



COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2008)¹: THAILAND

FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)

REPORTING	Fulfillment of Government's reporting obligations	YES, except for the 2000 Annual Review (AR).
	Involvement of Employers' and Workers' organizations in the reporting process	YES, according to the Government: Involvement of the employers' (Employers' Confederation of Thai Trade and Industry (ECONTHAI) and the Employers' Confederation of Thailand (ECOT)) and workers' organizations (the National Congress of Thai Labour (NCTL)) through communication of government reports and tripartite meetings on reporting issues.
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	<p>2008 AR: Observations by ECONTHAI comprised of 22 affiliates.</p> <p>2007 AR: Observations by ECOT.</p> <p>2004 AR: Observations by ECONTHAI.</p> <p>2003 AR: Observations by ECOT.</p>
	Workers' organizations	<p>2008 AR: Observations by the NCTL. Observations by the International Trade Union Confederation (ITUC).</p> <p>2007 AR: Observations by the International Confederation of Free Trade Unions (ICFTU).</p> <p>2006 AR: Observations by the ICFTU.</p> <p>2004 AR: Observations by the NCTL.</p> <p>2003 AR: Observations by the NCTL.</p> <p>2002 AR: Observations by the ICFTU.</p> <p>2001 AR: Observations by the ICFTU.</p> <p>2000 AR: Observations by the ICFTU.</p>

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the Government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>

EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	<p>Thailand has ratified neither the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) (C.87), nor the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (C.98).</p>
		Ratification intention	<p>Under consideration since 2001 for C.87 and C.98.</p> <p>2008 AR: ECONTHAI supported the ratification of C.87 and C.98 and indicated that a tripartite meeting had been set up. The NCTL also indicated its support to the ratification of C.87 and C.98.</p> <p>2007 AR: According to the Government: The survey for ratification of C.87 and C.98 has been completed. However, ILO technical cooperation would be needed to ensure compliance of national labour laws with the provisions of C.87 and C.98. The ECOT stated that ratification of C.87 and C.98 should be considered following national labour law review and tripartite consultations.</p> <p>2004 AR: The Government, through the Department of Labour Protection and Welfare (DLPW), stated that a budget had been allocated to study the readiness of Thailand to ratify C.87 and C.98.</p> <p>2001 AR: Based on information in GB.282/LILS/7 and GB.282/8/2 (2002): The Government intended to ratify C.87 and C.98. The Government also indicated that it had undertaken to review national legislation and practices in respect of C.87 and C.98, after discussions with ILO experts in the multidisciplinary team (MDT) in Bangkok. It had planned to undertake a study and research in the first quarter of 2001, funded by the ILO on relevant existing national laws and practices.</p>
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	<p>YES</p> <p>2008 AR: According to the Government: A new Constitution was promulgated in August 24, 2007, which provides freedom for association for all persons including Government and State officials.</p> <p>The Constitution of the Kingdom of Thailand, B.E. 2540 (1997), in Chapter 8, sections 199 and 200, provides for freedom of assembly and association, except by virtue of a law specifically enacted for protecting the common interest of the public, maintaining public order or good morals or preventing economic monopoly (section 45).</p>
		Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Policy <p>2007 AR: According to the Government: the Department of Labour Protection and Welfare (DLPW) of the Ministry of Labour and Social Welfare has established a policy and procedures to enhance the capacity of the social partners on the principle and right (PR).</p> <p>2001 AR: According to the Government: the DLPW has established policy guidelines for labour officers to promote sound industrial relations through: (i) bipartite consultation system in order to prevent labour disputes and labour management committees; (ii) grievance procedures; (iii) effective mechanisms; (iv) tripartite bodies for joint consultations on broad social and economic policies affecting industrial relations; (v) the establishment of employers' and workers' organizations; (vi) training programmes for employers and workers; and (vii) review of industrial relations provisions.</p> <ul style="list-style-type: none"> • Legislation <p>2008 AR: According to the NCTL: The new draft Labour Relations Law will guarantee workers' rights in the</p>

