae Daoh in Krongpenang, Yala. Laila, who died from her injuries the next day, was the fourth family member to be killed for advocating a peaceful solution to the southern problem. Laila's husband and second son were killed in 2006, and her eldest son was shot and killed in 2004.

On June 8, gunmen opened fire inside the Al Furqon mosque in Narathiwat, killing 10 and injuring 12. Police issued an arrest warrant for a former paramilitary member, Sutthirak Kongsuwan, who was related to a Buddhist villager killed the day before in the neighboring district. Police later issued a second warrant for the alleged getaway driver. Insurgents killed a pregnant Buddhist schoolteacher in the same district earlier that week.

On June 12, gunmen shot two Buddhist monks in Yala while they collected morning alms, killing one and seriously wounding the other.

In February the OAG decided not to pursue criminal charges against any officials involved in the 2004 Krue Se massacre, ending the inquest started in 2007.

On May 29, the Songkhla Provincial Court announced its verdict on the inquest into the deaths of 78 ethnic Malay Muslim detainees at Tak Bai in 2004. The court determined that officers were performing their duty and were not responsible based on the immunity granted them through provisions in the emergency decree.

According to statistics from the MOI's National Emergency Coordinating Center, during the year separatist violence resulted in the deaths of 510 individuals and the injury of 995 more in 935 incidents. The center also reported that at least 389 civilians were killed and 614 injured, 78 government officials were killed and 379 injured, and 43 insurgents were killed and one injured. As in previous years, the separatists frequently targeted government and religious representatives, including teachers, monks, and district and municipal officials, as well as Buddhist and Muslim civilians.

Some government-backed civilian defense volunteers, most of them ethnic Thai Buddhists from villages in the south, continued to receive basic training and weapons from the MOI and security forces. Human rights organizations expressed concerns about vigilantism against ethnic Malay Muslims by these defense volunteers and other civilians, suggesting they may have been involved in the June 8 mosque attack.

Police continued investigating the February 2007 attacks in Narathiwat, Pattani, Yala, and Songkhla that killed nine persons and injured approximately 70. Arrest warrants were issued for 13 suspects for the Narathiwat attacks; of those, two were arrested and were on trial at year's end. Two suspects were arrested and prosecuted for the attacks in Yala and were sentenced to life imprisonment. Authorities issued 15 arrest warrants for the March 2007 ambush of a van in Yala that killed eight Buddhist passengers. Five of the 15 suspects were killed during clashes with authorities at other locations, and four were arrested.

No arrests were made for the March 2007 attacks on ethnic Malay Muslims in which three were killed and 20 injured in Yala. There were no developments in the investigation of the April 2007 killings of four ethnic Malay Muslim youths in Yala, allegedly by village defense volunteers.

Police identified five suspects in the May 2007 killing of seven soldiers in Narathiwat, but the public prosecutor dismissed the cases. No other suspects were arrested in the incident. A police investigation continued in the May 2007 explosions in Hat Yai City in Songkhla; eight arrest warrants were issued, but no arrests were made. Police arrested three suspects in the May 2007 bombing of Saba Yoi District market in Songkhla; at year's end the three were being tried.

There were no developments in the investigation of the September 2007 killing of Imam Wae-asae Madeng in Narathiwat and the October 2007 killing of Imam Asae Dengsa, also in Narathiwat. There was no progress in the investigation of the November 2007 incident in which suspected insurgents reportedly killed a Muslim man for cooperating with security officials.

Physical Abuse, Punishment, and Torture

Civil society groups accused the army of torturing some suspected militants at detention facilities.

The government continued to arrest suspected militants, some of them juveniles, and in some cases held them for a month or more under provisions of the emergency decree and martial law. Human rights organizations considered the arrests arbitrary, excessive, and needlessly lengthy, and they expressed concerns about detention facility overcrowding.

The three southernmost provinces are covered by two security laws. Martial law allows for detention without charge up to seven days without court or government agency approval in Pattani, Narathiwat, and Yala. The emergency decree, in effect in the same areas, allows authorities to arrest and detain suspects for up to 30 days without charge. After the expiration of this period, authorities can begin holding suspects under normal criminal law. Unlike under martial law, these detentions require the consent of a court of law, although human rights NGOs complained that courts did not always

exercise their right to review these detentions. In some cases a suspect was held first under martial law for seven days and then detained for an additional 30 days under the emergency decree. In December the ISA was imposed in lieu of martial law and the emergency decree in the four districts of Songkhla. The Southern Border Province Police Command stated that 447 persons had been arrested during the year under the emergency decree, with 12 killed during arrest or related skirmishes. It was unclear whether any persons were detained under the auspices of martial law alone.

Child Soldiers

There were no reports of persons under the age of 18 conscripted or recruited into governmental armed forces. There were reports that separatist groups recruited teenagers under the age of 18 to carry out attacks. Human rights organizations alleged that separatists used private Islamic schools to indoctrinate ethnic Muslim Malay children with a separatist agenda.

Other Conflict-Related Abuses

Human rights organizations alleged that the military mailed official letters to village headmen or local district officers in the four southernmost provinces, inviting them to nominate a specific number of "voluntary villagers" to attend a workshop. Credible sources indicated that villagers who attended these trainings were subject to interrogations and collection of biological data (fingerprints, DNA samples, and photographs).

The Ministry of Education (MOE) reported that since 2004 insurgents had burned more than 283 schools in the south, and burned 35 of them more than once. During the year insurgents burned 14 schools in Yala, Pattani, and Narathiwat and at least two that had been burned previously. The government periodically closed schools throughout the region in response to attacks against teachers, students, educational facilities, and parents. The government frequently armed ethnic Thai Buddhist and ethnic Malay Muslim civilians, fortified schools and temples, and provided military escorts to monks and teachers. According to the MOE, 152 teachers, students, and education staff had been killed and 261 others injured due to separatist violence since 2004. During the year 22 students were injured and one was killed; 18 school personnel were injured, and 13 were killed.

Separatist violence included attacks on medical facilities. According to the Ministry of Public Health (MPH), 73 public health volunteers had been killed, 49 health volunteers injured, and 24 community health centers burned or bombed in the south since 2004.

While official government statistics were not available, there were reports that more than 30 percent of ethnic Thai Buddhists were fleeing violence-affected areas to other provinces in the country.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law specifically provide for freedom of speech and of the press with some exceptions, although the government limited these rights during the year.

Freedom of speech and of the press occasionally were curtailed by government interference and the use of provisions authorized under the emergency decree. Attempts by the government to hamper freedom of expression on the Internet increased. Television and radio broadcasters also were monitored closely, and pressure was exerted on broadcast media to cooperate on disseminating constructive and "balanced" news, particularly during the civil unrest in April. Nevertheless, the media and civil society vocally criticized government authorities throughout the year. Print, broadcast, and online media covered news critical of the government and senior-level officials and carried interviews with and statements from fugitive former PM Thaksin Shinawatra.

By law the government may restrict freedom of speech and of the press to preserve national security, maintain public order, preserve the rights of others, protect public morals, and prevent insults to Buddhism. The law allows police under a court order to restrict or confiscate publications and other materials for disturbing the peace, interfering with public safety, or offending public morals.

The international and independent media were allowed to operate freely, except in coverage of matters deemed a threat to national security or offensive to the monarchy.

By issuing an emergency decree, the government can restrict print and broadcast media. The decree empowers the government "to prohibit publication and distribution of news and information that may cause the people to panic or with an intention to distort information." Under an emergency decree, the government is authorized to censor news considered a threat to national security. These powers were employed during the period of political unrest in April.

Lese majeste provisions in the criminal code make it a criminal offense punishable by up to 15 years' imprisonment to criticize the king, queen, royal heir apparent, or regent. The provisions allow private citizens to initiate lese majeste complaints against each other, and there were several cases in which private citizens did so. During a December 14 speech, PM Abhisit announced the establishment of a panel to scrutinize the enforcement of the lese majeste provisions because of concerns they had been used as a political tool.

On August 28, a court sentenced political activist Daranee Charnchoengsilpakul to 18 years in prison on three counts of lese majeste. The charges stemmed from statements she made in public during a series of antigovernment rallies in Bangkok in June and July 2008. At year's end her case was before the appeals court.

The April 2008 case against social activists Chotisak Ongsoong and Songkran Pongbunjan, who were charged with lese majeste for not standing for the royal anthem in a movie theater in 2007, remained pending at year's end.

Two separate lese majeste cases filed in 2008 against journalist Jonathan Head, former BBC Bangkok bureau chief, remained pending at the end of the year. The charges originated from remarks Head made in 2007 at panel events at the Foreign Correspondents' Club of Thailand (FCCT), as well as a claim that his reporting over a two-year period "damaged and insulted the reputation of the monarchy." Jakrapob Penkair, a political activist, also faced lese majeste charges in connection with the 2007 FCCT panel discussion. Jakrapob fled the country in April after calling for armed rebellion. On June 30, charges were filed by a private citizen against the 13-member FCCT board based on claims that the FCCT had violated lese majeste laws by selling video copies of the 2007 panel discussion with Jakrapob.

On January 19, a court sentenced foreign author Harry Nicolaides to three years in prison on lese majeste charges for a passage in his 2005 novel *Verisimilitude* that allegedly defamed the crown prince. Nicolaides received a royal pardon from King Bhumibol on February 18 and left the country on February 21.

The November 2008 lese majeste case against social critic Sulak Sivaraksa remained pending. He was free on bail and awaiting further official action.

There was no government ownership or control of print media. Political figures, prominent families, and large media conglomerates held ownership of large stakes in many leading newspapers.

Government entities owned and controlled all radio and broadcast television stations, including the 524 officially registered "regular" AM and FM stations. The military and police also owned another 244 radio stations, ostensibly for national security purposes. Other owners of national broadcast media included the government's Public Relations Department and the Mass Communication Organization of Thailand (MCOT), a former state enterprise of which the government owned a majority share. Nearly all stations were leased to commercial companies.

The 2008 Broadcasting Act governs the regulation of radio and television frequencies. The act provides for three categories of broadcast licenses: public service, community service, and commercial. The act empowers the National Telecommunications Commission (NTC) to enforce the law, pending the establishment of the National Broadcasting and Telecommunications Commission (NBTC), the body tasked with reallocating all broadcast frequencies and regulating broadcast media. Despite assurances from the government that appointing the NBTC would be done quickly, no progress was made on the appointment of the regulatory body by the end of the year.

Under past legislation, radio stations had to renew their licenses every year. The 2008 act increases radio license terms to seven years. Radio signals were broadcast via government transmitters. Stations were required by law to broadcast 30-minute, government-produced newscasts twice daily. New regulations governing community radio operations took effect in July. Community radio operators were granted a 30-day period to register for temporary 300-day trial operating licenses with the NTC. According to the government, more than 4,500 community radio operators registered between July 24 and August 24. The government warned community radio operators who failed to register with the NTC by the August 24 deadline that they would be considered illegal if they continued to operate and could be charged with unlicensed use of transmitters and radio frequencies. There were no reports of government action against unlicensed operators.

There were reports that journalists were subject to harassment, intimidation, and violence due to their reporting, particularly during the period of political unrest in April. Local television stations came under heavy criticism from UDD members for what they claimed was one-sided coverage of events, and UDD protesters reportedly attacked local television crews during demonstrations in Bangkok on April 12-14.

On April 13, groups of UDD protesters attempted to disrupt broadcasting at local branches of state-run National Broadcasting of Thailand and Radio Thailand in three provinces, accusing the stations of biased reporting on the crackdown against fellow UDD members in Bangkok.

The case of Samraeng Khamsanit, a reporter whose car was set on fire in January 2008, as well as the shooting cases of *Matichon* reporters Surayud Yongchaiyudh and Atiwat Chainurat in May and August 2008, respectively, remained under investigation at the end of the year. All three were believed to have been targeted for their politically sensitive reporting.

