

Universal Periodic Review (UPR), Thailand: Joint CSO Submission to the Office of the High Commissioner of Human Rights (March 2010)

This joint submission has been prepared in consultation with a number of key Thai CSOsⁱ. It has been endorsed, in whole or part, by the 96 organizations listed in Attachment A.

I: Background and framework

1. Thailand has yet to ratify at least two major international Conventions – the Convention on the Protection of All Persons from Enforced Disappearance (CED), which has serious ramifications on the Thai populace, including Thai-Malay Muslims in the three southern-most provinces and other dissent; and the Convention on the Protection of the Rights of Migrants Workers and Member of their Families (MWC), which also has far reaching repercussions on Thai citizens and unregistered foreign migrant workers (an estimated 2 million plusⁱⁱ of whom work and live in Thailand with very limited rights and protection).

2. Regarding a number of Conventions that have been ratified by the Thai state, the government has yet to pass organic law to make rights protection a reality, such as laws on torture. As far as the International Covenant on Civil and Political Rights (ICCPR) is concerned, the Thai government has submitted an Initial Report on 22nd June 2004,ⁱⁱⁱ after a six-year delay. More notable is the absence of any attempt by the Thai government to disseminate details about the report to the wider public, resulting in little awareness on the issue. On the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the initial report was due on December 5th, 2009,^{iv} but the Royal Thai Government (herein referred to as RTG) has yet to draft it. On the Convention on the Rights of Persons with Disabilities, though has been ratified (2008) by the RTG, little advancements have been made. The independent committee has not yet been established to monitor the implementation as suggested in Article 34-39 of the Convention.^v

3. Although Article 45 of the Thai Constitution guarantees freedom of expression, in practice, the existence of Lese Majeste Law (Article 112 of criminal code) and the Computer Crimes Act B.E 2550 renders Thai citizens unable to critically discuss the monarchy institution. Most in custody under these two laws have not been recognized as prisoners of conscience.^{vi}

4. Three draconian laws, namely the Martial law, the Emergency Decree on Public Administration in Emergency Situation, and the Internal Security Act (ISA), allow for the restriction of many rights and liberties of Thai citizens.^{vii} These laws go against the spirit of the constitution, and though the RTG is vetting a new legislature to limit and control freedom of expression,^{viii} such as the employment of the Traffic Act, the Thai Court has not attempted to oppose these developments. The RTG is currently considering passing the Public Gathering Bill; the underlying content to this Bill restricts rather than promotes the right to association.

5. The National Human Rights Commission of Thailand (NHRC),^{ix} following the military coup in 2006,^x has proven to be less transparent and partial as an independent human rights institution due to revisions made to the Thai constitution (2007) regarding the selection process of NHRC commissioners. Such selection is now determined by a smaller permanent selection committee comprised of high-ranking representatives, who have the authority to appoint commissioners for all other subsidiary bodies, i.e. the election committee. This committee has heavily favored conservative candidates, selecting commissioners with inadequate experience to effectively promote and protect human rights. The current NHRC is largely viewed to be pro-government, leading to disappointment and low confidence in the credibility of the body amongst the human rights community. The information that has been gathered has not been made readily available to the public, which generates skepticism on the transparency, and impartiality of the body.

6. There has been serious reservation about the level of human rights and liberty enjoyed by Thai citizens, especially citizens who hold political views that differ from those who control state mechanisms. Human rights NGOs have become largely divided along the red-vs-yellow political line, causing them to ignore HR principles when acting in loyalty to a red or yellow position.

7. The Courts of Law are increasingly regarded with distrust by a growing number of citizens due to the recent alleged double standards in the decision of several cases^{xi}.

8. The RTG has used aggressive laws, ie draconian, to govern the Thai people, imposing rule by law rather than respecting rule of law. Such actions have had negative social, political, and economic impacts on the Thai people, with human rights abuses rising over the past few years.

II: Promotion and protection of human rights on the ground

The Declaration of the Emergency Decree and the April-May 2010 Crackdown

9. The Declaration of the Emergency Decree on Public Administration in Emergency Situation B.E. 2548 (2005) (hereafter “Emergency Decree”) was promulgated by the Prime Minister of Thailand, on 7 April 2010 after a group of protesters stormed the Parliament calling for the Thai Government to cease interruption of the primary media channel of the UDD^{xii} group. The declaration of the Emergency Decree was contradictory to international law, since the incident was a short disorder created by a group of protesters. Regular laws to control the situation could have been used by state officials as the incident was not a direct threat to the survival of the nation nor the basic functioning of the parliament. Rather, the incident was used by the RTG as a justification to declare the Emergency Decree in the crackdown of the UDD protest, which had been relatively peaceful.

10. The Declaration of the Emergency Decree not only breached the spirit of international law, but it gave the Thai army direct executive power through the establishment of the Centre for the Resolution of Emergency Situation (CRES). The Emergency Decree severely violated basic human rights, including media censorship,^{xiii} restrictions on the freedom of association and freedom of movement, and most importantly, the right to life and the freedom from torture, which are non-derogable rights, even during emergency situations.

11. Under article 4(3) of the ICCPR, as a member state, the RTG has the duty to “immediately inform the other State Parties...the provisions from which it has derogated and of the reasons by which it was actuate”. In practice, the Abhisit government informed other state parties of the provisions it had derogated only once on 10 April 2010,^{xiv} even though the Emergency Decree had been extended 3 times in some areas.^{xv} The RTG had informed of derogations only in a few articles^{xvi} such as the right to liberty and security of person without being subjected to arbitrary arrest or detention (under A. 9), and the right of all persons to be entitled to a fair and public hearing (under A. 14).

12. The death toll resulting from the crackdown between April-May 2010 amounted to 92 persons, including civilians, voluntary paramedics, policemen and army officials; 2,800 were wounded and many still missing^{xvii}. Even though the RTG claimed that the military operation in the crackdown was in accordance with international standards, the facts indicate the contrary. From testimonies of witnesses and those injured, force was used in the following 4 modes: shootings were done incriminatingly or not for self-defense based on foreseeable threats;^{xviii} disproportionate measures taken, for instance firing ammunitions into the protesters who were unarmed;^{xix} the use of force at night without taking into account the impairment of vision;^{xx} and the lack of proper management of weapons used in a careful and strict manner.^{xxi}

13. Bringing an end to impunity, holding perpetrators accountable, and investigating the facts behind the crackdown have been ineffective for two reasons: (1) The RTG, which directed the Crackdown, is still in power, along with the fact that the independent bodies that were tasked to

investigate the facts – the NHRC and the Truth and Reconciliation Commission – are not independent from the government and until now have not disclosed any of its reports to the public. The deadlines for release of reports (Oct/2010 for the NHRC and Jan/2011 for the TRC) have been long delayed; (2) Article 17 of the Emergency Decree^{xxii} poses as an obstacle in holding state officials accountable by justifying its decisions by using vague phrasings, i.e. that the state officials were acting “within good faith”.

14. Human rights contraventions have been evident with the handling of arrests, with abuses extending from torture to the planting and meddling of evidence, forced confession, issuance of arrest warrants with unclear photographic evidence, and denying detainees contact with relatives. Further violations include denying rights to fair trial, including denying the access to lawyers, denying the right to temporary bail by reasoning that the detainees might escape or commit their crimes again, placing bail amounts beyond the level that families can afford, resulting in trauma and attempted suicide of several victims. Furthermore, detainees in penitentiary hospitals are put on shackles. Detainees have also been placed in informal detention venues such as military camps and police vans such as in the example of sixteen suspects being detained in a police van for an entire 2 days in Mukdahan Province, all of whom were brutally beaten up by the state officials on duty and not given any access to immediate healthcare.

