

Dignity and Justice for All of Us
Our Voices are Heard in Thailand



Dignity and Justice for All of Us Our Voices are Heard in Thailand

United Nations Country Team in Thailand
Office of the National Human Rights Commission

This publication was made possible with the support of:

Canada



Embassy of the Grand Duchy
of Luxembourg



**Koninkrijk
der Nederlanden**



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Embassy of Switzerland in Thailand



European Union



IOM International Organization for Migration

...towards a safe and just world

nzaid
New Zealand's International
Aid & Development Agency



United Nations
Human Rights

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

The analysis and policy recommendations of this publication do not necessarily reflect the views of the United Nations Country Team in Thailand (UNCT), the Executive Board of the member agencies or their member states. The Report is an independent publication commissioned by the UNCT. It is the fruit of a collaborative effort by a panel of consultants and the Project Steering Committee.

Design and layout: Keen Media (Thailand) Co., Ltd.

Copyright © 2008

United Nations Country Team in Thailand

Office of the UN Resident Coordinator
12th floor, UN Building
Rajdamnern Nok Avenue
Bangkok 10200

Tel: (66-2) 288-1836

Fax: (66-2) 280-0556

E-mail: unrc.thailand@un.or.th

Website: <http://www.un.or.th>

Office of the National Human Rights Commission

The Government Complex Commemorating His Majesty the King's
80th Birthday Anniversary 5th December, B.E. 2550 (2007)
120 Chaengwattana Road, Laksi
Bangkok 10210

Tel: (66-2) 141-3800/3900

Fax: (66-2) 143-9563

Web site: <http://www.nhrc.or.th>

ISBN: 978-974-576-879-6

Message from the Minister of Justice

Since long ago, Thailand has attached great importance to the promotion and protection of human rights. The Royal Thai Government ensures the rights enshrined in the Universal Declaration of Human Rights through its human rights policies, legislations and practices. This can be observed in the Constitution of the Kingdom of Thailand B.E. 2550 (2007), the national human rights policies and plans of action, the ratification of the core international human rights treaties and the establishment of the Department of Rights and Liberties Protection as a principle government agency responsible for the promotion and protection of rights and liberties under the Ministry of Justice.

The Ministry of Justice, among other government agencies, plays an important role in ensuring justice in society and always regards as its highest priority the promotion and protection of human rights. In light of the 60th anniversary of the Universal Declaration of Human Rights, the Ministry of Justice has conducted several activities related to human rights including the provision of training on human rights principles for government officials and the general public, public awareness raising on human rights, educating people in all sectors about their rights and liberties, etc.

In this regard, the publication *Dignity and Justice for All of Us: Our Voices are Heard in Thailand* produced by the National Human Rights Commission of Thailand in collaboration with the United Nations Country Team in Thailand, will be of immeasurable importance. It is an essential tool that presents the human rights situation in Thailand from past to present. It also provides an account of the implementation progress related to the Universal Declaration of Human Rights in Thailand, as well as the problems and challenges faced by Thai society. Such information will be vital for the further promotion and protection of human rights in Thailand. In the end, this will lead to a society where human dignity is truly respected, and justice rendered to everyone.



His Excellency Somsak Kiatsuranont
Minister of Justice

Preface

The year 2008 marks the Diamond Jubilee of the Universal Declaration of Human Rights, an anniversary that should be celebrated by each and every one of us as we commemorate the roadmap to achieve one of the core aims of the United Nations: the promotion and protection of human rights. The theme of this year's global campaign, "Dignity and Justice for All of Us," reinforces the vision of the Declaration as a commitment to universal dignity and justice.

The United Nations Country Team in Thailand, in partnership with the National Human Rights Commission of Thailand, decided to celebrate the 60th anniversary of the Declaration by strengthening people's knowledge about the rights enshrined in the Declaration and supporting the country's current efforts to establish effective mechanisms for their protection. This initiative is based on the belief that the principles in the Declaration should be better known and understood by all people, paving the way for a more equal and sustainable society based on dignity and justice for all. As part of a year-long campaign, the United Nations Country Team and the National Human Rights Commission joined hands to produce this publication, *Dignity and Justice for All of Us: Our Voices are Heard in Thailand*.

The Ministry of Foreign Affairs has also lent its invaluable support to this endeavour to further promote and advocate human rights throughout the country. We are grateful for the efforts made by the Ministry to update the translation of the Declaration into Thai and for a series of important activities it has organized in commemoration of the 60th anniversary of the Declaration.

As one of the first countries in Asia to endorse the Universal Declaration 60 years ago, Thailand has made remarkable progress in adopting and establishing the necessary frameworks for the enjoyment of its provisions. Along with a number of other countries, Thailand has recently acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the International Convention on the Rights of Persons with Disabilities; and has adopted a landmark law on domestic violence. However, there are many challenges that remain to be addressed before all the rights are realized for all the people living in the Kingdom.

Dignity and Justice for All of Us: Our Voices are Heard in Thailand reflects on the importance of the provisions contained in the Declaration, and the meaning and relevance that these provisions continue to have for the Thai people, 60 years after their endorsement. Each article in the Declaration features the voices of individuals, women, men, girls and boys for whom the right enshrined in that article has particular relevance. These voices are followed by comments on the significance of each respective article in the Thai context. These voices and comments do not intend to represent the views of the overall population living in Thailand, but are instead individual voices and opinions of people from diverse walks of life.

The publication has been produced by Thai people for all the people living in Thailand. It should not be viewed as a study conducted by the United Nations or recommendations from the international community. On the contrary, it was inspired by Thai people, and contains experiences and recommendations shared by many Thai people throughout the country. It is the result of a process of intense research, interviews and consultations that have taken place in different provinces, including important workshops in Khon Kaen, Songkhla, and a final one in Bangkok. At these gatherings, ordinary people discussed and reflected on both the positive developments since 1948 in terms of realizing their human rights, as well as the challenges that still lie ahead.

The United Nations Country Team is proud to have had the opportunity to support the development of this publication, which we hope will serve to further promote human rights in Thailand as well as inform new policy.



Ms. Gwi-Yeop Son
UN Resident Coordinator in Thailand

Acknowledgments

This publication would not have been possible without the active involvement of the women, men, girls and boys across Thailand, whose voices and experiences we have tried to convey. Their life stories and experiences, combined with the observations, explanations and recommendations provided by the many dedicated commentators who contributed to this work, all constitute the content and spirit of this publication.

The practical challenges faced in preparing this publication were numerous and varied. One of these was to find a way to strike a balance between, on the one hand, ensuring a meaningful representation of the voices heard, and on the other, a legitimate concern for the protection of the full identity of interviewees in order to ensure their personal safety. For this reason, the decision was taken not to provide the names of most of the voices, other than the names of those individuals whose positions or views are related to formal or public institutions. In addition, a gender-balanced focus has been applied during the entire process.

We are very grateful to the government officials, academics, leaders of private and civil society organizations, representatives of people's organizations, journalists and many others who devoted their valuable time to participate in the three seminars that were held in Khon Kaen, Hat Yai and Bangkok, respectively.

The various partners in this project are also united in their expression of profound gratitude to Professor Vitit Muntarbhorn, for his sound advice and invaluable support in the implementation of the project and finalization of the publication.

Special thanks is also due for the tireless work of the consultancy team from Chulalongkorn University, under the leadership of Dr. Vira Somboon, who collected the voices, commentaries and systematized the information gathered. In this context, we would also like to thank the many people who supported this process by contacting and interviewing the reflective persons and commentators, as well as organizing the three seminars.

The research, development and finalization of this publication were made possible through generous financial contributions from the Netherlands, Luxembourg, the European Union, Switzerland, New Zealand and Canada. Financial support was also provided by the United Nations Development Programme, the Office of the High Commissioner for Human Rights, and the International Organization for Migration.

Contents

Message from the Minister of Justice	iii
Preface	v
Acknowledgments	vii
Human Rights: Foundation, Development and the Universal Declaration	1
Executive Summary	5
THE UNIVERSAL DECLARATION OF HUMAN RIGHTS: VOICES AND COMMENTARY	
Article 1 Commentary by Mr. Anand Panyarachun	9
Article 2 Commentary by Ms. Tuenjai Deetes	13
Article 3 Commentary by Mr. Chanchao Chaiyanukit	17
Article 4 Commentary by Dr. Saisuree Chutikul	21
Article 5 Commentary by Mr. Nathee Chitsawang	27
Article 6 Commentary by Dr. Sriprapa Petcharamesree	31
Article 7 Commentary by Mr. Sithisakdi Vanachakij	35
Article 8 Commentary by Professor Vitit Muntarbhorn	39
Article 9 Commentary by Mr. Thongbai Thongpao	43
Article 10 Commentary by Mr. Surasee Kosolnavin	47
Article 11 Commentary by Ms. Suwanna Suwanjuta	51

Article 12	Commentary by Ms. Methinee Dhepmanee	55
Article 13	Commentary by Mr. Somchai Homla-or	59
Article 14	Commentary by Professor Supang Chantavanich	63
Article 15	Commentary by Dr. Pantip Kanjanajitra Saisoonthorn	67
Article 16	Commentary by Ms. Naiyana Supapeung	71
Article 17	Commentary by Ms. Sunee Chairos	75
Article 18	Commentary by Dr. Asma Jahangir	79
Article 19	Commentary by Mr. Kavi Chongkittavorn	87
Article 20	Commentary by Mr. Dej-udom Krairit	91
Article 21	Commentary by Mr. Varin Tiamjaras	95
Article 22	Commentary by Mr. Pornchai Yooprayong	99
Article 23	Commentary by Ms. Vilaiwan Sea-Tia	103
Article 24	Commentary by Professor Surichai Hwankaew	107
Article 25	Commentary by Mr. Mechai Viravaidhya	111
Article 26	Commentary by Dr. Khunying Kasama Varavarn	115
Article 27	Commentary by Professor Vichai Ariyanuntaka	119
Article 28	Commentary by Ms. Gwi-Yeop Son	123
Article 29	Commentary by Ms. Somsook Boonyabanha	129
Article 30	Commentary by Professor Vitit Muntarbhorn	133
Findings and the Way Forward		137

Human Rights: Foundation, Development and the Universal Declaration

The 60th anniversary of the Universal Declaration of Human Rights is an occasion to celebrate one of the most significant common visions of mankind in history. It is also an opportunity for us all to reflect on the essence of the Declaration, its foundation and development, as well as on the human rights challenges we face in the present day.

The term 'human rights' may seem difficult to understand for some Thai people. This could be because it is a relatively new concept, with foreign origins. In addition, commemorating the 60th anniversary of the Declaration could give the impression that human rights have only existed for 60 years. And, if one reads through the Declaration, one might also think that human rights only concern the issues comprising the 30 articles of the Declaration.

The Universal Declaration of Human Rights, which represents a shared commitment by global citizens, clearly specifies the essence of human rights. The 30 articles in the Declaration cover the fundamental rights that all human beings should enjoy. Nevertheless, it is important for us to realize, first and foremost, that human rights are, in effect, inherent to the existence of mankind. They have evolved throughout history and were consolidated in a universal declaration in 1948. This implies that the term 'human rights' is a living concept, which can be interpreted in different ways and transformed according to a changing context of geography and time.

The rights specified in the 30 articles of the Declaration share the same origins. They are intertwined and should not be viewed as separate entities. While this publication presents the Declaration in 30 different chapters for planning convenience, we feel that once studied carefully, it will become evident that the 30 articles are all inter-related and indivisible.

Human rights, or to put it more simply, the 'rights of human beings', are rights that we agree everyone is entitled to and should be respected for peaceful co-existence in society. Human rights are not something mysterious or abstract beyond comprehension. All human beings should live and treat one another according to human rights principles. Human rights cover all aspects of 'life': physical, mental, interpersonal relationships, ownership, as well as the relationship we have with the natural environment on which our lives depend. Human rights are integral to human life and quality of life.

In the past, different societies accommodated their own human rights principles, which varied according to social norms, different periods and different localities. In some societies, the issues of rights were conveyed through moral codes, ethics and traditions which determined the duties and responsibilities that people had towards one another. In others, these principles were closely linked to religious beliefs and practices. In a similar way to what we are facing today, societies in the past were confronted with challenges and

limitations which hindered the enjoyment of those rights, leading to uprisings, revolts and revolutions which occurred throughout history.

Human rights, as they are understood today, came about as a result of several historical phases in history. First are the major changes in social structure in the Western world that led to the expansion of trade and the emergence of the new concepts of property and wealth in the 18th century. Along with these developments came the recognition of new rights: e.g. individual rights, property rights, rights to trade and rights to justice. The growing significance of these rights coincided with urban expansion and the growing power of the middle classes in many European cities. These social changes triggered revolutions in England, America and France. These three revolutionary milestones emphasized freedom and equality among all human beings, as well as political and civil rights.

The second phase concerns the social changes brought about by the Industrial Revolution in the 19th century, which added a new dimension to the concept of human rights from the working class and social perspective. This new dimension emphasized equal rights and equal access to socio-economic and cultural opportunities. This dynamic of change spawned the Russian Revolution in the early 20th century and many other revolutions that occurred at later stages throughout the world.

The Universal Declaration of Human Rights came into being in 1948, following a long period of preparation before the end of the Second World War. Leaders from various countries joined together to draft the principles on human rights, resulting in the multi-faceted aspects of the Declaration, which came about because of differences in emphasis. The Declaration itself is an amalgam of principles that has been adopted as a joint commitment, but not a legally-binding document per se. Subsequently, two related international treaties followed the Declaration, reflecting the different perspectives prevailing in the world after the Second World War. The first treaty emphasizes civic and political rights, while the second focuses on socio-economic and cultural rights. This dichotomy mirrors that which emerged at the beginning of the 'Cold War', when the world was divided into two camps: the 'capitalist' camp endorsed the first treaty; whereas the 'socialist' camp supported the second.

During the same period, countries under colonial rule achieved their goal of independence. These countries, together with others that were not under colonial rule, were categorized as being 'underdeveloped' or 'developing' nations. In the majority of these countries, the links between livelihood and natural resources are more pronounced, while community traditions in natural resource management are very strong since these are key to their own survival. This is where the development of another strand of human rights, which differs from the two previously mentioned concepts, emerged.

The confrontation between the two camps during the Cold War era also led to the race to take control of natural resources across the globe. This created the development paradigm that mainly aims for economic growth and infrastructure development for the exploitation of natural resources. In this process, the rights to manage natural resources became centralized, depending more and

more on the decision of the State. Communities lost control over the management of their natural resources, and their livelihood base began to deteriorate. The concept of 'community rights' originated against this critical background. It highlights the fact that each individual right is a part of and is dependable on the sustainability and the security of the community as a whole. We have so far seen increasing demands to recognize such rights in this 'third generation'.

The most recent serious development in support of the community rights concept occurred two years ago, when the United Nations General Assembly adopted the Declaration on the Rights of Indigenous Peoples. Although the term 'community rights' is not mentioned specifically, this Declaration aims to address the needs of indigenous peoples whose livelihoods closely depend on natural resources. It refers, for example, to "the right to development in accordance with human needs and benefits". This is precisely what the communities across Thailand and in many other countries are calling for.

The Declaration on the Rights of Indigenous Peoples is a significant step forward for the global 'human rights regime'. It also reminds us that one of the challenges we should consider on the occasion of the 60th anniversary of the Universal Declaration of Human Rights is how to better promote community rights – "the third generation of rights" – to be responsive to human and social predicaments. These needs are constantly reflected in the voices presented throughout this publication, and which resonated vividly in the public forum organized by the United Nations and the National Human Rights Commission in different regions of Thailand this year.

In Thailand, community rights are well recognized in the 1997 and 2007 constitutions. However, the application and enforcement of community rights remain inadequate. The enjoyment of any kind of rights depends largely on the strength of the rightholders. Community rights, likewise, will remain only a concept with no practical application unless communities are empowered to fully exercise their rights. This is one of the priorities of the work of the National Human Rights Commission of Thailand.

Individuals and institutions at all levels have the obligation to ensure that all these different strands of human rights are integral and respected. They should not be considered separately. It is important for us to realize that human rights depend on differing contexts and circumstances, and thereby face different challenges and limitations in different countries.

The 60th anniversary of the Universal Declaration of Human Rights should be an opportunity for us to reflect on these different and changing environments. This will allow us to pursue ways and means to strengthen the endorsement, protection and promotion of these freedoms, enabling people to look after their own rights as they deem appropriate in varying contexts and circumstances.

For each individual, this is a chance to reaffirm our understanding of the Declaration and other related principles with an open mind, considering not only what concerns us individually or in our own group. We should bear in mind that all national or international rules, regulations and principles only capture parts of the global reality in regard to human rights issues. Situations in the real world are much more dynamic and diversified. It is essential that we broaden our world view to understand other fellow human beings, appreciating their diversity and valuing the differences among us. If this is the case, this 60th anniversary commemoration of the Universal Declaration of Human Rights could not be regarded as an end in itself, but a crucial beginning of mutual understanding and collaboration to rise to meet new human rights challenges.



Professor Saneh Chamarik
Chairperson
National Human Rights Commission

Executive Summary

When 60 years ago, on 10 December 1948, at the Palais de Chaillot in Paris, the 58 Member States of the United Nations General Assembly adopted the Universal Declaration of Human Rights, Thailand was one of the few Asian countries that led the way in adopting the Declaration. As the first global expression of rights to which all human beings are inherently entitled, the Universal Declaration was proclaimed by the General Assembly as “a common standard of achievement for all peoples and all nations, towards which individuals and societies should strive by progressive measures, national and international, to secure their universal and effective recognition and observance”. This anniversary is therefore of special significance for Thailand and the Thai people, not only because of Thailand’s pioneering role in Asia in adopting the Universal Declaration, but also for the steps being taken in making the provisions of the Declaration a reality for its people and addressing the challenges ahead.

The present publication is based on the realities, experiences and aspirations of many people throughout Thailand. It draws upon research conducted in 2008 involving people in different regions of the country from a variety of social backgrounds, as well as different gender and ages. Despite very diverse personal situations in terms of socio-economic realities, political views and other aspects, there are important similarities in people’s experiences and expectations with regard to the promotion and protection of their human rights, as set forth in the Universal Declaration of Human Rights.

This publication is organized following the 30 articles of the Declaration, which present the human rights and fundamental freedoms to which all men and women, everywhere in the world, are entitled, without discrimination. Article 1 lays down the philosophy on which the Declaration is based, defining the basic assumptions of the Declaration. Article 2 sets out the basic principle of equality and non-discrimination, as regards the enjoyment of human rights and fundamental freedoms. Article 3, the first cornerstone of the Declaration, proclaims the right to life, liberty and security of person – a right essential to the enjoyment of all other rights. This article introduces Articles 4 to 21, in which other civil and political rights are set out, including: freedom from slavery and servitude; freedom from torture and cruel, inhuman or degrading treatment or punishment; the right to recognition everywhere as a person before the law; the right to an effective judicial remedy; freedom from arbitrary arrest, detention or exile; the right to a fair trial and public hearing by an independent and impartial tribunal; the right to be presumed innocent until proved guilty; freedom from arbitrary interference with privacy, family, home or correspondence; freedom of movement and residence; the right of asylum; the right to a nationality; the right to marry and to found a family; the right to own property; freedom of thought, conscience and religion; freedom of opinion and expression; the right to peaceful assembly and association; and the right to take part in the government of one’s country and to equal access to public service in one’s country.

Article 22, the second cornerstone of the Declaration, introduces Articles 23 to 27, in which economic, social and cultural rights – the rights to which everyone is entitled “as a member of society” – are set out. The article characterizes these rights as indispensable for human dignity and the free development of personality, and indicates that they are to be realized through national effort and international cooperation. These rights include the right to social security; the right to work; the right to equal pay for equal work; the right to rest and leisure; the right to a standard of living adequate for health and well-being; the right to education; and the right to participate in the cultural life of the community. The concluding articles, Articles 28 to 30, recognize that everyone is entitled to a social and international order in which the human rights and fundamental freedoms set forth in the Declaration may be fully realized, and stress the duties and responsibilities which each individual person owes to his community.

Dignity and Justice for All of Us: Our Voices are Heard in Thailand was undertaken as a joint initiative by the United Nations Country Team in Thailand in partnership with the National Human Rights Commission of Thailand, to strengthen people’s knowledge about the rights enshrined in the Universal Declaration of Human Rights and to support the country’s current efforts to ensure the effective frameworks for their protection. The aim of this project is to enable a wide range of different voices, of women, men, young and old, from institutional and non-institutional backgrounds, to share their views on the enjoyment of the rights in the Declaration, both in terms of progress achieved over the last 60 years and in facing the challenges ahead with a view towards the future.

The idea of a “participatory” publication emerged quite early in the preparations for the commemoration of the 60th anniversary of the Universal Declaration of Human Rights in Thailand. All participants involved in the preparations agreed that this anniversary should be commemorated in an exercise that would last longer than a single day of celebration. It had to provide a space for all parties to reflect upon achievements made and future goals foreseen towards the full realization of the rights outlined in the Declaration. The methodology and framework for gathering the information contained in this publication evolved during various meetings with the National Human Rights Commission as well as academia and other relevant personalities. A group of experts from one of Thailand’s most prestigious universities, Chulalongkorn University, was tasked with collecting voices from people across the country and commentaries from relevant personalities.

A number of findings and recommendations are put forward based on the voices and comments presented in the publication. These relate to the strengthening of mechanisms and frameworks for the effective implementation of human rights; the protection of human rights and respect for human security issues; the maintenance and strengthening of legal and judicial processes; the strengthening of economic, social and cultural rights; and the role of Thailand as a regional leader in the promotion of human rights.

Our hope is that the voices and comments, as well as the findings and recommendations in the present publication will inspire further progress towards the full enjoyment of all human rights for all people in the Kingdom of Thailand.



Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

**“I am very grateful
for the support
I receive from people”**

Voice

A 70-year-old woman from northern Thailand shares her thoughts on dignity and human rights as seen through her personal experience. Homeless for 10 years, she currently lives under a bridge over a canal in the Bang Sue district of Bangkok. Orphaned since she was five years old, she has never had access to formal education and thus she cannot read nor write. She has never been taught the concept of ‘rights’ and thus does not understand what rights she is entitled to herself. Her day starts with a long walk, pushing a small cart through the streets collecting things that others throw away.

This woman used to work as a street sweeper, cleaning the streets of Bangkok. However, when she retired, she did not have a pension or any savings, and her husband passed away three years ago. She does not want to be put in a home for elderly people. “I wouldn’t dare contact an agency [for social welfare],” she says. She is familiar with life on the streets and does not believe that the government should be held responsible for her life.

Relying on the charity of people in Bangkok, she manages to earn 30 to 40 Thai baht per day, allowing her to afford up to three daily meals. “I am very grateful for the support I receive from people,” she says. She uses the bathroom next to the canal where she lives, which was originally built by the Water Supply Authority for its workers, and to which she is given access. She receives free medical services in the private hospitals that provide services to those eligible under the government’s “30 baht” Universal Health Coverage system. She has never been denied treatment. “I do not blame anyone for my situation,” she says.

