

Labour Development and Actions in **Thailand**

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(translation from Thai)

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2003 Report on Labour Development and Actions in Thailand

This report is not meant to include all the developments and actions of labour organizations and coalitions in Thailand in 2003. The 7 key issues and 1 major development high-lighted in the report summarize the past years experiences in Thailand and contribute to the formulation of collective efforts to strengthen the Thai labour movement in 2004.

- (1) Calling for the government to provide due protection for contracted workers.
- (2) The 2003 May Day Organizing Committee of Trade Union Submitted the following demands to the Prime Minister of Thailand
- (3) Ensuring that The Thai government announces an introduction of an Unemployment Insurance scheme in 2004.
- (4) Extending the social protection scheme to those employed in the informal sector.
- (5) Calling for concrete reforms or disbanding all the Provincial Minimum Wage Sub-Committees.
- (6) Urging the Thai government to reform the current Labour Relations Act as well as to ratify the ILO Convention No. 87 and 98.
- (7) Marking the 10th anniversary of the Kader Factory Fire while still struggling for the establishment of the Institute for the Protection of Occupational Health and Safety and Environment in Workplace (IPOHSEW).
- (8) The reopening of the Thai Labour Museum.

I. Calling for the government to provide due protection for contracted workers



2003 was highlighted as a year of rigorous campaigns for labour protection of contracted workers, a mushrooming employment practice in recent years. Labor called upon the Ministry of Labour to deal with this issue, which has become evident in all forms of production facilities and workplaces and is a serious threat to job security for millions of workers throughout the country. In addition, this practice impeded the efforts made to raise the standards of hiring practices, while undermining the bargaining position of the labour movement as a whole. It was almost a ready-made pretext used by employers who claimed that contracted workers were necessary to cut corners for their operations, to remain competitive in both domestic and export markets. The employers often claimed that contract hiring was the alternative to closing down plants and businesses, relocation of production bases, investing elsewhere and most importantly, avoiding a wholesale retrenchment of the majority of the workforce. Ironically, most of the operators of “Recruitment Companies” or “Labour Suppliers” were the ones, at one time or another, who served as advisors or labour affairs consultants to the enterprises. Some were actually shareholders of companies operating within industrial

estates or industrial parks. Even some former officials of the Ministry of Labour, labour leaders as well as locals with dark influences become suppliers of contract workers.

By definition of the Labour Protection Act, 1998, Section 5 (3), the “Employer of Contracted Workers” was defined and based on the following criteria:

1. An entrepreneur, acting as an employer of contracted workers, responsible for carrying out a production process, or a part or whole of the enterprise.
2. An entrepreneur, who hires someone to recruit workers on a contract basis.
3. A sub-contractor, who is hired to oversee the work carried out by workers and is responsible for paying the wages, without engaging in a recruiting business.
4. Any entrepreneur (who hires a contractor or sub-contractor) is considered employer of those employed under such contract.

Demands were made by the following coalition of labour unions, concerned NGOs and civil society for a legislative amendment to prevent employers from exploiting contracted workers. Member organizations of this coalition can be divided into three groups.

a) The Thai Labour Solidarity Committee (TLSC)

The TLSC is comprised of leading labour unions, from both the enterprise and private sectors and concerned NGOs, totaling 28 organizations. This group demands that all contracted workers must enjoy the same social welfare, employment benefits and job security as those classified as permanently employed regular employees.

b) The 2003 May Day Organizing Committee (OC)

This OC consists of representatives from the nine labour councils together with the State Enterprises’ Labour Relations Confederation. The OC proposes that the government make necessary amendments to the Labour Protection Act, 1998, Section 5 (3), or to introduce an additional Ministerial Regulation with the following formulation “...*Any employer engaging in the production process is prohibited from hiring and assigning employees of a contractor or sub-contractor to work in the same production line or process with workers employed by the owner of a production*”

facility or workplace, except workers employed as cleaners, security guards, maintenance and repair and construction”.

Rationale: Currently, increasing numbers of employers are hiring workers from contractors and/or sub-contractors who act as labour suppliers. These contracted workers are assigned to work along with those workers hired by the employers or entrepreneurs. The contracted workers or sub-contracted workers are hired to work in assembly lines or production lines, or part of the production process, and the numbers are rapidly increasing. In principle these contracted or sub-contracted workers are denied their full human dignity, and are deprived of equal social welfare and employment benefits generally granted to fellow workers employed by the entrepreneur or owner of the workplace. These contracted or sub-contracted workers lack job security, are primarily hired on a temporary basis- often for a period of 3 months, 6 months, and up to 1 year. Once the contract is finished, they have to wait for the next round of recruitment by new or the same contractors, and are denied the opportunity of regular status.

In some types of work with specific qualifications and/or skills, such as cleaning, security guards, maintenance and repairs and construction work, etc., contracted or sub-contracted work is considered acceptable and necessary.

c) The Democratic Labour Alliance (DLA)

This informal body of union and NGOs propose that the government make necessary amendments to the relevant labour laws, in essence, to prohibit any hiring of contracted or sub-contracted workers for any part of the production process or for the production process and to instate them as permanently employed, regular workers. To publicly announce its demand on November 24 2003, the DLA organized a march from Bangkok’s Victory Monument to the Ministry of Labour to submit demands to the newly appointed Minister of Labour, Mrs. Uraivan Thienthong.

d) The Federation of Thailand Automobile Workers’ Unions (FTAWU)

Has clearly defined its’ policy and position after conducting surveys, periodic investigations on the status of employment and hiring practices, as well as having formulated its own strategies in submitting demands on contracted or sub-contracted workers in the automobile industry. The FTAWU has set its goal or limit of not

exceeding 30% of contracted or sub-contracted workers employed in the automobile industrial sector.

The results of a survey conducted in November 2003 of the 15 FTAWU member unions' employment numbers of the rank-and-file members of individual unions, regular workers, temporary workers, contracted and/or sub-contracted workers in the industry are as follows:

- Out of 15,720 rank-and-file, or 46 % of the total 24,092 members of the 15 unions:
- 4,462 workers (13%) were temporary workers
- 16 % were regular workers
- 8,977 workers (26%) were contracted workers

It was confirmed that hiring contracted or sub-contracted workers has become a very significant trend.

The same survey also revealed some comparative data regarding the exploitation of contracted or sub-contracted workers as opposed to regular workers in the same or similar production processes of the automobile industry. Some discriminatory practices were also noted as briefly described below:

- ***The Status of Employment and Wages***

Contracted and/or sub-contracted workers are usually hired as temporary daily workers, earning minimum wage or similar wages of regular employees, generally without sick leave, personal leave, and maternity leave with pay. Also, there is apparently no clear or set criteria for annual adjustment of minimum wage.

- ***Basic Rights and Benefits as Guaranteed by the Labour Protection Legislation***

In general, contracted or sub-contracted workers are not given due welfare and benefits, for example, any sick leave with pay must be taken by presenting a doctor's certificate, despite the standard practice as stipulated in labour law that sick leave of 3 consecutive days or more requires a doctor's certificate. These workers are often forced to work overtime or work on weekends or holidays without due extra wages as required by labour laws. Very often they are denied the right to take traditional holidays or annual leave, depending upon the discretion of their employers. Even when they are dismissed without committing any

wrongdoing, they may not be entitled to any compensation or severance pay. The fundamental issue is that contracted or sub-contracted workers are so vulnerable that they are afraid to organize or demand justice from employers for fear of arbitrary dismissal and/or summary termination of contract.

- **Rights and Benefits granted by the Social Security Law**

Most employment contractors or sub-contractors deduct social security and medical care benefits from monthly wages, allegedly as contributions to the Social Security Fund, however they may fail to register every worker under their payroll. This is why some contracted or sub-contracted workers do not have Social Security Cards or Medical Benefit Cards, forcing them to seek medical care from the Universal 30 Baht Medical Scheme or pay for their own medical expenses, simply because their employers have cheated them.

- **Standard Welfare and Benefits**

Contracted or Sub-Contracted Workers are not entitled to equal or standard Welfare and Benefits in addition to what is granted by the labour protection legislation or as gained from collective bargaining conducted by unions. Such welfare and benefits are Cost of Living Benefits, Bonus for Good Performance (or high productivity), Food Benefits, Annual Bonus, Shift Benefits, Annual Raises, Free Uniforms, Reserved Fund Scheme, etc.

Even when some contracted or sub-contracted workers in certain enterprises may enjoy some benefits, they are quite insignificant in amount, inconsistent and/or not given on a regular basis. The differences in welfare and benefits can be compared as follows:

For Good Performance or Productivity Bonuses, contracted or sub-contracted workers may get only 150 Baht per month compared to 400 Baht per month earned by regular workers.

For Shift Benefits, 29 Baht is given to contracted or sub-contracted workers versus 50 Baht for regular workers.

For common benefits, both types of workers may enjoy the same transportation service and free cooked rice or some food-ration benefit.

- **Contracted or Sub-Contracted Workers' Wages are Unfairly Deducted or Illegally Required to Pay a so-called Guarantee Fee (for employment)**

Their wages are often deducted for:

Deposit Fee for Uniforms...600 Baht per set (to be reimbursed upon termination of employment contract)

Guarantee Fee (for employment)...arbitrarily charged, despite the fact that their jobs have nothing to do with financial affairs or safeguarding property or assets of the employer or company, which is permissible by law only as a guarantee for any possible property or financial damage done due to poor performance or negligence.

Personal Leave or Sick Leave without justifiable cause or doctor's certificate has often resulted in arbitrary deduction of wages from their pay.

Response from Ministry of Labour

The Department of Welfare and Labour Protection and Ministry of Labour have managed to make a number of amendments to the Labour Protection Act, 1998 as well as organized a Tripartite Seminar on April 9, 2003 to solicit comments and opinions from stakeholders. As a result, the participants agreed to the amendments, particularly on the definition of "employer", Section 5 (3) as ... "entrepreneurs should be considered as the direct employer in the same way as those defined in Section 35 of the Social Security Act 1990".

Rationale

Contracted or Sub-Contracted Hiring has become a widespread practice and has taken various forms and methods, resulting in workers being negatively affected. Since contracted and/or sub-contracted workers are mostly unaware of laws, it is easy for entrepreneurs to falsely claim that they are not the employers when confronted with a demand from the labour movement that they treat contracted or sub-contracted workers the same as those employed directly by entrepreneurs.

Comparative Chart On Definitions of “Employer of Contracted Workers”

Current Labour Protection Act	New Draft of Labour Ministry
<p>Section 5 of this Act, “employer” means an individual who agrees to hire an employee to work in exchange for wage, including</p> <p>(1).....</p> <p>(2).....</p> <p>(3) In case an entrepreneur has hired worker(s) or employee(s) based on a contract, by assigning someone to carry out the task of supervising the performance of such worker(s) or employee(s) and responsible for paying the wages, or assigning someone to recruit worker(s) or employee(s) to work for the entrepreneur without engaging in recruitment business or placement service, for the purpose of working on a part of or a production process or business under the responsibility of the entrepreneur, such an entrepreneur is considered employer of such workers or employees as well.</p>	<p>Section 5.....</p> <p>(1).....</p> <p>(2).....</p> <p>(3) <i>In case an entrepreneur has hired worker(s) or employee(s) based on contract, by assigning someone to carry out the task of supervising the performance of such worker(s) or employee(s) and responsible for paying the wages, or assigning someone to recruit worker(s) or employee(s) to work for the entrepreneur without engaging in recruitment business or placement service, for the purpose of working on a part of or a production process or business being performed at the workplace or at a facility owned by the entrepreneur with vital tools or equipment provided by the entrepreneur, such an entrepreneur has a status of an employer, having a duty to act in full compliance with this Act.</i></p>

The Role of Trade Unions in Collective Bargaining at Workplace

From a series of seminars and dialogues and sharing of comments and concerns participated by many trade unions, it has become apparent that trade unions have played a vital role in mobilizing workers, as well as calling for entrepreneurs or employers of contracted or sub-contracted workers and government officials to treat workers fairly.

1. Trade unions and/or the labour movement have submitted many letters of complaint or formal grievances to relevant officials of the Department of Welfare and Labour Protection as well as to the Office of Social Security, essentially to inform them of facts and figures on exploitation of contracted or sub-contracted workers, illegal treatment and practices violating labour protection legislation or failure to properly register their employees as contributors to the Social Security Fund. They demanded the relevant officials, especially the Labour Inspectors and Social Security Officers, to investigate and duly order those employers to act in full compliance with the laws. The demands were justified by the fact that contracted or sub-contracted workers themselves were afraid to file any complaint directly for fear of persecution or reprisals or untoward consequences.

2. Trade unions have submitted a series of demands and have reached agreements with some companies to maintain the practice of hiring employees or workers directly.

3. Trade unions have submitted a formal demand for companies to provide additional welfare and benefits to contracted or sub-contracted workers, such as transportation, food or free cooked rice, and good performance or productivity bonuses.

4. As a result of collective bargaining some companies have agreed that if it is necessary to outsource any part of the production process or to hire any outsiders or contractors to recruit workers, companies shall inform trade unions in advance, and give justification or consult with trade unions on each and every case.

5. As a result of negotiations, some companies have agreed to a predetermined ratio of contracted or sub-contracted workers to be

hired and assigned to work in part of or in the production process, for example, not more than 30 % of the total workforce.

