

THAILAND

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 following national elections on July 3 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 the following: a number of abuses by government security forces and local defense volunteers in southern Thailand in the context of the continuing Muslim separatist insurgency; 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 freedoms of speech and press.

Other human rights problems included poor, overcrowded, and unsanitary prison and detention facility conditions; 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 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 72 suspects during the arrest process between October 2010 and September 2011. The police department with jurisdiction over the location of the killings investigated each case, although no details were available. For example, on April 27, Royal Thai Army (RTA) soldiers and forestry officials reportedly killed two suspects and wounded six in Phrae Province while raiding suspected illegal loggers; an investigation of the incident continued at year's end (see also section 2.d., Refugee Abuse).

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, on June 16, assailants shot and killed Suban Chirapanvanit, a major Bhum Jai Thai Party canvasser and aide to the de facto party leader, and also shot his wife in Bangkok in what was widely believed to be a politically motivated incident. Police arrested three suspects, one of whom had previously faced charges in a politically motivated shooting; charged them with premeditated murder; and continued at year's end to seek a fourth suspect. Additionally, there was an unconfirmed report that Democrat Party candidate Thaenkhun Chit-issara accused a member of parliament and an air force officer of possible involvement in the killing of Chutidet Suwannakoet, a canvasser, near Bangkok on December 10. As of year's end, no charges had been filed.

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

At year's end commissions continued to investigate the April and May 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 Truth for Reconciliation Commission of Thailand--which released its first interim report in April, recommendations to the government in September, and its second interim report in December--found that 16 of the deaths resulted from security force action. On September 19, on instructions from Deputy Prime Minister Chalerm Yubamrung, the Department of Special Investigations transferred the investigation of these 16 deaths, suspected to have been caused by security forces, to the Metropolitan Police. It remained

unclear how many were killed by security forces, armed factions associated with the protests, or accidentally, and no one had been charged with illegal or excessive use of force for any protest-related deaths as of year's end.

At year's end there were no developments in the National Human Rights Commission (NHRC) investigation of the May 2010 death of Sulaiman Naesa, whose body reportedly showed signs of torture, at the Inkhayuthboriharn Army Camp.

After investigation, authorities in May closed the case of police killing suspected drug trafficker and killer Mani Toommuang, while he was in custody in June 2010; police claimed self-defense.

There were no developments by year's end in the case of Makhoseng Pohtae, a suspected militant who died in custody in August 2010 due to injuries reportedly received while being tortured by Yala Province police. An internal investigation by the Southern Border Provinces Police Command found the abusing officers guilty of misconduct, but there were no developments in the subsequent National Counter-Corruption Commission (NCCC) investigation.

On July 20, the Ministry of Defense and the RTA settled a 2009 civil suit regarding the case of Imam Yapa Kaseng, who died after interrogation while in army custody in 2008, by paying his family 5.2 million baht (approximately \$173,000) and expressing regret. A potential NCCC criminal proceeding against five RTA suspects, under consideration since 2008, remained pending.

There were several clashes reported between Thai security forces and illegal cross-border loggers throughout the year. Most occurred in Sisaket Province and involved Cambodian citizens suspected of crossing into Thailand. For example, six Cambodians were reportedly killed in four separate incidents in border areas of Sisaket Province in October.

In addition there were clashes and artillery fire reported between Thai and Cambodian security forces in early February and late April in the area of the Preah Vihear temple/border dispute and in Surin and Sisaket provinces that resulted in unconfirmed reports of at least one Thai civilian killed and thousands of Thai and Cambodian villagers temporarily displaced.

b. Disappearance

There were no confirmed reports of politically motivated disappearances, although nongovernmental organizations (NGOs) sympathetic to the cause of antigovernment protesters reported that at year's end the whereabouts of up to 18 individuals remained unknown following their dispersal in April-May 2010. There also were multiple media reports of numerous protesters having fled to Cambodia. (Also see the April possible forced disappearance case in Yala Province in section 1.g., Abductions.)

On March 11, the Court of Appeals acquitted the five police officers charged with the 2004 disappearance of Muslim attorney and human rights activist Somchai Neelaphaijit, who had been representing suspects allegedly tortured by high-ranking police. However, at year's end the case remained before the NCCC. In addition on August 29, an assailant or assailants shot and killed Jehrohane Yusoh, the wife of Abduloh Abukaree, who had disappeared in 2009. He was a key witness in the Department of Special Investigations case against the high-ranking police allegedly connected to the disappearance of Somchai Neelaphaijit.

In June the UN Working Group on Enforced or Involuntary Disappearances requested a visit, but one had not been arranged by year's end.

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

The constitution specifically 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 April 2010 Emergency Decree effectively provides immunity from prosecution to security officials for actions committed during the performance of their duties.

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. By year's end there had been one prosecution, although no conviction, of a military official for alleged torture; there also were criminal actions being pursued against Royal Thai Police (RTP) officers.

On March 1, a court sentenced Police Senior Sergeant Major Suraphat (formerly known as Phairat) Sibason of Phlap Phla Chai 1 Police Station, Bangkok, to six

years' imprisonment for abuse of power after he arrested a female Burmese migrant worker and forced her to have sex with him in exchange for being freed without charge in 2009.

The NHRC, in a September 2010 report, found that torture occurred widely and systematically in the southernmost provinces. The study, which examined 35 alleged torture cases since 2006, found that state officials widely used beating and intimidation tactics. Torture tactics included covering the victims' heads with plastic so they were unable to breathe, applying lit cigarettes to body parts, beating victims with a wooden stick covered by a sponge, and using electric shocks. According to the report, most of the abusers were members of the armed forces or police who arrested and detained suspects under special laws including martial law, the Internal Security Act, and the Emergency Decree. The report was submitted to the government (the armed forces, police, and Interior Ministry), and at year's end the NHRC was awaiting a response.

In January and February, two prominent NGOs filed a petition protesting the use of brutality by RTA Task Force 38 in Narathiwat against suspected southern Muslim militants and alleging that Task Force 38 was secretly assigned as the preliminary interrogation unit to question suspects. The petitioners claimed to have evidence of at least seven torture cases involving the Task Force.

On August 10, the Criminal Court in Bangkok convicted Suderueman Malae, a 2004 torture victim, of maliciously giving false information to inquiry officers and sentenced him to two years' imprisonment. At year's end the case was under appeal, and Suderueman was released on bail. Suderueman had been a client of disappeared attorney and human rights activist Somchai Neelaphaijit (see section 1.b.) and had claimed that Police Major General Chakthip Chaijinda had been involved in the torture of Suderueman and others.

Prison and Detention Center Conditions

Prison conditions were poor. Most prisons and detention centers were overcrowded. There were approximately 250,000 prisoners in prisons and detention facilities designed to hold 150,000. Sleeping accommodations were insufficient, medical care was inadequate, and communicable diseases were widespread in some prisons, although prisoners generally had access to potable water supplied as tap water treated by water purification. Seriously ill prisoners at times were transferred to provincial or state hospitals.

According to the Ministry of Interior Investigation and Legal Affairs Bureau, 1,122 persons died in official custody from October 2010 to September 2011. Authorities attributed most of those deaths to natural causes. On February 17, guards shot and killed two prisoners during a riot in Ratchaburi Provincial Prison.

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.

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. Men, women, and children rarely were held 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 much of the maintenance and cleaning was managed and implemented by the prisoners themselves.

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. The Ministry of Justice, through its Department of Corrections, was responsible for investigating and monitoring prison and detention facility conditions, but authorities rarely investigated complaints and did not make public the results of such investigations.

Recordkeeping was generally substandard, infrequent, and out of date, with prisoners tracked through letters and phone calls rather than a modern online data-sharing system. Authorities often gave nonviolent offenders, minors, and convicts with disabilities alternative penalties rather than imprisonment, such as probation, suspended sentences, fines, or restrictions on movement. Official 2009-10 statistics showed fewer than 17 percent of convictions resulted in prison sentences served.

