



## 2008 Human Rights Report: Thailand

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

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Thailand is a democratically governed constitutional monarchy with a population of more than 65 million. The king is revered and exerts strong informal influence. In the most recent election for the lower house of parliament, held in December 2007, the People's Power Party (PPP), led by Samak Sundaravej, won a plurality. A six-party coalition elected Samak as prime minister, and he held office until a September 9 Constitutional Court ruling forced him to step down. On September 25, a new government, headed by Somchai Wongswat, took office but stepped down on December 2 following a Constitutional Court ruling that dissolved his party because of electoral law violations. A government led by Abhisit Vejjajiva was inaugurated on December 22. Earlier in the year, a selection committee announced on February 19 the appointment of 74 senators to the 150-seat upper house of parliament. On March 2, voters elected the remaining 76 senators to represent each province. The election process for both legislative bodies was generally viewed as free and fair, but there were widespread allegations of vote buying. Civilian authorities generally maintained effective control of the security forces, although the military continued to play a role in maintaining internal security.

Despite a year of political instability, the country avoided unconstitutional disruptions in governance, and the government's respect for human rights remained unchanged. Security forces continued at times to use excessive force against criminal suspects, and some elements also committed or were connected to extrajudicial, arbitrary, and unlawful killings. Reports also linked police to disappearances. There were reports that police tortured, beat, and otherwise abused detainees and prisoners, many of whom were held in overcrowded and unsanitary conditions. 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, freedom of the press, and freedom of assembly that were imposed following the September 2006 coup. 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.

### 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 continued to use excessive, and at times lethal, force against criminal suspects and committed or were connected to numerous extrajudicial, arbitrary, and unlawful killings, including killings by security force personnel acting in a private capacity.

According to the Ministry of Interior's Investigation and Legal Affairs Bureau, during the year 459 persons died in prison or police custody, 34 due to the actions of police officers. Authorities attributed most of the deaths to natural causes.

On March 20, members of Royal Thai Army Task Force 39 detained Imam Yapa Koseng and his two sons in Narathiwat Province. Several detainees saw Task Force 39 personnel beating Yapa repeatedly, after which he died. The body was returned to the family, who alleged it showed signs of torture. During a postmortem inquest conducted on June 30 at the request of the family, a forensics expert testified that Yapa died as a result of blunt force trauma, although the army maintained he died of natural causes as concluded by its own investigation. At year's end no member of Task Force 39 had been charged in connection with Yapa's death. Five members of the group testified during the postmortem inquest that they were subsequently transferred to Petchabun Province and received punishment according to internal army procedures. On December 25, the Narathiwat Provincial Court issued a ruling on the postmortem inquest that concluded Yapa died in state custody at the hands of state officials. However, the court did not explicitly identify the perpetrators.

Reports continued that individuals were executed in apparent extrajudicial killings following their participation in army-sponsored reeducation centers. The Central Institute of Forensic Science stated that it received 84 unidentifiable bodies during the year, compared with 194 bodies in 2007.

At year's end the investigation into the March 2007 death of Nopphon Chaiwichit in Nakhon Si Thammarat Province had been transferred to the Crime Suppression Division in Bangkok, but no individuals had been arrested.

The investigation into the April 2007 alleged shooting by a police lieutenant colonel, who killed Thinnawut Phumuda and Phatphong Sisamut, was officially closed after the Phang Nga police and the Public Prosecutor's Office determined that the shooting was in self-defense.

The case of the December 2007 shooting by an Interior Ministry security official in Mae Hong Son Province that killed Karenni refugee Aie Oo reached the preliminary hearing stage of a postmortem inquest in court to determine if murder charges could be placed against the suspect, a local village militia member. The accused surrendered, claimed self-defense, and was released on bail shortly after the incident.

Court proceedings continued against the five accused gunmen allegedly involved in the 2006 shooting of former member of parliament Kopkul Nopamornbodee.

Due to a lack of suspects and evidence, police closed the cases of the 2006 killings of land rights activist Saharat Suramit, Democrat Party activist Charan Iamphaibun, and Narathiwat village headman and human rights activist Muhammad Danai Tanyeenoo.

In March the Bangkok Metropolitan Police closed the investigations of the December 2006 bomb attacks in Bangkok and Nonthaburi, in which three persons were killed and 32 injured.

On December 31, the criminal court sentenced lawyer Thanu Hinkaew to life imprisonment for orchestrating the 2004 killing of environmental activist Chaoren Wataksorn.

There were few developments in the Justice Ministry's investigations regarding the extrajudicial killings of at least 1,300 persons in the three-month "War on Drugs" campaign in 2003 conducted during the Thaksin government. In January an independent commission reviewing the killings released a report that encouraged further investigation of the cases but did not hold anyone accountable. The commission was disbanded after the end of the interim government, and its findings were considered confidential. During the June 3 session of the UN Human Rights

Council (UNHRC), the Asian Legal Resource Centre expressed concern over the government's lack of action in investigating such extrajudicial killings. The government responded that more than 50 law enforcement officers had been prosecuted, but human rights and legal aid groups in Bangkok were unaware of these prosecutions.

According to the Thailand Mine Action Center, during the year there were two deaths due to landmines, both of which occurred in Sisaket 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, but reports continued of individuals killed in apparent extrajudicial killings following their participation in army-sponsored reeducation centers.

On February 7, Kamol Laosophaphant disappeared in Khon Kaen Province after he went to the Baan Phai police station to lodge criminal complaints against local officials concerning state railway land deals. His family filed complaints with the police and the Crime Suppression Division, and at year's end an investigation was ongoing.

On February 29, Utsaman Awaenu, a navy draftee stationed in Sattahip, Chonburi Province, disappeared. On March 3, his relatives contacted Utsaman's navy unit and allegedly were told that he was detained at an undisclosed location in the south. His relatives were unable to see him and filed a complaint with the Justice Access and Legal Protection Program.

There were no developments in the July 2007 abduction of Anukorn Waithanomsak, an assistant to a leader of the United Front of Democracy Against Dictatorship (UDD), a group that led rallies in opposition to the 2006 coup.

The government continued to investigate cases in which the Thaksin government was suspected in the disappearance of alleged southern insurgents; however, at year's end no individuals were charged in connection with such incidents.

On March 12, the fourth anniversary of Muslim attorney and human rights activist Somchai Neelaphajit's disappearance, his wife Angkhana Neelaphajit addressed the UNHRC in Geneva, calling on authorities to bring high-ranking police officers to justice and requesting the testimony of former prime minister Thaksin as a witness based on previous remarks that indicated his confirmation of her husband's death. She also expressed concern over Samak's appointment of Police General Sombat Amornwiwat, former supervisor of the five accused persons in her husband's disappearance, to be an advisor to the Ministry of Justice. None of the five police officers arrested in 2004 were charged with offenses connected to enforced disappearance. Police Major Ngern Thongsuk, convicted in January 2007 of coercion for his role in forcing Somchai into a car, allegedly died in a mudslide in Kanchanaburi Province on September 19. His body was not found, and no death certificate was produced. Security officials allegedly pressured Angkhana to drop legal proceedings against Ngern due to his apparent death. At year's end Ngern's appeal remained pending in court.

#### 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. Investigations were undertaken in many of the cases, including several in which the

accused police officers were suspended pending the results of internal investigations. At year's end no military personnel had been charged or prosecuted.

On January 27, security officials arrested Ismael Tae and Amisi Manak, Yala Rajabhat University students whom authorities suspected of involvement with insurgent activities. Both alleged that they were tortured by members of Yala's Task Force 11 and soldiers from a neighboring camp in Pattani. The students were released without charge within nine days after a complaint was filed at the Yala Court. The incident was reported to the National Human Rights Commission (NHRC) and the Office of the UN High Commissioner for Human Rights (UNHCHR).

Aminudeen Kaji, a religious teacher at a private Islamic school in Songkhla, alleged that on February 5, border patrol police (BPP) subjected him to beatings, strangulation, and suffocation with plastic bags; boxed both temples so that his eardrums burst; stomped on his throat; and told him to confess to crimes or choose between being killed immediately or being killed while being made to look as if he had tried to escape. He filed a police complaint that resulted in an investigation of 13 BPP members but later withdrew the complaint.

On March 19 and 20, members of Task Force 39 stationed in Ruseor District, Narathiwat, arrested Rayu Korkor, an 18-year-old villager, along with Imam Yapa Koseng and four other men. Rayu alleged that he witnessed Yapa's death at the hands of officials of Task Force 39 officials (see section 1.a.). He also claimed that security officials hung him upside down from a tree, subjected him to multiple beatings, and pierced his fingernails, toenails, and genitalia with syringes. Officials later transferred Rayu to Ingkayuthboriharn camp in Pattani for medical treatment.

The NHRC reported that the 2006 suit filed by Sakhon Khamto against police who allegedly beat her to force a confession was closed after she did not identify the police abusers.

#### Prison and Detention Center Conditions

Prison conditions were poor. Prisons and detention centers were overcrowded. 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 28 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, but in some locations 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 credible reports that guards physically abused detainees in some IDCs. Overcrowding and a lack of basic medical care continued to be serious problems.

International observers reported continued overcrowded conditions for detainees in Bangkok's Suan Phlu IDC. Observers alleged that detainees were sexually and physically abused while in detention. There were reports that detainees, including children, were not permitted to exercise at some facilities. Provincial authorities also admitted that overcrowding existed at the Mae Sai IDC in Chiang Rai.

A total of 158 refugees recognized by the Office of the UN High Commissioner for Refugees (UNHCR) as persons of concern, including 80 children, remained in the Nong Khai IDC, where they had been placed in late 2006. This number included nine children born in the IDC, whom the UNHCR has been unable to add to their parents' cases due to lack of access. In August officials permitted the construction of a temporary facility to ease overcrowding. However, at year's end authorities continued to prohibit resettlement processing or to release of the refugees.