“Without education, people cannot be fully aware of their fundamental rights”

Commentary

Mr. Anand Panyarachun, former Prime Minister of Thailand and a key author of the 1997 Constitution, notes that this woman’s case exemplifies the fact that the right to education is a fundamental right that should lead to the enjoyment of all human rights. Education is also crucial to enjoying dignity and justice. Therefore, it is the responsibility of the State to ensure that its people – in particular, the marginalized, the poor and people living in rural areas – receive a quality education. Mr. Panyarachun said: “If the State and society do not pay enough attention to the development of educational opportunities in full equality for all human beings in our country, we cannot claim that we have acted in a spirit of brotherhood to ensure equal opportunities for all. Without education, people cannot be fully aware of their fundamental rights as recognized in the Constitution or in the Universal Declaration of Human Rights.”

Despite the many obstacles and difficulties this elderly woman has encountered, she has maintained her dignity. She accepts the reality of her situation, blaming no one for her status in life, and demanding no responsibilities from the State. She expresses great appreciation for the generosity and charity she has received from people. Instead of the better living conditions she could enjoy in state-provided elderly homes, she has chosen to live her own free existence under the bridge. Her view of a dignified life may differ from the stereotypes imposed by society, but as Mr. Panyarachun explains, dignity also includes “the right to choose the way to live a life as one may desire”.

Mr. Panyarachun said: “The government, as the main duty bearer, should provide assistance to the homeless, who account for a large number of people in Thai society. This elderly woman is one of the few examples of



Mr. Anand Panyarachun

people in her situation who choose not to request State assistance. The State provides assistance to a large number of people in need. Assistance has often been provided as charity without any understanding of people's real needs or how their lives may be improved on a long-term basis. The State should establish efficient mechanisms to learn more about the needs of these people and the root causes of their situations".

On the occasion of the commemoration of the 60th Anniversary of the Universal Declaration of Human Rights, Mr. Panyarachun recommends that an effective independent organization be established to monitor and encourage the State to effectively implement human rights provisions and principles.

Article 2



Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

A man, age 43
 belonging to the Lisu ethnic minority group
 Chiang Rai province

Voice

“We are Thai people
 as well”

A 43-year-old man from the Lisu ethnic minority group living in Chiang Rai province shares his experience, describing some positive developments he has witnessed towards achieving greater equal rights and opportunity. Nonetheless, he also expresses concerns he believes must be addressed.

Positive achievements he describes include the fact that civil society organizations are now able to negotiate and enter into dialogue with the Royal Thai Government, and that the government has become state party of several international conventions that have been put to good use. The fact that ethnic minority groups have realized the need to claim their own rights, he believes, has been critical. As an example, he mentioned the 1999 incident in which tens of thousands of ethnic minorities stood up for their own rights in a demonstration in front of the city hall in Chiang Mai. As a result, he claims that the confidence of the groups improved, particularly in mobilizing partnerships with academia and the private sector, and also in entering into dialogue with local authorities to address issues related to ethnic minorities and their equal rights.

He asserts that many challenges still remain, particularly those related to the issue of nationality, land rights, shelter and access to national identification cards, as well as the right to administer natural resources. He also stated that ethnic minority groups are vulnerable to threats and restrictions to movement and relocation, and that they cannot access government services. “We are Thai people as well,” he emphasizes, and claims that ethnic minority groups should enjoy the same rights as other Thai citizens. He further highlighted that Thai society suffers from ethnic prejudice and discrimination and that public perception of the ethnic minority groups is that they are treated as “second-class” citizens.

On the occasion of the 60th Anniversary of the Universal Declaration of Human Rights, he recommends that the United Nations work with the government so that policies giving serious support to protecting and promoting the rights of ethnic minority groups can be adopted. He also recommends that these groups be given free and direct access to the United Nations. This, he claims, will enable Thailand to fully comply with the Universal Declaration as well as create a more enabling environment.

“Human rights promotion and protection should be a responsibility for all of us”

Commentary

Ms. Tuenjai Deetes, former senator and activist on the rights of hill tribes, agrees that there is a very strong link between the problem of discrimination and the existence of prejudice.

Discrimination affects not only hill tribes but also migrant populations. Those who enter the country in an underprivileged situation are often treated differently. Ms. Deetes explains that according to the Universal Declaration of Human Rights, all human beings are entitled to fundamental rights. Thailand has amended and enacted internal laws and instruments addressing some of the problems being faced by ethnic minority populations in this regard, e.g. the Nationality Law and Public Registry Law, in force since August 2008, subjecting all residents in the Kingdom of Thailand to population surveys, as well as issuing certificates to children who are accompanied by their parents into the country so that they may have an identity. The concrete effects of these steps depend on their effective implementation, she explains.

The Commemoration of the 60th Anniversary of the Universal Declaration of Human Rights should be an occasion to ensure that all human beings are equal in dignity, transcending the issue of national boundaries. Human rights promotion and protection should be a responsibility for all of us, whether we are senators, government officials or citizens. The Universal Declaration of Human Rights remains nothing more than a document if efforts are not made through collaboration between all sectors in society to make its provisions a reality for all human beings, she says.

Ms. Deetes suggests that there is insufficient advocacy work related to the Universal Declaration of Human Rights. The United Nations should work more proactively with partners from different sectors of society so that the Thai people have a better understanding of the Declaration.

Ms. Tuenjai Deetes

Article 3



Everyone has the right to life, liberty and security of person.

“We wish to see a government agency to provide us with answers and see that justice is served”

Voice

Two family members of a murdered couple from Ban Tab Sadao, Nakorn Ratchasima province, discuss what the rights to life, liberty and security of person means to them. They explain that their family's problems began after the murdered couple won the state lottery. With their winnings, the couple decided to build a new house and purchase a new vehicle. However, this sudden windfall aroused suspicions that the marked improvement in the couple's financial situation was due to illegal activity and not from the lottery. The couple was shot and killed early one morning while driving home from shopping.

They explain that before their deaths, family members reported that the couple claimed to have heard rumours that they had been put on some kind of list of suspects, having been suspected of involvement in illegal drug activity because of the rapid improvement in their financial situation. After hearing this rumour and fearing for their lives, the family members explain that the wife went to police officials to show them evidence of the lottery win as proof that their fortune had not been gained through any alleged involvement with drugs. They report, however, that the police officials did not take her seriously. The family members go on to claim that although they were afraid of the rumours surrounding their circumstances, the couple did not take any particular security precautions or leave town because they believed they were safe in their innocence.

After the couple was killed, their family members questioned their deaths and wondered why the state had not helped them. Moreover, following their deaths, the family reports to have received visits from police officials with a warrant to investigate a drug-related offence. On the occasion of the 60th Anniversary of the Universal Declaration of Human Rights, the family of the deceased couple express their hope to see a government agency to provide them with answers about who killed their loved ones, as they want to ensure that the wrongdoers are punished and justice is served.

“Human dignity is not an artificial value; rather, it is one of the values that make us truly Thai”

Commentary

As a person who has a long working experience with the Thai justice system, Mr. Chanchao Chaiyanukit, Deputy Permanent Secretary of the Ministry of Justice, points out that inefficient police investigations coupled with a lack of viable witnesses and sound evidence are the main reasons why guilty parties have been able to escape justice in the past. Finding witnesses and gathering evidence are normally done only by police officers. However, in practice, this can also be done by the victims themselves or anyone else who is related to the case, he explains.

From a human rights perspective, Mr. Chaiyanukit considers that what happened to the couple from Ban Tab Sadao highlights the existing imbalance in Thai

society between the use of authority on one hand, and the respect for the rights and security of people’s lives on the other. This imbalance results from a lack of awareness about human rights by most of society.

Mr. Chaiyanukit explains that despite the fact that many different organizations have long been advocating for the respect of human rights in Thailand, a major obstacle is the Thai people’s view that human rights is a concern for mainly Western countries and does not concern Thai society. Therefore, a major challenge for human rights workers in this country is to help Thai people understand that human dignity is not an artificial value; rather, it is one of the values that make them truly Thai.

A portrait of Mr. Chanchao Chaiyanukit, a man with short dark hair and glasses, wearing a light blue and white checkered shirt. He is looking slightly to the right of the camera. The portrait is framed by a decorative, golden, wavy border on the right side of the page.

Mr. Chanchao Chaiyanukit

Therefore, on the occasion of the 60th anniversary of the Universal Declaration of Human Rights, the Deputy Permanent Secretary of the Ministry of Justice suggests that in order to advance the human rights agenda, the social and cultural context in Thailand must be taken into serious consideration. Moreover, there must be a careful use of language to efficiently communicate with the majority of people.

Mr. Chaiyanukit believes that an advocacy campaign on human rights should not only relate to political or legal issues, but also aim

to increase the public's understanding that human rights relate to their daily lives and affect how they co-exist in society. For example, such a campaign should show that a person who drives recklessly is not only putting his own security at risk, but is actually violating the rights and security of others as well.

Mr. Chaiyanukit thinks that such an approach would create a greater balance between the respect for authority and the respect for human dignity in Thai society.

Article 4

No one shall be held in slavery or servitude;
slavery and the slave trade shall be prohibited in all their forms.

Voice

**“She worked tirelessly
to ensure that
women would not
continue to fall
victim to human
trafficking”**

In a recorded interview conducted by the Ministry of Social Development and Human Security in 2006, a Thai woman who had travelled abroad in the hope of finding employment recounts her story. The woman, the mother of three children, had decided to go to another country to find her fortune. Instead, she says that she became a victim of slavery and was forced into sex work. Her story has been publicized in recent years and has successfully raised the awareness of many Thai people about the terrible nature of modern-day human trafficking.

In the late 1990's, this woman was living in poverty but needed to support her family, including her husband, a person with a disability, and their three children, when she heard about a job opportunity in another country. She explains that her good intentions were exploited by an illegal employment agency that charged her a fee of 40,000 Thai baht. Instead of finding her a good job, the agency delivered her into the hands of a sex worker gang. She reports that she was brought to a squalid apartment, told that she had been purchased and that if she wanted to leave, she would need to reimburse the payment made for her purchase. She was 32 years old, had been sold and now apparently “owed” a large amount of money, and was forced to endure vicious beatings, she explains.

She eventually met a Thai man working in that country, who agreed to help her escape. She later became quite ill and in October 2005, upon learning that she had cancer, she returned to Thailand to spend the remainder of her days with her family. Until her death, she worked tirelessly to ensure that women would not continue to fall victim to human trafficking. She worked with the Ministry of Social Development and Human Security and the Child Protection Development Foundation to carry out awareness campaigns against human trafficking. She died when she was 38 years old, on 19 May 2006. Both her story and her considerable efforts are a stark reminder that much remains to be done to combat human trafficking and slavery, especially in terms of implementing preventative measures.

“Most important of all is that it has to begin with our hearts – love and compassion for our fellow human beings, children and all – to reach our objectives”

Commentary

Dr. Saisuree Chutikul, an expert on children’s and women’s rights, informs the interviewer that the case as cited earlier is just one of many that violates human rights. For example, in the early 1980s, five girls were chained to a bed in a brothel in a southern province and were burned to death in a fire one night. There is also the case of an undocumented migrant girl who was seriously injured and hospitalized for months when, as a domestic worker, her employer poured a chemical liquid which was used in his factory on her body. In addition, children are continually trafficked from neighbouring countries and forced to beg on the streets of Bangkok.

Thailand has initiated many activities on combating exploitative commercial sex and trafficking, especially in women and children, since the 1980s. The original law on anti-trafficking in women and girls was issued in 1928. The Sub-Committee on Combating Exploitative Commercial Sex, which later

changed its name to the Sub-Committee on Combating Trafficking, and the Sub-Committee on Revision of Thai Laws in Compliance with Constitution and the Convention on the Rights of the Child, appointed by the Deputy Prime Minister, have, over the past 18 years and 11 years respectively, revised and drafted many laws. For example, the Prevention and Suppression of Prostitution Act of 1996 has decriminalized adult prostitution, prohibited children in prostitution and increased penalties for pimps, proprietors and those who lure victims into prostitution. The Measures in Prevention and Suppression of Trafficking in Women and Children Act of 1997 was the revision of the 1928 Act, which included boys as well. The Prevention and Suppression of Trafficking Act of 2008 included men and many articles contained therein are in compliance with the Palermo Protocol as well as OHCHR Guidelines for the protection of victims using human rights bases.



Dr. Saisuree Chutikul

Prior to 1997, Thailand put the focus on preventive measures, as many young girls were lured and deceived by false promises of good jobs, but instead ended up being used for exploitative commercial sex work. Information was given through the local and national media. Thousands of scholarships to retain girls in schools were provided by the Ministry of Education, the private sector, NGOs and concerned individuals. Some 40-50 small groups of parents and community leaders in the risk areas in the northern provinces were organized to discuss these issues, with the use of videos in local dialects. Income-generating projects for poor families at risk helped to sustain the livelihood of those families.

The Sub-Committee on Combating Trafficking in Women and Children, established in 1994, was the key national mechanism that mobilized and coordinated governmental and non-governmental agencies in anti-trafficking activities. It was responsible for the formulation of the First National Policy and Plan of Action in Eradicating Commercial Sex Exploitation (1996-2001) and the Second National Policy and Strategies Combating Trafficking in Women and Children (2002-2010). Both were approved by the Council of Ministers. It also worked with key national agencies to sign national Memoranda of

Understanding (MOUs) (2003) and provincial governors and chiefs of many governmental and non-governmental agencies at the provincial level to sign seven regional MOUs in seven regions in Thailand during 2006-2008. These MOUs are designed to help improve coordination and cooperation among actors, e.g. police, attorneys/prosecutors, social workers, labour officers, medical personnel, education officers, immigration officers, local administrators and NGOs. The MOUs are based on human rights principles and use multi-disciplinary, inter-sectoral and participatory approaches from rescuing and protecting victims to prosecution process, recovery and reintegration programmes, including carrying out preventive measures. Operation centres at the provincial level have been created for these activities as well as the national level with the Ministry of Social Development and Human Security.

Anti-trafficking was declared part of the national agenda in 2004, and funding was provided. In addition, the Anti-Trafficking in Persons Fund was created in the 2008 Anti-Trafficking Law, and the Ministry of Foreign Affairs has provided some funding for embassies and consulates with which to help victims abroad.

Dr. Chutikul stresses the importance of training the personnel involved, e.g. social workers, law enforcement officers and multi-disciplinary teams. Knowledge and skills in the identification of victims and investigative methods, the use of witness protection law, money laundering law, the labour protection law, the child witness law, as well as the laws governing migrant workers and non-nationals who are granted special protection by the decision of the Council of Ministers, are some of the topics which need to be communicated to relevant authorities. All documents must be “living” documents. The victims must be protected and the perpetrators must be brought to justice.

Dr. Chutikul emphasized the need for coordination and cooperation with neighbouring and other

destination countries. Bilateral and multilateral agreements are signed, but actions must be implemented. International organizations that have contributed to the government’s efforts include UNICEF, ILO, IOM, UNDP, UNIFEM, Plan Thailand, Save the Children (Sweden), World Vision, AFXB and others.

“Human Rights are basic principles in human relationships. Human trafficking and slavery in all forms must be eradicated. To me, most important of all, is that it has to begin with our hearts – love and compassion for our fellow human beings, children and all – to sustain our efforts to reach our objectives,” Dr. Chutikul added.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment and punishment.

A woman
Mother of a prisoner who died while in
detention

**“I will continue to
fight to know the
truth”**

Voice

The mother of a 19-year-old inmate describes how she confronted the death of her son while he was in detention. “When I first visited my son after he was arrested and accused of robbery, I discovered that he had been beaten up by a prison official,” she said. “I then brought his case to the attention of the Parliamentary Ombudsman, the National Human Rights Commission and the Corrections Department at the Ministry of Justice.”

In May 2006, she says that she paid a second visit to her son and realized he had been beaten up again, allegedly because of her actions in denouncing the earlier beatings. “This time, I begged the higher prison authorities to relocate my son to a safer place,” she says. On 28 May 2008, she was informed by the prison that her son had been found dead and that he had committed suicide. “When I was shown my son’s body, I was convinced he was murdered,” she added. The National Human Rights Commission reportedly asked the Ministry of Justice to open an investigation. The Ministry delegated the case to the Department of Corrections. “The outcome was terrible as the result of the investigation stated that my son had committed suicide. I decided then to file a criminal case against the prison official, accusing him of abuse of authority and causing harm. I will continue to fight to know the truth about my son’s death,” she says.

“Officials should regard detainees as people with dignity and rights”

Commentary

Mr. Nathee Chitsawang, Director-General of the Corrections Department, says that the above-mentioned case is controversial because the investigation is still ongoing. It is therefore preferable not to comment on the specifics of the case.

Torture and ill treatment is prohibited by Thai law. Thailand became a party to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) on 2 October 2007. This was a very significant step for human rights in Thailand, Mr. Chitsawang reports. The rights of detainees have greatly improved since the 1997 Constitution came into force, he explains. Several independent agencies have been monitoring the performance of state officials, making them more cautious and aware of the rights of detainees. However, he says that there is still a need to develop various systems to

protect the rights of detainees and ensure that they are able to fully enjoy their rights.

To achieve this, he says that officials should strictly comply with and enforce the law. In addition, proper surveillance systems should be set up in prisons, including the installation of closed circuit cameras, while prison environments should generally be improved. Both officials and detainees should be educated on human rights and both sides should change their attitudes towards one other – officials should regard detainees as people with dignity and rights, and detainees should not view officials as their enemies.

State and public agencies should cooperate in realizing these objectives on the occasion of the 60th Anniversary of the Universal Declaration of Human Rights, Mr. Chitsawang adds.



Mr. Nathee Chitsawang

Article 6

Everyone has the right to recognition everywhere as a person before the law.

**“If we don’t know
that we have a right,
we cannot realize
that it is being
violated”**

Voice

A man from Sakhon Nakhon province describes the challenges he faced in obtaining recognition of his rights in Thailand because he did not have Thai nationality.

He was born in Thailand, but until recently, he only held Vietnamese nationality. His parents, reportedly Thai-born of Vietnamese origin, had initially acquired Thai nationality, which was then revoked and later re-acquired. He explains that his nationality at birth was erroneously registered as Vietnamese. Although his Thai nationality was finally recognized after a long period and many administrative procedures, his experience made him realize that the deprivation of nationality prevents a person from enjoying fundamental rights, stemming from not being recognized as a legal person for even the simplest administrative procedures. “You can really only understand the true implications of this if you have had firsthand experiences, such as not being able to open a bank account or obtain a simple driving license,” he explains. He also mentions that his aspiration had been to enter medical school, but as he was not administratively recognized as a Thai national, he was told that he could not be entitled to obtain a public service post upon graduation.

Fortunately, he was advised to seek help from the National Human Rights Commission, and thus eventually acquired his Thai nationality. He is now in his fifth year of medical school.

“If we don’t know that we have a right, we cannot realize that it is being violated,” he explains. Since obtaining his Thai nationality, he has been helping a number of students who have not obtained Thai nationality, despite being born in Thailand, to gain entrance to schools. He points out that the right to study and enter university should not depend on whether or not one is Thai. “Nationality is an abstract concept to me. What is important is to have the possibility to enjoy equal opportunities and have the same rights as others. I was born in Thailand, have always lived here, and will die here,” he stresses. He recommends that the United Nations assist the government in raising awareness on the right to recognition.

“The right to recognition and nationality should apply to everyone”

Commentary

Commenting on Article 6 of the Universal Declaration of Human Rights, Dr. Sriprapa Petcharamesree, Chairwoman of the Course on Human Rights and Peace Studies at Mahidol University, says that in the Thai language, it is unclear whether the term “legal person” refers to the term “legal status” (existence by law) or to the term “legal personality” (the right to have access to legal justice). The right to recognition and nationality should apply to everyone, regardless of whether they are in the country of their nationality or not. The case described above shows how important it is to ensure the respect of human rights in the implementation of laws. Dr. Petcharamesree further explains that during the clarification process of the nationality status of the man from Sakhon Nakhon province, his right to education should have been protected.

In Thailand, the socio-economic protection of people with no legal status has improved over the last few years, with greater access provided to education and medical care. However, challenges still remain in areas such as access to justice. Challenges in recognizing the legal status of people of non-Thai nationality have long been an issue of concern for the government. A number of measures are being considered to address some of these main issues.

Human rights experts consider that the “Strategy to Address the Problem of Legal Status and Rights” is a great step forward. The strategy, proposed by the Human Rights Sub-Commission, was approved by the Cabinet on 18 January 2005, with the aim to grant appropriate legal status and identity to those deprived of such recognition in



Dr. Sriprapa Petcharamesree

Thailand. It also specifies clearer procedures and criteria for applying for Thai nationality and/or legal status. The strategy is not aimed at granting Thai nationality to all, but aims to guarantee legal status and equal access to justice for all people who live in Thailand, regardless of their nationality. The effective implementation of this strategy depends on the commitment of the responsible officials and the accuracy of data on people currently living without legal status. Information dissemination is important to increase public awareness of the means at their disposal to get their rights legally recognized and protected.

Dr. Petcharamesree emphasizes that the National Human Rights Commission has a crucial role to play in enabling those who lack recognition to petition for their legal status and legal personality, as exemplified in the above case. She also notes that efforts should be made to change people's attitudes regarding human rights and tolerance. She asserts that silence and ignorance about human rights violations have to be addressed. In addition, she wishes to see a regional human rights mechanism established.

Article 7



All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

“I now realize my rights and have reclaimed my dignity”

Voice

A woman who suffered physical abuse by her husband and later was granted a divorce shares her experience as a victim of domestic violence. She explains that the Thai Constitution stipulates that “We are equal before the law and are entitled without any discrimination to equal protection of the law,” following the words of the Universal Declaration of Human Rights. Some positive achievements she describes include the establishment of legal mechanisms to prevent such violence in Thailand. However, she asserts that there is still prejudice in society, including bias and stigma that allow women to be abused by their loved ones and which often make victims feel that they cannot stand up for their own rights.

Despite the fact that domestic violence is illegal in Thailand, in practice, it is often tolerated by individuals and communities as a whole. “These attitudes mean that even if a victim stands up for her own rights, she is often criticized or marginalized by her community,” she explains. “This is an issue that affects society as a whole and is not limited to the marginalized and less privileged segments of society. I come from a wealthy family, I have a nursing degree, and have been a victim of domestic violence,” she continues. She reports that her husband beat her on a daily basis. However, his family, with whom the couple shared a home, failed to help her. She eventually managed to escape, and when her husband could not find her, he went to the media, claiming that she had run away for no reason. She was then encouraged to speak out and publically reveal the abuse she had suffered at the hand of her husband.

She says she was very lucky that the Women’s Friends Foundation came to her rescue and that she had the right to file for divorce on the grounds of physical assault. She asserts that she began to realize the rights to which she was entitled when she was told that no one has the right over

one’s own body without one’s own consent. “I do not blame myself anymore. I now realize my rights and have reclaimed my dignity as a human being,” she said.

