

January 19, 2006

The Committee on the Elimination of Discrimination against Women (The Committee)

Re: Supplementary information on Kingdom of Thailand
Scheduled for review during the CEDAW's 34th Session

Dear Committee Members:

This letter is intended to supplement the periodic report submitted by Kingdom of Thailand, scheduled to be reviewed by this Committee during its 34th session. The Center for Reproductive Rights (The Center), an independent non-governmental organization, hopes to further the work of the Committee by providing independent information concerning the rights protected in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Reproductive rights are fundamental to women's health and social equality, and an explicit part of the Committee's mandate under CEDAW. Specifically, the Convention commits States parties to: "ensure... access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning" [Article 10(h)]; "take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health-care services, including those related to family planning" [Article 12(1)]; "take all appropriate measures to eliminate discrimination against women in rural areas in order to assure... access to adequate health-care facilities, including information, counseling and services in family planning..." [Article 14(2) (b)]; and, to "take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women... [t]he same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights" [Article 16]. Furthermore, the Committee's General Recommendation 24 (Women and Health) also expands upon the integral role of reproductive health and rights in ensuring women's rights.

In concluding observations issued by the Committee on the Kingdom of Thailand's combined second and third periodic report in 1999, the Committee expressed concern about the lack of access to health services for rural women and the overall status of hill

tribe women and girls who continue to be denied the full protection of the law.¹ Additional concerns expressed by the Committee included the absence of laws to protect women against gender discrimination,² and the government's failure to address crimes such as domestic violence and marital rape through legislation.³ Furthermore, the Committee expressed concern about the fact that while several initial reservations to various articles of the Convention have since been withdrawn, the reservation to Article 16 which deals with equality in family life and marriage persists.⁴

Unfortunately, there remains a significant gap between the provisions of the Convention and the reality of women's lives in the Kingdom of Thailand. More specifically, with regard to women's reproductive rights, a significant proportion of Thai women, especially adolescent girls, continue to experience lack of access to basic reproductive health services and information and many are compelled put their health and lives at risk due to the country's narrowly interpreted abortion law. Notwithstanding these issues, it is important to commend the government for taking important steps to draft a comprehensive reproductive health bill to improve the reproductive health status of its citizens. If enacted, this law will be the first of its kind in the entire region.

We would like to take this opportunity to bring to the Committee's attention the following issues of concern, which directly affect the reproductive health and lives of women in the Kingdom of Thailand:

1. Right to Health Care, Including Reproductive Health Care and Family Planning (Articles 12, 14(2)(b) and (c), and 10(h))

A. Lack of Access to Family Planning and Contraceptive Methods

The ability of women to control their fertility lies at the core of reproductive rights and this cannot be achieved without creating universal access to a complete range of family planning methods and services. Many women in Thailand do not have access to comprehensive family planning services. According to community-based research in 2001 that examined the pregnancy records of 1,180 women aged 15–59, 45% of pregnancies in Thailand were unplanned.⁵ Moreover, despite the ready availability of contraceptives, several studies have shown that a significant proportion of women who sought an abortion were not using any method of protection prior to the procedure.⁶ These statistics suggest that access to counseling on family planning and contraceptive methods is still inadequate.

The situation of adolescent women is a major concern. Studies show that although most Thai adolescents are aware of contraceptive methods, knowledge does not necessarily correlate with use.⁷ Among married adolescent girls aged 15–19, for example, approximately 89% are aware of condoms, but only 43% currently use contraceptives.⁸ A study among young people aged 15–24 from the rural areas of north and northeast Thailand revealed that almost 30% of males and 50% of females did not use any contraceptive method during their first experience of sexual intercourse.⁹

B. Unsafe Abortion

The current law does not allow full access to safe and legal abortion. Consequently, according to several government studies, unsafe abortion and its complications are widespread, particularly in rural areas. In 1999, for example, the Ministry of Public Health conducted a survey on abortion in Thailand by examining the records of women who were hospitalized for the treatment of complications from miscarriages and induced abortions in 787 state hospitals nationwide.¹⁰ Of the 45,990 records examined, almost one third (28.5%) were of women who sought an induced abortion.¹¹ Among women who sought an induced abortion, almost one half (48.6%) were age 24 or younger, and had been pregnant, on average, for 13 weeks—a stage at which the woman is at especially high risk of infection and may suffer from a perforated uterus.¹² Almost one third (28.8%) of the patients who had sought an induced abortion developed a severe infection from a perforated uterus, and 0.11% of these women died from the resulting complications.¹³

C. Barriers to Abortion where Permitted by Law

Thai law permits abortion only when the pregnancy endangers the woman's health and in cases of rape, and only if the procedure is performed by a medical practitioner.¹⁴ It has been noted that in practice, the application of the legal health exception has often been restricted to cases where the pregnancy endangers the woman's life, rather than to a broader range of health conditions.¹⁵ The health exception has recently been expanded to include mental health.¹⁶ However, it is unclear how effective it will be in practice.