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 could make repeated visits. However, at year's end the military had not replied to ICRC requests to visit military detention facilities in the four southernmost provinces, where detainees allegedly were mistreated. The UNHCR continued to be denied access to detainees at the Suvarnabhumi Airport IDC in Bangkok based on an April 2007 government decision. In practice UNHCR working-level officials were able to interview detainees in Suan Phlu IDC, and in September access was improved for third countries to process recognized refugees for resettlement.

#### d. Arbitrary Arrest or Detention

The constitution specifically prohibits arbitrary arrest and detention; however, government forces occasionally arrested and detained persons arbitrarily. A December 2007 royal command stated that martial law, which gave 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 Law Society of Thailand received 200 complaints from residents of the southern provinces that security forces made searches and arrests by citing the emergency decree and presented warrants afterwards. They received 100 complaints from residents in the north that security forces made searches and arrests by citing the occurrence of a "flagrant offense," thus not requiring a warrant.

#### Role of the Police and Security Apparatus

The Royal Thai Police (RTP) has the authority to minimize threats to internal security and to 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 BPP have special authority and responsibility in border areas to combat insurgent or separatist movements.

The February 28 implementation of the Internal Security Act created the Internal Security Operations Command (ISOC) as a state agency under the command of the prime minister, who acts as the ISOC director. It includes broad powers for the military. Military and civilian personnel comprise ISOC staff; ISOC is intended to function as a national security force to suppress unrest. Human rights organizations and academics criticized the bill for authorizing the ISOC director, with approval of the cabinet, to respond to alleged threats to national security by restricting fundamental rights and overriding civilian administration and due process.

Corruption remained widespread among police officers. Police officials suggested that low pay made them susceptible to bribes. There were reports that police tortured, beat, and otherwise abused detainees and prisoners, generally with impunity. There were also reports that some police officers were involved in facilitating prostitution and trafficking in women and children.

On January 25, the Office of the Narcotics Control Board (ONCB) arrested Police Captain Nat Chonnithiwani and seven other BPP members for extorting money from an estimated 200 victims allegedly tortured into confessing to drug deals in Bangkok, Kanchanaburi, and several southern provinces. Charges included criminal conspiracy, armed

robbery, forced intrusion, threatening others with weapons, detaining others, and abducting minors. After the ONCB announced on February 5 that it would reimburse all victims found to be falsely accused of drug trafficking, Human Rights Watch expressed concern over threats made by Police General Seriphisut Temiyavej to take action against anyone who made false claims of innocence.

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 NHRC, the Law Society of Thailand, the National Counter-Corruption Commission (NCCC), the Court of Justice, the Ministry of Justice, and the Office of the Prime Minister also accept complaints of police abuse and corruption, as does the Office of the Ombudsman.

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 the criminal court. The police department reported that 310 officers were under investigation for criminal offenses between January 2007 and June 2008. The NHRC received approximately 124 complaints of police abuse between October 2007 and September 2008.

Procedures for investigating suspicious deaths, including deaths occurring in police custody, require that the prosecutor, a forensic pathologist, and a 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 and 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 who provided false evidence to courts to obtain arrest warrants and a tendency by the courts to automatically approve all requests for warrants. Legal aid organizations noted that in 2007 the Yala Provincial Court permitted 390 of 392 requests for arrest warrants under the emergency decree. They also granted all requests for search 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 local 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 Ministry of Justice and the Attorney General's Office sought to provide an attorney to indigent detainees at public expense.

Under normal conditions the law requires police to submit criminal cases to prosecutors for the filing of court charges within 48 hours of arrest, with extensions of up to three days permitted. Prosecutors may seek court permission 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 Law Society of Thailand, 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. On July 22, police arrested activist Daranee Charnchansinlapakun on lese majeste charges following speeches at a UDD rally on July 18 and 19. The court refused her bail, citing the sensitive nature of her case and concern for her safety. At year's end she remained in jail after an appellate review refused her bail on the grounds that she posed a high risk for repeating the offense and out of alleged concern for her safety.

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

#### Amnesty

At year's end authorities had released approximately 28,500 prisoners pardoned by the king as part of a royal amnesty marking his 80th birthday in December 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 Supreme Administrative Court, which adjudicates cases involving government officials or state agencies. Justices nominated to the Supreme Administrative Court are confirmed by the Senate and a judicial commission consisting of 12 judges and four officials appointed by the Senate and the Court of Justice Secretariat. At year's end there were 17 Supreme Administrative Court judges; the law allows a maximum of 23. 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.

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 Ministry of Justice and the Attorney General's Office remained committed to providing legal aid in both civil and criminal cases but did not allocate sufficient resources. 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 Law Society of Thailand and the Thai Women Lawyers Association. There is no discovery process, so 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 wrongdoing by the police. The Office of Witness Protection in the Ministry of Justice 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.

In March Angkhana Neelaphajit and other participants in the witness protection program temporarily withdrew from the program when the Department of Special Investigations assigned police instead of civilian officers to protect witnesses. The role of Police General Sombat Amornwiwat, former supervisor of the five accused officers in the disappearance of her husband, was of particular concern.

#### 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 excludes scrutiny by the Supreme Administrative Court or civil or criminal proceedings against government officials, although victims may seek compensation from a government agency instead. During the year two high-profile rulings by the Constitutional Court, which forced two prime ministers from office, drew allegations of court bias from politicians disadvantaged by those rulings.

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

The constitution specifically prohibits such actions, and the government generally respected these prohibitions in practice. The law provides standardized procedures for issuing warrants. Martial law gives military forces the authority to conduct searches without a warrant, and this authority was used on some occasions during the year.

The emergency decree covering the southern provinces also allows authorities to make searches and arrests without warrants. The Law Society of Thailand received multiple complaints from persons in the south claiming that security forces abused this authority; however, the decree provides security forces broad immunity from prosecution.

There were reports that police conducted warrantless searches for narcotics in villages in the northern provinces, although officials sometimes cited martial law as a pretext for the search. Warrantless searches are permitted in cases in which there is reasonable suspicion and an urgent search is deemed necessary.

On May 27, police and officials from the Aeronautical Radio of Thailand raided without a warrant a community radio station belonging to the Duang Prathip Foundation, founded by former senator Prathip Ungsongtham Hata, and halted operations. Police asserted that the station's broadcast interrupted air traffic communications.

The investigation continued into the July 2007 incident in which Bangkok police and military officials without a

warrant confiscated posters critical of the newly drafted constitution in front of Prathip's residence and entered his residence for an additional search, also without a warrant.

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

Members of indigenous hill tribes continued to face forced evictions and relocation. Due to lack of proof of citizenship and land ownership, they were forced to move from areas they had cultivated for decades.

In 2007 the land committee established under the National Poverty Reduction Program to deal with land disputes in areas affected by the 2004 tsunami was dissolved due to inactivity following the end of the interim government.

#### 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 for Narathiwat, Pattani, Yala, and three districts of Songkhla gives military, police, and civilian authorities significant powers to restrict certain basic rights and delegates 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 area, gives a wide range of power to the military.

#### Killings

Government forces were accused of extrajudicial killings, arbitrary arrests, and torture of individuals suspected of involvement with separatists. As a result of a series of increasingly provocative 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. NGOs alleged that during the year security forces extrajudicially killed an estimated dozen individuals suspected of involvement with the insurgency, although army officials denied these allegations.

On January 27, an estimated 100 soldiers killed two suspected insurgents during a raid in Ban Tan Namtip Village, Chumphon Province.

On March 18, according to the Asian Human Rights Commission and the Working Group for Justice and Peace, 60 members of Task Force 39 allegedly shot and killed Sakri Loama in Ba Ngoe Muwa, Narathiwat, and detained his son-in-law, Sukrinai Loamar. Sukrinai was allegedly tortured before being transferred to Ingkayuthboriharn camp in Pattani and then to the Ruesor police station. Sukrinai's family reported seeing dried blood on his clothing and claimed that a Ruesor police report recorded his injuries but did not provide specific details.

According to Issara News Institute statistics, during the year separatist violence resulted in the deaths of 546 individuals in 1,056 incidents. However, other sources believed the death toll was higher. According to police statistics, between October 2007 and September at least 694 civilians were killed as a result of 1,472 incidents linked to separatist violence. As in previous years, the separatists frequently targeted government and religious representatives, including teachers, monks, and district and municipal officials, but also Buddhist and Muslim civilians. In July insurgents allegedly issued a fatwa that permitted the targeting of students.

Between January 1 and 15, suspected insurgents staged a series of shootings and bombings in Narathiwat, Pattani, and Yala that killed three persons and injured 78. On January 24, a teacher was shot and killed in Khok Pho District, Pattani. In February suspected insurgents killed six persons and injured 35 in a series of bombings and

shootings. On March 15, car bombs exploded in Pattani and Yala, killing three persons and injuring many others, including in a hotel in Pattani.

On January 3 and 10, roadside bombs seriously wounded 12 soldiers belonging to a teacher escort in Yaring District, Pattani, and in Narathiwat; according to security officials, two suspects were arrested and later confessed to the incident.

Suspected insurgents carried out large-scale attacks in June and July, including a June 21 attack on a passenger train in Ra Ngae District that killed four persons. On July 2, suspected insurgents shot and killed Veera Muenjan, the principal of Ban Ma Hae school, resulting in the closure of 55 government schools for several days. Also on July 2, Wanna Sisuan, a Buddhist, was shot and killed in Narathiwat. A note found next to her body stated that Buddhists would be killed in retaliation for the deaths of ethnic Malay Muslims. On August 21, car bombs exploded in Sungai Golok, Narathiwat, killing a journalist and two rescue workers.

