

# THAILAND 2012 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Thailand is a constitutional monarchy with a revered king who has traditionally exerted strong influence. A coalition government led by Yingluck Shinawatra and her Puea Thai (For Thais) Party came to power in August 2011 following national elections in July for the National Assembly lower house that were generally viewed as free and fair. Security forces reported to civilian authorities.

The most persistent human rights problems included abuses by government security forces and local defense volunteers in the context of the continuing Muslim separatist insurgency in the South; the continued reported use at times of excessive force by security forces, including police killing, torturing, and otherwise abusing criminal suspects, detainees, and prisoners; and continued government limits on freedom of speech and press.

Other human rights problems included continued poor, overcrowded, and unsanitary prison and detention facilities; occasional arbitrary arrests and detention; government limits on freedom of assembly; insufficient protection for vulnerable populations, including refugees; violence and discrimination against women; sex tourism; sexual exploitation of children; trafficking in persons; discrimination against persons with disabilities, minorities, hill tribe members, and foreign migrant workers; child labor; and some limitations on worker rights.

Authorities occasionally dismissed, arrested, prosecuted, and convicted security force members who committed abusive behavior, but official impunity continued to be a serious problem, especially in provinces where the 2005 Emergency Decree, the 2008 Internal Security Act, and martial law remained invoked.

In the southernmost provinces, the great majority of victims of the violence associated with the separatist insurgency were civilians not taking an active part in hostilities.

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

#### **a. Arbitrary or Unlawful Deprivation of Life**

There were continued reports that security forces at times used excessive and lethal force against criminal suspects and committed or were connected to extrajudicial, arbitrary, and unlawful killings. According to the Ministry of Interior's Investigation and Legal Affairs Bureau, security forces--including police, military, and other agencies--killed 109 suspects during the arrest process between October 2011 and September 2012, more than a 50 percent increase compared with 72 suspects killed in the previous corresponding period. The police department with jurisdiction over the location of the killings investigated each case, although no details were available. For example, authorities charged three members of an antidrug unit of the 42nd Border Patrol Police Subdivision, Nakhon Si Thammarat Province, with shooting and killing Sopha Piboon on March 30 as she rode in a vehicle that did not stop when signaled by armed plainclothes officers. Investigations by the Department of Special Investigations and the National Human Rights Commission (NHRC) continued at year's end.

There were no reported developments in the police investigation of the April 2011 killing of two suspected illegal loggers and the injuring of six by Royal Thai Army (RTA) soldiers and forestry officials in Phrae Province, and the investigation continued at year's end.

On July 30, the Bangkok Criminal Court convicted five Kalasin City police officers of murder, concealment of crime, and abuse of power for the 2004 killing of Kiattisak Thitboonkhong during the government's war on drugs. The court acquitted one person and sentenced three police senior sergeants major (Angkhan Khammoonna, Sutthinan Nonthing, and Phansin Uppananrgeant) to death, Police Lieutenant Colonel Sumit Nunsathit to life imprisonment, and Police Colonel Montri Boonlue to seven years' imprisonment. The court also reportedly allowed the convicted individuals to remain free on bail during their appeals, which continued at year's end, and terminated witness protection services at the time of the verdict.

While there were no confirmed reports that the government or its agents committed politically motivated killings during the year, there were at least five deaths linked to attacks suspected of being politically motivated. For example, two political canvassers were shot and killed while riding home from campaign events: Suphakit Sitthiwilai (Puea Thai Party) on March 5 and Phiraphan Thammaphet (Democrat Party) on May 19.

The trial of two defendants (Ekkachai Pomphadet and Trakun Thongthip) continued at year's end in the case of the June 2011 shooting and killing of Suban Chirapanvanit, a major Bhum Jai Thai Party canvasser and aide to the de facto party leader, and his wife in Bangkok in what was widely believed to be a politically motivated incident. Further police investigation also continued.

Police made no progress in their investigation of the killing of Chutidet Suwannakoet, a political canvasser, near Bangkok in December 2011.

There were reports of killings during the year in connection with the conflict in the southernmost provinces (see section 1.g.).

On September 17, the Truth for Reconciliation Commission of Thailand (TRCT) released the final report of its investigation into the 2010 clashes between security forces and antigovernment protesters in Bangkok and the Northeast that resulted in the deaths of 79 civilians, 11 security force members, and two foreign journalists. The report assigned blame to many parties, including protesters, the government and its security forces, the administration of former prime minister Thaksin Shinawatra, and the military that ousted him in the 2006 coup.

Also on September 17, the criminal court found, in the first of 36 inquests into protest-related deaths, that government authorities killed protester Phan Khamkong. On December 13, the Department of Special Investigations filed charges for the killing of Phan Khamkong against both Abhisit Vejjajiva, Democrat Party member and opposition leader of the lower house, in his former capacity of prime minister, and Suthep Thaugsuban, a Democrat Party member of the lower house, in his former capacities of deputy prime minister and director of the Center for the Resolution of Emergency Situations. The department director announced that the department would not file charges against the soldiers who shot and killed individuals as part of the government's response to protests, since it found they acted in accordance with prime/deputy prime ministerial orders. The defendants, the first government officials so charged, claimed the charges were politically motivated. By year's end there were three more inquest findings of protest-related deaths caused by security forces, and the department announced plans to charge Abhisit and Suthep with those killings during the next parliamentary break scheduled for April 2013. Although it remained unclear at year's end how many others were killed by security forces, armed factions associated with the protests, or accidentally, Abhisit and Suthep faced another 32 or more murder charges and up to 2,000 attempted murder and assault charges.

Via cabinet resolutions of January 10 and March 6, the government created a compensation fund for victims of political violence during the period from 2005 to May 2010 with two billion baht (approximately \$65 million) to be administered by the Ministry of Social Development and Human Security (MSDHS). As of August approximately 5,800 individuals registered as “affected persons,” and the ministry paid more than 1,800 claims, ranging from 200,000 baht (\$6,500) to 7.9 million baht (\$258,000), for a total of more than 1.5 billion baht (\$49 million) paid.

In addition, via cabinet resolutions of April 24 and August 14, the government created a compensation fund for victims of violence in the South since January 2004, allocating 2.08 billion baht (\$68 million) for administration by the Southern Border Provinces Administration Center. As of August it paid more than 3,300 claims, ranging from 500,000 baht (\$16,400) to 7.5 million baht (\$245,000), for a total of more than 878 million baht (\$29 million).

On September 20, the Pattani Provincial Court’s postmortem inquest ruled that the 2010 death at the Inkhayuthboriharn Army Camp of Sulaiman Naesa, whose body reportedly showed signs of torture, was a suicide. His family dropped all related civil cases after receiving an award of 7.5 million baht (\$245,000) from the southern violence compensation program.

There continued to be several clashes reported between Thai security forces and illegal cross-border loggers throughout the year. Most occurred in Sisaket Province and involved Cambodian citizens. For example, at least two Cambodians were reportedly killed and eight captured in three separate incidents in border areas of Sisaket Province in February alone.

In contrast with 2011, there were no clashes reported between Thai and Cambodian security forces in the disputed border area near the Preah Vihear temple. On July 18, border patrol police began replacing RTA troops in accordance with July 2011 International Court of Justice provisional measures and a bilateral agreement.

## **b. Disappearance**

There were no confirmed reports of politically motivated disappearances, although as of September a nongovernmental organization (NGO) sympathetic to the cause of antigovernment protesters reported that the whereabouts of up to eight

individuals remained unknown following their dispersal in 2010 (see also section 1.g., Abductions).

At year's end the National Counter-Corruption Commission (NCCC) continued its investigation into the 2004 disappearance of Muslim attorney and human rights activist Somchai Neelaphaijit. There were also no known developments in the reportedly related August 2011 killing of Jehrohane Yusoh, the wife of Abduloh Abukaree, a key witness in the Department of Special Investigations case connected to the 2009 disappearance of Somchai Neelaphaijit.

On January 9, the government signed the International Convention for the Protection of All Persons from Enforced Disappearance.

The visit of the UN Working Group on Enforced or Involuntary Disappearances, requested in June 2011, was not arranged by year's end.

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

The constitution prohibits such practices. There is no law that specifically prohibits torture, although it is punishable as an offense against the person. Additionally, Section 17 of the Emergency Decree on Public Administration in the State of Emergency (2005), hereinafter "the Emergency Decree," effectively provides immunity from prosecution to security officials for actions committed during the performance of their duties. As of year's end, the cabinet had renewed the Emergency Decree 30 times for consecutive three-month periods since 2005 in several provinces in the South.

Credible NGOs and legal entities continued to report that police and military members occasionally tortured and beat suspects to obtain confessions, and newspapers continued to report numerous cases of citizens accusing police and other security officials of brutality. As remedies during the year, the Songkhla Administrative Court ordered the Internal Security Operations Command (ISOC), the military command responsible for security in the South, to pay compensation for incidents of physical abuse/excessive force by soldiers in 2008 and 2009 in Narathiwat and Yala provinces. An army court levied a six months' suspended sentence and a fine of 2,000 baht (\$65) against a soldier for use of excessive force. There also were criminal actions pursued against Royal Thai Police (RTP) officers; available official statistics showed 211 such charges filed from May to

December. There were 7,024 internal investigations of official misconduct conducted from October 2010 through September 2011.

A 2010 NHRC report found that torture occurred widely and systematically in the southernmost provinces and that state officials widely used beating and intimidation tactics. Most of the abusers were members of the armed forces or police who arrested and detained suspects under special laws. A follow-up report in February added 23 new abuse cases from the 2004-11 period and submitted them to the agencies involved--the armed forces, police, and Interior Ministry. Although the NHRC received no direct responses to these reports, it noted better agency awareness of human rights requirements, cooperation with NHRC visits and information requests, and agreements to allow regular monitoring of detention operations in the southernmost provinces.

Of the seven cases of alleged brutality against suspected southern Muslim militants by RTA Task Force 38 in Narathiwat Province that two prominent NGOs filed in early 2011, authorities released six individuals without charge in February 2011 and authorized bail for the seventh. There were no further developments in 2012.

The government agreed to schedule in 2014 the visit requested in September 2011 by the UN special rapporteur on torture and other cruel, inhumane, or degrading treatment or punishment.

The appeal by Suderueman Malae, a 2004 torture victim, of his August 2011 Bangkok Criminal Court conviction for maliciously giving false information to inquiry officers and his sentence of two years' imprisonment, continued at year's end. After he reportedly failed to appear for a hearing on December 3 in a similar defamation case filed by Police General Phanuphong Singhara Na Ayutthaya, the court issued a new arrest warrant. Suderueman was a client of disappeared attorney and human rights activist Somchai Neelaphaijit (see section 1.b.) and claimed that Police Major General Chakthip Chaijinda had been involved in his torture and the torture of others.

### **Prison and Detention Center Conditions**

Conditions in prisons and various detention centers--including drug rehabilitation facilities and immigration detention centers (IDCs) where refugees and asylum seekers were detained--remained poor, and most were overcrowded.

Physical Conditions: As of December 1, there were approximately 248,000 prisoners held in prisons and detention facilities with a maximum design capacity of 209,000. About 15 percent were female, and fewer than 1 percent were juveniles. At the IDC in Bangkok, as of August, authorities detained 38 asylum seekers, primarily ethnic Hmong from Vietnam, as well as 17 refugees, mostly from Sri Lanka. In some prisons, sleeping accommodations were insufficient, the lack of medical care was a serious problem, and communicable diseases were widespread. Prisoners generally had access to potable water supplied as tap water treated by water purification. Authorities at times transferred seriously ill prisoners and detainees to provincial or state hospitals.

More than 27 percent of the prison population consisted of pretrial detainees who were not segregated from the general prison population, although those detained under the Emergency Decree in the southernmost provinces often were held in military camps or police stations rather than prisons. Authorities occasionally held men, women, and children together in police station cells pending indictment. Separate detention facilities for juvenile offenders were available in all provinces. Conditions for women were typically better than for men, in large part because the prisoners themselves managed and implemented much of the prison's maintenance and cleaning.

In IDCs, however, authorities detained women and men together and placed juveniles above age 14 with adults. Complaints, especially by Muslim detainees, continued of inadequate and culturally inappropriate food. There also were persistent reports of forced labor and extortion by guards and poor facility ventilation. IDC operators reportedly did not permit detainees, including children, to exercise sufficiently at some facilities.

