

# Safeguarding human rights in Thailand : opportunities and challenges

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## **Safeguarding Human Rights in Thailand: Opportunities & Challenges**

### **1. Human rights development in Thailand**

The phrase 'human rights' is a relatively new term for Thai people. It can be assumed that Thai people heard the word "rights" since their association with the western world. But they must wait until the democratic revolution in 1932 which changed the Absolute Monarchy to constitutional monarchy. Thai people were convinced about their rights and freedom. Unfortunately in the first 40 years after the change of the administration, people had no time to think of their rights, even though Thailand was recognized by the Universal Declaration of Human Rights 1948. It was because the country had been under a military dictatorship in which top ranking military officers took turns in taking power and the helm of the nation. Nobody talked about his or her rights. All Thai political regime became a more and more authoritarian system finally leading to a military dictatorship in 1948. This regime did not like people to hear or speak any language of 'democracy'. This included the phrase 'human rights'. They were able to do was to keep their lives safe and play "Be Smart Play Safe" without offending anybody in power. Politicians of opposition sides were murdered. Communist was always the charge imposed on people who had different ideas from the government's and the penalty been drastic. Members of the media were killed and disappeared. At that time, nobody talked or even thought about rights. People sometimes suffered from rice shortage and poor people had been almost completely neglected. If they complained about their poverty, they would be branded as Communists. If they were caught practicing Communism, they would be locked up with keys thrown away or even executed. Workers were not allowed to dream about setting up their union. Any movement undertaken by the working class was branded as communist acts. So many activists had been prosecuted on this charge.

However with the promulgation of the constitution of 1968 (drafted for ten years), the public was able to claim some of their rights back. Students and people of the educated class started to play roles in politics. Some columnist began to write about the U.S.' domination, the presence of US troops in Thailand for the Indochina war. The injustice conducted against the alleged communists were uncovered etc.. Then came the student uprising on October 14, 1973 which ended the military dictatorship. The 'October 14' event did not only restore a real democratic regime to Thailand and provide full freedom to Thai people, but it also aroused the political and social consciousness of the Thai people, which shook the administration violently and the public outcries had been heard. Prime Ministers and his associates were deposed and the public, for the first time, enjoyed their freedom and liberty. There were democratic movements and the socialist concepts and ideas were expressed. People became aware of their rights as the owners and citizens of the country. Also for the first time, workers had their freedom to protest and demand for what they were entitled for.

It was during this high tide of democracy that mass struggles occurred and the concept of 'human rights' was also publicized by the media. However, this concept attracted little public notice because the leading political idea of that time was one of socialism..



But after the massacre of more than 100 demonstrators and the subsequent arrest of 3,000 students and lay people and military coup d'etat on October 6, 1976. Thai people gradually began to listen to the idea of 'human rights'. Several non-governmental organizations (NGO) and human rights organizations were then established to protect and promote human rights. They began to use the human rights ideas as the base to express their ideas. "All human being have their natural rights to have adequate food, shelter, clothes and safety. Therefore, it is the rights of workers to struggle for adequate food, clothes and shelter and safety. Whoever opposes the right to struggle for survival of workers is opposing the natural human rights. The workers' struggle for survival is the fight for adequate remuneration in order to carry on with their living. Human rights activists looked into the bottom of the problems which is poverty in which parents were forced to sell their children into child labour and prostitution".

The human rights concept at that time was based on the basic human problems and social coexisting. They included political rights and the rights to have stability in politics, social equality and political participation. The interest in problems and concept of human rights were focused and pointed out. Professors and researches were conducted on human rights in Thailand by academicians and activists, starting from the changes in economic and human rights, human rights and development in the Thai Law, human rights and criminal judicial, human rights and education and human rights on various groups such as employees, workers, farmers, women, children, youth, slum dwellers to human rights and problems of Muslim people in the four southern provinces. It was an effort in researching and surveying for the foundation of ideas, philosophies, ideals, social conditions, culture, economic, law and politics consistent, or problems to the human rights in Thailand. It was also an effort to implement the human rights in the UN Declaration of Human Rights 1948 and implant them in the people's minds. So they would look at the problems of the Thai people's rights based on the basic needs of human being.