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 Ministry of Interior and security forces. Human rights organizations expressed concerns about vigilantism against ethnic Malay Muslims by these defense volunteers and other civilians. On July 5, three ethnic Malay Muslims were killed when unknown attackers opened fired on a teashop not far from where Buddhist elementary school principal Veera Muenjan was shot on July 2.

Police continued investigating the February 2007 attacks in Narathiwat, Pattani, Yala, and Songkhla that killed nine persons and injured approximately 70. Authorities issued 15 arrest warrants for the March 2007 ambush of a van in Yala that killed eight Buddhist passengers. Two of the 15 suspects were killed during clashes with authorities at other locations.

No arrests were made for the March 2007 attacks on ethnic Malay Muslims in which three were killed and 20 injured in Yala following the deaths of eight ethnic Thai Buddhists in an ambush on the same day. Police continued to investigate the April 2007 killings of four ethnic Malay Muslim youths in Yala by what the press reported were government-backed ethnic Thai Buddhist village defense volunteers.

Police identified five suspects in the May 2007 killing of seven soldiers in Narathiwat; the case was pending review by the public prosecutor. A police investigation continued in the May 2007 explosions in Hat Yai City in Songkhla. Police arrested three suspects in the May 2007 bombing of Saba Yoi District market in Songkhla.

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. No arrests were made in the investigation of the November 2007 incident in which suspected insurgents reportedly killed a Muslim man, allegedly for cooperating with security officials.

The April 2007 inquest by the Songkhla Provincial Court into the deaths of 78 ethnic Malay Muslim detainees at Tak Bai in 2004 resulted in additional inquests. The Krue Se inquest started in December 2007 and was expected to finish in January 2009. The Tak Bai inquest was conducted between March and May; however, the court did not publicize its findings. NGOs alleged that local military officials threatened witnesses in the inquest to prevent them from testifying. At year's end no individuals had been arrested in connection with the October 2007 killing in Narathiwat of Ma-usoh Malong, the husband of activist Yaena Solaemae, and the police investigation continued.

An independent commission designed to serve as a focal point for complaints against the government in Pattani, Songkhla, Yala, and Narathiwat was disbanded. A former committee member alleged that they convened only a few times before disbanding due to a lack of government funding.

## Abductions

The wife of Mayateh Maranoh, a caretaker at a public elementary school, filed an inquest to a court in Yala to rule on the fate of her husband, last seen when rangers from Unit 4111 surrounded their house in June 2007 and detained him. On November 16, the court dismissed the case.

In March 2007 Human Rights Watch released a report documenting 22 cases of disappearances in the southern provinces between 2002 and October 2006 under the Thaksin and interim governments. In many cases the missing persons allegedly disappeared after being questioned by security forces. The RTP established a committee to investigate the reported disappearances, but it convened only once, during which the members concluded that the whereabouts of those listed were unknown. By year's end no individuals had been brought to trial or convicted.

The Central Institute of Forensic Science abandoned its project to exhume approximately 400 unidentified bodies from cemeteries in the south due to changes in the central government and budgetary constraints. The reported reluctance of provincial governors to allow remains to be transported across provincial borders and alleged opposition from some law enforcement agencies further complicated efforts.

Police closed the investigation into the 2006 abduction of Wae-halem Kuwaekama from Joh Airong District in Narathiwat due to lack of evidence.

## Physical Abuse, Punishment, and Torture

The army was accused of torturing some suspected militants, mostly at the Royal Thai Army's Region Four Ingkayut Borihan military camp in Pattani and at other detention facilities in the region.

By September the NHRC had completed its investigation into the April 2007 alleged torture of Sukri Ar-dam in a southern detention facility and the July 2007 death of Ashari Sama-ae, and it was preparing to send the government a report on its findings.

The June 2007 death of Sakareeya Pa-oh Mani while in the custody of security authorities was pending at the Yala Provincial Court.

The investigation into the alleged 2006 torture of Muhammad Ari Yusoh resulted in an ISOC settlement. ISOC offered a 50,000 baht (\$1,500) payment to the victim through monthly installments. According to the victim's family, the payments stopped prematurely, and they were awaiting a response from an inquiry to ISOC.

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 media documented occasions in which security forces arrested all male occupants of a village or detained the elderly or infirm. Large-scale village sweeps in the deep south led by hundreds of soldiers resulted in mass warrantless detentions. On January 25, more than 300 security officials raided several areas and apprehended 12 suspects in two districts of Narathiwat in response to a wave of attacks in January that resulted in the deaths of eight soldiers.

The four provinces of the deep south 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, Yala, and three districts of Songkhla. The emergency decree was in effect in the same areas and 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. Government statistics were not available, but police officials stated that 1,474 persons had been arrested since 2005 under these provisions and that 289 of those arrested had been prosecuted. It was unclear whether any persons were detained under the auspices of martial law alone.

The government cancelled a program to transfer approximately 400 detainees whom authorities declined to prosecute criminally to military camps in Chumphon, Ranong, and Surat Thani provinces for a vocational training program. The cancellation came after complaints from human rights organizations and an October 2007 ruling by provincial courts in the three provinces that the army could not compel participation. Lawyers and NGOs stated that the detainees returned to their villages following the court ruling. However, credible sources indicated that some of the men remained under surveillance and that security officials visited their homes on occasion.

Human rights organizations alleged that the military mailed official letters to suspected militants in the four southernmost provinces, inviting them to attend an education program. Credible sources indicated that two such sessions were held in Pattani and Songkhla. The 15- to 30-day programs included reeducation training and sightseeing in nearby provinces. NGOs noted that several program participants were killed once they returned to their home villages; security forces were suspected of involvement due to the close proximity of the killings to mosques.

#### Child Soldiers

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.

On January 29, the Working Group on Justice for Peace reported that the Ruam Thai Team, a local Buddhist self-defense force in the three southernmost provinces headed by Police Colonel Pithak Iedkaew, was training an estimated 300 Buddhist and Muslim children to include in its forces. The 2008 Child Soldiers Global Report published by the Coalition to Stop the Use of Child Soldiers claimed that insurgency groups included children.

#### Other Conflict-Related Abuses

There were reports that separatists used women and children as human shields to confront or provoke security forces and restrict their operations. The police and military imposed a curfew in several districts of Yala prohibiting persons from leaving their homes after 9 p.m.

The Ministry of Education reported that since 2004 insurgents had burned more than 304 schools in the south. During the year insurgents burned 14 schools in Pattani and Narathiwat. 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 some ethnic Malay Muslim civilians, fortified schools and temples, and provided military escorts to monks and teachers. According to the Ministry of Education, 139 teachers, students, and education staff had been killed and 228 others injured due to separatist violence since 2004.

Separatist violence included attacks on medical facilities, such as the destruction of two government health centers in Pattani on June 7. According to the Public Health Ministry, 69 public health volunteers had been killed, 47 health volunteers injured, and 24 community health centers burned or bombed in the south since January 2004.

While official government statistics were not available, there were reports that a significant number of ethnic Thai Buddhists were fleeing violence-affected areas for 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; in addition the government and legal code limited some rights.

Freedom of speech and the press were occasionally curtailed by government interference and the use of libel suits directed against journalists. The broadcast media, particularly television and radio, were closely monitored. Under former prime minister Samak Sundaravej, government interference in the media intensified. The government pressured the media, particularly broadcast media, to cooperate on disseminating constructive and complimentary news and information. Nevertheless, the media and civil society vocally criticized government authorities throughout the year. Print and broadcast media reported news critical of the government as well as statements and activities of the former and current prime minister. Samak in particular was criticized for his attitude towards the media.

By law the government may restrict freedom of speech and freedom 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 permits police to close newspapers or printing presses in times of war or national emergency, but only with a court order. 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.

Lese majeste provisions make it a criminal offense to criticize the king, queen, royal heir apparent, or regent; the criminal code allows for three to 15 years' imprisonment. The provisions allow private citizens to initiate lese majeste complaints, and there were dozens of instances in which private citizens accused each other of lese majeste. This triggered a lengthy process of investigations and subsequent case review by the Office of the Attorney General (OAG). Although the OAG formally charged some individuals with lese majeste, at year's end only the case of UDD supporter Bunyuen Prasoetying was brought to trial. Bunyuen received six years' imprisonment.

On April 5, police charged social activists Chotisak Ongsoong and Songkran Pongbunjan with lese majeste for not standing for the royal anthem in a movie theater in September 2007. They were released without bail; the case was under investigation at year's end. On April 29 and 30, radio station Metro Life 97 urged listeners to attack Chotisak when he was scheduled to appear at a panel discussion on lese majeste at Thammasat University. The Web site component of the station also posted his personal information, including his address and telephone number.

On April 8, a police officer accused reporter Jonathan Head of BBC's Bangkok bureau of lese majeste for remarks Head made at August 2007 and December 2007 panel events at the Foreign Correspondents' Club of Thailand. The August 2007 panel also featured Jakrapob Penkair, a political activist, who discussed the history of patronage in the country. An investigation concluded on September 10 that there was significant evidence of lese majeste against Jakrapob and recommended that he be prosecuted. At year's end the Jakrapob case was under review by the OAG, and the investigation against Head remained open.

On August 31, Australian author Harry Nicolaidis was arrested under lese majeste provisions of the criminal code over a passage in his 2005 novel *Verisimilitude* that allegedly defamed the crown prince. At year's end he remained in jail awaiting formal charges and had been denied bail four times.

On November 6, Khon Kaen province police apprehended Buddhist scholar and social critic Sulak Siwalak in Bangkok and charged him under the lese majeste provisions of the criminal code. At year's end he was free on bail and awaiting further official action. Sulak had been arrested, charged, or prosecuted on similar grounds multiple times in the past but never convicted.