Print media criticism of political parties, public figures, and the government was common. Journalists generally were free to comment on government activities and institutions without fear of official reprisal; however, they occasionally practiced self-censorship, particularly with regard to the monarchy and national security. Broadcast media was subject to government censorship both directly and indirectly, and self-censorship was evident. Nevertheless, broadcast media reported criticism of the government.

On April 13, acting under authority of the April 12 emergency decree, the government ordered satellite operator Thaicom to terminate the signal of D-Station, the satellite television outlet operated by the UDD. Days later, police raided D-Station operations in Bangkok and seized a number of broadcast devices. D-Station resumed broadcasting in May.

ISOC provincial branches reportedly called on community radio operators not to use their networks to incite unrest and warned operators that they would be shut down if they did not comply. Ostensibly acting under authority of the April 12 emergency decree, at least three community radio stations in the north and northeast reportedly were ordered closed temporarily following claims that they were using the airwaves to incite chaos.

The community radio station belonging to the Duang Prathip Foundation remained closed after the May 2008 warrantless raid on its office. The radio staff member who was arrested and prosecuted was fined approximately 1,500 baht (\$45).

Radio talk-show host Chom Phetpradab took his program off the air on the state-run MCOT a day after he was heavily criticized by the government for broadcasting an interview with former PM Thaksin on September 6. Chom was said to have made the decision after Prime Minister's Office Minister Sathit Wongnongtaey called for an investigation into statements about the Privy Council that Thaksin made during the interview.

Defamation is a criminal offense, punishable by a fine of up to 200,000 baht (approximately \$6,000) and two years' imprisonment. Criminal courts made several rulings on defamation and libel cases against media figures, political activists, and politicians.

On March 25, a criminal court handed down several rulings on defamation lawsuits filed in 2006 by Thaksin while he was prime minister regarding allegations made at a seminar. The court found Pramote Nakonthap and Manager Media columnist Khunthong Roseriwant guilty of criminal defamation for printing and distributing an article on the seminar. They were sentenced to one year in prison and a fine of 100,000 baht (\$3,000). The court separately acquitted Manager Group owner Sondhi Limthongkul and Asia Satellite TV (ASTV) commentator Chirmsak Pinthong, who had also participated in the seminar, reasoning that they had acted in good faith.

On March 31, a criminal court sentenced political activist Chanaphat na Nakhon to three months in prison, later reduced to two months, for remarks made in 2007 defaming former foreign minister Noppadon Pattama.

On September 10, a criminal court found Sondhi Limthongkul guilty of defamation for statements made against a former deputy prime minister during a weekly show presented on ASTV in 2007. Sondhi was sentenced to two years in prison without probation. He was released on bail the same day and stated he would appeal the conviction.

The defamation cases of two popular television talk-show hosts remained under appeal at the end of the year.

There were no reports that the government used libel laws to suppress criticism of political or other leaders.

The government continued to prohibit the import and sale of *The King Never Smiles*, written by Paul Handley and published overseas, and *A Quarter-Century on Democracy's Thorny Path*, written by Sulak Sivaraksa. Sale of Giles Ungpakorn's book *A Coup for the Rich* also continued to be prohibited.

On five separate occasions, the local distributor of *The Economist* opted not to deliver the weekly magazine to subscribers. The January 24, January 31, April 18, July 4, and September 19 editions were not made available, allegedly due to concerns over references about the monarchy.

Internet Freedom

Individuals and groups generally could engage in the peaceful expression of views via the Internet, including by e-mail; however, there were some limitations. There were some government restrictions on access to the Internet and reports that the government monitored Internet chat rooms. Internet access was available and used by citizens in urban and rural areas, with an estimated penetration of 24 percent.

The 2007 Computer Crime Act (CCA), which created new computer crime offenses, establishes procedures for the search and seizure of computers and computer data in certain criminal investigations and gives the Ministry of Information and Communication Technology (MICT) authority to request and enforce the suspension of information disseminated via computer. Under the act a court order is required to ban a Web site; however, this was not always applied in practice. A maximum five-year prison sentence and a 100,000 baht (approximately \$3,000) fine can be imposed for posting false content on the Internet that undermines public security, causes public panic, or hurts others. A maximum 20-year sentence and 300,000 baht (\$9,000) fine can be imposed if an offense results in the death of an individual. It also obliges Internet service providers (ISPs) to preserve all user records for 90 days, in the event that officials wish to access them. In

addition, any service provider who gives consent to or intentionally supports the publishing of illegal content is also liable. Media activists criticized the law, stating that the offenses were defined too broadly and some penalties were too harsh.

There was an increase in Internet censorship, and the CCA was used to stifle freedom of expression. The government closely monitored and blocked numerous Web sites that expressed pro-Thaksin or republican views and those that were critical of the monarchy, particularly during the period of political unrest in April and during the weeks leading up to the king's birthday in December; however, most were accessible again by the end of the year. The government allowed relative freedom of expression on political Web sites and discussion boards, except where matters of the monarchy and national security were concerned. Many political Web boards and discussion forums chose to self-censor and closely monitored discussions to avoid being blocked.

On January 5, the MICT announced that it had blocked more than 2,300 sites for posting content deemed offensive to the monarchy. By September it announced that it had blocked almost 9,000: 6,218 for "national security" concerns, 2,307 because of pornography, and 430 related to gambling. The MICT also announced that it had allocated 80 million baht (approximately \$2.4 million) to support increased Web site monitoring. According to press reports, on January 29, Justice Minister Piripan Salirathavibhaga declared to the parliament that the ministry had established various panels to monitor and censor Web sites posting antimonarchy content. The MICT also set up a hotline for tips and complaints from the public about offending Web sites.

On January 26, a young woman was arrested under provisions in the CCA after posting second-hand comments deemed offensive to the monarchy on her personal blog site and Prachathai.com, a popular online news Web site. On March 6, Prachathai.com executive director Chiranuch Premchaiporn was arrested and charged with violating article 15 of the CCA for allowing comments to be posted that were considered offensive to the monarchy. At year's end both individuals were free on bail and awaiting a decision from the attorney general on whether their cases would be prosecuted.

On April 3, Suwicha Thakhor was sentenced to 10 years in prison under lese majeste provisions of the CCA. He was arrested in January after police traced photographs considered offensive to the monarchy posted to the Internet from his home computer. Media reports indicated that he originally was sentenced to 20 years in prison but that the sentence was reduced to 10 years after he pled guilty.

Acting under authority of the April 12 emergency decree, the MICT advised ISPs to block more than 60 pro-Thaksin Web sites that it alleged had posted content that could incite chaos. The order was rescinded on April 24 following the lifting of the emergency decree, and all Web sites reportedly were accessible shortly thereafter.

On November 1, police arrested two persons, Thiranan Vipuchanan and Katha Pajajiriyapong, for allegedly violating the CCA by spreading false information on the Internet about the king's medical condition, thus endangering national security. Two additional individuals, Somchet Ittiworakul and Thassaporn Rattawongsa, were arrested on November 3 and November 18, respectively, on charges of disseminating inaccurate information that threatened national security for posting comments about the king's health on various Web sites. All four were released on bail and at year's end were awaiting the results of a police investigation.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom.

Cultural events may be censored, usually for reasons of public decency. Under the 2008 Film Act, the state is authorized to ban the release of movies that "offend the monarchy, threaten national security, hamper national unity, insult faiths, disrespect honorable figures, challenge morals, or contain explicit sex scenes." Section 25 of the act stipulates that all

films to be screened, rented, exchanged, or sold in the country must be screened and approved by the Film and Video Classification Committee. According to the Ministry of Culture, 17 films were banned from release during the year, including the films *Frontiere*, *Halloween*, and *Funny Games*. The ministry reportedly banned the controversial documentary *This Area Under Quarantine* from screening at the World Film Festival in Bangkok for explicit sexual content and nudity. Theater owners and broadcasters frequently censored films themselves before submitting them to the board. As part of the act, a new seven-tiered rating system was introduced in August. Movie theaters also had to apply for operation licenses by September or face up to one million baht (approximately \$30,000) in fines. There were no reports that fines were levied or any other restrictions acted upon by the end of the year.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution provides for freedom of assembly, and the government generally respected this right with some exceptions. Martial law, which gives the military authority to restrict freedom of assembly, was in effect in 31 provinces. The emergency decree for the southern provinces allows the government to limit freedom of assembly, but this provision was not used during the year.

The provinces of Surat Thani, Phuket, and Phang Nga have provisions that prohibited migrant workers--specifically those from Cambodia, Burma, and Laos--from forming gatherings, among other restrictions, while Samut Sakhon Province prohibited gatherings of more than five persons. The provisions were not strictly enforced. Employers and NGOs could request permission from authorities for migrant workers to hold cultural gatherings and were often not required to do so if the gatherings were on private property.

Throughout the year the UDD network staged protests in Bangkok and other areas. The demonstrations drew thousands of participants and peaked with the protests in Bangkok and Pattaya in March and April. The protests began in late March with a virtual siege of Government House and turned violent on April 7, when protesters attacked PM Abhisit's motorcade in Pattaya. On April 11, after protesters broke into the meeting site for a meeting of Asian leaders, the government canceled the summit, and foreign leaders were evacuated by helicopter. The government declared a state of emergency in Pattaya on April 11 and in the Bangkok area on April 12.

On April 12, UDD protesters stormed the MOI in Bangkok, where PM Abhisit was in meetings, and attacked his motorcade again as he tried to leave the compound. Street fighting involving the protesters, security forces, and other groups began on April 13, and at least 135 persons were injured, according to the MPH, including four soldiers wounded by gunshot, and other injuries related to tear gas inhalation, bone fractures, and shrapnel wounds. Two local residents were killed when attacked by UDD demonstrators. On April 14, hundreds of soldiers surrounded the UDD stronghold at Government House, and the protest leaders called an end to the protests and asked their members to disperse.

Freedom of Association

The constitution specifically provides for freedom of association, although exceptions are made "to protect public interests, to maintain public peace and order or good morals, or to prevent economic monopoly."

The law prohibits the registration of parties with the same name or emblem as that of a dissolved political party. Legal experts maintained that the law was designed to inhibit the reregistration of the Thai Rak Thai political party, which the Constitutional Court dissolved in 2007.

c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice; however, it restricted the activities of some groups. The constitution specifically provides for freedom of religion, provided that the religion is not contrary to a person's "civic duties, public order, or good morals."

The constitution requires that the monarch be a Buddhist, but it does not designate a state religion. Some Buddhist organizations called for the designation of Buddhism as the state religion, but the effort failed. The constitution requires the government "to patronize and protect Buddhism and other religions." The government subsidized activities of the three largest religious communities--Buddhist, Muslim, and Christian.

Under the Religious Organizations Act, a new religion can be registered if a national census shows that it has at least 5,000 adherents, represents a recognizably unique theology, and is not politically active. A religious organization must also be accepted into one of the five officially recognized ecclesiastical groups: Buddhist, Muslim, Christian (which includes Catholicism and four Protestant subgroups), Brahmin-Hindu, and Sikh. Since 1984 the government has not recognized any new religious groups. Government registration confers some benefits, including access to state subsidies, tax-exempt status, and preferential allocation of resident visas for organization officials. Unregistered religious organizations did not receive these benefits but operated freely in practice.

The 1962 Sangha Act specifically prohibits the defamation or insult of Buddhism and the sangha (Buddhist clergy). The penal code prohibits the insult or disturbance of religious places or services of all recognized religions in the country. Followers of the Santi Asoke sect of Buddhism were unable legally to refer to themselves as Buddhists because of theological disagreements with the Sangha Council, but they were able to practice their faith without restriction.