6. Agreements have been reached with some companies concerning the part of the production process or which section of the operation could be assigned to contracted or sub-contracted workers. Agreements included the ratio of the regular workforce allotted to contracted or sub-contracted workers, and any temporarily employed workers earning daily minimum wage. Any workers on probation, if proven to be capable or qualified, shall have priority in being selected and tested for status of regular workers based on standard criteria.

7. In the case of companies engaging in export-oriented production who have failed to comply with current labour laws, and are obliged to act in full compliance with international labour standards, or Codes of Conducts as required by transnational corporations (TNC) or the mother companies (MC), trade unions shall provide concerned TNCs or MCs with the relevant data and information on cases of any labour exploitation. They also reserve the right to call upon other trade unions of the same groups of companies and/or the management in foreign countries to urge the employer(s) in Thailand to act in full compliance with the labour laws of Thailand as well as to meet international labour standards.

8. Trade unions have reached an agreement with the rank-and-file, who work in the same assembly line or in the production process with contracted or sub-contracted workers, that union members would not train any of the contracted or sub-contracted workers and would not take part in any maintenance and repair work on defective products produced by or any damage caused by contracted or sub-contracted workers. This stipulation applies when the companies would not instate them as regular workers or failed to consult with trade unions prior to hiring such contracted or sub-contracted workers.

II. The 2003 May Day Organizing Committee of Trade Union Submitted the following demands to the Prime Minister of Thailand



Demand 1: The government revokes all the 11 economic recovery legislation by the end of 2003

Rationale: The so-called 11 economic recovery legislation were hastily drafted, sponsored by the government and enacted by the Parliament as a response to the demands of international financial institutions, mainly the International Monetary Fund (IMF). However, the enforcement of these laws has caused a great deal of problems to the admin-management of the country's financial and economic system.

In practice, many assets, property and enterprises were subject to grossly under-valued assessment and sold to foreign investors, who had been waiting for such an opportune time to grab them for easy, instant and huge profit.

State enterprises became prime targets to be privatized, where the most profitable enterprises went to the auction block first, leaving the losing ones as unwanted enterprises. Even some large corporations, industries and private enterprises felt the direct impacts and were forced

to enter the debt-restructuring program or face total bankruptcy due to non-performing loans. The program itself has imposed strict conditions so that foreign investors can take full advantage over local shareholders and investors. The local management and executives are not even allowed to formulate their own restructuring plan or recovery plan. These are some of the direct impacts from the 11 legislation, which have caused more financial burdens and continuous repercussions on all sectors, both short and long terms. Even the VAT was raised while Thai people have to unfairly shoulder more public debt.

The unfair restructuring plans have direct impacts on the labour market, losing millions of jobs overnight. The most lasting affect is that many employers have seized this opportunity to recruit, at will, new employees through labour contractors or even sub-contractors, in the meantime avoiding any legal obligations as stipulated in labour protection legislation and/or social security law.

To minimize the extra effects from the debt burden and obligations to international financial institutions, the government must revoke all the 11 legislation by the end of 2003.

Demand 2: The government must combine the State Enterprises Labor Relations Act, 2000 with the Labour Relations Act, 1975 and come up with a new combined Draft by 2003

Rationale: In 1991, the National Peace Keeping Forced (NPKF) headed by the military junta, decided to enact a new labour relations legislation (by military decree) resulting in splitting up the labour movement into two categories; state enterprises unions and unions in private sectors. Subsequently, all state enterprise unions and employees came under the State Enterprises Labor Relations Act, 1991. As a result, all the state enterprises' unions legally registered as lawful unions by virtue of the Labor Relations Act., 1975 ceased to exist immediately. All the former state enterprises' unions were compelled to legally reorganize themselves and call their labour organization "State Enterprise Employees' Associations" and registered as such (dropping the word *Labor Union*).

Meanwhile, those labour unions in the private sectors continued to be governed by the same Labour Relations Act, 1975. But if one looks deeper into the intent of having the new decree and treating the state enterprise employees differently, one can easily come to the conclusion that it was an ill intent on the part of the government to divide and

undermine the labour movement. It was an obviously destructive decree, which has affects to this day.

In principle the government may conveniently claim that the two categories of workforce are entitled to have their own separate labour organizations, but in practice the two are being treated differently. The provisions of the military decree clearly prohibit any state enterprise employees, or state enterprise employees' association from engaging in any collective negotiation and are also banned from going on strike.

The separation of the two parts of the labour movement has resulted in double standards and discrimination, dividing and weakening the labour movement. The fragmented and divisive movement is the direct results of such legislation and the attitudes adopted by successive governments.

Later, a new State Enterprises Labor Relations Act, 2000 was enacted, allowing state employees to organize and register as "State Enterprise Labour Unions", but these new unions are not yet strong as a vital force and mostly not committed to be joined with the labour movement.

To act in accordance with international principles and practice, there shall not be any divisions between the state enterprise employees and those employed in the private sector. The employees should be treated the same way without any discrimination or double standards. The labour movement thus demands the government to combine the State Enterprise Labour Relations Act, 2000 and the Labour Relations Act, 1975 and come up with one and the same legislation to be enacted without further delay. This undertaking must be completed within 2003.

Demand 3: The government shall take necessary actions to make it possible for workers employed in all sectors, especially the informal sector, to enjoy equal protection and benefits to be drawn from the Workmen's Compensation Fund

Rationale: In general, workers employed in the enterprises by virtue of the Labor Protection Act, 1998 are protected by the Workmen's Compensation Fund, while those who work as home-workers, employed in the agricultural sector, hired in some industries, workers hired by contractors or sub-contractors both in state enterprises and private sectors and those recruited by labour suppliers as well as temporary workers hired by government agencies are not qualified by legal definition of the Workmen's Compensation Act. It is estimated that these unqualified workers number over one million.

Obviously, these workers are underprivileged among the poor for they are not even entitled to basic welfare and benefits. For example, they have no access to annual medical check-ups, no medical benefits and no compensation in case of occupational health and safety, which includes any industrial accident and disaster. Any work or environment-related death or illness does not qualify them to any benefit at all. Even when they suffer from occupational disability, they do not get full benefits or nothing at all in some cases. By contrast, any worker employed in accordance with the Labor Protection Act, 1998 is generally well aware of their rights and benefit.

As a guarantee to any employee in any sector or industry, who does not yet enjoy any protection from the Workmen's Compensation Act, the government is urged to make greater effort in amending the Workmen's Compensation Act, by adding a new clause to the effect that "*...Any employee, regardless of enterprise or industry of employment, who is not yet protected by the Workmen's Compensation Act, shall be duly protected*".

Demand 4: The government shall make an amendment to the current Labor Protection Act, 1998, Section 5(3) or to issue a new Ministerial Rule and Regulation, by having the following formulation, "*...Prohibition shall be imposed on any employer engaging in production, related or any part of production, from hiring or recruiting any employees from any labour supplier, labour contractor or sub-contractor, to work with or to work along with or to work in the same production line or in the same manufacturing process with their own regular or permanently employed workers at their own workplace or production facilities, except for those employed in business of providing cleaning services, security guard services, repairs and maintenance and construction*".

Rationale: It has become a widespread practice that employers making arrangements with labour suppliers, labour contractors or labour sub-contractors to supply them, regularly and seasonally, with workers to fill in positions or to replace their own regular and permanently employed employees in production lines, or manufacturing process. These contracted or sub-contracted workers are currently employed in production chains or supply chains in increasing numbers.

In principle and in practice, these contracted or sub-contracted workers are discriminated against and denied any access to due protection, welfare and benefits guaranteed by labour protection legislation and social security law. They are in fact deprived of human dignity for they are not equally treated as other workers employed directly by the employer as regular or permanently employed workers. They do not enjoy any job security, being employed on either a 3-month, 6-month or 1-year contract. In most cases, once a contract is finished or terminated, they have to wait for a contract to be renewed or to enter a new contract. They are simply not employed on a continuous basis.

However, in some enterprises employees need to have specialized skills or to perform special tasks. Thus, exceptions should be made in cases of cleaning service, security guard service, repairs and maintenance and construction.

Therefore, the labour movement is demanding that the government expediently make a legislative amendment to the Labor Protection Act, Section 5 (3) by introducing a new, additional clause or to issue new Ministerial Rules and Regulations with the new core content (as aforementioned).

Demand 5: Calling for the government to publicly announce the introduction of the Unemployment Insurance Scheme as an Extended Protection Program of the Social Security System.

Rational: Thailand still has a reserve army of workers, otherwise known as “the unemployed”, because the government is not capable of providing enough jobs for them. Meanwhile, the currently employed workers are highly vulnerable to be laid off or to be replaced by contracted or sub-contracted workers. Under these situations, some of them are being forced, directly or indirectly, to become unemployed.

Therefore, the government must provide more and better guarantees to workers, both those currently employed and unemployed, by urgently announcing the introduction of the Unemployment Insurance System by May 1, 2003.

***Demand 6:* The government shall grant a job guarantee scheme to graduates of all educational levels by providing jobs within 3 months after graduation.**

Rationale: Most new graduates, if not continuing their studies, have to go on job-hunting for months or years, being deprived of livelihood. They are simply the victims of uncoordinated planning on the part of government and concerned agencies, producing graduates, both in qualitative and quantitative terms, not proportionate to the demands of the job market.

Therefore, the government is called upon to provide job guarantees to graduates of all levels within three months after graduation.

***Demand 7:* The government must extend educational opportunity for workers, who shall enjoy free education up to completion of Bachelor degree.**

Rationale: Based on the new approach to educational reform, requiring a Student-Centered type of teaching practice, so that graduates shall become a viable and quality workforce for economic development, many workers have begun to pin their hopes on this reform system. Unfortunately, their wages do not allow them to take advantage of the new educational opportunities. If the government is serious about building up this so-called “quality workforce” for the future knowledge-based society through investment in human resources, the opportunity for workers who aspire to continue their studies must be made without further delay.

The government is strongly urged to grant educational opportunity to workers, so that they can continue their free higher studies up to a basic university degree.

***Demand 8:* The government shall introduce new criteria or standard procedures and practice for personnel of concerned agencies to dispense**

ARV medicines to HIV/AIDS worker-patients within the framework of the Social Security System in such a manner that these worker-patients are being treated equally and indiscriminately across the board.

Rationale: Despite the fact that the current AIDS campaigns and activities have, to a certain extent, produced positive results, an undocumented number of workers/patients are still being discriminated against, being given different types and qualities of ARV medicines by government-run hospitals and clinics.

Therefore, it is necessary for the government to set a new policy, requiring all state-run hospitals and clinics to comply with, by providing necessary single standard treatment, dispensing the same quality of ARV medicines, and showing the same courtesy and respect to workers/patients. New guidelines and special instructions shall be issued and adopted by all admin-management, medical personnel and public health staff, so that workers/patients may be treated humanely and indiscriminately.

Demand 9: Any welfare and benefits provided by employers must be free from tax.

Rationale: Any welfare and benefits provided in kind or provided at cheap prices by employers, in the form of uniforms, safety shoes/boots, dormitory, transport, rice/food must not be subject to any taxation. These meager benefits are part of the necessary and direct incentives for workers and for the survival of employees, because they could not possibly survive on wages alone. If workers have to pay tax on these items, even though it is not a substantial sum, it becomes an extra burden to the minimum wage or low-income wage earners. Their lives would be worse off, being deprived of a basic quality of life not in line with the government-professed policy.

Thus, to minimize the tax burden for workers and also to promote better quality of life to low-income earners, the government is strongly called upon to do away with the aforementioned tax requirement.

Your Excellency the Prime Minister, all the issues and problems summed up in this set of demands are the results of a series of discussions and public hearing organized on Sunday, April 8, 2003, at the conference room on the 5th floor of the Ministry of Labor. Although these problems

are nothing new, they have been pending for many years and have been brought to the attention of successive governments and have yet to be satisfactorily resolved.

On behalf of my brothers and sisters present here, I wish to present this set of demands, once again, to Your Excellency while being witnessed by workers throughout the country. And I sincerely hope that your government shall expedite the necessary process of tackling these problems without further delay.

On this same occasion, I also wish to invite the Organizing Committee of the 2003 May Day Celebration to witness the submission of this set of written demands, which the OC itself has prepared to Your Excellency today.

Now, it is an auspicious time and on behalf of all my brothers and sisters, who are workers present here, I wish to call upon Your Excellency the Prime Minister to deliver your speech to the workers and also to officially open the 2003 May Day Celebration.

.....



2003 MAY DAY SLOGAN:



***“Labor development
to achieve
international labour
standards”***

III. Monitoring the Thai governments plan to introduce the Unemployment Insurance scheme in 2004



Demand for Unemployment Insurance Scheme in Thailand.

According to the International Labour Organization (ILO) and the International Social Security Association (ISSA), an Unemployment Insurance scheme can be defined based on the following principles:

1. An unemployment insurance scheme is part of the universally adopted social security system, in principle, to provide due protection and assistance to workers or employees, who involuntarily become unemployed and subsequently have lost their life-sustaining income.
2. The scheme is designed to provide assistance to the unemployed only for a clearly defined period.