Political figures and large media conglomerates held ownership of large stakes in many prominent 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 (PRD) and the Mass Communication Organization of Thailand, a former state enterprise of which the government still owned a majority share. Almost all of the stations were leased to commercial companies.

The Broadcasting Act, promulgated on March 4, governs the regulation of radio and television frequencies. The new act provides for three categories of broadcast licenses: public service, community service, and commercial. The act empowers the National Telecommunications Commission to enforce the law, pending the establishment of the National Broadcasting and Telecommunications Commission (NBTC). No progress was made on the appointment of that body, and as a result no new broadcast licenses were issued during the year.

The government censored broadcast media both directly and indirectly, and self-censorship was evident. Broadcast media nevertheless reported criticism of the government.

In early February the Prime Minister's Office announced plans to establish a task force to monitor the "news balance" of the broadcast media. That same month, the minister attached to the Prime Minister's Office, Jakrapob Penkair, signed an order transferring PRD director general Pramote Ratvinij to an inactive post. Although the government claimed the move was not politically motivated, media observers believed that Pramote was removed due to his connection to the former government. In May Jakrapob warned broadcast media outlets about carrying news reports in support of a rumored coup and stated he would take disciplinary action against any PRD staff who did so.

On January 14, the Thai Public Broadcasting Service Act took effect, transforming Thailand Independent Television--the PRD-operated successor to the former Thaksin-owned iTV--into Thai Public Broadcasting Service, which later was renamed TV Thai.

The government attempted to discredit media organizations via government-owned and -operated media outlets, particularly through its programming on National Broadcasting Services of Thailand (NBT). It often refuted content broadcast on Asia Satellite TV (ASTV), a television station owned by Manager Media Group whose managers were tied to the antigovernment movement led by the People's Alliance for Democracy (PAD).

On January 9, the car of Samraeng Khamsanit, a reporter with the Thai-language daily newspapers Matichon and Khao Sod in Angthong Province, was set on fire. On May 26, Surayud Yongchaiyudh, another reporter with Matichon, survived a shooting in Prachuab Kirikhan Province. On August 1, Atiwat Chainurat, also a Matichon reporter, was shot and killed at his home in Nakhon Sri Thammarat. All three were believed to have been targeted for their politically sensitive reporting.

The case of the shooting of journalist Manop Ratanajaroongporn in Phang Nga Province in 2006 was dismissed for lack of evidence. There was no resolution of the 2006 killing of Santi Lammaneeuil, owner of the Pattaya Post and a freelance reporter. These individuals also 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 routinely practiced self-censorship, particularly with regard to the monarchy and national security.

On February 13, a well-known radio host and former senator, Chirmsak Pinthong, took his popular talk radio show off the air following his criticism of then-prime minister Samak's comments on the October 1976 massacre. His production house reportedly told him to cancel the show after receiving a call from a government official.

The international and independent media were allowed to operate freely, although with some exceptions.

On January 31, the Administrative Court suspended a 2006 order issued by the PRD instructing CAT Telecom to terminate transmission of ASTV. Despite the order, ASTV was able to operate via satellite.

On June 13, Interior Minister Chalerm Yoobamrung ordered provincial governors and officials to file charges against cable television operators broadcasting antigovernment rallies. No charges were filed, but several cable operators in the provinces reportedly suspended ASTV broadcasts of antigovernment rallies as a result.

The defamation cases of three popular television talk show hosts, one of them PPP leader Samak Sundaravej, remained under appeal. On September 25, the appeals court upheld a primary court verdict convicting former prime minister Samak of defamation charges and sentenced him to two years' imprisonment; the other two cases remained under appeal. Samak remained free on bail and continued to appeal the court decision.

On September 10, the court of appeal confirmed a lower court's verdict that found newspaper Neow Naa editor Prasong Soonsiri guilty of libel. He was convicted of defamation for criticizing Constitution Court judges on their acquittal of former prime minister Thaksin Shinawatra in his 2001 asset concealment case. Prasong received a suspended sentence of one year.

At year's end the December 2007 court ruling in the libel case against PAD leader and Manager Media Group owner Sondhi Limthongkul continued under appeal. There were no reports that the government used libel laws to suppress criticism of political or other leaders.

There were reports that state-owned media did not provide equal broadcast time to all parties and used the PRD-operated NBT to discredit conventional media outlets. In July then-prime minister Samak was granted a daily, one-hour period on NBT, during which he regularly attacked the media for reporting inaccurate and distorted stories about his administration. Reportedly, the PRD denied a formal request submitted by opposition leader Abhisit Vejjajiva for equal time on NBT.

No progress was made on the appointment of a National Broadcast Commission tasked with reallocating all broadcast frequencies and regulating the broadcast media under the new broadcasting act.

Under past legislation radio stations had to renew their licenses every year; however, the new broadcasting act increases radio license terms to seven years. Radio signals are broadcast via government transmitters. Stations are required by law to broadcast 30 minute government-produced newscasts twice daily. With no movement on the establishment of the NBTC, the country's estimated 2,000 to 3,000 community radio stations technically continued to operate outside the law.

During an April 19 seminar with community radio operators in the eastern part of the country, Minister Attached to

the Prime Minister's Office Jakrapob reportedly offered to help community radio stations operating without licenses avoid arrest if they agreed to allot two to three hours a day to government-sponsored programming. The Thai Broadcast Journalist Association condemned the proposal.

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.

#### Internet Freedom

Individuals and groups could generally 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.

The 2007 Computer Crime Act, 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 maximum five-year jail sentence and a 100,000-baht (\$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. In addition, any service provider who intentionally consents to or supports the publishing of illegal content is also liable. It also obliges Internet service providers (ISPs) to preserve all user records for 90 days, in the event that officials wish to access them. Media activists criticized the law, stating that the offenses are defined too broadly and some penalties are too harsh.

There was also an increase in Internet censorship. The government blocked numerous Web sites critical of the monarchy and those that expressed pro-Thaksin or republican views, although most were accessible again by the end of the year. The government allowed relative freedom of expression on political Web sites and discussion boards. Several political Web boards and discussion forums chose to self-censor and closely monitored discussions to avoid being blocked. The government blocked 2,300 Web sites and URLs and listed approximately 400 Web sites as pending court orders to be blocked, of which 344 were considered to have content deemed offensive to the monarchy, two were religious sites, and six had pornographic content. According to press reports, the MICT also advised ISPs to block an additional 1,200 sites that it considered a danger to national security or disturbing social order.

Some Web sites suffered from self-censorship by domestic ISPs. On January 4, the Web site for Same Sky publishing house, which produces an eponymous quarterly sociopolitical magazine, was denied further hosting service from its domestic host; it later moved to a hosting service abroad. The Web site contained content from the magazine, blogs by columnists, and articles, and its Web board featured relatively open discussions on the monarchy. On April 28, Sunimit Jirasuk of Khon Kaen Province filed lese majeste charges against the Web sites of Same Sky and Prachatai, a liberal news media outlet, alongside an additional charge against activist Chotisak Onsoong; Sunimit claimed they advocated the elimination of the monarchy. Chotisak already faced lese majeste charges for not standing during the royal anthem at a movie theater in September 2007. Customers of Telephone Organization of Thailand reported that they could not access Same Sky and Prachatai Web sites on May 14 and 15; users instead found a message stating that it had been blocked due to a request by the MICT. On October 30, the government assembled Web site managers from several entities to request their cooperation in monitoring content critical of the monarchy.

#### Academic Freedom and Cultural Events

There were no government restrictions on academic freedom.

During the year Chulalongkorn University political science professor Giles Ungpakorn reported that his university's bookstore refused to sell his book, *A Coup for the Rich*. The book was available only via the Internet after Thammasat University's bookstore also stopped selling it following a police request.

Cultural events may be censored, usually for reasons of public decency. The law specifies that theater owners and broadcasters must submit films they plan to show to the film censorship board for review. The board may ban a film if offending portions are not deleted. Reasons for censoring films include violating moral or cultural norms and disturbing the public order or national security. Theater owners and broadcasters frequently censored films themselves before submitting them to the board. According to the board, no films have been banned since 2003. During the year film director Apichatpong Weerasethakul released his film *Syndromes and a Century* with six missing scenes blacked out to show where he capitulated to the film censorship board's demands.

#### 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.

Government officials in the provinces of Ranong, Surat Thani, Phuket, Phang Nga, Chumphon, and Rayong issued written 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. Employers could request permission from authorities for migrant workers to hold cultural gatherings.

Throughout the year various pro- and anti-Thaksin groups, such as the PAD and UDD networks, among other organizations, staged a series of protests in Bangkok and other areas that resulted in violent clashes between supporters. The demonstrations drew thousands of participants and peaked with the September 2 death of protester Prasit Jantemduang in Bangkok, the October 7 deaths of protesters Angkhana Radappanyawut and Methee Chartmontri, and the seizure of Bangkok's two airports from November 25 until December 4. The number of demonstrators dropped dramatically after the September 4 resignation of then-prime minister Samak and the December 2 removal from office of then-prime minister Somchai.

On July 17, PAD protesters clashed with a group of at least 200 progovernment protesters in Si Sa Ket Province who attempted to block them from reaching the Preah Vihear temple. On July 24, clashes between PAD protesters and anti-PAD protesters resulted in the reported injury of approximately 13 protesters and two police in Udon Thani Province.

On August 26, antigovernment protesters led by the PAD occupied the formal seat of government without resistance from police, and the government declared it would resolve the standoff peacefully, despite the issuance of arrest warrants for the PAD's leadership.

##### 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."

In accordance with the law, the government prohibited candidates for the Senate, ostensibly a nonpartisan body, from distributing printed materials carrying the name of a political party or publicly identifying a political party as a candidate's sponsor.

