

Refugee Review Tribunal

AUSTRALIA

RRT RESEARCH RESPONSE

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This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

Questions

1. What is the position regarding tension between Muslims and Buddhists in Thailand?
2. What is the position regarding persons who convert from Islam to Buddhism – are they targeted by Muslims?
3. Are the police able and willing to offer protection to women in these situations?
4. Are the police able and willing to offer protection to converts in these situations?
5. Please provide information regarding the legal/police system in Thailand and whether the country has a fully functioning legal system.

RESPONSE

1. What is the position regarding tension between Muslims and Buddhists in Thailand?

Tension between the Muslim and Buddhist populations in Thailand is currently centred in the most southern provinces of the country – Pattani, Yala, Narathiwat and parts of Songkhla. These provinces were until 1902 part of an independent sultanate called Patani. Muslims in these southern provinces speak Malay and share a common ancestry more with populations in northern Malaysia than with the dominant Buddhist population of Thailand. The Muslim population of Thailand is estimated to be between 5-10% of the total population of 64 million, most of whom live in these southern provinces where they constitute the majority. While some 3524 mosques are registered in 64 provinces across the country, 2255 are located in the five most southern provinces. The Muslim population has diverse ethnic and national origins: alongside the “Malay Muslims” in the south, those in the central, north and northeast have Malay, Indonesian, Indian, Pakistani, Chinese and Middle Eastern heritages. The Muslim community has formal ties with the Thai government through its official head, the Chularajamontri, who is attached to the Religious Affairs Department of the Ministry of Education and advises the Interior Ministry on Muslim Affairs. (For population and mosque figures see the US Department of State 2006, *International Religious Freedom Report – Thailand*, 15 September – Attachment 1. For ethnic heritage of Muslim population see

Scupin, R. 2005, 'Polarized Cultural Stereotypes Contribute to New Violence', American Anthropological Association website, March <http://www.aaanet.org/press/an/0503scupin.htm> – Accessed 14 December 2006 – Attachment 2. For formal Muslim religious body see 'The Muslim People of Thailand' (undated), Public Relations Department of Thailand website, <http://thailand.prd.go.th/ebook/story.php?idmag=24&idstory=191> – Accessed 14 December 2006 – Attachment 3.)

The most recent phase of the violence in the southern provinces of Thailand began in 2001 but has especially escalated since 2004 with some 1700 people killed to September 2006. Both Buddhist and Muslim civilians are being targeted by various Islamic inspired separatist militant groups, though their exact identity is unclear as no group has claimed responsibility. Civilians especially targeted are those seen as being part of, or collaborating with, the central Thai state. This has included teachers, monks, and community leaders, besides police and security officers. The separatist groups have also targeted Muslim clerics who perform funeral rights for apostates and teachers who work in schools that have mixed curricula, while claiming to defend the local Muslim people from the influence of the majority Buddhist authorities. The immediate aims of the separatist movement are, according to recent Human Rights Watch reports, to frighten the Buddhist population into leaving southern Thailand, gain greater control of the local Muslim population, and to create mistrust between the Muslim and Buddhist populations ('Thailand violence at a glance' 2006, *Reuters AlertNet* website, September http://www.alertnet.org/printable.htm?URL=/db/crisisprofiles/TH_INS.htm&v=at_a_glance – Accessed 13 December 2006 – Attachment 4; Human Rights Watch 2006, 'Insurgents must stop targeting civilians', 20 November – Attachment 5; Human Rights Watch 2006, 'Insurgent attacks shut down schools in south', 29 November – Attachment 6; Abuza, Z. 2006, 'The Islamist Insurgency in Thailand', *Current Trends in Islamist Ideology*, Vol. 4, Center on Islam, Democracy and the Future of the Muslim World website, 1 November http://www.futureofmuslimworld.com/research/pubID.59/pub_detail.asp – Accessed 14 December 2006 – Attachment 7).