Religious instruction is required in public schools at both the primary and secondary education levels. The MOE has formulated a course that contains information about all recognized religions in the country.

In the past pondok (traditional Islamic) schools were not required to register with the government and had no government oversight or funding. Following the outbreak of violence in the southern provinces in 2004, registration with the government was made mandatory. By year's end the government had registered 401 pondok schools in Songkhla, Yala, Pattani, and Narathiwat provinces and eight pondok schools in other provinces. Observers estimated that as many as 1,000 pondok schools operated in the south.

Government officials reportedly continued to monitor Falun Gong members. The Falun Gong complained that officials attempted to limit their activism due to fear of damaging bilateral relations with the People's Republic of China. On April 9, three mainland Chinese members of Falun Gong were arrested on immigration-related charges after a raid on their home in Pattaya, one day prior to the ASEAN summit there. The detainees were transferred to Bangkok's IDC on April 26. At year's end two of the three remained in the IDC, and the third was resettled to a third country. There was at least one other mainland Chinese Falun Gong member, arrested in 2008, who continued to be detained.

The police monitored a Falun Gong peaceful demonstration in July and their booths at two local medical festivals during the summer but did not interfere with their activities.

Societal Abuses and Discrimination

Violence committed by suspected separatist militants in Narathiwat, Pattani, Songkhla, and Yala affected the ability of some ethnic Thai Buddhists in this predominantly ethnic Malay Muslim region to undertake the full range of their traditional religious practices. Buddhist monks and temples were targeted. A number of monks reported that they were unable to travel freely through southern communities. Monks also claimed that, due to fear of being targeted by militants, laypersons sometimes declined to assist them in their daily activities. After the June 12 shooting of two Buddhist monks in Yala

Province, the Supreme Sangha Council ordered the monks in the deep south to stop morning alms collection due to safety concerns, and the approximately 1,000 monks in the area were provided with subsistence expenses in the interim.

As a result of a series of attacks, tension between the local ethnic Malay Muslim and ethnic Thai Buddhist communities in the south continued to grow. However, there were no outbreaks of communal violence between the Buddhist and Muslim communities. Many Muslims in the south complained of societal discrimination both by Buddhist citizens and the central government. Muslims also complained that Thai-language newspapers presented a negative image of Muslims and their communities, associating them with terrorists.

Insurgent groups in the south spread propaganda against Buddhists in the form of threatening pamphlets and flyers. There were allegations that some religious school teachers in the south preached hatred for Buddhists as well as for Muslims who cooperated with the government and security forces.

Muslims, who represent between 5 and 10 percent of the population nationwide and constitute the majority in four of the five southernmost provinces, experienced some economic discrimination, according to local NGOs. The government attempted to address the problem by maintaining longstanding policies designed to integrate Muslim communities into society through developmental efforts and expanded educational opportunities. However, these efforts were often resisted amid charges of forced assimilation.

The Jewish community is small, and there were no reports of anti-Semitic incidents.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, and emigration. The government generally respected these rights in practice, with some exceptions for "maintaining the security of the state, public peace and order or public welfare, town and country planning, or youth welfare." The government generally cooperated with humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, stateless persons, and other persons of concern, although with many restrictions.

Members of hill tribe minorities who were not citizens were issued identity cards that reflected restrictions on their freedom of movement. Holders of such cards were prohibited from traveling outside their home district without prior permission from the district head and needed permission from the provincial governor to travel outside their home province. Offenders were subject to fines and jail terms. Persons without a card could not travel at all. Human rights organizations reported that police at inland checkpoints often asked for bribes in exchange for allowing stateless persons to move from one district to another.

Refugees generally were not granted freedom of movement in the country, although permission to move frequently was granted for humanitarian purposes. If caught outside one of the official camps, a refugee is subject to fines, detention, and deportation.

Other long-time noncitizen residents, including many thousands of ethnic Shan and other nonhill tribe minorities, were required to seek permission from local authorities or the army for foreign and domestic travel.

The law prohibits forced exile, and the government did not practice it.

Protection of Refugees

The country is not a signatory to the 1951 Convention relating to the Status of Refugees or its 1967 protocol, and the law does not provide for granting asylum or refugee status. Nevertheless, authorities continued the country's longstanding practice of hosting significant numbers of refugees. In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

IDCs in several provinces and Bangkok were designated to hold asylum seekers resident outside the official refugee camps, who are considered illegal migrants by law. Conditions in many IDCs were poor, with mental and physical health problems among the asylum seekers, often stemming from overcrowding and poor ventilation. Refugees are unable to work legally in the country. Burmese refugees in the official camps are formally prohibited from working or earning a livelihood outside the camps, although the government allowed expansion of a pilot program permitting a small group of refugees to work outside as part of a vocational training program.

The government continued to offer illegal migrants the opportunity to register and work legally, although only in certain sectors of the economy. On May 26, the government approved a plan to open a new round of registration for unregistered migrant laborers. The registration process covers illegal migrants from Laos, Cambodia, and Burma who arrived after 2004 and are employed in five sectors: fishing, fisheries-related work, construction, farming and livestock, and domestic work. Work permit registration must be renewed each year. Unregistered migrants in these economic sectors must apply for identification cards (that will act as work permits) and complete a citizenship verification process. At the end of the year, the government announced plans to extend for two years the original February 2010 deadline for citizenship verification. Migrants from Laos and Cambodia may complete their citizenship verification at locations throughout Thailand. Burmese migrants must travel to processing centers along both sides of the Thai-Burmese border due to Burmese government insistence that registration take place within Burma. Civil society observers have criticized this procedure due to perceived increased vulnerability to exploitation of the migrant workers.

On September 16, three major workers' rights and labor organizations submitted a complaint to the UN special rapporteur on the human rights of migrants, requesting an investigation into the new nationality verification process for Burmese migrants due to concerns about the safety of the Burmese migrant communities. On October 5, the same organizations sent a complaint letter (with recommendations) to the prime minister, leading the government to modify aspects of the program.

According to information compiled by the International Organization for Migration, 1,325,057 work permits were either issued or extended (renewed) from January to November, 1,077,981 of which were for persons from Burma. In November the cabinet announced that migrant children of registered migrants are entitled to register for residential permits if their parents have residential permits as well.

Provincial Admissions Boards (PABs), the government's screening process for Burmese seeking asylum in one of the country's nine official refugee camps, were reactivated on a pilot basis in four camps following a four-year hiatus. The government planned to expand the screening process to all nine camps. While the government generally cooperated with humanitarian organizations in assisting refugees in official camps, cooperation with the UNHCR on protection for certain groups remained uneven, as authorities detained large numbers of Hmong, North Korean, and Burmese Rohingya asylum seekers and refugees. The UNHCR was formally forbidden to conduct refugee status determinations or provide its protection mandate to these groups, as well as to Burmese outside the official camps. The UNHCR continued to have informal access to asylum seekers in the main IDC in Bangkok to conduct status interviews, and several resettlement countries were allowed to conduct processing activities there as well. NGOs were able to provide health and nutritional support. The government permitted UNHCR monitoring at the facility, where many new arrivals were held.

The government continued to allow the UNHCR to monitor the conditions of the approximately 140,000 Burmese refugees living in nine camps along the Burmese border but prohibited the UNHCR from maintaining a permanent presence in the border camps. NGOs provided basic needs assistance in the camps. Authorities permitted the UNHCR to provide identification cards to registered refugees living in the camps.

The government continued to facilitate third-country resettlement of camp refugees, and at year's end 16,685 Burmese were resettled from the camps. The government was willing to assist in safe, voluntary returns of refugees to their homes.

The government allowed NGOs to provide food, education, health care, housing, and other services to Burmese who may have had valid refugee claims but who resided outside the camps. Government officials periodically arrested Burmese outside designated camps as illegal aliens. Those arrested generally were taken to the border and released without being turned over to Burmese authorities. Many returned to Thailand shortly thereafter.

The government convened a special "fast track" PAB screening process for certain persons affected by the 2007 crackdown on prodemocracy protesters in Burma. The special PAB approved 98 persons for refugee status and allowed their third-country resettlement.

Many Burmese asylum seekers encountered by army border units continued to be returned to Burma before they could reach the established refugee camps. However, thousands of other asylum seekers were able to enter the country and gain entry into the refugee camps during the year. Several thousand ethnic Karen who fled fighting in Burma in June were permitted to remain on the Thai side of the border, although they did not enter the camps. The government worked with NGOs and the UNHCR to provide humanitarian assistance. International organizations reported that on July 2, 19 newly arrived Karen refugees who entered a refugee camp on or about June 20 were deported to an area of Burma outside central government control.

According to the UNHCR, there were approximately 50,000 unregistered Burmese asylum seekers in the nine camps. During the year, the newly reactivated PABs registered approximately 5,000 of them.

On December 28, the government forcibly returned 4,351 Hmong to Laos, some possibly with valid refugee claims, from an army-run camp in Huay Nam Khao, Phetchabun Province. The government did not grant the UNHCR permission to interview Huay Nam Khao detainees to determine their refugee status. During the year approximately 1,200 additional Hmong were returned to Laos in six separate movements. Many appeared to return voluntarily, although there was no independent third-party monitoring of the returns. In addition to these, at least 15 detainees were arrested for violation of camp rules and given the choice of jail or return to Laos; all opted for the latter. Transgressions included protesting, selling lottery tickets, and using cell phones. An internal government screening system reportedly existed to identify detainees who might face harm if returned to Laos; however, the government gave few details. An NGO provided food, water, sanitation, and basic health care in the camp.

On December 28, the government also forcibly deported to Laos 158 UNHCR-recognized Hmong refugees, including 87 children. Immediately prior to deportation, the resettlement countries were allowed access to the group for the first time to begin processing. The group had been detained in small cells in the Nong Khai IDC since 2006. Several countries sought to consider the group detained at Nong Khai for refugee resettlement, but authorities did not permit resettlement processing to be completed.

From late 2008 until January, local civil defense officials, apparently acting without sanction from the central government, enacted a "pushback" policy aimed at Rohingya migrants transiting the country. Several hundred Rohingya traveling by boat were intercepted, detained briefly, and towed back out to sea where they were released with limited supplies of food and water. Deaths were later reported among the groups. The pushback policy was soon rescinded after international

attention. A subsequent group of 78 migrants were placed in indefinite detention in January. The UNHCR was granted access to them only on one brief occasion to attempt to determine their origin; the group appeared to include both Rohingya and Bangladeshis. The government did not permit refugee status determinations. In July two young men among the Rohingya asylum seekers died of illness while in custody. In August the 76 men and boys were moved from the Ranong IDC to the Suan Phlu IDC in Bangkok.

The government allowed ethnic Karenni Paduang refugees to depart the country for resettlement abroad.

Stateless Persons

A significant but indeterminate number of stateless persons resided in the country, many of whom are known as highlanders or members of hill tribes, and were concentrated in the northern region. Others migrated from Burma but are not ethnic Burmese and do not have Burmese citizenship. Still others fall into neither of those categories.

The 2005 National Strategy on Redressing the Problem of Personal Status and Rights referenced 360,000 migrant members of hill tribes granted temporary residence due to significant duration of time in country, 60,000 stateless children in educational institutions, and 17,606 undocumented highlanders eligible for citizenship upon proof they are indigenous to Thailand, as well as an unspecified number of additional stateless individuals. According to this data, the number of stateless individuals was approximately 437,000.

Citizenship is not automatically conferred by birth occurring within the country. By law citizenship is either based on birth to one or more Thai parents, marriage to a Thai male, or naturalization. It can also be acquired by means of special government-designated criteria implemented by the MOI. Finally, it can be granted as a result of the 2008 Nationality law (see also Children in section 6). There were significant obstacles to establishing citizenship, including insufficient documentary evidence for stateless hill tribe people to prove their eligibility, incomplete and contradictory census data, language barriers, and a complex appeals process. The labyrinth of citizenship-related laws and regulations and the existence of substantial gray areas within and among them often led to their uneven application as well as extortion by corrupt local officials.