According to the Ministry of Interior Investigation and Legal Affairs Bureau, 1,026 persons died in official custody from October 2011 to September 2012. Authorities attributed most of those deaths to natural causes. On May 8, 61-year-old Amphon Tangnoppakun (nicknamed "Uncle SMS") died in prison of apparent natural causes after a court denied bail and imposed a 20-year sentence in November 2011--reportedly the lengthiest such sentence ever--for sending four text messages found to be disrespectful of the queen. Additionally, an investigation continued at year's end into the July 21 death of Kamnung Phonphruk, a murder suspect detained in Phang Nga Provincial Prison. There were no reports of officials killing prisoners during the year until December 30,

when police shot and killed two prisoners who had killed a guard taken hostage during their attempted escape from Khao Bin Prison.

Administration: 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; 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 possibly dangerous to other prisoners.

Prisoners and detainees had access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees or their representatives to submit complaints without censorship to ombudsmen but not directly to judicial authorities. Ombudsmen in turn may consider and investigate complaints and petitions received from prisoners and provide recommendations to the Department of Corrections, but they are not empowered to act on a prisoner's behalf, nor may they involve themselves in a case unless an official complaint is received (see also section 5). Authorities rarely investigated complaints and did not make public the results of such investigations.

Prisoner recordkeeping improved during the year with the introduction of an online data-sharing system. However, officials sometimes had to send information through letters and phone calls if data entry was improper. In IDCs, according to independent human rights observers, detainees and their children may be held for years unless they pay a fine and their way home, since by law, "...the alien will have to pay the expense of deportation...[and] [t]he expense of detention shall be charged to the alien's account."

Judicial authorities often imposed alternative penalties (e.g., probation, suspended sentence, fine, or restriction on movement) rather than imprisonment on nonviolent offenders, minors, and convicts with disabilities.

IDCs, administered by the Immigration Police Bureau, which reports to the RTP, were not subject to many of the regulations that govern the regular prison system.

Monitoring: The Ministry of Justice, through its Department of Corrections, is responsible for monitoring prison and detention facility conditions. The government permitted visits to prisons and IDCs by independent human rights observers, and human rights organization representatives were allowed to meet

prisoners without third parties present, made repeated visits, and received access to all police facilities in the southernmost provinces. Representatives of a credible, neutral human rights organization reported that authorities allowed access to all prisons in the country during the year and continued to engage with military and police agencies regarding international policing standards and the exercise of police powers.

Representatives of the Office of the UN High Commissioner for Refugees (UNHCR) had access to some detainees at the Suvarnabhumi Airport IDC in Bangkok, but access varied on a case-by-case basis. UNHCR officials were able to interview detainees in the Suan Phlu IDC, and access continued for third countries to process recognized refugees for resettlement.

Separately, individuals who use drugs may be detained in compulsory rehabilitation centers in military camps (there were approximately 86 such centers in 2011) in order to convert drug addicts into “decent citizens.” The law classifies drug users as patients rather than criminals, but in practice local authorities made no individual clinical assessments of the severity of drug dependence and afforded no due process before detention. After release, patients were typically not offered follow-up treatment. Media reports catalogued abuses of addict detainees, including physical abuse, and the absence of some health services, such as medically assisted detoxification; HIV prevention, treatment, care, and support; and evidence-based drug dependence treatment. The individuals operating rehabilitation centers were generally military personnel with no medical background. Moreover, civil society groups operating harm-reduction programs faced barriers to delivering their services to drug users, and there continued to be reports that law enforcement officers arrested and harassed outreach workers acting within this government-approved project.

#### **d. Arbitrary Arrest or Detention**

The constitution specifically prohibits arbitrary arrest and detention, although government forces occasionally arrested and detained persons arbitrarily. The Emergency Decree, which gives the government authority to detain persons without charge for up to 30 days in unofficial places of detention, remained in effect in the three southern provinces of Yala, Narathiwat, and Pattani (except the Mae Lan District of Pattani Province, as described in section 1.d., Role of the Police and Security Apparatus). The decree, which continued in 31 border-region

and southernmost provinces, is in addition to martial law and allows for detention without charge for a maximum of seven days.

Emergency Decree provisions make it very difficult to challenge a detention before a court. Under the decree detainees should have access to legal counsel, but in practice there was no assurance of prompt access to counsel or family members, nor were there transparent safeguards against the mistreatment of detainees. Additionally, the decree effectively provides broad-based immunity from criminal, civil, and disciplinary liability for officials acting under its provisions.

According to an advocacy group, as of December, 16 protesters jailed after the 2010 United Front for Democracy Against Dictatorship (UDD or “Red Shirts”) protests remained in pretrial detention, charged with protest-related crimes such as rioting and arson. Lawyers affiliated with the UDD movement continued to pursue bail for these remaining detainees held in several provinces. According to a UDD-affiliated information center, of the 1,857 arrests related to the 2010 protests, authorities prosecuted 1,664 individuals as of December, and the courts dismissed 91 cases, sentenced 850 individuals to probation and/or fines, and imprisoned 220 for less than one year, 63 for one to three years, 10 for three to five years, 10 for five to 10 years, and 27 for more than 10 years. According to the Department of Special Investigations, of the 270 protest-related cases under its jurisdiction, it completed 216 investigations as of December, and trials in 62 cases continued at year’s end.

### **Role of the Police and Security Apparatus**

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

The Internal Security Act (ISA) created the ISOC as a state agency under the command of the prime minister, who acts as ISOC director. The ISOC is an interagency monitoring body with both civilian and military representation. The ISA also authorizes broad powers for the military. During the year the government continued its 2011 pilot program in Mae Lan District, Pattani

Province, in which it maintained the ISA and martial law without using the Emergency Decree, to study the effectiveness of the ISA alone in maintaining security and decreasing violence in the South. The experiment resulted in a similar or reduced incidence of violence in the district, which is small and historically has had a low incidence of violence compared with the region. An additional four districts in Songkhla Province were under both the ISA and the Emergency Decree. The decree provides the government greater powers than the ISA and therefore takes precedence.

The government lifted the ISA in Bangkok in May 2011, but reimposed it during the November 22-26 period in three Bangkok districts to control the November 24 antigovernment political rally by the Pitak Siam (Protect Siam) group. The demonstration resulted in 68 injuries (15 serious), including several members of the police and press, and 138 arrests of demonstrators, 137 of whom were released the following day without charge. The investigation of a truck driver who rammed a police checkpoint and injured several police officers continued at year's end. Human rights organizations and academics criticized the government for using the ISA to respond to alleged threats to national security by restricting fundamental rights.

There were reports that police abused prisoners and detainees, generally with impunity. Complaints of police abuse may 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 Lawyers' Council of Thailand (LCT), the NCCC, the Supreme Court of Justice, the Justice Ministry, and the Office of the Prime Minister also accepted complaints of police abuse and corruption, as did the Office of the Ombudsman. The NHRC received 55 complaints of police abuse during the year.

When police receive a complaint, an internal investigation committee first takes up the matter and may temporarily suspend the officer involved in the complaint during the investigation. Various administrative penalties exist, and serious cases may be referred to a criminal court.

At year's end the joint NCCC-Office of the Attorney General (OAG) committee investigation into the 2009 attempted killing of Sondhi Limthongkul, a People's Alliance for Democracy leader, continued without reported developments, and the police officer and two soldiers for whom authorities issued arrest warrants remained at large.

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

Under a cabinet mandate, the Ministry of Defense requires that service members receive human rights training. Routine training occurred at various levels, including for officers, noncommissioned officers, enlisted personnel, and recruits. Additionally, military service members deploying in support of counterinsurgency operations in the South also received specific human rights training, including training for detailed, situation-specific contingencies.

### **Arrest Procedures and Treatment While in Detention**

With few exceptions the law requires police to obtain a warrant from a judge prior to making an arrest. The system for issuing arrest warrants was subject to misuse by police as well as a judicial tendency automatically to approve all requests for warrants. By law authorities must inform persons of likely charges against them immediately after arrest and allow them to inform someone of their arrest. The law provides for access to counsel for criminal detainees; however, lawyers and human rights groups claimed that police often conducted interrogations without providing access to an attorney. In the southernmost provinces, lawyers reported that under the Emergency Decree they were denied adequate access to detained clients, and some individuals reported they were denied permission to visit detained family members. Authorities sometimes pressured foreign detainees, especially migrant workers and those in the country illegally, to sign confessions without the benefit of a competent interpreter/translator. The Justice Ministry and OAG were authorized to provide an attorney to indigent detainees at public expense, but there were no definitive data available as to such provision. Lawyers noted that fees offered for such service were often low.

The law provides defendants the right to request bail, and the government generally respected this right. However, some human rights groups continued to report that police frequently did not inform detained suspects of their right to request bail or refused to recommend bail after a request was submitted,

particularly in drug arrests and cases involving violence in the southernmost provinces.

Arbitrary Arrest: Under martial law the military has the authority to detain persons without charge for a maximum of seven days, and under the Emergency Decree, authorities may detain a person for up to 30 days without charge. For example, on May 31, the military arrested Aliyas Sama-ae and Suekree Teh, Rajabhat Yala University students, and Nuraman Dorloh, a former student activist with the Southern Border Provinces Student Federation, in Yala Province in connection with a bomb incident there. On June 1, authorities released Aliyas and Suekree after interrogation; they detained Nuraman until June 19, when the Yala Provincial Court denied a military request to extend precharge detention and ordered his release (see also section 1.g. concerning conflict-related abuses).

Pretrial Detention: Under normal conditions the law allows police to detain criminal suspects for 48 hours after arrest for investigation. Lawyers reported that police rarely brought cases to court within that 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 requiring police to submit cases to public prosecutors within 72 hours of arrest. According to the LCT, pretrial detention of criminal suspects for up to 60 days was not uncommon.

Before charging and trial, authorities may detain individuals for a total of 84 days (for the most serious offenses), with a judicial review required for each seven-day period. After formal charge and throughout trial, depending on prosecution and defense readiness, court caseload, and the nature of the evidence, detention may last for one to two years before a verdict and up to six years until Supreme Court appellate review. The time a defendant spent in detention prior to sentencing occasionally equaled or exceeded the sentence for the alleged crime.

Detention of Rejected Asylum Seekers or Stateless Persons: Authorities detained unsuccessful asylum applicants pending deportation and stateless persons. NGOs alleged that detentions were protracted and detention conditions failed to meet satisfactory standards.

Amnesty: A July 10 royal pardon allowed the release of dual-national Joe Gordon (also known as Lerpong Wichaikhammat), who was sentenced in December 2011 to two and one-half years' in prison for lese-majeste offenses. On August 16, a

mass pardon in honor of the birthdays of the crown prince (July 28) and the queen (August 12) led to the release of approximately 30,000 prisoners. On August 24, in honor of the queen's birthday, Suchart Narkbangsai and Suriyan Kokpuai, who were both serving three-year sentences for lese-majeste convictions, received royal pardons and were released.

#### **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 influence. According to human rights groups, the lack of progress in several high-profile cases involving alleged police and military abuse continued to diminish public trust in the justice system and discourage some victims of human rights abuses (or their families) from seeking justice.

#### **Trial Procedures**

The law provides for the presumption of innocence. 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.

In ordinary criminal courts, defendants enjoy a broad range of legal rights, including access to a lawyer of their choosing, prompt and detailed information of the charges (including no-cost interpretation if needed), and adequate time and facilities to prepare a defense. They also have the rights not to be compelled to testify or confess guilt, to confront witnesses, and to present witnesses. However, indigent defendants were not automatically provided with counsel at public expense, and there were allegations that in practice defendants were not always afforded all the above rights, especially in small or remote provinces.

Legal aid often was provided on an intermittent, voluntary basis and was of low quality. The LCT budget was reduced by more than 12 percent from 2011 to approximately 50 million baht (\$1.6 million), following a similar decrease from 2010. Some NGOs reported that legal aid lawyers pressured their clients into paying additional fees directly to them, but the LCT's Lawyer Etiquette Division explained that clients must pay expenses, such as travel, incurred by their attorney.

The court is required to appoint an attorney in cases where the defendant disputes the charges, is indigent, or is a minor, as well as in cases where the possible punishment is more than five years' imprisonment or death. Most free legal aid came from private groups, including the LCT and the Thai Women Lawyers Association. There is no discovery process; consequently, lawyers and defendants do not have access to evidence prior to trial. The law provides for access to courts or administrative bodies to appeal or seek redress, and the government generally respected this right.

Several NGOs continued to express concern over the lack of adequate protection for witnesses, particularly in cases involving alleged police wrongdoing (see section 1.a.). The Justice Ministry Office of Witness Protection had limited resources and primarily played a coordinating role. In most cases witness protection was provided by police, but six other state agencies also participated in the program--the Ministry of Defense; the Office of the Narcotic Control Board; and the Departments of Special Investigations, Provincial Administration, Juvenile Observation and Protection, and Corrections.