As a result of the actions of the separatist groups, as well as the violent reactions of the Thai government and military, news reports refer to a deterioration in "once amicable relations between Muslims, who form the majority in southern Thailand, and the Buddhists who live amongst them" (Sipress, A. 2005 'Thai Violence Dividing Neighbours – Muslim-Buddhist Friendships Crumble in Sectarian Strife', *Washingtonpost.com* website, 20 February <http://www.washingtonpost.com/wp-dyn/articles/A38449-2005Feb19.html> – Accessed 13 December 2006 – Attachment 8). The crackdown in the south by the Thai government and the human rights abuses committed by the military are seen by some as a crackdown on Islam and has increased resentment towards the government in Bangkok ('Thailand violence at a glance' 2006, *Reuters AlertNet* website, September http://www.alertnet.org/printable.htm?URL=/db/crisisprofiles/TH_INS.htm&v=at_a_glance – Accessed 13 December 2006 – Attachment 4).

The tensions in the south have also been attributed in part to years of discrimination against the Muslim minority in Thailand, the fact that few government representatives are Muslim, and to an education system that is dominated by Buddhism. In the midst of the recent conflict in 2005, a news article stated that:

...This Buddhist land, better known for tourist resorts, spicy cuisine and a culture of politeness, may seem an unlikely seedbed for Muslim extremists. **But years of**

discrimination against Thailand's 4 percent Muslim minority, plus economic frustrations and Islamic liberation theologies imported from the Middle East, have kindled a little civil war that has killed more than 600 people in the past 15 months.

... **Muslims say they feel like second-class citizens, partly because the government has few Muslim officials. They chafe especially at a Buddhist-dominated education system that only recently has begun to support schools with Islamic curricula.**

Chungthong Opatsiriwat, an aide to Thailand's prime minister, and other Buddhists say the **Muslim-Buddhist confrontation** is more muted than that between Islam and the West. "Buddhism does not ask its people to believe in a god ... and has no problem to respect others' God," Chungthong said on a recent visit to the south.

But Buddhism's preachments of tolerance are undermined by a Thai cultural emphasis on conformity, said Hassan Madmarn, an Islamic studies professor. Most Thai Buddhists never bother to learn about the beliefs of their Muslim compatriots, he said, and "many Thais still have a deep feeling that it is impossible to be Muslim and also a real Thai" (Rupert, J. 2005, 'An insurgency in Thailand', *Newsday.com* website, 4 May <http://www.newsday.com/news/nationworld/world/ny-wothai244244525may04,0,2764127.story?coll=ny-worldnews-toputility> – Accessed 13 December 2006 – Attachment 9).

Following the peaceful military coup that took place in Thailand in September 2006, the Thai authorities have softened their stance toward the situation in the south. The first Muslim Thai army chief, General Sonthi, has since visited the area and offered an apology on past excesses by the government. The government's rapprochement even includes the possibility of allowing Islamic law in the region ("Thailand braces for more violence in Muslim south" 2006, *Reuters AlertNet* website, 7 December <http://www.alertnet.org/printable.htm?URL=/thenews/newsdesk/BKK147342.htm> – Accessed 13 December 2006 – Attachment 10). Plans since the September coup also include the hope of increased participation by Muslims in the south in the running of their affairs:

Muslim leaders in Thailand are debating proposals that would give them a special status in predominantly Buddhist Thailand. Nimu Makaje, a Muslim scholar in this violence-racked southern city, enthusiastically tells a visitor that the time has come to implement an Islamic legal system in southern Thailand.

"What we want is to include everything," Nimu said. Muslims will have marital disputes, inheritance and crimes such as murder and robbery adjudicated in Sharia courts, he said. Nimu added that "the good thing about the Sharia court is that you don't need three levels, no appeals court, no supreme court. There's just one."

Not long ago, such ideas would have been immediately derided and dismissed in Thailand, which is more than 90 percent Buddhist. Courts throughout Thailand operate on secular principles, although family courts in the south often consult informally with Muslim leaders before issuing judgments.