3. Any qualified unemployed person must prove that he or she is capable of working and willing to be employed.

Conditions generally granted to the unemployed in other countries

In many countries, unemployment benefits can be denied to some unemployed or dismissed workers due to:

- Voluntary resignation (resigning without justifiable reason).
- Being dismissed or having employment contract terminated due to proven misconduct, or violation of rules or regulations deemed to be justified reasons for dismissal or termination by employer.
- Unemployment benefits can not be drawn during the period when a labour dispute case is still pending, for instance during a period when employees are exercising their rights to strike or employers exercising their rights to close down the operation of the plant.
- Carrying out a work stoppage or leaving workstation or workplace without any justifiable causes.
- Rejecting any appropriate jobs offered by competent state agency or placement office or refusing to sign up for a training program for the purpose of acquiring new skills.
- Failure to meet certain requirements in reassignment or reinstatement or to meet the criteria for skills development programs and training.

In some countries, at the end of the benefit-drawing period or in the case of those unemployed persons deemed to be unqualified for unemployment benefits for whatever reasons, governments still have adopted a welfare-state policy or some form of social assistance schemes for the unemployed or dismissed workers as a back-up system.

Extended Social Security Program for the Benefit of the Unemployed

According to the current social security system implemented in Thailand, benefits can be divided into 7 types with specific amounts of contributions to be made as follows:

- (1) Since March 1991, a qualified working person is required to contribute not exceeding 1.5 % of his/her wages to the Social Security Fund in order to draw 4 types of benefits as follows:
 - Being sick or suffered from accident.
 - Being disabled.
 - Death not related to work (not during working hours).
 - Maternity leave and care.

- (2) Since December 1998, a qualified working person is required to contribute not exceeding 3% of his/her wages to the Social Security Fund in order to draw two additional benefits:
 - Benefits for dependent(s).
 - Old age benefits.

- (3) Starting January 1, 2004, a qualified working person for unemployment benefits is required to contribute not exceeding 5% of his/her wages, based on the Cabinet Decision made in June, 2003 as stipulated in the Royal Decree sponsored by the government.

It must be noted that the government made some attempts to amend the Social Security Act in 1999 so that the government could do away with its commitment to contribute its share to the Social Security Fund for the following 3 cases:

- Benefits for dependent(s).
- Old age benefits.
- Unemployment benefits.

However, the government attempts were staunchly opposed by the labour movement at the time. Subsequently, the government had to reach a compromise with the labour movement and parliamentarians, by dropping the principle of making equal contributions for the above-mentioned 3 types of benefits.

Since as early as 1997, the labour movement has been urging the government to announce the introduction of the Unemployment Insurance Scheme without delay. At each traditional rally on May Day, from 1997 – 2003, the labour movement made this demand. Many seminars had been held, rallies staged and marches organized before the scheme finally became a reality.

Meanwhile, the Social Security Office (SSO) has also been active in soliciting support for its position, organizing a series of brainstorming sessions and public discussions in all regions. During the period of September – October, 2002, The SSO tried to rally support in Rayong, Chiang-mai, Khon Khan, Song Khla province and Bangkok. These attempts were aimed at gathering ideas and comments for the eventual formulation of the most appropriate forms and principles for the Unemployment Insurance Scheme. Later, a seminar was held in March 2003 and attended by approximately 2,000 participants to find the best solutions to pending issues involved.

As it turned out, the majority of participants agreed to the idea that contributions for the Unemployment Insurance Scheme can be commenced and contributions to the fund can begin to be collected in January, 2004. At the same seminar, it was also agreed that the equal contributions must be made based on 0.5 % of the wage of qualified insured workers.

Later in October 2003, The SSO disclosed that 7.37 million workers were qualified to draw benefits from the Social Security Fund. But out of these 7.37 million workers, there were about 400,000 persons who were no longer employed at the same workplace and had not yet been re-instated to maintain their status as part of the Social Security system, amounting to 5.5 % of the qualified benefit recipients.

Key points proposed by the labour movement to the government

1. The government must make equal contributions to the Unemployment Insurance Fund as employers and employees. The labour movement has been firmly opposing the decision of the Social Security Board made on May 4, 2003, to comply with the Cabinet Decision that the government shall pay a lesser contribution to the Unemployment Insurance Fund, while the employers and employees have to contribute more.

2. The labour movement strongly opposes one additional condition imposed upon workers who would otherwise be fully qualified to draw the badly needed unemployment benefits. The government and its relevant agency wanted to disqualify any unemployed worker who has voluntarily resigned from his/her job.

3. The labour movement publicly opposes policy and guidelines of the World Bank recommendations to the Thai government with regard to the revocation or reduction of compensation or benefits to be drawn by workers based on the Labour Protection Act. The workers are fully entitled to compensation or benefits due to unfair or unjustified dismissal or lay-off, once the Unemployment Insurance Scheme is introduced to Thailand.

4. Causes for dismissal which would disqualify workers from claiming compensation or benefits granted by the Social Security Act, 1990 Section 78 (2) must be opposed and eliminated. The reason is that workers have contributed to the Social Security Fund so that they would be fully entitled to the due benefits. On top of this, most dismissal cases have proven to be arbitrarily carried out by the employers, some proven to be clear cases of ill-intent on the part of their employers, including fabrication, false accusation and unfair charges, causing employees or workers to seek justice from the labour court.

These situations have caused great suffering for dismissed or laid-off workers, due to long and protracted legal proceedings and procedures, adding more suffering to the poor and destitute workers to fight for their rights on a level ground. Very often, these workers were forced to accept some unfair compromises, or to accept some meager sum of compensation from employers rather than going through the time-consuming legal process. These workers had to find new jobs as quickly as possible to survive.

The Cabinet Decision adopted to endorse the Unemployment Insurance System

(1) On April 28, 2003, by a Cabinet Decision, the government approved the Draft Decree on the schedule to begin the process of collecting contributions from all parties concerned for the Unemployment Insurance System in January, 2003.

(2) On June 17, 2003, the Cabinet decided to approve the proposed Ministerial Rules on the Contributions to the Unemployment Insurance Fund and Ministerial Rules on Criteria and Rates of Unemployment Benefits.

The key content

1. Rates of contribution and wages

- Employer and employee shall each contribute at the rate of 0.5 % of the wage of an insured worker, while the government shall contribute another 0.25% of the wage of an insured worker.
- The wage of an insured worker, which serves as a basis for the calculation for the rate of benefits and compensation of lost income, shall not exceed 15,000 Baht per month (based on the Ministerial Rules, Section 46).
- The rate of benefits shall be reviewed after three years of implementation or when the Unemployment Insurance Fund is fully stabilized and maintained (at the ratio of 100 %).

2. The Rate of Compensation for Lost Income

Any qualified insured worker as stipulated in the law shall be entitled to the following benefits or compensation:

- Dismissed Workers shall receive compensation for the lost income at the rate of 50% of his/her wage earned in a year, but not exceeding 180 days of wages.
- Resigned Worker shall be entitled to compensation for the lost income at the rate of 30 % of his/her wages earned in a year, but not exceeding 90 days of wages.
- Within a period of one calendar year, each and every case of compensation for lost income shall not exceed 180 days of wages.
- The right to claim compensation for lost income shall be ended once the insured worker is reinstated. For instance, an insured worker who decided to resign or was dismissed

and subsequently engaged in his/her own private trade or occupation or did not maintain his/her status as an insured person as stipulated in Section 39, or worked as an employee not qualified to claim benefits from the Social Security Act, *he or she shall be entitled to compensation for the lost income at the rate of 50% of his/her wage, but not exceeding 90 days or 180 days within a calendar year, depending upon the case, until he or she is duly re-instated as a qualified person to claim benefits from the Social Security Fund.*

The Criteria and Conditions on Drawing Compensation from the Unemployment Insurance System as stipulated in the Social Security Act, 1990, Section 78 and 79:

1. Fifteen months prior to dismissal or being unemployed, qualified claimant must have contributed to the Unemployment Insurance Fund for at least six months. (Thus, the first unemployment benefit can be drawn from July, 2004 onward).
2. Qualified Claimant must be duly registered for possible placement service at one of the state-run placement offices.
3. Qualified Claimant must be capable of being employed and ready to take a suitable job placed by one of the state-run placement offices.
4. Qualified Claimant must not refuse to sign up for retraining programs.
5. If no suitable job has been offered, qualified candidate (Claimant) is required to report in person once a month at one of the state-run placement offices.
6. Qualified Claimant must not be the same person entitled to any old age benefits.

7. Entitlement to Unemployment Insurance Benefits shall begin on the eighth day after dismissal or the last day employed by the last employer.
8. Qualified Claimant must not be dismissed for following reasons:
 - Having committed a malfeasance or involved in corruption.
 - Having committed any criminal offense against employer with ill intent or
 - Having caused damage to employer with ill intent or
 - Having violated any rules or regulations regarding work or disobeyed any lawful orders of employers, causing serious consequences or damages or
 - Having failed to report to duty for a period of 7 consecutive days with sound justification or
 - Having caused extensive damages to employer due to negligence or
 - Having been sentenced by the final judgment of the court of justice and have actually served the sentence, except for sentence for minor offense or for negligence offense.
9. Qualified Claimant must not be the same person, who has registered as voluntarily insured person as defined in Section 39 (being an insured person as defined in Section 33, who was dismissed from previous employment and subsequently decided to sign up as voluntary insured person and duly paid the contributions for six consecutive months after dismissal, having to pay two times more of the regular contribution and must have continuously paid his/her contribution for at least three consecutive months).

Justifications cited by the government for having made the Cabinet Decision to pay less contribution to the Unemployment Insurance Fund, compared to the employers and employees.

1. The government already has to bear the budgetary burden to cover for other unemployment benefits claimed under the social security system. The current budget is insufficient to cover all the expenses incurred by the admin-management of the placement service, skills development and training programs for qualified Social Security Claimants who are unemployed, plus the necessary budget for personnel and office expenditure and supplies.

2. The current Social Security Act stipulates that the government is responsible for rendering budgetary support to the Social Security Fund, covering all types of claims, having an inadequate budget as it is.

Assessment of the results from demands set by labour movement

(1) The government has responded on two points:

- Shall refrain from imposing additional conditions which would deny the benefits entitled by Claimants who have voluntarily resigned from the last jobs.
- No policy on making legislative amendments or revoking of compensation to be paid by employers as required by the Labour Protection Law.

(2) The government has committed a breach of agreement on equal contributions to be made by the three parties to the Unemployment Insurance Fund. The agreement was reached at a Tripartite Conference held at the Ministry of Labour in March, 2003. The government later adopted a Cabinet Decision made on April 28, 2003 for the government to contribute only 0.25%, while the employers and employees have to contribute equally at the rate of 0.50% of the wage earned by each worker. The government actually made a great effort to influence the Social Security Board to endorse such a decision in mid May, 2003.

It must be noted for the record that the representatives of workers in the Social Security Board, who did not oppose the decision or resolution were:

1. Mr. Panas Thai-Luan
2. Mr. Somsak Duangratana
3. Mr. Krisda Toh-Wong
4. Mr. Thavee Dee-Ying and
5. Miss. Supaporn Prachan-nual

(3) The Ministry of Labour has not yet formulated a clear policy as to whether or not there might be any attempt on the part of the Ministry of Labour to make any amendments to the Social Security Act, Section 78 (2). If successful, a great number of workers, who are fully qualified Claimants, may be deprived of the rights and benefits of the Unemployment Insurance Benefits. It is a known fact that many workers have been dismissed unfairly, or victimized by unfounded charges, because many employers have managed to make false accusations against employees, forcing them to seek justice from the labour court or the Labour Relations Committee. If these victims refused to resign voluntarily or refused to accept a meager sum of money as a form of unfair compromise or settling the dispute outside the court, they could be subject to various forms of harassment or persecution. Thus, voluntary resignation does not necessarily mean “voluntary” in real life situations.

The point to consider is that employees have paid, in good faith, their shares of contributions to the Unemployment Insurance Fund as a form of guarantee that they would be entitled to due welfare and benefits if they become unemployed. It is thus unjustified to use the conditions under the labour protection law to disqualify the otherwise eligible and qualified Claimants by applying the voluntary resignation strictly to all cases.

(4) In March, 2003, the Office of World Bank's Representative in Bangkok responded to the query on its policy and guidelines to the Thai government on possible reduction of welfare and benefits for the unemployed. In a formal letter addressed to the President of the Thai Labour Solidarity Committee and the President of the Asia Labour Network on International Financial Institutions (ALNI), the Country Director – Thailand, East Asia and Pacific Region, whose office ran the World Bank – Country Development Partnership for Social Protection (CDP-SP) program responded in part as quoted below: *(translation from Thai into English)*

“The Ministry of Labor asked the World Bank to assist in providing international experiences on unemployment compensation systems, especially unemployment insurance, and to examine the consequences of such a system for Thailand. A study was prepared in which it was noted that if the implementation of unemployment insurance is contemplated, the financial relationship between it and other labor legislation should be reviewed, including severance payments and separation regulations. These recommendations were based primarily on experiences in other countries. The World Bank itself has not advocated the adoption of unemployment insurance or the abolition of the severance payment scheme in Thailand”.