### **Political Prisoners and Detainees**

There were no government reports of political prisoners or detainees; however, sources estimated that seven to 18 persons remained detained under lese-majeste laws that outlaw criticism of the monarchy (see section 2.a.). Some of those cases involved persons exercising their rights of freedom of expression and peaceful assembly.

### **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 sue for damages for, or cessation of, a human rights violation, and the government generally respected this right. However, the Emergency Decree in force in three provinces expressly excludes Administrative Court scrutiny or civil or criminal proceedings against government officials, although victims may seek compensation from a government agency instead.

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

The constitution specifically prohibits such actions, and the government generally respected these prohibitions. However, martial law and the Emergency Decree give government security forces authority to conduct warrantless searches, and this authority continued to be used routinely in the southernmost provinces and border areas. There were complaints during the year from persons claiming that security forces abused this authority, although the seriousness of allegations declined compared with prior years.

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

### **g. Use of Excessive Force and Other Abuses in Internal Conflicts**

Internal conflict continued in the ethnic Malay, Muslim-majority, southernmost provinces (Narathiwat, Pattani, Yala, and portions of Songkhla) throughout the year. As a result of frequent bombings and other attacks by suspected insurgents as well as government security operations, tension between the local ethnic Malay Muslim and ethnic Thai Buddhist communities remained high, alongside the local population's persistent distrust of security officials. The Emergency Decree in effect in this southern area 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. Moreover, martial law--imposed in 2006--remained in effect and significantly empowered security forces in Narathiwat, Pattani, and Yala provinces (see also section 1.d. concerning a pilot project).

Killings: Human rights groups accused government forces of extrajudicial killings of individuals suspected of involvement with separatists. For example, on January 29, paramilitary members of Ranger Company 4302 fired on villagers in Nongchik District, Pattani Province, killing four and injuring five. Authorities arrested four members of the Ranger Company, and police and the public prosecutor continued the investigation at year's end to determine appropriate charges. A judicial inquest began on December 23 and continued at year's end. It heard testimony that the incident involved villagers traveling to a funeral who were stopped at a military checkpoint.

According to statistics from the NGO Deep South Watch, separatist violence resulted in 476 individuals killed and 1,349 injured in 1,184 incidents during the year, comparable to 2011 statistics. As in previous years, separatists frequently

targeted government representatives, including teachers and district and municipal officials as well as military personnel, with bombings, shootings, and kidnappings. Separatists also killed and injured both Buddhist and Muslim civilians from many occupations.

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 security forces. Human rights organizations expressed concerns about vigilantism against ethnic Malay Muslims by these defense volunteers and other civilians.

Abductions: There were no confirmed reports that individuals disappeared after security officials questioned them in the southern provinces. However, reputable NGOs reported the possible forced disappearances of Nasuelan Pi from a tea shop in Narathiwat Province on January 17 by two men in military uniforms, and of Abdullo Kutha after a June 22 meeting with a member of the 43rd Paramilitary Task Force at Ingkhayut Borihan Military Camp in Pattani Province.

In the cases of Ibbroheng Kahong and Dunhami Marae, who were reported missing in April 2011 after they requested the return of their boat seized by the Border Patrol Police in Yala Province, their families were designated during the year as eligible for 7.5 million baht (\$245,000) each in compensation from a government program (see section 1.a.). Payment did not occur by year's end.

Physical Abuse, Punishment, and Torture: The government continued to arrest suspected militants, some of them juveniles, and in some cases held them for a month or more under Emergency Decree and martial law provisions. Human rights organizations maintained that the arrests were arbitrary, excessive, and needlessly lengthy, and continued to criticize detention facility overcrowding. Civil society groups accused the army of torturing some suspected militants at detention facilities.

Martial law allows for detention up to seven days, without charge or court or government agency approval in Pattani, Narathiwat, and Yala provinces. For example, on September 20, authorities arrested Thammarat Alilatae in Yala Province under martial law provisions and detained him for five days without charge before releasing him. (The NGO Group of Fellow Defendants that he founded in 2007 advocates for persons arrested under the special laws in effect in the southernmost provinces.) The Emergency Decree in effect in the same areas

allows authorities to arrest and detain suspects for up to 30 days without charge. After the expiration of this period, authorities may begin holding suspects under normal criminal law (see section 1.d.). Unlike under martial law, these latter detentions require court consent, although human rights NGOs complained that courts did not always exercise their right of review. In some cases a suspect was held first under martial law for seven days and then detained for an additional 30 days under the decree. The Southern Border Province Police Command stated that it arrested 109 persons under the decree during the year. The ISOC reported 476 arrests during the year under martial law in the southern provinces of Yala, Pattani, and Narathiwat.

Child Soldiers: Regulations prohibit formal recruitment of children under age 18 to serve as Territorial Defense Volunteers, and in practice volunteers generally joined at age 20 or older, but there continued to be anecdotal information that a small number of children were involved informally in such groups. There were no reports of youth under age 18 conscripted or recruited into governmental armed forces. There were, however, reports of separatist groups recruiting children under age 18 to commit acts of arson or serve as scouts.

The UN Committee on the Rights of the Child issued a report on February 21 that criticized the government's data collection on this problem, including among refugee children. The report also called for further action to prevent the informal involvement of children in village defense militia, criminalize recruitment under age 18, and review military school training that involved children ages 16 to 18.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

Other Conflict-related Abuses: Human rights organizations alleged that the military continued to mail official letters to village headmen or local district officers in the four southernmost provinces, inviting them to nominate a specified number of "voluntary villagers" to attend a workshop. Credible sources claimed that villagers who attended these training sessions had their privacy invaded since they were interrogated and forced to furnish biometric data (fingerprints, DNA samples, and photographs), but this practice has reportedly become less common. Nonetheless, the 2012 ISOC Region 4 Annual Report stated that 73 of the 729 individuals "invited" or "welcomed" to such sessions were also named in arrest warrants. NGOs also reported in December that DNA sampling was required of over 100 men and boys rounded up during recent police raids on three villages in

Sai Thong subdistrict, Pattani Province, and at several road checkpoints in the southernmost provinces.

Insurgents burned seven schools in the southernmost provinces during the year, for a total of more than 300 since 2004. The government frequently armed ethnic Thai Buddhist and ethnic Malay Muslim civilians, fortified schools and temples, and provided military escorts to monks and teachers. In some cases the military has used schools as barracks. According to the Ministry of Education, separatist violence killed 202 teachers, students, and education staff and injured 343 others since 2004. The figures for the year were 12 students injured and three killed and two school personnel killed and two injured-- all decreases compared with 2011. Separatist violence also included attacks on medical facilities. According to the NGO Deep South Watch, separatists killed one public health official, the same as in 2011.

Southern insurgents conducted leaflet campaigns during the year, alleging that large numbers of Thai Buddhists have fled violence-affected areas in the South. Although official statistics were not available, there were reports--such as the November 2011 report of the NGO Internal Displacement Monitoring Center--that more than 30 percent of Thai Buddhists and 10 percent of ethnic Malay Muslims have fled such southern areas to other provinces since 2004 (see section 2.d.). Official registration statistics from the Department of Provincial Administration showed that as of December, Yala Province experienced a slight decline in population, but Pattani and Narathiwat provinces had slight increases. Likewise, during the 12-month period ending in September, registration data showed only Yala Province had significantly fewer Buddhists move into (824) rather than out of (4,351) the province; Pattani and Narathiwat provinces' arrival and departure statistics for Buddhist residents were nearly equal. However, official registration data may not accurately reflect numbers of actual residents who may live elsewhere for employment or other reasons. On September 25, the ISOC deputy spokesperson reported more than 125,000 Thai Buddhists living in the three provinces.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

The constitution and law specifically provide for freedom of speech and press with some exceptions, although the government used Emergency Decree authority to

limit these rights during the year in southern provinces. The government continued to monitor television and radio broadcasters and exert pressure on broadcast media to cooperate in disseminating constructive and “balanced” news. Nevertheless, the media and civil society vocally criticized government authorities throughout the year. Print, broadcast, and online media covered news critical of the government and its senior-level officials and carried interviews with opposition figures.

The international and independent media operated freely, except in coverage of matters deemed a threat to national security or offensive to the monarchy. By law the government may restrict freedom of expression to preserve national security, maintain public order, preserve the rights of others, protect public morals, and prevent insults to Buddhism. The law also allows police with a court order to restrict or confiscate publications and other materials for disturbing the peace, interfering with public safety, or offending public morals.

In October 2011 the UN special rapporteur on the promotion and protection of the right to freedom of opinion and expression reportedly urged the government to hold public consultations on amending provisions of lese-majeste and computer crime laws in view of their limitations on human rights, their vagueness, and the severity of their penalties. On January 10-16, the rapporteur conducted a series of private consultations, reportedly including meetings with members of both houses of the National Assembly and the NHRC. As of the rapporteur’s June 4 report to the UN Human Rights Council, an official visit request was pending.

Freedom of Speech: Criminal Code Article 112, the so-called lese-majeste law, makes it a crime--punishable by up to 15 years’ imprisonment for each offense--to criticize, insult, or threaten the king, queen, royal heir apparent, or regent. The law also allows citizens to initiate lese-majeste complaints against each other, and there were several cases in which private citizens did so during the year. Trials may be conducted in secret, and public disclosure of the content of the alleged offenses may be prohibited; international and domestic human rights organizations and academics expressed concern over the chilling effect these factors may have on freedom of expression.

Significantly increased prosecutions for lese-majeste offenses started in 2006 and continued through the year. Official statistics varied by agency, but in the decade before 2006, there were approximately five new lese-majeste charges on average annually, compared with 478 new charges involving Article 112 in 2010, 86 in

2011, and 84 in 2012 that the Office of the Judiciary reported. The overall conviction rate remained nearly 100 percent, and sources estimated that seven to 18 persons remained detained under lese-majeste laws at year's end.

In the case of publisher and labor organizer Somyot Phruksakasemsuk, who remained in custody since his arrest in April 2011 on lese-majeste charges based on two articles published in *Voice of Taksin* magazine in 2010, a trial began in November 2011 and continued at year's end. On October 10, the Constitutional Court rejected Somyot's petition to invalidate Article 112 as unconstitutional and ruled that criminal penalties for lese-majeste offenses were constitutional because such offenses represent threats to national security. The lese-majeste trial of Ekachai Hongkangwan, arrested in 2011 for selling allegedly defamatory videos, began on July 17 and continued at year's end.

During the year there were also notable developments in earlier lese-majeste cases. For example, the criminal court acquitted Sondhi Limthongkul, a People's Alliance for Democracy leader, in September on a 2008 lese-majeste charge, and acquitted Surapak Phuchaisaeng of a 2011 charge and released him in October. On April 19, authorities granted Nat Sattayapornpisut an early release after he served 28 months of a nine-year sentence for a 2009 lese-majeste conviction. Also in April the public prosecutor dropped lese-majeste charges filed in 2008 against Chotisak Onsoong.

Freedom of Press: Government entities owned and controlled all radio and broadcast television stations, including the 524 officially registered "regular" AM and FM stations. The armed forces and police owned another 244 radio stations, ostensibly for national security purposes. Other owners of national broadcast media included the government's Public Relations Department and the Mass Communication Organization of Thailand Public Company Limited, a former state enterprise in which the government maintained a majority share. Nearly all stations are leased to commercial companies that provide commercial content to the stations.

The law provides for the regulation of radio and television frequencies and three categories of broadcast licenses (public service, community service, and commercial). The National Broadcasting and Telecommunications Commission (NBTC) allocates broadcast frequencies and regulates broadcast media. Radio stations must renew their licenses every seven years. Radio signals are broadcast via government transmitters. Stations are required by law to broadcast 30-minute,

government-produced newscasts twice daily and to register with the NBTC. Several thousand small community radio stations nationwide also operate under a separate licensing system.

Violence and Harassment: Unlike previous years, there were no reports that journalists were arrested, imprisoned, physically attacked, harassed, or intimidated due to their reporting.

The trial continued at year's end of Batdon Phansaen who was arrested in June 2011 for the killing that month of Sawai Chimphli, a public school teacher and owner of a community radio station in Ubon Ratchathani Province, while he was on the air.

The 2010 killings of two foreign journalists, who died while covering antigovernment protests in Bangkok, remained under investigation by the Department of Special Investigations (see section 1.a.).