While experts remain skeptical that the country will ever fully embrace Sharia law in its troubled southern provinces, the open discussion of it signals greater level of confidence and recognition among the southern Muslim minority.

Southern Muslims say they are now being given a voice that they never had under the administration of Thaksin Shinawatra, the prime minister ousted in the Sept. 19 coup.

Many saw Thaksin's CEO-style governing style as one of the sparks that reignited the centuries of animosity between Bangkok and its Muslim-Malay provinces, some 1,200 kilometers, or 745 miles, south of the capital.

The coup leader, Sonthi Boonyaratglin, a Muslim who has extensive experience in the south, has been instrumental in steering Thailand in its U- turn from Thaksin's iron-fisted, Bangkok-knows-best policies.

Muslims have been given key positions in the new administration. One, Aree Wong-araya, is the interior minister and a proponent of the Sharia system, Wan Mahadee, was selected to serve in the country's new National Legislative Assembly, the de facto Parliament.

The new government says it plans to re-establish a modified version of the Southern Border Provinces Administrative Center, the system that gave local leaders more input into policy making. Thaksin, who famously said he would not give a "square inch" in the fight against Thailand's insurgency, dismantled the center soon after he came to power in 2001 (Fuller, T. 2006, 'New hopes in Thailand's restive south', *International Herald Tribune* website, 23 October http://www.ihf.com/bin/print_ipub.php?file=/articles/2006/10/17/news/thai.php – Accessed 13 October 2006 – Attachment 11).

Few reports were found which describe in any detail Buddhist and Muslim relations outside the southern provinces. The 2006 US Department of State *International Religious Freedom Report* described relations between religious groups in Thailand as "generally amicable" and that the violence in the southern most provinces resulted in only "localized tensions between Buddhist and Muslim communities" (US Department of State 2006, *International Religious Freedom Report – Thailand*, 15 September – Attachment 1). Two news reports on the attitudes of Muslims living in central and northern cities of Thailand on the events in the south both emphasise the differences between Muslims in the north from those living in the southern provinces ('Muslims in Thai north not worried by southern woes' 2006, *Taipei Times* website, 1 August <http://www.taipetimes.com/News/world/archives/2006/08/01/2003321346> – Accessed 14 December 2006 – Attachment 12; Brown, S. 2003, 'Moderate Thai Muslims shocked at arrest of Hambali in their midst', *Agence France Presse*, 15 August – Attachment 13). A news report from 2006 on the northern city of Chiang Mai also stated that there was some sympathy with the southern Muslims:

Chiang Mai, the northern jungle city home to one of **Thailand's largest Muslim communities**, is a long way in both distance and culture from the kingdom's restive south.

But the violence between suspected Islamic separatists and the army that claims lives almost daily some 1,700km away is focusing the minds of those who mingle by the curry stalls and halal restaurants here.

As the authorities show a growing interest in Muslims in this popular tourist city, the close-knit community is concerned that the bloodshed down south will infringe on their peaceful existence.

"Muslims in the north have a happy life, but in the south they have problems and we know nothing of this," says Preedee Nukul, a teacher at the Ban Haw mosque near Chiang Mai's famous Night Bazaar. "The main teaching of the religion is the same thing, but the problems are separate."

Chiang Mai city sits in northeast Thailand at the foot of the country's mountainous region and is home to about 30,000 Muslims.

...Andrew Forbes, an Islamic scholar, says that the communities traditionally felt detached from the problems in the south.

"I don't think there is much sympathy at all, not until the incident when a lot of people were killed lying down in trucks," he says, referring to the death of 85 Muslims in army custody in 2004.

... At the Ban Haw mosque here, where 70 percent of the worshipers are from Yunnan, the imam said people showed scant interest in the conflict.

"Islam is different, politics is different, people relate these things, but they are not the same," Ching Jen says.

But Nitaya Wangpaiboon, a Chinese-Muslim lawyer from Chiang Mai, says people were increasingly worried about tensions between the government and the Muslim community, but were afraid to voice these concerns.