She says that friends and family were worried that she would bring them shame if she returned to live with them. She also notes that she faced prejudice by the state authorities with which she was in contact as well. They were most often men. When she filed the case against her husband, she said she had to bear the full burden of the case herself. “Fortunately, I was in a financial position to be able to take care of all the costs, but for many women this is not possible, and they are forced to quit pursuing their case,” she said. She recommends that specialized state-run organizations should provide help to women in need of moral support in cases of domestic violence, helping them to stand on their own feet to face their cases of domestic violence and divorce. Following her experience, she decided to pursue a law degree. At present, she is working as a columnist and speaker providing legal advice on women’s rights on television, as well as on behalf of several organizations. “This was not an easy struggle,” she adds.

“Thailand has made significant legal progress in terms of establishing legal mechanisms for the protection of women against violence”

Commentary

Mr. Sithisakdi Vanachakij, Chairman of the Justice of Appeal Court of Law, believes that this case typifies many of the current domestic violence cases in Thailand as most often, the women are afraid to bring the story of their plight out in the open. According to Mr. Vanachakij, Thai society should work to change the public perception that a husband has complete power over the life and body of his wife.

He notes that currently, there are many national and international organizations working in Thailand to overcome these stigmas and campaign for women’s rights. While much work still needs to be done, he points out that in the past decade, Thailand has made significant legal progress in terms of establishing legal mechanisms for the protection of women against violence. As an example, he cites the Domestic Violence

Victims Protection Act (2007), which calls for respect for human dignity in full equality regardless of gender. He points out that the Act recognizes certain sensitivities around the issue of domestic violence, and accordingly, the government is to provide protection for the victims. The law also prescribes that during a victim’s interview, the interrogating police officer must provide support to the victim by offering the service of psychiatrists, psychologists, social service officers or any person whose presence is requested by the victim. It is worth noting, however, that the Act chiefly concerns therapy for the victim rather than punishment for offenders, which some criticize as being too lenient.

Mr. Vanachakij also says that discrimination in domestic violence cases can occur at various levels in society, including within the police force. He points out that police officers from

Mr. Sithisakdi Vanachakij

rural areas often do not have sufficient knowledge about laws and choose to adopt perspectives in line with socially accepted norms that permit domestic violence. This is either because they do not know about relevant legal mechanisms or because the majority of police officers feel that the issue of domestic violence is not worthy of police attention and authority, he explains.

Mr. Vanachakij believes that domestic violence against both women and children remains prevalent in Thai society at large. It is a manifestation of publicly accepted violence, such as that which is exhibited in the press, film and other media, as well as firsthand witnessing of domestic violence by children in their homes. He worries that this culture of violence has affected youth and promoted an increased likelihood that children will grow up to become abusers themselves.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.



Mrs. Angkhana Neelapaijit
Chairperson, Working Group on Justice for Peace

**“What we want,
above all else, is
for the truth to be
told and justice to
be served”**

Voice

Mrs. Angkhana Neelapaijit, wife of the disappeared human rights lawyer Mr. Somchai Neelapaijit, recounts her experiences after the disappearance of her husband. Previously an ordinary housewife, she has now become a human rights activist, advocating for state accountability on violations of human rights and for the establishment of a mechanism to provide justice for families of disappearance cases, especially in the three southern border provinces of Thailand.

Mr. Neelapaijit disappeared on 12 March 2004 and has not been seen since. Mrs. Neelapaijit and their five children believe he has been killed and that his disappearance is related to the legal assistance he had been providing to the accused Muslim people in the three southern provinces in Thailand. Five police officers accused of involvement in Mr. Neelapaijit's disappearance were put on trial for the charges of robbery and the coercion of another person, but not on charges of abduction or murder. The investigation of the National Police Bureau failed to provide sufficient evidence or witnesses. The Criminal Court's verdict on 12 January 2006 consequently convicted one of the policemen, sentencing him to three years of imprisonment, while the rest were released due to lack of evidence.

Since Mr. Neelapaijit's disappearance, the Thai government has been offering some financial support to his family, but Mrs. Neelapaijit has refused to accept such support, despite the family's meagre financial status. She says that she was afraid that any financial support would come with the condition that her family no longer pursue the case. For Mrs. Neelapaijit, “Money

is not what we want. What we want, above all else, is for the truth to be told and justice to be served. Those who violated Somchai's right to life should be brought to justice according to the rule of law," she says.

Through her experience in demanding justice for her husband's case, Mrs. Neelapaijit is now actively working to help the victims of the unrest in the southern region of Thailand. She has set up a Working Group on Justice for Peace to promote justice for families of disappearance cases in southern Thailand, and to ensure that those accused in cases related to the unrest receive due treatment and fair trials.

Mrs. Neelapaijit thinks that the government has taken some positive steps in trying to protect the rights of the victims of the unrest over the past years, including the establishment of a number of remedial and compensatory mechanisms in Thailand for those affected by the unrest in the South. However, financial compensation is not enough. "Without justice, the wounds will never be healed," she stresses. For her, it is imperative that human rights defenders are respected and protected. "A reliable investigation system should be in place to provide the justice we all deserve," she adds.



Professor Vitit Muntarbhorn

“It is important that the government provide more incentives to attract qualified people to the justice system”

Commentary

Professor Vitit Muntarbhorn, a leading human rights academic in Thailand, points out that the case of Mr. Somchai Neelapaijit has received a lot of interest from both domestic and international organizations because it concerns the violation of the rights of a human rights defender. He offers three points that could be drawn from this case. First, the quality of government officials is a crucial measure to prevent such misconduct. Therefore, it is important that the government provide more incentives to attract qualified people to the justice system. Second, Mr. Neelapaijit’s case points to a possible use of extrajudicial means, hence the violation of rights. Government officials must abide by the rule of law at all times. Third, once an act of violation has occurred, judicial responses at the national level may lead to various remedial measures, but these measures are still perceived as inadequate to provide justice where it is due. In cases where the government fails to give effective remediation to the victims, the United Nations mechanism(s) could be taken into consideration. Everyone has the right to approach the United Nations for help if the

domestic-level remedies available to them are insufficient to protect their human rights. Mr. Neelapaijit’s case has been submitted for consideration by the United Nations Working Group on Enforced or Involuntary Disappearances, which is in the process of discussing the case with the Royal Thai Government.

At present, Thai society is paying more attention to victims whose rights are violated by the State authorities, he says. Monetary compensation is the common method that the government uses, but justice is what the victims need. According to Professor Muntarbhorn, Thailand should become a party to the Convention of the Protection of All Persons from Enforced Disappearance, an instrument which permits the United Nations to monitor such cases. Such membership would require that the government prepare periodic reports to be submitted to the United Nations regarding this problem. This could be a first step towards establishing a preventive mechanism against the violation of the rights of people, especially of human rights defenders.

Article 9



No one shall be subjected to arbitrary arrest, detention or exile.

**“Only when there is a
reasonable suspicion
can there be a basis
for an arrest”**

Voice

The father of a man charged with the distribution and sale of illegal drugs in 2003 describes a case involving his son and a friend, who were reportedly driving to collect their high school diplomas. “My son and his friend were driving my car when they stopped at a traffic light. Two men on a motorcycle approached them, pointed a gun at them and tried to get into the car. My son and his friend drove away and the two men started shooting. My son was shot in his arm and leg and his friend was shot in his spine and became disabled,” he said. After they were discharged from the hospital, the two friends were reportedly arrested, accused and charged of possession and intention to sell amphetamines.

“Prior to this incident, I understood the need to take action against drug trafficking in the country, but now I have realized that without solid legal guarantees, everyone can be caught in the middle – even if there are no solid grounds to believe the person is actually involved in drug trafficking,” he says. The father believes that because the two boys did not have prior criminal records, there was insufficient evidence to support the claim that there was reasonable suspicion against them and thus their detention was not warranted. “Only when there is a reasonable suspicion can there be a basis for an arrest; otherwise I believe it is arbitrary. I have filed a complaint to the Royal Thai Police Bureau, and I am ready to fight for justice,” he states. The National Counter Corruption Commission dispatched a letter on 30 June 2008 notifying him that the matter is now up for consideration.

“The accused often lack awareness of their rights and fear the authorities”

Commentary

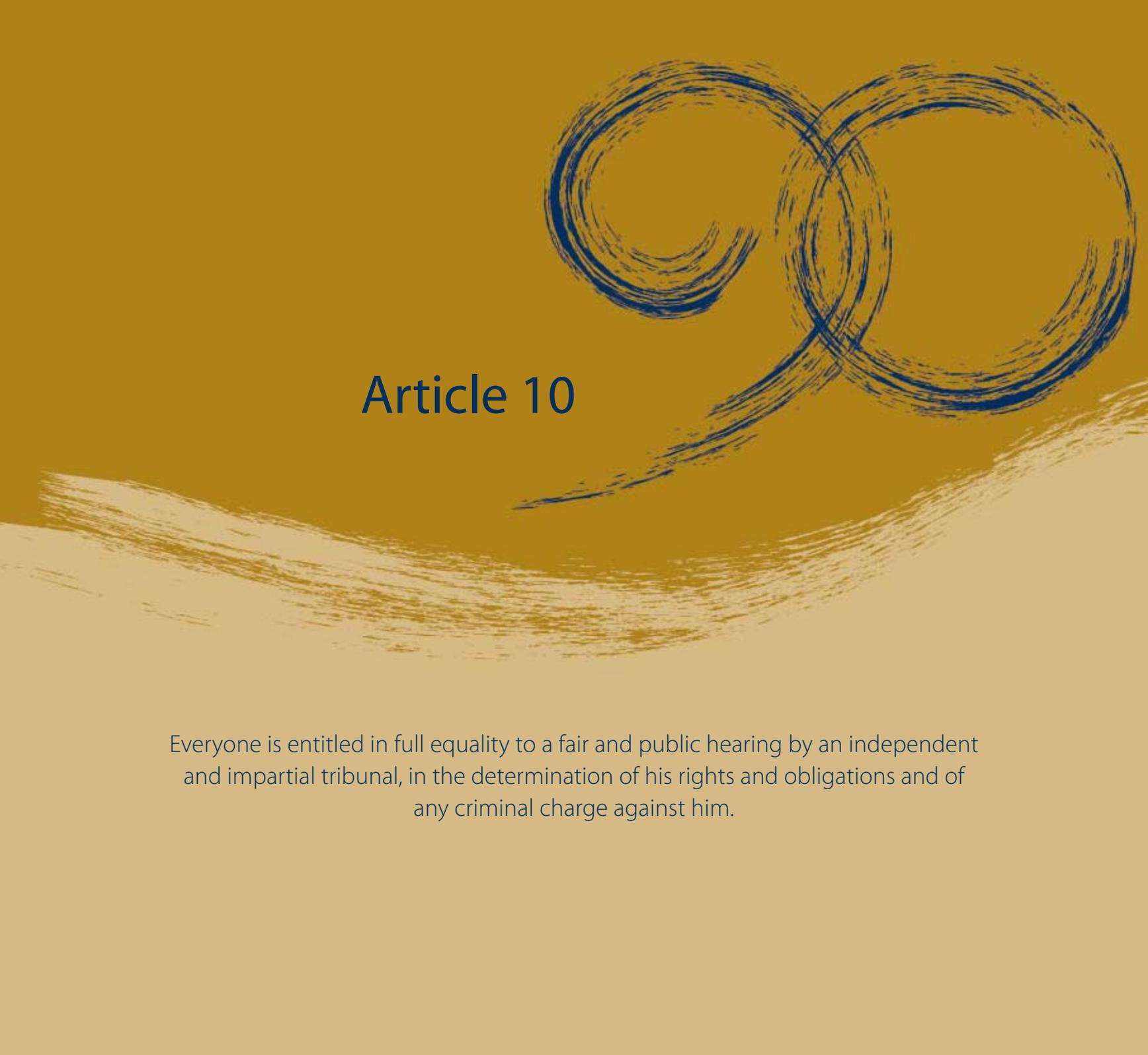
Mr. Thongbai Thongpao, a human rights lawyer, believes that in this case, the police officers may have abused their authority. In his opinion, as the police officers were armed but out of uniform, the two young men may have believed that they were robbers. And while the police claimed that the two young men were armed, they failed to provide evidence showing that they attacked the police.

Mr. Thongpao says that since 2004, legislation in Thailand has progressed in the area of protection of the rights of offenders and the accused. For example, police officers are required to tell suspects why they are being arrested and inform them of their rights. In practice, however, this legislation is often not enforced as many officials still maintain a negative attitude towards suspects and take advantage of their authority. Furthermore, he

feels that the accused often lack awareness of their rights and fear the authorities, which increases the likelihood of false confessions. On the occasion of the 60th anniversary of the Universal Declaration of Human Rights, Mr. Thongpao proposes that government and non-government actors, including educational institutes, should promote human rights education to raise public awareness of basic human rights, including the rights of the accused, and the duty of the state to protect those rights. He suggests training for lawyers to instil in them a heightened responsibility to protect the rights of the accused without fearing the power of police or other authorities. He also says that there is a need to enhance the power of the independent audit system, such as the monitoring role of the National Human Rights Commission, to hold the state accountable in their obligation to preserve human rights.



Mr. Thongbai Thongpao



Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

“Evidence obtained through unlawful methods constitutes a grave violation of a suspect’s human rights”

Voice

A 25-year-old woman and graduate from a university in southern Thailand shares her voice, asserting that the law in Thailand recognizes and protects the right to a fair and public hearing by an independent and impartial tribunal. She also notes that over the years, legal guarantees have been put in place to govern the way investigations are held in order to guarantee the rights of the persons involved. However, she notes that in practice, violations can still occur, particularly during pre-trial detention periods when victims are often left unprotected.

She describes that she was arrested allegedly by border patrol officials and accused of drug possession. “I was first detained together with a friend by Border Patrol Police for three days in an unidentified location. Then they moved my friend and I to a new location where I was held for a period of six days for further interrogation. While being interrogated, they bound my hands and feet and used a black bag to cover me. I finally admitted I had drugs in my possession. They then handed us over to the police station for prosecution,” she explains.

The woman says that in the course of criminal investigations, the universal and non-derogable prohibition of torture must be respected at all times without exception. She thinks that this is crucial for the full enjoyment of all rights related to access to justice. “I believe that evidence obtained through unlawful methods constitutes a grave violation of a suspect’s human rights and should be refused as evidence in any fair proceeding,” she says.

The woman’s case is under investigation. “This is particularly important since Thailand recently acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,” she adds.

“Suspects should be made aware of their rights, particularly with regard to the assumption of being innocent”

Commentary

Mr. Surasee Kosolnavin was a public prosecutor for 30 years before he became a member of the National Human Rights Commission (NHRC) and the president of the Sub-Committee for Human Trafficking and Human Rights Protection in the justice system. He explains that when the police make an arrest, the accused must be taken to the police station immediately to start the interrogation process. The interrogator should not be the same person who makes the arrest. He adds that the police cannot detain the accused for more than 48 hours.

Mr. Kosolnavin stresses that the main aim of the justice system is to identify the truth and apply the law. He explains, however, that lack of evidence is a major obstacle to filing a lawsuit to accuse a law enforcement officer of using torture. Furthermore, the slow processes of the justice system may result in evidence being changed or lost. He adds that

sometimes there are even instances of coerced confession.

Mr. Kosolnavin says, “There are many instances of violation of rights in the justice system, 80 percent of which have been filed to the NHRC.” Most of the lawyers appointed to represent the suspects are volunteer lawyers or usually receive less remuneration.

Mr. Kosolnavin suggests the establishment of a public defender position, whose qualifications and experience are at the same level as that of a public prosecutor.

Mr. Kosolnavin explains that sometimes the public feels that police officers do not see suspects as human beings, despite the fact that training on the protection of human rights has been provided. Therefore, human rights training for police officers should be improved. Officers who arrest suspects should not be the same officers who



Mr. Surasee Kosolnavin

interrogate them. The proper justice process should be applied, along with the protection of human rights and crime prevention.

Mr. Kosolnavin believes that the NHRC's role is not to decide whether or not suspects are guilty, or to act as their defense lawyer – it is to coordinate between parties to establish the truth and negotiate a way to live together peacefully. He believes that victims of injustice suffer from the worst human rights violation as this destroys human dignity. He says that the United Nations should establish a year or decade of human rights to encourage all UN Member States to improve their justice systems by making the preservation of human rights a reality.

The Constitution of Thailand (2007) clearly states in Article 32 that “torture, a brutal act or punishment by cruel or inhumane means shall not be made”. In addition, even though Thailand is party to an international agreement against torture, cruel or inhumane treatment and punishment, torturing a suspect to coerce a confession still occurs in Thai society. This results from negative attitudes on the part of some law enforcement officers, lack of awareness by the suspects of their rights, and gaps in the law. He explains that the criminal code of Thailand already includes a clear definition of torture,

attempted torture and acting as an accomplice to torture. As such, any disagreement on these definitions cannot be brought to the international court; filing a complaint and resolving such a dispute must be done in the country. Therefore, it is necessary to improve the effectiveness of enforcement. Apart from the Department of Rights Protection and Freedom under the Ministry of Justice, the Office of the National Anti-Corruption Commission is one of the key agencies that handles abuse of authority cases in Thailand.

The National Police Department of Thailand should ensure that there is no abuse or exploitation of power in its regular operations. In addition, suspects should be made aware of their rights, particularly with regard to the assumption of being innocent. The authorities should not practice coercion, issue threats or carry out torture. According to the law, any information obtained through misconduct cannot be submitted as evidence against suspects. In order to ensure a fair trial in accordance with human rights principles, witness and suspect protection measures should be enforced, and punishment given to law enforcement officers found guilty of misconduct.



Article 11

- 1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
- 2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

“What reason is there for an innocent person to be imprisoned?”

Voice

This voice comes from a 34-year-old male inmate of Lua ethnic origin, who was charged in a drug case and who has been in a prison in Nan province for the last five years. He claims that he is innocent. “In 2003, the police searched my house, citing an incident that they said took place in 2001. The person the police said that he was searching for was an accomplice to a narcotic offence,” he explains. However, he says that he was not an accomplice in this crime and found out while in prison that the guilty man was, in fact, someone else with a similar name.

“I told the police I had nothing to do with it. I didn’t understand what they were talking about. They forced me to give a confession, saying that if I confessed, I would not have to go to prison; so I confessed. The police tricked me into this confession that I then signed,” he explains. “During the trial I again denied the charges against me. I knew I was going to be put in jail, despite what the police had said. What reason is there for an innocent person to be imprisoned?” he asks. “Sometimes I miss my child, my wife and my parents, and I ask myself, ‘why has this happened to me?’ The actual wrongdoer has already left prison, while I, who have done nothing wrong, am stuck here in jail.”

“The government should ensure that vulnerable groups have access to legal advice and representation”

Commentary

Ms. Suwanna Suwanjuta, Director-General of the Department of Rights and Liberty Protection, Ministry of Justice, is aware of the efforts being made by the National Human Rights Commission on behalf of this man to bring about justice. She says that although the case may have already been closed, there is still a way for the courts to remedy the situation. According to the Criminal Case Reconsideration Act (1979), if it can be proven that the convicted man is in fact not guilty, compensation and reparation may be granted by the Department of Rights and Liberty Protection in accordance with the Remuneration for Victims Act (2001).

It is important to note that this man is not the only inmate convicted of a crime who might actually be innocent. According to Ms. Suwanjuta, the Possibly Innocent Inmate Examination Project, first implemented in 2007, found that more than 500 persons detained in 137 penitentiaries and prisons nationwide may be innocent of the crimes for which they have been convicted.

It has been suggested that occurrences of injustice are more likely to occur at the beginning of investigations, for instance during arrest and interrogation, because people who are marginalized by society may not be aware of their rights and therefore can be more easily victimized. Ms. Suwanjuta notes that political reforms of the past decade have promoted access to the process of receiving justice.

Insufficient collaboration is considered to be one of the problems of the criminal justice process in Thailand: with each department focusing solely on its own goals, there is a need for different departments to work more closely together towards the improvement of rights in the criminal justice process. Furthermore, the government should ensure that vulnerable groups have access to legal advice and representation, she recommends.

Ms. Suwanna Suwanjuta

The image features a yellow background with a white, wavy brushstroke at the bottom. In the upper right, the letters 'DM' are rendered in a thick, blue, hand-drawn style. A large, blue, circular swirl is positioned to the left of the 'D'.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

**“Complete censorship is
an obstruction to
knowledge”**

Voice

A 15-year-old Grade 10 student shares his experience of using the internet. He believes a fundamental characteristic of the internet is that its access and usage is anonymous. However, some people take advantage of this anonymous nature to harm others, thinking that they are safe to do so because they are protected by the right to privacy. He reports that there is a secret website, well known among students, containing rumours and gossip which is recounted and later modified by students anonymously. “This website is famous amongst students, who post rumours and profanities on it without any supervision,” he explains.

He asserts that the ‘privacy policy’ of the internet should guarantee the privacy of its users and that this should be monitored by webmasters. Regarding the violation of privacy and dignity via the internet, he believes that close supervision is a must because the internet is an open channel, providing access to everyone. He claims that the easiest way to prevent defamation is through the use of a web administrator. The duty of the website owner or webmaster is to have their site supervised and the duty of the users themselves is to prevent any problems from occurring.

“It seems that the cyber community can be dangerous,” he notes. “But there is no need to worry about it if we can control it well. My teacher told me that the internet is a good thing. The only problem is that not all people are good. However, I do not favour complete censorship. We should be entitled to view websites and complete censorship is an obstruction to knowledge.”

“There needs to be a balance between freedom of expression and censorship on the internet”

Commentary

Ms. Methinee Dhepmanee, Director of the Institute of Policy and Strategy, Ministry of Information and Communication Technology, thinks that further development of the internet requires people to be respectful of the rights of others. It is a communication tool that is useful in terms of time efficiency and productivity, but should not be used by people to abuse the rights of others.

She believes that each country is responsible for developing legal mechanisms to protect their citizens' rights. Thailand has such a law, the Computer-Related Offence Act (2007), which seeks to punish a person who has committed an unlawful act of violation that causes damage and compromises the integrity and order of Thailand, as well as that of the economy, society and security of the state.

She says she is concerned about the large number of victims whose rights have been violated on the internet, people who have been slandered online or had their images modified and publicized. She says that many cases have led to punishment following legal recourse.

On the occasion of the 60th Anniversary of the Universal Declaration of Human Rights, Ms. Dhepmanee says she is filled with hope that victims of internet rights violations will have their rights to privacy realized, because every human being is entitled to dignity. She notes that for this to occur, there needs to be a balance between freedom of expression and censorship on the internet. However, the government should not compromise some rights to protect others.



Ms. Methinee Dhepmanee



Article 13

- 1) Everyone has the right to freedom of movement and residence within the borders of each state.
- 2) Everyone has the right to leave any country, including his own, and to return to his country.