15. Recommendations to the RTG: a) reveal the facts related to the April-May crackdown and hold perpetrators accountable; b) do not take any actions to grant amnesty to the RTG, the army, or state officials who have violated human rights during the crackdown; c) provide sustainable compensation for the injured and families of the deceased; d) allow bail for all suspects and compensate losses for those found not guilty; e) amend the Emergency Decree by repealing Article 17, which grants impunity to state officials; f) allow relevant UN Special Rapporteurs (mandate holders on right to freedom of expression and opinion; extrajudicial, summary or arbitrary execution; on arbitrary detention; on human rights and counter-terrorism; and on torture and other cruel, inhuman or degrading treatment) to conduct country visits to investigate incidents related to the crackdown; and g) allow local and international organizations to visit the detainees in prisons.

The Right to Freedom of Expression^{xxiii}

16. Thailand ratified the ICCPR in 1996. Article 19 of the ICCPR mandates the right to freedom of expression. The Constitution of the Kingdom of Thailand of 2007 also has a number of sections affirming the right to freedom of expression.^{xxiv} In Thailand, three sets of laws primarily affect the right to this freedom: defamation (Sections 326 and 328 of the 1956 revised criminal code), lèse-majesté (Section 112 of the code, as revised in 1976), and the Computer Crime Act of 2007. Thailand’s position internationally, in terms of freedom of expression, has dropped to its lowest in a decade, falling from a ranking of 59 in the World Press Freedom Index^{xxv} in 2004, to that of 153 (out of 178 nations) by 2010.^{xxvi}

17. Defamation is a criminal and civil offence in Thailand. A 1992 amendment to the libel law allows a fine of up to 200,000 baht, in addition to any civil damages. The number of new cases of defamation has nearly quadrupled since 1997, with about 700 to nearly 2,700 new cases per year. The prosecution department accepts 86% of all defamation cases forwarded to it. Although the law provides for a set of exceptions, courts rarely apply these, as the conviction rate for defamation runs at average of 97%.^{xxvii} There have been no significant efforts by the State to address these abuses.

18. The lèse-majesté law remains Thailand’s greatest obstacle to freedom of expression. The amended 1976 law reads: “Whoever defames, insults or threatens the King, the Queen, the Heir apparent or the Regent shall be punished with imprisonment of three years to fifteen years.”^{xxviii} As Section 112 is considered a violation of national security, Thai courts interpret the law quite

broadly.^{xxxix} The number of new lèse-majesté cases has jumped from an average of less than five cases per year from 1999 to 2004, to 126 in 2007, 84 in 2008, and an all-time high of 164 in 2009.^{xxx}

19. As a whole, the vagueness of the language used in the law, the lack of guidelines on arrests and prosecutions of lèse-majesté cases, and the ability of any citizen to make the charge all contribute to grave abuses of the lèse-majesté law. Many state officials have portrayed the movement of the UDD as part of an anti-monarchist conspiracy. The vast majority of those charged or sentenced with lèse-majesté are connected in some way to the UDD.^{xxxi}

20. The scope of the lèse-majesté law has gone well beyond protecting the reputation of the king, queen, and heir-apparent, and has been used indiscriminately against any opponent of the government.^{xxxii} The police and the prosecutors are part of an apparatus that is biased toward the interests of the state. Police, prosecutors, and judges are given no guidelines in interpreting lèse-majesté. As a result, police must make the arrest, the prosecutors must prosecute, and the judges must hand down their decisions. Without any guidelines or debates on the topic, the courts have tended to interpret lèse-majesté quite broadly and out of context, making convictions almost certain.^{xxxiii} The State has yet to provide clear guidelines governing the use of the lèse-majesté law with 5 high-profile cases since 2007 to be noted.^{xxxiv} In 2007, the military-appointed legislative body passed the Computer Crime Act (CCA). Section 14 (2) of the act prohibits electronic transmission of “of false computer data in a manner that is likely to damage the country’s security or cause a public panic,” and (3) prohibits transmission of any material “related with an offence against the Kingdom’s security under the Criminal Code.” Violators of the act may be imprisoned for up to five years and fined up to 100,000 baht per infraction.^{xxxv}

21. The CCA is becoming an indirect way of applying lèse-majesté-like legal provisions and as a whole is becoming a primary tool in suppressing freedom of expression. More than a quarter of a million websites have been blocked by the state, many of which have been deemed as critical of the monarchy. From 2007-mid2010, there have been 31 “lèse-majesté-content” cases pursued under the CCA. Of these, all 4 cases in which the court has handed down a decision have resulted in conviction, and in no case documented have public prosecutors dropped or courts dismissed a case.

22. Recommendation to the RTG: a) reform the Defamation Laws by decriminalizing defamation and strengthening of legal exemptions for defamation; b) reform the Lèse-Majesté Law and Computer Crime Act by lessening the maximum sentence of 15 years to levels in line with other constitutional monarchies, and/or eliminating minimum sentence; making prosecution contingent upon consent of the king, queen, or heir-apparent (as in Norway); adding exemptions or exclusions from guilt; and by abolishing the law completely.

Human Rights Situation in the 3-Southern Border Provinces of Thailand

23. More than 80% of the population that make up the 3-Southern border provinces of Thailand are Malayu-Muslims, whom have shared a stronger affiliation with that identity than as Thai nationals. The escalation of violence in the three provinces of Pattani, Yala and Narathiwat started with the incident of unidentified gunmen raiding an army ammunition depot in Narathiwat Province on January 4, 2004, followed by the all out assault in the Kreu Se Mosque Incident on 28 April 2004, and the Tak Bai incident^{xxxvi} on October 2004. The perpetrators to this conflict have been both separatists and state officials; since 2004, up till October of 2009, these two groups have reportedly been responsible for causing 10,386 un-peaceful events, claiming the lives of 4,453 people, and wounding 7,239 victims.^{xxxvii} Victims to this conflict include both Malayu-Muslims and Thai-Buddhists.

24. Root causes of the conflict result from different perspectives held by the government and insurgents. Military policy has failed to respect the distinct identity of Malayu-Muslim people from

the rest of the Thai population, treating them as terrorists that ought to be controlled by the Thai state, while insurgents act violently in defense of their ethnic, religious and minority rights.

25. At the Ingkharayuthboriharn Army Camp, Pattani province, Thai authorities have reportedly been responsible for torturing detainees to death, including the example of Imam Yapha Kaseng, and the case of Sulaimam Naesa.^{xxxviii}

26. **Torture:** Torture and other ill treatment have become systematic and unlawful detention of claimed suspects more frequent, in significant part due to provisions of martial law and the Emergency Decree in effect in the area. Detainees have been kept in unofficial places of detention for up to 7 days, for no more than 4 times;^{xxxix} visits from relatives and public lawyers have been limited to 30 minutes per session, which is considered below the minimum standards of human rights under international law. The undue power given to the authorities under the Emergency Decree have resulted in the harmful consequences towards the Thai people because of impunity of authorities from civil, criminal, and disciplinary offenses.