"Sympathy increases more and more, but it is not the style of the Muslim, they will not object against the government," she said.

She also accuses the government of sending spies into "every mosque in Chiang Mai" -- a claim Thailand's National Intelligence Agency denies.

"They want to connect the southern problem with the northern Muslims," Nitaya says. "They want to link it but it is not true."

Waat Srichandoin, imam at the Chang Klan mosque, said people who attended his mosque found the conflict in the south "boring," but said he was concerned that the Thai authorities were attempting to connect the communities ('Muslims in Thai north not worried by southern woes' 2006, *Taipei Times* website, 1 August

<http://www.taipeitimes.com/News/world/archives/2006/08/01/2003321346> – Accessed 14 December 2006 – Attachment 12).

2. What is the position regarding persons who convert from Islam to Buddhism – are they targeted by Muslims?

No information was found on either the occurrence or position of those who convert from Islam to Buddhism in Thailand. Question 2 of *RRT Research Response 30859* looked at the formal requirements of converting to Buddhism from Islam in Thailand in a marital situation (RRT Country Research 2006, *RRT Research Response 30859*, 22 November – Attachment 14).

3. Are the police able and willing to offer protection to women in these situations?

4. Are the police able and willing to offer protection to converts in these situations?

No information was found on the ability and willingness of police to protect converts who may be targeted by the Muslim community for converting from Islam to Buddhism. The information found was restricted to police protection of women in domestic violence situations in general. Two previous Research Responses do contain reports which include descriptions of the unwillingness of police to intervene in domestic violence situations and

the police position of treating such situations as a “private or family matter” (Question 3 of RRT Country Research 2006, *RRT Research Response 30859*, 22 November – Attachment 14; and RRT Country Research 2006, *RRT Research Response 30762*, 31 October – Attachment 15).

Recent Immigration and Refugee Board of Canada (IRBC) research also details the availability of state and police protection for victims of domestic violence in Thailand. The IRBC research includes the view of the chairman of the Senate Committee on Children, Women and the Elderly in Thailand who declared in 2004 that “police rarely take reports of domestic abuse seriously” (Immigration and Refugee Board of Canada 2004, *THA43119.E – Thailand: Domestic violence; state protection and resources available to victims of domestic abuse (2002-2004)*, 18 November http://www.irb-cisr.gc.ca/en/research/rir/index_e.htm?action=record.viewrec&gotorec=444193 – Accessed 14 December 2006 – Attachment 16).

5. Please provide information regarding the legal/police system in Thailand and whether the country has a fully functioning legal system.

Thailand enacted a new Constitution in 1997 which provides the general framework for the country’s legal system. The three levels of the judiciary are the Courts of First Instance, Courts of Appeal, and the Supreme Court which has jurisdiction over all 76 Thai provinces. Courts of the First Instance are the General courts (Civil, Criminal, Provincial, and District courts), Juvenile, and the Family courts. Under Thai law, the plaintiff is required to bring a civil case to the court where the cause of action arises or where the defendant is domiciled, while for criminal cases the court in a district where the accused resides or is arrested or where an official makes an inquiry has jurisdiction over the case. In Bangkok, courts of First Instance which handle criminal cases include the Criminal Court, the Criminal Court of Southern Bangkok, the Thon Buri Criminal Court and the Min Buri Criminal Court (Triamanuruck, N., et.al. 2004, ‘Overview of Legal Systems in the Asia-Pacific Region: Thailand’, *Cornell Law School LL.M. Papers Series*, 4, Nellco Legal Scholarship Repository website <http://lsr.nellco.org/cgi/viewcontent.cgi?article=1004&context=cornell/lps> – Accessed 18 December 2006 – Attachment 17; and ‘The Judiciary of Thailand’, (undated), Office of the Judiciary website <http://www.judiciary.go.th/eng/thejudiciary.htm#t1> – Accessed 18 December 2006 – Attachment 18; Hon. Justice Prasobsook Boondech (undated), ‘The Thai Courts of Justice’, Asian Development Bank website http://www.asiandevbank.org/Documents/Events/2003/RETA5987/P_Boondech_THA.pdf – Accessed 21 December 2006 – Attachment 19).