The emergence of NGO's and the continual struggle for the rights and interest of grass root people throughout the past 20 years has effected the widespread promotion of human rights in Thai society. During the bubble economy, the country enjoyed the overwhelming growth of economy in fields of industry, trade, finance and banking, communication technologies, infrastructure, trade centers, condominium construction while people in rural areas suffered impact from construction of hotels and resorts, environment destruction caused by setting up of golf courses, high cost of living, debts and cheap product prices. Some farmers lost their land and property. Workers migrated to cities to sell their labour and girls entering prostitution. Some became narcotic victims. The widespread tide of human rights is also emerging from the peoples' struggles, especially the struggles of the poor.

. After the Coup d'Etat in February 1991, the administration was changed back to military dictatorship once again. People started to protest the military junta until it became a movement during the time of the constitution scrutinizing period. When an Army general one of the leader of the coup d'etat became the prime minister, the public wrath grew. With a major protest in May 1992 which is later called the May Crisis, hundreds of protesters were killed and some disappeared involuntarily. People demanded justice and this time, the word human rights was discussed openly and more frequent.

On other side during the past few decades, the government, though had not mentioned about human rights, has implemented plans regarding the subject. After the May Crisis, the government led by Prime Minister Anan Panvarachun issued a resolution



for Thailand to become a party in the International Covenant on Civil and Political Rights on the September 10, 1992 (but acceded in January 1996). All armed forces and the Police Department have the subject of human rights in their curriculums. The establishment of a national advisory mechanism on human rights was ordered implemented to advise the government on the overall human rights. The Supreme Prosecutors Office was instructed to draft a law on it. Furthermore, all governmentFor examples, the suppression of the slave trade, detainee protection, setting up principles for on-land and ocean war, land allocation in the deforested areas for poor people, the treatment for prisoners of war, suppression of child and prostitution trafficking, child human rights protection and labour protection including the accepting of refugees from Indochina. .

The issue of human rights was further considered and developed during the drafting of the new constitution promulgated in October 1997. This constitution, prepared by the Constituent Assembly, consisted of individuals from various groups throughout the country. For the first time in Thai history, people actively participated in the formulation of the constitution. That is why it was named 'the people's constitution.' The essential substance of the new constitution lies not only in political reform but also in the additional promotion and protection of the fundamental rights and liberties of the people, thus providing for public participation in the governing and inspection of an exercise of state power. Several constitutional provisions clearly address the issue of human rights. This can be seen in Sections 4 and 26 of the constitution which respectively state that, "the dignity of human rights and the liberty of the people shall be protected" and "in exercising the powers of state authorities, regard shall be paid to the dignity of human rights and liberties in accordance to the provisions in this constitutions".poor The new constitution also establishes a number of new mechanisms, notably an Ombudsman, an Administrative Court, and a National Human Rights Commission. It is hoped that these institutions will be established by the beginning of next year .

. The significant advance of human rights in Thailand throughout the past 25 years is the consequence of the development of democracy. Today, people have become more interested in politics and recognized the significance of their civil rights. Thai citizens have a high level of rights and liberties. Notably, they enjoy a large number of freedoms: freedom of speech, of the press, of the assembly and of association. The government and state apparatuses cannot do what they want to do vis-a-vis the people. They must pay attention to the ideas and or needs of the people concerned. The Thai state must now recognize more and more fundamental rights, liberties and the humanistic rights of the people.