			<p>public and private sectors.</p> <p>2007 AR: According to the Government: In 2005, the DLPW set the Code of Practice for Promotion of Labour Relations in Thailand B.E.2548, which was a revision of Code of Practice B.E. 2539, aiming to rectify the Code to be appropriate with changing of current situations to enhance trade unions competitiveness especially in industrial sector.</p> <ul style="list-style-type: none"> • Government's prospects: Harmonize national labour laws with ratified Conventions and ILO fundamental Conventions. • Means of action: Legal reform in process since 2001 in cooperation with the ILO. <p>The Labour Relations Act, B.E. 2518 (1975); the State Enterprise Labour Relations Act, B.E. 2534 (1991) and its amendment (in 2000); the Establishment of the Labour Court and Labour Court Procedure Act, B.E. 2522 (1979) and the Code of Practice for the Promotion of Labour Relations in Thailand, B.E. 2539 (1996) relate to the principle and right (PR).</p> <p>2002 AR: The Government received assistance from the ILO specialists based in the ILO Regional Office for Asia and the Pacific, in particular in reviewing existing labour relations laws to harmonize them with the PR. The Government, through the Ministry of Labour and Social Welfare, strongly encouraged and invited civil society and social partners to participate actively in strengthening the PR at national and international levels.</p> <p>2001-2002 ARs: According to the Government: The country labour laws are being reviewed to incorporate the provisions of ratified Conventions and those of the fundamental principles and rights at work. Human, material and financial resources have been provided to facilitate the realization of the PR and amendments have been made to the Labour Relations Act of 1975 to make it more compatible with the PR.</p>
		Basic legal provisions	(i) Constitution of the Kingdom of Thailand, B.E. 2540 (1997), (Chapter 8, sections 199 and 200); (ii) Labour Relations Act, B.E. 2518 (1975); (iii) State Enterprise Labour Relations Act, B.E. 2534 (1991) and its amendment (in 2000); (iv) Establishment of the Labour Court and Labour Court Procedure Act, B.E. 2522 (1979); (v) Code of Practice for the Promotion of Labour Relations in Thailand, B.E. 2539 (1996).
		Judicial decisions	NIL
	Exercise of the principle and right	At national level (enterprise, sector/industry, national)	For Employers
			2003 AR: Prior government authorization is necessary to operate employers' organizations (compulsory registration by the Registrar under the Labour Relations Act B.E. 2518, section 55). All categories of employers can set up their organizations.

EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Exercise of the principle and right	At national level (enterprise, sector/industry, national)	For Workers	<p>2003 AR: Prior government authorization is necessary to operate workers' organizations (compulsory registration by the Registrar under the Labour Law, section 87). Freedom of Association (FOA) can be exercised by medical professionals, teachers, agricultural workers, workers engaged in domestic work, workers in export processing zones (EPZs) or enterprises/industries with EPZ status, migrant workers, workers of all ages, and workers in the informal economy. The State Enterprise Labour Relations Act B.E. 2543, section 42, contains provisions for the establishment of a State Enterprise Trade Union.</p> <p>However, FOA cannot be exercised by all public servants or workers under the age of 15. Concerning domestic workers, the right to organize and the right to collective bargaining shall be considered as the basis of the legal relations between employers and employees under the labour law.</p>
			Special attention to particular situations	NIL
			Information, data collection and dissemination	According to the Government: There is a lack of information and data.
		At international level	According to the Government: There are no particular restrictions for the international affiliation of employers' and workers' organizations.	
	Monitoring, enforcement and sanctions mechanisms	<p>2004 AR: According to the Government: Any employer who violates the PR shall be liable to a fine or to imprisonment (section 130 of the Labour Relations Act, B.E. 2518, sections 158 and section 159).</p> <p>2001-2005 ARs: According to the Government: Inspection/monitoring mechanisms are envisaged to ensure the implementation of the PR. The PR is enforced through law, collective agreements, free dispute settlement procedures and tripartite consultations at all levels.</p>		
Involvement of the social partners	<p>2001-2002 ARs: According to the Government: Employers' and workers' organizations have been involved in the promotion and training on labour relations and in strengthening the PR at both the national and international levels.</p>			
Promotional activities	<p>2008 AR: ECONTHAI indicated that it had organized several activities regarding the promotion of the PR including bipartite discussions. According to the NCTL: several activities were carried out within the industrial sectors in order to train the unions. Seminars on collective bargaining are also organized regularly in collaboration with the social security services. The NCTL is moreover participating in the labour law review process regarding the new draft Labour Relations Law and has submitted its comments to the Government.</p> <p>2007 AR: According to the Government: The DLPW has established a policy and procedure for preparing the capacity of the social partners by means of organising training courses on the PR. Since Government Fiscal Year 2004, training courses on labour relations have been organized for employers and employees. Number of training courses, 125 and number of trainees 8,365.</p> <p>2001-2005 ARs: The Government reported on frequent training and dissemination of information to government officials and social partners. Awareness-raising initiatives have been implemented in relation to the PR, through the Code of Practice for the Promotion of Labour Relations in Thailand, 1996.</p>			
Special initiatives/Progress	<p>2004 AR: According to the Government: Special initiatives on the PR have been taken through: (i) the revision of existing labour relations laws; (ii) the promotion of a bipartite and tripartite labour relations system; and (iii) the support provided to trade unions, training of employers and workers.</p>			