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 party, which the Constitutional Court dissolved in May 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.

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 Ministry of Education 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 367 pondok schools in Songkhla, Satun, Yala, Pattani, and Narathiwat provinces and seven pondok schools in other provinces. Observers estimated that as many as 1,000 pondok schools operated in the south.

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. 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. Muslims outside the southern provinces were much better integrated into society.

Government officials reportedly continued to monitor Falun Gong members and restrict their activities. 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 (PRC). On February 8, police arrested 13 practitioners meditating in front of the PRC embassy. On March 13 and 14, six mainland Chinese practitioners were arrested while distributing leaflets near the Chinese embassy and the Grand Palace. At year's end all remained in Bangkok's IDC.

#### 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 no longer were able 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.

During the year one Buddhist layperson was reportedly beheaded, compared with five in 2007. On July 4, Khan Sangthong was shot, burned while nailed to the road, and then beheaded in Bannang Sta District, Yala. The media reported it as a reprisal killing for the killing of insurgent leader Koseng Apibanbae and other members on June 23 by government forces. According to media and academic sources, suspected insurgents beheaded at least one Muslim during the year.

As a result of a series of increasingly provocative 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 complained of societal discrimination both by Buddhist citizens and by the central government. Many Muslims 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.

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

For a more detailed discussion, see the 2008 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

#### 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, and the government generally respected these rights in practice; however, there were some exceptions. The constitution specifically provides for these rights but makes 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 with no 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.

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.

Migrant workers may work only in certain provinces. The government continued to offer illegal migrants the opportunity to be legally registered. Registration must be renewed each year. According to the Ministry of Labor, 787,640 migrants registered during the year, 476,676 of whom were from Burma. Migrants from Burma could apply for border passes at select Burmese border crossings. Migrants possessing these passes may legally reenter Thailand and work. The document is not valid for travel to third countries. Similar agreements were in place with the governments of Laos and Cambodia. By law unregistered children of illegal migrants face arrest and deportation.

The law prohibits forced exile, and the government did not practice it. Former prime minister Thaksin returned on February 28 after 18 months abroad following the 2006 coup. During Thaksin's time overseas, the government declared that he was free to return, but Thaksin stated he would not do so, citing safety concerns. The then-foreign minister Noppadol Pattama approved the issuance of a diplomatic passport to Thaksin weeks before Thaksin's return. Thaksin retained his diplomatic passport when he fled to the United Kingdom on August 11. However, on December 12, the government revoked his diplomatic passport.

#### Protection of Refugees

The country is not a signatory to the 1951 UN 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.

The government had a screening process for Burmese entering the official refugee camps, but the process stalled in most provinces during the year. While the government generally cooperated with humanitarian organizations in assisting refugees in the established camps, cooperation with the UNHCR continued to deteriorate during the year on protection matters 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. However, in July authorities granted the UNHCR informal access to asylum seekers in the main IDC in Bangkok to conduct status interviews, and several resettlement countries were also allowed to conduct processing activities. The government also permitted a UNHCR monitoring presence 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.

During the year provincial admission boards (PABs) continued to permit 711 refugees to remain in nine camps. Many of the refugees previously lived in the camps without formal permission. The government agreed to permit third country resettlement of camp refugees, and at year's end 16,607 persons were resettled from the camps.

IDCs in several provinces and Bangkok were designated to hold asylum seekers. Conditions in all IDCs were poor, with mental and physical health problems among the asylum seekers stemming from overcrowding and poor ventilation.

The government allowed NGOs to provide food, medical services, 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 UNHCR reported that after the September 2007 crackdown on prodemocracy protesters in Burma, approximately 230 new arrivals contacted the UNHCR and received temporary UNHCR identification documents. The government convened two sessions of a special "fast track" PAB screening process, and 58 cases were approved for refugee status and 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. According to the UNHCR, there were approximately 30,000 to 40,000 unregistered Burmese asylum seekers in the nine camps. The PABs for Burmese asylum seekers met only sporadically.

On July 16-17, the Third Army oversaw the forced return of 59 ethnic Karenni asylum seekers to Burma from two refugee camps in Mae Hong Son Province. Government authorities often sent such persons back to Burma if they were discovered before reaching a refugee camp, but the group in question had already taken up residence in the camps. Following that incident an estimated 1,000 other recent arrivals in the two refugee camps in Mae Hong Song were photographed, in the past a precursor to repatriation.

In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened, although the government adopted a tougher approach to resolve the situation of the approximately 7,800 Hmong, some appearing to have valid refugee claims, who were confined in an army-run camp in Huay Nam Khao, Phetchabun Province. The government reserved the right to repatriate the population at Phetchabun to Laos and did not grant the UNHCR permission to interview them to determine their refugee status. During the year 1,600 Hmong were returned to Laos in five separate movements. Many appeared to return voluntarily, although third-party monitoring of the returns initially was not permitted by the Lao government, which agreed in September to allow monitoring by the UNHCR and diplomats. However, in June more than 830 Hmong were opportunistically returned to Laos after they marched out of the camp in protest over the lack of resettlement options. An internal government screening system existed to identify those who might face harm if returned to Laos. However, during the year a systematic review of the cases by a national-level committee did not take place. Food and basic health care in the army camp were provided by an international NGO.

In contrast with 2007, local officials in Mae Hong Son Province allowed ethnic Karenni Paduang refugees to enter camps to be processed for resettlement.

The government continued to allow the UNHCR to conduct weekly visits to the group of Hmong asylum seekers from Laos detained in small cells in the Nong Khai IDC since 2006. A local NGO provided supplementary food and toiletries. The government permitted construction of a temporary NGO shelter on the IDC grounds to relieve the crowding in the cells. Several countries sought to consider the group detained at Nong Khai for refugee resettlement. However, at year's end authorities had not permitted resettlement processing to continue, nor had they released the refugees.

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), the government did not always respect this right in practice. Human rights organizations reported that local officials often excluded undocumented children were often excluded from primary school. Enrollment among stateless hill tribe students remained low and declined with age. According to UNESCO's 2006 Highland Peoples Survey on the impact of statelessness among 12,000 hill tribe households in the north, highlanders lacking citizenship were 73 percent less

likely to enter primary school than highlanders with citizenship. Moreover, human rights organizations reported that stateless students who did complete primary school did not receive an official graduation certificate, which hindered their access to higher education and restricted their employment options.

#### Stateless Persons

A significant but indeterminate number of stateless persons resided in the country.

The stateless persons, most of whom are known as highlanders or hill tribes, were concentrated in the northern region. The most recent highland survey, conducted in 1999, recorded a total hill tribe population of nearly 874,000 persons, of whom more than 496,000 were registered as citizens. The remaining 378,000 highlanders were placed in various categories, such as "eligible for citizenship," "eligible for permanent residency," or "undetermined." Of these 378,000 noncitizens, a number subsequently received citizenship, but neither government nor NGO sources were able to provide a precise figure, due to the absence of more recent census data tracking the number of hill tribe residents and their citizenship status. Although the government and NGOs concurred on the need for a new and more comprehensive survey, they were unable to agree on how it should be conducted.

Many stateless highlanders lived in poverty, and as noncitizens they could not own land, had difficulty accessing credit from banks, and did not have access to a variety of government services, such as universal health care. The law prohibits many stateless highlanders from traveling out of their home district or province without prior permission. The law also prohibits highlanders from participating in certain occupations reserved for citizens, most notably farming, although in practice officials permitted noncitizen highlanders to undertake small-scale subsistence activities. NGOs asserted that statelessness was the single greatest risk factor for hill tribe people to be trafficked or otherwise exploited, such as by being forced into the drug trade or other sectors of the underground economy, since they are precluded from many legitimate economic opportunities.

The 2008 Nationality Act, which took effect on February 28, provides citizenship eligibility to certain categories of highlanders who were not previously eligible. It also streamlines citizenship registration and eases evidentiary requirements. NGOs believed that the act significantly reduced the number of persons previously ineligible to apply for citizenship; however, its full impact had not been assessed because the Interior Ministry's implementing regulations were ambiguous; human rights organizations requested clarification.

Because of the remoteness and restricted mobility of stateless highlanders, documentation and evidence of birth was usually difficult to provide in establishing citizenship eligibility. However, the Civil Registration Act of 2008 stipulates that every child born in the country will receive an official birth certificate, regardless of the parents' legal status. Some stateless persons who were born in the country and who may be able to prove citizenship eligibility often waived that right in order to classify themselves as "migrants" and gain access to public health care and certain jobs unavailable to stateless persons. In doing so, however, these individuals lost any basis for citizenship eligibility that they previously held. However, the new Nationality Act allows these individuals to reclaim their eligibility provided they relinquish migrant worker status and take steps such as surrendering work permits.

Stateless highland women encountered more barriers to citizenship than men. Tribal customs and traditions subjected women to a certain social status that limited their access to postprimary education and political opportunities that contribute to knowledge of the citizenship process. Women had to rely on reportedly corrupt village leaders and district officials to act as facilitators for them. Most stateless highland women had few economic opportunities outside the home and could not afford the bribe demanded for processing citizenship applications. Highlanders claimed to have paid district officials anywhere from 3,000 to 15,000 baht (\$90 to \$450) despite there being 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.

A 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 various categories of legal status, including citizenship. However, at year's end the government had not implemented the strategy fully, as some implementing regulations were still under development. An October statement by the Ministry of Foreign Affairs noted that the failure of some local officials to act according to the national strategy often stemmed from their lack of knowledge of relevant laws and regulations. The Interior Ministry was working with human rights organizations to train local officials in these areas.