Points for consideration for the formulation of future demands to the government

1. Labour representation is a must to meaningfully participate in determining the forms, methods and criteria regarding the establishment of a new type of placement service, development of new skills and labour development programs. This is to ensure that such programs are most responsive to the needs of various groups of workers, and to meet the constantly and rapidly changing situations. For instance, skills development programs for elderly workers must be quite different from those offered to young or the new generation of workers. Another is the urgent need to adopt a more and genuinely pro-active approach to providing necessary services to the unemployed.

2. Benefits and compensation for the lost income should be treated differently between the unemployed who are single, married without children, married with dependents – old age parents, who depend solely on the income earned by the bread winners in the family. The scales and calculation table may be based on the timeframe for drawing benefits and compensation, the length of employment, the last wages earned, ages of children or dependents, etc.

3. The welfare and benefits should be extended to cover the health and medical benefits for husband and wife and children who are not capable of earning their own wages, especially when the breadwinners in the families become unemployed.

4. Criteria and conditions must be clearly defined in order to be fair for the unemployed with regard to their abilities to work and their willingness to take “appropriate” jobs offered by the state-run placement offices. Exception should be clearly made so that the unemployed may know exactly on what grounds that they could or may reject or refuse to sign up for the skills development or retraining programs. Another is the need to review or to revise the procedures for the unemployed to report in person on a monthly basis. This should be subject to critical review and reconsideration.

5. Contingency measures to provide immediate assistance to the unemployed deemed to be most appropriate to alleviate their sufferings and minimize their hardships, particularly in cases where they were unfairly dismissed or unjustifiably laid off, or their minor offense committed did not justify the dismissal. These situations obviously call for a new, integrated approach to the admin-management of the services provided by all competent agencies, so that such agencies may provide quality services both in qualitative and qualitative terms.

IV. Extending social protection scheme to workers in the informal sector



It is recognized that the current labour protection legislation and social security law are not adequate in practical terms as well as not comprehensive enough to cover those employed in the informal sector. This has prompted concerned labour organizations to analyze the causes and effects of the problems and the issues involved.

The Labour Protection Act, 1998 was aimed at providing protection for “employees” based on hiring or employment contract as well as those employed by labour contractors and/or sub-contractors in the private sector. Meanwhile, a relatively large portion of the labour force is employed in the informal sector, such as home-based workers or work-for-hire type of workers. The contracts they entered into with their employers may take a form of “Sale Contract” or others.

In addition, the different nature of work performed by workers in this informal section varies greatly from one enterprise to another. Most of them are forced to work in comparatively worse conditions than their

counterparts employed in the formal sector especially when they are not directly under any type of systematic supervision or chain of command. Their working hours, days off and holidays are not systematized, and depend largely on the discretion of their labour suppliers or labour contractor/sub-contractor. They are also forced to work under the most appalling or inhumane conditions, resulting in numerous but unreported cases of occupational health and safety incidents. Many such accident-prone workplaces are often not subject to any inspection by the competent authorities. As for the home-based workers, their family members are also suffering from health hazards and some psychological syndromes caused by the living quarters-cum-workplace environment.

In fact, the Labour Protection Act, B.E. 2541 (1998) has some loopholes, allowing some types of work to be exempted from complying with the law. Most of the exceptions are covered by the requirements specified in Ministerial Rules or Regulations, which come under the jurisdiction of the Department of the Welfare and Labour Protection by virtue of the Labour Protection Act. It has been extremely difficult to promote and encourage these informal sector workers to organize into groups or unions, due to their diversified types of work and conditions. Capacity-building programs would require a comprehensive approach to cater to their needs, ranging from initial capital, revolving funds, marketing skills and techniques, skills development and training and welfare and benefit schemes. To accomplish these rather ambitious tasks, the Ministry of Labour could not be the sole agency to make it possible. A multi-agency approach is needed.

The Social Security Act, 1990 has been applicable to any workplace with one employee or more. But since April, 2002 this Act has provided welfare and protection for any employee duly registered as an Insured Person, who is required by law to contribute to the Social Security Fund. Any Insured Person or qualified Claimant is fully entitled to make claims in seven cases:

- (1) In case of illness or injury caused by accident or disaster, an Insured Person is entitled to medical benefits, compensation for lost income at the rate of 50% of his/her wage, limited to and not exceeding 90 days for each claim and not exceeding a total of 180 days per annum.
- (2) In case of disability, an Insured Person can legally claim medical services and compensation for the lost income

payable monthly for the rest of his/her life at the rate of 50% of wages.

- (3) In case of death, an Insured Person's beneficiary can legally claim a 30,000 Baht funeral benefit, and a sum of money (depending upon the length of employment and the total contribution made to the Social Security Fund).
- (4) In case of maternity leave and care, the Insured Person or spouse can claim a sum of benefit at 4,000 Baht per delivery, but not more than twice. If the Insured Person is a woman, she is legally entitled to a 90-day maternity leave with pay as well, but at the rate of 50% of the wage for the whole period of her 90-day maternity leave.
- (5) In case of benefits for dependent(s), an Insured Person is entitled to claim benefits for no more than 2 children at any one time, at the rate of 200 Baht per month per child (not older than 6 years old).
- (6) In case of old age benefits, a qualified Insured Person must have contributed to the Social Security Fund for a total of 180 months (or 15 years) and must be at least 55 years old. If qualified, he or she can claim a monthly benefit, in a form of living allowance, at the rate of 15% of his or her wage for the rest of his or her life. But anyone who has contributed less than 180 months shall be entitled to a lump sum benefit when reaching 55 years of age. The sum of benefit shall be calculated on the basis of the total sum of his or her contribution plus interest, before reaching 55 years of age, except when deceased.
- (6) In case of unemployment, an Insured Person is entitled to compensation for the lost income at the rate of 50% of his or her wage, but not exceeding 180 days in total. If the Person voluntarily resigned from his/her job, compensation for the lost income at the rate of 30% of the wage shall be given, but not exceeding 90 days in total. In any case, an Insured Person is strictly required to register at one of the state-run placement offices, to declare that he or she is ready to take any suitable job recommended or offered by the placement office.

The current Social Security Act does not apply to some categories of working people as identified below:

- (1) Civil servants, permanent employees (in the civil sector), temporary employees earning daily or hourly wages, and those employed by one of the ministries except for those temporary employees earning monthly wages.
- (2) Wage earners or employees in the employment of foreign governments and international organizations.
- (3) Teachers or Head Masters of private schools.
- (4) Students, nurse's aids, university students or medical interns employed by schools or universities or hospitals.
- (5) Employees of the Red Cross Society, the Council of the Bar and Princess Chulabhorn Research Institute.
- (6) Employees of state enterprises.
- (7) Employees in planting and/or harvesting activities in the agricultural sector, fisheries, forestry and cattle-raising, who are seasonal workers, neither employed throughout the year nor required to do any other type of work.
- (8) Workers employed to do occasional work or work of roving nature, or seasonal type of work.
- (9) Workers employed by ordinary employers, whose tasks are not part of any business or operation of an enterprise.
- (10) Workers hired by employers, who are roving salesmen or street vendors.

Thailand currently has a labour force of about 35.19 million, with 34.62 million employed. But only 7.45 million are covered by the Social Security System. Other parts of the workforce are under other types of welfare systems, such as civil servants, government employees, employees of state enterprises and school teachers (as defined by the private school legislature) as well as employees working for some specific enterprises, who are excluded by definition of the Social Security Act. Thus, there are about 23 million people who are not covered by the Social Security System in the informal sector. The following are working people who are classified as working in informal sector:

- Home-workers and work-for-hire income earners.
- Co-ops, credit unions and the like.
- Public transport drivers (taxi, 3-wheel taxi or Tuk-Tuk, public-transport van, bus, motorcycle-taxi, commuter boat, etc.).
- Fisher folks.
- Agriculturists (engaging in planting, harvesting, forestry, cattle-raising).
- Other free lancing, self-employed professionals, handicraft people, technicians, operating both within and without agricultural sector.
 - Self-employed operators, professionals, who do not require any employees.
 - Housewife groups or cooperatives.
 - Technicians and other service providers.
 - Seasonally employed workers.
 - Others, who do odd jobs, skilled, unskilled or semi-skilled workers, such as house maids, domestic helpers, drivers, gardeners, etc.

During 2003, the Thai labour movement and concerned NGOs submitted their demands on several occasions to the Ministry of Labour as well as the government to extend the social protection scheme to those employed or self-employed in the informal sector. They were the Thai Labour Solidarity Committee, the Organizing Committee of the March 8th International Women's Day Celebration, Homenet-Thailand and the Unemployed Network.

In addition, the House Commission on Labour Affairs and Homenet jointly organized a series of 5 public hearings on "Approaches to Labour Protection for Workers in Informal Sector: Home-workers and Agricultural Sector" The activities were carried out on 5 occasions and were held between the months of August and September 2003 to collect input from stakeholders in both public and private sectors as well as representatives from the Informal Sector. As the result of the debate and discussions, a set of 8 point demands was agreed upon by participants:

1. Urging the government to promptly announce the Ministerial Rules and Regulations on Welfare and Protection for Home-Workers, aimed at protecting home-based workers with clearly identified employers as defined in the Labour Protection Act, 1998. The demand was justified because home-based workers are normally not protected by

the Act, if they accepted any orders directly from the factory. It was due to the exception made in the Ministerial Rules and Regulations, not to apply the Labour Protection Act, 1998 to any home-based workers.

2. The fact that Ministerial Rules and Regulations have some limitation with regard to “Hiring Contract”, which must only be a “Labour Contract” for the workers to be qualified for such protection. But it does not cover the home-workers, which are normally under other types of contract, for instance, work-for-hire contract, or sale contract or others. Such contracts, in essence, legally change the status of workers to “producers” or “manufacturers” or even “entrepreneurs”. For this reason, the Thai labour movement decided to push and lobby for the passing of *the Draft Promotion for the Development and Protection of Home-Workers Bill*, which was proposed by Homenet-Thailand.

3. The labour movement believes that the Draft Ministerial Rules and Regulations on Labour Protection for Workers in the Agricultural Sector must be reconsidered and reviewed, simply because the provisions in the Draft were not relevant to the real way of life of those working in the agricultural sector. For instance, the right to have 3 consecutive days off is only permissible or can be granted only when the workers have been employed for at least 180 days, as a minimum length of employment in order to qualify for days off. This condition is not compatible with the life cycle of the agricultural sector, where the workers are involved in a variety of farming activities.

On top of this, agricultural workers are not hired on a regular basis. Their labour is not continuously needed to begin with. This is why their employment is seasonal by nature. Most of them have different employers, when hired to work in different farms or locations. Under these conditions, they are not normally protected and unfairly paid.

4. The Promotion for the Labour Protection and Development in Agricultural Sector Act should be passed without delay, because it provides protection for diversified types and status of workers in this sector. For instance, agriculturists who are under contract to grow and produce specific produce for buyers, farm hands hired as regular workers in large farms or in agro-business, temporarily employed workers or seasonal workers, as well as small scaled farmers etc.

5. Employment in the informal sector is increasingly a widespread practice, involving more and more people and resulting in more reported cases of exploitation without any competent agencies to look after their rights and welfare. Thus, a specifically mandated agency at a

departmental level should be established to look after the welfare and benefits of these workers.

6. Social Security System must be promptly extended to cover the informal sector, especially the home-based workers, the producing-for-sale groups and workers in the agricultural sector.

7. Studies must be conducted on the situations faced by various types of agricultural workers. The results may serve as a basis for the eventual setting of minimum employment standards or good hiring practices and more importantly, most relevant to the real life of agriculturists.

8. Representatives from various groups of workers in the informal sector should be invited to participate in the formulation of policy affecting their lives and to offer their input or concerns for any drafting of relevant laws.

The Labour and Occupational Development Foundation and the Social Science Faculty of Thammasat University organized a seminar on “Social Security Needed by Workers in Informal Sector”. The public event was staged on September 26, 2003 in cooperation with Friedrich-Ebert Stiftung to solicit input from people engaged in various occupations, such as home-workers, street vendors, public transport drivers, farmers, fisher folk, housewives and employers in informal sector. The outcome of the seminar and the 10 recommendations are summarized as follows:

(1) Extending coverage of the Social Security

System is one of the key measures to offer guarantees and social security to millions of people of working age, which shall also help alleviate various social problems in the long run.

(2) To extend the coverage of the Social Security System

it must adhere to a set of principles: Equality, Equity and Spirit of Sharing both of suffering and well-being, which means from each according to his/her ability and to each according to his/her right to claim equal benefits.

(3) Workers in the informal sector actually form the majority of

the workforce of the country, mostly marginalized people. Despite their disadvantaged status, the informal sector workers have contributed a great deal to the socio-economic advancement of the country. The Social

Security System, if extended to provide coverage for the informal sector workers, would provide badly needed security, and they would feel more socially secure and empowered. Moreover, the extended Social Security System shall also serve as a key measure for more equitable distribution of income for those employed in informal sector, while enabling informal sector workers to work and live with full dignity.

(4) The informal sector workers are largely the result of the changing of hiring practices, essentially to cut costs and to remain competitive. The government should not have overlooked the importance of their existence. These workers have every right to due labour protection and benefits. The government and those in power are in the best position to make entrepreneurs, capitalists and industrialists realize that they must be responsible for the welfare and the security of the informal sector workers they employ. One way or another, they may contribute directly to the Social Security Fund or may be given some tax incentives by the government, for instance.

