

CHAPTER 6

COMMENTS AND RECOMMENDATIONS

The political developments in the aftermath of "Black May" are said to have initially given cause for great optimism. The passing of constitutional amendments, the transfer of military officers involved in the crackdown, and the relegation to the opposition benches of those political parties generally considered to be pro-military, triggered hopes that Thailand may be heading for *real democracy* (Jackson, 1993: 5).

Yet many Thais also apparently feel that, like the massacres of October, 1973 and October, 1976, the events of 1992 did not result in strong action being taken against those involved in the killing and that this means there is no guarantee that the country's political system has really developed beyond such barbaric interventions.

With the country's increasing internationalization and expansion of its middle classes, however, came the assumption that they would gain more political clout, at least concomitant to their growing economic importance. But, as pointed out by Dr. Richard Basham in his review of cultural and historical factors influencing Thailand's nascent democratic process, democracy in Thailand has very weak roots in many sections of Thai society.

This is also apparent from the brief look at some reasons behind the military domination of the political system.

Just like Basham's results that a significant number of his informants qualified their definitions of democracy by arguing that it implies some legal constraints to rights and freedoms, as well as involving obligations, when considering many of the human rights survey responses, one cannot help noticing similar cultural and historical factors which appear to have impacted the respondents' answers. For example, the respondents overwhelmingly selected obligation and gratitude over honesty and harmony when questioned about their priority values. Is this not revealing of cultural expectations about democracy and human rights in Thailand?

This was also clear, for example, in response to the question of whether they felt some rights were more important than others, in comments such as "people should not be given rights that could cause extensive damage to others", or regarding the circumstances under which respondents felt that the rights of certain individuals could or should be restricted, to which the overwhelming majority agreed with the death penalty for heinous crimes. Many also see nothing wrong with the overriding of legal processes for summary executions. Some also felt that among the main problems facing the human rights situation in Thailand is that "the people with status and education have all the rights".

While Basham found that democracy is associated with personal rights and freedoms, the human rights survey found that people want justice and fairness, but still expect limitations beyond what is usually accepted in democracies. Here, again, the responses seem to

indicate that "human rights" are somehow outside the traditional value and social systems of hierarchy and expected reciprocity. At the same time, their usefulness is also not completely denied, particularly their utility in keeping abuses of power, authoritarian and unfair tendencies in Thai society in check.

Even so, directly or indirectly, respondents did not indicate that they believe the highest priority should be placed on human rights, nor that human rights can or should prevail over traditional value systems. For example, many felt that the individual rights of certain victims within society, such as the handicapped or those suffering from AIDS, should be sacrificed if they impact the well-being of others. Why would this be the case? The reason is probably because Thai perceptions of human rights, like the Thai perceptions of democracy, although outside traditional beliefs and value systems, are invariably impacted by those systems and concepts of merit and power in Thai society, as discussed from various angles earlier.

When it came to opinions about the significance of the Universal Declaration of Human Rights, again, many qualified their answers by saying it's not important or relevant in every respect. Dr. Tamthai points out that *various declarations and conventions relating to Human Rights state not only how people should be treated but also why they should be treated that way: the metaphysical nature of the "why" part is one of the causes of the sense of strangeness with which various cultures view these documents* (Tamthai, 1998: 3). It is clear that, as these documents are based on *a specific metaphysics as to the nature of human beings* (Tamthai, 1998: 3), this "sense of strangeness" is never going to be overcome with regard to the

implementation of general tenets which may seem incomprehensible or unacceptable to some cultures. Such limited or negative responses to the idea that such documents are completely relevant or appropriate to the Thai human rights situation were apparent from the answers of some respondents. Some respondents also seemed to indicate that part of this lack of relevance is based on concepts of power and merit in Thai society discussed mainly in the previous chapter. Such associations were evidenced in comments including "there are different classes in Thailand, rich and poor".