Academics also reported that local officials effectively prevented highlanders from exercising their rights as citizens by removing their names from household registration lists. This prevented citizens from obtaining certain jobs, accessing health care, conducting financial transactions, and registering their children.

The 2008 Nationality Act provides citizenship eligibility to certain categories of previously ineligible highlanders, streamlining citizenship registration and easing evidentiary requirements. An NGO estimated that 100,000 persons could benefit from the legislation.

The 2008 Civil Registration Act stipulates that every child born in the country will receive an official birth certificate, regardless of the parents' legal status. Some stateless persons born in the country who may have been able to prove citizenship eligibility often waived that right in order to classify themselves as "migrants," thereby gaining access to public health care and certain jobs unavailable to stateless persons. In doing so, these individuals lost any claim for citizenship eligibility that they previously held. The Nationality Act allows these individuals to reclaim their eligibility provided they relinquish migrant worker status and take certain steps, such as surrendering work permits.

Implementation of the Civil Registration Act was not uniform, often depending on local authorities' knowledge, ability, and willingness to follow the law. While many stateless persons, including refugees, were issued official birth certificates, others were unable to obtain the documentation to which they are entitled.

The 2005 cabinet-approved national strategy permits individuals who lack legal status and entered the country before January 1995 to remain in the country temporarily and apply for legal status, including citizenship. However, at year's end some implementing regulations were still under development.

Stateless highland women encountered more barriers to citizenship than men. Tribal customs and traditions subjected women to a social status that limited their access to postprimary education and political opportunities that would have contributed to knowledge of the citizenship process. Many stateless highland women had few economic opportunities outside the home and therefore could not afford the bribes sometimes demanded for processing citizenship applications. Highlanders claimed to have paid district officials 3,000 to 49,000 baht (approximately \$90 to \$1,470), although there is no official processing cost for citizenship. NGOs reported that some local officials pressed women into offering sexual favors in exchange for accelerating their citizenship registration.

Many stateless highlanders lived in poverty. As noncitizens they could not vote, own land, or travel outside their home district or province without prior permission. Stateless persons also had difficulty accessing credit, obtaining official recognition of educational qualifications, and accessing government services, such as health care. The law also prohibits stateless persons from participating in certain occupations reserved for citizens, most notably farming, although in practice officials permitted noncitizen highlanders to undertake subsistence agriculture. Without legal status, stateless persons were also subject to arrest, deportation, extortion, and other forms of abuse. The UN Educational, Social, and Scientific Organization (UNESCO) asserted that lack of legal status was the single greatest risk factor for trafficking or other exploitation of highlanders, such as by being forced into the drug trade or other sectors of the underground economy, as a result of being precluded from many legitimate economic opportunities.

Although a 2005 cabinet resolution declared that every child in the country, regardless of legal status, was entitled to free primary education (nine years of schooling, to age 15 or completion of middle school), in practice the government did not always respect this right. Human rights organizations reported that local officials often excluded undocumented children from primary school. According to UNESCO's 2006 Highland Peoples Survey of 12,000 hill tribe households in the north, highlanders lacking citizenship were 73 percent less likely to enter primary school than those with citizenship, and 98 percent less likely to progress to higher education. Moreover, human rights organizations reported that stateless students who completed primary school often did not receive an official graduation certificate, which hindered their access to higher education and restricted their employment options. In August the MOE reported that of the estimated 260,000 stateless children in the country, only 60,000 were enrolled in the public education system. Those remaining were either not in school or studied at unofficial learning centers.

Any stateless person wishing to travel outside the country requires an exit permit. During the year the Ministry of Foreign Affairs issued exit permits to stateless persons to study abroad. Other long-time noncitizen residents, including many thousands of ethnic Shan and other nonhill tribe minorities, were required to seek permission from local authorities or the army for foreign and domestic travel.

Mong Thongdee, a 12-year-old boy born to ethnic Shan Burmese migrant workers, initially faced difficulties obtaining travel documents to participate in an international paper airplane competition in Japan, representing Thailand as its national champion. After significant media attention, PM Abhisit intervened, and in September Mong traveled to Japan to compete in the tournament.

Naruay Taterng, the 14-year-old daughter of hill tribe highlanders, won 100,000 baht (approximately \$3,000) and a trip to China as third prize in a contest to name a new baby panda at the Chiang Mai zoo. As a stateless person, she originally was prohibited from traveling to Bangkok to claim the cash prize and to China for the trip. Although her parents, who come from a remote village in the far north, are eligible for citizenship, they were unable to register her at birth with the local district office. As a result, she did not have a national identification card and could not demonstrate citizenship to obtain

travel documents. Eventually she was allowed to travel to Bangkok on September 10 to claim her prize. She received her Thai citizenship shortly after returning from Bangkok in September. Her parents had been pursuing citizenship for her for some time, and the media attention led to her case being expedited.

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

Following the 2007 general election, the country reverted to a bicameral system, composed of the House of Representatives and the Senate. The constitution provides citizens the right to change their government peacefully through periodic, free, and fair elections based on universal, compulsory suffrage. The constitution provides for the election of all members of the 480-seat House of Representatives and 76 members of the 150-seat Senate. It also provides for the appointment of 74 additional members of the Senate by members of the judiciary and other regulatory bodies.

Elections and Political Participation

A national election for the House of Representatives held in 2007 generally was considered free and fair; however, there were allegations of widespread vote buying, minor procedural irregularities, and scattered but unconfirmed reports of intimidation by local military and government officials. International observers stated that the martial law in effect in parts of the country during the election was inconsistent with international norms.

During the year eight by-elections in 33 districts of 26 provinces were held. The Election Commission of Thailand (ECT) reported 62 complaints of election fraud related to campaign promises or vote buying. There were no injuries or killings during the by-elections, but during a Puea Thai party campaign event in Sakhon Nakhon on April 20, a bomb exploded near the site where party politicians were making speeches. No suspect was identified or arrested.

In the parliament all 150 allotted slots for senators were filled. Of the 480 allotted slots for the House of Representatives, seven were not filled, mostly due to the party dissolutions in December 2008, as well as a death, a resignation, and a disqualification. However, in September the ECT disqualified 16 representatives for unconstitutional stock holdings that created conflicts of interest. They remained in office pending final rulings from the Constitutional Court. This followed the disqualification of 17 senators and 13 representatives for similar offenses in June. Of the latter group, only one senator and one representative left office at that time and were replaced; the remaining 28 remained in office. The Supreme Court's Election Division dismissed the ECT disqualification for election irregularity of another senator in April, and the Constitutional Court dismissed another ECT disqualification for unconstitutional representation in March. Both senators were reinstated.

Political parties could operate without restriction or outside interference, although violations of election laws by three members of political parties' executive boards prompted the Constitutional Court in December 2008 to dissolve three of the eight parties holding seats in the legislature, including two of the three largest. The sanction of party dissolution is provided for by the constitution, which also provides that all executive board members of parties dissolved by the court lose their political rights for a five-year period. A total of 106 executive board members lost their political rights in connection with the parties' dissolution. During the year the ECT dissolved 29 parties for inability to maintain compliance with the election law, and one party requested to be dissolved.

There were 87 women in the 630-seat bicameral parliament. Female senators chaired five of the 22 standing committees, and none in the lower house. Women held four cabinet positions. The constitution encourages political parties to consider a "close proximity of equal numbers" of both genders. Women had the right to vote and run for positions, but many NGOs noted that there were relatively few elected female officials.

Few members of ethnic minorities held positions of authority in national politics. Muslims from the south held significant elected positions, although they continued to be underrepresented in appointed local and provincial government positions. There were 30 Muslim and six Christian members of the parliament.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, although government implementation of the law was weak, and officials sometimes engaged in corrupt practices with impunity.

The case arising from the March 2008 prosecution of former PM Thaksin in connection with embezzling proceeds from a government lottery was decided in September. Thaksin and 43 other defendants were acquitted and two former ministers, and one former official received two year suspended sentences (later reduced to one year of probation.) Thaksin's absence led the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions (SCCDP) to suspend the case on the Asset Examination Committee (AEC) charges against him over the Export-Import Bank of Thailand's loan to Burma of four billion baht (\$120 million) and to issue a warrant for his arrest. The SCCDP was examining the 76 billion baht (\$2.28 billion) asset confiscation case against Thaksin, and the first hearing took place in July. Thaksin's wife, her brother, and her secretary, sentenced in July 2008 to prison terms ranging from two to three years for tax evasion, were free on bail, awaiting the result of their appeal.

In May the NCCC found two former senior Anti-Money Laundering Office (AMLO) administrators guilty of abuse of power while they held their positions in 2001-02, and the OAG was considering the case. They illegally ordered financial status examinations of approximately 200 reporters, NGO employees, and opposition politicians who were critical of Thaksin.

In May the minister of finance fired Finance Permanent Secretary Suppharat Khawatkun after the NCCC found him guilty of malfeasance for his illegal appointments of four deputy directors general in the Revenue Department in 2000.

The OAG determined that the investigation arising from the 2007 arrest of RTP Colonel Chanchai Netiratthakan in connection with the alleged bribery of two Constitutional Court judges did not yield sufficient evidence for prosecution. The case was returned to the RTP for affirmation in January and closed in May.

In June the Civil Servants' Pension Fund Board of the Ministry of Finance fired its secretary general, Wisit Tantisunthorn, for malfeasance after the ministry and Office of Anti-Corruption in State Agencies found him guilty of insider trading.

On September 21, the SCCDP acquitted 44 cabinet ministers and high-ranking government officials from the Thaksin administration, including then deputy prime minister for economic affairs Somkhit Chatusiphitak, accused of corruption in a 2003 rubber sapling scandal case.

During the year the NCCC and OAG continued to investigate allegations of corruption committed by the Thaksin government. The findings by the AEC and OAG triggered multiple cases at the SCCDP. The NCCC brought several other cases to court and reported that there were 6,407 cases pending investigation. During the year 2,779 cases were received, of which 1,964 were completed; 206 of those cases required further action, including disciplinary actions, impeachments, and referrals to the courts, the OAG, or a joint NCCC-OAG committee.

At year's end the OAG was considering the AEC indictments of seven prominent former government ministers and high-ranking officials on charges of malfeasance related to the 2007 purchase of fire trucks.

Public officials were subject to financial disclosure laws. Aside from the NCCC, AEC, and OAG, other entities playing a role in combating corruption included the AMLO, Supreme Court, Ombudsman's Office, Administrative Court, and MOJ.

The constitution provides access to public information, and there were no reports that government agencies denied citizens' requests for information. If a government agency denies such a request, a petition may be made to the Official Information Commission, and petitioners may appeal the commission's preliminary ruling to an appellate panel. According to the commission, the vast majority of petitions were approved. There were 344 petitions received and 134 appeals during the year. Requests for public information may be denied for reasons of national security and public safety.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights organizations generally operated without government restriction, investigating and publishing their findings on human rights cases. However, NGOs that dealt with sensitive political matters, such as opposition to government-sponsored development projects, faced periodic harassment. Human rights workers focusing on the violence in the southern provinces were particularly vulnerable to harassment and intimidation by government agents and militant groups.

Very few NGOs were accorded tax-exempt status, which sometimes hampered the ability of domestic human rights organizations to secure adequate funding. On March 24, after considerable delay, the government renewed registration of the Bangkok office of the International Commission of Jurists for the period from April 2008 to April 2010.

On February 8, a combined military and police unit raided the Pattani office of the Working Group on Justice for Peace, a local NGO run by Angkhana Neelaphajit, the wife of disappeared human rights attorney Somchai Neelaphajit. Security personnel searched computer files and photographed documents and staff. The commanding officer cited martial law to justify the warrantless search. On March 30, four soldiers returned to question staff and gather information about the organizations' employees and programs and to request data.