Conditions in immigration detention centers (IDCs) remained poor. The Immigration Police Bureau, reporting to the RTP, administered the IDCs, which were not subject to many of the regulations that govern the regular prison system. Overcrowding and a lack of basic medical care continued to be serious problems. Juveniles above the age of 14 were detained with adults in IDCs. There also continued to be complaints of inadequate and culturally inappropriate food, especially by Muslim detainees. There were reports that detainees, including children, were not permitted sufficient exercise at some facilities. There were two unconfirmed reports that guards physically abused IDC detainees.

The government permitted visits to prisons and IDCs by independent human rights observers, and International Committee of the Red Cross (ICRC) representatives were allowed to meet prisoners without third parties present, made repeated visits, and also received access to all police facilities in the southernmost provinces. However, the military continued not to approve ICRC requests to visit prisoners detained in military detention facilities in the four southernmost provinces, where detainees allegedly were mistreated. For example, there had been no observer visits to the Inkayuth Military Camp, Pattani Province, since 2008 (and there was unverified information that the camp's detention center was closed in November). 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 it varied on a case-by-case basis. UNHCR officials were able to interview detainees in Suan Phlu IDC, and access continued for third countries to process recognized refugees for resettlement.

Ombudsmen may consider and investigate complaints and petitions received from prisoners and provide recommendations to the Department of Corrections. However, 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).

Individuals who use drugs may be detained in compulsory rehabilitation centers (there were 86 such centers in 2010), and it was government policy to use these facilities to convert drug addicts into "decent citizens." The law requires no informed consent before drug users are sent to such centers, no individual clinical assessment of the severity of an individual's drug dependence, no due process, and no follow-up for those treated. 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. Additionally, civil society groups operating harm-reduction projects faced barriers to delivering their services to drug users, and there were 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, Pattani, and Narathiwat. The decree was in addition to martial law, which continued in 31 border-region and southernmost provinces 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 legal access to counsel, but in practice there was no assurance of prompt access to legal 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.

On August 16, the Udon Thani Court granted bail of one million baht (approximately \$33,000) each to 22 detained protesters from the United Front for Democracy Against Dictatorship (UDD or “Red Shirts”) charged with rioting and arson in Udon Thani Province when authorities violently dispersed the Bangkok protest in May 2010. Lawyers affiliated with the UDD movement continued to pursue bail for the remaining red-shirt detainees jailed in Bangkok, Udon Thani, Ubon Ratchathani, Mukdahan, Chiang Rai, and Chiang Mai provinces. At year’s end 41 of the original 422 remained in detention pending investigation or trial, and 10 had been sentenced and were imprisoned.

Role of the Police and Security Apparatus

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

The Internal Security Act (ISA) created the Internal Security Operations Command (ISOC) as a state agency under the command of the prime minister, who acts as ISOC director. The ISOC is considered an interagency monitoring body, with both civilian and military representation. The ISA also authorizes broad powers for the military. On January 17, as an exception, the government maintained the ISA in Mae Lan District, Pattani Province, without using the Emergency Decree or martial law, as a pilot project 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 Emergency Decree. The Emergency Decree provides the government greater powers than the ISA and therefore takes precedence. The ISA was lifted in Bangkok on May 24. 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, Lawyers' Council of Thailand (LCT), NCCC, Supreme Court of Justice, Justice Ministry, and Office of the Prime Minister also accept complaints of police abuse and corruption, as does the Office of the Ombudsman. The NHRC received 84 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 can be referred to a criminal court.

At year's end the joint NCCC-Office of the Attorney General (OAG) committee investigation into the April 2009 attempted killing of People's Alliance for

Democracy leader Sondhi Limthongkul continued, and the police officer and two soldiers for whom arrest warrants were issued remained free.

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 continued not to be followed much of the time. Families rarely took advantage of a provision in the law that allows them to bring personal lawsuits against police officers for criminal action during arrests.

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. In practice the system for issuing arrest warrants was subject to misuse by police and a tendency by the courts automatically to approve all requests for warrants. By law persons must be informed of likely charges against them immediately after arrest and allowed to inform someone of their arrest. The law provides for access to counsel for criminal detainees; however, lawyers and human rights groups claimed that police often conducted interrogations without providing access to an attorney. In the southern 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. Foreign detainees sometimes were pressured 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 was no definitive data available as to the extent of provision.

Under normal conditions the law allows police to detain criminal suspects for 48 hours after arrest for investigation. Court permission is required to extend detentions for additional periods (up to 84 days for the most serious offenses) to conduct investigations. Lawyers reported that police rarely brought cases to court

within the 48-hour period. Laws and regulations place offenses for which the maximum penalty is less than three years under the jurisdiction of the district courts, which have different procedures. In these cases police are required to submit cases to public prosecutors within 72 hours of arrest. According to the LCT, pretrial detention of criminal suspects for up to 60 days was not uncommon.

The law provides defendants the right to request bail, and the government generally respected this right. However, some human rights groups reported that police frequently either did not inform detained suspects of their right to request bail or refused to recommend bail after a request was submitted, particularly in drug arrests and cases involving violence in the southernmost provinces.

Under martial law the military has the authority to detain persons without charge for a maximum of seven days, and under the Emergency Decree, a person may be detained for up to 30 days without charge.

In February a public prosecutor dismissed criminal charges against Suthachai Yimprasert, assistant professor of history at Chulalongkorn University, who was arrested in May 2010 under the Emergency Decree for distributing leaflets critical of the government and detained without charge at a military camp in Saraburi Province for two weeks.

In January a public prosecutor dismissed charges against Amornwan Charoenkij, whom police had arrested in October 2010 under the Emergency Decree for selling flip-flop shoes printed with the faces of the prime minister and deputy prime minister (along with a statement authorities deemed to be criticism of the two) and released on bail.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary. Although the judiciary generally was regarded as independent, it was subject to corruption and outside influences. According to human rights groups, the lack of progress in several high-profile cases involving alleged police and military abuse diminished the public's trust in the justice system and discouraged 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; however, indigent defendants are not automatically provided with counsel at public expense. The LCT budget was reduced by more than 12 percent from 2010, following a 15 percent decrease from 2009. Legal aid often was provided on an intermittent, voluntary, public-service basis and was of low standard. 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. The Justice Ministry Office of Witness Protection had limited resources and primarily played a coordinating role. In most cases witness protection was provided by the police, but six other state agencies also participated in the program. Witnesses, lawyers, and activists involved in cases of alleged police abuse reported that protection was inadequate and that they were intimidated by the police sent to provide protection.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. The law provides for access to courts and administrative bodies to bring lawsuits seeking damages for, or cessation of, a human rights violation, and the government generally respected this right. However, Sections 16 and 17 of the Emergency Decree, in force in three provinces, expressly exclude scrutiny by the Administrative Courts or civil or criminal proceedings against government officials, although victims may seek compensation from a government agency instead.

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

The constitution specifically prohibits such actions, and the government generally respected these prohibitions in practice. However, martial law and the Emergency Decree give government security forces authority to conduct warrantless searches, and this authority was used in the southernmost provinces and border areas. There were complaints during the year from persons claiming that security forces abused this authority, but the decree provides security forces broad immunity from prosecution.

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

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

The internal conflict in the ethnic Malay, Muslim-majority, southernmost provinces (Narathiwat, Pattani, Yala, and portions of Songkhla) continued throughout the year. As a result of frequent bombings and other attacks by suspected insurgents and as a result of government security operations, tension between the local ethnic Malay Muslim and ethnic Thai Buddhist communities remained high, alongside a 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 in Narathiwat, Pattani, and Yala provinces, giving a wide range of powers to security forces. (See also section 1.d., Role of the Police and Security Apparatus, concerning a pilot project of maintaining only the ISA without the Emergency Decree or martial law in one district.)