It may well be that this lack of a sense of association with various international declarations and conventions stems from the aforementioned specific metaphysics regarding the nature of human beings which may be problematic from the standpoints of traditional value systems and cultural backgrounds which are based on completely different notions about the intrinsic nature of human beings. Still, being aware of this kind of cultural discrepancy implicit in such "universal" documents may lend ideas for various means of upholding human rights by formulating certain fundamental tenets which leave open the possibility for agreement in some, if not all, respects.

In looking at the brief outline of the 1992-1999 human rights situation in Thailand, perceptions of democracy and human rights in the Thai case, and the concepts on which these perceptions may be based, as well as apparent linkages between democracy and human rights, it seems important to remember that definitions of democracy and human rights necessitate flexibility and that the ideas are *much greater than any concrete understanding we have...at any point in time and place* (Tamthai, 1998: 3).

It is also clear that, despite failings and abuses, and apparent inappropriateness to Thai society, people still indicated the notion that these concepts may nevertheless offer the best hope for protection from unjust tendencies which many of the respondents indicated they feel are endemic in Thai society. For example, some respondents indicated that they do not feel that the disadvantaged and disabled are afforded the same rights as others and that, despite improvements, Thailand still has a ways to go in many areas of structural oppression. There were also allusions to the idea that people have become more aware about human rights concerns because of external forces such as Amnesty International and that the respondents were more "aware" of human rights violations in neighboring countries as opposed to those going on in closer proximity to themselves.

It is true that since the Universal Declaration of Human Rights was adopted by the General Assembly of the United Nations in 1948, the ratification of the subsequent proliferation of treaties and conventions is often used as a measure of a government's commitment to human rights. In the case of Thailand, there have been some particular developments in this respect in the post-1992 years, such as the Thai Government's ratification of the International Covenant on Civil and Political Rights (ICCPR) during the course of 1996. This was seen as particularly important as the (ICCPR) is one of the three important documents included in the International Bill of Human Rights, and it was in this year that Thailand submitted its first report to the UN on its implementation of the Convention on the Rights of the Child (CRC).

A new Constitution was given overwhelming endorsement in 1997 with its unprecedented areas promoting human rights more extensively than any of the previous 15 constitutions Thailand has ever had. There are articles prohibiting torture, cruelties and punishments with the Convention Against Tortures and other Cruel, Inhuman or Degrading Treatments or Punishments. Another interesting development is that it makes it possible for people to file lawsuits against government agencies in cases where their rights have been violated by officials. The right to peaceful protest against coup d'etats or revolutions is also included. The desire for this right was well reflected in the human rights survey responses; that the people should have the right to voice their displeasure, but that this should not be to the extent of "causing damage to others".

It is certainly a great step forward that the new Charter stipulated the setting up of a new organization to supervise human rights issues, with the appointment of a parliamentary inspector, a National Human Rights Committee, a Constitution Court and an Administration Court, to handle cases between the state and the people. All of these advances can be associated with developments in the democratic process in post-1992, Thailand. This could be part of the reason why 100% of the questionnaire respondents replied that they think there is a connection between human rights and political systems, very close in the view of many of the respondents. It could also be why many respondents indicated that they feel Thailand is becoming committed to "developing" human rights, "as a means of bringing about more equality".

In connection with this response, it also would seem to explain why so many respondents indicated that they feel "political concerns" weigh heavily on any advances in human rights issues with some indicating they believe awareness should be "taught to the people by the government, like providing education or rearing children" and that the greatest obstacle to improvements in the human rights situation is "education", or lack thereof, bringing the nature of the incumbent political system to center stage.

Even now that the basic rights outlined in international treaties and conventions are incorporated into the laws of many nations, including Thailand, the situation would seem to remain such that these can be ignored by dictators as well as "democratic" governments whenever it suits their purposes, although democratic governments are less likely to do so, assuming that democracy and human rights are inter-dependent and mutually reinforcing. Events in many regions of the globe in the five decades since the Universal Declaration of Human Rights was adopted make that painfully clear. As highlighted by many of the respondents' answers, the human rights situation in Thailand, like that which prevails in many other parts of the world, differs by varying degrees, sometimes greatly, from the idealistic aims of such "universal" documents, underlining the demand for new strategies to prevent abuses.