In April and July, two environmentalists and community leaders in Petchaburi Province were shot, presumably in connection with their activism related to protection of community forests. Both were seriously injured, and the suspect arrested for the July shooting of Kittinarong Koetrot was under trial at year's end. Police had not identified any suspects in the April shooting of Phongthep Hongthong.

In September the RTP visited the offices of at least 12 exile Burmese groups on several "immigration raids." The groups targeted included those of the Human Rights Education Institute of Burma and the Burmese Women's Union. Ten women from the union were detained but later released, and as a result of these raids many offices remained closed for several weeks. It remained a concern for several groups.

During the year the Muslim Attorney Center reported that local authorities harassed its staff and the family members of its attorneys, specifically through warrantless searches of their homes, allegedly seeking southern militant suspects.

On June 25, new NHRC commissioners assumed office, after a February Administrative Court ruling dismissed the previous panel. The prior panel members had remained in office almost two years after their term expired. Numerous NGOs and human rights groups criticized the selections and the selection process, pointing out that one of the new commissioners was named in a 2007 NHRC investigation regarding his responsibility for environmental damage. There was complaint to the NHRC in August against his appointment that demanded his impeachment. The NHRC ruled in October that this was the jurisdiction of the parliament and the petition should be directed there. There was at least one active NHRC subcommittee, the International Covenant on Civil and Political Rights subcommission, which addressed matters such as the situation of the Lao Hmong refugees. In September the NHRC called on the government to avoid invoking the ISA during the scheduled UDD protests. The NHRC received 716 cases during the year, but modest staffing and resources hampered progress.

The parliament had two committees that addressed human rights problems: the House Standing Committee on Legal Affairs, Justice, and Human Rights; and the Senate Standing Committee on Human Rights, Rights and Liberties, and Consumer Protection. The Senate committee was more active and submitted reports to the general session, the cabinet, and the prime minister, including one that contained recommendations regarding RTP actions related to the October 2008 demonstrations by People's Alliance for Democracy followers. Human rights advocates generally believed the committees were well intended but lacked the enforcement capability required to be truly effective. They also were described as reactive, difficult to access, and hampered by the political affiliations of their chairmen.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides for equal treatment without respect to race, gender, religion, disability, language, or social status; however, in practice some discrimination existed, and government enforcement of equal protection statutes was uneven.

Women

Rape is illegal, although the government did not always enforce the law effectively. The criminal code permits authorities to prosecute spousal rape. Between January and November, the police stated that 4,273 rape cases had been reported and that there were 12 additional cases in which the victim was killed. Suspects were arrested in 2,366 of the former category of cases and in eight of the cases that resulted in the victim's death. The MPH reported that an estimated 10,206 women and children were sexually abused between October 2008 and December, including 1,938 women more than 18 years old and 8,268 children.

NGOs believed that rape was a serious problem in the country. According to academics and women's rights activists, rapes and domestic assaults were underreported, in part because state agencies tasked with addressing the problem were not adequately funded and law enforcement agencies were perceived to be incapable of bringing perpetrators to justice. Police sought to change this perception and encouraged women to report sexual crimes through the use of female police officers in metropolitan Bangkok and in three other provinces. There were 143 female police officers for sexual abuse cases nationwide.

The law specifies a range of penalties for rape or forcible sexual assault, depending on the age of the victim, degree of assault, and physical and mental condition of the victim after the assault; penalties range from four years' imprisonment to life as well as fines. The law also provides that any individual convicted twice for the same criminal rape offense in three years is liable to increased penalties for recidivism. The amount of the penalty depends on such factors as the severity of the injury or the death of the victim and generally varies from 30,000 baht (approximately \$900) to 150,000 baht (\$4,500).

Domestic violence against women was a significant problem. The Protection of Victims of Domestic Violence Act imposes a fine of up to 6,000 baht (\$180) or up to six months' imprisonment for violators and provides authorities, with court approval, the power to prohibit offenders from remaining in their homes or contacting family members during trial. The law implements measures designed to facilitate the reporting of domestic violence complaints and reconciliation between the victim and the perpetrator. Additionally, the law restricts the media's reporting on domestic violence cases in the judicial system.

Some domestic violence crimes were prosecuted under provisions for assault or violence against a person. Domestic violence frequently went unreported, and police often were reluctant to pursue reports of domestic violence. NGO-supported programs included emergency hotlines, temporary shelters, and counseling services to increase awareness of domestic violence, HIV/AIDS, and other matters involving women. The government's crisis centers, located in some state-run hospitals, cared for abused women and children, although several centers faced budget difficulties. State-run hospitals

referred victims to external organizations when services at a hospital were not available. The crisis centers reported that they had received 23,499 reports of domestic violence between October 2008 and September.

During the year the Ministry of Social Development and Human Security (MSDHS) expanded a community-based system to protect women from domestic violence to four additional communities in the central, north, northeastern, and southern regions, after the original program in Bangkok. Representatives from each community received training in increasing awareness of women's rights and abuse prevention.

Prostitution is illegal, although it was practiced openly throughout the country. Local officials with commercial interests in prostitution often protected the practice. Trafficking in women and children for prostitution was a serious problem, despite strong government efforts to combat it. The illegal nature of the work and the high incidence of part-time prostitution made precise numbers difficult to assess, and estimates varied widely. A government survey during the year found that there were 73,917 adult prostitutes in registered entertainment establishments. However, some NGOs believed there were approximately 300,000 prostitutes.

There were reports that women were forced into prostitution in border areas, but the number of such cases was difficult to determine. NGOs and government agencies provided shelter, rehabilitation, and reintegration programs for children and women involved in the sex industry.

Sex tourism was a problem. According to the MSDHS, there were no laws that specifically addressed sex tourism. Rather, the criminal code, laws on prostitution, and laws combating trafficking in persons contain provisions designed to combat sex tourism.

Sexual harassment is illegal in both the public and private sectors. The law for public sector employees specifies fines of not more than 20,000 baht (approximately \$600) for individuals convicted of sexually harassment. Private sector employees must file criminal charges if they have a sexual harassment claim. The punishment depends on the degree of harassment and age of the victim. Abuse categorized as an indecent act may result in imprisonment of up to 15 years and a fine of up to 30,000 baht (\$900). The Civil Servant Regulations Act prohibits sexual harassment and stipulates five levels of punishment: probation, docked salary, salary decrease, discharge from service, and termination. NGOs claimed that the legal definition of harassment was vague and prosecution of harassment claims difficult. The Civil Service Commission's sexual harassment and bullying hotline was shifted to the supervision of the Bureau of Disciplinary Standards during the year. During the time of transition and regulation drafting, they did not accept complaints. Most of the prior complaints were dismissed, as the petitions were unsigned, and the remainder were forwarded to the relevant agencies for internal investigations.

In September a female naval lieutenant, with the assistance of former senator Rabiabrat Pongpanich, filed petitions regarding her sexual harassment by a senior army general with various parliamentary entities, the prime minister, the NHRC, and the MSDHS. The general was her superior at the Royal Thai Armed Forces Headquarters. Rabiabrat used the opportunity to appeal for more effective and punitive antisexual harassment legislation. Headquarters officials set up a six-member committee to investigate the case.

Couples and individuals could decide the number, spacing, and timing of children, and they had the information and means to do so free from discrimination. The publicly funded medical system provided access to contraceptive services and information, prenatal care, skilled attendance during childbirth, and essential obstetric and postpartum care. Women had equal access to diagnosis and treatment for sexually transmitted infections, including HIV. However, some NGOs claimed that Muslims and teenagers did not have adequate access to such services. In addition, the number of female Muslim doctors was insufficient, and therefore there was not enough encouragement to use public hospitals for childbirth.

Military academies (except for the nursing academy) did not accept female students, although a significant number of instructors at the military academies were women. In the military reorganization in September, 13 female colonels were promoted to major general across all branches of the military and within the Ministry of Defense. The Police Cadet Academy for commissioned officers accepted female cadets during the March application period for the first time, and 70 of 280 cadets were women. According to the MSDHS, in 2007 women held 22 percent of managerial positions in publicly listed companies and 35 percent in commercial companies. In 2008 women held 16 percent of high-level administrative positions in the government sector. According to the Office of the Civil Service Commission, women held 21 percent of executive-level positions. Women were able to own and manage businesses freely. Government regulations require employers to pay equal wages and benefits for equal work, regardless of gender. Nonetheless, discrimination in hiring was common, and women were concentrated in lower-paying jobs. In practice women received lower pay for equal work in many sectors of the economy.

The government's Office of Women's Affairs and Family Development promotes the legal rights of women, notably through the suboffice of the Bureau of Gender Equality Promotion.

Children

According to NGOs, highlanders and other stateless individuals on occasion did not register births with the authorities because administrative complexities, misinformed and unscrupulous local officials, language barriers, and restricted mobility made it difficult to do so (see section 2.d.).

Citizenship is not automatically conferred by birth occurring within the country. By law citizenship is based either on birth to one or more Thai parents, marriage to a Thai male, or naturalization. It can also be acquired by means of special government-designated criteria implemented by the MOI. Finally, it can be granted as a result of the 2008 Nationality law (see section 2.d.).

Primary education was compulsory, free, and universal. Violence in the southern provinces, especially that aimed at public school teachers, sporadically forced the temporary closure of public schools and disrupted the educational process in those areas. During the year the government extended compulsory education from eight to 12 years and increased free education from 12 to 15 years. The government subsidized tuition fees, uniforms, textbooks, and additional charges from school but did not provide food and transportation.

Many NGOs reported that most children of registered migrant workers, particularly in Chiang Mai and Mae Sot, were permitted to attend public schools; however, language barriers, distance from school, and frequent relocations to follow parents to new jobs sites prevented some migrant children from attending school. These children remained without access to community services provided to children attending public schools, such as day-care centers, government-subsidized free milk, and lunch privileges. Migrant workers who could afford it often chose to send their children to private nurseries or day-care centers at their own expense.

The law provides for the protection of children from abuse, and laws on rape and abandonment carry harsher penalties if the victim is a child. The law imposes a jail term of seven to 20 years' imprisonment and a fine of up to 40,000 baht (approximately \$1,190) for sexual intercourse with a victim under the age of 13. If the victim is under the age of 15, the penalty is four to 20 years' imprisonment and a fine of up to 40,000 baht (\$1,190).

During the year a private university-sponsored poll of persons ages 12 to 24 in the Bangkok area found that 12.9 percent had encountered sexual harassment. Police were reluctant to investigate abuse cases, and rules of evidence made prosecution of child abuse difficult. The law is designed to protect witnesses, victims, and offenders under the age of 18, and procedures with a judge's consent allow children to testify on videotape in private surroundings in the presence of a

psychologist, psychiatrist, or social worker. However, many judges declined to use videotaped testimony, citing technical problems and the inability to question accusers and defendants directly in court. Some children's advocates claimed that female minor sexual abuse victims were better cared physically and psychologically than male victims. Persons charged with pedophilia are charged under appropriate age of consent and prostitution laws. Victims' testimony is handled under the provisions of the Child Friendly Procedure Act.

Child prostitution remained a problem, primarily for adolescent girls, including trafficking in children for commercial sexual exploitation. Pedophilia continued, both by citizens and by foreign sex tourists. In 2007 the government, university researchers, and NGOs estimated that there were as many as 60,000 prostitutes under age 18. The Prostitution Prevention and Suppression Act makes child prostitution illegal and provides for criminal punishment for those who use prostitutes under age 18. Section 8 of the act provides that a customer who has sexual intercourse with a sex worker under the age of 15 shall be subject to two to six years' imprisonment and a fine of up to 120,000 baht (\$3,750); if the sex worker is between the ages of 15 and 18, the prison term is one to three years, and the fine can increase to 60,000 baht (\$1,875). Parents who allow a child to enter into prostitution also are punishable and can have their parental rights revoked. Those who procure children for prostitution face strict penalties, and the punishment is more severe if the minors involved are under 15. Section 287 of the penal code prohibits the production, distribution, and import/export of child pornography. The penalty is imprisonment of not more than three years and/or a fine of not more than 6,000 baht (\$180).