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

Following the December 2007 general election, the country reverted to a bicameral system, composed of a House of Representatives and a 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 lower house of parliament 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 lower house of parliament held in December 2007 was generally 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. The Election Commission of Thailand announced that the PPP, led by Samak Sundaravej, won a plurality of 233 seats in the 480-seat lower house. The commission disqualified 10 candidates and parliamentarians for alleged vote buying, including the PPP's Yongyut Tiypairat, who briefly served as House speaker.

At least three political canvassers and local government officials reportedly were killed or injured during 2007 election campaigns; there was speculation that some of the killings may have been politically motivated. By September the 150 allotted slots for senators were filled, but only 470 of the 480 allotted slots for the House of Representatives were filled, due to resignations and disqualifications.

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 on December 2 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 2007 constitution, which also provides that all executive board members of parties dissolved by the court lose their political rights for a five-year period. The December 2 ruling therefore forced Prime Minister Somchai Wongsawat, a PPP executive, out of office. The other parties dissolved were the Chart Thai Party and the Matchima Thippathai Party. A total of 106 executive board members lost their political rights in connection with the parties' dissolution.

There were 80 women in the 620-seat bicameral parliament. Women held three cabinet positions. The constitution encourages political parties to consider a "close proximity of equal numbers" of both genders. Many NGOs noted that women had the right to vote and run for positions, but 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 32 Muslim and six Christian members of parliament.

#### Government Corruption and Transparency

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

There were many cases of corruption involving senior government officials, including former prime ministers Thaksin and Samak and other government ministers.

On March 10, prosecutors filed charges against former prime minister Thaksin and 46 other persons, including deputy prime minister and finance minister Surapong Suebwonglee, labor minister Uraivan Thainthong, and deputy transportation minister Anurak Jureemas, in connection with embezzling proceeds from a government lottery implemented during the Thaksin administration between August and November 2006. In April the Asset Examination Committee (AEC) pressed criminal charges against Thaksin over the Export-Import Bank of Thailand's loan to Burma of four billion baht (approximately \$120 million).

On March 14, the AEC indicted Bangkok governor Apirak Kosayothin, former commerce minister Wathana Muangsuk, and former director-general of the Foreign Trade Department Rachen Potjanasunthorn on charges of malfeasance related to the purchase of fire trucks. In the same case, the AEC had previously indicted former Bangkok governor Samak Sundaravej, former interior minister Bhokin Bhalakula, former deputy interior minister Pracha Maleenont, and former director-general of the Bangkok Metropolitan Authority's Public Disaster Relief Department Athilak Tanchookiat. Apirak was later cleared of involvement.

On July 31, the Supreme Court sentenced Thaksin's wife Potjaman to three years in jail for tax evasion, but she was released on bail and an appeal was pending at year's end. Her brother and secretary were also found guilty in the case, and their appeals were pending at year's end. Following the ruling Thaksin and his wife failed to return to the country from overseas. On September 11, a criminal court issued an arrest warrant for them when they failed to appear at court proceedings concerning asset concealment allegations in a real estate case; a Supreme Court ruling on October 21 acquitted Potjaman but found Thaksin guilty of abusing his position in connection with his wife's purchase of land.

On September 9, the Constitutional Court ruled against then-prime minister Samak in a conflict of interest case involving his hosting of television cooking shows in violation of Article 267, forcing him to step down.

The OAG continued to investigate the August 2007 arrest of a retired police officer in connection with the alleged bribery of two judges on the Constitutional Court prior to its May 2007 ruling dissolving the former ruling Thai Rak Thai Party.

The December 2007 determination by the NCCC that 13 former Constitutional Court judges, four former members of the Election Commission, and three former ombudsmen had illegally approved pay increases for themselves remained with the OAG, pending prosecution.

During the year the NCCC, AEC, and OAG continued to investigate allegations of corruption committed by the Thaksin government. The findings by the AEC and the OAG triggered multiple cases at the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions.

In addition, the NCCC brought several other cases to court and reported that there were 5,333 cases pending investigation at the conclusion of its fiscal year in October.

Public officials were subject to financial disclosure laws. Aside from the NCCC, the AEC, and the OAG, the Anti-Money Laundering Office, the Supreme Court, the Ombudsman's Office, the Administrative Court, and the Ministry of Justice played a role in combating corruption.

The new 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. Requests for public information may be denied for reasons of national security and public safety.

#### Section 4 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 issues, 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. The International Commission of Jurists faced government delays in renewing the registration of its Bangkok office, remaining without a registration number at year's end.

Police closed the investigation into the March 2007 attack on Sot Sutnak, an environmental activist in Surat Thani Province. According to police, Sot fled the province after the attack and had not been seen again.

Government officials met and cooperated with visitors from the ICRC and the UNHCHR throughout the year. There were several visits by international Muslim leaders, including Organization of the Islamic Conference officials, to the southern provinces, some at the invitation of the government.

The NHRC was active during the year. As an independent government entity, it submitted an annual evaluation of the human rights situation, proposed policies and recommendations for amending laws to the parliament, promoted measures to educate citizens on human rights, and investigated human rights abuses. The lack of power to prosecute or to punish violators prior to the promulgation of the new constitution, which provides for the NHRC to file suits on behalf of victims of human rights abuses in the courts, hindered the NHRC's ability to carry out its mandate. Modest staffing and resources also hampered NHRC progress.

#### Section 5 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 October 2007 and September, the police stated that 4,736 rape cases had been reported, including five cases where the victim was killed. Suspects were arrested in 2,340 of these cases, including all of the cases resulting in the victim's death. The Ministry of Public Health reported that an

estimated 11,538 women and children were sexually abused between October 2007 and September, including 2,366 women more than 18 years old and 9,172 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.

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. Victims of sexual abuse were eligible to receive state financial aid of up to 30,000 baht (\$900).

Domestic violence against women was a significant problem. The law imposes a fine of up to 6,000 baht (\$180) or as much as 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.

A few 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 issues involving women. The government's crisis centers, located in some state-run hospitals, continued to care 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 26,565 reports of violent abuse between October 2007 and September 2008.

On January 11, the Ministry of Social Development and Human Security launched a community-based system to protect women from domestic violence in six pilot communities in Bangkok. Representatives from each community received training in increasing awareness of women's rights and abuse prevention.

Prostitution is illegal, although it is 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. The illegal nature of the work and the high incidence of part-time prostitutes made precise numbers difficult to assess, and estimates varied widely. A government survey during the year found that there were 76,000 to 77,000 adult prostitutes in registered entertainment establishments. However, NGOs believed there were between 200,000 and 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 Ministry of Social Development and Human Security, there were no laws to specifically address 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 formal sector and the informal sector. The law specifies fines of not more than 20,000 baht (\$600) for individuals convicted of sexually harassing female or minor employees in the formal sector. The law indicates that the victim must file charges against the abuser in the informal sector. 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 new Civil Servant Regulations Act prohibits sexual harassment and stipulates five levels of punishment, namely, 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 merged into the Merit System Protection Commission. No complaints were received during the year. Prosecution or disciplinary action was rarely sought, because most callers wanted only to seek consultations or did not provide enough information to permit an investigation to be pursued. Some complaints may have been settled out of court.

The constitution provides for the equality of all citizens; however, some inequalities in the law remained. For example, a man may sue for divorce on the grounds that his wife committed adultery, but a woman faces the additional legal burden of proving that her husband has publicly acknowledged another woman as his wife. According to the Ministry of Social Development and Human Security (MSDHS), unlike in 2007, foreign spouses of Thai citizens are eligible to apply for citizenship.

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 contrast with 2007, police academies planned to accept female civilian students during the March 2009 application period pending approval by the police commissioner-general. According to the MSDHS, in 2006 women constituted 59 percent of the nonagricultural labor force. Women held 22 percent of managerial positions in publicly listed companies, 35 percent in commercial companies, and 22 percent of high-level administrative positions in the government sector. According to the Office of the Civil Service Commission, women held 15 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 virtually all sectors of the economy.

We Move, a league of more than 50 women's organizations, advocated legal reforms to address inequities in the treatment of women. The organization actively campaigned for gender-equality clauses in legislation and the new constitution and encouraged women to seek elected positions on provincial government bodies.

#### Children

The constitution provides children equal protection.

According to NGOs, highlanders and other stateless individuals on occasion did not register births with the authorities because poverty and restricted mobility made it difficult to do so (see section 2.d.).

Primary education was compulsory, free, and universal. Violence in the southern provinces, and particularly violence aimed at public school teachers, sporadically forced the temporary closure of public schools and disrupted the educational process in those areas.

Many NGOs reported that children of registered migrant workers, particularly in Chiang Mai and Mae Sot, were permitted to attend public schools. Children who failed to enter the education system at age seven for grade one were required to wait until they reached the age of 15, when they could enter informal or vocational education programs. Children in this group 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 nursery 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 years' to life imprisonment for the statutory rape of children under the age of 15. In 2006 a nationwide, government-sponsored poll of high school students found that 5 percent of boys and 3 percent of girls 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. 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.

Trafficking in children, including for commercial sexual exploitation, remained a serious problem. 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. Parents who allow a child to enter into prostitution also are punishable. According to government officials, during the year there were no arrests or prosecutions of parents who allowed a child to enter into prostitution. Custom and tradition made it rare for children to accuse their parents in court proceedings.

On August 8, the Ranong Criminal Court sentenced Suchon Boonplong, the driver of a container truck, to six years' imprisonment after 54 illegal migrants suffocated in his truck en route to Phuket in April 2007. A case against an alleged accomplice, the owner of the Choke Charoen Fishing Pier, was pending in the courts.

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 migrants, reportedly avoided the shelters due to fear of being detained and expelled from the country. According to the government, citizen street children were sent to their home provinces and placed in occupational training centers.