Family of migrant workers
Mon State, Myanmar

“I worry that my daughter will not be able to attend school in Thailand”

Voice

A migrant worker and his wife from Mon State in Myanmar migrated four years ago to Thailand. The husband looks after their daughter while his wife works as a live-in housekeeper and comes to visit only on Sundays. They share their own experience with the human rights situation. This family has a daughter who was born in Thailand. When their daughter was born, the hospital provided a birth certificate for her, they explain. But the husband worries that his daughter will not be able to attend school in Thailand, even though he is aware that there is a law in Thailand that allows for children of migrant workers to receive an education. Although he paid a great deal of money to obtain an alien registration card, enabling him to move from one province to another, he feels that he needs to be cautious so as to not be arrested or fined by the police.

A woman
Migrant worker
Karen State, Myanmar

“I was not given a work permit and therefore could not get a new job”

Voice

A female migrant worker from Myanmar’s Karen State reports that the human rights problems faced by migrant workers from Myanmar are related to their rights to work and to travel. Her friend, who had previously worked as a caretaker of elderly people, claimed that she was not given a work permit and therefore could not get a new job. According to her, other migrant workers from Myanmar have claimed that they are often stopped by police who check their documents and ask them to pay a fine directly, irrespective of whether or not they have valid documents. “The migrants say they pay because they are afraid,” she explains. She herself has experienced such an incident while she was waiting at a bus stop.

“Thailand should have a judicial system that provides justice and protects its people based on its international obligations”

Commentary

Mr. Somchai Homla-or, an experienced human rights lawyer, comments on the rights to movement and change of place of residence that affect three main groups of people in Thailand: stateless people who have missed being documented under the civil registration survey and those who are known as ‘people with coloured IDs’ (such as the hill tribes or ethnic groups in the north of Thailand, or Thai displaced persons in the south); cross-border labourers from neighbouring countries and countries in South Asia (the majority of whom are illegal immigrants, although some have legal work permits and identification cards); and lastly, refugees, who in Thailand are called ‘displaced persons fleeing from civil strife’ and who live along the borders, including students from Myanmar, and people who have been registered as camp residents and recognized as refugees. These three groups, combined with unregistered groups, could account for millions of people.

These people do not have the rights and liberties of Thai nationals, as they are not considered citizens. This interpretation, in Mr. Homla-or’s view,

is ‘narrow-minded’, as the Universal Declaration applies to all human beings and, in accordance with human rights ideology, the above are considered natural rights. Documents or conventions, both national and international, should only serve as affirmation of these rights.

In his view, Article 13 of the Universal Declaration, which states that persons have the right to choose their place of residence and the right to movement, covers the rights of these people. These are not absolute rights, but are sensible and reasonable conditions and limitations based on the needs of the state. These are different from rights regarding religious beliefs and some other rights which are fundamental, absolute rights which cannot be abused. The question Mr. Homla-or raises is whether the rights of these people are sensibly and reasonably balanced on the basis of the needs of the state.

Mr. Homla-or believes that the rights of these people are unreasonably limited. For example, the fact that they are forbidden to leave the province

Mr. Somchai Homla-or

in which they are registered may prevent them from obtaining a higher education or having access to certain types of work. They need to obtain permission to travel from the governor of their province on a case-by-case basis.

Furthermore, in some provinces, the rights of cross-border labourers are even more limited. For example, there are announcements by governors of some provinces imposing a curfew on them after 20.00 hrs. These announcements are made without any legal basis, often resulting in cross-border labourers being forced to work in conditions that are below the minimum labour standards, or to become forced labourers.

Mr. Homla-or states: "This is just taking advantage of people, as the Thai economy is in need of labourers due to a lack of Thai labourers, and the fact that Thai labourers prefer not to do dangerous or dirty jobs. However, at the same time, we do not recognize the rights of these people, including their right of movement."

Mr. Homla-or is of the view that in any civilized country, asylum seekers are usually entitled to travel within and even, in some exceptional cases, outside the country. Many countries also consider that asylum seekers are generally people with different political views from the authorities in their own countries. Asylum seekers in some

countries receive financial support from the government and can even receive accommodation provided by the government because they are considered to be people who have and promote basic freedoms. However, the Royal Thai Government does not recognize this standard or international principle and forces such people into refugee camps specifically set up for them.

Mr. Homla-or believes that the legal, administrative, and judicial arms of the government should adjust the country's laws and regulations in line with international laws and standards. At present, the Royal Thai Government is a signatory state of seven human rights conventions, the latest of which relates to the rights of the disabled applying to all people, regardless of nationality.

He asserts, "Thailand is host to the largest United Nations Regional Centre in the world, so the United Nations should not be afraid of the Thai Government to act in accordance with bilateral agreements. Thailand should have a judicial system that provides justice and protects its people based on its international obligations. It is only when this has been achieved that judicial reform can be realized".



Article 14

- 1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- 2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Namchai, a man, age 60
Refugee camp resident since 1997
Chief of a village from Karenni State, Myanmar

“Refugees are entitled to enjoy the same rights as any other human beings”

Voice

Namchai is a 60-year-old man from Myanmar, who fled his hometown 11 years ago with his wife and four children during the military offensives in the Karenni State along the border with Thailand. Since then, he and his family have lived in Tham Hin Refugee Centre in Ratchaburi province. He is one of among up to 140,000 people who fled Myanmar to take refuge along the Western border of Thailand over the past decade. The Royal Thai Government has established nine refugee centres to accommodate those fleeing the fighting in Myanmar. The United Nations High Commission for Refugees (UNHCR) regards registered camp residents as ‘refugees,’ while the Royal Thai Government refers to them as ‘displaced persons’ awaiting repatriation or resettlement in a third country.

Namchai says that the camp has become his home over the past 11 years and that he does not want to go anywhere else. But, deep down, he says he is uncertain how much longer Thailand will allow him to stay. He realizes that the camp is just a ‘temporary shelter’. Asked about his views on human rights, he puts it simply: “Please don’t treat us like animals. Refugees are entitled to enjoy the same rights as any other human beings.”

While an elderly man like Namchai wishes to spend the rest of his life in Thailand, many of the younger generation in the camp dream of moving on to a third country, he reports.

**“As refugees,
what is lacking is
the opportunity
to see the outside
world”**

Voice

25-year-old 'Pornchit' fled Myanmar eight years ago while he was still in high school. Today, he is an English teacher at Tham Hin Refugee Camp. For him, life at the camp is merely temporary. “We are very well provided with food, medicine, shelter and other facilities. But what is lacking is the opportunity to see the outside world,” he says.

He questions how he can be an effective teacher when he knows so little about life outside the camp, and how he can teach his students to know the difference. This is an issue of serious concern, according to him. He states that children who were born in the camp have a severely limited view of the world and that it is important to provide them with access to information about the outside world, at least through television and the internet. “As refugees, we are lucky to receive support and to be hosted here, but as human beings, we do not enjoy equal rights with other human beings,” he explains.



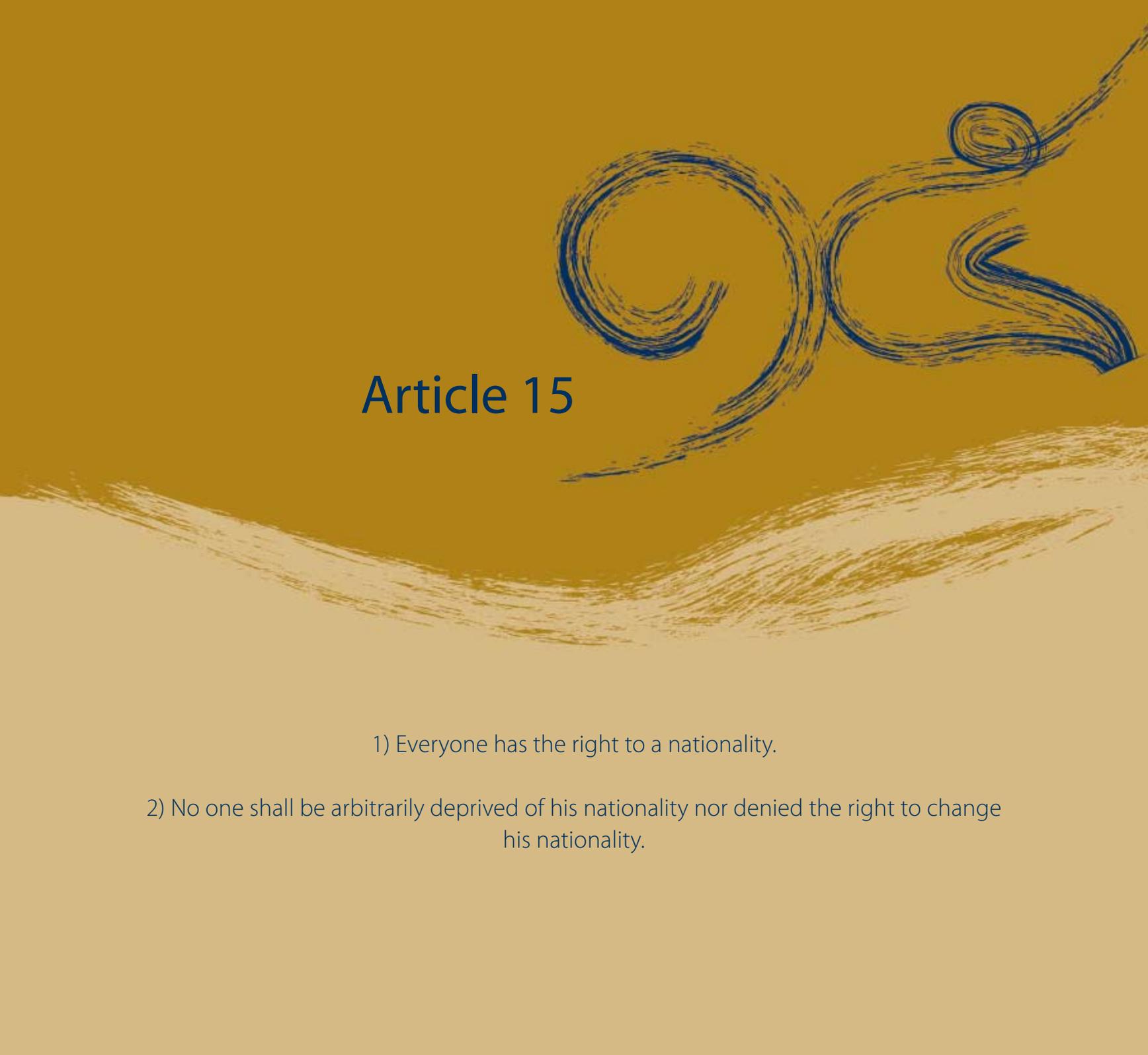
“It is high time Thailand joined the Convention so that the issue of refugees can be dealt with under a proper international framework”

Commentary

Professor Supang Chantavanich

Professor Supang Chantavanich, an expert on migration and refugees from Chulalongkorn University, concurs that the two voices illustrate very well the different needs of different generations of refugees that need to be taken into consideration. According to Professor Chantavanich, there are three frequently asked questions regarding the status of refugees in Thailand: why are refugees not allowed to go outside the camp, why are they not allowed to work, and why are they not being sent to a third country. Professor Chantavanich provides the following answers: “In answer to the first question, I think it is normal practice in every country. Refugees cannot move around freely. In fact, Thailand has shown flexibility by allowing some refugees to attend school outside the camp. Regarding the second question, the government is currently setting up a system to allow refugees to commute to work outside the camp on a daily basis. As for the last question, a number of refugees have already been resettled in third countries,” she reports.

Professor Chantavanich believes that Thailand has done well in terms of accommodating the rights of people who have fled war in neighbouring countries. However, she agrees that conflict exists between the refugees and the Ministry of Interior’s volunteer guards, who are in charge of patrolling the camps. “The problem is that we only have the Immigration Law to deal with the issue of refugees.” She points out that this law is not appropriate nor adequately responsive to the current situation. “Seven years ago, there was a debate about whether or not Thailand should become a signatory to the 1951 United Nations Convention Relating to the Status of Refugees. I did not see the necessity then, because in my view, Thailand had already followed what was required in the Convention. But today, the situation has changed a lot, and there are new challenges. Thailand has become a first port of call for those who seek to resettle in a third country. I think it is high time Thailand joined the Convention so that the issue of refugees can be dealt with under a proper international framework,” she says.



Article 15

- 1) Everyone has the right to a nationality.
- 2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

“We should have the right to education, love, shelter, access to medicine, food and warmth like everyone else”

Voice

Two 16-year-old orphan girls in Chiang Rai province describe their childhood experience as follows: “We drifted from living with one relative to another before we were placed under the guardianship of a Christian orphanage. We both lived in the orphanage for many years but did not possess Thai identity cards.”

Each girl now has identity papers issued by the Ministry of Interior that certify their status as stateless people living in Thailand. With these documents, both of them are allowed to enrol in school.

“Despite one of us being a top student, as stateless people, we have never been eligible for official academic recognition. I was the only one in the classroom with no Thai identification card. Sometimes I felt very sad and depressed for not being awarded a scholarship,” one of the girls explains.

When they were asked about the definition of ‘human rights’, both girls said, “We should have the right to education, love, shelter, access to medicine, food and warmth like everyone else.”

“The celebration of the 60th Anniversary of the Universal Declaration of Human Rights should serve as an opportunity to ensure that everyone will one day finally have a nationality of their own”

Commentary

Associate Professor Dr. Pantip Kanjanajitra Saisoonthorn of the Faculty of Law at Thammasat University explains that the identity papers held by both girls who shared the story above were issued according to Section 38 of the Public Registry Act (1991) and were modified by Public Registry Act (2nd edition) (2008). Through this Act, the Department of Administration has recognized both girls as persons with a domicile in Thailand. They are to be included in the public registry as immigrants with temporary status. They do not have nationality yet, but their legal status has been recognized and registered in the public registry, she explains.

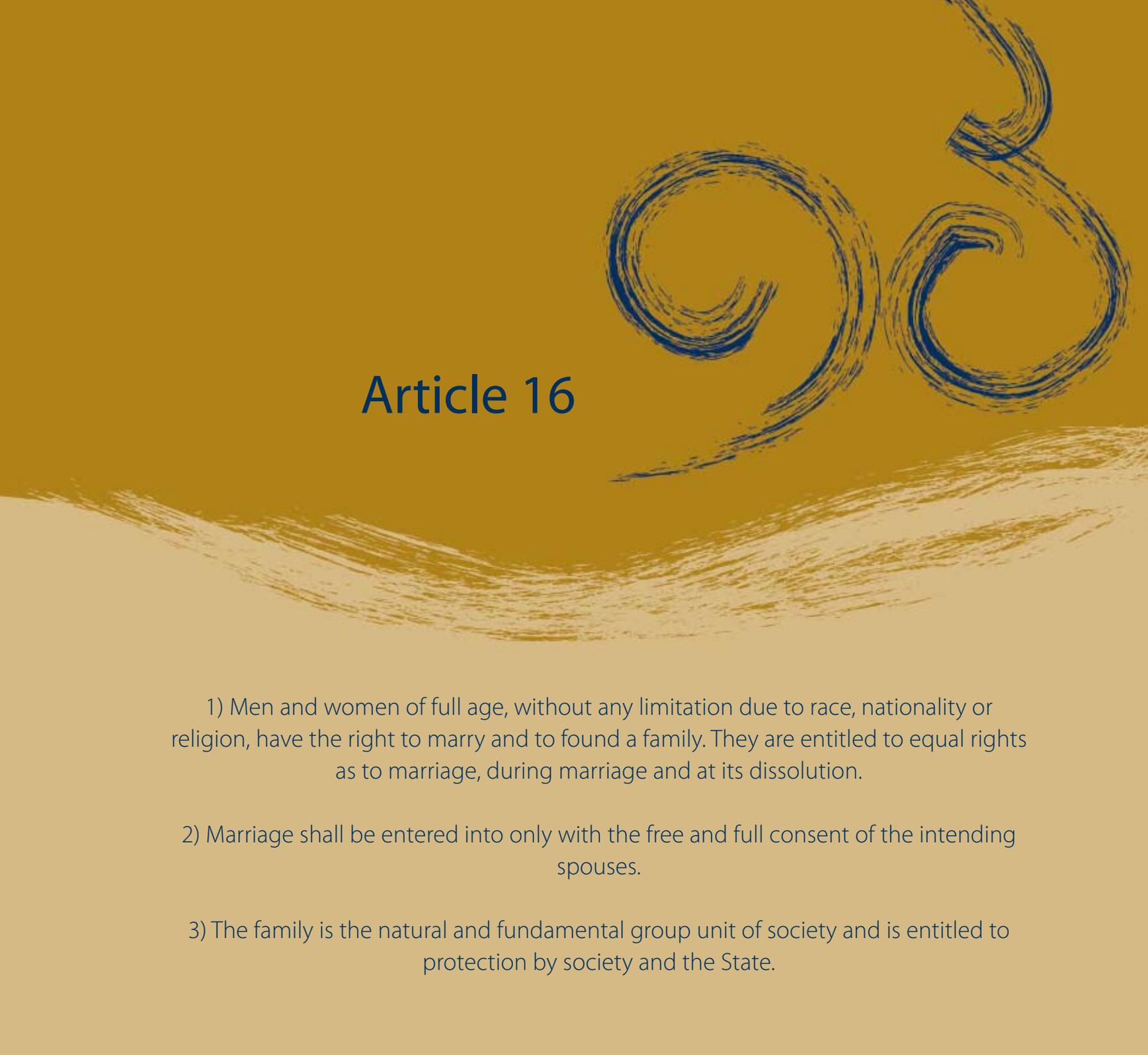
Dr. Saisoonthorn notes that the lack of progress in resolving cases in Thailand that deal with problems concerning lack of nationality is often the result of a lack of legal knowledge by the public. The authorities themselves are also often in need of such legal knowledge. Prejudice sometimes also

plays a negative role in the way such cases are dealt with, she says.

Dr. Saisoonthorn added that the amendment to the Nationality Act (2008) became law on 23 February 2008, and the Civil Registration Act on 23 August 2008. These two acts offered a solution to resolve the issue of nationality facing the hundreds of thousands of people living in Thailand with no nationality. She says that the crucial point is to establish a clear role for an agency to handle nationality issues and to clearly outline its responsibilities. She adds that the most important issue to consider in the new Civil Registration Act is that all children born in Thailand will be entitled to a birth certificate regardless of their legal status.

Dr. Saisoonthorn recommends that this year's celebration of the 60th Anniversary of the Universal Declaration of Human Rights should serve as an opportunity to ensure that people like these two young girls will one day finally have a nationality of their own.

Dr. Pantip Kanjanajitra Saisoonthorn



Article 16

- 1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- 2) Marriage shall be entered into only with the free and full consent of the intending spouses.
- 3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

“I have learned the reality of the inequality between men and women, as well as between married and divorced people”

Voice

A 31-year-old widow expresses her satisfaction in regaining the use of the courtesy title ‘Miss’, and in revoking the title of ‘Mrs’ obtained through her marriage six years ago. She explains that once she learned about the benefits of the new Courtesy Title Act* on the internet, she was determined to make use of her right to change her title as soon as possible. She has spoken about this to many acquaintances and has received many different comments and reactions.

“A male acquaintance of mine stopped being my friend because, according to his selfish attitude on this subject, I should keep my ‘Mrs’ title despite the change in my circumstances,” she recounts. She recalls the reactions of society in general, and felt that most men did not understand the need for her to change her title back to ‘Miss’. Some of her friends asked, “What is the reason for changing your title? Even after changing your title, men will not consider women in your situation to be a ‘Miss’..”

“But I don’t care,” she said to them. “They may feel indifferent about the change, but it makes me feel good – so I changed it.” She says that she has no in-depth knowledge about human rights but that she has learned the reality of the inequality between men and women, as well as between married and divorced people. “You can speak about the issue of human rights and make it sound so marvellous, but in practice, it is not as widely applied as it is meant to be,” she comments.

* The original Royal Decree for the Women’s Courtesy Title Act (1917), declared that a woman who was officially married was subject to the courtesy title ‘Mrs’ and was therefore required to adopt this title, to take on her husband’s family name and to use it thereafter. This was not the case for men, who retained the same courtesy title of ‘Mr’ regardless of their marital status.

On 4 June 2008, the first day in effect of the new Royal Decree for the Women’s Courtesy Title Act 2008, many women opted to revert to the female courtesy title ‘Miss’. As of 9 July 2008, one month after the enforcement of the new law, 50,890 women nationwide had exercised their right, according to the Department of Administration, comprising cases of both new marriages and divorce. Among these cases, 34,417 women requested to use the title ‘Ms’, and only 12,681 women wanted to use the title ‘Mrs’.

“The right to marriage and family should not be restricted to the framework of men and women, but should apply to any gender”

Commentary

Ms. Naiyana Supapeung, a National Human Rights Commission member, comments that the essence of the story above is about the right to marriage and family, but should not be restricted to the framework of men and women, but should apply to any gender. She highlights progress made in Thailand. In addition to the modification of the Women’s Courtesy Title Act of 2008, complying further with the Universal Declaration of Human Rights, two criminal laws – Section 276, which subjects a raping spouse to punishment, and Section 1516, which enables women to cite rape as grounds for divorce – are good examples of this progress.