Killings

Human rights groups accused government forces of extrajudicial killings of individuals suspected of involvement with separatists. For example, NGOs reported that on February 11 and 26, RTA task forces assigned to the southernmost region shot and killed five suspected insurgents while investigating a January 19 weapons theft in which four soldiers were killed.

According to statistics from the NGO Deep South Watch, separatist violence throughout the year resulted in 489 individuals killed and 1,044 injured in 905 incidents, similar to 2010 figures. As in previous years, separatists frequently targeted government representatives, including teachers and district and municipal officials as well as military personnel in bombings, shootings, and kidnappings. Separatists also killed and injured both Buddhist and Muslim civilians from many walks of life.

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 being questioned by security officials in the southern provinces. However, reputable NGOs reported the possible forced disappearances of two men (Ibbroheng Kahong and Dunhami Marae) who had been missing since April when they requested the return of their boat, which the Border Patrol Police (Neresuan Camp) in Amphoe Bannang Sata, Yala Province, had seized. Police told the missing men's relatives they had not seen the two men.

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 considered the arrests arbitrary, excessive, and needlessly lengthy, and they expressed concerns about detention facility overcrowding. Civil society groups accused the army of torturing some suspected militants at detention facilities.

Martial law allows for detention without charge up to seven days without court or government agency approval in the provinces of Pattani, Narathiwat, and Yala. The Emergency Decree, in effect in the same areas, allows authorities to arrest and detain suspects for up to 30 days without charge. After the expiration of this period, authorities may begin holding suspects under normal criminal law. Unlike under martial law, these latter detentions require the consent of a court, although human rights NGOs complained that courts did not always exercise their right to review these detentions. In some cases a suspect was in fact 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 its personnel arrested 143 persons under the decree during the year. It was unclear whether anyone was detained under martial law alone.

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 was 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. Regarding separatist groups, however, there were reports of recruitment of children under age 18 to carry out attacks.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Other Conflict-related Abuses

Human rights organizations alleged that the military mailed official letters to village headmen or local district officers in the four southernmost provinces, inviting them to nominate a specific number of "voluntary villagers" to attend a workshop. Credible sources claimed that villagers who attended these training sessions were, in the past, subjected to interrogations and collection of biometric data (fingerprints, DNA samples, and photographs), but this practice has become less common and may have completely ended. Nonetheless, the military continued to use written and verbal demands to require attendance at these events.

During the year insurgents burned two schools in the southernmost provinces. The Ministry of Education reported that since 2004, insurgents had burned more than 330 schools in the South, 40 of them more than once. 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, 187 teachers, students, and education staff were killed and 307 others injured due to separatist violence since 2004. During the year 13 students were injured and five were killed and 20 school personnel were injured and 13 were killed due to separatist violence--all increases from 2010. Separatist violence included attacks on medical facilities. According to the Ministry of Public Health, 86 public health volunteers had been killed, 58 health volunteers injured, and 25 community health centers burned or bombed in the South since 2004. According to the NGO Deep South Watch, separatists killed one public health official, compared with two public health officials killed and two injured in attacks on three facilities in 2010.

While official statistics were not available, there were reports--such as the November 15 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 violence-affected areas in the South to other provinces since 2004 (see section 2.d.). In August a member of the Southern Border Provinces Administration and Development Advisory Council stated to the media that almost all Buddhists had left remote rural areas and that approximately 60,000 of the original 200,000 Buddhists remained in urban areas of the southernmost provinces, but this data was unverified.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of 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 under a court order to restrict or confiscate publications and other materials for disturbing the peace, interfering with public safety, or offending public morals.

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. Trials may be conducted in secret, and the content of the alleged offenses may be prohibited from public disclosure; human rights organizations and academics expressed concern over the chilling effect these factors may have on freedom of expression. On December 9, the Office of the UN High Commissioner for Human Rights in Thailand expressed concern about continuing lese-majeste trials and the harshness of resulting sentences.

Significantly increased prosecutions for lese-majeste offenses started in 2006 and continued through 2011. 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 that the Office of the Judiciary reported. In 2011 through October, the Office of the Judiciary reported 85 new charges. The overall conviction rate remained nearly 100 percent.

On April 30, authorities arrested publisher and labor organizer Somyot Phruksakasemsuk on lese-majeste charges based on two articles published in *Voice of Thaksin* magazine in 2010. The court denied bail, and his trial began on November 21 and continued at year's end.

On December 8, a court sentenced dual national Joe Gordon (also known as Lerpong Wichaikhammat) to two-and-a-half years' imprisonment for lese-majeste

offenses. Authorities had arrested Gordon in May for involvement, while living in a foreign country, with a Web site that linked to the digital, translated version of a banned biography of the Thai monarch entitled, *The King Never Smiles*, and he had pleaded guilty.

On July 24, the Constitutional Court ruled that the secret trial which had convicted political activist Daranee Charnchoengsilpakul (also known as “Da Torpedo”) on three counts of lese majeste--resulting in an 18-year prison sentence in 2009--was not unconstitutional and the original conviction should stand. On December 15, the Criminal Court resented her to 15 years in prison, and she stated she would not appeal.

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, a former state enterprise of which the government owned a majority share. Nearly all stations were leased to commercial companies.

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.

On April 28, the police commissioner announced that police had raided 13 community radio stations in Bangkok as well as northern and northeastern provinces on April 26 for illegal possession of transmission equipment and illegal broadcasting. On July 5, police and NBTC officials raided six community radio stations in Nakhon Ratchasima Province.

Violence and Harassment: A few journalists were subjected to physical attacks due to their reporting. For example, on June 26, two gunmen on a motorcycle shot and killed Sawai Chimphli, a public school teacher and owner of a community

radio station in Ubon Ratchathani Province, while he was on the air. The motive remained unknown at year's end.

In August red-shirt supporters accused Somjit Nawakruasurithorn, a television reporter, of asking the prime minister aggressive questions, protesting her actions, and calling for her dismissal. Three media groups (the Thai Broadcast Journalists Association, the News Broadcasting Council of Thailand, and the Thai Journalists Association) called for an end to intimidation that they stated was designed to gag the press and suppress dissent.

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

On August 18, the Nakhon Pathom Province Court convicted six defendants of involvement in the July 2010 killing of Kongpop Sawasdi, a reporter for the *Thai Rath* newspaper in Nakhon Pathom who also owned the local newspaper, *Pathom Post*, and had written about a corruption case involving a local politician. The court sentenced Chanin Leepaiboon, a former Nakhon Pathom Administration Organization member who ordered the killing, and Apirak Timpitak, the gunman, to death and imposed prison terms of 20-50 years for four accomplices (Wien Nitcharoen, Prathip Yotkaew, Naret Saenthet, and Kamphon Misin). At year's end their appeals were pending. Authorities gave a seventh suspect, Prasan Phantei, immunity in exchange for his testimony against the others.

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. Broadcast media were subject to government censorship, both directly and indirectly, and self-censorship was 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 (approximately \$6,700) and two years' imprisonment. During the year criminal courts made several rulings on defamation and libel cases against political activists and politicians.

At year's end the appeal continued in the case of People's Alliance for Democracy leader Sondhi Limthongkul: A court released him on bail following his conviction in 2009 of defamation for statements criticizing a former deputy prime minister during a 2007 television program. He had been sentenced to two years in prison without probation.

Internet Freedom

The government imposed some restrictions on access to the Internet and reportedly monitored Internet chat rooms and social media. Individuals and groups generally could engage in the peaceful expression of views via the Internet, including by e-mail, although there were several content limitations, such as lese majeste, pornography, and gambling.

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 (approximately \$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 (\$10,000) 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.

Additionally, the government used provisions of the Emergency Decree to block thousands of Web sites and specific URLs without being required to obtain a court order. Web site operators whose sites are blocked under the decree are given no warning, and there is no appeals process. Despite the lifting of the decree in

December 2010, Web sites blocked under such provisions remained inaccessible, including popular Internet freedom advocacy blogs such as “Freedom Against Censorship Thailand” and “Thai Political Prisoners.”