27. There have been numerous cases, for instance the Masjid Ipayae, Sulaiman Nasae, and Imaam Yapha Kaseng incidents, which have caused the people to believe that the state officials have been perpetrators to this conflict. There has been no progress in investigating the facts of each case, which has created a common impression that the people have not been given justice.

28. **Children:** There have been a reported 5,111 children orphaned due to the loss of their custodian.^{xl} Moreover, children age 13 and above have lost lives and been detained in the army camps with adults^{xli}. With the violence in the restive South, teachers remain to be assaulted and schools are frequently shut down, which discontinues the education for students. Abuse of drugs in the Deep South has been rampant, with possible explanations leading towards certain groups' efforts in making drugs a tactic in deterring youth from being engaged in a 'political' conflict.

29. **Women:** Women have been grossly victimized in the conflict in the restive-South—more than 2,188 people^{xlii} (as of Sep, 2010) became widows as a consequence of the conflict. They have been accused of being significantly involved in the separatist movements, which makes women as likely to be detained as men. Sexual violation, including the rape of women and girls is widespread in the South; this issue is deemed as an extremely sensitive and outlawed one in the Islamic communities in the deep-South.

30. Recommendations to the RTG: a) adopt laws for the prohibition and prevention of torture and other ill-treatment, incorporating the main elements and implementing the provisions of the UN Convention against Torture; b) pass legislation expressly criminalizing torture and other ill-treatment; c) prosecute all those responsible for torture and similar offences; d) cease invoking the Emergency Decree of 2004 as it conflicts with the Constitution of Thailand and the basic principles of human rights, and instead, focus on the criminal trial laws and processes for the prosecution of perpetrators; e) establish a fact-finding committee, consisting of people from all different sectors, with results of the investigation made transparent and available to the public; f) release all suspects that have insufficient evidence against them and give compensation to suspects who have been wrongfully detained or found not guilty.

The right to life, liberty and security of person

31. Big developmental projects create conflict between supporters and detractors. Threats include defamation, display and use of weapons, and threats to life.^{xliii} When the projects severely affect the people's health, the state and entrepreneurs refuse to pay compensation. Demanding compensation through court procedure is a protracted process.

32. Thailand has experienced problems with human trafficking of aliens, women, and children groups. The Thai laws are ineffectual in helping those who are emotional and physical victims of commercial sexual exploitation. The victims of the commercial sexual exploitation are not getting sufficient assistance, especially among the alien human trafficking victims. Moreover, the commercial sexual exploitation network includes officials themselves.

33. Recommendations to the RTG: a) set up a fund to financially protect victims of development as well as an agency, directly under the Prime Minister's authority, to protect people's freedom from threat to life and liberty and to take care of those whose health are affected by development projects; b) efficiently tackle human trafficking problems and hold those who are involved in the networks accountable; c) increase the punishment for child commercial sexual exploitation; d) improve the universal treatment system, even for non-Thais, including but not limited to the prevention of re-abusing the victims by the community or the state officials; e) take measures to improve life-quality of trafficked prostitutes and to prevent and heal the victims of human trafficking.

Equality and non-discrimination

34. Thailand's 2007 Constitution forbids discrimination based on sexual identity and diversity. However, there is no legislation that recognizes sex change and supports same-sex marriages resulting in a wide range of discrimination against homosexual couples. According to the Constitution, Thailand guarantees freedom of religion. However, discrimination against religious minorities persists such as in the case of Muslim women forbidden to wear Hijab in schools^{xliv}.

35. There has been no real effort to include sex education in schools to help counter discriminatory social attitudes on issues of sexual orientation and gender identity. As a marginalized group, LGBTI (Lesbian, Gay, Bisexual, Transgender and Intersex) people do not receive adequate provision of physical and mental health care services by government and private health sectors.

36. Thai military policies state "mental illness" as the reason for discharging transgender individuals from military services. Subsequently this causes difficulties for them in obtaining employment.

37. Thailand has failed to support LGBT rights through various UN resolutions and statements.

38. Thailand has enacted the Disability Act (2007) and has recently become a member to the CRPD. However, the government has taken a passive approach on this issue, causing people with disabilities to have limited access to education and employment. Disability allowance at 500 Baht per month is insufficient for basic survival. Migrant workers with disabilities caused by work hazards cannot access rehabilitation services while waiting for compensation.

39. The RTG still lacks effective measures to deal effectively with social issues facing children including the high rate of teen pregnancies and orphans in the south.

40. Thailand provides free treatment for people living with HIV in the national health care services. HIV infection among younger people is increasing and those under 18 cannot access the Voluntary Counseling Confidentiality Testing (VCCT) because the Medical Council of Thailand demands parental consent prior to the test. Health care services for migrant workers (Burmese, Laotian, and Cambodian) do not cover HIV medical care, except to prevent the mother-to-children transmission. People living with HIV face discrimination in society for example, men with HIV are not allowed to be ordained as Buddhist monks.

41. Recommendations to the RTG: a) enact a general anti-discrimination law, to implement the requirements of the ICCPR and the Constitution, followed by concrete programs of enforcement, public education and sex education on diversity issues aimed at reaching full recognition of the equal rights of LGBTI in all areas of life; b) recognize the new gender of

transsexuals in all official documents; c) recognize same-sex relationships in parallel with the recognition of opposite sex relationships; d) abolish military policies that prescribe transgender people as "mentally ill"; e) provide funds for the study of health care needs of and improve health care services for LGBTI communities; f) proactively support equality rights for IGBTI in its domestic laws and policies and in its work within ASEAN and the UN; g) respect freedom of religious beliefs and practices; h) cooperate with disabilities organizations to create equal education and job opportunities; i) tackle inequality in proper health service and increase allowances for people with disabilities; j) make rehabilitation services accessible to migrant workers; k) cooperate with disabilities organizations to determine national-scale strategies for reducing the gap between laws and actual practice; l) educate life skills for children, improve the quality of teachers and revamp the school system to be able to socialize children with the use of democratic approaches and principles in their studies; m) put an end to children in the 3-southern provinces from being held in custody and help families and communities to take care of children who have been affected by violence; n) ban discriminatory laws regarding people with HIV among public and private sectors and educate the public and agencies on people with HIV; o) provide children under 18 with access to voluntary HIV tests; p) broaden access to free health services to include anti-HIV medication for migrant workers.

Refugees, Indigenous Persons, Stateless Persons

42. The Thai government does not allow the usage of “refugees” as a de facto term but uses the term “persons affected from combat”,^{xlv} giving the RTG latitude to fall from its responsibility to abide by international human rights standards on the treatment of refugees. Thailand is not a state party to the 1951 Refugee Convention and 1967 Protocol Relating to the Status of Refugees, and there has not been an official process to register around 57,000 new refugees in temporary camps since 2009. Furthermore, the Provincial Administration Board has ordered a halt to the screening process with the United Nations High Commission on Refugees (UNHCR).

43. Since there are frequent refugees who flee human rights violations and conflicts into Thailand,^{xlvi} the government has not come up with a policy to protect refugees, registering refugees and their families in Thailand. Camps that have been set up as temporary shelters for refugee have extended their stay to as long as 26 years. Refugees in these camps have lost their human dignity and cannot exercise their basic human rights, such as the right to work, to travel, and to have education.