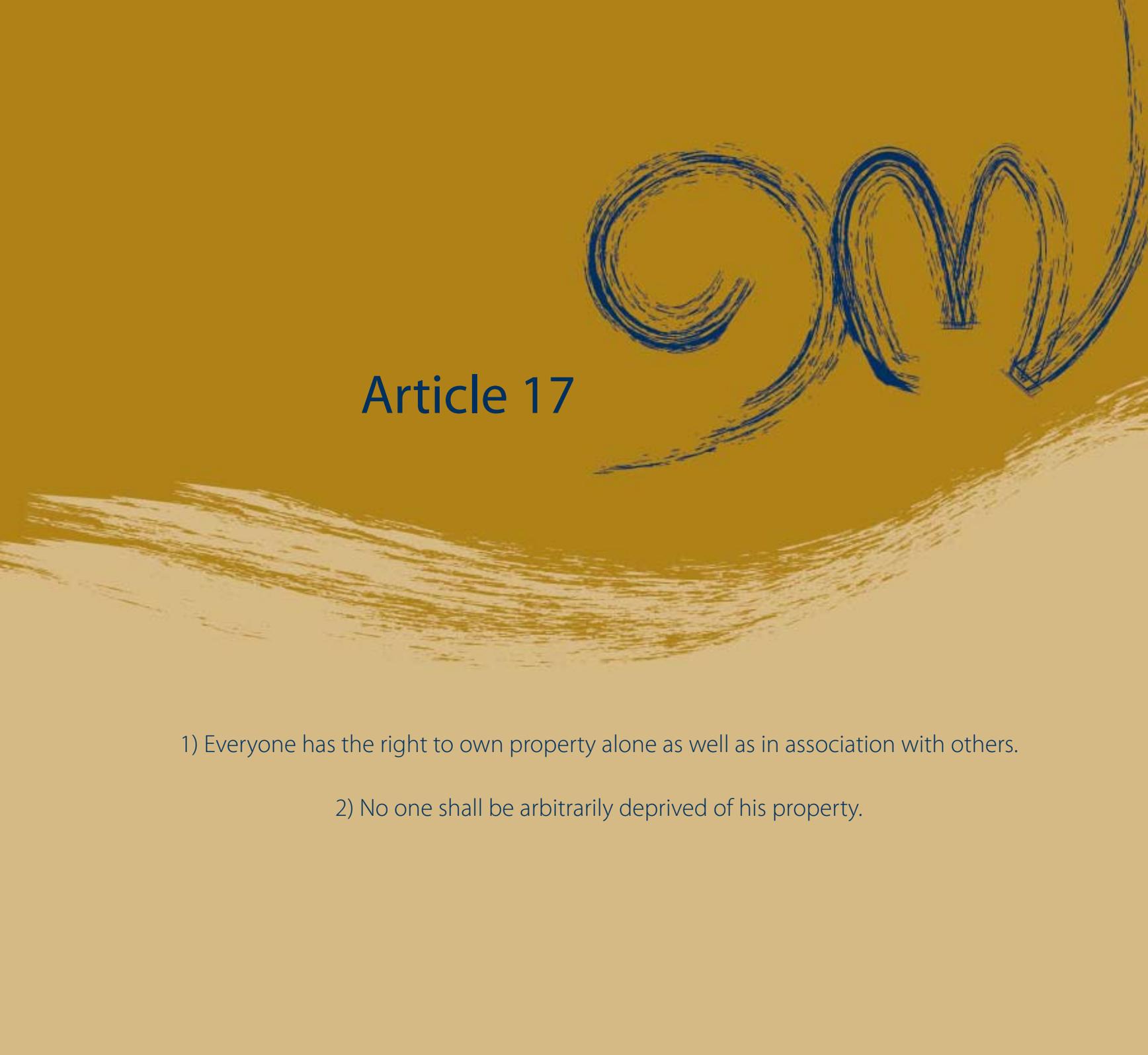
Ms. Supapeung also highlights some inconsistencies and loopholes that remain. For example, under Criminal Law Section 277, a

person under 18 years of age who sexually assaults a minor between the ages of 13 and 15 who gives his/her consent, is not subjected to lawful punishment as long as the Court of Law permits the marriage between the two parties in question. Such cases are usually unwanted marriages, and the purpose of such marriages is to avoid punishment, she explains.

Ms. Supapeung also points out that the rights of a person of alternative gender, despite there being an absence of recognition by society at large, can no longer be denied, according to the National Human Rights Commission.

She further adds that the definition of the word ‘family’ should be reconsidered.

Ms. Naiyana Supapeung



Article 17

1) Everyone has the right to own property alone as well as in association with others.

2) No one shall be arbitrarily deprived of his property.



Ms. Chintana Kaewkao
Community leader, Ban Krut district
Prachuab Kirikan province

“Access to information, problem analysis and raising public awareness [are] key collective lessons learned”

Voice

Ms. Chintana Kaewkao, community leader from Prachuab Kirikan province, with limited school education, shares her experience in protecting community rights. In 1997, her local Tambon (sub-district) Administrative Organization informed her community that a power plant was to be built in their own Ban Krut district. This project was to be followed by another one in neighbouring Boh Nok district in the same province. She claims that when the villagers were initially informed of the power plant projects, they gave their consent. Both the government and the private company responsible for the projects explained the necessity and benefits of the projects, citing high demand by the population in general. Upon further reviewing the projects, however, she and other community members felt that the explanations given were not always consistent. They urged the promoters to reveal all information relating to the project, including impact assessments with a particular focus on the ecological system. They requested this information by claiming their community rights. She explains that “to exchange our natural resources and our lives for the financial benefit of others” was not acceptable. The community held gatherings and received a series of threats, she reports. However, their knowledge of the 1997 Constitution, protecting the right to gather in peace, gave them confidence to continue to the point of receiving the attention of the international community through the organization Greenpeace. The power plant project in Ban Krut district was finally abandoned in 2003, followed by the other project in Boh Nok district the following year.

She recalls the need for “access to information, problem analysis and raising public awareness” as some of the key collective lessons learned. She requests that “development plans be shared...and must balance the human rights of the general public with the right to determine one’s own destiny.” She further requests that the 60th anniversary of the Universal Declaration of Human Rights serve as an opportunity to emphasize that human rights are universal as a birthright for all human beings and cannot be taken away. “We do not ask for much, but we would like those whose duty it is to protect the people to do so and thereby allow us to exercise our rights,” she concludes.

“The United Nations should foster close relations with civil society to strengthen the application of international rules”

Commentary

Ms. Sunee Chairios, a National Human Rights Commission member, said that the above case reflects the tireless efforts of activists working for the protection and promotion of community rights. Thailand has made remarkable progress over the years with regard to recognition of community rights as set forth for the first time in the 1997 Constitution. However, she feels that the Universal Declaration of Human Rights is weak in this regard since it focuses only on individual rights and disregards the recognition of community rights. This focus on individuals does not tackle issues like community management or environmental impacts and benefits shared among community members. There are many instances where the communities should have maintained the right to live on the land that their ancestors settled on a long time ago, or to have a say in the management of local nature reserves that they have helped to conserve. However, the lack of legal

documentation or proof of ownership often deprives them from enjoying these rights they have traditionally been entitled to, she explains.

Ms. Chairios says that the Ban Krut incident is just one example of the type of circumstances some people have found themselves in over the last six years. More than 600 cases have been filed during this period related to property rights with impacts on land, water, natural resources and forest management. These cases affect a large number of people, families and communities. The concerns observed are related, among other things, to administrative decisions on the proclamation of park zones and infrastructural development activities, as well as to investment from the private sector, including, for example, mining activities. Many rights have been contested, including economic, civil, cultural, political and social rights, she says. Some of these cases occurred even before the adoption of



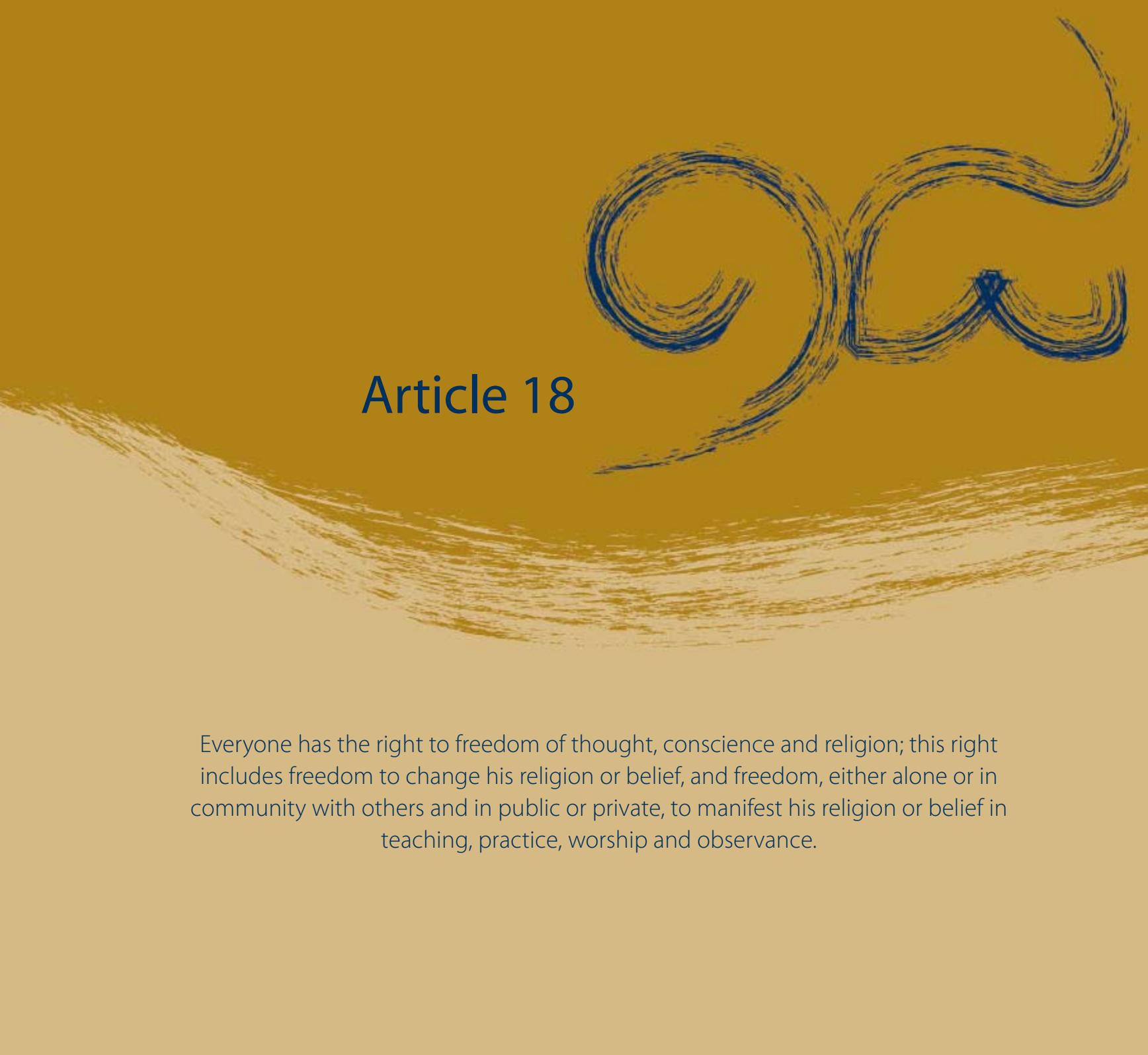
Ms. Sunee Chairios

the Universal Declaration of Human Rights. As a result, this issue remains one of the most important to be addressed regarding the promotion and protection of human rights in Thailand, Ms. Chairis adds.

The process to remedy these situations is lengthy and costly, she explains. Remedies do exist, but often the budgets allocated are insufficient and the environmental impacts require too much time to be addressed. The government must take this issue seriously, with quick action, including the amendment or creation of new legislation to ensure the protection of the relevant rights set forth in the Constitution. In addition, the Public Hearing Law, which has been drafted by civic groups and peoples' organizations, should be taken into consideration for adoption as soon as possible, she says. Communities are calling on the government to ensure the respect of their community rights, including ownership

and enjoyment of natural resources, as well as proper management of the impact on their livelihood and environment. This cannot be dissociated from the enjoyment of other fundamental human rights such as access to information, the right to participate in decision-making, the right to expression of opinions and the right to receive compensation, she says.

Furthermore, Ms. Chairis suggests that "the United Nations should foster close relations with civil society to strengthen the application of international rules and regulations. This will help to accelerate changes in policy with regard to human rights and community rights." A positive development is that the government has now placed more importance on the recognition of community rights. But rapid progress is necessary because day by day, the situation is getting worse, she adds.



Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.



Phra Paisan Visaro, age 51
Abbot of Wat Pa Sukato
Chaiyaphum province

“What is important is to create acceptance, understanding and respect for other religions”

Voice

Phra Paisan Visaro, a 51-year-old Buddhist monk from Wat Pa Sukato, Amphur Gaengkro, in Chaiyaphum province, says he has never directly experienced a violation against his right to freedom of religion nor witnessed any misconduct against Buddhism. However, he believes that Thailand’s hill tribe people have experienced some difficulty in observing their own religion, for instance, through the prohibition of animism (the worship of ancestors and spirits). In addition, he feels that some new sects in Buddhism are not given equal rights of expression. “They should have been given the right to their own religion,” he explains. He praises the work of some non-governmental organizations that have helped the public to better understand that it is not right to convert people to other religions and that hill tribe people cannot be forced to specify on their identity cards that they are ‘Buddhist’. He notes that even though the Constitution guarantees the freedom of religious belief, inequalities do exist. Directly associating Thai nationality with Buddhism, he believes, may discourage the understanding of other religions and may therefore create misconceptions and prejudice, breeding distrust among different religious followers. He quotes a late venerated monk: “Buddhatasa used to say that should one comprehend the core of one’s religion, one shall not deem any other religions as obstacles.”

The Buddhist abbot recommends that the Thai government should grant complete freedom to religious beliefs by going beyond the five major religions, i.e. Buddhism, Christianity, Islam, Hinduism and Sikhism. “The issue is not merely about religions, but is related to the concept of the nation state. The government usually claims that it has already given religious rights to the fullest. However, when religious beliefs are linked to national identity, this becomes an issue that leads to prejudice and discrimination, turning the minority into second-class citizens,” he explains.

He also believes that the actual laws regarding religion are fine but that the problem lies in their practice, interpretation and enforcement. “We cannot determine whether some practices are related to religion, like prohibiting people from wearing sarong when they visit government offices, and the compulsory use of Thai as the official language, for example. Some don’t understand why these issues are related to the violation of religious rights [of the Muslims, for instance]. They see it as cultural issues. But for some practitioners, religion is culture. And these prohibitions mean that their religion is not given due respect.”

He believes education is the key to removing prejudice. “What is important is to create acceptance, understanding and respect for other religions. The government has already guaranteed the freedom of religion, but it also has to encourage genuine respect for all religions, including those outside the mainstream. This is the real challenge.”

“A temple or a religious organization should have the right to participate in providing education services”

Voice

Rev. Brother Dr. Prathip Martin Komolmas, a 75-year-old Catholic priest, has a diverse religious background as he was born to a Catholic father and Buddhist mother. He too claims that he has not experienced any act of violation of the right to free religion in Thailand.

According to the 1909 act stating the characteristic and state of Catholic churches in Thailand, the church was allowed to establish or transfer a school in accordance with the Private Sector Act. After 1982, the act decreed that Catholic missionaries cannot establish a school. Later on, the National Education Act (1999) stipulated the right to organize education by all sectors of Thai society, including religious organizations. Still, government officials do not allow Catholic missions to establish new schools.

As a member of the education reform committee, the priest emphasizes that all sectors in society have a role to play in providing education. “This means a temple or a religious organization should have the right to participate in providing education services. Still, the Christian School cannot be established due to the Decree’s definition.” Apart from this issue, he believes that “Christianity is at peace in Thai society.”

The priest says that on the occasion of the 60th anniversary of the Universal Declaration of Human Rights, he wishes to see human rights issues promoted and included in school curriculum. He also emphasizes that “Article 26 of the Universal Declaration states that parents have a right to choose the kind of education that shall be given to their children, reflecting freedom with regards to the choice of school. The government should also support religious organizations, including private religious schools, in their role as providers of education.”



Rev. Brother Dr. Prathip Martin Komolmas,
age 75
Catholic priest and President Emeritus,
Assumption University



Mr. Chaiwat Satha-Anan
Professor at Thammasat University
and specialist in Peace Studies

“It is important that we re-evaluate the importance of religion in issues like international relations”

Voice

Associate Professor Chaiwat Satha-Anan, a full-time professor at Thammasat University, also claims that he too has never experienced any violation of the right to religion in terms of practising or teaching Islam in Thailand. But he accepts that this problem persists in other countries. He thinks the problem in Thailand is not so much about the violation of religious rights per se, but on the difficulty in determining what constitutes a religious rights violation. The professor gave an example of the case of Pondok schools (religious education institutions for the Muslims in Thailand’s southern region). He is of the opinion that whether the Pondok schools should exist or not does not depend on permission granted by the government. Parents have the right to choose whether or not to send their children to such schools. This is true to the tradition of Pondok schools. The issue relates more to how the government controls these institutions, such as the official process for registering the schools. Some Pondok schools are not registered, but still exist because of support from communities. In his opinion, there is a fine line between what the government considers to be its duty and what constitutes a violation of religious rights.

He further describes the three aspects of Thai society’s own perception about religion, which makes it difficult to determine acts of violation. “The first perception is that the Head of State is not only the patron of Buddhism but also the patron of all religions practised in Thailand, allowing equal acceptance to all religions within Thai society, though all are not exactly equal. Second, Thai society considers itself as a free state which has no trouble with the co-existence of religions due to a long experience in this regard. Third, Thai society, though regarding itself as a Buddhist nation, takes pride in the power of reasoning of Buddhism, with no worries at all about other religions.”

He believes prejudice is a normal phenomenon in religion. “We can’t understand anything without prejudice; born into this world, we are indoctrinated by the world in which we live and the way we are brought up. We each have our own perception,” he says, “which may need correction...Prejudice is a consequence, not a problem. Some types of prejudice may be related to religion, such as the Islamic negative attitude towards dogs and pigs. We must realize that we all have prejudice, and not just think that others have it but we don’t.”

He stresses that it is equally important to ask whether it is possible to protect religious rights without government rules and regulations. He thinks that the government should not interfere too deeply in the life of its citizens. The government should perform its duties in providing services and basic rights, but should not take too much control. Keeping a watchful eye on citizens does not always constitute protecting their rights, the professor argues.

On the 60th anniversary of the Universal Declaration on Human Rights, he finds that the crucial point to ponder is the role of religion in today’s world, wherein, “religions play an increasingly important role in socio-political affairs. It is important that we re-evaluate the importance of religion in issues like international relations, for example. International relations are no longer confined to political and economic dimensions, but are closely related to culture and religious rights.” He points out that “the United Nations should celebrate this 60th anniversary by focusing not only on the issues of protection or violation, but also on religion as a tool for problem solving in society.”



Dr. Asma Jahangir

“Freedom of religion or belief is a complex, delicate and multi-faceted human right”

Commentary

Dr. Asma Jahangir is a human rights lawyer in Lahore, Pakistan. In July 2004, she was appointed United Nations Special Rapporteur on freedom of religion or belief. Her responsibilities include the promotion of the adoption of measures at all levels in order to ensure the promotion and protection of the right to freedom of religion or belief. Furthermore, she is mandated to identify existing and emerging obstacles to the enjoyment of the right to freedom of religion or belief and to present recommendations on ways and means to overcome such obstacles.

Dr. Jahangir believes that in the context of a fast-changing world in which the universality of the principles set out in the Universal Declaration of Human Rights are sometimes challenged, efforts to raise awareness of, and respect for, human rights are more vital than ever. She considers that despite having been adopted 60 years ago, the Declaration remains of utmost relevance today. Article 18 of the Declaration on freedom of thought, conscience and religion has been at the

centre of and guided Dr. Jahangir’s mandate on freedom of religion or belief since its inception in 1986.

Freedom of religion or belief remains, nonetheless, a complex and sensitive fundamental right. For instance, while religious minorities and new religious movements face various forms of discrimination and intolerance, both from policies, legislation and State practice, Dr. Jahangir would like to recall that Article 18 of the Declaration protects all religions and beliefs. Of course, defining these terms is a complex and contentious task. That is why the Human Rights Committee, which monitors the implementation of the International Covenant on Civil and Political Rights, rightly argued in favour of a broad view of these concepts: “The terms ‘belief’ and ‘religion’ are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions”.

The number and seriousness of allegations that Dr. Jahangir receives in her mandate lead to the conclusion that freedom of religion or belief is far from being a reality for many individuals all over the world. Victims of religious intolerance belong to all religions and beliefs. At the same time, the perpetrators, too, are not confined to one or a few identified religious or belief communities. Religious intolerance has increased worldwide – especially since 2001 – and the actors for peace and tolerance have been marginalized.

Freedom of religion or belief is a complex, delicate and multi-faceted human right. Dr. Jahangir's 22 years of mandate practice reveal that the effective protection and promotion of the right to freedom of religion or belief poses serious challenges to all states. Wise and balanced decision-making at all governmental levels as well as non-discriminatory legislation are crucial for addressing the delicate issues involved. Furthermore, an independent and non-arbitrary judiciary is a prerequisite for safeguarding freedom of religion or belief. States must provide adequate protection to victims and effective remedies in cases where the right to freedom of religion or belief has been violated.

Protection needs to be complemented by prevention efforts. The prevention of acts of intolerance and discrimination requires pro-active strategies and creative approaches by all actors. Governments should identify and adequately address possible conflicts between communities of religion or belief ahead of time. Moreover, they need to review policies and administrative approaches in all issues involving freedom of religion or belief. However, specific legislation should be introduced in a cautious manner since any compulsory over-regulation may be counterproductive. The role of civil society is also essential in promoting religious tolerance and in preventing misunderstandings, conflicts and violations through education and inter-religious dialogue for instance.

Dr. Jahangir expresses her sincere hope that on this momentous 60th anniversary of the Universal Declaration of Human Rights, the heartfelt and important efforts undertaken by many actors in all regions of the world for the protection and promotion of the right to freedom of religion or belief will bear fruit.



Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.



Ms. Rosana Tositrakul, age 55
Bangkok senator and consumer rights activist

**“If everyone can
access official
information,
I believe that there
will be less
corruption”**

Voice

Ms. Rosana Tositrakul, an elected Bangkok senator and human rights activist, shares her voice, based on her experiences in leading two corruption charges against the government. She asserts that the Official Information Act (1997) was a crucial tool for the success of both cases. She explains that in 1998, she led a coalition of 30 non-governmental organizations (NGOs) advocating consumer rights in a case involving corruption linked to medical and pharmaceutical procurement by the Ministry of Public Health. The coalition of NGOs submitted the case to the Office of the National Counter-Corruption Commission, leading to the conviction of the then Public Health Minister. In 2007, in collaboration with the Foundation for Consumers, Ms. Tositrakul filed a case to the Administrative Court against the entire cabinet regarding the privatization of the then Petroleum Authority of Thailand.

The Official Information Act (1997) is becoming an increasingly important channel through which the Thai public can hold the government accountable, she believes.

“Corruption problems in Thailand relate to public access to official information. If most of the information remains classified, everything is kept in the dark – beyond public scrutiny. The right to access official information puts the spotlight on corruption cases. If everyone can access official information, I believe that there will be less corruption cases because everyone can participate in holding the government accountable,” she adds.

“Access to information provides people with a strong tool to increase their participation in public affairs”

Commentary

Mr. Kavi Chongkittavorn, Assistant Group Editor of The Nation Multimedia Group, agrees that the Official Information Act has proven to be a crucial element in Thailand's democratic progress. Access to information provides people with a strong tool to increase their participation in public affairs, and it is also a tool that can be used to counter corruption. “Ms. Rosana Tositrakul made proper use of the Act in demanding the disclosure of all information that could be related to the suspected corruption in the Public Health Ministry,” he explains.

However, Mr. Chongkittavorn also points out that despite these developments, several laws in the country are believed to jeopardize the right to freedom of expression and the right to access to information. This includes, for example, the Emergency Decree on Public Administration in Emergency Situations (2005) and the Thai Computer-Related Offenses Act (2007), in which the freedom of expression and access to information on the internet has been curtailed through filtering measures taken by government agencies.