In its most recent country report on human rights practices for Thailand, the US Department of State provides the following summary of the legal system in the country:

In addition to an independent constitutional court, the civilian judicial system has three levels of courts: courts of first instance, courts of appeal, and the Supreme Court. A separate military court hears criminal and civil cases pertaining to military personnel as well as those brought during periods of martial law. The constitutional court is charged with interpreting the constitution. Islamic (Shari’a) courts hear only civil cases concerning members of the Muslim minority. The law provides for access to courts or administrative bodies to seek redress, and the government generally respected this right.

Trial Procedures

There is no trial by jury. A single judge decides trials for misdemeanors; two or more judges are required for more serious cases. New court procedures enacted in January 2004 have alleviated delays somewhat. However, a large backlog of cases remained, and trials could still drag on for months or even years. While most trials are public, the court may order a closed trial, particularly in cases involving national security, the royal family, children, or sexual abuse. Justices nominated to the constitutional court or Supreme Administrative Court must be confirmed by the Senate; all other judges are career civil servants whose appointments are not subject to parliamentary review.

The law provides for the presumption of innocence. In ordinary criminal courts, defendants enjoy a broad range of legal rights, including access to a lawyer of their choosing. A government program provided free legal advice to the poor, but indigent defendants were not provided with counsel at public expense automatically. The court was required to appoint an attorney in cases where the defendant was a minor and in cases where possible punishment was imprisonment. Most free legal aid came from private groups, including the Law Society of Thailand and the Thai Women Lawyers Association. There is no discovery process, so lawyers and defendants do not have access to evidence against them prior to the trial (US Department of State 2006, *Country Reports on Human Rights Practices – Thailand*, 8 March – Attachment 20).

The US Department of State and Amnesty International both acknowledge that the legal system, while subject to corruption and often weak in its execution of justice, has been improving in recent years:

The law provides for an independent judiciary; however, while the judiciary generally was regarded as independent, it was subject to corruption and outside influences. The legal system has made progress in recent years, particularly with regards to civil and commercial disputes, and outside observers increasingly see the judiciary as impartial, fair, and neutral (US Department of State 2006, *Country Reports on Human Rights Practices – Thailand*, 8 March – Attachment 20).

The lack of political will has been exacerbated by the weak criminal justice system in Thailand, which is open to corruption; and undermined by undue delays and a lack of investigative skills on the part of law enforcement officials. Amnesty International acknowledges that officials in the Ministry of Justice, including in the Corrections Department and in the Probation Department, are making attempts to reform the administration of justice system, which is a welcome development. However the organization remains concerned that other parts of the justice system, including the police and the courts, are not taking the necessary steps to address the widespread problem of bribery; undue delays in the court system; and proper training for law enforcement officials in human rights and investigative skills (Amnesty International 2006, 'Just Earth – Thailand: Grave Developments – Killings And Other Abuses' <http://www.amnestyusa.org/justearth/document.do?id=DE5ED82FB9893A7880256DC7005DAD14> – Accessed 31 October 2006 – Attachment 21).

With regard to the police system in Thailand, the US Department of State provides the following information on the structure of the Thai police force, the extent and types of corruption among police, and methods of filing complaints against police:

Role of the Police and Security Apparatus

The Royal Thai Police (RTP) is under the direct supervision of the prime minister and a 20-member police commission. The RTP consisted of approximately 213 thousand officers in 10

geographic regions. The police commissioner-general is appointed by the prime minister and subject to cabinet and royal approval. The border patrol police have special authority and responsibility in border areas to combat insurgent or separatist movements.