On appeal, the Nakhon Pathom Provincial Court in August 2011 reduced to 50 years' imprisonment the death sentences imposed on gunmen Apirak Timpitak and Kamphon Misin but maintained the death sentence imposed on Chanin Leepaiboon, who ordered the 2010 killing of newspaper owner and reporter Kongpop Sawasdi.

Censorship or Content Restrictions: By invoking the Emergency Decree in the three southernmost provinces, the government may restrict print and broadcast media, online news, and social media networks there. The decree empowers the government "to prohibit publication and distribution of news and information that may cause the people to panic or with an intention to distort information." It also authorizes the government to censor news considered a threat to national security.

Journalists generally were free to comment on government activities and institutions without fear of official reprisal. Nonetheless, they occasionally practiced self-censorship, particularly with regard to the monarchy and national security. For example, in April the Thai distributor of *The Economist* magazine withheld one issue because of a story about lese-majeste prosecutions. A journalism institute reported that although the government did not engage in any direct intimidation of print media, it did do so indirectly through its advertising choices.

Broadcast media were subject to government censorship, both directly and indirectly, and self-censorship was also evident. Nevertheless, broadcast media reported criticism of the government.

Libel Laws/National Security: Defamation is a criminal offense, punishable by a fine of up to 200,000 baht (\$6,500) and two years' imprisonment. During the year criminal courts made several rulings on defamation and libel cases against political activists and politicians.

On September 27, the criminal court in Bangkok sentenced UDD co-leader Jatuporn Prompan to a suspended term of six months and a fine of 50,000 baht (\$1,600) for defaming Democrat Party Leader Abhisit Vejjajiva by stating that he ordered soldiers to kill red-shirt protesters when he was prime minister.

At year's end a further appeal continued in the case of Sondhi Limthongkul, a People's Alliance for Democracy leader, after an appeals court upheld his 2009 defamation conviction but reduced his sentence for statements criticizing a former deputy prime minister during a 2007 television program. He remained free on bail at year's end.

### **Internet Freedom**

The government imposed some restrictions on access to the Internet and reportedly monitored Internet chat rooms and social media without judicial oversight. Individuals and groups generally engaged in the peaceful expression of views via the Internet, including by e-mail, although there were several limitations on content, such as lese majeste, pornography, and gambling. Internet access was widely available and used by citizens, including a government program introduced during the year to provide limited free WiFi access at 200,000 hotspots in cities and schools.

The law establishes procedures for the search and seizure of computers and computer data in certain criminal investigations and gives the Ministry of Information and Communications Technology authority to request and enforce the suspension of information disseminated via computer. A maximum five-year prison sentence and a 100,000 baht (\$3,300) fine may 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 (\$9,800) fine may be imposed if an offense results in the death of an individual. The law also obliges

Internet service providers to preserve all user records for 90 days in case officials wish to access them. Any service provider who gives consent to or intentionally supports the publishing of illegal content is also liable to punishment. Most prosecutions continued to be for content-related offenses. By law a court order is required to ban a Web site, although this requirement was not always applied in practice. Media activists criticized the law, stating that the offenses were defined too broadly and some penalties were too harsh.

There was continued Internet censorship, and use of the law continued to stifle certain areas of freedom of expression. The government closely monitored and blocked thousands of Web sites that criticized the monarchy. Many political Web boards and discussion forums chose to self-censor and monitor discussions closely to avoid being blocked, and newspapers disabled or restricted access to their public comment sections to minimize exposure to possible lese-majeste charges.

The RTP Electronic Crime Suppression Division reported receiving 776 computer-related complaints during 2011 that resulted in 442 investigations--a complaint rate markedly greater than the 47 in 2009 or 285 in 2010. Most cases involved alleged defamation, lese majeste, and illegal activity such as gambling and pornography. Separately, the Ministry of Information and Communications Technology operated the Cyber Security Operations Center to monitor and block Web sites. According to a report by the NGO iLaw, court orders officially blocked nearly 21,000 Uniform Resource Locators (URLs) during the year, 80 percent of which were related to lese majeste. Since passage of the 2007 Computer Crime Act, authorities blocked more than 102,000 URLs, 76 percent related to lese majeste.

On October 31, the criminal court acquitted and released Surapak Phuchaisaeng, a freelance computer programmer from Nongkhai Province whom authorities arrested in September 2011 and detained without bail for nearly 14 months on the charge of creating an antimonarchy Facebook page.

In May Thanthawut Thaweewarodomkul (also known by his online name, Red Eagle) withdrew his appeal in favor of seeking a royal pardon. Authorities had arrested him in 2010 and sentenced him in March 2011 to 13 years' imprisonment for his role as webmaster of a UDD Web site. (See also section 1.c. regarding the death in May of Amphon Tangnoppakhun, imprisoned for lese-majeste offenses.)

On May 30, a court found Chiranuch Premchaiporn guilty under the Computer Crime Act in the first of two lese-majeste prosecutions against her as executive director of *Prachatai*, an independent online newspaper. In this first high-profile case of intermediary liability under the 2007 law, she was convicted because unrelated third parties posted comments on Prachatai.com that authorities deemed offensive to the monarchy, and she did not remove the comments quickly enough. She received a one-year prison sentence, reduced to eight months and suspended, and a fine of 20,000 baht (\$650). During the year *Prachatai* continued its 2010 closure of its public comment Web board to avoid liability under the law.

### **Academic Freedom and Cultural Events**

The government also continued to restrict academic discussions of the monarchy. For example, on January 30, Thammasat University banned a group of its academics, known as “the Nitirat group,” from on-campus activities in support of amending the lese-majeste law. The ban was lifted two weeks later. Thammasat University professor and noted historian Somsak Jiamthirasakul, who voluntarily appeared at a police station in May 2011 to be charged with lese majeste for discussing the future of the monarchy, was told to report to the Office of the Attorney General on November 20 but was granted a postponement. His case, based on a complaint an RTA officer filed, remained pending at year’s end.

Cultural events may be censored, usually for reasons of public decency. By law the state is also authorized to ban the release of movies that “offend the monarchy, threaten national security, hamper national unity, insult faiths, disrespect honorable figures, challenge morals, or contain explicit sex scenes.” The law stipulates that the Film and Video Classification Committee must screen and approve all films to be shown, rented, exchanged, or sold in the country. For example, in April the Thai Film Censorship Board, under the Department of Cultural Promotion of the Ministry of Culture, banned *Shakespeare Must Die*, a film adaptation of William Shakespeare’s *Macbeth*, since the film allegedly would cause “divisiveness.” The filmmakers’ appeals to the NHRC, Administrative Court, and Senate human rights committee were pending at year’s end. Additionally, theater owners and broadcasters frequently removed content before submitting films to the board.

### **b. Freedom of Peaceful Assembly and Association**

There were no developments related to the visit requested by the UN special rapporteur on the rights to peaceful assembly and association in September 2011.

### **Freedom of Assembly**

The constitution provides for freedom of assembly, and the government respected this right with some exceptions. Martial law, which gives the military authority to restrict freedom of assembly, remained in effect in 31 border region and southern provinces. The Emergency Decree, in effect in three of the southernmost provinces, also provides authority to limit freedom of assembly.

Surat Thani, Phuket, and Phang Nga provinces have their own regulations that prohibit migrant workers--specifically individuals from Cambodia, Burma, and Laos--from forming gatherings, while Samut Sakhon Province prohibits gatherings of more than five persons. These provisions continued not to be enforced strictly, and there often was no such requirement if the gathering was on private property. Employers and NGOs may request permission from authorities for migrant workers to hold cultural gatherings.

Authorities did not restrict the UDD, which organized the 2010 political protests, from holding gatherings or protests throughout the year, although the Department of Special Investigations, Truth for Reconciliation Commission (see section 5), RTP, NHRC, and RTA continued to investigate those events. These investigations focused on the deaths of UDD demonstrators during the government's response as well as terrorism, lese-majeste, arson, robbery, and other charges against UDD members and demonstrators. At year's end approximately 200 UDD supporters remained in prison for political-protest-related criminal convictions, according to UDD sources.

On December 27, prosecutors filed charges against several leaders of the People's Alliance for Democracy (Sondhi Limthongkul, Chamlong Srimuang, Somkiat Pongpaiboon, Pibhop Dhongchai, Maleerat Kaewka, and Prapan Kunmee) for 2008 protest-related offenses, such as trespassing and blockading government buildings. There were no developments in the cases by year's end.

### **Freedom of Association**

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

The law prohibits the registration of a political party with the same name or emblem as that of a legally dissolved party.

### **c. Freedom of Religion**

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/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, emigration, and repatriation. The government generally respected these rights in practice, with some exceptions for “maintaining the security of the state, public peace and order or public welfare, town and country planning, or youth welfare.”

The government usually cooperated with the Office of the UNHCR and humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern, although with restrictions. Cooperation with the UNHCR to protect certain groups remained uneven, which limited the UNHCR’s ability to provide its protection to all nationalities.

Authorities continued to treat Burmese refugees and asylum seekers outside of designated border camps as illegal migrants, subject to arrest and detention. The process of bail for detained refugees and asylum seekers, which the government regularized in May 2011, continued to result in the release of limited numbers of detainees. As of September when the bail procedure was suspended for an indefinite period, 12 asylum seekers and 87 refugees were released and not rearrested.

**In-country Movement:** The government continued to restrict the free movement of members of hill tribes and other minority groups who were not citizens but held government-issued identity cards. The holders of such cards are prohibited from

traveling outside their home districts without prior permission from the district office or outside their home provinces without permission from the provincial governor. Offenders are subject to fines or a jail term of 45 to 60 days. Persons without cards may not travel at all. Human rights organizations reported that police at inland checkpoints often asked for bribes in exchange for allowing stateless persons to move from one district to another.

Refugees residing in the nine refugee camps on the border with Burma were not allowed freedom of movement and were by law confined to the camps, although a few registered refugees were granted permission to travel from one camp to another. A refugee apprehended outside the official camps is subject to a fine, detention, deregistration, and deportation.

Refugees and asylum seekers may not undergo the official migrant worker nationality verification process. Migrant workers who have undergone nationality verification and have passports were free to travel throughout the country. Authorities restricted those holding only work permits from traveling outside the province where they work without official permission.

Authorities required other long-time noncitizen residents, including thousands of ethnic Shan and other non-hill tribe minorities, to seek permission for domestic travel.

Foreign Travel: Other long-time noncitizen residents, including thousands of ethnic Shan and other non-hill tribe minorities, are also required to seek permission from local authorities for foreign travel.

### **Internally Displaced Persons (IDPs)**

Localized annual flooding in some provinces occurred in September and December but did not lead to a repeat of the unprecedented, disastrous flooding in late 2011 that caused the closures of thousands of businesses and displacement of approximately 650,000 workers in 19 provinces. The government established shelters as needed in temples, universities, and stadiums for flood-affected victims countrywide and provided accommodation, food, and medical services. By year's end most 2011-flood-related displaced persons had returned home or received necessary assistance.

### **Protection of Refugees**

Thailand is not a signatory to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol. The NGO Human Rights Watch (HRW) report on September 13 labeled treatment of refugees and asylum seekers as “ad hoc and inadequate.” Nevertheless, authorities continued to host significant numbers of refugees, provided some protection against their expulsion or return, and allowed persons fleeing fighting in neighboring countries to cross the border and remain until fighting ceased. In addition, non-Burmese refugees recognized by the UNHCR and registered Burmese refugees residing in official refugee camps were permitted to resettle in third countries.

Access to Asylum: The law does not provide for the granting of asylum or refugee status. Asylum seekers and non-Burmese refugees who reside outside official refugee camps are by law considered illegal migrants. If arrested, they are subject to indefinite detention at IDCs in Bangkok and other provinces.

The results of the pilot screening of Burmese asylum seekers by government-instituted Provincial Admissions Boards (PABs) remained under review by the government, and expansion of the screening process to the remaining five camps did not occur by year’s end. An estimated 60,000 Burmese have not registered due to the operationally defunct status of the general PABs.

The UNHCR remained limited in its ability to provide its protection mandate to some Lao Hmong and Burmese outside the official camps as well as to all North Koreans. It continued to have access to asylum seekers in the main IDC in Bangkok and at Suvarnabhumi International Airport to conduct status interviews and monitor new arrivals, but during the year it did not have access to IDCs in coastal Ranong Province to conduct refugee status determinations. Authorities allowed resettlement countries to conduct processing activities in the IDCs, and NGOs were able to provide health care, nutritional support, and other humanitarian assistance.