44. Asylum seekers entering Thailand to request assistance to travel to third countries are often treated as illegal migrants and detained at the Immigration Detention Centre (IDC). The UNHCR is unable to give them assistance, or coordinate resettlement with third countries. The RTG continues to contravene International Law by expelling asylum seekers and refugees, including vulnerable groups and the elderly, to their country of origin though there are in situations of high risk of facing violence and abuses, such as in the case of Lao Hmong and the Karen people in Thailand.

45. The problem with the Rohingya situation in Thailand started since 2008 when two boats carrying 91 Rohingya people were intercepted in Thai territory. Those determined as Bangladeshi or Burmese nationals were sent back to Bangladesh and the Thai-Burma border respectively, while the remaining 45 are still being held at the Immigration Detention Center in Suanphlu district. Their future remains unclear because the RTG does not have any concrete policy for this group. Because of their stateless status, their rights remain grossly violated and the UNHCR has no access to the Rohingya peoples. In another incident in January 2011, two boats carrying Rohingya people were intercepted in Satul and Phuket waters, the Thai authority re-routed the boats to the Andaman Sea and Nicobar Islands of India. They were later found to be frail and unconscious upon arrival at the Islands.

46. The situation of Rohingya people in Thailand remains precarious. The Burmese authorities do not recognize many of them as Burmese citizens which affectively turns them into stateless persons; status that threatens their security and livelihood and subject them to regular money extortion by Thai authorities. Three thousand Rohingyas have been denied migrant worker status for this reason. Moreover, their children have no access to education, are denied birth certificates, and have inadequate access to health care. The existence of complex human trafficking activity within the Rohingya population in Thailand has also been pervasively reported.

47. There are approximately 2.5 million stateless persons residing in Thailand, some of which have been examined and documented through civil registration, according to the Nationality Act (2008) and the Civil Registration Act (2008). Thailand has begun the process of categorizing stateless persons under the refugee group classification by providing them with birth certificates upon birth. However, there are groups that have yet to be examined, with no progress in the determination of their status. These groups are susceptible to violations of numerous rights, including access to health-care, employment, higher education, ability to travel freely to any parts of the country, and land and property ownership.

48. Recommendations to the RTG: a) allow related agencies involved in the registration of unregistered and newly arrived refugees access to refugees so that they will receive identification documents and protection; b) cancel the detention of asylum seekers in the Immigration Detention Center, as it forbids UNHCR access to refugees; c) become a member to the UN Refugee Convention as soon as possible; d) allow organizations working to protect refugees to give assistance to the vulnerable groups; e) prevent local officials from expelling refugees into further danger; f) formulate clear policies in assisting in the repatriation of refugees and assisting the relevant agencies to be involved in analyzing the situation for the safe return of refugees, allowing them to remain in Thailand if the situation in their home countries is not safe; g) give opportunity to refugees to receive basic rights such as education and employment; h) recognize human trafficking problem that persists among the Rohingya population in Thailand and establish a legal framework and effective mechanisms to deal with the issue; i) work toward a third-country solution to resettle Rohingya refugees; k) establish an appropriate registration system for stateless people; l) make amendments to the law to protect stateless persons and refugees from persecution, guaranteeing them basic human rights in accordance with universal standards; m) ratify the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

Thai Labor and Migrant Workers

49. **Thai Labor.** The minimum wage in Thailand is currently between 159-215 baht per day^{xlvi}. The amount is insufficient in sustaining a family of 4 in Thailand^{xlvi}. The rights to form a union and to collective bargaining is limited. Many unionists have had their employment terminated after trying to form unions. Labor officials are not effective at promoting unions in many enterprises. Sub-contract workers are not entitled to form unions. As well, a significant number of Thai workers who are sub-contract workers are unprotected under the Labor Protection Acts (1997 and 2010). These workers, who are entitled to Social Security, have difficulty accessing quality healthcare and experience discrimination in medical treatment quality among other forms of social security schemes. On children, the RTG does not recognize child labor as Thai children are a part of the education system. In practice, child labor can be found in small enterprises and agricultural sector.

50. Migrant workers do not enjoy basic services from the Thai state. Business sectors, brokers and officials can systematically exploit migrant workers.^{xlvi} The Ministry of Labor cannot control the costs of brokers in the National Verification (NV)^{li} and import of migrant workers by MOUs.^{li} Migrant workers whose nationalities have been verified can be employed as legal migrant workers, but in practice, the government still cannot ensure rights and welfare to legal migrant workers. In

addition, migrant workers cannot form unions. Situations of undocumented workers who did not pass NV are vulnerable. They have problems with minimum wage, human rights abuses, and access to labor protections, rights and welfare. Those working as domestic workers, in fisheries and in small-scale agricultural sectors are not sufficiently protected under labor protection laws.

51. Migrant workers constantly face obstacles with the civil registration system.^{lii} Particularly, when they request marriage registration with Thai nationals, civil registrars often require additional documents at the officials' discretion, even though such documents are not required by the law. Status of children who were born in Thailand from parents who did not pass nationality verification are automatically treated as illegal immigrants by the law. Despite the 2007 amendment of the Nationality Act, which allows a beneficial status to be granted to these children, the Ministerial Regulation to provide the guideline to such a provision has not entered into force; hence the children still have illegal immigration status.

52. Recommendations to the RTG: a) ensure protection and welfare for subcontract workers and ensure that illegitimate children will enjoy equal welfare opportunities; b) revise social security services to be on par with other healthcare services; c) sign ILO Conventions 87 and 98 at the earliest opportunity to ensure the workers' rights to collective bargain and to form unions; d) provide education welfare to cover children of Thai and migrant workers to bring them access to the education system; e) eliminate all forms of exploitation of migrant workers, open a migrant labor registration and ensure all fees related to the process are reasonable; f) ensure protection of all migrant workers under the labor protection law and abolish discriminative policies against migrant workers; g) promptly issue the Ministerial Regulation to determine status of children of undocumented parents and revoke any law that automatically renders them illegal immigrants; h) ensure that the right to register a marriage of migrant workers can be exercised and that the registrars will only ask for documents as required by the law; i) increase minimum wage to at least 421 baht in enable workers to sustain themselves and their families^{liii}.

Economic, Cultural Rights, and the Right to participate in Development

53. Thai people in several regions of the country have had limited participation in planning development projects and as a result have received negative environmental and community impacts, including poisonous toxins from waste, job insecurity, and threats to sustainable lifestyles and culture. The government has been unable to protect people from such impacts and no sustainable remedies have been provided as compensation, leaving communities weakened and disenfranchised.

54. The proprietors of big development projects are the principal parties that receive the benefits from these projects. However, they have violated the rights of the people living in the surrounding communities in their participation at all levels, from the time that the Environmental Impact Assessment (EIA) has been appraised until consultations with relevant stakeholders and correspondingly the revision of project plans. Regardless of whether the investors to these projects are private or the government, the inclusion of affected communities is necessary in the development of these projects, including the dissemination of accurate information to the people of these communities. The lack of participation or involvement in the decision-making process, and the biased information provided by the benefactors of the projects has caused surrounding communities to be misguided and suffer from the repercussions.