Corruption remained widespread among police officers. Police officials complained that low pay made them susceptible to bribes. There were reports that police tortured, beat, and otherwise abused detainees and prisoners, generally with impunity. Complaints of police abuse can be filed directly with the superior of the accused police officer, the Office of Inspector General, or the police commissioner-general. The NHRC, the Law Society of Thailand, the National Counter-Corruption Commission (NCCC), and the Office of the Prime Minister also accept complaints of police abuse and corruption, as does the Office of the Ombudsmen. When the police department receives a petition, an internal investigation committee first takes up the matter and may temporarily suspend the officer during the investigation. Various administrative penalties exist, and serious cases can be referred to the criminal court. In 2004 the police inspector general received 77 petitions alleging police abuse or corruption. In nine cases officers were found guilty, and disciplinary or administrative punishments were applied. In 2004 the NCCC received 157 petitions alleging police abuse or corruption. No figures were available on actions taken by the NCCC on these complaints. The RTP increased professional training at the main branch of the Police Cadet Academy and at provincial police training schools.

Some police officers were involved in prostitution and trafficking in women and children (see section 5). In August 2004 after an internal investigation, the police department reinstated four police colonels who had been removed from active duty in 2003 for allegedly accepting financial and sexual bribes. The status of approximately 40 other officers involved in this case remained publicly unknown.

Arrest and Detention

In practice the system for issuing arrest warrants was subject to misuse by police officers who provided false evidence to courts to obtain arrest warrants. By law persons must be informed of likely charges against them immediately after arrest and must be allowed to inform someone of their arrest. The law provides for access to counsel for criminal detainees; however, lawyers and human rights groups claimed that local police often ignored this and conducted interrogations without providing access to an attorney. Foreign prisoners sometimes were pressured to sign confessions without the benefit of a competent translator.

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

Pretrial detention of criminal suspects for up to 60 days was common. Some persons from countries without diplomatic representatives in the country faced trial delays of many months.

The emergency decree in effect in Yala, Narathiwat, and Pattani provinces, plus parts of Songkhla, allowed authorities to arrest and detain suspects for up to 30 days without charge. After the expiration of these 30 days, authorities could begin holding suspects under normal criminal law. Unlike martial law, these detentions required the consent of a court of law. According to newspaper reports, 60 persons were arrested under these provisions as of October, of whom 19 were indicted (US Department of State 2006, *Country Reports on Human Rights Practices – Thailand*, 8 March – Attachment 20).

During November 2006, a seminar on reform of the National Police Force (NPO) was held in Thailand. The seminar was attended by the Prime Minister, Surayud Chulanont, and the national police Chief Pol Gen Kowit Wattana. A November 29 news article from the *Bangkok Post* gives the opinions of these two senior officials on the Thai police force and areas where the police system is most in need of reform. Though vague on detail, the article indicates that political interference on the police force is the main area where the police system is failing to function fully:

Thailand's police must be reorganised and **freed from political interference** to restore public faith, Prime Minister Surayud Chulanont said yesterday. Attending a seminar on reform at the National Police Office (NPO), Gen Surayud said police used to have the public's faith, but that time had passed.

“Today we must admit public feelings have changed. Confidence in the police has declined, maybe for political or other reasons. This mistrust may affect police work directly,” he said.

“The biggest concern is political intervention. We must carefully consider this.”

Gen Surayud said officers must change the way they work and police organisations should be revamped. When everyone does their duty constructively, public faith will be restored, he said.

The prime minister said some police structures are outdated and need to be improved. They include the centralisation of police power, obstacles to straightforward investigations and unfair personnel administration.

In response, national police chief Pol Gen Kowit Wattana said legal amendments were essential **to prevent political intervention**.

His deputy, Pol Gen Achiravit Supanpesat, proposed the NPO and police commands be juristic entities. Police stations should manage their own budgets and forensic science should play a larger role in improving the justice system, he said.

The government has set up a committee to reform the police, headed by retired Pol Gen Vasi Dejkujorn.

Pol Gen Vasi said he agreed with the need to decentralise the power of the Royal Thai Police and has set up four sub-panels to study various aspects of police work, including public participation, management, human resources and legal reform.