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.

On November 24, the Minister of Information and Communications Technology stated that authorities had asked Facebook to remove 26,000 URLs of user accounts in August and September and 60,000 in October and November with content deemed offensive to the monarchy. The ministry also stated that those who spread such online content--“either directly or indirectly”--by “liking,” “sharing,” or posting comments on social networking sites could be prosecuted under the Computer Crime Act and lese-majeste laws.

On December 1, the ministry introduced the Cyber Security Operation Center, an office dedicated to monitoring the Internet for “content deemed harmful to the people of Thailand, especially lese-majeste content.” The new center was an expansion of the Internet Security Operation Center and designed to focus more on monitoring social networking sites.

The RTP Electronic Crime Suppression Division reported receiving 776 computer-related complaints during the year 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.

On September 2, authorities arrested Suraphak Phuchaisaeng, a freelance computer programmer from Nongkhai Province, for allegedly creating an antimonarchy Facebook page--the first known arrest for lese majeste under the new Puea Thai-led government--and charged him on November 25 without setting bail.

On March 15, the Criminal Court sentenced Thanthawut Thaweewarodomkul (also known by his online name, Red Eagle), whom authorities had arrested in

April 2010, to 13 years' imprisonment for his role as webmaster of a UDD Web site.

On November 23, Amphon Tangnoppakhun, age 61, received a 20-year prison sentence--reportedly the lengthiest such sentence ever--for sending four Short Message Service text messages that included lese-majeste content to the private secretary of former prime minister Abhisit Vejjajiva in May 2010. He was arrested in August 2010.

The trial in the first of two lese-majeste prosecutions of Chiranuch Premchaiporn, executive director of *Prachatai*, an independent online newspaper, began in February and continued at year's end. Her conviction could result in 20 years' imprisonment, because unrelated third parties--one of whom had similar charges dismissed on January 31--posted comments on Prachatai.com that authorities deemed offensive to the monarchy, and the comments allegedly were not removed quickly enough. The case could set a precedent for intermediary liability under the law.

Academic Freedom and Cultural Events

The government restricted academic discussions of the monarchy. For example, on May 11, after RTA officers filed a complaint, Thammasat University professor and noted historian Somsak Jiamthirasakul voluntarily appeared at a police station to be charged with lese majeste for discussing the future of the monarchy. Police did not arrest him, and his case remained pending at year's end.

Cultural events may be censored, usually for reasons of public decency. By law the state is authorized to ban the release of movies that "offend the monarchy, threaten national security, hamper national unity, insult faiths, disrespect honorable figures, challenge morals, or contain explicit sex scenes." The law stipulates that all films to be screened, rented, exchanged, or sold in the country must be screened and approved by the Film and Video Classification Committee. For example, in May the Ministry of Culture and the Administrative Court upheld the 2010 ban on the film, *Insects in the Backyard*, which told the story of a transgender single father and featured scenes with child prostitutes and same-sex sexual activity. 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 freedom of association and assembly on September 6.

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.

The provinces of Surat Thani, Phuket, and Phang Nga 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. Employers and NGOs may request permission from authorities for migrant workers to hold cultural gatherings and were often not required to do so if the gatherings were on private property.

Authorities did not restrict the UDD, which organized the April-May 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 up to three dozen of the cases had resulted in convictions, 10 of which remained in force after the December royal proclamation (see section 1.d., Amnesty).

Freedom of Association

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

The law prohibits the registration of 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.

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. Refugees and asylum seekers outside of designated border camps continued to be treated as illegal migrants, subject to arrest and detention. During the year the government regularized the process of bail for detained refugees and asylum seekers and, on May 30, released 96 detainees.

In-country Movement: The government restricted 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 45-60 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 camps on the border with Burma were not allowed freedom of movement and were by law confined to refugee camps. A refugee apprehended outside one of the official camps is subject to fines, detention, deregistration, and deportation.

Migrant workers who have undergone nationality verification and have passports are free to travel throughout the country. Those only holding work permits are restricted from traveling outside the province where they work without permission.

Other long-time noncitizen residents, including thousands of ethnic Shan and other non-hill tribe minorities, are required to seek permission from local authorities 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)

Unprecedented flooding in late 2011 caused the closure of an estimated 18,000 businesses and the displacement of approximately 650,000 workers in 19 provinces. The government established shelters in temples, universities, and stadiums for flood-affected victims countrywide and provided accommodation, food, and medical services.

The government provided some flood relief to migrant laborers from Burma, Cambodia, and Laos and did not deny relief to individuals based on status. Relief agencies provided information on accessing relief, although the lack of interpreters hindered efforts. The government announced it would not deport flood-affected migrants found outside their permit zone. Nevertheless, immigration officials in the Mae Sot area reportedly arrested and deported migrants lacking passports. In addition, some migrants reportedly turned themselves in and sought assistance in returning to their home countries. Many workers from Burma chose to return home: Officials estimated 50,000-100,000 returned via Mae Sot, Tak Province. NGOs reported that officials on both sides of the border at Mae Sot demanded bribes from migrants. Additionally, the media reported inadequate support overall for migrant flood victims in the border regions.

Official figures were unavailable, but several sources noted the departure of significant numbers of residents from the violence-affected southernmost provinces (see also section 1.g., Other Conflict-related Abuses). Official

registration data indicated small net losses in population between 2004 and 2010 in Yala and Pattani provinces, but a small net gain in Narathiwat Province.

Protection of Refugees

Thailand is not a signatory to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol. Nevertheless, authorities continued to host significant numbers of refugees, provide some protection against their expulsion or return, and allow 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 (see section 1.c.).

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 was 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. Resettlement countries were allowed to conduct processing activities in the IDC, and NGOs were able to provide health care, nutritional support, and other humanitarian assistance.

In August the media reported that authorities had arrested a Chinese Uighur male on immigration charges and immediately turned him over to Chinese authorities. The UNHCR was unable to interview the individual to determine if he was seeking asylum before his deportation.

The government continued to allow the UNHCR to monitor the protection situation of the more than 144,000 Burmese refugees and asylum seekers living in

the nine camps along the Burmese border but prohibited the UNHCR 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. Generally, authorities took those arrested to the border and deported them.

The government continued to facilitate third-country resettlement of camp refugees, and during the year resettled 9,262 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, hundreds of unregistered family members have been 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 the government agreed in principle to register family members through special PABs, by year's end no special PABs had been initiated.

Nonrefoulement: In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion, 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.

Beginning November 2010 through early 2011, more than 30,000 ethnic Karen and other Burmese entered the country at the town of Mae Sot, Phop Phra District, Tha Son Yang, and Three Pagodas Pass to flee fighting between the Democratic Karen Buddhist Army, often aligned with other ethnic armies, and the Burmese army. While active fighting was underway, fleeing populations generally were permitted to remain in the country at designated sites outside the official camps. The UNHCR, NGOs, and community-based organizations provided food, water, shelter, health, and sanitation services to most populations. When the fighting ceased, the RTA facilitated the return of the displaced Burmese to Burma with the promise that they could cross again if fighting resumed. Some NGOs reported

coerced or forced returns by the RTA before conditions were safe. At the beginning of the year, approximately 6,000 of these Burmese remained in Thailand. In the spring a few communities consisting of several hundred Burmese lived in hiding with relatives on the Thai side of the border. NGOs reported that fighting in various locations on the Burmese side of the border continued until midyear.