Further problems are created by the fact that specific government regulation for requesting or providing abortion services have not been issued, and the resulting lack of clarity serves as a major obstacle for women who seek abortions. For health service providers, the lack of clear and practical regulations has created problems in the interpretation of the law. It has been reported that in cases in which physicians agree to perform the procedure, they interpret the law as narrowly to safeguard themselves as much as possible.¹⁷

Furthermore, studies have shown that adolescents are particularly vulnerable to death and complications due to unsafe abortion. According to a government study, girls younger than age 20 accounted for 30% of the total number of women who were hospitalized due to complications resulting from miscarriage and induced abortion in 1999.¹⁸

2. Right of Adolescents to Education (Articles 10, 12)

A. Information and Education on Sexuality and Family Planning

Adolescent reproductive health is one component of the Government of Thailand's 1997 Reproductive Health Policy, which emphasizes information, education, counseling, and services.¹⁹ In addition, the Health Promotion Office of the Department of Health has organized campaigns on general health promotion for

adolescents under the program Health for School-Age Children and Youth, which covers those aged 6–21.²⁰ The Medical Council Guidelines on the Provision of Obstetric and Gynecological Services give recommendations for physicians counseling pregnant adolescents, although they do not provide for any monitoring mechanisms.²¹

However, despite these encouraging efforts, there are indications that adolescent reproductive health education in Thailand is still in need of improvement. The Ministry of Public Health has recognized that poor accessibility to reproductive health services among adolescents is one of the main causes of unwanted pregnancy and complications due to unsafe abortion.²² Moreover, available data on the reproductive health of adolescents suggest the inadequacy of their sexual education. Among unmarried adolescents, withdrawal is the most popular method of family planning—despite the high awareness of other contraceptive methods discussed above.²³ A study conducted among Thai secondary school students with a mean age of 14.9 years found that 23% of male students had had intercourse with a girlfriend or sex worker, and only 42% of them had used condoms.

B. Vulnerability of Adolescents to HIV/AIDS and Sexually-Transmitted Infections (STIs)

Young men and women in Thailand are susceptible to complications and diseases relating to reproductive health. Young men and women under the age of 25 constitute 29% of the total number of cases of patients who contract STIs.²⁴ Furthermore, one recent study shows that although most HIV-infected persons overall are male, among 10–19-year-olds specifically, more women actually have a greater rate of HIV infection than men.²⁵

3. Right to Freedom from Discrimination (Articles 1, 2, 3); Discrimination against Women in Rural Areas (Art. 14)

A. Regional Disparities in Rates of Maternal Mortality

While the overall maternal mortality ratio in Thailand has declined from 43.9 maternal deaths per 100,000 live births in 1996 to 23.9 deaths per 100,000 in 2002,²⁶ striking regional disparities continue to exist. In the northern region, the maternal mortality ratio is 47.95 per 100,000 live births; the rates in the southern, northeast, and central regions are 23.48, 16.78, and 16.45, respectively.²⁷

B. Lack of Access to Health Services

There are approximately one million ethnic highlanders living in Thailand, half of whom lack citizenship.²⁸ As a result of their statelessness, the women who comprise half of this indigenous population (which includes hill tribes and Burmese refugee women) are unable to access any and all state services, including health care.

Furthermore, women and girls in these migrant and hill tribe populations are at an elevated risk of contracting HIV/AIDS as a result of the lack of protection of their

human rights, and vulnerability to discrimination, trafficking, labor exploitation, denial of health care, sexual exploitation, and gender-based violence.²⁹ This population's lack of access to reproductive health care services, in particular HIV prevention education and condoms, has resulted in disproportionately high rates of HIV/AIDS infection. One provincial hospital even reported that 14% of its patients were infected with HIV/AIDS.³⁰

4. Right to Freedom from Marital Rape (Articles 1, 3, 15, 16)

Thailand currently has no legislation dealing with marital rape.³¹ Section 295 of Thailand's Criminal Law Code prescribes fines and imprisonment for committing "bodily harm," defined as "whoever causes mental or physical injury to another person." However, the law does not specifically refer to violence in the home or between marital and intimate partners and has seldom been used to charge men for acts of domestic violence.³²

The Committee has specifically urged the Government of Thailand to amend its penal code to criminalize marital rape.³³ Numerous advocacy groups in Thailand have also lobbied for national recognition of the problem. However, the Government of Thailand has yet to enact legislation in this area. In 2000, the Council of State in Thailand rejected a proposal to criminalize marital rape, and instead ruled that a man could be prosecuted for raping his wife only if he forced sex on her when infected with a contagious disease or when the couple has been separated by a court order for a period of no less than three years.³⁴ The recently proposed Domestic Violence Bill would subject an abusive spouse to a maximum six month jail term and/or a maximum fine of 5000 baht; however the offenses covered do not include marital rape.³⁵ The current legal regime has left women in Thailand without any recourse to report the most common cases of marital rape.