He said it was decided at the meeting to give the public a role overseeing police work for the first time. This would make police more cautious in their job.

“When empowering the police regions, not only the governors or other organisations in the area can take part in police work, but so can local people,” said Pol Gen Vasi.

He said police reform would be expedited because Prime Minister Surayud was anxious to see results.

He said the Royal Thai Police would keep most of its duties, but its role in the regions would focus only on taking care of police.

“Many committees don’t want to see the police chief or prime minister order the reshuffling of the police as in the past,” said Pol Gen Vasiit.

The public and the police can express their opinions about proposed changes at the Justice Ministry’s website, www.moj.go.th. He said the Police Act should be amended to make police more accountable for their performance (Tansubhapol, W. 2006, ‘Revamp police ‘to restore trust’ *Bangkok Post*, 29 November http://www.bangkokpost.com/News/29Nov2006_news09.php – Accessed 29 November 2006 – Attachment 22).

One aspect of the Thai legal/police system which several sources point to as particularly deficient is the relationship between the police and the public prosecutor in the execution of criminal investigations. Prosecutors play a passive role compared to the police who “dominate criminal investigation”. According to the Criminal Code, an investigation must be initiated and conducted mainly by the police, with the prosecutor almost wholly reliant on what is provided to them by the police. If further investigation is warranted in the opinion of the public prosecutor, then this is also conducted by the police. This has led to a large number of falsely accused being brought before the courts, miscarriages of justice, and malpractice by the authorities (Kittayarak, K. 2003, ‘The Thai Constitution of 1997 and its Implication on Criminal Justice Reform’, The United Nations Asia and Far East Institute (UNAFEI) website, February http://www.unafei.or.jp/english/pdf/PDF_rms/no60/ch06.pdf – Accessed 19 December 2006 – Attachment 23; Naigowit, P. 2003, ‘Criminal Justice in Thailand’, International Association of Prosecutors website, http://www.iap.nl.com/speeches_asia_conference_2003/criminal-justice-inthailand-by-prapun-naigowit.html – Accessed 19 December 2006 – Attachment 24; ‘Thailand: False criminal cases much more than a problem of money’ 2006, Asian Human Rights Commission website, October 20 <http://www.ahrchk.net/statements/mainfile.php/2006statements/788> – Accessed 19 December 2006 – Attachment 25).

In the specific case of a domestic violence incident and how it is currently treated by the legal and police system in Thailand, the US Department of State report states the following:

Domestic violence against women was a significant problem, and there were no specific laws addressing the problem. A few domestic violence crimes were prosecuted under provisions for assault or violence against a person. Domestic violence often went unreported, and the police often were reluctant to pursue reports of domestic violence.

Reliable statistics on rates of domestic violence were difficult to obtain but there were 60 thousand reported cases in 2004, double that of 2003. On November 28, the public health minister noted that the number of reported cases of abuse had increased from 5 per day in 2002 to 28 per day in during the year. Approximately half of these cases involved sexual abuse. It was unclear whether the increase reflected an increase in violence or an increased public awareness of the problem and an increased willingness on the part of battered women to report it to authorities. A 2003 study by the Institute for Population and Social Research at Mahidol University found that up to 41 percent of the women surveyed in Bangkok had experienced some type of physical or sexual violence. In April a survey by a Bangkok psychiatrist reported that more than 25 percent of the sampled Bangkok households had experienced domestic violence. NGO-supported programs included emergency hot lines, temporary shelters, counseling services, and a television program to increase awareness of domestic violence, HIV/AIDS, and other issues involving women. The government’s “one-stop” crisis centers, located in state-run hospitals, continued to care for abused women and children but faced budget difficulties.