In January the Royal Thai Navy reportedly intercepted three boats carrying Rohingya (a stateless, predominantly Muslim group residing in western Burma) passengers. Thai authorities took the first boat with 91 passengers into custody and, according to the passengers, towed the boat out to sea and set them adrift. On February 6, Indian authorities rescued them off the Nicobar Islands. A number of the passengers reportedly required hospitalization for dehydration and exposure. Thai authorities placed the 135 passengers of the other two boats, of whom 14 were minors, in immigration custody. The national welfare agency took nine of these minors into custody and held them in a shelter while contacting their parents; the other passengers were held in southern Thailand IDCs, and the UNHCR and NGOs had access to them. From September to December, authorities reportedly encountered another five to seven boats at sea, provided humanitarian assistance, and allowed them to continue on. Additionally, authorities reportedly seized other boats carrying 221 Rohingya and Bangladeshi migrants on or near Thai territory, arrested the migrants, took them to the border with Burma, and released them.

Authorities continued to detain 44 Rohingya individuals from the interception of boats in 2009. During 2011 three detainees from the 2009 group reportedly died in custody, including two minors. The UNHCR and NGOs had access to detainees from previous years. During the year authorities released all detained Rohingya at the border with Burma, and at year's end there were no reports of Rohingya detained anywhere in Thailand.

On December 17, the government deported Kha Yang, a Lao Hmong, through an informal mechanism to Laos, where he was in custody at year's end. Authorities had forcibly returned him to Laos in 2009 as part of a group of 158 UNHCR-recognized Hmong refugees, and he had subsequently returned to Thailand.

Immigration Police continued to arrest and detain asylum seekers and refugees in Bangkok, including women and children. Ninety-six were known to be in detention at year's end, primarily from Sri Lanka and Vietnam. Bail agreements in 2011 between the Immigration Police and several registered Thai NGOs resulted

in the first-time release of significant numbers of refugees and asylum seekers from indefinite detention upon receipt of bail. By year's end authorities had released 157 refugees and four asylum seekers.

Refugee Abuse: On September 28, Yang Chao, one of a group of Lao Hmong returnees being irregularly repatriated to Laos near Nong Khai, Thailand, drowned in the Mekong River. Although unsubstantiated, foreign-based elements of the Hmong diaspora alleged that Thai authorities had beaten him, and there was no known investigation.

Employment: The law prohibits refugees from working in the country. Burmese refugees in the official camps are prohibited from working outside the camps.

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 hampered the ability of refugees to seek some necessary medical services. On October 3, the NGO Doctors Without Borders--which provided basic medical services to thousands of undocumented migrants and vulnerable populations outside refugee camps--announced its withdrawal from Thailand after 36 years of operation, because of alleged government interference and the NGO's inability to obtain permission to continue providing health care services.

Refugee children generally did not have access to the Thai education system; NGOs provided 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, crossed into Thailand. There were no reports of their forced return to Burma by the government, although persons of Shan ethnicity are not permitted to enter the refugee camps, pursue refugee status, or seek resettlement to third countries.

Stateless Persons

Since revision of its nationality and civil registration laws in 2008, the government has made considerable progress in identifying stateless individuals, providing documentation to preclude statelessness, and opening paths to citizenship for long-time residents. The government reportedly estimated that 550,000 persons in Thailand could be considered stateless, mainly residing in the northern region. Many are members of hill tribes, also known as highlanders. Others are migrants from Burma who do not have evidence of Burmese citizenship, ethnic minorities who have registered with civil authorities, previously undocumented minorities, and displaced persons (refugees) residing in border camps. A significant percentage of them may be eligible for Thai citizenship under the law, if they file applications.

Citizenship is not automatically conferred by birth within the country. 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). The labyrinth of citizenship-related laws and regulations and the existence of substantial gray areas within and among them continued to lead to their uneven application.

The law stipulates that every child born in the country will receive an official birth certificate, regardless of the parents' legal status. In practice 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 were reports of some local officials charging for the certificate although it is supposed to be free. During the year authorities fully implemented the provision of birth certificates in refugee camps, and as of the end of November, they issued more than 1,700 birth certificates to newborns. In some camps birth certificates were issued only to children of registered refugees.

By law, as noncitizens, stateless highlanders may not vote or own land, and their travel is restricted. Stateless persons are prohibited by law from participating 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.

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 on April 12.

Elections and Political Participation

Recent Elections: The July 3 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 590 complaints of fraud in relation to the national election. Among them, the ECT completed 201 investigations--which led to 194 dismissals, two reelections, and five findings of fraud that were referred to the Supreme Court--and 238 complaints were either dismissed by the ECT or withdrawn by petitioners without full investigation; the rest were under investigation at year's end.

During the year officials also held a vote recount for the July 3 national election in Yala Province.

There were several reports of election-related violence during the year (also see section 1.a.). At least five injuries were linked to attacks suspected of being politically motivated, including the March 2 car bombing that injured Anon Charoensuk, a local politician and canvasser for the Social Action Party, and the May 10 shooting of Pracha Prasopdi, a former Puea Thai member of parliament from Samut Prakan Province. At year's end authorities had not charged anyone in the former case but had charged four suspects in the latter. Another dozen such cases involved politicians as victims during the year, but the relationship to elections was not clear.

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 there were relatively few elected female officials. A major exception was the election of Thailand’s first female prime minister, Yingluck Shinawatra, during the year. The July 3 national election resulted in 81 women in the 500-seat lower house joining 25 women in the 150-seat Senate. Women chaired six of the Senate’s 22 standing committees, but they chaired none in the lower house and held three of the 36 cabinet positions.

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 30 Muslim and seven Christian members of parliament.

Section 4. Official Corruption and Government Transparency

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 police officers were arrested for drug trafficking, convicted on extortion charges, and reportedly involved with intellectual property rights violations. For example, a group of four officers was suspected of conspiracy to commit murder, and a police officer was purportedly involved in illegal logging.

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 government bank loan to Burma remained suspended. He continued to reside outside the country.

The NCCC and the Office of the Attorney General (OAG) continued to investigate allegations of corruption committed by members of the government led by Thaksin Shinawatra from 2001-06. The NCCC and OAG findings triggered

several cases at the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions. The NCCC brought several other cases to court and reported that there were 9,555 cases pending investigation in December. In the 12-month period ending October 1, the NCCC received 3,092 cases and completed 2,040 cases, 186 of which required further action, including disciplinary actions, impeachments, and referrals to the courts, the OAG, or a joint NCCC-OAG committee.

In August the OAG decided not to indict three of seven prominent former government ministers and other high-ranking officials on charges of malfeasance related to a 2004 purchase of fire trucks, and cited insufficient evidence for its decision. The NCCC stated it would pursue cases against the seven accused without going through the OAG. All seven cases were pending at year's end.

In addition to the NCCC and OAG, other entities playing a role in combating corruption included the Anti-Money Laundering Office, Supreme Court, Ombudsman's Office, Administrative Courts, and Justice Ministry.

Public officials were subject to financial disclosure laws.

The constitution provides public access to government information, and there were no reports that government agencies denied citizens' requests for such information that was lawfully available. If a government agency denies a request, a petition may be made to the Official Information Commission, and petitioners may appeal the commission's preliminary ruling to an appellate panel. Requests for information may be denied for reasons of national security and public safety. According to the commission, the vast majority of petitions were approved. There were 587 petitions received and 247 appeals during the year.

On August 23, the NCCC convicted the former director of the Tourism Authority, Chuthamat Siriwan, and her daughter, Chittisopha Siriwan, for corruption related to a 2010 film festival bribery case. At year's end the case was under OAG examination.

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, faced 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. Very few NGOs were accorded tax-exempt status, which sometimes hampered their ability to secure adequate funding.

On July 28, gunmen shot and killed Thongnak Sawekchinda, an environmental activist in Samut Sakhon Province, in front of his house. He had protested the transport and use of coal that resulted in water, air, and soil pollution. Police arrested seven suspects, some of whom claimed a local coal transportation company hired them, and the provincial public prosecutor's office continued to examine the case at year's end.