Since 1977 Thailand perpetually became a democratic country under the system of constitutional monarchy with a parliamentary government. Civilian power as represented through political parties progressively replaced the military power of former years. It now dominates the political arena and controls the administration of the country. After the May 1992 event, the armed forces have become increasingly more professional and their influence in the political arena has been diminishing. However, the socio-political structure and culture of the Thai society has remained the same. Therefore, the Royal Thai Army, Royal Thai Police and other bureaucratic organizations remain powerful. Adding this to the rapid development of capitalism and the economic growth of the 80's, which saw Thailand emerge as a newly industrialized country, the 'State' continues to have a significant role in the economic management of the country. Government policies and regulations have generally provided protection for certain economic benefits much more



than for the protection of the interests of the people. Additionally, some areas of government are subject to corruption. As a result, violations of human rights have emerged throughout the Kingdom.

Although government has generally respected the human rights of its citizens. However, significant problems remain in several areas. Police officers occasionally beat suspects and each year a number of criminal suspects are subjected to arbitrary arrest and extra-judicial killings. Prisons and police cells are severely overcrowded. Even though few "torture" or other cruel punishment techniques are used, prison authorities occasionally use solitary confinement to punish difficult prisoners. Prison officials also make use of heavy leg irons and prisoners have been killed during escape attempts.

Politically, the Constitution and the government guarantee fundamental rights and liberties and must respect the human rights of the people. Now, there are no political prisoners and the Anti-Communist law will soon be abolished. Media criticism of political parties, public figures and government is now common and vigorous. Journalists are free to comment on government activities without fear of official reprisal. The Thai people are free to stage demonstrations or to protest in front of government offices, etc. However, the government may restrict some of these rights and liberties in the name of national security and/or public order. Laws prohibiting criticism of the royal family, threats to national security or speeches insulting Buddhism remain. Newspapers, radio, and television are still licensed by the government. The mass media must then practice some sort of self-censorship. People are also told to stop their rallying as the government orders police to use force to disperse demonstrators and demonstration leaders are arrested. Several leaders of democratic movement and NGO have been sued by government officers and politicians. There increased year by year a large number of women trafficking, forced prostitution, societal discrimination against ethnic minorities, child labor and so on. Briefly, the human rights situation in Thailand is much better for the civil and political rights and worse for the economic, social and cultural rights.

## 2.Opportunities and Challenges of Human Rights

In the present human rights in Thailand has several opportunities to be developed. Besides the new Constitution which guarantee the human rights of Thai citizen. Several national human rights mechanisms established such as Constitutional Court, Administrative Court and Ombudsmann. There is also the National Committee for the Rights to Informations of State. One of the most interesting developments in the field of human rights in Thailand is the process of drafting the National Human Rights Committee Bill and the National Human Rights Plan. This process allows for active participation and cooperation between governmental agencies, NGO's, the media as well as other representatives from society. In addition, several defenders of human rights have been appointed to an adhoc committee of the House of Representatives to consider a draft Bill. The National Committee is composed of a broad representative base of individuals from both governmental and non-governmental organizations. Many NGO's are active members of various subcommittees providing input for the 'Plan.' Both the draft 'Bill' and the first draft of the 'Human Rights Plan' were aired at local and national seminars as a kind of public hearing. Presently, the National Human Rights Committee Bill had been passed the Senat. It will be set up soon. And the first draft of the National Human Rights Plan is being by the drafting Committee.

As a member of the National Committee to draft this plan I would like to summarize the objectives and targets of the plan. Its main purposes are to promote human rights as provided for by the constitution; comprehensively cover human rights in the political, economical, and social fields thus enabling the general population to understand the concept of human rights; to support the implementation of international treaties to which Thailand is a party and to review and develop laws and regulations for the promotion and protection of human rights. The targets of this plan are based on specific issues and the needs of specific groups, especially vulnerable groups. In regard to the specific issues, the targets include the right to education, the right to culture, the right to employment, the right to health, the right to natural resources and environmental protection, the right to shelter, the right to freedom of association, the right of access to information, mass media rights, political and administrative rights, and the right to freedom of religion. The rights of groups specifically targeted included the rights of children, women, the elderly, disabled persons, minorities, aliens, refugees and displaced persons, stateless persons, the urban poor, workers, farmers, consumer, human rights defenders, detainees and prisoners, community rights as well as the rights of persons needing state welfare. Whatever the outcome, both the National Human Rights Commission and the National Human Rights Plan will become institutions of human rights and provide for a system of protection to individuals in Thailand.