Mr. Chongkittavorn proposes that to fully achieve the rights enshrined in Article 19 of the Universal Declaration of Human Rights, it is necessary to lift restrictions on the freedom of expression of the press and of the public that are currently imposed by criminal laws as well as 27 other laws. It is also important to promote the status and professionalism of the media. The government should respect press freedom, he says.

He believes that the State is duty bound to provide people with the opportunity to express their opinions and give them access to information, especially on the policies that would directly affect people's livelihoods. Disclosure or hindrance of the public right to information often leads to other violations of public rights in different aspects. Ensuring the public's right to information and freedom of expression would also empower the public to make more progress towards the realization of all the fundamental human rights.

Mr. Kavi Chongkittavorn



Article 20



- 1) Everyone has the right to freedom of peaceful assembly and association.
- 2) No one may be compelled to belong to an association.

Voice

“People increasingly realize the potential of peaceful protests”

A 57-year-old woman from Wang Sabaeng Tai, Ubon Ratchathani province, believes that the right to peaceful assembly is one of the main foundations of democracy. She notes that positive developments have taken place in Thailand that have led to a greater enjoyment of this right since 1985, when she joined the community’s movement protesting against the development of a hydroelectric project in the Mool River basin, now known as the Pak Mool Dam. The movement gained momentum in 1992 and made some achievements by negotiating with the government to take into account the effects the dam would have on the life of villagers, whose livelihoods depend on the river for fishing and other sources of income. Being a woman at the forefront of the series of protests against the project “was not an easy position at that time; it was against the social norm. However, things have changed a lot. People increasingly realize the potential of peaceful protests,” she explains.

The success of the Pak Mool movement has proven that peaceful protest can lead to a solution, she says. “As a matter of fact, no one wants to be out protesting, but we have learned that nothing happens if we just send out petitions. Negotiations will not take place unless there is pressure from the masses,” she reflects. “Mass protests will remain a means of negotiation for the poor as long as in Thai politics, the politicians and the capitalists continue to share the profits.”

In her view, the right to peaceful assembly is a fundamental right. The justification of such assembly depends on the cause of the movement. She thinks that peaceful protests should be accepted as a political means to conflict resolution. For this to happen, she believes it is necessary for society at all levels to have a good grasp of what is allowed by law, and for such laws to be enforced without prejudice.

“Each rally should have a clear goal and a clear timeframe on what is to be achieved. The government, on the other hand, should be quick to address the demands, with a clear explanation. Ignorance and taking matters for granted can lead to things getting out of control,” she adds.

“A modern state should have the maturity to accept that the rights of expression are a justifiable means for the public to hold the ruler accountable”

Commentary

Mr. Dej-udom Krairit, Chairperson of the Lawyers Council of Thailand, expresses his view that since Thailand adopted the Universal Declaration of Human Rights 60 years ago, the Thai government has had a tendency to violate the right to peaceful assembly, even to this day. This is somewhat inconsistent with the democratic development that has taken place in Thai society, he says.

Mr. Krairit explains that there are two types of human rights that are open to interpretation. First, individual rights that need to be protected and ensured; and second, the right to free expression and free will. The rights in the second category are sometimes questioned as to whether or not they infringe on individual rights. According to Mr. Krairit, this issue is often exploited in Thailand to suppress the right to peaceful assembly.

He also adds that Article 19 of the Universal Declaration (regarding freedom of expression) and Article 20 (regarding freedom to peaceful

assembly) are not effectively respected in Thailand because both articles encourage the poor and the marginalized to use their voices, to claim their rights, thereby disrupting the social hierarchy. “A modern state should have the maturity to accept that the rights of expression stipulated in these two articles are a justifiable means for the public to hold the ruler accountable. It is important that the government respects these principles,” he asserts.

In commemoration of the 60th anniversary of the Universal Declaration of Human Rights, he suggests that an emphasis should be given to creating more understanding on how the law should be interpreted in different social circumstances. “A law or a declaration will be strictly abided by, only when its principle is well understood by the general public. It is the duty of the United Nations to support the development of legal education, dissemination of legal information, and legal enforcement at all levels,” concludes Mr. Krairit.

Mr. Dej-udom Krairit



Article 21

1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

2) Everyone has the right of equal access to public service in his country.

3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.



Ms. Siriporn Panyasen
Chairperson, Pichai Tambon Administrative
Organization
Lampang province

**“Measures must
be taken by the
authorities to
promote women’s
participation in
politics”**

Voice

Ms. Siriporn Panyasen, Chairperson of the Pichai Tambon (sub-district) Administrative Organization, Lampang province, shares her voice and experience on how she became personally involved in politics and how important it is for community members, especially women, to become involved in local politics. She feels that working for democracy and taking part in the government of one’s country does not just involve desk work and discussions; it is also an individual right that must be worked towards. She claims that everyone must have the opportunity to access public services, whether they are women, men, the elderly, youth, housewives or businessmen.

Ms. Panyasen explains that she became involved in politics at a young age. Her family was very poor and her parents had many children. When her father became ill, instead of going to school, she started working to help her family. She says she was lucky to receive an education, even if it was an informal one. At the age of 18, she joined the local Village Committee and worked to fight against a local criminal gang that had lured parents into selling their daughters to work as sex workers. At the age of 21, she became assistant to the village chief, and in 1996, she was elected as the first Chairperson of Pichai Tambon Administrative Organization.

“When decision-making powers are not with the representatives of the people, then people’s rights are violated,” she says. “And this is a real problem. It is important to cultivate people’s interests in political participation. If we forget to build roads and bridges this year, we will still be able to build them next year without many negative consequences; however, if we forget to ‘build’ people this year, we may regret it for the rest of our days,” she says.

Ms. Panyasen describes the many challenges that serve as barriers to the higher representation of local people in local politics. National politics often overshadows local politics, leading to the neglect of local interests. Positive achievements include the Decentralization Law, by which local government units (tambons) are empowered to determine their own future through the formation of Tambon Administrative Organizations. As the Chairperson of the Pichai Tambon Administrative Organization, she feels this is very important. In her community, people forced the closure of a factory for 15 days because the factory was polluting the community's water supply. She says the community had realized that it could not solely depend on the authorities to act, but that people must join together to form a strong community that looks after its own rights.

On the occasion of the 60th Anniversary of the Universal Declaration of Human Rights, Ms. Panyasen would like to ask the government to serve as a role model in respecting its people. She would like to see true political will to promote people's authority, allowing local authorities to exercise their rights according to the principles of democracy. The government should be able to admit its own failures in regulating local authorities, she feels. She adds that there is also a need for a justice system that can effectively monitor the use of government power.

Ms. Panyasen is proof that women can attain government positions and make a difference in local politics. However, important challenges and obstacles still exist. Women have traditionally been deprived of many of their rights, impeding equal participation in politics. Measures must be taken by the authorities to promote women's participation in politics and to grant them the same opportunities as men.



Mr. Varin Tiamjaras

“We should begin by understanding and being aware of our own human rights, believing in political rights, and that sovereign power belongs to us”

Commentary

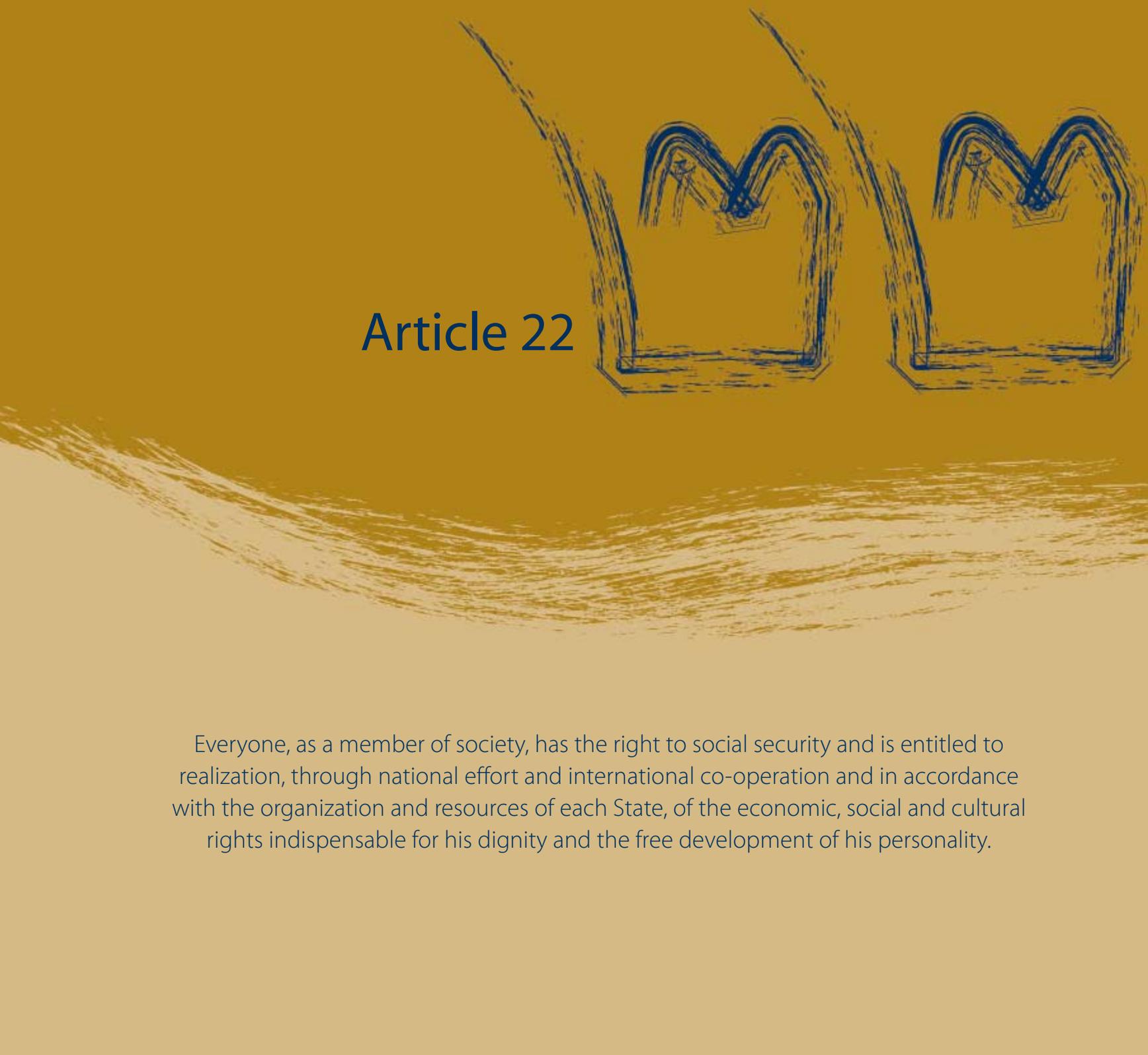
Mr. Varin Tiamjaras, Member of Parliament, Vice President of the Parliamentary Committee on Participation, and Secretary of the Central Foundation for Democracy, views this issue in light of his own experience. He feels that politics for the people is different from politics for political parties. This is because politics is not only dependent upon funding, but also on ethics, knowledge, experience and continuous self-dedication of the people.

Today, people can participate in the political system more than before, particularly on issues relating to natural resources and the environment as well as basic community rights. However, there is a budget limitation and lack of ‘ethical volunteerism’ in the new generation, including the problem of corruption in local administrative organizations in several localities and competing ideas in public work. Mr. Tiamjaras believes that networking means creating a common conscience. This should come from the sharing of common experiences and continuity and further development of what we have succeeded in doing. There is a need to create a public mindedness in the population and to bring people together through networking. It will take at least three

years to instil such a culture of participation in communities, he believes.

Mr. Tiamjaras views the problems in Thailand as not linked solely to the right to participate in government as presented in the Declaration, but also to the format and content of their participation. People in Thai society need to understand the philosophy behind the Declaration. He says, “We should begin by understanding and being aware of our own human rights, believing in political rights, and that sovereign power belongs to us. We should treasure this power. People’s participation is not limited to joining the electoral process. We must also recognize the importance of community rights and community participation in administering public work.”

Mr. Tiamjaras proposes that, on the occasion of the 60th Anniversary of the Universal Declaration of Human Rights, international organizations such as the United Nations should give importance to community issues at the local level and do more to create a culture of participation in communities. The government should give importance to the objectives of the law rather than focusing on its format and content.



Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.



Mr. Bandit Thanchaisethavut, age 48
Director, Arom Pongpangan Foundation

“These rights are essential for the dignity and the free development of one’s personality”

Voice

Mr. Bandit Thanchaisethavut, a 48-year-old workers’ rights activist, Director, Arom Pongpangan Foundation explains that there has been significant progress over the years in the development of Thai laws pertaining to the right to social security for workers. This includes the adoption of the Labour Protection Act (1998) and the Social Security Benefits Act (1990), respectively. Article 22 of the Universal Declaration of Human Rights addresses important issues relating to workers’ rights as well as a vast array of other rights and situations.

Worker’s rights are closely linked to human dignity, he says. Despite important achievements in Thailand in gradually ensuring the full enjoyment of these rights, Mr. Thanchaisethavut asserts that several key obstacles remain, in particular, in the area of the enjoyment of social security benefits. Although social security benefits in accordance with the Social Security Benefits Act (1990) provide good coverage, they are only enjoyed by employees in the formal sector who have proper legal status, he explains.

A significant portion of Thailand’s workforce is found in the informal sector, which also employs an important number of migrant workers, Mr. Thanchaisethavut adds. “In fact, migrant workers are those who suffer most from rights violations, particularly in terms of payments, welfare etc.,” he says. Migrant workers often lack legal status and therefore are not entitled to the same social security benefits as others. “The right of workers to social security, as well as the progressive realization of economic, social and cultural rights should also cover issues like workforce protection, fair labour relations and safety in the workplace,” he says.

Mr. Thanchaisethavut also believes that Thailand's attitude regarding its obligations related to international labour conventions is reflected in the fact that it has so far only ratified 15 out of 185 conventions. Eight of the ratified conventions concern major labour standards; so far, only five of these have been adopted by the Thai government. The three conventions that have not yet been adopted (the 87th, 98th and 111th), relate to the right to organize, the right to negotiation and employment and occupation, respectively. Mr. Thanchaisethavut says, "The Thai authorities do not agree with the freedom to assemble because of concerns over the establishment of unions, particularly by public service workers and migrant workers."

On the occasion of the 60th Anniversary of the Universal Declaration of Human Rights, "The country should take stock of the efforts made in the further realization of workers' rights. It must assess whether the application of the existing legislative framework in Thailand is conducive to the full enjoyment of the economic, social and cultural rights of workers. These rights are essential for the dignity and the free development of one's personality, and any gaps in realizing these rights must be addressed," he recommends.



Mr. Pornchai Yooprayong

“All parties involved in the labour sector should enjoy social security benefits, as well as economic, social and cultural rights”

Commentary

Mr. Pornchai Yooprayong, Deputy Permanent Secretary of the Ministry of Labour, says that Thai labour protection laws provide protection for every human being without differentiation based on race or nationality. However, he agrees that in practice, restrictions and obstacles still remain for certain groups of people, such as illegal migrant workers and some groups of Thai workers in the informal sector.

Mr. Yooprayong believes that all parties involved in the labour sector, including both employees and employers, as members of society, should enjoy social security benefits, as well as economic, social and cultural rights. He notes that the Government of Thailand

believes in policies that are based on human rights principles.

Mr. Yooprayong emphasized that the protection of Thai workers is evolving. With regard to migrant workers, the Ministry of Labour has a clearer policy to provide them with access to social security benefits.

He expressed that for him, the 60th Anniversary of the Universal Declaration of Human Rights is an opportunity for all those involved to work together for the benefit of society as a whole.



Article 23

- 1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
- 2) Everyone, without any discrimination, has the right to equal pay for equal work.
- 3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- 4) Everyone has the right to form and to join trade unions for the protection of his interests.



Ms. Siriwan Romchattong
The first woman Secretary-General
of the Employer's Council of Thailand

**“One should not
only demand rights
without looking at
one’s own
obligations”**

Voice

Ms. Siriwan Romchattong, the first woman Secretary-General of the Employer’s Council of Thailand (ECOT), an organization which has been established for 33 years, describes the low level of public awareness in Thailand of the right to acquire decent work that leads to a better quality of life. “When I started a business, there was no social security. Both employers and employees never thought about their future, about how they would live when they were older. There was no understanding of bio-sanitation or safety in the workplace.” Although the establishment of ECOT was an important achievement towards the development of human resources in the country, she believes that the media has only recently become interested in ECOT because of ongoing minimum wage negotiations taking place among a tri-partite committee consisting of employers, employees and the Ministry of Labour. These discussions normally result in minimum wage figures deemed unsatisfactory to the employees. While the minimum wage is meant to be a guarantee of a certain income level set by law for people who have just started working, she says that there are still enterprises that use the minimum wage as a basis upon which to set wages regardless of their employees’ years of service. ECOT does not agree with this practice. She describes negotiation as the key to maintaining a good relationship between employers and employees. Labour relations will be strengthened if there are conversations to help resolve uncomfortable issues and reason with one another. If, however, one side is taking advantage of the other, the relationship will not last. At present, surviving in a business world is already difficult; if internal conflicts between employers and employees exist, the business might not survive, she says.

Ms. Romchattong believes that there is no need for new labour protection laws as the existing ones already cover all dimensions. However, she proposes that the existing laws be properly enforced. It is not acceptable for enterprises that abide by the law – and consequently have higher production costs – to have to compete in the same market as those which do not. She stresses that the entitlement of labour rights for employees cannot be fulfilled without compliance by employers. “With the promotion of free trade, employers are afraid. They could get into trouble with NGOs if they exploit their labour force. Bad publicity could simply stop purchase orders.” She further talks about the need to change the attitudes of employees towards skills development. “Employees are not usually willing to learn to enhance their skills, even if the training they receive is free of charge. They may ask for an overtime payment if the training is held outside of working hours. This attitude must be changed by letting employees know that the wages they receive relate to their skills. They must try to develop themselves.”

She believes that a balance between rights and duty is important. “One should not only demand rights without looking at one’s own obligations. Some employees who lack legal knowledge fail to notice that they are the ones at a disadvantage when leaving work,” she explains.

“Establishing labour unions is a fundamental right for the entitlement of protection”

Commentary

Ms. Vilaiwan Sea-Tia has been serving as a committee member of the Labour Union since 1983. She was a chairperson of the working group for women labour integration during 2001 and 2005. She now holds a position as the President of the Thai Labour Solidarity Committee.

She believes that there are still several challenges to ensure that labour rights are fully protected in Thailand. These challenges relate to cases such as non-compensated sick leave, termination without remuneration, no pays on public holidays and pays that are less than the minimum wage. Each year there are almost 200,000 cases where the work causes illness, accidents, disabilities and death. Moreover, the employer violates basic rights of the employee and does not comply with the labour protection law. The employee's inaccessibility to the provident fund is also

another factor that results in the gathering and establishment of the Labour Union. Such a union advocates for the employer to comply with the law as well as to provide more welfare than is required by law in a fair manner and in the interest of the employee. However, there are still gaps in the law, which leads to basic rights violations.

In case of labour rights violations, she describes the steps used by the Labour Union and the Thai Labour Solidarity Committee in solving a problem. First, they will call for coordination among agencies concerned such as the Department of Labour Protection and Welfare in the area and the Ministry of Labour. If the problem still persists, they will file a complaint to the Office of the Human Rights Commission. In some cases, lawsuits will be filed with the Labour Court.

Ms. Vilaiwan Sea-Tia

Despite the fact that many legal instruments recognize and protect fundamental labour rights in Thailand, such as the Labour Relations Act of 1975 and the Labour Protection Act of 1998, there exist rights violations that benefit from gaps in the law. When legislation is amended, she emphasizes the participation of employees in the process. She also believes that laws ensuring social security and safety guarantees, including wage, should be extended to workers who are hired on a temporary basis, foreign workers and those in the informal sector.

A proposal for the Government is as follows: (1) to ratify ILO Conventions 87 and 98, which state that gathering, negotiation and establishment of labour unions are basic

rights of employees; and (2) to amend the Alien Working Act 2008, which stipulates the control of a foreign workforce rather than the protection of labour rights. This issue is of particular concern. Foreign workers should have knowledge of their rights to enable them to claim these rights. At present, Thai government agencies, in collaboration with the International Labour Organization (ILO), provide information directed in particular to the migrant workforce in the languages of three neighbouring countries (Myanmar, Lao PDR and Cambodia). At the regional level, the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers protects the fundamental rights of both migrant workers and their families, she adds.



Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Voice

**“I envied my friends,
but there was
nothing that
I could do”**

This is the story of two sisters from Pathum Thani province, who have had very little opportunity to enjoy their childhood. Since the ages of 9 and 12, respectively, they have been the main breadwinners for their family. Their situation deteriorated when their mother deserted the family home, leaving the two girls behind to care for a disabled, ailing father and a 2-year-old sibling. The older sister says she was forced to drop out of school while the younger sister often had to go home during school lunch breaks to care for their father. The older sister recalls the difficult times when she used to work at a construction site, return home to take care of her disabled father and baby brother, and go back to work again afterwards. She said she did not have any time for leisure or rest, even during weekends, as she was busy looking after her siblings, father and their financial situation. She says she often felt tired and discouraged. “I envied my friends, but there was nothing that I could do,” she adds. While at school, the younger sister had to ask permission from her teacher to return home and take care of her father during lunch time.

The quality of their lives improved when the school principal arranged for TV Channel 9 to broadcast their story. Generous contributions poured in from all over the country to help support the family, the girls report. Although they continue to look after their disabled father, they say their lives have now improved. The younger sister is able to concentrate on her school work and enjoy occasional recreational time, and the siblings can occasionally enjoy quality free time together.

“The government must increase efforts and expertise in the area of welfare as well as promote awareness of this right in every sector”

Commentary

Associate Professor Surichai Hwankaew, Director of the Social Research Institute, Chulalongkorn University, notes that Article 24 of the Universal Declaration of Human Rights aims to ensure that workers can enjoy time for rest and leisure. He believes that the economic system is depriving workers of this invaluable right because they feel compelled to sacrifice their leisure and rest time due to fear of losing their jobs.

He recounts the case of a manufacturing company in Thailand that can be seen as an example of the challenges that workers face to enjoy this fundamental right. In this company, workers were forced to work overtime. When labour problems arose, workers refused to work overtime and demanded fringe benefits. In response, the company threatened to replace them with newly recruited workers if they failed to observe the corporate overtime rules, effectively disregarding the fact that overtime work should be voluntary.

The case of the two young sisters can be seen as far worse because they are minors who should have been at school rather than working in the first place, he says. But theirs is not an isolated case. In some cases, children are even forced to flee from their family homes because they cannot cope with the burden of work and responsibility imposed on them at such a young age. In a previous era, people could rely on informal networks of support and mutual assistance within the community. Today, however, bonds within communities are dying out. This situation affects particularly the poor, unskilled workers, and migrant workers, Professor Hwankaew explains.