On September 11, assailants shot and killed Thatsakamon Ob-om, former parliamentary candidate and a leader of a Karen ethnic minority movement in Kaeng Krachan National Reserve forest, in Amphoe Ban Lat, Phetchaburi Province. His movement had petitioned and protested the government's destruction of several Karen homes.

On October 11, the Prachuap Khiri Khan Provincial Court announced a Supreme Court decision upholding the conviction of environmental activist Jintana Kaewkhao and her sentence of four months' imprisonment for trespassing against a company building a coal-fired plant in the Hin Krut and Bo Nok areas of the province. She was given a royal pardon in December.

UN and Other International Bodies: According to a December 21 UN report, there were no developments regarding the 2010 visit requested by the UN special rapporteur on the situation of human rights defenders.

Government Human Rights Bodies: The constitution mandates an independent NHRC composed of seven members with expertise in the protection of human rights, recruited by a committee, and selected by the Senate. It is tasked with producing an annual report on the human rights situation in the country. During the year the commission received 1,029 petitions, of which 608 qualified for investigation, but modest staffing and resources hampered 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 April-May 2010 political protests was leaked in July and roundly criticized, no official document was released by year's end. The combined 2010/11 report was scheduled for release in early 2012. Several civil society leaders rated the current NHRC poorly and publicly debated whether the weakness was institutional or simply a result of capacity limitations among commissioners.

The Office of the Ombudsman is an independent agency and has the power to consider and investigate complaints lodged by any aggrieved 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. All petitions are examined, but the office cannot compel agencies to comply with its recommendations. The office is required to submit annual performance reports to the prime minister and National Assembly. Its 2011 budget was 190 million baht (approximately \$6.3 million), up from 156 million baht (\$5.2 million) in 2010. From October 2010 to September 2011, the office received 2,135 new petitions, continued investigating 1,123 cases from the previous year, and resolved 1,816 cases. More than 80 percent of cases were completed within one year. Surveys in 2010 by the King Prachadhipok Institute concluded that 52 percent of the public trusted the Office of the Ombudsman.

The following 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 believed the committees were well intentioned but lacked the enforcement capability required to be effective. They also were described as reactive, difficult to access, and hampered by the political affiliations of their chairmen.

Following the dispersal of the 2010 antigovernment protests, then-prime minister Abhisit Vejjajiva, as part of a proposed national reconciliation plan, formed three commissions to investigate and make recommendations. The chairman of the National Reform Committee dissolved it in July as governing power was about to transfer and before the outgoing government acted on the committee's report. The second, the Assembly for National Reform, which is responsible for mobilizing persons from all sectors of society to participate in national reform, was reportedly still active but had not produced significant results.

The third, the Truth for Reconciliation Commission, established as independent and chaired by Khanit na Nakhorn, received continuing support and resources from the governments of then prime minister Abhisit Vejjajiva and Prime Minister Yingluck Shinawatra to establish causes, document facts, determine appropriate remedies, and recommend steps to prevent a recurrence of large-scale protests. Its April 24 interim report noted that it lacked subpoena power and witness protection capability and that its credibility was “obstructed” since it had been established and was funded by the government (see also section 1.a.).

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. Nonetheless, in practice some discrimination existed, and government enforcement of equal protection statutes was 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. According to the police, 3,537 rape cases were reported during the year, with one case in which the victim was killed, and police arrested suspects in 1,542 of these cases, including the one that resulted in the victim’s death. The Health Ministry reported that 12,554 women older than age 18 (74 percent between the ages of 25 and 45) reported abuse in 2010 and sought assistance from the ministry’s One Stop Crisis Center. Of these victims, 75 percent reported physical abuse, and 15 percent reported sexual abuse.

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 (approximately \$267 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, 1,635 cases involving sexual assault were filed with the courts, and 530 were completed. Sentencing information was not available.

NGOs believed that rape continued to be a serious problem. According to academics and women's rights activists, rapes and domestic assaults were underreported, in part because state agencies tasked with addressing the problem were not adequately funded and law enforcement agencies were perceived to be incapable of bringing perpetrators to justice. Police sought to change this perception and 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 law imposes a fine of up to 6,000 baht (approximately \$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.

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

The Ministry of Social Development and Human Security (MSDHS) reported that 831 cases of domestic violence were recorded during the year nationwide. In 136 cases the victims chose to pursue criminal charges, while in 367 cases they chose not to, and 141 cases remained in consultation at year's end; the rest of the choices were unknown. At year's end 105 of the criminal cases were under police or public prosecutors' investigation and court mediation, prosecutors dismissed four, eight reached plea agreements, 12 were found guilty, five were dismissed by the court, and two were under appeal. Sentencing information was unavailable. Of the individuals involved, 588 alleged abusers were male and 52 were female, and 604 victims were female and 70 were male; data for the others were 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 (approximately \$667) for individuals convicted of sexual harassment. Private sector employees must file criminal charges if they have a sexual harassment claim. The punishment depends on the degree of harassment and age of the victim. Abuse categorized as an indecent act may result in imprisonment of up to 15 years and a fine of up to 30,000 baht (\$1,000). 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.

Sex Tourism: Sex tourism was a problem, but sources differed as to its extent. Although there are no laws that specifically address it, laws on prostitution and trafficking in persons contain provisions to combat it.

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. The publicly funded medical system provided access to contraceptive services and information, prenatal care, skilled attendance during childbirth, and essential obstetric and postpartum care. Women had equal access to diagnosis and treatment for sexually transmitted infections.

According to data from the Population Reference Bureau, approximately 77 percent of married women and girls ages 15 to 49 used modern contraception methods. Although statistics were unavailable, the percentage of unmarried women, men, adolescents, ethnic minorities, and migrant workers who had access to contraception was estimated to be lower. Approximately 98 percent of births were attended by skilled health personnel, and the lifetime risk for death during childbirth was estimated at one in 1,200. Prenatal and postnatal care was estimated to be accessible to more than 90 percent of mothers and babies.

Discrimination: In general women enjoy the same legal status and rights as men. Nonetheless, women experienced discrimination on occasion.

The law does not mandate nondiscrimination in hiring practices on the basis of gender, 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 received 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) did not accept female students, although a significant number of instructors at those academies were women. According to the Armed Forces Personnel Directorate, 58 women held the rank of general or above across all military branches and within the Ministry of Defense as of December. The Police Cadet Academy for commissioned officers accepts female cadets, and 60 of 240 places in the 2012 cadet class were reserved for women. According to the Office of the Civil Service Commission, women held 24 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: Citizenship is not automatically conferred by birth within the country, but all children born in Thailand are entitled to birth registration. By law citizenship is based either on birth to one or two 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 cabinet approval or as a result of nationality law. According to NGOs, highlanders and other stateless individuals on occasion did not register births with the authorities because administrative complexities, misinformed and unscrupulous local officials, language barriers, and restricted mobility made it difficult to do so (see also section 2.d.).

Education: Education is compulsory, free, and universally provided for 15 years. While this policy is applicable to Thai and non-Thai children, migrant children in practice have more limited access to schooling due to frequent moves and a lack of the Thai language. Violence in the southern provinces, especially that aimed at public school teachers, sporadically forced the temporary closure of public schools and disrupted the educational process there. Many NGOs reported that most children of registered migrant workers, particularly in Samut Sakhon and Chiang Mai provinces and Mae Sot District, were permitted to attend public schools, but language barriers, distance from school, and frequent relocations to follow parents to new job sites prevented some migrant children from attending school. These children also remained without access to community services provided to children attending public schools, such as day-care centers, government-subsidized free milk, and lunch privileges. Migrant workers who could afford 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 (approximately \$1,300) for sexual intercourse with a victim under age 13. If the victim is between the ages of 13 and 15, the penalty is four to 20 years' imprisonment and the same range of fines.

The Health Ministry reported that 13,190 children reported abuse in 2010 and sought assistance from the ministry's One Stop Crisis Center. Of these victims, 88 percent were girls; 68 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. Persons accused of pedophilia were charged under appropriate age-of-consent and prostitution laws.