The government continued to allow the UNHCR to monitor the protection situation of the more than 143,000 Burmese refugees and asylum seekers living in the nine camps along the border with Burma but prohibited the UN agency from having an assistance role in the camps. NGOs, funded by the international community, provided basic humanitarian assistance in the camps, including food, education, shelter, water, sanitation, housing, and other services. Government authorities issued identification cards to registered refugees living in the camps.

Outside the camps, government officials did not distinguish between asylum-seeking Burmese and other undocumented Burmese migrants, regarding all as illegal migrants. Authorities generally took those arrested to the border and deported them.

During the year the government facilitated the resettlement of 7,215 Burmese from camps to other countries. Refugees residing in the nine camps along the border who were not registered with the government were not eligible for third-country resettlement. When registered refugees resettle, unregistered family members were left behind without reunification prospects. In addition, beneficiaries of foreign-government-approved refugee and asylee family-reunification visas were not permitted to depart Thailand, although limited progress was made toward reversing that outcome as these cases were submitted to a newly initiated Fast Track PAB screening process beginning in November. The initial list of 925 family-member reunification cases was submitted to the Fast Track PAB, and the UNHCR continued work on a second list at year's end.

Refoulement: The government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion, and during the year thousands of asylum seekers entered the country and its refugee camps. However, NGOs estimated that army border units returned thousands of Burmese asylum seekers--mostly those seeking refuge from border skirmishes--to Burma before they could reach established refugee camps. The Mae Sot District IDC in Tak Province deported 170,811 migrants during the year, and the Ranong Province IDC deported 6,694 migrants; some of them might have had asylum claims.

Of the approximately 6,000 Burmese in Thailand in 2011 who had fled fighting between ethnic armies and the Burmese army, at the end of 2012 none reportedly remained at the designated sites outside the official camps where authorities had permitted them to stay.

Immigration Police continued to arrest and detain asylum seekers and refugees in Bangkok, including women and children. Twenty-six refugees and 15 asylum seekers, primarily from Sri Lanka and Vietnam, were known to be in detention in Bangkok at year's end. Upon receipt of bail facilitated by Thai NGOs, authorities released 87 refugees and 12 asylum seekers as of year's end.

Refugee Abuse: Unconfirmed NGO reports in April stated that two Burmese migrants died of suffocation in a truck during a deportation by authorities.

The September 13 HRW report noted that refugees apprehended outside camps were regularly subjected to forced labor and that requests by security forces for unpaid voluntary work in the forest a few times a month were actually mandatory. Refugees also told HRW of physical abuse by Thai camp guards.

Employment: The law prohibits refugees from working in the country. The government allowed undocumented migrant workers from neighboring Burma, Cambodia, and Laos to work legally in certain economic sectors if they registered with authorities and began a process to document their status (see section 7.d.).

Access to Basic Services: The international community provided basic services for refugees living inside closed camps. A complicated medical referral system continued to hamper the ability of refugees to seek some necessary medical services.

Since refugee children generally did not have access to the Thai education system, NGOs continued to provide schooling, with some coordination with the Ministry of Education regarding curriculum.

Temporary Protection: Throughout the year small groups of individuals fleeing fighting in Shan State, Burma, continued to cross into Thailand. There were no reports of their forced return to Burma by the government, although persons of Shan ethnicity were not permitted to enter the refugee camps, pursue refugee status, or seek resettlement to third countries.

## **Stateless Persons**

In the previous four years, the government proceeded to identify stateless individuals, provide documentation to preclude statelessness, and open paths to Thai citizenship for long-time residents. According to the UNHCR, an estimated 500,000 persons, mainly residing in the northern region, could be considered stateless, and several NGOs stated that most may be eligible for citizenship. Many were members of hill tribes, also known as highlanders (see section 6, Indigenous People). Others were migrants from Burma who did not have evidence of Burmese citizenship, ethnic minorities registered with civil authorities, previously undocumented minorities, and displaced persons residing in border camps.

Birth within the country does not automatically confer citizenship. By law citizenship is based on birth to one or both Thai parents, marriage to a Thai man, or naturalization. It may also be acquired by means of special government-designated criteria implemented by the Interior Ministry with approval from the cabinet or as a result of nationality law (see also section 6, Children).

Amendments to the law during the year allow ethnic Thai stateless persons who meet the added definition of “displaced Thai” and their children to apply for the status of “Thai nationality by birth,” but there were reports of slow, inconsistent implementation due to labyrinthine laws and regulations and the existence of substantial gray areas within and among them.

The law stipulates that every child born in the country will receive an official birth certificate, regardless of the parents’ legal status. Many parents did not obtain birth certificates for their children due to the complexity of the process, the need to travel from remote areas to district offices, and a lack of recognition of the importance of the document. There continued to be reports of some local officials charging for the certificate although it is supposed to be free. During the year authorities issued 3,793 birth certificates in refugee camps, a substantial increase compared with 1,977 in 2011. In some camps birth certificates were issued only to children of registered refugees, but NGO sources noted government progress toward issuance of a certificate to every newborn.

By law, as noncitizens, stateless highlanders may not vote or own land, and their travel is restricted. Stateless persons also may not participate in certain occupations reserved for citizens, including farming, although in practice officials permitted noncitizen highlanders to undertake subsistence agriculture. Stateless persons had difficulty accessing credit and government services, such as education or health care. Many stateless highlanders lived in poverty. Without legal status, stateless persons were vulnerable to various forms of abuse (see also section 6, Children).

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

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 500-seat House of Representatives and 77 members of the 150-seat Senate. It also provides for the

appointment of 73 additional Senate members by a selection committee composed of members of the judiciary and other regulatory bodies, last designated in April 2011.

### **Elections and Political Participation**

Recent Elections: The July 2011 national election for the House of Representatives generally was considered free and fair, although there were allegations of vote buying, minor procedural irregularities, and scattered but unconfirmed reports of intimidation by local military and government officials. The Election Commission of Thailand (ECT) reported 604 complaints of fraud in 2011-12 in relation to the national election. Among them, the ECT completed 355 investigations--which led to 334 dismissals, 10 reelections, two recounts, and nine findings of fraud that were referred to the Supreme Court--and 249 complaints were dismissed by the ECT or withdrawn by petitioners without full investigation.

In the case of the March 2011 bombing in Prachinburi Province that injured Anon Charoensuk, a local politician and canvasser for the Social Action Party, there were no reported developments by year's end. In the May 2011 shooting of Pracha Prasopdi, a former Puea Thai member of parliament from Samut Prakan Province, the trial of the four accused continued at year's end.

Participation of Women and Minorities: The constitution encourages political parties to consider a "close proximity of equal numbers" of both genders. Women have the right to vote and run for positions, but voters elected relatively few female officials. Besides the country's first female prime minister, Yingluck Shinawatra, the July 2011 national election resulted in 81 women in the 500-seat lower house joining 25 women (12 elected, 13 appointed) in the 150-seat Senate. Women held two of the 36 cabinet positions and chaired two House committees and five of the Senate's 22 standing committees.

Few members of ethnic minorities held positions of authority in national politics. Muslims from the South held significant elected positions at the national level, although they continued to be underrepresented in appointed local and provincial government positions staffed by the centralized national civil service. There were 25 Muslim and eight Christian members of parliament.

### **Section 4. Corruption and Lack of Transparency in Government**

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

Corruption remained widespread among members of the police. There were numerous incidents of police charged with abduction, sexual harassment, theft, and malfeasance plus reports that police tortured, beat, and otherwise abused detainees and prisoners, generally with impunity. During the year authorities arrested police officers and convicted them of murder, drug trafficking, and smuggling; police reportedly also were involved with intellectual property rights violations. On August 23, authorities charged two police officers in Bueng Kan Province with running an illegal log-smuggling operation.

The NCCC sent several high-profile cases of malfeasance by officials and politicians to the OAG for prosecution during the year and reported that there were 9,166 cases pending investigation in December. In the 12-month period ending October 1, the NCCC received 2,288 cases and completed 3,642 cases, 212 of which required further action, including disciplinary actions, impeachments, and referrals to the courts, the OAG, or a joint NCCC-OAG committee, and forwarded 2,064 cases to other agencies for investigation.

The OAG prosecution of the case against the former director of the Tourism Authority, Chuthamat Siriwan, and her daughter, Chittisopha Siriwan, for corruption connected to 2010 film festival bribery (found by the NCCC in August 2011), continued at year's end before the Supreme Court of Justice for Persons Holding Political Positions.

At year's end the 2009 warrant for the arrest of former prime minister Thaksin Shinawatra continued in force, and the Supreme Court of Justice's case against him regarding a 2006 government bank loan to Burma remained suspended. He continued to reside outside the country. The NCCC and OAG continued to investigate allegations of corruption committed by members of the government led by prime minister Thaksin from 2001-06, and their findings triggered several cases at the Criminal Division of the Supreme Court of Justice for Persons Holding Political Positions. The court issued an arrest warrant for Thaksin on October 11 in a separate case alleging abuse of power during his premiership in connection with real estate loans issued by a state-run bank.

At year's end the trial of seven prominent former government ministers and other high-ranking officials, including former Bangkok Governor Apirak Kosayodhin, on charges of malfeasance related to a 2004 purchase of fire trucks also continued in the Supreme Court of Justice for Persons Holding Political Positions.

Financial disclosure laws and regulations require elected and appointed public officials to disclose assets and income, according to standardized forms and instructions that also include spouses and unmarried children under age 20. On July 24, the NCCC found that Supoj Saplom, a former permanent secretary of the Ministry of Transportation and a civil servant, possessed unexplained wealth, declared assets falsely, and participated in corrupt activities. The NCCC referred the case to the OAG for prosecution and seizure of approximately 65 million baht (\$2.1 million) of his assets.

In addition to the NCCC and OAG, the Anti-Money Laundering Office and the Auditor General also investigate and prosecute corruption cases. Other entities with a role in combating corruption included the Supreme Court of Justice, which hears corruption cases; the Ombudsman's Office and Administrative Courts, which accept and investigate complaints; and the Justice Ministry, which oversees cases and develops anticorruption policy in coordination with the others. All these entities complained of resource limitations leading to backlogs, and some complained of political interference. NGOs broadly credited the Ombudsman's Office and NCCC for effective collaboration with civil society.

The constitution and law provide public access to government information, and the government effectively implemented the law.

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

A wide variety of domestic and international human rights organizations generally operated without government restriction, investigating and publishing their findings on human rights cases. However, NGOs that dealt with sensitive political matters, such as opposition to government-sponsored development projects or border matters, continued to face periodic harassment. Human rights workers focusing on violence in the southern provinces were particularly vulnerable to harassment and intimidation by government agents and militant groups. The government accorded very few NGOs tax-exempt status, which sometimes hampered their ability to secure adequate funding.

On November 19, assailant(s) shot and killed Montha Chukaew and Pranee Boonrat, activists in a land dispute involving a palm oil company in Klong Sai, Surat Thani Province. An investigation continued at year's end.

At year's end the trial continued of six persons--Niphon Yantalapha, Chakkraphong Khwanphan-ngam, Yothin Theprien, Sitthichok Nopnom, Thanayot Wongphim, and Phairot Saengsawang--charged with the July 2011 killing of Thongnak Sawekchinda, an environmental activist in Samut Sakhon Province who had protested the transport and use of coal. A seventh defendant, Sut Chadet Thapkrui, was killed on May 3 while free on bail.

At year's end the provincial prosecutor's office continued investigating the September 2011 killing of Thatsakamon Ob-om, a leader of the Karen ethnic minority movement in Kaeng Krachan National Reserve forest and a former parliamentary candidate in Phetchaburi Province.

UN and Other International Bodies: The government agreed to schedule visits by the UN special rapporteurs on water and sanitation in 2013 and on torture and other inhumane treatment in 2014. According to UN reports, there were no developments regarding official visits previously requested by the UN working group on disappearances and by the UN special rapporteurs on the freedoms of expression, assembly, and association, and on the situations of human rights defenders, migrants, and IDPs.

Government Human Rights Bodies: The constitution calls for an independent National Human Rights Commission to protect human rights. Composed of seven members selected by the Senate, it is tasked with producing an annual country report. During the year the commission received 734 petitions and completed 664 investigations, but modest staffing and resources continued to hamper progress. The government responded to NHRC recommendations with an explanation or action approximately half the time and adopted approximately one in five recommendations. Although a draft report on the 2010 political protests was leaked in July 2011 and roundly criticized, and the combined 2010-11 report was scheduled for release in early 2012, no official document was published by year's end. Several civil society leaders continued to rate the NHRC poorly and debated publicly whether the weakness was institutional or simply a result of capacity limitations among commissioners.