Rape is illegal. Through November the police reported 4,693 rape cases nationwide, including 5 cases where the victim was killed. Suspects were arrested in 1,897 of these cases. There were 5,041 reported rapes in 2004. There are no provisions for prosecuting spousal rape. According to academics and women's rights activists, rapes and domestic assaults were underreported, **in part because law enforcement agencies were perceived to be incapable of bringing perpetrators to justice. Police sought to change this perception and encouraged women to report sexual crimes through the use of female police officers in metropolitan Bangkok and in three other provinces.** The law specifies a range of penalties for rape or forcible sexual assault, depending on the age of the victim, the degree of assault, and the physical and mental condition of the victim after the assault. The minimum penalty is from 4 to 20 years' imprisonment and a fine of \$200 to \$1 thousand (8 thousand to 40 thousand baht). If firearms or explosive are used, or if it is a gang rape, the penalty increases to 15 to 20 years' imprisonment and a fine of \$750 to \$1 thousand (30 thousand to 40 thousand baht). Life imprisonment or execution is possible for cases in which the victim is injured or killed. A sentence of 4 to 20 years' imprisonment and a fine ranging from \$200 to \$1 thousand (8 thousand to 40 thousand baht) is imposed for statutory rape of a child less than 15 years of age. If the victim is less than 13, the jail term ranges from 7 years' to life imprisonment. The law also provides that any individual convicted for a second time for the same criminal offense within two years is liable to increased penalties for recidivism. Police officials increasingly used these powers, and the government reported 211 persons arrested (in 103 cases) in 2003; 86 cases were referred for prosecution. There were 11 convictions, mostly from arrest cases dating to 2002 and 2003. Victims of sexual abuse were eligible to receive state financial aid of up to \$750 (30 thousand baht) (US Department of State 2006, *Country Reports on Human Rights Practices – Thailand*, 8 March – Attachment 20).

The Office of the National Committee on Women's Affairs in Thailand produced a report in 2000 on domestic violence titled *Out of the Silence: Fighting violence against women in Thailand*. The Report provides further details on the criminal justice system especially in relation to the position of women who face situations of domestic violence within marriage and points to a clause in Section 276 of the Criminal Code which excludes marital rape from being a crime. It also refers to an inconsistent "enforcement of the laws...perpetuating [an] attitude among law enforcers [that] domestic violence as a family issue that should be resolved in the home...Police prefer to do little enforcing and to spend more time mediating" (Office of the National Committee on Women's Affairs 2000, *Out of the Silence: Fighting Violence against women in Thailand*, World Bank website, pp. 8-11 http://siteresources.worldbank.org/INTTHAILAND/Resources/Social-Monitor/2000out_of_the_silence.pdf – Accessed 19 December 2006 – Attachment 26). The marital rape exclusion clause in Section 276 of Criminal Code is criticized in a February 2006 United Nations Comment of the Committee on the Elimination of Discrimination against women in Thailand (UN Committee on the Elimination of Discrimination against Women 2006, 'Concluding comments of the Committee on the Elimination of Discrimination against Women: Thailand', UN High Commissioner for Refugees website, 3 February <http://www.unhcr.org/cgi-bin/teaxis/vtx/rsd/rsddocview.pdf?tbl=RSDCOI&id=441183460> – Accessed 21 December 2006 – Attachment 27).

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Bangkok Post <http://www.bangkokpost.com/>

Region Specific Links

Public Relations Department of Thailand website <http://thailand.prd.go.th/>

United Nations Asia and Far East Institute (UNAFEI) website

<http://www.unafei.or.jp/english/>

Topic Specific Links

International Association of Prosecutors website, <http://www.iap.nl.com/>

American Anthropological Association website <http://www.aaanet.org/>

Center on Islam, Democracy and the Future of the Muslim World website

<http://www.futureofmuslimworld.com/>

Nellco Legal Scholarship Repository website <http://lsr.nellco.org/>

Office of the Judiciary website <http://www.judiciary.go.th/>

Asian Development Bank website <http://www.asiandevbank.org/>

Search Engines

Google search engine <http://www.google.com.au/>

Online Subscription Services

Databases:

FACTIVA (news database)

BACIS (DIMA Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

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