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 forced, coerced, or lured into prostitution. While it was widely believed there were fewer incidents of citizens forced into prostitution, children from poor families remained vulnerable, and there were some incidents 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 (approximately \$4,000). 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). Parents who allow a child to enter into prostitution may also be punished and have their parental rights revoked. Those who procure children for prostitution face strict penalties, and the punishment is more severe if the minors involved are under age 15. The law prohibits the production, distribution, import, or export of child pornography. The penalty is imprisonment for not more than three years and a fine of not more than 6,000 baht (\$200). The law also imposes heavy penalties on persons who sexually exploit children, both boys and girls, younger than age 18 and defines punishments for pimping, trafficking for labor exploitation, and human smuggling.

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 being deported. Ultimately the government either sent citizen street children to school, to occupational training centers, or to their families with social-worker supervision. Some street children from other countries were repatriated.

Street children were often omitted from national reports on child labor matters, and national statistics on street children often included only citizens. During 2008-09 the MSDHS reported that 15 of 139 human trafficking cases were a result of forced begging. While there are no accurate numbers of beggars, the Bangkok Metropolitan Administration estimated in January 2010 that approximately half of the beggars in Bangkok were migrants, primarily Cambodian, and the other half were Thai. Groups of child beggars included homeless children; kidnapped children; and children who are 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 country-specific information see the Department of State's report at 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.

Persons with Disabilities

The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in education, access to health care, or the provision of other state services, but government enforcement was not 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. A National People with Disabilities Day is observed annually on November 14.

The government maintained 43 special schools for students with disabilities. The Ministry of Education reported that there were 76 centers nationwide offering special education programs for preschool-age children, one in each province. All state schools nationwide, approximately 30,000, are required by law to accept students with disabilities. 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 111 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. There were reports of schools turning away students with disabilities, although the government claimed that such incidents occurred because schools did not have appropriate facilities to accommodate them.

Some persons with disabilities who found employment were subjected 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 was not uniformly enforced. Government officials estimated that as many as half of all firms complied with the law during the year; the chairman of the Council of Disabled People of Thailand believed the number to be 35 to 45 percent, mostly due 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 resided in 13 northeastern provinces--continued to live under laws and regulations that could restrict their movement, residence, education, and occupation. The Chinese are confined to living in the three northern provinces of Chiang Mai, Chiang Rai, and Mae Hong Son. According to the Interior Ministry, none were granted citizenship during the year.

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. They also were barred from state welfare services such as universal health care.

The law provides citizenship eligibility to certain categories of highlanders who were not previously eligible (see section 2.d.). 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, contributed to a continued backlog of pending citizenship applications as well as improperly denied applications.

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

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

No laws criminalize sexual orientation. Lesbian, gay, bisexual, and transgender (LGBT) groups were able to register with the government, although there were some restrictions on the language that may be 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 was 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.

On September 12, Bangkok's Central Administrative Court ordered the Ministry of Defense to stop describing transgender persons as "permanently mentally disabled" in conscription records, and the military reportedly complied. Some rights advocates considered this a significant step toward reducing the harmful effects on future employment opportunities caused by the policy of relieving gay and transgender persons from duty under the draft because of their assumed detrimental effect on the military's strength, image, and discipline.

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 four major insurance 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 intensive educational outreach efforts and an online campaign 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, an estimated 8,000 businesses pledged not to require HIV/AIDS tests for employees nor to discharge infected employees and vowed to hold regular awareness campaigns, with 1,505 pledging during the year.

At year's end the NHRC had not issued its final recommendation in the case of the so-called AIDS temple, Wat Phrabat Namphu, which sheltered many dying AIDS patients but also displayed corpses as a cautionary tale--allegedly with patients' consent. A preliminary agreement permitted the temple to display anonymous corpses.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law 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. In March the cabinet approved a draft law proposed by the Office of the Civil Service Commission to allow civil servants (excluding soldiers and police) to form or register a union, and as of year's end the draft remained under review by the Council of State. 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.

Antiunion actions by employers are prohibited, although the law also requires that union officials be full-time employees of the company or state enterprise, which makes them vulnerable to employers seeking to discipline workers who served as union officials or who attempted to form unions. The law prohibits permanent union staff, thus limiting the ability of unions to organize in depth and be politically active. Workers may be dismissed for any reason, provided severance payment is made. The law does not provide for reinstatement but a court decision can allow for the reinstatement of an employee and compensation of salary for losses while absent from work.

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 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 provided for the right of citizen private sector workers to organize and bargain collectively and defined the mechanisms for collective bargaining plus 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, labor courts ordered reinstatement of employees in some cases where dismissal resulted from union activity and was therefore illegal, but since the process to request reinstatement was lengthy and costly for the employee, most cases were settled out of court through severance payments to the employee with no punishment of employers.

A system of labor courts exercised judicial review over most aspects of labor law for the private sector. The Ministry of Labor reported that 29,638 charges were referred to the Central Labor Court in 2010: most conflicts involved violations of law and working-condition agreements.

Problems of collective labor relations were adjudicated through the tripartite Labor Relations Committee (LRC) and are subject to review by labor courts. Workers may also seek redress through the NHRC. In private sector labor disputes that cannot be resolved through negotiations 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 this legal authority was seldom used. Redress of grievances for state enterprise workers was handled by the State Enterprise Relations Committee. Labor leaders generally were satisfied with the treatment that their concerns received in these forums, although they complained that unjustly dismissed union leaders were awarded only back wages with no punitive sanctions against the employer, thus failing to dissuade employers from firing union organizers and activists.

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. In practice the right to organize was exercised. Registered migrants did join unions run by Thai nationals, but language barriers and the segregation of Thai and migrant workers by industry meant that their numbers remained low.

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. Civil servants held a conference in 2011, but there was no additional information on their ability to organize.

The law constrained the capacity and sustainability of unions by allowing only two government-licensed outside advisers to assist a union in collective bargaining. Local-level Ministry of Labor offices reportedly blocked the licensing of labor advisers deemed “too activist.” Furthermore, employers have the right to block any licensed adviser from advising a labor union during collective bargaining negotiations. Unions must use advisers whom the employer deems acceptable. In practice this meant that 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 2010 the Department of Labor Protection and Welfare reported 170 informal conflicts between employers and employees involving 110,334 employees: 145 conflicts were resolved without walkouts, eight were referred to a labor court, and 17 continued under the department's process. The department also reported 66 formal labor disputes, a significant drop from the number in 2009, and one lockout with two strikes that involved 2,155 employees. Most disputes were related to wages and other benefits.

Employers reportedly discriminated 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 the registration of the union. As a result of late-2011 flooding in industrial park areas in the central region, union activists reported dismissals of union members who claimed losses as a result of flooding. There were also cases reported of workers being dismissed from their jobs for engaging in union activities. In some cases the labor courts ordered workers reinstated if the grounds for their dismissals were proven unlawful. Some of these workers were subsequently reinstated.

In practice severance pay upon dismissal was not always provided despite legal requirements. NGOs reported that some workers who were dismissed during the floods received severance pay lower than the amount legally required.

The requirement for 50 percent union member approval set a high barrier to 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 for penalties, including imprisonment and possible compulsory labor, for strikers in state-owned enterprises.

On July 28, the Central Labor Court ruled legal the request of State Railways of Thailand (SRT) to dismiss seven union leaders, including the president of the State Railway Workers Union of Thailand, Sawit Kaewwan, who had organized a work stoppage to protest unsafe engines after a crash in Prachuap Khiri Khan Province in 2009 resulted in seven fatalities. In addition the court ordered the workers to

pay SRT 15 billion baht (approximately \$500 million) plus annual interest for damages incurred. The NHRC, ILO, and local NGOs stated that the strike sought to improve train safety conditions, not damage the company, and that the dismissals constituted an abuse of worker rights. At year's end the case was under appeal in the Supreme Court.