The Office of the Ombudsman is an independent agency empowered to consider and investigate complaints lodged by any citizen. Following an investigation, the office may refer a case to a court for further review or provide recommendations for further action to the appropriate agency. The office examined all petitions, but it cannot compel agencies to comply with its recommendations. The office is required to submit annual performance reports to the National Assembly but had not done so by year's end. Its 2012 budget was 184 million baht (\$6 million), down from 190 million baht (\$6.2 million) in 2011. From October 2011 to September 2012, the office received 2,283 new petitions and resolved 2,227 cases. Credible 2010 surveys concluded that approximately half the public trusted the office.

Two parliamentary committees addressed human rights problems: the House Standing Committee on Legal Affairs, Justice, and Human Rights, and the Senate Standing Committee on Human Rights, Rights and Liberties, and Consumer Protection. Human rights advocates generally continued to believe the committees were well intentioned but lacked the enforcement capability required to be effective. The committees also were described as reactive, difficult to access, and hampered by the political affiliations of their chairs.

In 2010, following the dispersal of that year's antigovernment protests, then prime minister Abhisit Vejjajiva, as part of a proposed national reconciliation plan, formed the independent Truth for Reconciliation Commission of Thailand chaired by Khanit na Nakhorn. The administration of Prime Minister Yingluck Shinawatra continued to support the TRCT to complete its two-year mandate and establish causes, document facts, determine appropriate remedies, and recommend steps to prevent a recurrence of large-scale political protests. On September 17, the TRCT released its final report, which assigned blame among many parties, including the protesters, the government and its security forces, the former administration of prime minister Thaksin Shinawatra, and the military officers who ousted him in the 2006 coup. On October 15, the government nominally accepted the report and formed a ministerial committee to study its findings and recommendations, but it took no official implementing actions by year's end.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The constitution provides for equal treatment without respect to race, gender, religion, disability, language, or social status but does not provide for equal treatment without respect to sexual orientation or gender identity. In practice

some discrimination existed, and government enforcement of equal protection statutes continued to be uneven.

## Women

Rape and Domestic Violence: Rape is illegal, although the government did not always enforce the law effectively. The law permits authorities to prosecute spousal rape, and prosecutions occurred. The police reported receiving 3,527 rape cases during the year, including two cases in which the victim was killed, and they arrested suspects in 2,089 of these cases, including one that resulted in the victim's death.

The law specifies penalties ranging from four years' to life imprisonment, as well as fines, for rape or forcible sexual assault, depending on the age of the victim, severity of the assault, and physical and mental condition of the victim afterward. The amount of the fine depends on the severity of injury to the victim and generally varies from 8,000 to 40,000 baht (\$262 to \$1,300). The law also provides that any individual convicted twice for the same type of criminal rape within three years is liable to receive increased penalties for recidivism. According to court statistics, authorities filed 4,053 cases involving sexual assault with the courts--a marked increase, compared with 2011. The case completion rate and sentencing information were not available.

NGOs believed that rape continued to be a serious problem. Academics and women's rights activists maintained that rapes and domestic assaults were underreported, in part because state agencies tasked with addressing the problem continued to be inadequately funded, and survivors perceived law enforcement agencies to be incapable of bringing perpetrators to justice. Police sought to change this perception and continued to encourage women to report sexual crimes through the use of female police officers in metropolitan Bangkok and three other provinces.

Domestic violence against women continued to be a significant problem. The Health Ministry reported overall that 11,074 women older than age 18 reported abuse in 2011 and sought assistance from the ministry's One Stop Crisis Center. Of these victims, 79 percent reported physical abuse, and 16 percent reported sexual abuse. The law imposes a fine of up to 6,000 baht (\$200) or up to six months' imprisonment for violators and provides authorities, with court approval, the power to prohibit offenders from remaining in their homes or contacting

family members during trial. The law also establishes measures designed to facilitate both the reporting of domestic violence complaints and reconciliation between the victim and the perpetrator. Additionally, the law restricts media reporting on domestic violence cases in the judicial system.

Authorities prosecuted some domestic violence crimes, particularly cases where the victim was seriously injured, under provisions for assault or violence against a person, where they could seek harsher penalties. Domestic violence frequently went unreported, however, and police often were reluctant to pursue reports of domestic violence. NGO-supported programs included emergency hotlines, temporary shelters, and counseling services to increase awareness of domestic violence, HIV/AIDS, and other matters involving women. The government's crisis centers, located in some state-run hospitals, cared for abused women and children, although several centers faced budget difficulties. State-run hospitals referred abused women to external organizations when in-hospital services were not available.

The Ministry of Social Development and Human Security (MSDHS) reported that it recorded 700 cases of domestic violence nationwide during the year. In 139 cases the victim pursued criminal charges, while in 333 cases the victim chose not to do so. Sixty-nine cases remained in consultation at year's end; the disposition of the remaining cases was unknown. As of October, 50 of the criminal cases were under police or public prosecutors' investigation and court mediation or in trial, and 44 cases were completed. Sentencing information continued to be unavailable.

The MSDHS continued to develop a community-based system, operating in all regions of the country, to protect women from domestic violence. The program focused on training community representatives from each community on women's rights and abuse prevention to increase community awareness.

Sexual Harassment: Sexual harassment is illegal in both the public and private sectors. The law specifies fines of not more than 20,000 baht (\$650) for individuals convicted of sexual harassment. 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 (\$980). The law governing the civil service also prohibits sexual harassment and stipulates five levels of punishment: probation, docked salary, salary decrease, suspension, and termination. NGOs claimed that the legal definition of

harassment was vague and prosecution of harassment claims difficult. Data on the numbers of abusers prosecuted, convicted, and punished were unavailable.

Reproductive Rights: Couples and individuals could decide freely and responsibly the number, spacing, and timing of children, and they had the information and means to do so free from discrimination, coercion, and violence. The publicly funded medical system provided access to contraceptive services and information, prenatal care, skilled attendance during childbirth, and essential obstetric and postpartum care.

According to UN data published in 2011, approximately 80 percent of women and girls ages 15 to 49 used modern contraception methods. Although statistics were unavailable, the percentages of males, ethnic minorities, and migrant workers who had access to contraception were estimated to be lower. Skilled health personnel attended approximately 98 percent of births. Prenatal and postnatal care was estimated to be accessible by more than 90 percent of mothers and babies.

Discrimination: Women generally enjoy the same legal status and rights as men. On July 18, the government withdrew its reservation to article 16 of the Convention on the Elimination of All Forms of Discrimination against Women. Nonetheless, women experienced discrimination on occasion.

The law does not mandate nondiscrimination based on gender in hiring practices, and discrimination in hiring was common. For example, it is not illegal to ask a prospective employee for family status during an interview. Women are not allowed to work in all the same industries as men. Government regulations require employers to pay equal wages and benefits for equal work, regardless of gender. Nonetheless, in practice women continued to receive lower pay for equal work in many sectors of the economy, and women were concentrated in lower-paying jobs. Women were able to own and manage businesses freely.

Women were unable to confer citizenship on their nonnational spouses in the same way as men.

Military academies (except for the nursing academy) continued not to accept female students, although a significant number of instructors were women. According to the Armed Forces Personnel Directorate, 61 women held the rank of general or equivalent across all military branches and within the Ministry of Defense as of December. The Police Cadet Academy for commissioned officers

accepts female cadets, and 90 of 240 places in the 2013 cadet class were reserved for women. The first female cadet class was scheduled to graduate from the four-year program in 2013. According to the Office of the Civil Service Commission, women held 26 percent of executive-level civil service positions at year's end.

The government's Bureau of Women's Affairs and Family Development was designed to promote the legal rights of women, notably through the suboffice of the Bureau of Gender Equality Promotion, but it is not an independent agency. It worked with NGOs and did not take a leading role in women's rights.

## **Children**

Birth Registration: Birth within the country does not automatically confer citizenship, but all children born in Thailand are entitled to birth registration (see section 2.d., Stateless Persons, for legal provisions on citizenship). According to NGOs, highlanders and other stateless individuals on occasion did not register births with the authorities, especially births in remote areas, because administrative complexities, misinformed and unscrupulous local officials, language barriers, and restricted mobility continued to make it difficult to do so.

Education: Violence in the southern provinces, especially aimed at public school teachers, sporadically forced the temporary closure of public schools and disrupted the educational process there.

Many NGOs reported that children of registered migrant workers, particularly in Samut Sakhon and Chiang Mai provinces and Mae Sot District, in practice have more limited access to schooling due to frequent relocation to new job sites, distance from school, and their lack of Thai language. These children also remained without access to community services provided to children attending public schools, such as day-care centers, and government-subsidized free milk and lunch. Migrant workers who could afford to pay often chose to send their children to private nurseries or day-care centers at their own expense.

Child Abuse: The law provides for the protection of children from abuse, and laws on rape and abandonment carry harsher penalties if the victim is a child. The law imposes a jail term of seven to 20 years' imprisonment and a fine of up to 40,000 baht (\$1,300) for sexual intercourse with a victim under age 13. If the victim is between ages 13 and 15, the penalty is four to 20 years' imprisonment and the same range of fines.

The Health Ministry reported that 11,491 children reported abuse in 2011 and sought assistance from the ministry's One Stop Crisis Center. Of these victims, 74 percent reported sexual abuse, and 21 percent reported physical abuse. Police continued their reluctance 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 age 18, and procedures--with a judge's consent--allow children to testify in abuse and pedophilia cases on videotape in private surroundings in the presence of a psychologist, psychiatrist, or social worker. However, many judges declined to use videotaped testimony, citing technical problems and the inability to question accusers and defendants directly in court. Some children's advocates claimed that sexually abused girls received better physical and psychological care than male victims did. Authorities charged persons accused of pedophilia under appropriate age-of-consent and prostitution laws.

Child Marriage: The minimum legal age for marriage for both sexes is 17 years; however, anyone below age 20 requires parental consent. A court may grant permission to marry for those ages 15-16. Awareness programs by Islamic committees and government agencies sought to prevent child marriage under Islamic tradition.

Sexual Exploitation of Children: Child prostitution remained a problem. According to government officials, academics, and NGO representatives, boys and girls, especially among migrant populations, were sometimes coerced or lured into prostitution. While it was widely believed that there were fewer incidents of forced prostitution, children from poor families remained vulnerable, and there continued to be some incidents and arrests of parents who forced their children into prostitution. Citizens and foreign sex tourists continued to commit pedophilia.

The law imposes heavy penalties on whoever procures, lures, compels, or threatens children under age 18 for the purpose of prostitution and provides that a customer who has sexual intercourse with a prostitute under age 15 shall be subject to two to six years in prison and a fine of up to 120,000 baht (\$3,900). If the prostitute is between the ages of 15 and 18, the prison term is one to three years, and the fine is up to 60,000 baht (\$2,000). Authorities may also punish parents who allow a child to enter into prostitution and revoke their parental rights. Those who procure children for prostitution faced strict penalties, and the

punishment was more severe if the minors involved are under age 15. The law prohibits the production, distribution, import, or export of child pornography. The penalty is imprisonment for up to three years and a maximum fine of 6,000 baht (\$200). The law also imposes heavy penalties on persons who sexually exploit persons younger than age 18 and defines punishments for pimping, trafficking for labor exploitation, and human smuggling. The government increased enforcement efforts during the year, but some NGOs considered enforcement inadequate.

The UN Committee on the Rights of the Child issued a report on February 17 that criticized the government's data collection on this problem and called for further action. Specific actions included planning comprehensive enforcement measures; coordinating and training government entities and personnel; raising public awareness; strengthening laws, especially on the sale of children and child pornography; preventing child sex tourism; and improving assistance and support to child victims.

Displaced Children: Authorities generally referred street children to government-provided shelters, but many, especially foreign illegal migrants, reportedly avoided the shelters due to fear of deportation. Ultimately the government sent citizen street children to school, occupational training centers, or their families with social-worker supervision. Some street children from other countries were repatriated.

National reports on child labor often omitted street children, and national statistics on street children often included only citizens. While there continued to be no reliable statistics on the numbers of beggars, they included homeless children; kidnapped children; and children who were deployed by parents during school break, evenings after school, or weekends. Some migrants compelled their children to beg to contribute to household income.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's annual compliance report at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html), as well as country-specific information at [http://travel.state.gov/abduction/country/country\\_3781.html](http://travel.state.gov/abduction/country/country_3781.html).