55. Recommendations to the RTG: a) promote and protect the rights of communities that have had their rights violated by instituting a body that deals with such issues and by ensuring greater participation of all affected stakeholders in the decision-making process of mass development projects, including the granting of substitute lands; b) ensure that the information provided to all affected stakeholders of the project be impartial and accurate; c)

authorize an independent center to research proposed projects, investigate and monitor performance, and gather information from communities on the impact of proposed projects; d) ensure that laws and regulations, as well as environmental national action plans, are not dismissed in the implementation of these projects and require for environmental assessments to be done regularly and in a timely manner.

Protection of Human Rights Defenders

56. Human Rights Defenders (HRDs) in Thailand face many threats, such as direct physical threats, enforced disappearance (such as the case of Somchai Neelaphaijit), and convictions of lese majeste for political purposes. HRDs are also not given help at the local level. In addition, there are serious concerns about the death of HRDs in Southern Thailand.^{liv} Direct and indirect threats to HRDs mean that the RTG cannot protect their welfare. There have been recommendations from the UN SRs that the government promote and protect HRDs and give opportunities for HRDs to be involved in policy-making on human rights.^{lv} **Thus, the RTG: a) should comply with the recommendations of the UN SR on HRD, including giving protection to HRDs so that they can work without being harassed or threatened; b) if there were to be violations or violence committed against HRDs, the government should trace the perpetrators and ensure justice as quickly as possible.**

III. Achievements, best practices, challenges, and constraints

57. On the SR's comment on the FOO/FOE in Thailand (referring to P. 2369 of the report), the RTG responded, on 30 April 2009, stating that the execution of the Criminal Code section 112 was an effort to protect national security. The RTG has frequently used laws that promote national security as foremost, and has often discounted the civil and political, and the ESC rights of the Thai people, which are fundamental principles. The RTG should balance human rights with state security since giving more priority to national security has resulted in severe human rights abuses, taking as examples, the conflict in three-most southern provinces of Thailand, Lese-Majeste convictions and political conflicts. In these cases, human security was widely ignored and violently abused.

58. The Second National Human Rights Plan (2009-2013) pays great emphasis on the open participation from stakeholders in every sector, which is considered a big leap for the Thai civil society; however the actual participation process is incomprehensive, not prolonged, unsystematic, hierarchical, and lacks proper consideration of the people's opinions.

IV. Key national priorities, initiatives, and commitments

59. We welcome the RTG's effort in their pledges and commitments; the Second National Human Rights Plan (2009-2013); recent ratifications on CRPD, the CAT, and the CERD, as well as the ratification to OP-CRC on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflicts; and their repeal on certain reservations of Article 7 in the CRC. We further urge the RTG to repeal the reservation on article 22 of the CRC. There are still concerns over some of the reservations the RTG has made to the Treaties, for instance, on the reservation of Article 16 and 29 of the CEDAW, of Article 22 of the CRC, of Articles 4 and 22 of the CERD, Article 30 of the CAT. We urge the RTG to immediately repeal these reservations, to ratify the OP-ICESCR, to follow the recommendations as laid out in the SR-HRD Report to Thailand,^{lvi} and to actively and effectively implement^{lvi} their human rights commitments and pledges.

V. Capacity-building and technical assistance

60. The RTG should allow the SRs on arbitrary detention, extrajudicial executions, FOE, the independence of judges and lawyers, enforced or involuntary disappearances, and on torture to investigate the human rights situation in Thailand. The RTG, in collaboration with the civil society, should provide education to the Thai people on human rights mechanisms, ensuring that the dissemination of this information be reached to all target groups. We urge the United Nations to

provide financial support to the Thai civil society and Thai people's organizations on human rights via the United Nations Human Rights Fund.

APPENDIX A – List of Supporting Organizations

This report is endorsed, either in part or in whole, by the following organizations:

Southern Thailand Issue Cluster

- | | |
|--|--|
| 1. Network for Youth Development and Capacity-Building, Southern Thailand | 2. The Foundation for Child Development |
| 3. INSOUTH | 4. DEEP PEACE |
| 5. Youth Association for Development [YAD] | 6. Muslim Student Confederation of Thailand [MUSTCOTH] |
| 7. Student and Youth Network for Protecting People [SYNPP] | 8. Youth Network for the Protection of Saiburi Community |
| 9. Promoting Human Rights and Access to Justice Network [Hak Asasi Prikemanusiaan (HAP)] | 10. Southern Paralegal Advocacy Network [SPAN] |
| 11. Youth Association for Culture and Islam, South Thailand [YAKIS] | 12. Centre for Culture, Protection, and Democracy, South Thailand [CCPD] |
| 13. Young Muslim Association of Thailand [YMAT] | 14. Student Federation of Southern Thailand (SFT.SBT) |
| 15. Aman News Agency (Thailand) | 16. Sankalakhiri Media Network (Thailand) |
| 17. Islam Burapha Movement | 18. Southern Peace Media [SPM] |
| 19. Patani Silent Voice (PSV) | 20. Muslim Student Federation of Thailand |
| 21. The Foundation for Local Management (Deep-south) | 22. Foundation for Education and Human Resource Development (FEHRD) |
| 23. Bungaraya News | 24. Rural Conservation Network of South Thailand |
| 25. Youth Network for the Opposition of the Thai-Malaysia Gas Pipeline Project | 26. Youth Network for the Protection of Liknite-Sabahyoi Community |
| 27. Coalition for the Conservation of the Pattani Gulf | 28. Imaam Association of the Southern-border Provinces |
| 29. Justice for Peace Foundation | 30. PERKASA |
| 31. Muslim Attorney Centre Foundation [MAC] | 32. Hilal Ahmad Foundation |
| 33. Islamic Southern of Thailand Foundation (IST) | 34. Deep South Watch [DSW] |
| 35. Thai Islamic Medical Association (TIMA) | 36. Teacher's Confederation, Southern Thailand |

37. We Pease

38. Institute of Grassroots Academic (IGRA)

39. AsiaResource Foundation [ARF]

40. Ponoh Association of the 5 Southern Provinces of Thailand

Migrant Workers Cluster

41. TryArm

42. Rangsit Area Trade Union Group

43. Worker's Confederation on Petroleum and Chemical Waste

44. Action Network on Migrant Workers (ANM)

45. The textile garment and leather workers Federation of Thailand (TWFT)

46. Labour Union Birla Group (LUBG)

47. Project for the well-being of migrant workers, ethnic minorities, refugees and stateless person

48. Network for Domestic Workers

49. Adventist Development and Relief Agency Thailand (ADRA)

50. Thai-Burmese People Friendship

Refugees, Stateless Persons, and Minority Groups Cluster

51. Thai Committee for Refugees (TCR)

52. Asylum Access Thailand (AAT)

53. Friends Without Borders

54. Orang Laut Group (Uraklawoi)

55. Catholic Office for Emergency Relief and Refugees Thailand (COERR)

56. AMAN Secretariat

57. Jesuit Refugee Service Thailand (JRS)

Disability Cluster

58. Disabled Peoples' International Asia Pacific (DPI/AP)

59. Association of the Physically Handicapped of Thailand (APHT)

60. The Association for Career Advancement of the Blind Thailand (ACAB Thailand)

61. Thailand Association of the Blind (TAB)

62. The Association of Thai Deaf Children & Women's Network Federation (TDCWNF)

HIV/Aids Cluster

63. Foundation for AIDS Rights

64. The Poz Home Center

65. Thai NGO Coalition on AIDS (TNCA)

Sexual Diversity Cluster

66.Foundation for Human Rights on Sexual Orientation and Gender Identity (FOR-SOGI)