Some government leaders in Asian nations have repeatedly made headlines by insisting that the concept of individual human rights is a Western ideal unsuited to the conditions, religious, traditional and cultural practices, and so forth, in their nations. Some would argue that this is in the face of agitation for greater political freedom. Still, more profound

understanding is needed to overcome the differences in cultures and political philosophies which hinder agreement on "universality".

Despite its influence and the real progress that has taken so many years to achieve, the Universal Declaration of Human Rights and the various international treaties and covenants associated with human rights would seem to remain a too-distant dream for many in both the developing and industrialized world. *It has become at once the most quoted and most ignored international document of modern times* (The Japan Times, 1998: 17). It may be interesting to note that when the human rights survey questions were translated by professional language teachers at a major Thai university, the translators were not sure how to translate "Universal Declaration of Human Rights". If teachers and translators at a professional level are essentially unaware of the document, it made the author question the reliability of the majority of human rights survey respondents who said they had "at least heard the name".

Responses such as "human rights depend on budgets and human resources" or "the unfortunate reality is.....the system tends to overlook the rights of the less advantaged" indicate that not everyone believes that the human rights situation in Thailand has improved that much. But the respondents' close association between human rights and political systems would seem to indicate that they anticipate improvements in "human rights" in association with more "justice and fairness" through "democracy".

The modesty of the achievements should not blind us to the realities. Thailand's new Constitution embodies the moral code, political consensus

and legal synthesis of human rights, but the issues are growing vastly more complex. The simplicity of language belies the passion of conviction underpinning them. At the same time, its provisions should constitute vocabulary for non-violent complaint - the most recent advances in international human rights issues would seem to be the progressive incorporation of measures to counter unacceptable behaviors and policies on a case-by-case basis.

Standard setting is all well and good, as is monitoring of abuses, but enforcement is obviously key. This was particularly apparent from the results of the empirical study into the human rights situation in Thailand during the 1992 - 1999 years. There were numerous cases where a lack of enforcement, particularly after violations by military and police, was quite problematic.

The issue of breathing life into human rights accords remains, especially, but not exclusively, at times of democratic "failure". If the *idea of human rights is about a yearning which all humanity has had throughout time about being able to live together in peace in a just society*, then the *universality of human rights is the universality of this yearning rather than the universality of its expression at any particular time* (Tamthai, 1998: 8).

The right to democratic participation has been shown to stand alongside other liberal ideals such as religious freedom and freedom of association (Knowles, 1995). The human rights survey answers tend to concur with the notion that most people associate expanded human rights

with an ongoing democratic process even though "attitudes differ in different countries depending on culture and political systems".

If a keynote of both democracy and metaphysics is human responsibility (Knowles, 1995), while *democracy is an ideal which all societies have fallen short of.....concern and respect for others....does provide the motivation for wanting to seek ways of coexisting with others*" (Tamthai, 1998: 5), the author believes that the Thai respondents' answers to the initial question of priority values in the human rights survey suggest that a metaphysics of human responsibility is acceptable to the Thai, such that both democracy and human rights are, in principle, both acceptable notions, in terms of such metaphysical definitions.

While the kinds of *justifications for democracy that are presented and debated in journals and at conferences are, for the most part inaccessible to the general public* (Tamthai, 1998: pp. 6-7), need this necessarily be the case when dealing with human rights? The survey responses seem to indicate how, if even in only the most rudimentary terms, people want to be treated. If the tools are placed in their hands, the people seem to have many ideas about how to defend human rights in practice with their own religious, social, traditional and cultural mores already in place. While *only with the rule of law, not moral codes, could a society properly organize itself* (Shaw, 1999: 116), as democracy and human rights are both Thai and universal, the issue of forfeiting distinctly Thai means of dealing with human rights issues by embracing democracy, or vice versa, does not exist.

Before concluding, it should be noted that the serious, curious and sometimes eager manner with which the majority of respondents agreed to take part in the survey is certainly a clear indicator of the extent to which the general public is interested the intrinsic issues with which this thesis has tried to deal.