We hope that the Committee will consider addressing the following questions to the government of Thailand:

1. What legislation and policies have recently been adopted to increase access to safe abortion services and what steps are being taken to implement these measures?
2. How does the Government of Thailand plan to address the persistently high rates of maternal mortality and HIV/AIDS infection especially among stateless women and women in the southern, northeast, and central regions of the country? What steps does the government propose to take to address the urgent reproductive health needs of refugee women, migrant women and those residing in rural and remote areas?
3. What measures are being taken to implement existing policies on adolescent reproductive health to improve access to information and services and to bring down the alarming rates of unsafe abortion among adolescent girls and reduce their vulnerability to HIV/AIDS and other STIs?

4. What steps will the Government of Thailand take to implement the CEDAW Committees' previous recommendation to criminalize marital rape and provide victims with legal redress?
5. What steps are being taken to adopt the comprehensive reproductive bill into law?

Finally, we have included the following supporting documentation for the Committee's reference: *Women of the World: Laws and Policies Affecting Their Reproductive Lives, East and Southeast Asia* (Center for Reproductive Rights. ed. 2005).

We appreciate the active interest that the Committee has taken in reproductive health and rights and the strong concluding observations and recommendations the Committee has issued to governments in the past, stressing the need for governments to take steps to ensure the realization of these rights. We hope that this information is useful during the Committee's review of the Kingdom of Thailand's compliance with the provisions contained in the Convention. If you have any questions, or would like further information, please do not hesitate to contact the undersigned.

Very truly yours,

¹ *Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Thailand*, 20th Sess., 417-418th mtg., ¶ 239, U.N.Doc. A/54/38 (1999).

² *Id.* ¶ 231.

³ *Id.* ¶ 243.

⁴ *Id.* ¶ 214.

⁵ NATTAYA BOONPAKDEE & DUSITA PHUENGSAKRAM, COMMUNITY-BASED CENSUS ON PREGNANCY HISTORY OF WOMEN IN TWO COMMUNITIES IN THAILAND (2002) (on file with the Center for Reproductive Rights).

⁶ 3 POPULATION DIVISION, UNITED NATIONS, ABORTION POLICIES: A GLOBAL REVIEW 125 (2002), at 125.

⁷ I. Pimonpan (2000), "Sexual attitudes and Experience of Rural Thai Youth" (Bangkok, Institute for Populations and Social Research, Mahidol University).

⁸ Saroj Pachauri & K.G. Santhya, *Contraceptive behaviours of adolescents in Asia: issues and challenges*, in TOWARDS ADULTHOOD: EXPLORING THE SEXUAL AND REPRODUCTIVE HEALTH OF ADOLESCENTS IN SOUTH ASIA 110 fig.1-2 (Sarah Bott et al. eds., 2003), http://www.who.int/reproductive-health/publications/towards_adulthood/towards_adulthood.pdf (last visited June 29, 2005).

⁹ I. Pimonpan (2000), *supra* note 7.

¹⁰ Worakamin, Suwanna & Nongluk Boonthai, Sarup Phon Kaan Samruad Sathanakaan Thamthang Nai Prathethai Por Sor 2542 [Summary of the Survey on Abortion in Thailand, 1999] Ekasaan Prakorb Kaan Prachum Rueng Panha Kaan Yuti Kaan Tangkan [Document presented in the Meeting on the Problems of the Termination of Pregnancy], 6 August 2001, Bangkok, at 6-8; Communication with Women's Health Advocacy Foundation (WHAFF), Thailand WOW Report (draft) 7 (Oct. 6, 2003) (on file with the Center for Reproductive Rights) [hereinafter Communication with WHAF], at 24-25.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ Act promulgating the Penal Code, B.E. 2499, § 305(1)-(2) (1956) (Thail.) (the exception for rape also extends to other sexual offenses); 3 POPULATION DIVISION, UNITED NATIONS, *supra* note 2, at 124.

¹⁵ CHANINAT VAROTHAI, WOMEN'S HEALTH AND DEVELOPMENT: COUNTRY PROFILE, THAILAND, MODULE C, C.7(B)(V) (1998), <http://www.journ.freemove.co.uk/thai/thai11.html> (last modified Feb. 10, 2001).

¹⁶ Communication with Planned Parenthood International Regional Director of Asia and International Legal Advisor for Asia (Nov. 21, 2005) (on file with Center for Reproductive Rights).