68.Swing Thailand

70.Anjaree Lesbian Foundation

72.Teeranatkarnjanauksorn Foundation

67.M Plus Thailand

69.Rainbow Sky Association of Thailand

71. Sexual Diversity Network

73.Thai Transgender Alliance

Development Projects Cluster

74.Network for portal environment

76.Bonok Conservation Network

78.Healthy Public life Network, Patlung Province

75.Karen Network for Culture and the Environment

77.Baan-Krood Nature and Environment Conservation Network

79.The Conservation of the Thoong-Kai Community Network

Freedom of Expression Cluster

80.Article 112: Awareness Campaign Group

82.iLaw

84.Social Move Assembly

81.Thai Netizen Network

83.Iskra Group

Red-Shirt Crackdown Cluster

85.People's Information Center (PIC)

Children Cluster

86.Foundation for the better lives of Children (FBLC) Thai

88.Duang Pratheep Foundation (DPF)

87.The Center for the Protection of Children's Rights Foundation (CPCR)

Other Clusters

89.People's Empowerment Foundation

91.Suwan Nimit Foundation

93.Burmese Royingya Association in Thailand (BRAT)

95.People's Empowerment Foundation Community Radio Network

90.Prachatai

92.Friends of Burma

94.Khmer Krom Movement in Thailand

96.Planning Committee for the Community Radio Network for the 4 sub-regions of Thailand

APPENDIX B- List of organizations in the UPR Working Group

1. Network for Youth Development and Capacity-Building, Southern Thailand
2. INSOUTH
3. The textile garment and leather workers Federation of Thailand (TWFT)
4. Project for the well-being of migrant workers, ethnic minorities, refugees and stateless person
5. Thai Committee for Refugees (TCR)
6. Asylum Access Thailand (AAT)
7. Disabled Peoples' International Asia Pacific (DPI/AP)
8. Association of the Physically Handicapped of Thailand (APHT)
9. Foundation for AIDS Rights
10. Thai NGO Coalition on AIDS (TNCA)
11. Foundation for Human Rights on Sexual Orientation and Gender Identity (FOR-SOGI)
12. M Plus Thailand
13. Naresuan University (Professor Chatubhoom Phoomibun)
14. Article 112: Awareness Campaign
15. Social Move Assembly
16. People's Information Center (PIC)
17. Foundation for the better lives of Children (FBLC) Thai
18. The Center for the Protection of Children's Rights Foundation (CPCR)
19. Duang Pratheep Foundation (DPF)
20. People's Empowerment Foundation (PEF)

APPENDIX C^{lvii}

Year	Table	Page no.	LESE MAJESTY CASES RECEIVED AND ADJUDICATED BY THE THAI SUPREME COURT, 2005-2009	
2005	1.6	8	No. of lese majesty cases received by Supreme Court	1
			No. of lese majesty cases adjudicated by Supreme Court	0
2006	1.6	8	No. of lese majesty cases received by Supreme Court	1
			No. of lese majesty cases adjudicated by Supreme Court	0
2007	1.6	8	No. of lese majesty cases received by Supreme Court	1
			No. of lese majesty cases adjudicated by Supreme Court	0
2008	1.6	8	No. of lese majesty cases received by Supreme Court	4
			No. of lese majesty cases adjudicated by Supreme Court	0
2009	1.6	--	No. of lese majesty cases received by Supreme Court	2
			No. of lese majesty cases adjudicated by Supreme Court	0

Endnotes:

ⁱ This submission to the Universal Periodic Review of Thailand has been prepared by a coalition of Civil Society Organizations (CSOs) from across Thailand. The authors of this submission are from 20 organizations set out in Appendix B, with representation from each thematic issue drafted in this UPR Thailand report. People's Empowerment Foundation acted as a secretariat this UPR Thailand Working Group, facilitating the process for the drafting of this UPR Thailand report. Regular consultations were made with different groups on each particular issue, gathering input from representatives of more than 100 organizations. This submission is endorsed, in whole or in part, by the 96 CSOs set out in Appendix A of this submission.

ⁱⁱ Information provided by The Irrawaddy News, an online news magazine that provides continuous coverage of events in Burma and Southeast Asia, news, analysis and opinion on certain issues affecting the region.

ⁱⁱⁱ See also, "UN Treaty Collection: International Covenant on Civil and Political Rights", http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en

^{iv} See also, "Committee on Economic, Social and Cultural Rights". <http://www2.ohchr.org/english/bodies/cescr/index.htm>

^v These articles refer to the access to basic services and facilities that would enable people with disabilities to travel freely and safely. This especially holds true for those living outside Bangkok and people who are foreign nationals.

^{vi} Although Thailand ratified the International Covenant on Civil and Political Rights in 1996 and Article 19 of the ICCPR which mandates the right to freedom of expression, the Lese Majeste law remains Thailand's greatest obstacle to freedom of expression". Many of the cases are not reported by the Thai mass media, and have largely refused to assess or criticize the law.

The Computer Crime Act of 2007 is also being used and abused by the Thai state to crackdown on those critical or opposing the monarchy, with the most visible cases being that of 'prachatai.com' on-line newspaper's director Chiranuch Premchaiporn who is currently facing a maximum of 50 years imprisonment term of found guilty of not deleting alleged defamatory remarks made by anonymous posters on the website quick enough.

^{vii} Bringing up the example of the invocation of state of emergency in April and May 2010, which enabled a deadly crackdown on mostly un-armed red-shirt protesters, which eventually led to a total death of 91 persons, mostly from the protester red shirts. In the three-southern-most provinces, the three laws have also been applied and severely affected not just the rights and liberty of the people in the area who are mostly Muslim but also distorted the judicial system which has been somewhat suspended by these laws.

^{viii} During the red-shirt protest in April and May 2010, laws such as the Traffic Act, has also be employed to hinder the rights to freedom of assembly.

^{ix} The national human rights commission was mandated in Article 199 and 200 of the new Constitution adopted by the government in October 1997" and formally constituted in July 2001.

^x See also, , "We did it for the people: Sonthi", *The Nation*, at http://www.nationmultimedia.com/2006/11/25/politics/politics_30019940.php, November 15, 2006

^{xi} A prominent example is the Democratic Party dissolution case on November 2010 which was found not guilty in two separate electoral fraud charges. The current prime minister was not charged from the May crackdown. In contrast, a group of people from the United Front for Democracy Against Dictatorship's (UDD) were imprisoned on terrorism charges and denied bail. Furthermore, the former Prime Minister, Samak Sundaravej, was discharged because of his financial dependence with the cooking show. See also Kane, Seth, "Thai courts weigh up crucial cases", *Asia Times Online*, at http://www.atimes.com/atimes/Southeast_Asia/MA25Ae01.html

^{xii} United Democracy against Dictatorship also referred to as the 'Red Shirt' group.

^{xiii} On the night that the Emergency Decree was declared, 36 websites affiliated with the UDD and other independent websites were blocked. The signal of the primary signal 'People's Channel' was also blocked.

^{xiv} See "Thailand: Interpretative declarations", at http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en#EndDec

^{xv} See "Thailand State of Emergency 2010", *Asian Human Rights Commission*, at <http://thailand.ahrchk.net/emergency2010/>

^{xvi} The Royal Thai Government had exercised its right to derogation under Paragraph 1 of Article 4 of the Covenant, in relation to its obligations under Articles 12 (right to liberty of movement), 19 (freedom of expression and freedom of the press) and 21 (right of peaceful assembly) of the Covenant for the duration of the Emergency Situation.