<p>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</p>	<p>According to the social partners</p>	<p>Employers' organizations</p>	<p>2007 AR: According to ECOT: There is a lack of data on the PR.</p> <p>2004 AR: According to the ECOT: There is a lack of information and data.</p>
		<p>Workers' organizations</p>	<p>2008 AR: The NCTL is still concerned about the implementation of the principle of FACB in the police, civil servants and military sectors, particularly regarding their right to strike. It added that 50 % of the workers are in the agricultural sector. They are not aware of their rights, particularly their right to organize. Finally, the NCTL indicated that the multinationals operating and investing in Thailand often don't abide by national legislations.</p> <p>The ITUC raised the (following) additional challenges: (i) civil servants are excluded from both the State Enterprise Labour Relations Act (SELRA) and the Labour Relations Act (LRA), and there are clear government regulations saying they cannot form unions; (ii) restrictions on the right to strike in state enterprises, civil servants are denied this right and in the private sector the government may restrict strikes that would «affect national security or cause severe negative repercussions for the population at large.»; (iii) the LRA forbids strikes in «essential services,» which it defines in broader terms than those set out by the ILO; (iv) labour courts are very slow in handling disputes.</p> <p>2007-2008 ARs: According to the ICFTU: (i) lack of priority given by the Government to labour issues; (ii) labour courts are very slow to handling disputes; (iii) no effective protection against anti-union discrimination; (iv) no union protection in universities; (v) restrictions on trade-unions rights to have more than two advisors; (vi) limitation of freedom of association in state enterprises; (vii) only a small proportion of workers are unionised; (viii) an estimated five per cent of employed workers are covered by collective bargaining agreements; (ix) migrant workers cannot enjoy full freedom of association.</p> <p>2006 AR: The ICFTU raised the following additional challenges: (i) there are no specific protections for union founders or committee members; (ii) affiliation between State enterprise unions and private sector labour congresses or federations is restricted by the State Enterprise Labour Relations Act; (iii) a very small proportion of the total workforce is unionised (3.5 per cent in 2002); (iv) an estimated five per cent of employed workers are covered by collective bargaining agreements; (v) workers who do enjoy the right to join a union and collective bargaining are often victims of anti-union harassment; (vi) employers frequently dismiss workers trying to form trade unions; (vii) even where a court has ordered the reinstatement of an illegally fired worker, employers often react by offering substantial severance pay in lieu of reinstatement.</p> <p>2000-2005 ARs: The ICFTU raised the following challenges: (i) there is a lack of protection of unions; (ii) restrictions on trade union rights to have advisers; (iii) legal and political barriers in establishing and operating trade unions; (iv) absence of union for civil servants; (v) there are restrictions on the right to strike; (vi) trade union rights are weak under the proposed new law; (vii) there are restriction on FOA in the context of privatization; (viii) there are abuses of legal provisions (such as Article 75 of the 1998 Labour Protection Act) to keep trade unionists out of the factory; (ix) labour courts are inefficient; (x) there are restrictions on freedom of association of migrant workers; (xi) decentralized industries are located in border areas, where union density is low or non-existent.</p> <p>2005 AR: The NCTL raised the following challenges: (i) there are no major improvement in FOA; (ii) there is a lack of organization of workers in the public service and in the informal sector; (iii) the right to</p>