## **Anti-Semitism**

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

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **Persons with Disabilities**

The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in education, air travel and other transportation, access to health care, or the provision of other state services. Although many public accommodations and buildings were modified to accommodate persons with disabilities, government enforcement was not consistently effective. The law also mandates that persons with disabilities have access to information, communications, and newly constructed buildings, but these provisions were not uniformly enforced. The law allows employment discrimination against persons with disabilities, and activists continued to work for amendments.

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 Community Based Rehabilitation Program remained active in all provinces, while the Community Learning Center for People with Disabilities project operated in 30 provinces and during the year began its expansion to all provinces. A National People with Disabilities Day is observed annually on November 14.

The government maintained 43 special schools for students with disabilities, 76 centers offering special education programs for preschool-age children, and 76 educational centers for persons with disabilities. The law requires all state schools nationwide--approximately 31,000--to accept students with disabilities, and about two-thirds taught such students during the year. There were some 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 them. There also were nine government-operated and at least 23 NGO-operated training centers for persons with disabilities, including both full-

time and part-time or seasonal centers. The government operated 13 state shelters specifically for persons with disabilities, including two day-care centers for autistic children. In addition, there were private associations providing occasional training for persons with disabilities.

Some employers subjected persons with disabilities to wage discrimination. Government regulations require private firms either to hire one person with a disability for every 100 other workers or contribute to a fund that benefits persons with disabilities, but this provision continued not to be uniformly enforced. Government officials estimated that 56 percent of firms complied with the law during the year, while the chair of the Council of Disabled People of Thailand believed the number to be 35 to 45 percent, which he attributed primarily to inadequate government follow-up with companies. 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 reside in 13 northeastern provinces--continued to live under laws and regulations that could restrict their movement, residence, education, and occupation. A law confined the Chinese to living in the three northern provinces of Chiang Mai, Chiang Rai, and Mae Hong Son. According to the Interior Ministry, authorities granted approximately 1,000 persons citizenship or legal alien status during the year, thus permitting them to reside elsewhere.

On August 31, the UN Committee on the Elimination of Racial Discrimination issued a report calling for the country to introduce a definition of racial discrimination into its legislation to make it punishable by law and to study the possible discriminatory effects of existing law and policy. The report also highlighted committee concern for ethnic Malay women facing ethnic and religious discrimination in many fields of political and social life.

### **Indigenous People**

Noncitizen members of hill tribes continued to face restrictions on their movement, could not own land, had difficulty accessing bank credit, and although protected by labor laws, often were subjected to labor violations. The law also bars them from state welfare services, such as universal health care. An NGO

reported that government medical and education services for some indigenous persons were improving.

The law provides citizenship eligibility to certain categories of highlanders who were not previously eligible (see also section 2.d., Stateless Persons). Although the government supported 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, continued to contribute to a persistent backlog of pending citizenship applications as well as improperly denied applications. For example, the NGO International Justice Mission reported in December that an official in Chiang Dao District, Chiang Mai Province, reportedly delayed hundreds of 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.

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

No laws criminalize sexual orientation or consensual same-sex sexual conduct between adults.

Lesbian, gay, bisexual, and transgender (LGBT) groups were able to register with the government, although there were some restrictions on the wording used in registering their group names. They reported that police treated LGBT victims of crime the same as other persons except in the case of sexual crimes, where there continued to be a tendency to downplay sexual abuse or not to take harassment seriously.

The law does not permit transgender individuals to change their gender on identification documents. Nonetheless, in August the Interior Ministry allowed an intersex person, Sirilada Khotphat, to change her listed gender from male to female, the first such decision. In addition, on May 27, voters elected Yollada Suanyot to the Nan Provincial Administration as the country's first transgender provincial councilor, sparking public debate about identification policy due to civil service dress code requirements--Yollada has lived as a woman since age 16 but continued to carry her male birth name on her identity card.

In September 2011 Bangkok's Central Administrative Court ordered the Ministry of Defense to stop describing transgender persons as "permanently mentally disabled" in conscription records. The military complied, and personnel records reportedly indicate "current sexual status contrary to sexual status at birth." Some rights advocates considered this a significant step toward reducing the harmful effects on future employment opportunities caused by the terms formerly used in such records.

For the first time, university rectors permitted five transgender students to participate in the August 30 commencement ceremony for Thammasat University's graduating class while wearing gender-specific uniforms of their choice. This decision set a precedent followed by several other educational institutions during the year. Such permissions remained voluntary for each school.

There was some continued commercial discrimination based on sexual orientation and gender identity. For example, some life insurance companies refused to issue policies to gay men, although at least four of 23 companies sold policies to LGBT citizens with provisions for full transfer of benefits to same-sex partners. NGOs alleged that some nightclubs, bars, hotels, and factories denied entry or employment to gay, lesbian, and transgender individuals.

### **Other Societal Violence or Discrimination**

Persons with HIV/AIDS faced the psychological stigma associated with rejection by family, friends, colleagues, teachers, and the community, although continued intensive educational outreach efforts by the government and NGOs may have reduced this stigma in some communities. There were continued 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, 1,767 businesses pledged during the year not to require HIV/AIDS tests for employees nor to discharge infected employees and also vowed to hold regular awareness campaigns.

The 2011 NHRC investigation into the case of the so-called AIDS temple, Wat Phrabat Namphu, which sheltered many dying AIDS patients and displayed their corpses as a caution, was closed on September 17 with no further action after the temple voluntarily ended this practice.

## Section 7. Worker Rights

### a. Freedom of Association and the Right to Collective Bargaining

The law, including related regulations and statutory instruments, allows private sector workers to form and join trade unions of their choosing without prior authorization, but it does not allow civil servants, including public schoolteachers, soldiers, and police, to form or register a union. By law civil servants may form and register associations, but these associations do not have the right to bargain collectively.

State-owned enterprise workers by law have the right to form unions. Noncitizen migrant workers, whether registered or illegally present, do not have that right nor the right to serve as union officials, but registered migrants may be members of unions organized and led by Thai citizens. The law restricts affiliations between state enterprise unions and private sector unions.

The law prohibits antiunion actions by employers, but this protection does not apply until the union is registered. To register a union, at least 10 workers must submit their names to the Department of Labor Protection and Welfare, which verifies the names with the employer, potentially exposing the workers to retaliation before registration is complete. Additionally, the law requires that union officials be full-time employees of the company or state enterprise. The law prohibits permanent union staff, thus limiting the ability of unions to organize in depth and be politically active. Employers may dismiss workers for any reason, provided severance payment is made. The law does not provide for reinstatement, but a court decision may allow for employee reinstatement and compensation of salary for losses while absent from work. For example, three labor leaders, whom Yum Restaurants International (Thailand) fired for organizing a union, returned to work in December 2011 as a result of a Labor Relations Committee (LRC) reinstatement order. However, during the year the company appealed to the Central Labor Court and reportedly transferred the three individuals to different jobs, where they were isolated from coworkers. At least one of the three resigned.

The law permits workers to strike after an employee has submitted a demand resulting in a deadlock between the employer and employee. Workers must submit a letter of notification at least 24 hours in advance. 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, but it seldom invoked this provision and did not do so during the year.

The law forbids strikes in “essential services,” which are defined more broadly than they are under International Labor Organization (ILO) criteria and include sectors such as telecommunications and public transportation. The law prohibits the termination of employment of legal strikers, but employers are permitted to hire workers to replace strikers. Strike action in the private sector was constrained by the legal requirement to call a general meeting of trade union members and obtain strike approval by at least 50 percent of all union members.

The law provides for the right of private sector citizen workers to organize and bargain collectively and defines the mechanisms for collective bargaining, government-assisted conciliation, and arbitration in cases under dispute.

Labor law enforcement was inconsistent and in some instances ineffective in protecting workers who participated in union activities. For example, even when labor courts ordered employee reinstatement when dismissal resulted from union activity, the process was lengthy and costly for the employee. Most cases were settled out of court through severance payments to the employee with no effective punishment of the employer.

A system of labor courts exercised judicial review over most aspects of labor law for the private sector. The Ministry of Labor reported that 20,847 charges were referred to the court of first instance, the Central Labor Court, in 2011; most conflicts involved dismissals, violations of law, and working-condition agreements. According to the Supreme Court, approximately 1,100 new labor case appeals were submitted during the year. Due to the backlog of more than 2,166 cases from the previous year, in which only 257 cases were adjudicated, more than 3,000 cases awaited a court decision as of the end of 2011.

Problems of collective labor relations were adjudicated through the tripartite LRC and were subject to labor court review. Workers may also seek redress through the NHRC. In private sector labor disputes that cannot be resolved through negotiation or voluntary arbitration and may affect the national economy or public order, the Ministry of Labor may refer them to the LRC for settlement but seldom used this legal authority. The State Enterprise Relations Committee handled redress of grievances for state enterprise workers. Labor leaders generally were satisfied with the treatment that their concerns received in these forums, although

they continued to complain that unjustly dismissed union leaders were awarded only back wages with no punitive sanctions against the employer, thus failing to dissuade employers from illegal actions.

A substantial number of migrants worked in factories near border-crossing points, where there were frequent reports of law violations and few labor inspections. Labor inspectors generally could not speak the languages of migrant workers, which hampered the ability of migrant workers to report violations. During the year the Ministry of Labor reported establishing a center with an interpreter in each of the following 11 provinces with significant migrant-worker populations: Samut Sakhon, Kanchanaburi, Chonburi, Rayong, Chiang Mai, Khon Kaen, Trang, Phuket, Ranong, Songkhla, and Tak. Unionization rates were generally low in industries that employ migrant workers. In a small number of cases, documented migrants did join unions run by Thai nationals, but language barriers and the segregation of Thai and migrant workers by industry limited the impact of these unions on the migrant labor force.

Labor activists and some civil servants interpreted the constitution as broadening the freedom of association to include granting civil servants the right to form a union, and a small number of civil servants attempted to organize a union in 2011, but the law continued to prohibit civil servant unions.

The law constrained the capacity and sustainability of unions by forbidding them from having their own experts or staff members present in negotiations with employers. The law allows only two government-licensed outside advisers to assist a union in collective bargaining. Since unions must use advisers the employer deems acceptable, in practice employers had the freedom to choose their advisers at the collective bargaining table, but labor unions did not. Union leaders and outside observers noted that this interfered with the ability to negotiate, train union members, and develop expertise in collective bargaining and that it contributed to rapid turnover in union leaders.

During 2011 the Department of Labor Protection and Welfare reported 179 informal conflicts between employers and employees involving 103,594 employees: Of these, 138 conflicts were resolved without walkouts, six were referred to a labor court, and 20 continued under the department's process. The department also reported 110 formal labor disputes, a significant increase from 66 in 2010, and eight lockouts with six strikes that involved 1,523 employees. Most disputes were related to wages and other benefits.

Employers continued to discriminate against workers who sought to organize unions. While the law protects workers who submit demands relating to working conditions, it does not protect workers from employer reprisal for union activities prior to a union's registration. There were also cases reported of employers dismissing workers from their jobs for engaging in union activities. In some cases the labor courts ordered workers reinstated if the grounds for their dismissal were proven unlawful. However, there were cases reported of reinstated union workers being transferred to a different job or an inactive position or placed in training, rather than being allowed to continue in their previous position.

Labor activists said the requirement for half of union members to approve labor actions sets a high barrier against conducting a legal strike. Some employers used unfavorable work assignments and reductions in work hours and bonuses to punish strikers. According to the ILO, the law provides penalties, including imprisonment and possible compulsory labor, for strikers in state-owned enterprises.

As of year's end the Supreme Court of Justice continued to consider the appeal by the State Railway Workers Union of Thailand of the July 2011 ruling by the Central Labor Court. The ruling upheld the request of State Railways of Thailand (SRT) to dismiss seven union leaders who had organized a work stoppage to protest unsafe locomotives after a crash in Prachuap Khiri Khan Province in 2009 resulted in seven fatalities. On March 26, the Central Labor Court dismissed the SRT's 70 million baht (\$2.3 million) damage claim against the union leaders, and the SRT's appeal continued at year's end.

Labor brokerage firms use a "contract labor system" under which workers sign an annual contract. Although contract laborers performed the same work as direct-hire workers, employers often paid them less and provided fewer, or no, benefits. By law businesses must provide contract laborers "fair benefits and welfare without discrimination." Regardless of whether the contract labor employee was outsourced and collected wages from a separate company, by law the contracting business is the overall employer, and the law requires equal pay and benefits for subcontract and regular employees. Nonetheless, there were reports during the year of a canned fruit and juice company that made unlawful deductions from migrant worker wages to repay the costs of smuggling, registration, and permits. Workers also reported several other violations by contractors, including failure to pay holiday overtime; provide equipment, uniforms, or adequate drinking water;

or pay daily minimum wages for less than eight hours of work. Workers further reported deductions from wages for sick leave absences and bribes to government officials to ignore undocumented workers.