A 2005 study widely cited by NGOs and state agencies estimated that there were approximately 20,000 street children in major urban centers. However, the government and NGOs could provide shelter to only 5,000 children each year. Generally, the children were referred to government-provided shelters, but many, especially foreign illegal migrants, reportedly avoided the shelters due to fear of being deported. From October 2008 to September, 29 state shelters took in 160 children, 24 of whom were girls, both national and foreign. Ultimately the government either sent citizen street children to school, to occupational training centers, or back to their families with social worker supervision. Street children from other countries were repatriated.

Street children were often left out of national reports on child labor matters, and national statistics on street children often included only citizens.

Trafficking in Persons

The comprehensive antitrafficking law that came into force in June 2008 extends the definition of trafficking in persons to include trafficking for the purpose of labor exploitation and the trafficking of male victims. The law provides stringent penalties for crimes involving human trafficking. It also makes trafficking a predicate crime for prosecution under the Anti-Money Laundering Act, allowing for additional penalties and asset confiscation. The government continued efforts to fully implement the 2008 law, including drafting related government regulations and conducting broad training efforts.

The country was a source, transit, and destination for victims of human trafficking. There were reports that persons were trafficked to, from, through, and within the country for a variety of purposes, including fishing-related industries, factories, agriculture, construction, domestic work, and begging. Trafficked women and children (particularly girls) were often victims of sexual exploitation. Credible studies and evidence suggested that the trafficking of men for labor exploitation, especially migrant workers, was also prevalent. Foreign trafficking victims within the country included persons from Burma, Laos, Cambodia, and Vietnam. The trafficking of men, women, and children into such fields as commercial fisheries and seafood processing in Samut Sakhon Province was widely alleged, and such trafficking was documented in the field of garland making. Some portion, believed by the UN, NGOs, and the government to be a minority, of the estimated 200,000 to 300,000 sex industry workers in the country were either underage or in involuntary servitude or debt bondage.

Within the country, women from the impoverished northeast and north were trafficked for sexual exploitation. However, internal trafficking of women was suspected to be on the decline, due in part to prevention programs. In 2008 the government assisted Thai citizens who had been trafficked abroad to Bahrain, Malaysia, Taiwan, Singapore, South Africa, and Hong Kong. The country's embassies had a continuing mandate to assist Thai victims of trafficking abroad.

According to credible reports, there also were Burmese citizens trafficked from Malaysia across Thailand's southern border, and Cambodian trafficking victims were identified among deportees from Thailand. Victims of trafficking were often lured into or through the country with promises of restaurant, spa, or household work and then were pressured or physically forced into prostitution.

The lack of citizenship status for some hill tribe women and children was a significant risk factor for becoming victims of trafficking. Although members of this group were not a large percentage of trafficking victims, they continued to be found in disproportionately large numbers in situations entailing severe forms of trafficking.

Trafficking within the country and from neighboring countries into the country tended to be carried out by loosely organized small groups that often had close ties in the source communities. Burmese, Laotian, Cambodian, and Thai individuals were involved in labor trafficking along the border. Informal chains of acquaintance often were used to recruit victims. In some cases the traffickers themselves were former victims, particularly where the sex industry was the destination.

Some women in prostitution worked in debt bondage. Because foreign victims frequently were unable to speak the language, they were particularly vulnerable to physical abuse and exploitation. Reports of labor trafficking also were received from Burmese and Cambodian migrant workers, who were ostensibly offered jobs in the food processing industry but were later induced or forcibly transported to work on fishing vessels, on some occasions for years at a time.

A May 17 immigration police raid on a small garland-making factory located in a home in Samut Sakhon rescued 19 Laotian girls and young women, ages 12-20, whom the police considered victims of human trafficking. The immigration police arrested the two factory owners on charges of human trafficking, child labor, and receiving and sheltering illegal immigrants. The victims were being cared for in a government shelter. The charges were dropped after the employers agreed to pay the workers. In September the victims returned to Laos.

In August the DSI, in cooperation with Vietnamese antitrafficking police, rescued eight Vietnamese women from forced prostitution in the province of Yala. The women had been told that they were going to work in restaurants in Singapore; instead, they were brought to Thailand and forced to work as prostitutes. The DSI arrested one alleged trafficker. At year's end the eight women were in protective custody and were cooperating with the investigation.

In November a criminal court convicted and sentenced the two defendants for the trafficking of workers in the Anoma Samut Sakhon shrimp processing factory raided in March 2008. According to the prosecutor, one defendant, who pled guilty to some of the charges, was sentenced to five years in prison and a one million baht (approximately \$30,000) fine, and the second defendant, who denied all charges, received a sentence of eight years in prison and a two million baht (\$60,000) fine.

There were continued allegations that local officials protected brothels and other facilities from raids. There was no evidence that high-level officials benefited from or protected the practice. The government did not report investigations or prosecutions of officials for trafficking-related corruption.

According to the law, penalties against traffickers vary according to the age of the victim and the types of trafficker. If the offender is an individual, the law prescribes imprisonment of four to 10 years and a fine of 80,000 to 200,000 baht (\$2,400 to \$6,000) for trafficking offenses committed against victims more than 18 years old. For offenses against children between 15 and 18, the punishment is six to 12 years' imprisonment and a fine of 120,000 to 240,000 baht (\$3,600 to

\$7,200). For offenses against children under 15, the penalty ranges from eight to 15 years' imprisonment and a fine of 160,000 to 300,000 baht (\$4,800 to \$9,000). If the offender is a corporation, the law prescribes a fine of 200,000 to one million baht (\$6,000 to \$30,000), and the responsible authority in the convicted corporation may be sentenced to six to 12 years' imprisonment and a fine of 120,000 to 240,000 baht (\$3,600 to \$7,200). The law also prescribes penalties for those who obstruct the process of an investigation and prosecution.

The 2008 trafficking law established an antitrafficking-in-persons committee chaired by the prime minister, with relevant officials from the MSDHS acting as the committee's secretariat and assisting in the coordination of the government's antitrafficking efforts. The RTP's Children, Juveniles, and Women Division (CWD) is specifically charged with investigating human trafficking crimes, although cases are also handled by other police units. In 2008 the Transnational Crime Coordination Center was set up in the RTP to be a specialized unit responsible for collecting and analyzing information, strategic planning, and coordinating work on 11 types of transnational crimes (including trafficking). The DSI also investigates special cases, including complex transnational case. The MSDHS is charged with providing assistance and shelter to trafficking victims. The government reported that the CWD alone investigated 54 traffickers in 2008, associated with cases involving 82 victims. Thirty-four of these victims were involved in forced child labor, while 48 were involved in trafficking-related prostitution.

Trafficking victims cannot be charged with the crimes associated with their case, such as immigration violations if trafficked over the border or prostitution if forced. They also receive assistance in government shelters. Memorandums of Understanding (MOUs) among government agencies, between provincial governments in the country, and between the government and domestic NGOs provided some detailed police procedures to assist with the problem of trafficked persons being detained by the authorities. The MOUs stated that the training of police officers would include instructions to treat such persons as trafficking victims rather than as illegal immigrant workers. Instead of being deported, they would become the responsibility of the MSDHS. The government continued broad training efforts with regard to the trafficking law, victim identification, and the MOUs. However, implementation of aspects of the law and MOUs was at times erratic, with reports of trafficking victims identified among deportees to Cambodia.

In general the government cooperated with governments of other countries in the investigation of transnational crimes, including trafficking. On April 24, the country signed a bilateral antitrafficking MOU with Burma, similar to existing MOUs with Cambodia, Laos, and Vietnam. Receiving countries generally initiated trafficking case investigations. The Ministry of Foreign Affairs assisted 443 Thai victims of trafficking to return from abroad from October 2007 to September 2008, compared with 403 during the same period one year prior.

The law permits the extradition of Thai citizens under the terms of extradition treaties or reciprocal arrangements with requesting countries. The OAG reported that no citizens were extradited for trafficking-related offenses during the year. However, in 2008 the government extradited or deported foreign nationals to Japan, Australia, Germany, Bahrain, China, the United Kingdom, and the United States for the purpose of prosecuting trafficking-related crimes.

Several NGOs, both local and international, and government agencies worked with trafficking victims. As mandated in interagency MOUs, police, prosecutors, and social workers increasingly cooperated with NGO officials in a "multidisciplinary team" approach to trafficking. Such cooperation included coordination on raids of suspected facilities as well as the provision of assistance to trafficking victims. The government worked with the International Labor Organization's (ILO) International Program on the Elimination of Child Labor to implement projects to reduce the incidence of trafficking of children for labor and sexual exploitation. The government worked to make accessible a new fund to assist antitrafficking activities that was established under the 2008 law.

Victims of trafficking, including non-Thai citizens awaiting repatriation, generally were brought to government-run shelters, including at least one new shelter specifically established for male victims of trafficking. Foreign victims generally were not

eligible for work permits, which would enable them to work outside the shelter, although the government continued to develop a mechanism for them to do so in compliance with the antitrafficking law. In practice local officials on occasion allowed them to work. The government facilitated paid work to be conducted within shelters for some victims. NGOS reported complaints by some foreign victims in shelters who believed that the government did not handle their repatriation in a timely fashion. In 2008 eight government shelters (for women and children) received 622 female and child victims of trafficking, including 520 foreign trafficking victims in Thailand, 58 Thai trafficking victims in Thailand, and 44 Thai trafficking victims abroad. The government provided food, medical care, legal assistance, job training, and psychological counseling, although precise data on the level of this assistance was not available.

Trafficking victims received some legal assistance from NGOs and Department of Welfare officials, and they generally were informed of the option of pursuing legal action against the trafficking perpetrators. Some victims participated in investigation and prosecution efforts, although many opted not to do so due to distrust of government officials and lengthy legal processes. There were reports that some foreign victims attempted to not be identified as victims of trafficking to avoid lengthy residency in government shelters, preferring deportation in order to be able search for new employment.

The government continued efforts to raise awareness about trafficking in persons and continued cooperative arrangements with NGOs and local industries, especially the hotel industry, to encourage youths (particularly girls) to find employment outside the sex industry and other exploitative work. Vocational training programs aimed at high risk and vulnerable populations also received funding. Although the vocational training was not intended explicitly for trafficking prevention, the practical effect was to increase the range of employment choices.

The Department of State's annual *Trafficking in Persons Report* can be found at www.state.gov/q/tip.

Persons with Disabilities

The constitution prohibits discrimination against persons with physical and mental disabilities in education and provides for access to health care and other state services. The constitution also mandates newly constructed buildings to have facilities for persons with disabilities, but these provisions were not uniformly enforced. Activists continued to work to amend laws that allow employment discrimination against persons with disabilities.

In September the Central Administrative Court dismissed a petition filed against the Bangkok Metropolitan Administration and the Bangkok Transit System (BTS), claiming that the BTS stations did not provide accessible facilities as required by the Disabled Rehabilitation Act of 1991. The court ruling specified that the BTS had installed elevators at five stations and was conducting a survey at 18 more.

Persons with disabilities who register with the government are entitled to free medical examinations, wheelchairs, and crutches. The government provided five-year, interest-free small business loans for persons with disabilities.