		<p>organize is denied to workers that are not employees; and (iv) there is lack of a general union in lieu of enterprise unions.</p> <p>2002-2004 ARs: The NCTL raised the following challenges: (i) there are restrictions on the right to establish trade unions; (ii) State enterprise employees in the private sector are banned from joining a federation or a confederation; (iii) the right to establish trade unions is violated; and (iv) there is a need to amend the Labour Relations Act, 1975.</p>
	<p>According to the Government</p>	<p>2004-2006 ARs: The Government identified the main difficulties encountered in Thailand in realizing the PR as follows: (i) social values, cultural traditions; (ii) social and economic circumstances; (iii) political situation; (iv) legal provisions; (vi) prevailing employment practices; and concerning collective bargaining, the Government also encounters difficulties related to the lack of capacity of employers' and workers' organizations.</p> <p>2004-2005 ARs: In response to the ICFTU's observations, the Government made the following comments: Prior to taking any legal actions, a trade union must be registered under the Labour Relations Act (LRA 1975). The revised draft of the LRA 1975 prohibits unfair labour practices, promotes FOA and provides for collective bargaining and dispute settlement. Furthermore, under section 4 of the LRA 2000 (3rd issue), a State enterprise trade union federation can become a member of an employees' organization council. Moreover, the Government has undertaken a survey with a view to ratifying C.87 and C.98. When strikes are prohibited, it happens especially in enterprises of public interest. In addition, tripartite consultations are being envisaged by the Department of Labour Protection and Welfare with a view to revising the LRA. The draft revision of the LRA provides for the protection of the rights to establish trade unions. Moreover, the Constitution, article 30, guarantees equal protection for all. Unfair labour practices are prohibited by LRA 1975.</p>
<p>TECHNICAL COOPERATION</p>	<p>Request</p>	<p>2008 AR: The ECONTHAI requested ILO technical assistance for the elaboration of training programmes. The NCTL also called for the same assistance and added that assistance would be needed on the translation and vulgarization of the PR into the vernacular languages.</p> <p>2007 AR: According to the Government: With a view to ratifying C.87 and C.98, ILO technical cooperation is needed to harmonize national labour laws with the provisions of these Conventions. The ECOT requested ILO technical cooperation for awareness-raising activities on the PR.</p> <p>2005 AR: According to the Government: Needs for technical cooperation to facilitate the realization of the PR in Thailand exist in the following areas, in order of priority: (1) strengthening capacity of workers' organizations; (2) strengthening tripartite social dialogue; (3) awareness-raising, legal literacy and advocacy; (4) strengthening data collection and capacity for statistical analysis; (5) sharing of experiences across countries/regions; legal reform (labour law and other relevant legislation); capacity building of responsible government institutions; training of other officials; assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR.</p> <p>2001-2005 ARs: According to the Government: There is a need for further ILO cooperation in terms of capacity building and reporting.</p>
	<p>Offer</p>	<p>NIL</p>

<p>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</p>	<p>2008 AR: The ILO Declaration Expert-Advisers (IDEAs) welcomed the inclusion of the principle and right within the Constitution of Thailand. They also acknowledged the high number of promotional activities concerning the realization of the PR in Thailand (and some other countries), and encouraged the Office to maintain its support to these activities. However, they noted that restrictions on the right to organize of certain categories of workers in Thailand, such as migrant workers, workers in the public service and agricultural workers, were not compatible with the realization of this principle and right (Cf. Paragraphs 34, 35 and 38 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2005 AR: The ILO Declaration Expert-Advisers (IDEAs) listed Thailand among the countries where some efforts were being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification (Cf. Paragraph 13 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p>2003 AR: The IDEAs were encouraged to see the Government of Thailand pointing out the needs in this country to strengthen the capacity building of workers' and employers' organizations and that it turned to the ILO for help. In light of requests by Thailand for ILO cooperation in assessing the difficulties and implications for realizing the principle and right, they called upon the Governing Body to request that high-level contacts be made straight away between the Office and two or three countries not yet served by ILO technical projects in this field (Cf. Paragraphs 73 and 74 of the 2003 Annual Review Introduction – ILO: GB.286/4).</p>
<p>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</p>	<p>NIL</p>