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

#### Trafficking in Persons

A new comprehensive antitrafficking law that came into force on June 5 extends the definition of trafficking in persons to include trafficking for the purpose of labor exploitation and the trafficking of males. Previous laws defined trafficking only in terms of sexual exploitation and allowed only women and children to be classified as victims eligible to receive shelter or social services from the government. The new 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.

There were reports throughout the year that persons were trafficked to, from, or within the country for a variety of purposes. Women and children (particularly girls) tended to be the most frequent trafficking victims for sexual exploitation. However, credible studies and evidence accumulated from a number of cases suggested that the

trafficking of men for labor exploitation, especially migrant workers, was also prevalent. The trafficking of men, women, and children into such fields as commercial fisheries and seafood processing was documented in the Samut Sakhon region. 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. Young migrant women and girls, especially from Laos, were employed in indentured servitude.

Within the country women were trafficked from the impoverished northeast and the north to Bangkok for sexual exploitation. However, internal trafficking of women appeared to be on the decline, due to prevention programs and better economic opportunities. Women were trafficked to Japan, Malaysia, Singapore, Taiwan, Hong Kong, Bahrain, Australia, South Africa, Europe, and the United States, chiefly for sexual exploitation but also to some destinations for sweatshop labor. Men, especially migrant workers from Burma, were trafficked into the country to commercial fisheries, seafood processing plants, and for farm, industrial, and construction labor.

Women and men were trafficked from Burma, Cambodia, the PRC, Laos, Russia, Uzbekistan, and eastern European nations for labor and sexual exploitation.

Entire families occasionally were trafficked for labor in sweatshops. Boys and girls were trafficked chiefly from Burma and Cambodia for sexual exploitation and to work in begging gangs. Underage boys reportedly were brought into the country for specialized work in which small size was an advantage. According to domestic NGOs, girls between the ages of 12 and 18 continued to be trafficked from Burma, southern PRC, and Laos to work in the commercial sex industry. Social workers noted that young girls were prized because clients believed that they were free of sexually transmitted diseases. Persons trafficked from the PRC often were in transit to other countries, such as Malaysia, although women and girls from Yunnan Province generally were destined for brothels in the north. Victims of trafficking were often lured into the country or for transit to other countries 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 strong 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.

Most prostitutes were not kept under physical constraint, but a large number worked in debt bondage. Brothel procurers reportedly advanced parents a substantial sum against their child's future earnings. The child was then obligated to work in a brothel to repay the loan.

Because foreign women frequently were unable to speak the language and were considered illegal immigrants, they were particularly vulnerable to physical abuse and exploitation. Reports of labor trafficking also were received from Burmese migrant workers, who were ostensibly offered jobs in the food processing industry but were later induced or forcibly transported to work on fishing vessels.

A March 10 police raid on the Anoma shrimp processing factory in Samut Sakhon found 72 illegal migrant workers being held against their will, including 10 suspected trafficking victims and 20 children. The police completed their investigation on August 19 and submitted the case for review at the OAG, filing 20 civil and criminal charges against the factory owner and manager. The police were working to expand their investigation to suspected

Burmese procurers. The OAG submitted the case to the court on September 10, and a preliminary court hearing was conducted on October 13. Court proceedings were to resume in February 2009.

The new trafficking law strengthens penalties on traffickers. Penalties 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 on those who obstruct the process of an investigation and prosecution as well as those who disclose information or documents to persons not involved in the investigation and prosecution process.

The RTP's Children and Women Welfare and Protection Division is charged with implementing the antitrafficking law, while the MSDHS is charged with providing assistance and shelter to trafficking victims. Police reported that 144 trafficking-in-persons cases were filed in the judicial system from July 2005 to June 2007. Police reported they arrested 5,012 offenders in the 12-month period preceding July. The arrests included 159 transnational crimes in human trafficking, 4,780 transnational crimes in labor fraud, 19 transnational crimes in sexual exploitation, and 54 other crimes. NGOs assisted some victims to obtain back wages from abusive employers; however, criminal prosecutions were scarce. In mid-2006 the 1951 antislavery law resulted in a conviction for the first time when the employer of an abused domestic servant was found guilty of enslavement. The verdict continued under appeal at year's end.

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 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 victims of human trafficking rather than as illegal immigrant workers. Instead of being deported, they would become the responsibility of the public welfare department. However, implementation of the MOUs was erratic, due to insufficient training of law enforcement officials and their unfamiliarity with the law. Between October 2007 and September 2008, the MSDHS implemented training workshops for police, public prosecutors, public health officers, labor officers, immigration officers, and NGOs.

In general the government cooperated with governments of other countries in the investigation of transnational crimes, including trafficking. The country had bilateral antitrafficking MOUs with Cambodia, Laos, and Vietnam and was working on bilateral cooperation MOUs with the PRC, Burma, and Japan. Receiving countries generally initiated trafficking case investigations. The government continued to investigate rings associated with smuggling female citizens abroad. The Ministry of Foreign Affairs assisted 403 women and girls, most victims of sexual exploitation, to return from abroad in 2007 (up from 397 in 2006).

The law allows for extradition of citizens; however, none were extradited for trafficking-related offenses. Requesting-country nationals charged with trafficking-related crimes, including pedophilia, were extradited to Japan, Australia, Germany, Bahrain, the PRC, the United Kingdom, and the United States.

There were reports of bribe taking by some low- or mid-level police officers facilitating the most severe forms of

trafficking in persons. There was no evidence that high-level officials benefited from or protected the practice. Compromised local police protected brothels and other sex venues from surprise raids. Officials found complicit in any part of the illegal economy rarely were prosecuted but instead were moved to positions thought to limit opportunities for future corruption.

Several NGOs, both local and international, and government agencies worked with 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. However, funds for fighting trafficking or aiding its victims were limited. A new fund to assist antitrafficking activities was being set up under the new law.

In general victims awaiting repatriation were brought to government-run shelters or, in the case of noncitizens, to NGO run shelters. During the year eight government shelters received 524 women and children from neighboring countries and Uzbekistan, plus 158 citizens, including women found in voluntary prostitution and domestic abuse victims. The government provided food, medical care, and limited psychological counseling.

The government screened trafficking victims from Cambodia and Burma through cooperation between the police and the International Organization for Migration. Law enforcement officials identified victims of trafficking and referred them to one of six regional government shelters.

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. Relatively few opted to do so; language barriers, illiteracy, distrust of government officials, the lengthy legal processes, and fear of the traffickers played a role. Trafficked victims residing illegally in the country were not allowed to obtain employment while awaiting repatriation, even if they were involved in legal proceedings against the trafficker.

The government 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 school students also received funding. Although the vocational training was not intended explicitly for trafficking prevention, the practical effect was to increase the range of choices for recent school graduates.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Persons with Disabilities

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

A September 2007 law expands the types of disabilities covered by the law and facilitates legal recourse to seek redress for discrimination based on disability status. The law also elevates the status of a division in the MHDHS tasked with protecting the rights of persons with disabilities. During the year the government held two events to promote awareness of persons with disabilities, including two contests to award businesses employing persons with disabilities and organizations dedicated to supporting disabled communities.

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.

The government maintained 43 special schools for students with disabilities. The Ministry of Education reported that there were 76 centers nationwide offering special education programs for preschool-age children. There also were nine government-operated and 15 NGO-operated training centers 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 48 percent of firms disregarded the law, but NGOs believed the number to be as high as 70 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 five northeastern provinces--lived under laws and regulations that could restrict their movement, residence, education, and occupation. According to the Ministry of Interior, during the year approximately 680 Chinese and some of their descendants and five of the Vietnamese and their descendants were granted full citizenship.

#### Indigenous People

Those 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 were also 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.

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

#### Other Societal Abuses and Discrimination

NGOs complained that employers discriminated against male homosexuals after reviewing military documents that permanently labeled these individuals as having a mental disorder. According to the military, the practice stopped in April 2007. However, an NGO reported that the military began using "unfit chest size" to label homosexuals on military documents. The law did not permit transgendered individuals to change their gender on identification documents. NGOs also alleged that some nightclubs, bars, hotels, and factories denied entry or employment to transgendered individuals.

Persons with HIV/AIDS faced the psychological stigma associated with rejection by family, friends, 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 7,000 businesses

pledged not to require HIV/AIDS tests for employees or discharge infected employees and vowed to hold regular awareness campaigns.

## Section 6 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 ineffective. In addition, the Labor Relations Act and Labor Protection Act provide inadequate protection to workers who participate 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.

Civil servants, including public school teachers, are prohibited from forming or registering a union. They are allowed to form and register only as associations, which have no right to bargain collectively. 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 citizens. The Ministry of Labor requires foreign workers to renew their temporary work status annually. Few, if any, registered migrants joined unions. 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 36.9 million persons. Less than 4 percent of the total work force but nearly 11 percent of industrial workers and more than 50 percent of state enterprise workers were unionized. At the end of 2007, there were 43 state enterprise unions with 170,630 members and 1,243 private labor unions with 331,250 members. Almost two-thirds of employed laborers were informal workers who were not protected under labor laws and did not have access to the social security system. Most informal workers were in the agriculture, wholesale, retail, hotel, restaurant, and the construction sectors.

The State Enterprises Labor Relations Act (SELRA) restricts affiliations between state enterprise unions and private sector unions; however, union confederations can affiliate. The restriction against union affiliation effectively divided the trade union movement along state enterprise and private sector lines. However, 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. Internal conflicts, corruption, and a lack of leadership weakened the labor movement.

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 makes them vulnerable to employers seeking to discipline workers who serve as union officials or who attempt to form unions. It also serves as a prohibition against permanent union staff, thus limiting the ability of unions to organize and be politically active. The Labor Relations Act allows only two government licensed outside advisors to a union, and the Ministry of Labor often blocked the registration of labor advisors whom it 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, leading to rapid turnover in union leaders.