There were two community-based rehabilitation programs in each of the 76 provinces. A pilot program for providing special living spaces for disabled places expanded from Khon Kaen to the four other provinces: Chaing Rai, Nakhon Sawan, Nakhon Pathom, and Trang. There was also a Disabled People Model Fair in July.

The government maintained 43 special schools for students with disabilities. The MOE reported that there were 76 centers nationwide offering special education programs for preschool-age children, one in each province. There were approximately 10,000 schools nationwide that conducted a joint normal-disabled studies program. There also were nine government-operated and 23 NGO-operated training centers for persons with disabilities, including both full-time and part-time/seasonal centers. There were also 10 state shelters specifically for persons with disabilities. In addition, there were private associations providing occasional training for persons with disabilities. There were reports of schools turning away

students with disabilities, although the government claimed that such incidents occurred because schools did not have appropriate facilities to accommodate such students.

Many persons with disabilities who found employment were subjected to wage discrimination. According to NGOs, government regulations require private firms either to hire one person with a disability for every 200 other workers or contribute to a fund that benefits persons with disabilities, but this provision was not enforced. Government officials estimated that as many as 50 percent of firms complied with the law; the chairman of the Council of Disabled People of Thailand believed the number to be 40-50 percent. Some state enterprises had discriminatory hiring policies.

National/Racial/Ethnic Minorities

Two groups--former belligerents in the Chinese civil war and their descendants living in the country since the end of the civil war, and children of Vietnamese immigrants who resided in 13 northeastern provinces--lived under laws and regulations that could restrict their movement, residence, education, and occupation. The Chinese are required to live in the three northern provinces of Chiang Mai, Chiang Rai, and Mae Hong Son. According to the MOI, none were granted citizenship during the year.

Indigenous People

Members of hill tribes who were not citizens continued to face restrictions on their movement, could not own land, had difficulty accessing credit from banks, and were not protected by labor laws, including minimum wage requirements. They also were barred from state welfare services such as universal health care.

The 2008 Nationality Act provides citizenship eligibility to certain categories of highlanders who were not previously eligible (see section 2.d.). Although the government was supportive of efforts to register citizens and educate eligible hill tribe persons about their rights, activists reported that widespread corruption and inefficiency, especially among highland village headmen and district and subdistrict officials, contributed to a backlog of pending citizenship applications as well as improperly denied applications.

Hill tribe members continued to face societal discrimination arising in part from the belief that they were involved in drug trafficking and environmental degradation.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There are no laws that criminalize sexual orientation. NGOs dealing with lesbian, gay, bisexual, and transgender (LGBT) matters were generally able to operate freely. They were able to register with the government, although there were some restrictions with the language that can be used in registering their group names. They reported that police treated LGBT victims of crime as any other except in the case of sexual crimes, when there was a tendency to downplay sexual abuse or not take harassment seriously.

An effort to organize a gay pride parade in Chiang Mai in February failed due to a lack of government support combined with social hostility. Provincial authorities, except for the MPH, withheld permission to conduct the event. UDD members protested against the event and condemned the organizers, while police did not provide adequate protection, creating a hostile situation.

There was continued discrimination based on sexual orientation and gender identity. The Thai Red Cross would not accept blood donations from gay men. Some life insurance companies refused to issue policies to gay persons. According to military sources, the armed forces did not draft gay or transgendered persons because of the assumed detrimental impact on the military's strength, image, and discipline. The official rejection rationale recorded in military documentation was "Type 3 – Sickness That Cannot Be Cured Within 30 Days," as opposed to the previously utilized "Type 4 –

Permanently Disabled or Mentally Ill." The law does not permit transgendered individuals to change their gender on identification documents. Some major businesses did not allow transgendered persons to use their preferred bathrooms. NGOs also alleged that some nightclubs, bars, hotels, and factories denied entry or employment to gays, lesbians and transgendered individuals.

In December the rectors of the Rajabhat Institutes, which operated state-run universities throughout the country, rejected a request forwarded by the Cross-Dresser Network of Thailand to allow transsexual students to wear female outfits at their commencement ceremonies.

Other Societal Violence or Discrimination

Persons with HIV/AIDS faced the psychological stigma associated with rejection by family, friends, colleagues, teachers, and the community, although intensive educational outreach efforts may have reduced this stigma in some communities. There were reports that some employers refused to hire persons who tested HIV-positive following employer-mandated blood screening. According to the Thailand Business Coalition on AIDS, an estimated 6,630 businesses pledged not to require HIV/AIDS tests for employees or discharge infected employees and vowed to hold regular awareness campaigns, with 989 joining during the year. In December it was announced on World AIDS Day that the government had adopted condom use as an item on the national agenda and would distribute 30 million to all citizens, including sex workers.

The NHRC was investigating a complaint filed in September about the so-called AIDS temple, Wat Phrabat Namphu, which sheltered many dying AIDS patients. AIDS activists objected to the temple's practice of displaying corpses of AIDS patients as a cautionary tale, although temple officials stated that the patients gave consent. At year's end the case was under consideration.

Section 7 Worker Rights

a. The Right of Association

The law allows all private sector workers to form and join trade unions of their choosing without prior authorization; however, enforcement of the law was inconsistent. In many instances the Labor Relations Act (LRA) and Labor Protection Act (LPA) were not effective in protecting workers who participated in union activities. The law allows unions to conduct their activities without government interference. The law also permits workers to strike, and this right was exercised in practice.

The labor law does not allow civil servants, including public school teachers, soldiers, and police, to form or register a union, but these associations do not have the right to bargain collectively. Labor activists and some civil servants interpreted the 2007 constitution as broadening the freedom of association to include granting civil servants the right to form a union. While efforts by a small number of civil servants to organize a union or unions were underway, the related labor laws had not been amended to allow civil servants to do so.

The State Enterprise Labor Relations Act (SELRA) gives state-owned enterprise workers the right to form unions. However, the law restricts affiliations between state enterprise unions and private sector unions. Unofficial contacts at the union level between public and private sector workers continued, and the government did not interfere with these relationships. Unions in state-owned enterprises generally operated independently of the government and other organizations.

Noncitizen migrant workers, whether registered or illegally present, do not have the right to form unions or serve as union officials; however, registered migrants may be members of unions organized and led by Thai citizens. A few registered migrants joined unions, but the number who did so was low, due in part to language barriers and the fact that migrant

workers and Thai workers often worked in different industries. A substantial number of migrant workers worked in factories near border-crossing points, where labor laws were routinely violated and few inspections were carried out to verify compliance with the law.

The labor force consisted of 39.3 million persons. Less than 2 percent of the total work force but nearly 10 percent of industrial workers and more than 59 percent of state enterprise workers were unionized. At the end of 2008, there were 44 state enterprise unions with 175,000 members and 1,229 private labor unions with 341,520 members. The number of private labor unions decreased, but the number of members in private unions increased by more than 10,000.

Workers can be dismissed for any reason, provided severance payment is made. The law does not provide for reinstatement, and the requirement for severance pay was not always respected. The labor court reinstated employees in some cases where dismissal resulted from union activity and was illegal. However, because the reinstatement process was lengthy and costly for the employee, most cases were settled out of court through severance payments to the employee, and there were no punitive sanctions for employers.

At year's end labor union leader Jitra Kotchadet, who lost her case against garment maker Triumph International for dismissing her without cause in 2008, was awaiting the result of her appeal in the Supreme Court.

In June Triumph announced plans to lay off nearly 2,000 workers at one of its subsidiary companies, blaming the global economic situation and a drop in demand. Union leaders argued that this was an attempt to purge the firm of active union members, many of whom had protested Jitra's dismissal in 2008. Following an August demonstration outside the seat of the government, the media reported that arrest warrants were issued for three protest leaders, including Jitra, for illegal assembly, resisting police orders, instigating unrest, and obstructing traffic. In mid-October laid-off employees moved their protest to the Ministry of Labor (MOL) building, where they remained through the end of the year. In December the Samut Prakan Labor Court dismissed the laid-off workers' case demanding additional severance pay. According to press reports, the court reasoned that the workers had received severance pay in accordance with the LPA and their firings resulted from Triumph's financial loss; therefore, a 1999 agreement to pay higher severance pay if layoffs were due to operational restructuring did not apply. The workers planned to appeal the decision.

The government has the authority to restrict private sector strikes that would affect national security or cause severe negative repercussions for the population at large; however, it seldom invoked this provision in the past and did not do so during the year. The law also forbids strikes in "essential services," which are defined much more broadly than in the ILO criteria and include sectors such as telecommunications, electricity, water supply, and public transportation as essential services. The law prohibits termination of employment of legal strikers; however, some employers used unfavorable work assignments and reductions in work hours and bonuses to punish strikers. Employers are legally permitted to hire workers to replace strikers. Strike action in the private sector was constrained by the legal requirement to call a general meeting of trade union members and have a strike approved by at least 50 percent of unionists. During the year there were strikes against international automotive companies, generally after negotiations over compensation had reached an impasse. In at least one instance while negotiations were still underway, management threatened a lockout, alleging that workers were damaging vehicles on the production line.

SELRA prohibits lockouts by state enterprises and strikes by state enterprise workers. However, on several occasions a large number of state enterprise workers took sick leave or vacation, leading to the closing of business operations. No legal action was taken against those workers.

In June more than 200 members of the State Railway Workers' Union of Thailand failed to report to work, leading to an interruption in rail services, to protest a proposed reorganization of the State Railway of Thailand, which the union viewed as an attempt to privatize the railway. In October union members interrupted for several days rail services in the

southernmost provinces. Pointing to a fatal train derailment that was widely blamed on union operator error, a union spokesperson cited concerns about passenger safety as the reason for the temporary stop in service.

During 2008 there were 56 labor disputes, 48 of which occurred outside Bangkok. There were reports of four lockouts by employers and 11 strikes by employees.

b. The Right to Organize and Bargain Collectively

The law provides for the right of citizen private-sector workers to organize and bargain collectively; however, labor union leaders stated that the government's efforts to protect this right were weak. The law defines the mechanisms for collective bargaining and for government-assisted conciliation and arbitration in cases under dispute. In practice genuine collective bargaining occurred only in a small fraction of workplaces; however, many disagreements were settled successfully.

The law prohibits antiunion actions by employers; however, it also requires that union officials be full-time employees of the company or state enterprise, which made them vulnerable to employers seeking to discipline workers who served as union officials or who attempted to form unions. It also served as a prohibition against permanent union staff, thus limiting the ability of unions to organize in depth and be politically active. The LRA allows only two government-licensed outside advisors to a union, and labor activists alleged that local-level MOL offices blocked the registration of labor advisors deemed too activist. Union leaders and outside observers complained that this interfered with the ability to train union members and develop expertise in collective bargaining and that it contributed to rapid turnover in union leaders.

Employers reportedly discriminated against workers seeking to organize unions. The law does not protect workers from employer reprisal for union activities prior to the registration of the union, and employers could exploit this loophole to defeat efforts at union organization. Employers used loopholes in the LRA to fire union leaders prior to government certification of unions. During the year there were several reported cases of workers being dismissed from their jobs for engaging in union activities. In some cases the court ordered workers reinstated if grounds for their dismissal were proven inaccurate.

A system of labor courts exercises judicial review over most aspects of labor law for the private sector; however, there was reported abuse in the system. Problems of collective labor relations are adjudicated through the tripartite labor relations committee and are subject to review by the labor courts. Workers may also seek redress through the NHRC. The law authorizes the MOL to refer any private sector labor dispute for voluntary arbitration by a government-appointed group other than the Labor Relations Committee. Although the legal authority seldom was used, the ILO viewed this provision as acceptable only in defined essential services.

Redress of grievances for state enterprise workers was handled by the State Enterprise Relations Committee. Labor leaders generally were satisfied with the treatment that their concerns received in these forums, although they complained that union leaders unjustly dismissed were awarded only back wages with no punitive sanctions against the employer. This limited any disincentive for employers to fire union organizers and activists.