(5) The fact that informal sector workers are engaged in highly diversified types of production or enterprises, any extended program to offer coverage for them must be subject to comprehensive studies and in-depth analysis, ensuring that the coverage meets their needs with an appropriate approach to establish sustainable guarantees for their welfare and benefits.

(6) Informal Sector Workers can be divided into two main categories.

Informal Sector Workers hired by Employer. This group has clearly identified employers and is calling for an elimination of the clause on exemption in the provisions of the Social Security Act, which stipulates that domestic helpers, maids, drivers and employees of sidewalk vendors are unqualified to register as insured persons. The labour movement is demanding that all employers in the service sector must participate in the social security scheme, so that their employees, regardless of any types of service, are protected and entitled to proper benefits.

In addition, informal sector workers must also be part of the Social Security System. These are home-workers, contract farmers or cattle-raisers for Agro-business on their own lands, etc. In practice, their contracts are “work for hire” by nature, or “sale contract”, so they are hired by a type of employer, even in the case of sub-contractor. As far as

the labour movement is concerned, the government has an obligation to conduct studies, to seek ways and means to make these employers responsible for the welfare, benefits and social security of the workers in their employment under contracts or sub-contracts through their chains of production or supply chains. Only then may millions of informal sector workers become full-fledged members of the Social Security System, as clearly stipulated in Section 33.

The second group of informal sector workers is those who produce or manufacture products for sale. They are sidewalk vendors, farmers or agriculturists, handicraft groups or rural production cooperatives promoted as part of the One Tambon-One Product Program to boost income-generating activities at the grass-root level throughout the country. They tend to be low-income groups to begin with or irregular income-earners. The government must be aware of the risk involved in collecting contributions from members of this group. This group may not be able to pay regularly or earn enough income to pay the full shares of their contributions. This is essentially why the government must develop effective measures to ensure that these workers are economically capable of paying due contributions leading to job security and occupational advancement.

This second group should even be sharing the contributions with the state as partners in the social security scheme. They should enjoy some form of insurance to meet their diversified forms of employment and occupations. Thus, the welfare and benefits should take various forms, while their contributions could also be made in various forms.

(7) Different groups of workers tend to demand different types of welfare and benefits to meet their occupational nature of needs. Despite that, workers in the informal sector have taken a clear position that at least their basic necessities must be covered by the state, ranging from health (including occupational health), disability, maternity leave and care, welfare for dependents, death, unemployment and old age (including sick and deceased members of the immediate family).

In addition, they believe that the state should consider giving other forms of guarantees or security, which currently are not offered. These are welfare and assistance against natural disasters, farm produce price guarantees, basic income guarantee, home and shelter, land for farmers, and education for their children, etc.

(8) Workers in the informal sector also express their particular concern on access to social security, due to the diversified nature of work and occupations they engage in. Geographically, they are also dispersed

to all parts of the country. Thus, they tend to believe that the social security scheme should be enhanced or supported by communities, people's organizations, or community-based organizations, to be effectively participatory in the decision-making process regarding the admin-management of the social security system. Also, part of their immediate concern is the need for the state to sponsor or to support an action-oriented type of research on informal sector workers with regards to the social security system.

(9) The Ministry of Labour should form a Working Group to find ways and means to determine an appropriate approach on extended social security programs to cover workers in the informal sector. This Working Group or special task force should be composed of representatives from informal sector workers (from various occupations), Ministry of Social Development and Human Security, Ministry of Agriculture and Cooperatives, Ministry of Public Health, Ministry of Interior (or the future Department of Community Development), non-governmental organizations (NGO) and experts from academic circles. This body must be established without delay.

(10) The Extended Program of the Social Security System should be publicly announced to take effect within 2 years (by October, 2005).

It is noted that the former Minister of Labour, Suwat Limpata-pallop, once ordered the Office of Social Security to organize a large seminar, for the first time, to solicit input on "Extending the Social Security System to Cover Workers in Informal Sector". The event was held on September 28, 2003 and participated by more than 2,000 concerned individuals and organizations. It was a stated hope at the conclusion of the said seminar, that the form and content of the extended program should be made clear and effective enough to provide protection and welfare and benefits for informal sector workers by 2005.

Guidelines for Extending Social Security System to Informal Sector Workers

The Social Security Office of the Ministry of Labour defines Informal Sector Workers, who are neither covered by the Social Security Act, nor protected by any other legislatures, based on the following characteristics:

1. No regular or fixed income.
2. Seasonally employed.
3. No taxing system.
4. No standard payrolls.
5. Frequent migration without any permanent residence or workplace.

The Social Security Office has actually formulated some preliminary plans to extend its social security scheme to cover those employed in the informal sector.

1. Basic survey and data collection to be conducted by the National Statistics Office during the 4th Quarter of 2003 and expected to be completed in April, 2004.
2. Taking advantage of the database developed by the National Statistics Office to develop a feasibility study on extended program for the protection of informal sector workers, which includes a protection scheme, form, criteria, conditions and an admin-management system. The study shall offer the scale or rate of contributions to be made by concerned parties, types of welfare and categories of benefits as well as procedures for making claims.
3. Once the principles, criteria, conditions and admin-management system are properly formulated as a proposed model, all the stakeholders or concerned groups or organizations and agencies shall then be invited to express their concerns and share their comments. This must be done before the actual drafting of the decree can be commenced, including relevant organic laws for the final submission to the Cabinet for announcement or promulgation.

IV. Calling for a concrete reform or disbanding all the Provincial Minimum Wage Sub-Committees



The Provincial Minimum Wage Sub-Committee(s) (PMW) are established by virtue of the Labour Protection Act, 1998, which empowers the Central Minimum Wage Committee to set criteria, methods and rules to have representatives from both employers and employees to be members of the Provincial Minimum Wage Sub-Committee(s). The Central Minimum Wage Committee also determines the power and duties, quorums and procedures for the PMW Sub-Committee to perform.

The core content of the provision is to have an equal number of representatives from employers and employees and the state, not more than 15 persons total. The representatives are to be subject to a screening process, which the Office of Welfare and Labour Protection shall inform the National Labour Centers/Councils, Council of Employers as well as labour organizations in provinces are to select their most qualified candidates and then nominate them as representatives. In case there are not such organizations or branches in any province, a public announcement shall be made to employers and employees and their organizations, so that they may submit the list of their candidates or may file their applications to be candidates within the timeframe and at the designated place.

Criteria for deliberations on provincial minimum wage

To constitute a quorum, there shall be at least 2/3 of the total members of the sub-committee and at least 2 representatives from

employers and employees present. To adopt any resolution or any decision on any adjustment of minimum wage in any province, it requires approval of 2/3 of the members of the sub-committee. Once it is adopted, the result of the deliberation or such decision must be proposed with justifications and details to the Central Minimum Wage Committee for final approval.

In 2000, the Central Minimum Wage Committee succeeded in appointing Provincial Minimum Wage Sub-Committees for each province of the country. Unfortunately, most major cities and towns did not have genuine representation of workers, or legitimate representatives from labour unions at the provincial level. Consequently, the so-called “Provincial Minimum Wage Sub-Committees” have been mostly ineffective to various degrees, while the provincial minimum wage varies from province to province.

For more than two decades, from 1977 – 2001, minimum wage was regulated in three geographical zones or three groups of provinces. But since 2002, minimum wage in different provinces differs further.

In 2002, provincial minimum wage was enforced in eight groups of provinces.

In 2003, provincial minimum wage was in effect in fifteen groups of provinces.

Under these situations, labour unions were active in mobilizing in provinces where there was no or little adjustment of minimum wage. The workers were trying to voice their anger at the different minimum wage scale for neighboring provinces, where living standards are obviously the same.

Some trade unions even demanded that the government adjust the minimum wage to 200 Baht per day throughout the country. However, the Ministry of Labour responded that *“Provincial Minimum Wage Sub-Committees had the mandate to consider this issue and decided that the proposed 200 Baht Minimum Wage across the board would not be appropriate, due to differences in socio-economic conditions in different provinces. In addition, raising the minimum wage shall have a direct impact on the economy of the country as a whole. So far, the Central Minimum Wage Committee had assigned Provincial Minimum Wage Sub-Committees throughout the country to decide on this, as a result, they have agreed that it is not appropriate at this time to adopt one and same minimum wage throughout the country”*.

However, the majority of labour unions could not accept the so-called “decentralization of decision-making process” by having appointed Provincial Minimum Wage Sub-Committee(s) for the following reasons:

1. The supposedly decentralized system was not genuine to begin with because the provincial minimum wage sub-committee(s) did not have the real power to decide on raising the minimum wage.

2. In most provinces, provincial minimum wage sub-committee(s) did not have the genuine representations of workers or trade unions, because the employers were the ones who hand-picked their candidates and submitted them to the provincial authority.

3. The system itself created disparity and animosity between parties involved while undermining the bargaining position of trade unions and the labour movement as a whole.

4. This system also created a condition where many labour leaders in provinces developed a tendency to be active only in their own respective province with focus on minimum wage, without having broader perspectives beyond their provincial boundaries. Their narrow outlooks would isolate them further from the labour movement.

5. As far as the labour movement is concerned, having only one, centralized National Minimum Wage Committee was much more effective. The national body was more practical and was more responsive to changing situations; it is especially more advantageous for the labour movement to negotiate with, as Bangkok and vicinity has always been the center of negotiations and collective bargaining.

Two different positions and demands

Thai Labour Solidarity Committee proposed to the government that the minimum wage structure be reviewed and

restructured to meet the needs of diversified types of workers employed by enterprises in provincial settings. The TLSC also proposed that the screening and selection process for members of the Provincial Minimum Wage Sub-Committees be improved to reflect genuine representation of workers, while given a clear mandate to decide on the adjustment of minimum wage for each and respective provinces.

Labour Organizations of Thailand, which is composed of 7 different labour councils, organized a forum in September 2003 to solicit input from labour federations, unions and major coalitions of industrial area labour unions. It ended with a demand that the Provincial Minimum Wage Sub-Committees must be dissolved or disbanded totally. This is a marked difference compared to the demands made by Thai Labour Solidarity Committee, which demands for an improvement of the selection process of the Sub-Committees and allows them to decide on minimum wage adjustment at the provincial level.

Conclusion: The demands to have only one national minimum wage standard (regardless of the rate) and to do away with all the Provincial Minimum Wage Sub-Committees is most likely to be a protracted debate and may not even be possible.

Meanwhile, the Central Minimum Wage Committee decided on November 26, 2003, to raise the minimum wages from 1 to 5 Baht per day in 48 provinces as summarized below:

Samut-Songkram: The workers in this province were granted the highest adjustment of 5 Baht, from 133 to 138 Baht per day, because they did not receive any adjustment in the previous year, and the total figures proposed was rather low in the opinion of the Provincial Minimum Wage Sub-Committee.

Sra-Kaew: The minimum wage was raised 4 Baht from 133 to 137 Bah per day.

Three (3) Baht raise was adjusted for 11 provinces:

Trang, Lopburi, Suphanburi, Kanjanaburi, Chantaburi, Rajburi, Nonthaburi, Chacheong-Sao, Cholburi, Ayudhaya and Sraburi.

The 26 provinces given a two (2) Baht raise:

Lampang, Loey, Sri-Saket, Sakol-Nakorn, Satul, Nongkhai, Udorn-Thani, U-taradith, Amnart-Jareon,

Chaiyaphum, Tak, Nakorn-Srithamaraj, Nakorn-Sawan, Prachuab-Kirikhan, Pattani, Pitsanuloke, Pathalung, Mukdaharn, Yala, Roi-Ed, Rayong, Chumporn, Krabi, Chieng-mai, Pang-Nga and Petchaburi.

Only nine (9) provinces were given only one (1) Baht raise:

Bangkok, Samut-Prakarn, Samut-Sakorn, Pathum-Thani, Nakorn-Pathom, Singhaburi, Khampang-Petch and Pichitr.

In provinces not given any raise of minimum wage but where there were labour unions or chapters of federations actively operating, these labour organizations were quite vocal in speaking out against such a decision. They quickly mobilized and negotiated first with respective provincial governors, the ex-officio Chairpersons of the Provincial Minimum Wage Sub-Committees, then the Minister of Interior. The example of this is the mobilization in Nakorn-Rajsima.



V. Urging Thai government to amend the Labour Relations Act, as well as to ratify ILO Conventions No. 87 and 98



The current Labour Relations Act needs to be amended, laying the groundwork for reform.

1. The current Labour Relations Act, 1975 has been in force for almost 30 years, starting on March 29, 1975, many of the criteria stipulated in the provisions, and even some provisions, are now outdated and outmoded and ineffective in providing adequate protection to workers. Workers are virtually unprotected from unfair treatment and dismissal if they try to organize their own unions, especially during the initial phase of forming the core group or founding members of any union. In fact, the current Act renders opportunity for the state authorities to exercise their discretion, maintain their control and even interfere with the internal affairs of the workers, or the decision-making process of a trade union with regard to their bargaining positions in the collective bargaining process.

Meanwhile, the employers almost always adopt an anti-union position, are not prepared to recognize the legitimacy of workers having and organizing their own unions. These employers always take full advantage of the situation, where the labour laws still have many loopholes for them to exploit to the fullest extent. Within this context, the loopholes serve as open invitations to infringe the basic democratic rights of workers regarding their rights to organize unions. As a result, many trade unionists or labour leaders who act as negotiators, have become easy and vulnerable targets for harassment and persecution.