^{xvii} According to the fact-finding missions by the People's Information Center: April – May 2010 (PIC), the figure of 92 persons killed can be divided into the following groups: 77 civilians, 6 people from various professions (i.e. media and voluntary paramedics), 6 policemen and 9 army officials. The figure does not include those 2,800 people that were wounded, and the unknown figure of disappeared persons. In this death toll, the figure of 92 persons killed can be divided into the group of those that were killed on April 10th, 2010 (under the "appeal for the return of protest area" campaign by the Thai army), which amounted to 26 deaths, with 5 government officials who died from the bomb shell, 20 civilians who died from gunshot wound, 1 civilian from tear gas, including a Japanese journalist who died from a gunshot wound.

^{xviii} Mr. Nelson Rand, a Canadian journalist for ‘France 24’, age 34, was shot by the army in his left arm and leg, and his stomach while standing on the side of the UDD protesters and taking a picture of the army. Information obtained from fact-finding missions by the PIC.

^{xix} An example is the case of Mr. Samaphan Srithep, aged 17, one of the victims killed in the crackdown. There was a witness which confirmed that he was shot to death by an army officer during the clashes at Soi Rangnam. There was no weapon on the body of Mr. Samaphan and other protesters who were shot dead in the nearby areas. According to the autopsy examination done by Ramathibodi Hospital, the report states that Mr. Samaphan was killed by “Gun Shot Wound at Head or the bullet shot at the back of his head which resulted in tearing of his brain tissue and vessels”. Information obtained from fact-finding missions by the PIC. Translation of autopsy examination report done by People’s Empowerment Foundation.

^{xx} The incident on April 10th, 2010 was the first crackdown by the government. The military operation took place at night in two areas — the Kok Wua Junction and in front of the Satriwit School—which 26 deaths were killed. Five government officials were killed from the bombshell, while 20 civilians were all killed from gunshot. Remaining one civilian died from tear gas. One Japanese journalist was killed from gunshot.

^{xxi} Referring to the event on May 14th, 2010 when Mr. Sarayudh Umphun, a paramedic from Ruam Kratan Yoo (*Rescue Thailand*), was shot by an army official when the official was chasing after the UDD protestors past the parking lot of the Pinnacle Hotel. This happened after he had informed the army official that he was a part of the rescue team and was not affiliated with the protesters.

^{xxii} The Emergency Decree, Article 17 states that ‘a competent official and a person having identical powers and duties as a competent official under this Emergency Decree shall not be subject to civil, criminal or disciplinary liabilities arising from the performance of functions for the termination or prevention of an illegal act if such act was performed in good faith, non-discriminatory, and was not unreasonable in the circumstances or exceed the extent of necessity, but this does not preclude the right of a victim to seek compensation from a government agency under the law on liability for wrongful act of officials.’ See “Thailand: Repeal Emergency Decree”, Prachatai at www.ejp.icj.org/IMG/ICJThailandReport.pdf

^{xxiii} Article 112: The Lèse-Majesté Law Awareness Campaign Research Group; principal compilers: Ms. Kwanrawee Wangudom (+66-81-148-3432 / 081-148-3432 / kwanrawee@gmail.com) and Dr. David Streckfuss (+66-81-708-1852 / 081-708-1852 / dstreckfuss@gmail.com)

^{xxiv} Sections 4, 5, and 30 uphold the principle of equality of “all persons” who shall not suffer “unjust discrimination” for “difference in...constitutionally political view.” Section 45 guarantees that “A person shall enjoy the liberty to express his opinion, make speech, write, print, publicise, and make expression by other means,” and Section 50 ensures academic freedom “provided that it is not contrary to his civic duties or good morals.” Sections 28 and 29 forbid to the State to “affect the essential substances” of the “rights and liberties” that every person may exercise as long as it is not “contrary to this Constitution or good morals.” Finally, Section 6 upholds the principle that “The Constitution is the supreme law of State” and that laws contrary to the Constitution “shall be unenforceable.” Office of the Council of State (Thailand), *Constitution of Kingdom of Thailand 2007*, <http://www.asianlii.org/th/legis/const/2007/1.html>.

^{xxv} The Press Freedom Index is compiled and published by Reporters Without Borders based upon the organization's assessment of their press freedom records. It reflects the degree of freedom journalists and news organizations enjoy in Thailand, and the efforts made by the Royal Thai Government to respect and ensure respect for this freedom. See also, “<http://chartsbin.com/view/lko>” for the Press Freedom Index of Thailand

^{xxvi} Freedom House reports rated Thailand moving from “Free” from 2002-2005 to “Not Free” in 2007, to “Partly Free” until the present. <http://www.freedomhouse.org/template.cfm?page=22&year=2010&country=7932>

^{xxvii} David Streckfuss, “Truth on Trial in Thailand: Defamation, Treason, and Lèse-Majesté” (London: Routledge, 2011), pp. 157-186.

^{xxviii} The law’s legal status is further complicated by Section 8 of the 2007 Thai Constitution (and a similarly-worded provision in past Thai constitutions) reads: “The King shall be enthroned in a position of revered worship and shall not be violated. No person shall expose the King to any sort of accusation or action.” See, *Raatchakitjaanubeksa* [Royal Gazette] Special Issue, Vol. 93, Part 134, (21 October 1976), p. 46.

^{xxix} David Streckfuss, “The Intricacies of Lèse-Majesté: A Comparative Study of Imperial Germany and Modern Thailand,” in, Soren Ivarsson and Lotte Isager, eds., “Saying the Unsayable: Monarchy and Democracy in Thailand” (Copenhagen: NAIS Press, 2010.)

^{xxx} Since the 2006 coup, there have been an unprecedented number of lèse-majesté cases. From 2006 to 2009, the Court of First Instance received a total of 396 cases and handed down 213 decisions. The Appeals court over the same period received 36 new cases of lèse-majesté, and handed down 40 decisions. The Supreme Court has received 8 cases, and has yet to hand down a decision (see Table below). *Annual Judicial Statistics, Thailand 2005* / Rai-ngan statiti khadi san thua ratcha-anajak prajam pi 2548, *Annual Judicial Statistics, Thailand 2006* / Rai-ngan statiti khadi san thua ratcha-anajak prajam pi 2549, *Annual Judicial Statistics, Thailand 2007* / Rai-ngan statiti khadi san thua ratcha-anajak prajam pi 2550, *Annual Judicial Statistics, Thailand 2008* / Rai-ngan statiti khadi san thua ratcha-anajak prajam pi

2551, *Annual Judicial Statistics, Thailand 2009* / (Excel sheet version) Rai-ngan statiti khadi san thua ratcha-anajak prajam pi 2552.

^{xxxix} In November 2009, Thai Foreign Minister Kasit Piromya claimed Thaksin “is using a helping hand from a neighboring country as a tool to overthrow the monarchy and the Thai government.” See, *Asian Correspondent*, http://asiancorrespondent.com/bangkok-pundit-blog/kasit--thaksin-wants-to-overthrow-.htm?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+BangkokPundit+%28Bangkok+Pundit%29, November 16, 2009

^{xxxix} Streckfuss, *Truth on Trial in Thailand*, pp. 310-11.