Labor brokerage firms used a "contract labor system" under which workers signed an annual contract. Although contract laborers performed the same work as direct-hire workers, often they were paid less and received fewer, or no, benefits. Contract laborers are covered under the law, and according to the 2008 Labor Protection Act, businesses must provide contract laborers "fair benefits and welfare without discrimination." Regardless of whether the contract labor employee was outsourced and collecting wages from a separate company, the contracting business is the overall employer. It remained unclear how benefits and welfare are defined under the act. Plaintiffs filed lawsuits in an attempt to seek clarification of their obligations under the new law, but these cases were unresolved at year's end.

There are no special laws or exemptions from regular labor laws in export processing zones. However, union leaders alleged that employers' associations were organized to cooperate in discouraging union organization in the zones. In special industrial estates, union organization was common at major international firms.

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 2008 Antitrafficking in Persons Act criminally prohibits all forms of human trafficking, including forced labor; however, the government lacked the capacity to enforce these provisions effectively in the large informal sector.

Employers routinely kept possession of migrant workers' registration and travel documents, which restricted their travel outside of the work premises. Employers claimed this was done to ensure repayment of loans given to workers to pay for the documents. Nevertheless, there continued to be reports of sweatshops or abusive treatment in livestock farms, seagoing trawlers, animal feed factories, garment factories, and shrimp processing factories in which employers prevented workers, primarily foreign migrants, from leaving the premises. There were no estimates of the prevalence of such illegal actions, but the large number of migrants from Burma, Cambodia, and Laos created opportunities for abuse.

In January 2008 the police rescued three Laotian girls and arrested three Thais on charges of abuse and child slavery. The girls worked as domestic employees in Samut Prakarn for two years before being rescued. They were regularly beaten or burned when the employers were dissatisfied with their work. In June 2008 one offender was sentenced to a year in prison and 12,500 baht (\$375), and another was sentenced to six months in prison and a 7,500 baht fine (\$225). In August 2008 the third perpetrator was sentenced to five months in prison, a 7,350 baht fine (\$220), and community service.

Police arrested four individuals in the 2007 death of a Karen migrant worker who attempted to flee a factory in Supanburi Province, where he allegedly had been subjected to forced labor and severe physical abuse by his employer. Factory owner Sarawut Ayuken was charged with murder and with providing work and shelter to illegal migrant workers. On August 10, he was sentenced to death by the criminal court, and on November 6, he submitted his appeal. The court dismissed the cases against two other defendants, who were Cambodian, and the government appealed. The defendants remained in prison awaiting the decision of the appeals court.

On October 11, law enforcement officers from multiple agencies, working in cooperation with NGO representatives, rescued 18 Burmese who were forced to work in fishing boats in Chonburi Province and arrested three individuals. Two were charged with human trafficking. Two were also charged with attempting to bribe law enforcement officers.

Problems encountered by Thai citizens working overseas highlighted the problem of exploitative labor supply agencies that charged heavy and illegal recruitment fees often equal to a worker's first- and second-year earnings. In many cases recruited workers did not receive the terms they were promised and incurred significant debt. Local banks contributed to this practice by offering exorbitant loans to allow workers to pay recruitment fees, which ranged from 300,000 to one million baht (approximately \$9,000 to \$30,000) for workers traveling abroad. The Department of Employment issued regulations mandating the maximum charges for recruitment fees to ensure that the fees are not excessive. However, effective enforcement of the rules was difficult.

d. Prohibition of Child Labor and Minimum Age for Employment

In general, sufficient legal protections exist for children in the formal economic sector. The LPA is the primary law regulating employment of children under the age of 18. Employment of children under 15 is prohibited. An exception exists for children 13 to 15 years old who have parental permission to perform agricultural work during school breaks or

nonschool hours as long the employers provide a safe work environment. Employers may not require children under 18 to work overtime or on a holiday and may not require work between 10 p.m. and 6 a.m. without MOL approval. Children under 18 must not be employed in hazardous work, which includes any activity involving metalwork, hazardous chemicals, poisonous materials, radiation, and harmful temperatures or noise levels; exposure to toxic microorganisms; operation of heavy equipment; underground or underwater work; and work in places where alcohol is sold or in massage parlors. The maximum penalty for violating these prohibitions is one year in prison, fines up to 200,000 baht (\$6,000), or both. The LPA does not cover workers in some informal sectors, such as fishing and domestic employment. The law allows for issuance of ministerial regulations to address sectors not covered in the law; such regulations increased protections for child workers in domestic and agricultural sector work.

Child labor remained a problem, particularly in agriculture and in garment- and fishing-related industries. However, the extension of compulsory education to 12 years and the granting of government assistance for tuition fees, uniforms, and textbooks was expected to reduce the number of child workers. According to a study funded by the MOL and the ILO, labor abuse of child citizens was declining, and such children made up less than 1 percent of the workforce.

Official MOL statistics showed that approximately 2,065 children between 15 and 17 years old were working legitimately. However, the number of all child laborers, legal and illegal, was likely much larger when taking into consideration child laborers under 15 and unregistered migrant children. NGOs reported that 2 to 4 percent of children between the ages of six and 14 worked illegally in urban areas; such children were at risk of becoming victims of other abuses of labor laws.

Most underage workers in urban areas worked in the service sector, primarily in gasoline stations, small-scale industry, and restaurants. Street begging and the selling of flowers also remained prevalent. Child labor was less evident in larger, export-oriented factories. NGOs also reported greater child labor in garment factories along the Burmese border, in Mae Sot Province. However, there was no comprehensive survey of child labor throughout the country, since NGOs often did not have access to shophouse factories. NGOs reported child domestic workers were predominantly migrants from Burma, Cambodia, and Laos. Most were in the country illegally, increasing their vulnerability to exploitation.

Observers believed that while the prevalence decreased, children (usually foreign) were exploited in street selling, begging, domestic work, agriculture work, and prostitution in urban areas, sometimes in a system of debt bondage. There were reports of street children who were bought, rented, or forcibly "borrowed" from their parents or guardians to beg alongside women in the street.

The MOL is the primary agency charged with enforcing child labor laws and policies. Labor inspectors were usually reactive, rather than proactive, and normally responded only to specific public complaints, reports of absences by teachers, or reports in newspapers. In line with prevailing cultural norms, their inclination when dealing with violators was to negotiate promises of better future behavior rather than seek prosecution and punishment. The legal requirement for a warrant hampered inspection of private homes to monitor the welfare of child domestic workers.

e. Acceptable Conditions of Work

The minimum wage ranged from 150 baht to 203 baht per day (\$4.50 to \$6.09), depending on the cost of living in various provinces. This wage was not adequate to provide a decent standard of living for a worker and nuclear family. The minimum wage is set by provincial tripartite wage committees.

The government sets wages for state enterprise employees under SELRA. Wages for civil servants are determined by the Office of Civil Service Commission. However, the 2008 Civil Servant Act gives each ministry or department more flexibility in designing civil servant salary levels.

The MOL is responsible for ensuring that employers adhere to minimum wage requirements (applicable to the formal sector); however, enforcement of minimum wage laws was mixed. Some formal sector workers nationwide received less than the minimum wage, especially those in rural provinces. Labor protections apply to undocumented workers; however, many unskilled and semiskilled migrant workers worked for wages that were less than half the minimum wage.

The LPA mandates a uniform workweek of 48 hours, with a limit on overtime of 36 hours per week. Employees engaged in "dangerous" work, such as chemical, mining, or other industries involving heavy machinery, legally may work a maximum of 42 hours per week and are not permitted overtime. Petrochemical industry employees cannot work more than 12 hours per day and can work continuously only for a period not exceeding 28 days.

During 2008 there were 176,502 reported incidents of diseases and injuries from industrial accidents. This included 127,059 minor disabilities (resulting in no more than three days of missed work) and 3,742 disabilities resulting in more than three days of missed work (including permanent disabilities and deaths). However, the rate of incidents occurring in the larger informal and agricultural sectors and among migrant workers was believed to be higher. Occupational diseases rarely were diagnosed or compensated, and few doctors or clinics specialized in them. Many of the young migrant women employed along the Burma border had limited and substandard medical care options. In medium-sized and large factories, government health and safety standards often were applied, but overall enforcement of safety standards was lax. In the large informal sector, health and safety protections were substandard.

Provisions of the LPA include protection for pregnant workers, prohibiting them from working on night shifts, overtime, and holidays, with dangerous machinery, or on boats. Despite the act's prohibition against dismissing pregnant workers regardless of their nationalities, there were reports that employers intentionally laid off workers who became pregnant, using the economic downturn as an excuse.

The MOL promulgates health and safety regulations regarding conditions of work and is responsible for their enforcement; however, the inspection department enforced these standards ineffectively, due to a lack of human and financial resources. There is no law affording job protection to employees who remove themselves from dangerous work situations. According to the MOL's Department of Labor Protection and Welfare, mining, consumer goods production, and the construction industry violated the most laws regarding workers' safety.

Redress for workers injured in industrial accidents was rarely timely or sufficient. Few court decisions were handed down against management or owners involved in workplace disasters.

Migrant workers, especially from Burma, remained particularly vulnerable to poor working conditions. Reports indicated that they were routinely paid well below the minimum wage, worked long hours and/or in unhealthy conditions, and because of their generally illegal status were at risk of arrest and deportation. In addition, improper wage deductions for registration, health care, sick days, and employee errors were widespread.

Migrant workers also faced discrimination by a Social Security Office (SSO) policy that denies disabled but registered migrants access to the Workmen's Compensation Fund (WCF). Irregular migrant workers that complete a new amnesty and related nationality verification process are to have access to WCF and SSO funds (see section 2.d.).

At year's end two cases involving the constitutionality of the SSO policy as well as the case of Nang Noom Mai Seng were pending in the Supreme Court. Nang Noom, a Shan registered migrant worker, was permanently disabled in a 2006 construction accident. She filed a personal compensation claim against the WCF in 2007. In 2008 she filed a joint claim with two other Shan migrant workers, requesting revocation of the same SSO policy. The Administrative Court ruled in November 2008 that administrative courts have no jurisdiction to rule on labor cases. The three workers then petitioned the Central Labor Court to revoke the SSO policy in December 2008. In May the Central Labor Court accepted jurisdiction

in the case and decided that labor courts can exercise administrative powers in labor cases. A hearing was held in Chiang Mai; the court refrained from issuing a decision because Nang Noom's first case was pending with the Supreme Court. In October Nang Noom and the other claimants appealed the case to the Supreme Court, arguing that the two cases were separate matters and that the other two plaintiffs were entitled to a decision.

In June the State Enterprise Workers Relations Confederation submitted a complaint to the ILO alleging that the government was breaching ILO convention 19 by denying Burmese migrant workers access to the WCF following accidents at work. The ILO Committee of Experts considered the complaint at the end of November; the result was expected to be released in March 2010.

In 2007 two Shan workers from Burma were involved in a work accident. One worker survived the accident, and his claim to the WCF was accepted. A second worker, Hsai Htun, an unregistered migrant, died four days after the accident. The SSO determined that he was not entitled to access to the WCF because he was an unregistered migrant. Nevertheless, the SSO issued an order for his employer to pay compensation. His family concurrently submitted the case to a labor court in June 2008. In September, after extensive negotiations, the employers agreed to pay 250,000 baht (approximately \$7,500) in compensation. At year's end Hsai Htun's family had not received compensation.

In some provinces, local regulations prohibit migrant workers from owning mobile telephones, leaving a worksite at night between the hours of 8 p.m. and 6 a.m., gathering in assemblies of more than five persons, and organizing or taking part in cultural events. However, the regulations were rarely enforced. There were some reports that security officials harassed NGO personnel who were trying to assist illegal migrant workers.