(2) Dividing of the Original Labour Relations Act into 2 Separate Laws in 1991 was the legacy of the military dictatorial regime. The original Labour Relations Act, 1975, governed both employees in state enterprises as well as those employed in the private sector. To divide the workforce into two, to treat them differently and to undermine the labour movement as a whole, the military government came up with the grand stratagem by promulgating a new labour law, the State Enterprises' Labour Relations Act., 1991, legally separating the state enterprises' unions from the rest. It must be noted that the state enterprises' unions had been very vocal and critical of the governments. They had also been the best organized and strongest workforce in the country and blessed with many capable and committed leaders.

Later on in 2000, the name of the said legislature was changed to the State Enterprises' Labour Relations Act, 2000, setting different requirements for establishment of labour unions and different conditions for collective bargaining between state enterprises' unions and private sector unions. The unified national workforce has been divided ever since. It has made it extremely difficult to form any confederations and/or to consolidate all different labour centers into one vital force for the government and employers to reckon with. The current labour law requires that to remain as a member-organization of a

labour council, it needs at least 10 state enterprise labour unions to form a state enterprise federation first.

Meanwhile, those employed in the informal sector have no rights to organize their own unions.

(3) The core content of labour relations legislation is also not compatible with the spirit and the content of the so-called people's Constitution promulgated in 1997 as cited below:

Section 30. All persons are equal before the law and shall enjoy equal protection under the law...Unjust discrimination against a person on the grounds of the difference in origin, race, language, sex, age, physical or health condition, personal status, economic or social standing, religious belief, education or constitutionally political view, shall not be permitted.

Section 45. A person shall enjoy the liberty to unite and form an association, a union, league, co-operative, farmer group, private organization or any other group.

For instance, an organic law requires that any qualified founding member of labour union and union official shall have the following basic qualifications:

- 1) Being a Thai national.
- 2) Having reached a legal age or 20 years old or older.

The current labour law also prevents the state enterprises' trade unions and private sector's trade unions of the same industry or industrial line from forming a trade federation. For example, the unions of Bangkok Bank Ltd. Plc and of Thai Farmers Bank Ltd., Plc are prohibited from consolidated with unions of the Krung Thai Bank and the Government Savings Bank, because the Krung Thai Bank and the Government Savings Bank are state enterprises. Thus, they are not qualified to form a Banking Labour Federation.

(4) *Thai Labour Relations Legislation are not*

complementary to the ILO Conventions, No.87 and 98. The two ILO conventions are internationally recognized as Core Labour Standards which the ILO is calling for all state-parties to adopt and to apply in respective countries, regardless of the level of labour development. If state-parties have already ratified the said conventions, they must duly apply them.

Mobilizations and Actions taken in 2003

(1) The new Labour Relations Bill proposed by the government was drafted to replace or supercede the old Labour Relations Act, 1975 and approved in principle by the Cabinet since December 1, 1998, but is still currently pending the screening of the Council State (The legal arm of the government, or legal think-tank of successive governments in Thailand).

It has been 5 years, but it is still being scrutinized, interpreted and screened by the Council of State.

(2) Meanwhile, a coalition of labour organizations and NGOs working on labour issues has combined their efforts to come up with a draft Labour Relations Bill, commonly known as the workers' version of the Labour Relations Bill or labour movement sponsored Bill. It was completed in early 1999 and has been mobilizing to demand the Prime Minister and the Minister of Labour to:

- Immediately withdraw the government-sponsored Draft, and instead submit and sponsor the workers' version to the House of Parliament. Because the government's version was not in line with International Labour Standards, it was unconstitutional in content and spirit and contradictory to internationally accepted human rights principles.

(3) For the record, the New Aspiration Part was the only party which has come up with its own draft Labour Relations Bill and submitted to the House of Parliament. But this party was then dissolved and merged into part of the Thai Rak Thai Party, the current main ruling party.

During the period of November 2002 to February 2003 the House of Representatives' Commission on Labour Affairs worked closely with major Coalitions of Industrial Areas of Unions and international assistance and jointly organized a series of 9 seminars to solicit public input on the Labour Movement's Version of the Labour Relations Bill. It was partly aimed at disseminating the spirit and content of the workers' version and the needs to have proper amendments to the obsolete law.

(4) During April 7 and 8, 2003, the Drafting Committee of the workers' version of the Labour Relations Bill called for another brainstorming meeting to review the content of the Bill and to decide on certain practical plans to lobby some sympathetic leaders of political parties to support the workers' Bill in the House. The Drafting Committee and the coalition were also prepared to launch a signature drive to gather at least 50,000 signatures (as required by the Constitution) to submit the workers' version of the Bill to the President of the House of Parliament at the earliest date possible.

(5) The Demand of Thai Labour Solidarity Committee.

- The new Labour Relations Act must contain provisions which reflects the due considerations for worker's rights, human rights and
- Ratification of the two ILO Conventions, No.87 and 98, because the current Labour Relations Act, 1975 is outdated and not relevant to the current situations, and ridden with legal loopholes, allowing employers to take full advantages of such loopholes by unfairly treating employees and exploiting workers without due regards to the true spirit of the law. Also the new law must provide adequate labour protection, especially the rights to freedom of association, the rights to organize, the rights to collective bargaining without any interference from the state agencies and/or government authorities.

However, the Organizing Committee of the 2003 May Day Celebration proposed to the government that the State Enterprises' Labour Relations, 2000 be combined with the Labour Relations Act, 1975 to be complementary to the international labour standards and principles, to do away with the division of state enterprise employees and private

sector employees. If successful, there shall be a unified labour force and more dynamic labour movement.

(6) During August 27 – 29, 2003, a national seminar on “Labour Relations Reform and the ILO Labour Standards” was organized by the ILO in collaboration with the Friedrich Ebert Stiftung (FES)-Bangkok, the American Center for International Labor Solidarity and the Arom Pongpa-Ngan Foundation. It was attended by labour leaders, trade unionists, NGOs working on labour issues and officials from the Ministry of Labour, totaling 52 participants. The outcome are be summarized as:



1. The Thai legislatures on labour relations contain a number of provisions deemed to be contradictory to ILO Conventions, No.87 and 98.
2. Despite the fact that Thailand is one of the founding members of ILO and has maintained its membership for 84 years, it has ratified only 13 ILO Conventions. It is ironically noted that Thailand has ratified fewer ILO Conventions than Myanmar, Bangladesh and Sri Lanka. Thus, Thailand is ranked last, the country which has ratified the lowest number of conventions in the Asia and Pacific region.

3. The ILO Conventions No.87 and 98 adopted at the General Conference more than 50 years ago are core conventions which should be the top priority for states-party to ratify.
4. Thailand has not yet ratified these two core conventions, essentially to avoid any fact-findings conducted by representatives from the international community on labour situations in Thailand.

The resolution adopted by the delegates at the meeting was to continue mobilizing and demanding for the legislative amendment to the current labour relations law to be in line with ILO Conventions No.87 and 98. But the first step was to come up with an amended Bill and then submit it to the House of Parliament. The alternative was to push for the Bill to pass the first Reading and then lobby the House Commission of Labour Affairs or any Special Commission to support the amendment.

However the government refused to accept the workers' version of the Draft and submit it to the House of Parliament. The government still insisted that its own version, being scrutinized and screened by the Council of State, was in line with the policy. Meanwhile, the Ministry of Labour shall pass on the different Drafts to the Council of State to screen and make improvements.

The Core Content of the Draft Labour Relations Bill, known as the Workers' Version

Employers are prohibited to act as follows:

1. Employers are not allowed to dismiss any founding members of a labour union and union officials, unless permitted by the Labour Court.
2. Employers are prohibited from closing down certain section of the production line or any part of the operations operated by employees involved in organizing labour unions or who are members of a labour union.
3. Employers are prohibited from hiring employees to replace striking workers or workers on picket lines.
4. Employers are not allowed to remove or relocate any raw materials or machineries during a strike and are prohibited from closing operations or production during a labour dispute.
5. Employers are not allowed to conduct any investigation on union membership, and are to accept the list of employees or union members who have signed petitions or demands to be fully valid from the time of submission to the conclusion of a labour dispute. Even when some petitioners or workers, who signed the petition or demand, later decide (because of threat or persecution or harassment) to withdraw their names, or the membership may have decreased in number.
6. Employers are prohibited from ordering some employees to stop performing their functions or work, especially union officials or union members or those employees involved in filing a grievance or submitting a demand. This is the case when some employees can be singled out or discriminately ordered to stop doing their regular or normal duties and are prohibited from entering the workplace or production facilities, but are paid regular wages.

This type of order is seen as a breach of the original and real intent of an employment contract and constitutes a serious violation of the right to work. In practice, it is a concrete disruption of union activities and preventing union officials or workers' representatives from carrying out their duties within the workplace.

7. Employers are prohibited from delegating any person(s), who are not fully authorized or fully empowered to act on their behalf, or to conduct any negotiation with employees on their demands or grievances.
8. Employers are prohibited from ordering any employee(s) who are union officials or union members, or employee(s) involved in the submitting of demands or grievances to stop doing their duties or stop performing their regularly assigned tasks, but they are still entitled to draw their wages. For example, these employees are not given any work to perform or any duty to perform, and may be strictly banned from entering the workplace or factory.

Such orders are considered an unfair treatment based on the principle of good labour relations, a clear breach of the good intent of the employment contract and a serious violation of worker's right to work and most importantly, a disruption of union activities or preventing union officials from carrying out their legitimate duties in the workplace according to the provisions of labour relations legislature.

Calling for a Revocation of Power of Minister or Competent Officials

1. Revocation of a requirement for any Labour Union Advisor(s) to register with concerned government agency.
2. Revocation of the differentiation of employment status between regular employees and employees, who have been promoted to supervisory or managerial levels, with regard to any attempt to organize their labour unions. These employees, regardless of their status, shall be equally treated as employees, who are qualified to organize and become members of labour unions.
3. Revocation of the power and/or authority of Minister in issuing decree or any Ministerial Rules and Regulations, for instance, making certain exception to prohibit any group of workers from organizing their own unions, or banning any workers or unions of certain enterprises from organizing a strike or lock-out.

Extending the Rights of Workers in Organizing Unions and the Rights to Protection regarding Negotiation or Collective Bargaining

The extended coverage is briefly described below:

1. Employees or workers employed in all types of enterprises, trades or industries regardless of race, nationality and employment status, have the right to work, right to freedom of association, right to organize and right to collective bargaining.
2. Employees have the right to organize four internationally recognized types of labour unions, Enterprise Union, Industrial Union, Craft Union and General Union.
3. The right to legally submit demands, even when the number of employees involved in the submitting of demands later decreases, the demands shall be recognized as valid and legitimate throughout the process of labour disputes.
4. Employees who are not rank-and-file members of unions have the right to join the strike called by the union.
5. Employees have the right to go on strike within the workplace or in the factory, while employers are prohibited from hiring new employees to replace the strikers during the strike. Employers are also not allowed to remove or relocate raw materials and machineries from factory during the strike.

In the government sponsored version of the amendment to Labour Relations Act worked out by the Council of State, there are some core contents which are similar or compatible with the workers' version.

1. Revocation of legal qualification that any founding member of a labour union or any union official must be of Thai nationality, as well as the disqualification of employees of supervisory and/or managerial levels to become union members. There shall be no division between different levels of employment, as long as they are employees.

2. The bureaucratic procedures for the registration of a union must be improved and/or reformed, making it more speedy and convenient to register one. In practical terms, employees who apply for registration of a union shall be permitted to verify their own personal documents required to submit to the Registrar. Each person can only become member to one labour union. In addition, the founding members of a union shall have the status of union official or committee member until the first General Meeting of the Union is convened. The meeting shall be called to democratically elect the Union's Executive Committee as well as to approve the Draft Union Rules and Regulations.

3. Revocation of the power and authority of the Registrar in registering any union advisors, but the legislature shall still require that union advisors have certain qualifications and be listed on a roster.

4. In case there is more than one union in the same workplace, any union with the membership of more than half of the total workforce shall have the right to submit demands.

5. In case a house union has membership representing more than 20% of the total workforce, the employees are prohibited from collecting signatures for the demands to employers. And if there is more than one labour union and each union has membership of less than 50% of the total workforce, all the employees at the workplace shall elect their representatives to engage in collective bargaining.

6. Regarding any dismissal of founding members of a union, any close down of operations or any part of the production line aimed at penalizing certain employees or group of employees, is considered unfair treatment and such employees shall have the right to file a grievance with the Labour Relations Board.

7. Employers are prohibited from dismissing or firing any employee(s) involved in an attempt to legally form a union, starting from the day the demand is submitted to the employer to the day an agreement is reached on the employment status, except when prior approval or permission is granted by the Labour Relations Board.

8. It shall require that the Labour Relations Board (LRB) has a tripartite feature, representing the government, the employers and employees, with 5 members each representing a partite. The LRB is also given additional power on two matters. It shall have the power to decide on any labour dispute on a voluntarily basis. Also, the LRB shall have the power and discretion to penalize or dismiss any members of Employees' committee (instead of taking the case to the Labour Court).