¹⁷ Ungprapan, Witon, *Nitiwet Sathok Chabub Kotmai Thamthang: Khor Toyang Thee Yang Mai Yutti* [Discourses on Abortion from a Legal Jurisprudence Point of View: An Unfinished Debate], Bangkok, Gender Press, 1994, at 94-102; Communication with WHAF, *supra* note 10 at 26.

¹⁸ FAMILY PLANNING AND POPULATION DIVISION, MINISTRY OF PUBLIC HEALTH, SURVEY ON ABORTION IN THAILAND, DOCUMENT PRESENTED AT THE MEETING ON THE PROBLEMS OF TERMINATION OF PREGNANCY 7 (Aug. 6, 2001).

¹⁹ FAMILY PLANNING AND POPULATION DIVISION, MINISTRY OF PUBLIC HEALTH, THAILAND NATIONAL FAMILY PLANNING PROGRAMME 19 (1998), at 20.

²⁰ Naew Thang Kaan Damern Ngaan Khon Krom Anamai Pee 2546 [Department of Health's Operational Strategies in 2003] available at <http://www.anamai.moph.go.th/trend46.htm>, last visited August 12, 2003; Communication with WHAF, *supra* note 6, at 56-57.

²¹ WOMEN OF THE WORLD: LAWS AND POLICIES AFFECTING THEIR REPRODUCTIVE LIVES, EAST AND SOUTHEAST ASIA, CENTER FOR REPRODUCTIVE LAW AND POLICY 53 (2000) [hereinafter WOMEN OF THE WORLD].

²² Suwanna Warakamin & Mukda Takrudtong, Reproductive Health in Thailand: An Overview, Factsheet, 1 FAM. PLAN. AND POPULATION (1998), at 8.

²³ ALAN GRAY & SRISUMAN SARTSARA, COMMUNICATION AND ADVOCACY STRATEGIES, ADOLESCENT REPRODUCTIVE AND SEXUAL HEALTH-CASE STUDY THAILAND 4 (1999).

²⁴ FAMILY PLANNING AND POPULATION DIVISION, MINISTRY OF PUBLIC HEALTH, SURVEY ON ABORTION IN THAILAND, DOCUMENT PRESENTED AT THE MEETING ON THE PROBLEMS OF TERMINATION OF PREGNANCY 7 (Aug. 6, 2001).

²⁵ KLOOM ROKE AIDS [AIDS DIVISION], SAMNAK ROKE AIDS WANNA ROKE LAE ROKE TIDTOR THANG PETSAMPAN [AIDS, TUBERCULOSIS AND STIS BUREAU], KROM KAUBKHUM ROKE [DEPARTMENT OF DISEASE CONTROL], KRASUANG SATHARANASUK [MINISTRY OF PUBLIC HEALTH], WIKROR SATHANAKAAN PHOO TID CHUA AIDS LAE PHOO PUAY AIDS NAI PRATHETTHAI [ANALYSIS OF THE HIV INFECTED PERSONS AND AIDS PATIENTS IN THAILAND] (Nov. 30, 2002).

²⁶ REPRODUCTIVE HEALTH DIVISION, MINISTRY OF PUBLIC HEALTH, THAILAND REPRODUCTIVE HEALTH PROFILE 6 (2003), http://209.61.208.100/LinkFiles/Reproductive_Health_Profile_completebook.pdf, at 91.

²⁷ Maternal and Child Health Subdivision, Ministry of Public Health, <http://www.anamai.moph.go.th/hp/download/situa.pdf> (last visited June 30, 2005).

²⁸ The Indigenous Women's Movement in Thailand, Lahkela Jahtaw, Women's Studies Center, Faculty of Social Sciences, Chiangmai University, *available at* <http://www.soc.cmu.ac.th/~wsc/article/T10.pdf>.

²⁹ No Status: Migration, Trafficking & Exploitation of Women in Thailand, Physicians for Human Rights (2004), p. 1, *available at* <http://www.phrusa.org/campaigns/aids/pdf/nostatus.pdf>.

³⁰ *Id.* at 39.

³¹ WOMEN OF THE WORLD *supra* note 21 at 77.

³² OUT OF THE SILENCE: FIGHTING VIOLENCE AGAINST WOMEN IN THAILAND, THE OFFICE OF THE NATIONAL COMMISSION ON WOMEN'S AFFAIRS (2000), *available at* http://siteresources.worldbank.org/INTTHAILAND/Resources/Social-Monitor/2000out_of_the_silence.pdf.

³³ *Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Thailand*, 20th Sess., 417-418th mtg., ¶ 243, U.N.Doc. A/54/38 (1999).

³⁴ Thailand: When Husbands Rape, The Daily Star, *available at* <http://www.thedailystar.net/law/200308/02/fact.htm> (August 10, 2003).

³⁵ *Id.*