Thailand has made great efforts to eradicate child labour as well as to protect workers through imposing a limitation on working hours, entitlement to national holidays, sick leave and annual leave and provisions on benefits and fairness at work. The Labour Act of 1998 was amended for the third time in

A portrait of Professor Surichai Hwankaew, a man with short black hair, wearing a dark suit, white shirt, and dark tie. The portrait is partially framed by a thick, golden, brush-stroke-like border on the right side.

Professor Surichai Hwankaew

2008 to ensure that workers are not discriminated against the basis of nationality, social status, sex or age, or employment status. However, in practice, people are not fully enjoying these rights, he says. In addition, the socio-economic situation renders the absence of time for rest and leisure an inevitable price to pay in exchange for economic security. For this reason, government agencies as well as private entrepreneurs need to be better aware of the

significance of this particular Article. The government must increase efforts and expertise in the area of welfare as well as promote awareness of this right in every sector. This right will be realized in practice when the government is aware of the importance of progress and development based on income distribution and equal and fair opportunities for all, in line with economic growth.

Article 25

1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.



Mr. Boripat Donmon
Chairman of the Thai Network of People
Living with HIV/AIDS (TNP+)
Rayong province

“People living with HIV and AIDS in Thailand not only enjoy a certain level of access to medication, but also have the right to social security benefits”

Voice

Mr. Boripat Donmon, the 44-year-old chairman of the Thai Network of People Living with HIV/AIDS (TNP+), describes how the status of people living with HIV in Thailand has substantially improved over the years because society has gained a better understanding of the disease. This, he believes, has given people living with HIV the chance to enjoy a more normal life in Thailand.

About ten years ago, HIV and AIDS were depicted as a consequence of promiscuity or drug abuse, he reports. The media transmitted images of AIDS patients on their deathbeds, their bodies emaciated, creating fear and disgust in society and generating discriminatory attitudes. Such attitudes were even prevalent among the patients’ own relatives, who often shunned close contact with them out of fear of contracting the disease themselves. People living with HIV had to stay “underground, not daring to come out in the open, and were treated as if they were not human,” he explains.

He sees the improvement in the living standards of HIV-infected people as a result of the 2002 National Health Security Act, an important breakthrough at the policy level, which eliminated the restrictions on medical care offered to people living with HIV, allowing them to access public health services under the government’s “30-baht” health care scheme. At present, people living with HIV and AIDS in Thailand not only enjoy a certain level of access to medication but also have the right to social security benefits. However, he notes that even though the social status and living standards of HIV-infected people have improved, there are still a large number of restrictions and prejudices to overcome. He calls on the government to make use of compulsory licensing of medicines for the public, not only for HIV and AIDS but also for heart disease and cancer. “One has to think of the life and human dignity of those who live within our country first, and not side with international pharmaceutical corporations instead of the people. We must come out and press for this although it is the duty of the government, not ours,” he says.

On the occasion of the 60th anniversary of the Universal Declaration of Human Rights, he recommends that the United Nations increase its efforts to make medical care more accessible for all people, especially with regards to expensive medications.

He concludes, “The UN must join us in pressing for this. They must join us in this movement. I believe that the UN family can do this, but will they do it?”

“We need to pay attention to how people living with HIV and AIDS are making a living”

Commentary

Mr. Mechai Viravaidhya, President of the Population and Community Development Association (PDA), has been committed to raising the standard of living of the Thai population for over 30 years. He is recognized globally as a senior development expert and believes that there should be a serious human rights campaign in Thailand, starting with the publication of a pocket-size Universal Declaration of Human Rights for general distribution. He himself had not seen the text of this Declaration until very recently. Therefore, he is not surprised that people are not aware of the Universal Declaration and do not understand human rights. This also explains why people living with HIV and AIDS are still living in hardship.

Mr. Viravaidhya believes that even though the overall status of people living with HIV is much better than before, people in society still do not have enough understanding about the disease, and people living with HIV are still afraid to come out from hiding or ask for

medication. Many people living with HIV are discriminated against, for example, by being fired from their jobs. There have been cases of abuse where blood testing was compulsory in the workplace, even though this is against the law. All this has made it necessary to improve understanding of HIV and AIDS – it is not enough just to come out and say what rights these people have, he says.

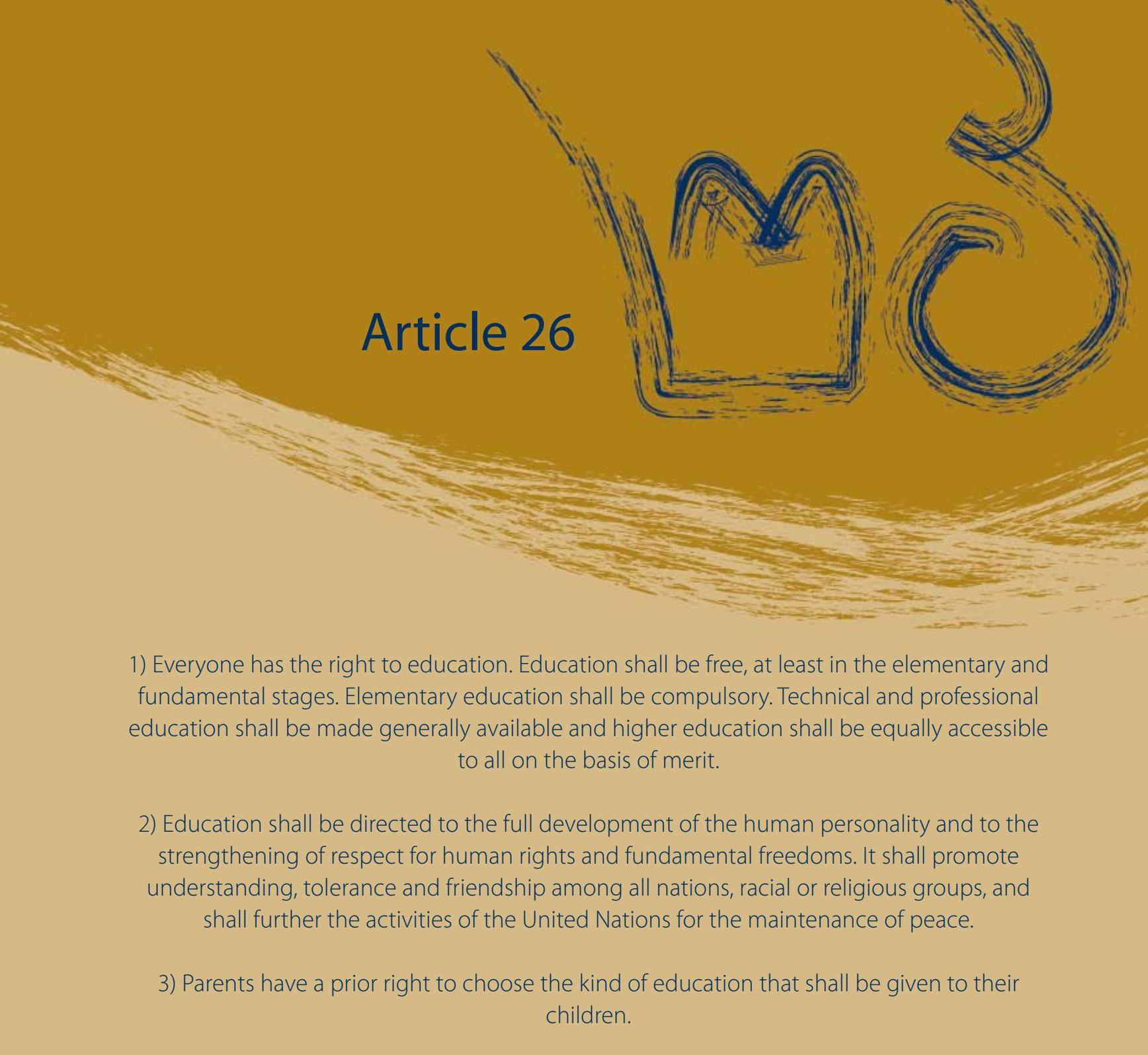
“Although the situation has gotten somewhat better, there has been no real improvement,” says Mr. Viravaidhya. “The government has been very slow on issues relating to AIDS. There was a time when they have even ignored this issue altogether and did not work on prevention or educating the people, resulting in a rise of the infection rate.” In addition to treatment and prevention, he also feels that we need to pay attention to how people living with HIV and AIDS are making a living as this is also an important issue in dealing with the problem.

Mr. Mechai Viravaidhya

Mr. Viravaidhya feels that in dealing with human rights issues, we need to take into consideration the income of people living with HIV and AIDS so that everyone – particularly the underprivileged and not only those who are infected with HIV – are able to get out of poverty and have access to a decent standard of living. “The poor are taken advantage of, have become victims in many ways, and are deprived of the opportunity to enjoy human rights,” he said. “In my opinion, we must help the poor and the low-income earners, as well as the underprivileged, to be able to receive financial loans. Getting a loan

must be a human right. Today, the Declaration must change to include such a right; it must be improved and modernized.”

Mr. Viravaidhya also proposes that local administrative organizations change the financial assistance they provide to people living with HIV and AIDS at the community level to a one-time annual sum or provide a bank loan of an equal sum. This will enable them to use the money for investment or generating income, thus opening the door to other opportunities, further increasing their standard of living.



Article 26

- 1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- 2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
- 3) Parents have a prior right to choose the kind of education that shall be given to their children.

“Teaching and learning processes are not necessarily the same for every child or community”

Voice

A woman who is a teacher and founder of a school in the Bang Sue district of Bangkok shares her view regarding the right to education in Thailand. She explains that access to education is not a fundamental challenge in Thailand, whether at the elementary or higher level. She believes the issue of quality, however, particularly on clarity of education goals and academic administrative processes, is a far greater challenge. She feels that the development of a learner’s personality is a challenging task as the learner cannot be forced to be “capable, good and full of happiness”. According to her, this requires the careful management of the entire knowledge and comprehension development process, involving teachers, schools, parents and society at large, governed by sound education policies.

“Teaching and learning processes are not necessarily the same for every child or community. Each child, at a different age, as well as each community, presents neither the same conditions nor similar socio-economic context. Therefore, the challenge for us, as teachers, lies in taking into account these distinctions in the teaching process so that a child is able to walk along the road of his/her imagination and dreams, to the fullest capacity and with consideration for people around him/her and the society in which he/she lives.”

She further argues that child personality development cannot solely rely upon the exclusive contribution of the school as children are influenced by their interactions with other children, television and other outside factors. With regard to the right for parents to choose the type of education for their children, she doubts whether parents fully understand the meaning of ‘education’. She provides examples of some parents who decide the course of their children’s education path based on their own preferences or own needs rather than the child’s interests and potential.

“One issue that I would like to raise is that we should emphasize the right to learn – which is broader than the right to education”

Commentary

Dr. Khunying Kasama Varavarn, Secretary-General of the Office of Basic Education, Ministry of Education, notes that in Thailand, the realization of the right to education has substantially progressed due in part to budget allocations increases, facilitation of non-Thai student enrolment and curriculum improvement suitable to local contexts, with a focus on learning.

Furthermore, special education programmes have been implemented for children with disabilities and underprivileged children, she adds. Assistance and care are being provided for students with special needs. Teachers make home visits in order to analyse the situation and assess needs in collaboration with the Ministry of Social Development and Human Security and the Ministry of Public Health. Parents and communities are encouraged to participate in educational administration as committee members and parental network, etc.

She notes, however, that despite all the progress in the realization of the right to education in Thailand, an analysis of student backgrounds shows that both the poverty-stricken and those whose mother tongue is not Thai are encountering educational problems, particularly at the undergraduate level.

“One issue that I would like to raise is that we should emphasize the right to learn – which is broader than the right to education. The state as well as all those whose work is concerned with children, such as family and community, should provide opportunity and create a learning platform for children. The media should also play an instrumental role in further promoting education and providing good examples for children. With this, the hope of seeing children develop in accordance with Article 26 of the Universal Declaration of Human Rights can certainly materialize,” says Dr. Varavarn.



Dr. Khunying Kasama Varavarn

Dr. Varavarn is of the view that the capacity of individuals, groups and communities to protect and fully develop their human rights can be promoted only on the basis of sufficient knowledge and skills. Therefore, progress in creating equal opportunity in education is a welcome development. Both the government and Thai society should jointly promote this development further. However, she believes that there are significant disparities in the quality of the curriculum, process, and educational environment between Bangkok and other regions, between the city and rural areas, and

between places well-connected with the outside world and remote areas with limited telecommunication infrastructure. In addition, there are differences between schools based on economic and social status, or access to the support system. These are all issues that need to be addressed by changing and improving existing policies. She asserts that if the differences in the quality of education for today's youth can be further minimized, the gaps and imbalances in future society can be reduced, creating a more equitable society where justice prevails for all.

Article 27

- 1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
- 2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.



Mr. Thienchai Pinvises
Executive Director
The Motion Picture Association, Thailand

“The damage generated by copyright violation reportedly affects the work of 300,000 employees”

Voice

Mr. Thienchai Pinvises, executive director from the Motion Picture Association, Thailand, shares his idea of the challenges to reaching the full enjoyment of the rights enshrined in Article 27 of the Universal Declaration of Human Rights. He believes that one of the main challenges is to reach a balance between the right to experience the knowledge and/or entertainment value of artistic or scientific creations and the commercial right of the author or creator. At present, the right of the author/creator is often violated, he explains. Despite the fact that there is a copyright law in Thailand, he feels that it is unable to keep pace with the technological innovations that are increasingly used to circumvent copyright protections.

Today, technology plays a crucial role in the violation of copyright law. “In the case of the film industry, copyright violation starts from personal camera recording in a theatre and continues with the posting of the recorded movie content on a website, its transmission to a factory for duplication or to a downloading service,” he says. He adds, “The damage generated by copyright violation reportedly affects the work of 300,000 employees in this industry and discourages creative efforts in general.”

A change in societal attitudes is required, which can be achieved through awareness-raising efforts to ensure the protection of this fundamental right, he argues. “Copyright violators pay no tax whatsoever. Every Thai baht spent on products that violate copyright laws provides financial support to organized crime and deprives the government of important resources that could be used for the welfare of society,” he concludes.

On the occasion of the Commemoration of the 60th Anniversary of the Universal Declaration of Human Rights, he recommends that intellectual property rights and the rights to culture of each community, regardless of their geographical location, be further protected.

“A balance should be found between the protection of the rights of authors and the public interest”

Commentary

Professor Vichai Ariyanuntaka, former Deputy Chief-Judge of the Central Intellectual Property and International Trade Court, notes that the first paragraph of Article 27 of the Universal Declaration of Human Rights refers to everyone’s benefit in participating in the cultural and scientific life of the community, while the second paragraph refers to the rights of creators or copyright owners. However, some societies do not adequately benefit from intellectual creations, particularly in the case of pharmaceutical patents, whose utilization in a fair and balanced fashion should be permitted. Knowledge should not be monopolized, he argues. For this reason, intellectual property should be subject to a limited period of protection.

In his view, the problem of copyright violation in Thailand does not result from the inadequacy of the legislation, since the

intellectual property law of Thailand is in line with the principles of international law. It is instead a problem of social attitudes. When society matures, copyright violations should diminish. Both criminal punishment and public condemnation are crucial to change the attitudes of the people. He says, “The normal education system does not provide knowledge about intellectual property violation.”

However, Professor Ariyanuntaka also states, “At present, the owners of intellectual property rights and even the Government are emphasizing the importance of the second paragraph of Article 27 of the Universal Declaration of Human Rights, while virtually ignoring the first paragraph. This is mainly due to commercial interests.” He further explains that “although much intellectual property is privately owned, what is not subject to exclusivity is knowledge. A balance should

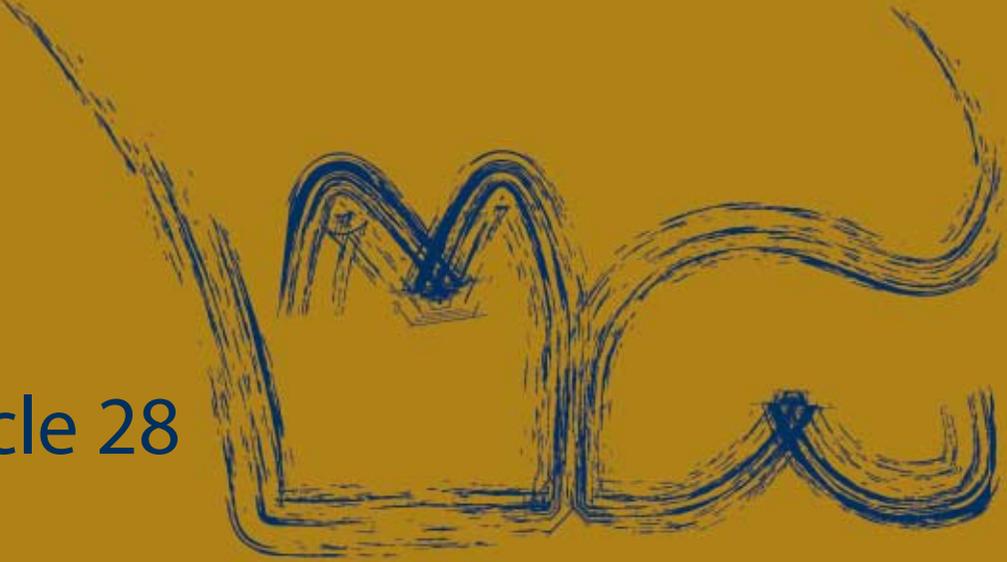


Professor Vichai Ariyanuntaka

therefore be found between the protection of the rights of authors as prescribed in the second paragraph and the public interest highlighted in the first.”

At present, the legal instrument applied in this area in Thailand is a bundle of intellectual property laws, by which arts, scientific and technological advancements are protected. The protection is limited in legislation time (life plus 50 years in cases of copyright), after which the creations can be used without any obligatory payment of royalty fees, he explains. The legislation tries to find a balance between the first and the second paragraph of Article 27 of the Universal Declaration of Human Rights.

Professor Ariyanuntaka is of the view that the copyright law of Thailand should be improved so as to keep pace with modern-day technological innovations. Public interest must be taken into account in the case of copyrights or patents of life essentials, such as medication, as well as in the negotiation of international agreements, including free trade agreements. The legal instrument in this area is the Patent Act (1979), which was amended in 1992 and 1999, giving rise to criticism that international agreements contribute to an increase in prices, deprive patients of access to medications and obstruct domestic medical research and development projects. These challenges require that all parties involved review the point of balance between public interest and the protection of the owners of intellectual property rights.



Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.



Mr. Tej Bunnag
Former Minister of Foreign Affairs

“Knowledge about human rights should start during our childhood, as part of our culture”

Voice

Mr. Tej Bunnag, former Minister of Foreign Affairs, former Permanent Secretary of the Ministry of Foreign Affairs and former Thailand Ambassador to the United Nations in Geneva, explains that the Universal Declaration was established after World War II, based on the realization of the causes of violations of rights and liberties, violence and the great loss of life experienced in previous years. The Declaration was further developed based on the conflicts of ideologies and the divisions of the Cold War era.

During the transitional period from the Cold War era to the Post-Cold War era, during which ideological conflicts subsided, various states focused their attention on nation-building, the enhancement of freedom of thought and democracy as well as sustainable development. Thus, the international community increasingly embraced the concept of mutual cooperation, which included the establishment of international standards on human rights, in addition to the Universal Declaration.

As for the essence of Article 28, Mr. Bunnag says: “The State has a duty to establish orders, rules, agreements and social environments, either at the national or international level, which are conducive to allowing people to enjoy their rights and freedoms as well as improve the quality of their lives.” He describes the three main components of this state responsibility:

1. The development of norms, laws and mechanisms concerning human rights, at both national and global levels, that guarantee basic rights and liberties.

2. The development of rules and agreements, both nationally and globally, on other issues in order to create environments in which states and people may enjoy a peaceful and orderly co-existence, without fear of war, the use of force and violence, exploitation or discrimination, and which may develop economically and socially in a fair manner as well as provide people with opportunities to thrive. The United Nations and other international organizations constitute the main arena for such developments, with the support of regional organizations such as the Association of Southeast Asian Nations (ASEAN).
3. The promotion of constructive collaboration on human rights, for example, through the promotion of correct knowledge and understanding about human rights among state officials and the general public; the promotion of collaboration at the bilateral, regional and multilateral levels in exchanging experience and guidelines for promoting and protecting human rights; and the provision of assistance in order to enhance the potential of other countries in this respect.

Mr. Bunnag says: “Thailand does not lag behind others in terms of respecting human rights. This is reflected in the character of the Thai people, who show concern for others, are open to new things and love freedom.” In the international arena, Thailand has actively and consistently participated in the development of international cooperation agreements, including the development of universal norms and international laws on human rights. In addition, Thailand has become a State Party to seven main conventions on human rights, out of the total of nine conventions, and has fully and continuously provided cooperation and information to the United Nations for the monitoring of the human rights situations in the country, he explains.

“In 1993, Thailand hosted a meeting of Asian countries which was regarded as the first international meeting on human rights in Asia, resulting in a collection of thoughts and perspectives on human rights within the region to be used for the establishment of global norms, along with inputs from other regions, at the World Conference in Vienna that same year.” Mr. Bunnag recounts the details as follows: “As a result of the conference, I recommended to the Thai government to consider the founding of a national mechanism on human rights and to support the founding of a human rights mechanism in ASEAN as well.”

At the national level, Mr. Bunnag comments that the Thai Constitution reflects progress in the provision of guarantees for the basic rights and freedoms of the people. At present, Thailand has more institutions and mechanisms to assist in monitoring and investigating human rights violations and providing proper compensations for victims. A national master plan for human rights is also being implemented, and laws are being upgraded to be in accordance with universal standards. In addition, Thailand is proud to have been chosen as the location of the regional office for South-East Asia of the Office of the High Commissioner for Human Rights (OHCHR).

At the regional level, Thailand has continuously played a leading role in the promotion of cooperation on human rights in ASEAN, including the proposal for the establishment of a regional human rights mechanism since 1993, and support for the inclusion of human rights cooperation into the action plans of ASEAN and the ASEAN Charter. At present, Thailand also heads the high-level working committee in drafting the terms of reference for the establishment of an ASEAN human rights organization, Mr. Bunnag explains.

Mr. Bunnag also makes a number of recommendations. He notes that existing conventions still lack adequate implementation in practice. This is partly because a lot of people still lack adequate knowledge about their rights. He therefore proposes that knowledge about human rights be more widely disseminated among the people. "This should start during our childhood, as part of our culture, so that it can form a significant basis for the successful promotion and protection of rights."

The development of universal rules, laws and norms on human rights should take into account differences and diversity as well as specific conditions in individual countries, in terms of economic development, history and particularly social and cultural traits, Mr. Bunnag continues. "Thus, when we speak of universality of human rights, we must also consider the diversity and varying levels of development."

We should give equal importance to all types of rights, because all rights are interrelated and cannot be viewed separately. Moreover, one of the most important rights is the right to development – without which, all other rights are inevitably compromised.