Trade union leaders can be dismissed for any reason, provided severance payment is made. In such circumstances 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.

On July 29, garment maker Triumph International dismissed labor union leader Jitra Kongdej for alleged slights to the monarchy and for tarnishing the company's image after she wore a shirt advocating the right not to stand for the king's anthem on a television talk show. Nearly 3,000 union members protested in support of Jitra outside the factory in Samut Prakan. On August 29, Triumph reinstated all workers except Jitra following negotiations between the union and management; Triumph also gave all union members 5,200 baht (\$156). Jitra filed a complaint with the Human Rights Commission and requested a new hearing at the Samut Prakan Court of Labor. The company paid Jitra's salary until the new hearing on November 27, when the court ruled in favor of Triumph International and permitted Triumph to fire Jitra without compensation. The court did not publish the ruling due to alleged controversial lese majeste content. Jitra planned to appeal the verdict.

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. SELRA provides public sector employees in state enterprises the same rights to organize as exist in the private sector. SELRA prohibits lockouts by employers and strikes by state enterprise workers. Strike action in the private sector was constrained by the legal requirement to call a general meeting of trade union members and to have a strike approved by 50 percent of unionists.

During the year there were 87 labor disputes and two legal strikes involving more than 48,000 workers. In addition, three lockouts were reported. Most of the conflicts involved wages, the failure of employers to deliver services as agreed, the transfer of employees to new assignments, and the number of work days and hours. There were also protests against mass layoffs without proper severance pay and the closure of factories.

#### 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, 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, and in most instances it continued to be characterized by a lack of sophistication on the part of worker groups and autocratic attitudes on the part of employers.

Wage increases for most workers came as a result of increases in the minimum wage rather than as a result of collective bargaining. The process of setting minimum wages locally through provincial tripartite wage committees may have further limited union influence; many of these provincial committees excluded labor representatives and placed factory managers on the wage committees to represent worker interests.

Union leaders and academic observers reported that employers often 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 Labor Relations Act 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 documented abuse in the system, including evidence that awards to workers were ignored or not paid in

full. Issues 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 Ministry of Labor 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. Contract laborers are not covered under the Labor Relations Act or the Labor Protection Act. These workers lacked the ability to bargain collectively over wage and benefit issues. Although they may perform the same work as direct-hire workers, they were paid less and received fewer, or no, benefits. However, the new Labor Protection Act that came into force on May 27 requires that businesses provide contract laborers benefits and welfare. The new law also states that regardless of whether the contract labor employee was outsourced and collecting wages from a separate company, the contracting business is the overall employer. It was not clear how benefits and welfare are defined under the new act.

There are no special laws or exemptions from regular labor laws in export processing zones (EPZs), in which wages and working conditions often were better than national norms. However, union leaders alleged that employers' associations were organized to cooperate in discouraging union organization in the EPZs.

#### c. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor, including by children, except in the case of national emergency, war, or martial law; however, the government was unable 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. There continued to be reports of sweatshops or abusive treatment in livestock farms, seagoing trawlers, animal feed factories, and seafood processing factories in which employers prevented workers, primarily foreign migrants, from leaving the premises. There were no estimates of the number of such workplaces, but the large number of migrants from Burma, Cambodia, and Laos created opportunities for abuse.

On January 16, 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.

On February 4, four Burmese migrant workers were shot and killed, at point-blank range and with their hands bound, on a rubber plantation in Surat Thani Province. Police arrested six suspects, five of whom were tried; on December 25, three received the death penalty and two received life sentences.

Police arrested four individuals in the June 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. In 2007 the court sentenced him to 12 months' imprisonment and a fine of 35,000 baht, (1,050), but he then changed his plea to guilty and, in exchange for acknowledging fault, received a lesser sentence of two years' probation and a fine of 17,500 baht (\$525). The cases against the other three suspects remained with the

provincial court.

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 all of 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 (\$9,000 to \$30,000) for workers traveling abroad.

#### d. Prohibition of Child Labor and Minimum Age for Employment

In general, sufficient legal protections exist for children in the formal economic sector. The Labor Protection Act is the primary law regulating employment of children under the age of 18. Employment of children under 15 is prohibited. Children under 18 may 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 hotels or massage parlors. The maximum penalty for violating these prohibitions is one year in prison. The law does not cover the agricultural and informal sectors, including domestic work, which employ the majority of persons in the workforce, including many child workers. The law allows for issuance of ministerial regulations to address sectors not covered in the law, and since 2004 regulations have increased protections for child workers in domestic and agricultural sector work. The minimum working age is coordinated with the mandatory national educational requirement.

Child labor remained a problem, particularly in agriculture, fishing, domestic work, and entertainment industries as well as street begging. Contradictory surveys by various government agencies, which largely ignored foreign children and those in illegal industries, made estimating the scope of the phenomenon difficult. According to a study funded by the Ministry of Labor and the ILO, labor abuse of child citizens was declining and such children made up less than 1 percent of the workforce. However, abuse of underage migrant workers, especially from Burma, was widespread and continued to increase.

The Ministry of Labor estimated that approximately 300,000 children between 15 and 17 years old were working legitimately. However, the number of all child laborers was 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. Child labor was less evident in larger, export-oriented factories. NGOs also reported extensive 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. Minimum wage and age provisions of the Labor Protection Act do not apply to domestic workers, some of whom were believed to be less than 15 years of age. There are regulations that extend certain protections to children in the domestic and agricultural sectors, although the effects of these regulations have not been measured.

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. A 2006 ILO study in six provinces concluded that almost half of child laborers were involved in the worst forms of child labor due to long working hours (more than eight hours per day) and hazardous work.

The Ministry of Labor is the primary agency charged with enforcing child labor laws and policies. In 2007 the Ministry of Labor inspected 672 establishments employing 10,044 child workers (under age 18), with four establishments found to be using underage workers (in most cases, under 15). Inspectors usually responded only to specific public complaints, reports of absences by teachers, or reports in newspapers. 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 148 baht to 203 baht per day (\$4.44 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 family. Although the minimum wage increased over the year, especially in provinces adjacent to Bangkok, it did not keep pace with inflation. The minimum wage is set by provincial tripartite wage committees that sometimes included only employer representatives.

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 new Civil Servant Act that took effect on January 26 gives each ministry or department more flexibility in designing civil servant salary levels.

The Ministry of Labor is responsible for ensuring that employers adhere to minimum wage requirements (applicable to the formal sector); however, enforcement of minimum wage laws was mixed. Academics estimated that one third of formal sector workers nationwide received less than the minimum wage, especially those in rural provinces. In addition, many labor laws, including the minimum wage law, do not apply to undocumented workers, primarily hill tribe members and illegal aliens. An estimated one to two million unskilled and semiskilled migrant workers worked for wages that were less than half the minimum wage.

The Labor Protection Law mandates a uniform workweek of 48 hours, with a limit on overtime of 36 hours per week. Employees engaged in "dangerous" work, such as in the 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. The government enforced the work hour standards. There were reported incidents of employees forced to work overtime, with punishments and dismissals for workers who refused. Typically, migrant workers worked 12 hours per day, with one day off a month.

Working conditions varied widely. During the year there were 163,137 reported incidents of diseases and injuries from industrial accidents. This included 117,585 minor disabilities (resulting in no more than three days of missed work) and 2,628 disabilities resulting in more than three days' 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. The approximately 50,000 young migrant women employed in textile factories along the Burma border in Mae Sot in Tak Province had limited and substandard medical care options, and many suffered from stress-related disorders and complications from abortions. In medium-sized and large factories, government health and safety standards often were applied, but enforcement of safety standards was lax. In the large informal sector, health and safety protections were substandard.

Provisions of the Labor Protection Act include expanded 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

of migrant women fired those who became pregnant.

The Ministry of Labor 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 Ministry of Labor'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.

Despite the new registration process, migrant workers, especially from Burma, remained particularly vulnerable to poor working conditions due to a lack of labor rights. According to Amnesty International, they were routinely paid well below the minimum wage, worked long hours in unhealthy conditions, and were at risk of arbitrary arrest and deportation. In addition, improper wage deductions for registration, health care, sick days, and employee errors were widespread. Attempts by registered migrant workers to carry out work stoppages to demand minimum and back wages, along with better working conditions, often led to deportations, resulting from apparent collusion between factory owners and local government immigration officials.

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). In January the WCF Committee rejected an appeal from Shan migrant worker Nang Noom Mai Seng, who was permanently disabled after a 2006 construction accident while working at the Shangri-la Hotel in Chiang Mai. In February Nang Noom petitioned a labor court and argued that a circular in the SSO was discriminatory, unlawful, and in breach of the constitution. In July the Labor Court rejected her petition, and the case was pending before the Supreme Court.

In April three Shan migrant workers, including Nang Noom An, submitted an additional case to an administrative court requesting revocation of the same SSO policy. The Supreme Administrative Court ruled in November that administrative courts have no jurisdiction to rule on labor cases. NGOs subsequently commented that there existed a gap in the justice system's ability to rule on the legality of labor policies, whether related to citizens or migrant workers.

In some areas provincial governors issued decrees that led to a restriction of rights of migrant workers. Phuket, Ranong, Rayong, Phang Nga, Samut Sakorn, Surat Thani, and Krabi provinces issued decrees that included sections prohibiting migrant workers from owning mobile telephones or riding motorcycles, leaving a worksite at night between the hours of 8 p.m. and 6 a.m., gathering in assemblies of more than five persons, or organizing or taking part in cultural events. However, the regulations were not rigorously enforced. There were many reports of migrant workers being detained by police officers and asked for bribes to avoid deportation. There continued to be credible reports of NGO personnel being assaulted or threatened by security officials while trying to assist migrant workers.