However, there are many challenges. As I remarked in the beginning, the idea of human rights is very new in Thailand. And I would like to say that it is also in the other countries. Therefore the first challenge is the various understanding and interpreting of human rights concept followed by the attitude basing the human rights with Western and America. Every one has been heard that several Southeast Asian leaders and intellectuals are criticising human rights concept as western ideas inappropriate to the religions and cultural traditions of Asia human rights and claimed that it is serving as tools for European countries and United States domination or in taking advantage of countries in Asia, Africa and Latin America. Facing with the human rights movements they do not hesitate to denounce NGO in general and the human rights groups as the foreign agencies who work for the western domination and exploitation. Whenever there is the policy or move of U.S.A and European country for economic and political advantage from the country it would more or less effect our human rights cases. This criticism of NGOs added by the economic crisis increased explicitly the negative attitude toward human rights movements.

I should also point out that many persons in national institutions of Asian countries see human rights are a tool of people empowerment of the NGOs which are more or less against states. They also view human rights as matters of internal affair or domestic jurisdiction, a facet of state sovereignty. The dominant element of our political society such as government, parliamentarian, bureaucrat and businessman are afraid of human rights movements as well as Communism in the past. Such attitude is challenging the human rights activists who adopt the tactic of protestation and demonstration against human rights violation cases.

In the substantive level there is a "cultural relativism" concept which embodied in the form of the "Asian values". It raises the question of the nature of culture and that of cultural authenticity to opposes to the universality of human rights. For them human being are not only having the same natures, but there are also different due to their social,



economic and cultural background. Asian people are different from people of Europe and America. Therefore, human rights are not universal. In Thailand, some thinkers tried to research and ponder over the human rights and have recommended that human rights or the rights of human being.

The second problem of human rights in Thailand is the ignorance of the human suffering of our States and society. All governments, whatever the regime and its bureaucracy, have arrogated enormous powers to themselves. They always want to rule their citizen. Many Asian rulers and officers still see their citizens as son and daughter, as servant and subject. As for Thai society, it emphasized the rights of rulers, their tasks, duties and authorities while the people only had duties to perform and obeyed but not the rights. People were put to act or do, or not to act or to do. They had neither political nor civil rights. Everybody performed their duties in accordance with their status and the society would be content and happy on a condition that the ruler must be a benevolent one. That had not always been the case. So it is hard for them to respect the human dignity of their people.

Among people, even though majority of them have been formed by a religious teaching which stress the human lives. It preaches people to consider their human fellows as brothers who share the same fates, both benevolent and malevolent. Therefore, human fellows are supposed to be compassionate and kind to one another and do not violate each other's rights, but in reality, people have not applied this concept due to their attitude toward the other principles such as **Karma** of Buddhism. Thai people tend to view that whatever happened to them are justified, whether they are positive or negative. Such beliefs make people rather stoic and forget sometimes that their rights have been violated, allowing the crooks and corrupted to be loose, hoping that they will serve their Karma one day. They would not take any action to do away with them. Furthermore, Thai people had not applied the human nature, moral and ethics in Buddhism in their practice due to their attitude towards the "rights" in their society.

In conclusion, though human rights have become political principles with more and more local and national human rights organizations being established, the concept of human rights is still novelty and needs to be disseminated and human right education must be done. Until the present, very few educational institutes, even the university level, have a human rights subject in the course of study. There are very few information and publication on human rights issues. Mass media should play more role in educating people about their rights. More studies are supposed to be conducted in theories, philosophies, ideal and content of human rights.

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