Every country should view human rights as something that should be preserved for the benefit of its people, rather than used as a political tool in the international arena. In this respect, the application of human rights should not be a reason for states to take advantage of others or as a pretext for the use of force or interference by one state in another, he argues. In order to ensure the integrity of human rights, there is no room for discrimination and double standards.

Mr. Bunnag recounts his experience of working on refugee issues, emphasizing that, "First and foremost, we should realize and understand that all these rights are entitlements we have as human beings, regardless of our race, nationality, or any kind of division."

“Thailand has made a lot of progress in terms of creating an enabling environment for the realization of human rights”

Commentary

Ms. Gwi-Yeop Son, United Nations Resident Coordinator for Thailand and UNDP Resident Representative, concurs with the reflections and recommendations of Mr. Bunnag.

The three components or state responsibilities mentioned by Mr. Bunnag, she comments, capture the essence of Article 28 of the Universal Declaration of Human Rights. She adds that it entails first and foremost, the obligations or duties of a country towards its own people to ensure full enjoyment of human rights in dignity, liberty and equality; and secondly, a country's obligation to extend its reach to support the protection and promotion of the rights of vulnerable people in other countries, particularly those countries in need, to ensure universality of the dignity and justice of all; and finally, a country's duty to play an active role in the international community, particularly in the context of globalization, to sustain peace and stability.

She agrees with Mr. Bunnag's points that “Thailand has indeed made a lot of progress, not only in terms of setting up laws, norms and institutions but also in terms of creating an enabling environment for the realization of human rights.” She concurs with Mr. Bunnag's recommendations that increased efforts be made to strengthen enforcement and monitoring mechanisms, promote human rights education at all levels and realize the rights of the displaced populations and other vulnerable groups. These improvements, as mentioned by Mr. Bunnag, she asserts, will contribute to integrating human rights as an inseparable part of Thailand's culture. Ms. Son further adds that Thailand could benefit from a comprehensive review of its legal framework to ensure consistency and coherence on the overall protection of people's rights.

Ms. Gwi-Yeop Son

Ms. Son is of the view that the universality of the Universal Declaration of Human Rights entails duties of every state to protect the rights of every individual “beyond its own territorial boundary”. She explains that when disaster strikes a country, should that country need assistance to help protect the rights and dignity of its citizens, other countries should step in and provide that assistance while respecting the principles of “sovereign equality and integrity and non-intervention”. “In this respect, Thailand has already done a lot” Ms. Son comments. “Thailand has, for example, provided support for peace-keeping in Timor-Leste and has played a critical role in ensuring the effective delivery of assistance for Myanmar in the aftermath of Cyclone Nargis.”

With reference to globalization and interdependence of countries, every nation, she suggests, should work towards reducing the gap between the poor and the rich, both within a country as well as among the countries within the framework of sovereignty of all nations. Ms. Son comments that one country’s successes and failures can quickly become those of others, giving as an example the current financial crisis. Ms. Son notes that

Thailand, as a ‘middle-income country’, can be an effective aid provider. In this regard, she underscores Mr. Bunnag’s view on the right to development and asserts how “critical it is to promote equality and equity”.

Thailand, as current chair of ASEAN, Ms. Son asserts, plays an important leadership role not only in hosting the ASEAN Summit Meeting in December 2008, but also by facilitating the final establishment of the regional human rights body as set forth in the ASEAN Charter, and leading discussions on how the ASEAN +3 (the countries of ASEAN plus China, Japan and the Republic of Korea) will respond to the current financial crisis, and contributing to developing mechanisms to better protect the most vulnerable.

In conclusion, Ms. Son remarks that the United Nations System in Thailand stands ready to work in partnership with the Royal Thai Government and other partners to further contribute to developing and sustaining a conducive, enabling environment for the realization of the rights and freedoms set forth in the Universal Declaration of Human Rights for all people.

Article 29



- 1) Everyone has duties to the community in which alone the free and full development of his personality is possible.
- 2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
- 3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

**“Every Thai citizen
should be
committed to
performing his/her
duties towards the
community”**

Voice

A 46-year-old woman from Samut Songkram province, who is a leader of a women's and youth group, shares her view that all sectors of society should be aware of their community rights and obligations. If people knew how to make use of their rights and perform their duties, she argues, the majority of the people would have the opportunity to participate more in their community and Thailand would be a more pleasant place in which to live.

She describes how her life changed when she started demanding that her community rights be respected. As a member of a poor family in an isolated community, she provides examples of the types of problems she faces in accessing services. She explains that one day, feeling exasperated, she went to the police to explain the problems her community faced due to the lack of proper roads and basic services. Since then, she has been involved in community development and assisting the people of Mae Klong community to claim their community rights and has continued doing so for more than 20 years. She was also one of the five people who filed a petition to the Administrative Court against PTT Public Co. Ltd. (formerly the Petroleum Authority of Thailand) at the time it was privatized. This resulted in a court order that PTT return assets, including land, to the Ministry of Finance.

On the occasion of the 60th Anniversary of the Universal Declaration of Human Rights, she wishes to express that “While I do not understand human rights law and I do not know the articles of the Universal Declaration, I know that every person has the right to live with dignity. Every Thai citizen should be committed to performing his/her duties towards the community. Yet today, we remain unaware of our own duties; we just wait for help from others without performing our duties as good citizens.”

“Power must be devolved from the centre and distributed as widely as possible so that there can be collaborative management, joint planning and joint action for one’s own community”

Commentary

Commenting on the above voice, Ms. Somsook Boonyabancha, Director of the Community Organizations Development Institute, states that nowadays, there are very few remote communities that know nothing about the outside world. Communities can access the media, know about policies and understand rights, allowing people to participate in changing and solving the problems of their own communities. This has brought about the establishment of widespread networks. The situation has completely changed compared to 20–30 years ago.

“Participation is a growing trend in the world. Therefore, people must be given the chance to express themselves and take action as much as possible. Power must be devolved from the centre and distributed as widely as possible so that there can be collaborative management, joint planning and joint action for one’s own community.”

Ms. Boonyabancha, who supports the strengthening of community development, said that the Assembly of Community Organizations Act (2008) is a positive step that reflects the need for community participation in the country’s local development. Prior to this Act, decentralized power from the central level to the local level was limited to administrative power. This Act provides legitimate status to the development platform of communities at the local level, giving them opportunities to link together and to participate in overseeing their natural resources, education, their economic development, culture, traditions and so forth.

Ms. Boonyabancha thinks that at present, even though people are more aware of their situation and have more scope to conduct activities for their communities, leading to development and change in their own communities, they still lack sufficient power to



Ms. Somsook Boonyabancha

deal with important structural issues such as, for example, the problem of land or local natural resources. "If the power can be more equally shared from the centre, there can be a more collaborative management system, which should alleviate many of the problems," she says.

On the occasion of the 60th anniversary of Universal Declaration of Human Rights, Ms. Boonyabancha proposes that human rights in Thailand should not only follow Western models or existing legal frameworks. There

should also be a broader focus on the ways things are done in the East, with an emphasis on community, on people, cultural roots, social cohesion, mutual responsibilities towards the communities, and using civil dialogue and consent of local groups as agreement to follow. This would also bring about the same goals with much better consensus seen from the perspective of the West.

Article 30



Nothing in this Declaration may be interpreted as implying for any State, group or person the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms set forth herein.



Professor Vitit Muntarbhorn
Faculty of Law, Chulalongkorn University

“Thailand’s laws, policies and practices need to be tested against the backdrop of human rights standards”

Commentary

Professor Vitit Muntarbhorn is from the Law Faculty of Chulalongkorn University. He has helped the United Nations in a variety of capacities, including as an expert, consultant and Special Rapporteur. He also helps Thailand’s National Human Rights Commission and a number of civil society groups. This is his reflection and commentary on Article 30:

“Article 30 is intriguingly placed at the end of the Declaration as a reminder that the human rights listed in the Declaration are to be promoted, protected and respected rather than undermined. Any interpretation of the Declaration should be influenced by the need for constructive and progressive interpretation, based upon the universality of human rights, rather than a destructive or regressive interpretation.

The history of the drafting of the Declaration indicates that there was a debate concerning whether the injunction against negative interpretation or use of the Declaration should cover persons, groups and/or states. In the end, all three entities were and are encompassed by the Article and the message is that states, groups and persons (individuals) should not be involved in activities that compromise the rights and freedoms propounded by the Declaration. In essence, it is a call against extremism in its various forms,

and since the Declaration came about immediately following the Second World War, it was influenced by the need to remind the world that the war itself had been the result of egregious human rights violations due to Nazism and Fascism – both ideologies antithetical to the spirit and substance of human rights.

Generally, human rights advocacy is based upon the right of individuals, and increasingly, the right of peoples and communities, to call upon the state to abide by human rights. Article 30 posits another possible angle upon the premise that human rights obligations bind everyone and every entity whether it be a state, group or individual. This is particularly pertinent today when, in this age of globalization, many entities beyond the state have great impact on human rights. They include terrorist groups and a variety of non-state actors.

From a Thai perspective, Article 30 can be taken to imply a number of considerations. First, given that in the past, many of Thailand’s constitutions were overturned by coups d’état, the preferred orientation is to use peaceful means of change based on human rights and democratic approaches, while avoiding the use of force.

Second, Thailand's laws, policies and practices need to be tested against the backdrop of universal/international human rights standards, to see whether they are in conformity with them. Where they are lower than those universal standards, they need to be reformed to ensure that they respect and do not undermine those standards. On a welcome note, Thailand is now a party to a large number of human rights treaties, of which the Declaration is the progenitor. This development is, of course, dependent upon effective implementation at the national and local levels.

Third, currently there are various laws and practices which evidently diverge from the content of human rights visible in the Declaration. Security-related laws, such as the Martial Law Act, the Emergency Decree, the new National Security Law and various components of the Criminal Code, need to be closely examined to ensure that they comply with those standards. Likewise, capacity building among law enforcement personnel needs to be initiated so that they have the knowledge base, mindset and behaviour that are compliant with human rights standards. On a positive front, it should be recognized that various recent reforms concerning the Criminal Law offer improved protection of human rights. For example, there are new

provisions which offer better protection to victims and witnesses, such as to enable them to be protected by a screen in court, shielding them from having to come face to face with those persons they accuse of having harmed them. Also, women law enforcement officers will now be trained in how to interview women victims of violence. These provisions reflect developments of international human rights law, which aim for more victim-sensibility and gender-sensitivity.

Fourth, non-state actors need to abide more strongly by human rights standards. Interestingly, there has been a global call for more transparency, accountability and responsibility of the corporate sector to respect human rights – at times under the title 'Corporate Social Responsibility' or 'Corporate Responsibility'. While initiatives in Thailand on this front are nascent, one concrete example is that parts of the corporate sector have been supportive of a coalition advocating humane practices and non-discrimination in regard to employees affected by HIV and AIDS.

Fifth, while some of those who are engaged in acts of violence here, there or elsewhere claim that they were or are also the victims of human rights violations, it is important to underline that one crime does not justify

another. All entities must respect human rights, and if there are violations and grievances, there should be a peaceful means of redress. The latter is complemented by the notion of the Rule of Law, which calls for an independent and effective judiciary and other mechanisms which guarantee justice, fairness and equality before the law. This can and should be enhanced by an active civil society

and a variety of checks and balances, including access to information and media-related freedoms, against abuse of power. Such Rule of Law is ultimately to be guided by universal human rights standards, of which the Declaration remains an inspiring and dynamic source.”

Findings and the Way Forward

Findings

The views gathered in this publication reveal that there has been remarkable progress and many achievements made towards the implementation of the provisions of the Universal Declaration of Human Rights since Thailand adopted the Declaration 60 years ago. The legal standing of human dignity, rights, liberty and justice has become a firm cornerstone on which people from all walks of life can rely for the protection and promotion of their rights. The voices and reflections contained in this publication, however, also draw our attention to the fact that the country still faces many challenges in ensuring the full enjoyment of these rights for all.

This publication, which is issued on the occasion of the commemoration of the 60th anniversary of the Universal Declaration of Human Rights, is an attempt to encourage a forward-looking vision in the continuous efforts to promote and protect human rights in Thailand. It is hoped that this presentation of the Declaration, including details on each article as well as discussions based on voices, commentaries, and recommendations across a wide range of dimensions, will contribute to increasing awareness and realizing dignity, rights, liberties and justice for us all.

Some highlights of the key achievements

In 1948, together with 47 other United Nations Member States, Thailand voted in favour of the Universal Declaration of Human Rights. This Declaration has since served as the foundation for the protection of the inherent dignity and the equal and inalienable rights of all peoples. On numerous occasions, Thailand has been internationally recognized for its total adherence to the principles enshrined in the Declaration. While it would be a challenge to list all the country's achievements in this regard, the voices and comments in this publication have pointed to some important developments.

Over the past 60 years, Thailand has been a proactive international partner in becoming a party to different international human rights instruments emanating from the aspirations in the Declaration. It has already acceded to seven core United Nations human rights instruments: the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on 8 September 1985 and its protocol on 20 December 2000; the Convention on the Rights of the Child (CRC) on 26 April 1992 (Thailand is also in the process of preparing to sign and ratify its two Optional Protocols: the Optional Protocol on the Involvement of Children in Armed Conflict and the Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography); the International Covenant on Civil and Political Rights (ICCPR) on 29 January 1997; the International Covenant on Economic, Social and Cultural Rights (CESCR) on 5 December 1999; the International Convention on Elimination of All Forms of

Racial Discrimination (CERD) on 28 January 2003; the Convention Against Torture, Degrading and Inhumane Treatment (CAT) on 2 October 2007, and most recently, the Convention on the Rights of Persons with Disabilities (CRPD) on 29 July 2008.

During the past decade, these international commitments have been progressively incorporated into national legislative settings, as was highlighted by a number of commentators. In this regard, Thailand has witnessed the establishment and reform of many laws and institutions related to the promotion and protection of human rights in various areas. An example of such an achievement, as related by the interviewees and by ordinary people throughout the country at the consultative workshops organized in the framework of the project, is the enactment of the 1997 Constitution and in particular the section on the Rights and Liberties of the Thai People, which is considered a landmark in terms of strengthening the rights enshrined in the Declaration within the domestic legal framework. These important provisions have been further strengthened in the 2007 Constitution.

These provisions set forth the basis for the establishment of increased checks and balances, including new independent government agencies like the Constitutional Court, the Administrative Court, the Office of the Auditor-General, the National Counter Corruption Commission, the National Human Rights Commission, the Consumer's Protection Organization, the Environmental Conservation Organization, and an Ombudsman. Moreover, the process of political decentralization from central administration to local agencies has created more opportunities for local people to exercise their rights in all respects. In terms of due process of law, a number of significant institutions and reforms have been established in order to make the rights of all parties concerned in the judicial process more accessible and attainable. The advancement of civil rights and liberties of the Thai people has therefore seen much progress in recent years, including increased opportunities and better access to economic, social and cultural provisions.

Challenges and the way forward

Through their accounts and analysis, the voices and commentators in this publication have identified a number of key challenges for Thai society in moving ahead towards the full and progressive realization of human rights for all. These challenges also stem from extensive discussions held during the three consultative workshops in Khon Kaen, Songkhla and Bangkok.

While the challenges can be grouped into five main overall areas, most of them are interlinked, and actions taken to address individual challenges might also impact some or all of them.

- The first challenge refers to the further implementation of legal mechanisms in place in order to ensure the effective full enjoyment of the provisions contained in the instruments adopted by the country so far, including provisions to recognize and protect community rights.
- The second challenge refers to security concerns and how they relate to the protection of human rights.
- The third challenge relates to the administration of justice and in particular to the legal and judicial processes.
- The fourth challenge focuses on the need to strike a balance between efforts to realize progressive achievement of economic, social and cultural rights, and the imminent obligations that these rights encompass. This will ensure that the principles of non-discrimination and equality are fully respected and enjoyed by all members of society.
- The final and fifth challenge identified in the accounts collected addresses the potential leading role that Thailand could play for the promotion of human rights in the region.

The voices and comments in the publication put forward a number of ideas for the development of a forward looking strategy in the five above mentioned areas.

1. Promotion of further effective implementation – Human rights as a national priority have been gaining ground increasingly in Thai society, a trend that has been highlighted throughout the present publication. These reflections and comments highlight that the continued translation of progress into real success requires the establishment of adequate mechanisms or the strengthening of the existing ones to ensure effective implementation. For example, in the area of community rights, Thailand has been a pioneer in incorporating community rights into domestic legal frameworks. The impact of large-scale development projects on the rights of affected communities, however, is an area requiring attention. There are a number of reported situations where people express concerns about the enjoyment of the rights to life, livelihood and property. It is recommended that the rights of the people to access relevant information, express interest and concerns, and take part in public hearing processes, environmental assessments and decision-making, be increasingly respected and promoted. Rights, liberty and justice must be viewed in the context of the people’s abilities to manage their own livelihoods, natural resources, and environment.

“If we don’t know that we have a right, we cannot realize that it is being violated.”

A male university student
Voice from Article 6

“Torture and ill treatment are prohibited by Thai law. There is still a need, however, to develop the various systems to protect the rights of the detainees in practice and to ensure full enjoyment of their rights.”

Mr. Nathee Chitsawang,
Director General,
Department of Corrections
Commenting on Article 5

“Without justice, the wounds can never heal.”

Mrs. Angkhana Neelapaijit
Chairperson of the Working Group
on Justice for Peace
Commenting on Article 8

2. Effective protection of human rights and respect of human security issues – Comments and reflections collected during the workshops in the provinces, as well as reported in this publication’s articles, hint at the current global dilemma between the need to address security concerns and the effective protection of human rights. In this regard, one of the main concerns relates to the situation in the three southern border provinces of Thailand. Reflections from various groups indicate that the adoption of special measures, such as emergency laws and security laws and their implementation, creates a situation in which the rights of citizens have become vulnerable. The voices and comments collected through interviews and during the consultative workshops express the need to establish a balance between the concern for security and the protection of rights. Effective and intelligent law enforcement responses are called for. The ratification of the Convention against Torture (CAT) is recognized as a positive step by Thailand in endorsing the absolute ban on torture, a cornerstone of the international human rights edifice. The current efforts to promote its effective implementation would provide an important framework of action. The recommended forward-looking actions include the ratification of the Optional Protocol to CAT and the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance.

3. Legal and judicial process – Maintenance and strengthening of an effective system for law enforcement and the administration of justice which conforms to and is progressively adequate for the increasing international human rights obligations of the country is critical to Thailand. It is essential that this justice system is accessible to all people, especially people from the most marginalized and disadvantaged sectors of society. Taking this into account, it is recommended through the voices gathered that a number of laws, as well as regulations, procedures and provisions in administering them, need to be systematically reviewed in line with the principles of human rights. Supportive provisions, such as volunteer lawyers and consultants for underprivileged and vulnerable groups, should also be further improved to enhance their capacities in the process of justice. According to the present Constitution, an organization for legal review and reform is to be set up soon with an emphasis on the participation of the people affected by each particular set of laws.

4. Progressive realization of economic, social and cultural rights: attention to the most marginalized – The advancement of the civil rights and liberties of the Thai people has been more evident in recent years, including the availability of better opportunities and more access to economic, social and cultural provisions. For example, there has been much progress in the promotion of educational opportunities and healthcare for all. Yet the situation with regards to minority groups, migrants, asylum seekers, and stateless persons indicates some space for improvement. This is particularly relevant with regard to the need to adopt affirmative actions to ensure the enjoyment of the rights of persons with disabilities and people who are most vulnerable to human rights abuses, such as under-privileged women, persons living with HIV, migrant workers and children. These are among the areas in which the voices and commentators perceive that specific improvements are highly necessary. The recent ratification of the International Convention on the Rights of Persons with Disabilities represents Thailand's commitment to shift the paradigm of addressing the challenges being faced by persons with disabilities from a matter of charity to a matter of rights. Consideration should also be given to the possibility of ratifying the International Convention of the Rights of Migrant Workers and Members of their Families and acceding to the 1951 Refugee Convention and the 1967 Protocol. Such actions would represent further progress for Thailand in its adherence to the highest international standards.

5. A leading role in the promotion of human rights – Thailand's role in supporting the establishment of a human rights body at the regional level is commended. Thailand continues to play an active role in promoting human rights among southeast Asian nations. Furthermore, it could and should become a role model for other countries in the region for its promotion of human rights education among government officials, the private sector, civil society organizations and the general public alike as a means to develop further cultural conditions conducive to the realization of dignity and justice for all. This promotion of human rights education will gradually help to reduce the discriminatory attitudes and stigma that often characterize the relationship between state agencies and ordinary people, as well as among people themselves. Human rights education will also promote the respect for and protection of human rights defenders, an issue that requires solid structures in the region. Human rights advocacy relies heavily on the work of the media and communicators. Since Thailand is a major regional hub for the media, its potential should be maximized to increase human rights awareness throughout the region. Success in this area would naturally depend heavily on freedoms of expression and opinion.

“I was the only one in the classroom with no Thai identification card. Sometimes I felt very sad and depressed for not being awarded a scholarship.”

Two orphan girls, age 16
Chiang Rai province
Voices from Article 15

“Every country should view human rights as something that should be preserved for the benefit of its people.”

Mr. Tej Bunnag
Former Minister of Foreign Affairs

Finally, a number of recommendations were addressed to the United Nations, encouraging, for example, closer cooperation between the government and civil society to continue ensuring realization of the rights enshrined in the Universal Declaration of Human Rights. One such recommendation was to provide support to national efforts on the adoption of sound human rights policies.

One of the challenges expressed by the voices heard in this publication was that the United Nations faces difficulty in applying the principle of the indivisibility and interrelatedness of all human rights. This is needed, in particular, to ensure that adequate attention is provided also to economic, social and cultural rights.

The views expressed also note the importance of ensuring adequate human rights education as a means to ensuring that every woman, man, girl and boy in Thailand knows about their rights. This is an area where the support of the United Nations can be of great value.

The United Nations Country Team in Thailand takes note of the recommendations made and stands ready to work in partnership with the government and other stakeholders to further contribute to the enjoyment of the rights enshrined in the Declaration. This includes readiness to provide support when required to the current national efforts aimed at ensuring consistency and coherence with the international human rights obligations for the country.

60th Anniversary of the Universal Declaration of Human Rights



United Nations Country Team in Thailand Office of the UN Resident Coordinator

12th floor, UN Building
Rajdamnern Nok Avenue
Bangkok 10200
Tel: (66-2) 288-1836
Fax: (66-2) 280-0556
E-mail: unrc.thailand@un.or.th
Website: <http://www.un.or.th>

Office of the National Human Rights Commission

The Government Complex Commemorating His Majesty the King's
80th Birthday Anniversary 5th December, B.E. 2550 (2007)
120 Chaengwattana Road
Laksi, Bangkok 10210
Tel: (66-2) 141-3800/3900
Fax: (66-2) 143-9563
Website: <http://www.nhrc.or.th>