On October 7, the LRC ruled that three workers should be reinstated with compensation since they had been dismissed unfairly from their positions at KFC outlets in Bangkok for advocating better pay and attempting to organize a union. The employer, Yum Restaurants International (Thailand), reinstated the workers but also appealed the court decision. One NGO reported that workers were reinstated but harassed by fellow workers in an attempt to force them to quit.

Labor brokerage firms used a “contract labor system” under which workers signed an annual contract. Although contract laborers performed the same work as direct-hire workers, often they were paid less and received fewer, or no, benefits. 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 equal pay and benefits are required for subcontract and regular employees.

In practice legal provisions that define who can join a union (“employees working for the same employer” or “employees in the same description of work”), coupled with requirements that the union represent a certain percentage of the workforce, could hamper collective bargaining efforts where contract workers are not considered part of the potential bargaining unit but make up a substantial portion of the workforce. Because contract workers are classified 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 constitution prohibits forced or compulsory labor, except in the case of national emergency, war, or martial law, or to avoid 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.

Employers often kept possession of migrant workers' registration and travel documents, which restricted their movement outside the work site, despite laws prohibiting this practice. Reportedly, some migrant workers requested that employers hold their documents for safekeeping.

Reports of sweatshops and abusive treatment continued in a few sectors, including 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 section 7.d.). For example, workers reported that employers prevented their leaving their work sites.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

Sufficient 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 (approximately \$6,700), or both.

The law provides limited coverage to 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 was the primary agency charged with enforcing child labor laws and policies. Labor inspectors, widely considered to be too few and reactive to complaints rather than proactive, generally could not speak ethnic minority languages, which hampered their ability to communicate with workers, especially migrant workers. In an effort to improve labor law enforcement, the ministry's Department of Labor Protection and Welfare inspection plan for the year prioritized 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.

The Social Security Office under the ministry reported there were 51,139 children ages 15 to 18 formally working and registered in the social security system in 2010. This figure was almost 40 percent less than in 2009; the reduction may have resulted from the constitutional extension of free education from nine to 12 years and government policy that extended free education, including coverage of fees, books, and uniforms, further to 15 years. The Department of Labor Protection and Welfare under the ministry reported that labor inspectors inspected 3,624 working children between ages 15 and 17 in 2010 and found only one case of violation of underage children working in a small factory in Prachuap Khiri Khan Province. The number of working children inspected increased from 2,774 in 2009 and demonstrated increased efforts by the ministry to inspect small facilities (often suspected of employing most child labor).

In practice 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 some garments, pornography, shrimp, and sugarcane were produced and processed by child labor in violation of international standards. In urban areas most underage individuals worked in the service sector, including in gasoline stations, small-scale industry, and restaurants. Observers believed that while the prevalence decreased, some children (usually foreign) were exploited in street selling, begging, 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 in larger, export-oriented factories and registered processing facilities. 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, was likely much larger when considering child laborers in the informal sector, including unregistered migrant children. According to a study funded by the ministry and ILO, labor abuse of child citizens continued to decline, and such children made up less than 1 percent of the workforce. 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.

d. Acceptable Conditions of Work

The national daily minimum wage ranged from 159 to 221 baht (approximately \$5.30 to \$7.37), depending on the cost of living in various provinces. The national poverty line is 56 baht/person/day (\$1.87). On November 23, the government sought to help flood-affected employers by announcing postponement of the prime minister’s promised increase in the minimum wage to 300 baht daily (\$10) from January to April 2012. The government also sets separate wages for state enterprise employees and civil servants with some additional flexibility given to each ministry or department.

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 of Labor promulgated the Occupational Safety, Health, and Environment Act in January regarding work conditions.

The law prohibits pregnant workers from working on night shifts, overtime, and holidays, with dangerous machinery, or on boats. In some cases a pregnant employee who works in an office position that is not physically demanding may work overtime, if the employee consents. Despite the law's prohibition against dismissing pregnant workers, there continued to be reports that employers laid off workers who became pregnant. There is no law affording job protection to employees who remove themselves from dangerous work situations.

The ministry 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 26 percent of inspected workplaces did not pay the minimum wage, especially small enterprises. Labor protections also apply to undocumented workers, but many unskilled and semiskilled migrant workers worked for wages that were at times significantly less than the minimum wage.

The ministry also enforces laws related to occupational safety and health. In 2010 it employed 678 inspectors for an estimated 387,000 workplaces, and according to ministry statistics, they inspected 16,867 workplaces during the year and found 1,372 workplaces (9 percent) in violation of health and safety regulations, most involving fire accidents, failure to establish safety committees, and inappropriate levels of heat, light, and noise.

The law imposes minor penalties and fines on employers that violate it, which one NGO considered insufficient. The new Occupational Safety, Health, and Environment Act went into effect on July 16, but its impact on worker safety was unclear at year's end. According to the Department of Labor Protection and Welfare, the incidence of legal violations regarding workers' safety was highest in consumer goods production, hotels, restaurants, and the construction industry.

During 2010 there were 146,511 reported incidents of diseases and injuries from industrial accidents, including 103,813 minor disabilities (resulting in no more than three days' work missed) and 42,698 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. In medium- and large-sized factories, government health and safety standards often were applied, but overall enforcement of safety standards was lax. In the informal sector, health and safety protections continued to be substandard.

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

The government worked toward regularizing migrant labor to help promote safe work conditions and reduce migrants' vulnerability to abuse. Authorities required migrants to register and undergo nationality verification. Those who register are permitted to work and live temporarily in Thailand for two years and have access to social security and healthcare benefits. Children of registered migrants are entitled to register for residential permits if their parents have such permits.

Migrants without documentation remained vulnerable and without recourse to law. Threatened and actual deportation remained a problem. Credible NGOs reported migrants often paid additional fees to police and immigration officials if caught without documentation in order to avoid deportation. NGOs complained that a June 2 order by former prime minister Abhisit to deport undocumented migrants exacerbated the situation. In response to criticism, the Ministry of Labor requested that Immigration Police refrain from deportation during the registration period. As of November the government reported that the total number of registered migrant workers in Thailand from Burma, Cambodia, and Laos reached an estimated 1.9 million. The government announced that another registration round was scheduled to occur in 2012 to help register the remaining unregistered population, which may number as high as one million but fluctuated due to regular cross-border travel.

As part of a broader policy to facilitate legal status for migrants, the government implemented process improvements in 2011, including the establishment of one-stop service centers in Bangkok and 16 provinces, 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 one mistreats migrants or violates the law.

Migrant workers who complete nationality verification have access to Social Security Office funds. The government recruited private insurance companies to establish a separate Workers' Compensation Fund for migrant workers, but at year's end the fund had not been established due to lack of funding. NGOs reported several cases of registered migrants who had not passed nationality verification and were denied accident compensation.

NGOs 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. Migrants reportedly received well below the minimum wage, worked long hours in unhealthy conditions, and lived with the fear of arrest and deportation if unregistered. Civil society observers continued to criticize the government's handling of vulnerable migrant workers. In the Thai/Burma border area of Mae Sot, brokers often shadowed workers at Thai deportation centers, flagging their arrival at the Burmese border to procure additional fees from migrants.

Exploitive labor supply agencies charged Thai citizens working overseas large, illegal recruitment fees which 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, contributed 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 (approximately \$16,700). The Ministry of Labor's Department of Employment issued regulations limiting the maximum charges for recruitment fees, but effective enforcement of the rules was difficult. On May 25, the ministry signed a two-year agreement to draw on ILO technical support to improve the recruitment and protection of Thai and foreign workers.

During the year the Department of Employment reported investigating labor fraud by migrant labor recruitment agencies and suspending two licenses, compared to nine suspensions in 2010. Authorities also identified 377 individuals in 321 cases as subject to criminal investigation for possible violation of the law.