9. During the deliberation carried out by the LRB, both employers and employees shall have the duty to present their own evidence and facts. But once the case is referred to or filed with the Central Labour Court, both employers and employees are only allowed to present evidence and facts as submitted to the LRB and no new or other evidence and facts.

10. Employers must act in full compliance with the decision or rulings of the LRB and if anyone wishes to revoke any rulings of the LRB, they must deposit it to the Central Labour Court at the same amount of total compensation required to be paid employees as decided by the LRB. In addition employers must first accept the employees back to work as ruled

by the LRB, before they may exercise their rights to seek an appeal with the Central Labour Court.

11. Revocation or prohibition of employees from putting a workplace under seizure or from shutting down a plant with a picket line or by other means to prevent the factory from operating.

12. The Employees' Committee shall be improved and changed into a *Joint Consultative Committee* (JCC) and based on the voluntary acceptance of employees in each workplace. In case there is a labour union functioning in the workplace with more than half of the total workforce being members, the union shall have the right to appoint employees' representatives to make up the full quorum of the Joint Consultative Committee.

Any agreement reached by the JCC, which later has been changed into the *Workplace Labour Relations Promotion Committee* (WLRPC), shall have a binding effect on all the employees, as long as it shall not negate the existing agreement regarding the employment status.

13. Promotion of the right to organize labour organizations in a progressive nature, and for unions to become federations and labour councils.

VI. Marking the 10th anniversary of the Kader Factory Fire without the establishment of the Institute for the Protection of Occupational Health and Safety and Environment in Workplace (IPOHSEW)



In this chapter, the political process and content of 3 alternative Bills for the reform of the occupational health and safety system will be explained.

- Alternative 1: The original bill initiated by the labour movement

In January, 2003, the House of Representatives' Commission on Labour Affairs requested the Prime Minister in writing to consider the *Draft Institute for the Promotion of Occupational Health and Safety and Environment in Workplace*. But, the Secretary of the Cabinet also learned from the Ministry of Labour that it had also drafted a bill of similar content and was seeking approval from the Cabinet as a government-sponsored bill. For some unexplained reasons, the two drafts had similar content with focus on the "Promotion" rather than the "Protection" as proposed by the labour movement.

Meanwhile the labour coalition also had drafted its version proposing it as *The Establishment of the Institute of the Protection of*

Occupational Wealth and Safety and Environment in Workplace. The coalition subsequently solicited support from the opposition party, the Democrat Party, to submit this draft to the House of Representatives. That was why in March 2003, Mr. Ong-Arj Klampaibul, Chairman of the Working Group on Labour Affairs of the Democrat Party officially confirmed to the coalition that the Democrat Party had decided to sponsor the Draft and submit it to the House of Parliament, with a list of the 24 MPs endorsing it.

The Draft proposed by the labour coalition and sponsored by the Democrat Party was in line with the demands of the Council of Work and Environment Related Patients Network of Thailand (WEPT), for which the Ministry of Labour and its Department of Social Welfare had appointed a Drafting Committee to work on chaired by the former Deputy Minister of Labour, Mr. Akaporn Rak-khuamsook. This Draft had input from the labour coalition and WEPT and many other stakeholders with core content as outlined below:

1. The Institute shall be operating as an autonomous or independent public agency regulated or supervised by the Ministry of Labour and the Department of Social Welfare. But the admin-management of the agency shall be carried out by personnel representing different concerned agencies, not exclusively by officials from the Ministry of Labour.

2. The aim and objectives of the said agency are to provide comprehensive or one-stop service to workers, ranging from health promotion, prevention of occupational health and safety hazards, treatment and rehabilitation programs, training programs, research and development on occupational health and safety and dispensing compensation and benefits to the those suffering from work and workplace environment-related injury.

3. The admin-management and policy-setting shall be carried out in a participatory five-partite (cinque-partite) manner (not a conventional tripartite fashion), including representatives from government, employers, employees, organizations working for work and environment-related patients and experts/academics.

4. Reorganization of concerned government agencies for the purpose of being transparent, accountable and efficient in their performance, not establishing a new government agency to be completely

in line with the bureaucratic reform and belt-tightening budget policy set forth by the government.

Sources of Revenue

The revenue shall be earned from the returns of investment, dividends or accumulated earnings from the Workmen's Compensation Fund, service fees, government subsidy and funds provided by other organizations.

Organizing Structure of the Institute

The present Occupational Health and Safety Institute and the Office of Workmen's Compensation Fund shall be merged into a single agency, to provide more comprehensive services, ranging from compensation, treatment and rehabilitation and prevention. The administration of the new agency shall be composed of two components:

- 1) The Council of the Institute or the Policy Board of the Institute, and
- 2) The Executive Committee of the Institute

The EC of the Institute shall be cinque-partite in representation and chaired by the Prime Minister in his capacity as the Chairperson of the EC.

The Council of the Institute for the Protection of Health, Safety and Environment in Workplace

The cinque-partite representation shall be composed of:

- 1) Government agencies.....10 persons
- 2) Employers.....10 persons
- 3) Employees.....10 persons
- 4) Affected workers/patients.....10 persons
- 5) Experts/Academics.....10 persons

The representatives from employers, employees and affected workers/patients shall be democratically elected while candidates of the Council Members are to be appointed by the Minister of Labour.

Terms of Service

Council members shall serve a two year term and may be re-elected and/or reappointed.

Roles and Duties

The Council shall be entrusted with the formulation of policy, granting approval to action plans or implementation plans, setting rules

and regulations, procedures and official announcements of the *Institute for the Protection of Health, Safety and Environment in Workplace*.

The Executive Committee (EC)

The EC shall be composed of a cinque-partite body, with equal representation of government, employers, employees, affected workers/patients and experts/academics, totaling no more than 15 persons, which the Director of the Institute serving as the Secretary of the EC.

Regarding the administrator, the Director of the Institute shall serve a two year term and may be reappointed.

The Power and Authority of the Institute

The Institute shall be mandated to assume the roles and authority as follows:

1. To conduct inspection, investigation, interviews, survey and studies, fact-finding or seize any documents or materials as evidence for verification or to ensure proper protection of occupational health and safety and environment in workplace.
2. To conduct official enquires, issuing official call for individuals to appear before a panel of enquiry, and to answer and/or clarify matters or points of concern.
3. To seize, confiscate or auction off assets or property of employers who refused to pay due compensation.
4. To conduct on-site inspection and issue warnings to the owner of a workplace, or issue any official orders to correct any situation which may invite accident or cause disaster.
5. To receive reports of accidents or emergency health and hazardous cases, conduct investigation, enquiry and file case reports on any incident or to record any possible accident, which may occur at a particular workplace.

In case an official has issued any orders or warnings on any matter, if a workplace owner or operator refuses to comply with the orders or warnings, the Director of the Institute shall report to each and every competent agency to take actions to the fullest extent of the penalty as prescribed by the law.

- Alternative 2: A compromise version of the bill

The *Draft Institute for the Promotion of Occupational Health and Safety and Environment in Workplace*, as proposed by the Ministry of Labour to the Cabinet for approval is the work of the Drafting Committee appointed in 2002 and chaired by the former Deputy Minister of Labour, Ms. Laddawan Wongsriwong, with the following core content:

1. The Institute for the Promotion of Occupational Health and Safety and Environment in Workplace shall neither be a public company nor public organization, nor a private agency (being non-profit), but it is a type of Public Corporation (PC), in which every employee (from the Director, as the highest administrator, down) are employees of the PC and not civil servants.

2. The Institute and the Ministry of Labour shall work in collaborative ways. Although the Institute is an independent organization it is still under the supervision of the Ministry of Labor, through the Department of Social Welfare. It means that the Ministry still carries out its mission on safety at the workplace along with the Institute. For example, on Safety Inspection, the Institute shall focus on preventive measures, giving advice or recommendations for the workplace owner or operator to correct the situation, while the Ministry of Labour officials still have the legal authority to conduct on-site safety inspection as required by law.

3. The administrative structure of the Institute is divided into two parts:

- a) Administrative and regulatory functions of the Institute is the part called “*the Administrative Committee*” for the *Institute for the Promotion of Occupational Health and Safety and Environment in Workplace*. This committee shall be composed of seven Committee Members each representing the employers, employees, government (competent agencies) and academics/experts on OHS.
- b) Operations Personnel and Staff, who provide various services of the Institute.

4. The Institute shall serve and function as a comprehensive system with regards to the admin-management of the occupational health and safety and environment in the workplace, ideally a one-stop service type of agency, which includes:

- *Prevention:* Activities shall focus on research, studies, trainings, on-site inspection, data & information services and consultancy, etc.
- *Medical Services:* The Institute shall provide examinations, treatment, diagnosis, consideration and screening for payment of compensation, rehabilitation program for work and environment-related patients.
- *Admin-Management of the Workmen's Compensation Fund:* This function shall be transferred to the Institute within the timeframe of 5 years, starting from the day the legislation is in force.

5. *Revenue of the Institute:* Most of the revenue shall be derived from the contributions made to the Workmen's Compensation Fund, basically to cover the wages and salaries of personnel and staff and expenditures based on the budget to be proposed and approved by the Executive Committee on an annual basis.

The conceptual approach for the admin-management of the Institute shall be focused on prevention, tackling the problems at the root causes instead of solving subsequent problems by paying compensation and benefits to workers affected by occupational health and safety accidents and other dangerous incidents occurring at workplaces.

Alternative 3: Another bill proposed by employers and some unions

One of the demands submitted by the successive Organizing Committees of the Annual May Day Celebrations (from 1995 to 2002), has been for the government to expediently work towards the promulgation of a law to establish an Institute for the Protection of Occupational Health and Safety and Environment in Workplace. In fact, it is completely in line with the Thai Rak Thai Party government policy on human resource development as well as on introduction of a social safety net, presented as its political platform during the election campaign in 2000.

Unfortunately, the Organizing Committee of the 2002 May Day Celebration, chaired by a Panas Thai-Luan, for some reasons, proposed to the government to adopt the Draft legislature on *the Establishment of the Institute for the Promotion of Occupational Health and Safety and Environment in Workplace*, the particular one drafted and endorsed exclusively by the representatives of the Labour Council and the

Employers' Council. It must be noted that this particular draft *does not involve or include the Workmen's Compensation Fund to be admin-managed by the proposed Institute, which is compatible with the Draft proposed by the House of Representatives Commission on Labour Affairs submitted to the government in January, 2003.*

The 2003 May Day Celebration was the first celebration since 1995 that the Organizing Committee of a national May Day Celebration failed to submit the demand for the establishment of the Institute for *the Protection or Promotion of Occupational Health and Safety and Environment in Workplace* to the government.

A last political development

On August 11, 2003, the Cabinet decided to approve in principle the Draft legislation on *the Establishment of the Institute for the Promotion of Occupational Health and Safety and Environment in Workplace Bill* and also the Draft legislature on *the Establishment of the Institute for Occupational Health and Safety and Environment in Workplace Bill* as proposed by the Ministry of Labour. Both drafts were subsequently passed on for final technical scrutiny and screening by the Council of State, with a specific instruction to:

- a) Combine the two drafts into one.
- b) Take into account the comments compiled by the 7th Scrutinizing Committee (Legal Experts) on the possible merging of the two drafts, which were submitted to the Cabinet.
- c) Integrate the admin-management functions and services on occupational health and safety to be one unit or agency under the same legislature.
- d) Take into account the recommendations of the National Social and Economic Advisory Council.
- e) Take into account the comments and/or concerns of concerned government agencies.

Afterward, the newly re-formulated draft worked out by the Council of State shall be forwarded to the *Coordinating Committee of Legislative Affairs of the House of Representatives*, prior to the final submission to the House.

The Cabinet also acknowledged the comments and recommendations of the *National Social and Economic Advisory Council (NSEAC)* on the *Draft Establishment of the Institute for the Promotion of the Occupational Health and Safety and Environment in Workplace Bill* and subsequently forwarded them to the Ministry of Labour for due

consideration. Afterward, the Ministry of Labour shall compile and prepare a report on actions taken based on the said comments and recommendation and submit it to the NSEAC. In addition, the Ministry of Labour shall publicly disclose the rationale and justification for the actions taken as required by Section 17 of the *National Social and Economic Advisory Council Act, 2000*.

Also, the NSEAC had proposed its comments and recommendations on the Draft legislation proposed by the Council of Thai Industries as summarized below:

1. The NSEAC agreed to the idea of submitting the Draft *Establishment of the Promotion of Occupational Health and Safety and Environment in Workplace Bill* and to expedite the process of establishing such a national institute as an independent agency under the supervision of the state with an effective and efficient admin-management.
2. The fact that the Workmen's Compensation Fund is currently admin-managed by a state agency, with relative efficiency, the NSEAC thus deems it appropriate to delete Section 6 (3) of the Draft formulated, proposed and submitted by the Ministry of Labour.
3. The Workmen's Compensation Fund should not be integrated as part of the proposed Institute as stipulated in Section 41 of the Draft *Establishment of the Promotion of Occupational Health and Safety and Environment in Workplace Bill*. The revenue of the Institute should come from government subsidy, annual revenue earned from the interest of the Workmen's Compensation Fund as required by law, including the professional fees or service fees charged by the Institute.
4. Regarding the admin-management of the Institute as stipulated in Section 14, the composition of the *Executive Committee* should be internationally recognized tripartite in structure with equal, proportionate representation, while the *experts and academics should be subject to a nomination and screening process and shall only provide advice to the Executive Committee*.
5. Regarding the power and duties of the Institute as stipulated in Section 27, the Institute should have the main mission on technical or academic affairs by consolidating other units with the same or similar functions or redundant service or overlapping responsibilities into one unit under the Institute.