^{xxxix} Somchai Preechasilpakul, “Konkai thi ‘ayutitham’ khaung krabuankan yuttitham thai,” *Fa Diaw Kan* 4:2 (mesayon-mithunayon 2459), p. 72.

^{xxxix} The following are notable lèse-majesté cases since 2007: 1) Jakrapob Penkair, a UDD leader, was charged with lèse-majesté for a speech he made at the Foreign Correspondents Club in Bangkok in August of 2007 entitled, “Democracy and the Patronage System of Thailand.” He has since gone into exile. 2) Chotisak Oonsoong and Chutima Phenphak, both involved with groups opposing the 2006 coup, have been under investigation for lèse-majesté since 2008 for having refused standing for the playing of the royal anthem in a movie theatre in September 2007. Formal charges were placed against the two in April 2008.

^{xxxix} Computer Crime Act, B.E. 2550 (2007), *Government Gazette* (Vol. 124, Section 27 kor. (18 June 2007), pp. 4-12.

^{xxxix} where 78 prisoners suffocated to death from being stacked five or six deep in the trucks

^{xxxix} According to DeepSouthWatch, a news agency under INSOUTH media

^{xxxix} Imam Yapha Kaseng died at Narathiwat on March 21, 2008 after being arrested and detained for two days. He was physically abused to death by military officers until his ribs broke and pneumothorax was sustained on his right chest during the time the deceased was held in custody by the military officers. See also, <http://www.ahrchk.net/ahr-in-news/mainfile.php/2008ahrcinnews/2099/>

Sulaiman Naesa is a 25-year-old alleged insurgent. He was found hanging dead in a detention cell at the reconciliation center of Inkhayut military camp in Thailand’s Pattani province. His case has been well-publicized as the first reported death in military custody since 2008 in the predominantly Malay Muslim region of southern Thailand. See also, <http://asiapacific.anu.edu.au/newmandala/2011/03/03/how-did-sulaiman-naesa-die/>

^{xxxix} See supranote xxxiv

^{xi} Information provided by the Foundation for Education and Human Resource Development (FEHRD)

^{xii} Regarding three cases, the children desired not to show their identity. Referring to the case of a 13 year old boy, whom was detained on 16th March 2007 for 12 days at Baan PohCheteng, KawaSubdistrict, Sungaipadee District, NarathiwatProvince, along with cousin and neighbor on charges of disrupting peace and order. Also referring to the case of another 13 year old boy, whom was detained on Mid June, 2007 at Banangstaa District, Pattani Province on suspicion of planting a bomb, during which time he was tortured, received combat kicks, and regularly held at gunpoint. This was during the time where the Thai army had a special operation to capture insurgents. Another youth also was held at Inkayud Camp on 27th July 2007 on account of disturbing peace. Information regarding these cases has been obtained from other former detainees who wish to keep their identity anonymous.

^{xiii} See *Isra News Agency*, <http://south.isranews.org/backword-statistic/544--5111--2188-.html>

^{xiii} Referring to a case where there was a series of death threat on protesters of power plant construction at Tha Sala District and HuaSai District, NakhornSriThammarat Province. There were death threat leaf-lets being disseminated as well. A report suggests that at Jana District, Songkhla Province, the volunteer staff were used to intimidate those who object the power plant.

^{xiv} In March 2011, Wat Nong Jok High School passed a resolution that forbade female Muslim students to wear Hijab.

^{xiv} Thailand has received 144,000 refugees from Myanmar that have registered with the Thai authorities, currently living in UNHCR temporary refugee shelters. Aside from these documented cases, there have been as much as 11,412 refugees in temporary hiding around the Thai-Myanmar border, especially around the Tak province, that have fled the country from war and human rights abuses. These temporary shelters have often become permanent refuge for most of this group. Information provided by Thai Refugee Committee based in Thailand.

^{xvi} Soon after the election in Myanmar, and during the hostilities in May 2010, groups of people had migrated from Burma, along the Western Thailand region in the province of Tak and Kanchanaburi, mainly of women, children, and the elderly groups.

^{xvii} Varying with the different provinces of Thailand.

^{xviii} According to a study done by Thai Labor Campaign and Thai Labor Solidarity, two non-governmental organizations committed to promoting workers’ rights in Thailand and increasing awareness of labor issues globally.

^{xix} Additionally, some migrant workers are subjected to corrupted civil registration officers and brokers who claimed they could pay and be registered as Thai nationals or as Undocumented in Civil Registration Persons and obtain fraud Thai national identifications or alien identification cards. Several areas with undocumented indigenous population and newcomer migrants were investigated for corruption by officials such as in Tak province. See, "พวจ.ตักสั่งไล่ประชากรชุมชนเม

สอด ทำบัตรผู้ไม่มีสถานะทางทะเบียน" [Tak Governor striped Mae Sot Community Residence Verification for Undocumented in Civil Registration Cards] at <http://www.statelessperson.com/www/?q=node/6242>

^lNational Verification (NV) process is mandatory to convert undocumented migrant workers who had been allowed to work in previous annual registrations to verify their nationalities, obtain official document from home countries and apply for work permits and visa to work and reside legally in Thailand. However, the process, particularly for migrants from Myanmar is very complicated. Thus many migrants were forced to rely on NV agencies which are quasi-regulated. Even with NV, visa and passport, some migrants may still face abuse and exploitation, see also Human Right Watch (2010) report "From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand." During this transition process The RTG imposed crackdowns which resulted in many migrants were arrested, exploited by security and immigration officers. See, "Thailand Serious About Deporting Unregistered Migrant Workers," *Irrawaddy*, at http://www.irrawaddy.org/article.php?art_id=17843, 2010, and "Thai government expedites national verification process," *Mizzima*, at <http://www.mekongmigration.org/?p=541>

^{li} According to bilateral Memorandum of Understanding (MOUs) between the RTG and Cambodian, Laotian and Myanmar governments, migrant workers from those countries are permitted to apply for visa and work permits in Thailand. However, the cost of for application through brokers are expensive, which could cause debt bondage and slavery.

^{lii} See, *supra* note xxxv.

^{liii} See, *supra* note lxvi

^{liv} See Romjor Panjoy's Special Report Section "Human Rights and the flames, part 3,; The fate of Human rights advocates, human rights during war, Khao Kwai" *Deep South Watch*, at <http://www.deepsouthwatch.org/node/227>

^{lv} See the report by Hina Jilani (2004), "Promotion and Protection of Human Rights: Human Rights Defenders Report" submitted by the Special Representative of the Secretary-General on the situation of human rights defenders. E/CN.4/2004/94/Add.1 12 March 2004

^{lvi} Refer to E/CN.4/2004/94/Add.1 at http://ap.ohchr.org/documents/alldocs.aspx?doc_id=9200

^{lvii} Where the number of cases in the Lower Court in the 9 regions did not equal the total for that year, we made the assumption that the remainder had gone through the Lower Court(s) in Bangkok, and placed that number in parentheses. Besides these, all the other numbers come straight from the *Annual Judicial Statistics*. In all the statistics, violations of the 1956 Criminal Code, Provisions 107-112, are grouped together. As Sections 107-111 covering doing bodily harm or threatening to do so are very rare, the vast majority can be assumed to be "word crimes" of lese majeste, Section 112.