Legal definitions of who may join a union (“employees working for the same employer” or “employees in the same description of work”) and requirements that the union represent a certain percentage of the workforce could combine to hamper collective bargaining efforts if contract workers, who made up a substantial portion of the workforce, were not considered part of the potential bargaining unit. Because the law classifies contract workers as working in the “service industry,” as opposed to the “manufacturing industry,” they may not join an industrial union. This restriction on joining with full-time employees of industries often diminished the ability to bargain collectively as a larger group.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits forced or compulsory labor, except in the case of national emergency, war, martial law, or imminent public calamity. Despite efforts by the government to enforce and raise awareness of the law, problems of forced labor of men, women, and children persisted in a small proportion of the economy, particularly in those sectors where foreign migrant labor was common.

Reports of sweatshops and abusive treatment continued in a few sectors, including Thai-flagged seagoing trawlers, garment factories, and shrimp- and seafood-processing facilities. The large numbers of migrants from Burma, Cambodia, and Laos in those sectors created opportunities for abuse (see sections 7.c. and 7.d.). For example, workers reported that employers prevented workers, particularly migrant workers, from changing employers to obtain higher wages when the government decided to increase the daily minimum wage but implement it initially in seven provinces.

During the year there were also reports of employers who kept possession of migrant workers’ registration and travel documents, which restricted their movement outside the work site, despite laws prohibiting this practice.

Also see the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

Legal protections generally exist for children in the formal economic sector. The law regulates the employment of children under age 18 and prohibits employment of children under age 15, although an exception exists for children 13 to 15 years old who have parental permission to perform agricultural work during school breaks or nonschool hours as long as the employers provide a safe work environment.

Employers may not require children under age 18 to work overtime or on a holiday and may not require work between 10 p.m. and 6 a.m. without prior Labor Ministry approval. Children under age 18 must not be employed in hazardous work, which includes any activity involving metalwork, hazardous chemicals, poisonous materials, radiation, and harmful temperatures or noise levels; exposure to toxic microorganisms; operation of heavy equipment; work underground or underwater; and work in places where alcohol is sold or in massage parlors. The maximum penalty for violating these prohibitions is one year in prison, fines up to 200,000 baht (\$6,500), or both.

The law provides limited coverage to child workers in some informal sectors, such as fishing and domestic employment, and allows for issuance of ministerial regulations to address sectors not therein covered. Such regulations increased protections for child workers in domestic and agricultural sector work.

The Ministry of Labor's Department of Labor Protection and Welfare is the primary agency charged with enforcing child labor laws and policies. Observers considered labor inspectors to be too few in number and insufficiently responsive to complaints. In an effort to improve enforcement, the ministry's inspection plan for the year continued to prioritize labor inspections of small factories (those with fewer than 50 workers), which were believed to be high risk for the use of child labor. In line with prevailing cultural norms, the inclination of labor inspectors 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.

On November 9, the labor minister approved a new list of hazardous work for child labor that added a clause prohibiting children under age 18 from working on seagoing fishing vessels--a more strict provision than the Labor Protection Act that allows children ages 16-18 to work on fishing vessels. The updated list

integrated work and working conditions considered hazardous to the development, health, and welfare of children under age 18 from all other related laws and aimed at raising public awareness and guiding labor inspectors in their inspections of youth labor (ages 15-18).

The Social Security Office under the Labor Ministry reported 66,138 children ages 15-18 formally working and registered in the social security system in 2011, an almost 30 percent increase compared with 2010. The Department of Labor Protection and Welfare reported that labor inspectors inspected 2,106 working children between ages 15 and 17 in 2011 and found no violations. The number of working children inspected in 2011 decreased from 3,624 in 2010 due to the severe flooding in central Thailand that obstructed government operations.

Children (sometimes underage) were found working in agriculture, the garment industry, seafood processing, fishing-related industries, and the informal sector. There was reason to believe that child labor produced and processed some garments, pornography, shrimp, and sugarcane in violation of international standards. In urban areas most underage individuals worked in the service sector, including in gasoline stations, small-scale industries, and restaurants. Observers continued to believe that while the prevalence decreased, some children (usually foreign) were exploited in street selling, begging, commercial sex, domestic service, and agriculture work, sometimes in a system of debt bondage. Many of these foreign children, predominantly migrants from Burma, Cambodia, and Laos, were in the country illegally, which increased their vulnerability to exploitation. There continued to be reports of street children who were bought, rented, or forcibly “borrowed” from their parent(s) or guardian(s) to beg alongside women in the street.

Beyond urban areas, children worked in agriculture, garment, and fishing-related industries. Child labor was less evident but still reportedly present in larger, export-oriented factories and registered processing facilities. Child labor also existed to a lesser degree in export/secondary-processing factories in shrimp- and seafood-processing sectors. NGOs reported some cases of child labor in garment factories along the Burmese border in Mae Sot District.

The total number of child laborers, legal and illegal, continued to be much larger when statistics considered child laborers in the informal sector, including unregistered migrant children. However, there was no comprehensive survey of child labor throughout the country.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

#### **d. Acceptable Conditions of Work**

The national daily minimum wage increased in April by a countrywide average of 40 percent from a range of 159-221 baht to a range of 222-300 baht (from \$5.20-\$7.23 to \$7.26-\$9.81), the largest ever such increase. Minimums continued to vary based on the cost of living in each province. In 2013 the government planned to extend the 300-baht minimum from seven provinces to nationwide. The national poverty line was 54.13 baht/person/day (\$1.77).

By law employers are subject to fines up to 100,000 baht (\$3,300) and/or imprisonment up to six months for minimum wage noncompliance. After implementation of the new minimum wage, the Labor Solidarity Committee reported receiving complaints from thousands of workers, particularly in hotel, transport, automobile, and jewelry industries, that employers did not raise their wages and cut some benefits, especially in the textile industry. Several worker groups protested in April and May, demanding the minimum wage increase without decreased benefits. A Ministry of Labor survey released in October found that less than 1 percent of workplaces reduced the number of workers, but 6 percent reduced welfare and other benefits. Additionally, labor activists reported an increased number of disputes between employers and skilled workers seeking to increase their daily wages to maintain the gap between unskilled and skilled wages.

The Ministry of Labor is responsible for ensuring that employers adhere to minimum wage requirements in the formal sector, but enforcement was mixed. Some formal sector workers nationwide received less than the minimum wage, particularly in rural provinces. The ministry reported that more than 99 percent of inspected workplaces (44,224 workplaces) paid the minimum wage. Most noncompliant employers were small enterprises with fewer than 50 workers. Such labor protections also apply to undocumented workers, but many unskilled and semiskilled undocumented migrant workers labored for wages that were at times significantly less than the minimum.

The maximum workweek by law is 48 hours, or eight hours a day over six days, with a limit on overtime of 36 hours per week. Employees engaged in

“dangerous” work, such as chemical, mining, or other industries involving heavy machinery, may work a maximum of 42 hours per week and are not permitted overtime. Petrochemical industry employees may not work more than 12 hours per day and may work continuously only for a period not exceeding 28 days. Legal protections do not apply to all sectors. For example, the law does not completely cover household domestic workers.

The ministry also enforces laws related to occupational safety and health. The Occupational Safety, Health, and Environment Act and the Home-based Worker Protection Act that became effective in 2011 impose a maximum sentence of one year’s imprisonment and fines not exceeding 400,000 baht (\$13,000) on employers for violations. These acts require safe and healthy workplaces and bring home-based businesses into the formal economy. They also prohibit pregnant women and children under age 15 from working in hazardous conditions (as detailed in ministerial regulations).

In 2011 the ministry employed approximately 600 inspectors for an estimated 345,000 workplaces. They inspected 17,039 workplaces employing 1.5 million workers during 2011, according to ministry statistics, and found 1,809 workplaces (more than 10 percent) failed to comply with health and safety regulations, most involving fire accidents; failure to establish safety committees; and inappropriate levels of heat, light, and noise. The ministry also inspected 31,551 informal workers in the home-based business and agriculture sectors. According to the Department of Labor Protection and Welfare, the incidence of violations regarding workers’ safety was highest in manufacturing, wholesale and retail trade, construction, hotels, and restaurants. While the majority of violations were resolved after the department issued orders to companies to make amends, there were at least 75 court cases filed.

During 2011 there were 129,632 reported incidents of diseases and injuries from industrial accidents, including 91,699 minor disabilities (resulting in no more than three days’ work missed) and 37,933 disabilities resulting in more than three days’ work missed (including permanent disabilities and deaths). The rate of incidents occurring in the informal and agricultural sectors and among migrant workers was believed to be higher but underreported. Occupational diseases rarely were diagnosed or compensated, and few doctors or clinics specialized in them. Many young migrant women employed along the border with Burma had limited, substandard medical-care options. Medium- and large-sized factories often applied government health and safety standards, but overall enforcement of safety

standards continued to be lax. In the informal sector, health and safety protections continued to be substandard.

Redress for workers injured in industrial accidents continued usually to be untimely and insufficient. Court decisions were rare, and few were handed down against management or owners involved in workplace disasters, but isolated cases demonstrated that the courts do have legal authority to compensate injured workers. For example, on August 27, a Burmese migrant construction worker received a settlement of 100,000 baht (\$3,300) for serious injuries sustained in a February 2011 work-related accident. During his suit in the Central Labor Court, the Department of Labor Protection and Welfare determined that a breach of safety regulations led to his injury.

The government continued its policy of regularizing migrant labor to help promote safe work conditions and reduce migrants' vulnerability to abuse. In addition to requiring migrants to register and undergo nationality verification, authorities instituted new registration procedures for irregular workers from Laos, Cambodia, and Burma and extended the nationality verification program through December. Under this policy authorities permit those who register to work and live temporarily in Thailand for two years and access social security and healthcare benefits. Children of registered migrants are entitled to register for residential permits if their parents have such permits. The government also reduced visa fees from 2,000 to 500 baht (\$65 to \$16) for each worker from Laos, Cambodia, and Burma for the next four years to incentivize workers to enter Thailand legally. As of year's end approximately 1.3 million migrant workers completed nationality verification. While there was no reliable count of irregular migrant workers in the country, governmental and NGO sources estimated the number of both regular and irregular migrant workers to be two to three million.

Migrants without documentation remained vulnerable and without recourse under the law. In order to avoid deportation, migrants often paid additional fees to police and immigration officials if caught without documentation.

As part of a broader policy to facilitate legal status for migrants, the government continued to implement procedural improvements during the year, including the establishment of five new, one-stop service centers in addition to the three existing centers already functioning informally on the Thai-Burma border. These centers helped lower the costs of travel for migrants seeking to complete the verification process by the December deadline, which authorities later extended four months to

accommodate workers who did not complete the process. The government also postponed, from March 2012 to March 2013, its planned collection of repatriation funds from migrant workers in order to reduce the burden on those who comply with verification. The government provided a clear outline and detailed information on the registration process and fees, a hotline for migrant communities, a pamphlet designed to reassure relatives of migrants and border-crossing workers, and a Web site in Thai and other languages. The government also examined ways to permit migrant workers flexibility to change employers if employers mistreat migrants or violate the law.

NGOs continued to report several cases of registered migrants who had not passed nationality verification and were therefore denied accident compensation. NGOs also reported poor working conditions for both documented and undocumented migrants. Labor inspectors had limited resources, and NGOs noted concerns about the practice of giving advance warning of planned labor inspections. Civil society observers continued to criticize government handling of vulnerable migrant workers. In the Thai-Burma border area of Mae Sot, brokers often shadowed workers at Thai deportation centers and flagged their arrival at the Burmese border to procure additional fees from migrants.

Exploitative labor supply agencies persisted in charging Thai citizens working overseas large, illegal recruitment fees that frequently equaled their first- and second-year earnings. In many cases recruited workers did not receive promised benefits and incurred significant debt. NGOs noted that local moneylenders, mostly informal, continued to contribute to this practice by offering loans at exorbitant interest rates so workers could pay recruitment fees, some of which were as high as 500,000 baht (\$16,400). The Ministry of Labor's Department of Employment regulations limit the maximum charges for recruitment fees, but effective enforcement of the rules remained difficult. During the year the department suspended the licenses of 43 recruitment agencies, revoked the license of one such agency, and filed criminal charges against 44 agencies. The department also reported that, starting in June, technical support from the International Organization for Migration helped reduce the expenses and recruitment fees for Thai workers going to Israel.