6. The Institute should be mandated to set rules and regulations, law enforcement procedures, and legal standards on occupational health and safety, but itself not being a law-enforcing agency. Thus, the NSEAC deems it appropriate to delete Chapter 5 totally.

Regarding the Draft *Establishment of the Institute for the Promotion of the Occupational Health and Safety and Environment in Workplace Bill*, the core content is outlined as follows:

1. The “*Occupational Health and Safety and Environment in Workplace*” is defined as *any act and/or working environment free from any probable cause of danger, hazard, accident, work and/or environment-related illness or may cause any nuisance due to work being performed or anything related to the work performed in a workplace.*
2. The establishment of an institute called “*Institution for the Promotion of Occupational Health and Safety and Environment in Workplace*”, shall be considered a state agency, which is neither a bureaucratic unit nor a state enterprise according to the law on budgeting or any other laws, having a legal entity as a juristic body under the supervision of the Ministry of Labour through the Department of Social Welfare.
3. The fund established under the auspices of the Institute called “*the Occupational Health and Safety and Environment in Workplace Promotion Fund*” shall serve as a revolving fund and expense fund for the operations of the Institute.
4. A committee shall be formed and called “*the Committee of the Institute for the Promotion of Occupational Health and Safety and Environment in Workplace*” mandated to supervise the operations of the Institute.
5. Penalty shall be imposed on anyone who fails to act in full compliance with this Act.
6. The current *Occupational Health and Safety Institute* under the supervision of the *Department of Social Welfare and Labour Protection* shall be transferred to be part of the proposed *Institute for the Promotion of Occupational Health and Safety and Environment in Workplace*. Also, the new Institute shall be provided with a budget to be allocated from the Workmen’s

Compensation Fund until the Office of Workmen's Compensation Fund (currently under the supervision of the Social Security Office) and is to be completely transferred to come under the auspices of the new Institute within a timeframe of 5 years starting from the date this proposed Act is in force.

After the long and complicated process the *Draft Establishment of the Institute for the Promotion of Occupational Health and Safety and Environment in Workplace Bill* has how a core content as outlined below:

1. Revocation of Chapter 8 of the Labour Protection Act, 1998.
2. In enforcing the Act in total or in part, exceptions shall be made to certain, specific or well-defined types of employers by virtue of the Ministerial Rules and Regulations.
3. Employers or owner of any workplace are required by law to arrange and maintain working conditions and/or working environment in such a way that it is safe and hygienic as well as to supervise, promote and support any work performed by employees, so that it is free from accident or work and/or working environment-related illness.
4. Any organization or agency with legal status of a juristic person is entitled to apply for registration with the authority, so that it can provide services regarding occupational health and safety and environment in workplace, involving taking measurement, weighing, inspection, testing, risk assessment, including promotion of OHS and Environment in Workplace.

Regarding the qualifications of such an entity entitled to proper registration, the registration process and procedures, revocation of registration, registration fee, service-rendering methods shall be in full compliance with the criteria, methodologies and conditions as set forth in the Ministerial Rules and Regulations.

5. The Minister shall have the power and authority to issue Ministerial Rules and Regulations, setting the minimum standards of practice for employers in admin-management of occupational health and safety and environment in workplace, including issuing Ministerial Announcement of the fees, registration, permit and/or license within the limit as set forth in this Act.

6. The National OHS and Environment in Workplace Committee shall be formed with the structure as outlined below:

Permanent Secretary of the Ministry of Labour.....	(ex-officio) Chairperson	Seven
democratically elected representatives of employers.....	Committee Members	Seven
democratically elected representatives of employees.....	Committee Members	Five
qualified experts or academics appointed by Minister of Labour.....	Committee Members	
Head of the Office of the National OHS and Environment in Workplace Committee		
Serving as.....		
Committee Members & Secretary		
Totaling 21 members.		

The Committee has the power and duty to offer comments and recommendations to the Minister on matters concerning policy, action or implementation plans or measures for OHS and other power or duty as prescribed in the law or the Ministerial Rules and Regulations.

7. There shall be an establishment of the Office of the National OHS and Environment in Workplace Committee.
8. There shall be an establishment of “the OHS and Environment in Workplace Fund” to be admin-managed by the National OHS and Environment in Workplace Committee.
9. The Office of the National OHS and Environment in Workplace Committee shall be set up at the Department of Social Welfare and Labour Protection with power and duty as prescribed by law or Ministerial Rules and Regulations.
10. Setting controlling and/or supervisory measures, and practical guidelines on OHS and Environment in Workplace.
11. The Director-General of the Department of Social Welfare and Labour Protection, Ministry of Labour, is fully authorized to issue orders to seize, confiscate and auction off assets or property of any employer, who is not capable of paying for necessary expenses for the improvement or correction of the working conditions or working environment of the workplace,

which may cause accident, OHS incident, hazard or danger to employees.

12. The employers shall pay compensation for lost income of the employees at an equal amount to the wages or benefits entitled to employees throughout the period when the operation has to be stopped or the production has to be closed down as ordered by the competent official(s).
13. Any employer, employee or concerned persons are entitled to file an appeal against the orders issued by the authority to stop any act in violation of this Act, or in defiance of the orders to make improvement or correction of the conditions and environment or to act correctly as instructed by the Director-General. The DG and provincial governors are fully authorized to impose fines on any violators of this Act.
14. Penalty shall be imposed on any employer or any other person who violates or acts in defiance of this Act.

After all this it is completely unclear, how and when the reform will continue. The bill is again back to the Ministry of Labour for reconsideration.





Finally some information about the 10 years immemorial of the Kader toy factory accident which was the origin of the reform movement. The Organizing Committee of the 10th Anniversary of Keder Factory Fire is composed of representatives from various organizations, including:

- Network of NGOs working on labour issues.
- Thai Labour Solidarity Committee
- Council of Work and Environment-Related Patients Network of Thailand
- Others

These organizations jointly organized a commemorative seminar in remembrance of those workers who died in the historic tragedy, as well as to assess the current state of occupational health and safety. In addition, the commemorative exhibit was also organized for public viewing at the October 14 Memorial Monument on Sundays April 20 and 27 and on May 4 to coincide with the “May 4 Massacre” commemorative event.

The same exhibit was also part of the activities organized during the National Safety Week sponsored by the Ministry of Labour during May 9 – 11, 2003.

To pay respects and to commemorate the tragic death of the mostly woman workers at Kader toy factory, a memorial service was solemnly organized on May 10, 2003 at the spot where the factory once stood and was totally burned to the ground, in Nakorn-Pathom province.

The 10th Anniversary of the Kader factory fire, where the highest casualties of workers in the world was recorded as 188 dead and 469 injured, was marked by the presence of the Minister of Labour, who came to preside over the memorial service. On that occasion, the Organizing Committee seized the opportunity to submit a set of written demands to the Minister of Labour as itemized below:

1. Calling on the government to expedite the process of submitting the Draft Establishment of the Institute for the Protection of Occupational Health and Safety and Environment in Workplace Bill (the workers' version drafted by the labour coalition) without further delay.
2. Urging the government to support and allocate adequate budget for the construction of a Kader Fire Memorial Monument to remind people of the occupational health and safety issue and conditions faced by millions of worker.
3. Demanding the government to establish a special fund to render assistance and benefits for the families of those who died and were injured and still need rehabilitation programs and social services due to the tragic consequences of the Kader Factory Fire.



VII. Re-opening of the Thai Labor Museum, the Museum of Workers' Dignity



After having been closed for renovation and improvement for 3 years, the museum was finally re-opened and was scheduled to inaugurate on Sunday, December 7, 2003. Activities were organized to mark the occasion, billed as a “Street Festival for the Re-Opening of Thai Labor Museum”. Hundreds of people showed up at the grand opening, which included trade unionists, representatives of various labour organizations, NGOs working on labour issues, concerned agencies, mass media and committed individuals as well as honoured guests from international organizations. Notably among the distinguished guests were representatives from the Head Office of the Friedrich Ebert Stiftung in Germany, the ILO Sub-Regional Representative, and country representative of the American Center for International Labor Solidarity (ACILS). The opening was presided over by the Deputy Prime Minister of Thailand, Dr. Bhokin Phalakula, and honored by the presence of the Chairman of the House Commission on Labour Affairs, a former Deputy Minister of Labour, Senators and Members of the National Human Rights Commission.

The museum itself is a result of close collaborative effort made by the Thai labour movement and the Friedrich-Ebert-Stiftung of Germany.

The Origin and Background of the Thai Labor Museum

Thailand is a country with centuries long history, rich in cultural heritage and blessed with diversified ethnic groups who all have contributed to the advancement of the socio-economic development of the country. Unfortunately, Thai history tends to neglect the need to record and pass on the hard-earned lessons of and contributions made by certain groups in a fair and equal manner. It is a known fact that only the elites, the ruling class, and some select professions have been praised as making more meaningful contributions than other groups, which often are the marginalized and underprivileged multitude of people – the majority of the population. The case in point is the millions of workers, whose history, artistic and cultural traditions have been overlooked and neglected for so long.

The progress and the accumulation of wealth of the nation could never have been separated from the history of how workers have created the national wealth. Simply because during every step of the national development process, a multitude of workers had to sacrifice their blood, sweat and tears, through sun and rains, days or nights, under the tunnels and on top of sky-scrapers; the workers were always there working for the progress of the country. It is ironic that labour has been so vital to the existence and advancement of the country, but their history have virtually been left undocumented and never entered into a proper page of standard history textbook or left to be felt as something mysterious or almost completely forgotten by the mainstream historians.

Thus, there is only little space spared for the historians to tell the tales of workers, so that the public at large may learn something meaningful about the labour side of their history, needless to say about any praise and respects for workers. It would have been lucky for an established mainstream historian to mention the accomplishment or achievement of workers in the nation-building part of history, as it actually happened. This is essentially why the workers still are categorically treated as the lowest among the lower social strata.

This is why some members of the labour movement, who are aware and conscientious of this fact, decided to engage and work in a collaborative manner with NGOs working on labour issues, committed academics, historians and archivists. Subsequently, on December 1, 1991 they organized a consultative forum at the meeting room of the FES-Bangkok office. As a result, the meeting adopted a resolution to

establish a Thai labour museum to house historical evidence and artifacts of the labour movement so that the public and younger generations may learn about the history and development of Thai labour and its' movement. With concerted efforts and collective commitments from all parties concerned, finally the small but historic one-storey building became the site of the first Thai labour museum as well as the first one of its kind in the whole of Southeast Asia. The almost forgotten structure itself has a rich history connected to it. It once served as a railway police station, complete with a lock-up inside and later as the office of the State Railway Enterprise Labor Union during the era of anti-dictatorship struggles waged by workers in Thailand.

It was an abandoned building for many years before it was transformed into a compact labour museum, with the labour of love and commitment from volunteers from the labour movement and support from both local and international labour organizations. This is now a house of history to tell stories of labour and contributions of the proletariat, a true voice of workers from the far and near past.

After it had opened its doors to the public for a number of years, the friends, supporters and staff of the museum began to feel that there was room for improvements, both in content and format of the exhibits. It was deemed necessary to temporarily close the museum for renovation and improvements. To achieve the objective, FES decided to support the project, both in technical and budgetary matters.

The Aims and Objectives of the Thai Labor Museum

1. To exhibit the origins, history, developments, way of life and the types of work performed by the workers in different eras.
2. To serve and function as a clearing house for data and information on labour studies, a center for dissemination of facts and figures, references and knowledge on the history of labour in Thailand.
3. To serve as a public library, specialized in labour history and development, a house of collections of audio-visual materials for research and references as well as permanent and special exhibits on display for public viewing.
4. To house the rare collections of labour heritage, an art and cultural center for workers or a workers' mini-cultural palace.
5. To be the central forum for dialogues and public discussions on labour issues with compact facilities for mid-size conferences and training programs and activities.

Prime Location of the Museum

The Thai Labor Museum is located at the historic site on the property of the State Railway of Thailand, near the Makkasan railway station. It must be noted that the building itself has its own stories to tell with pride and dignity.

When it served as the office of the State Railway Enterprise Labor Union, one of the most progressive and militant unions during the time when Thailand was under the iron-fist rule of the dictatorial military regime, the building was often subject to arbitrary searches conducted by the authorities and was sometimes raided by the police. Due to its militant role in the struggle for labour rights, social justice with anti-military dictatorship stance, the union was often under threats from the military government as well as military-backed civilian regimes. Whenever there was a military coup, the building was almost always placed under the state control or seized from the State Railway Enterprise Labour Union. Thus, the building is a bona- fide testimony to the past struggles of Thai workers in its own right and by its own merit.

The Collections and Exhibits

The Thai Labour Museum has some of the most unique collections of museum-quality pieces and historical evidence of labour history and the struggles for labour rights, which are on display in a total of seven exhibition rooms.

Exhibition Room 1

Slave Labour, Conscripted Labour, Forced Labour and Bonded Labour serving as the Foundation of the Thai Feudalistic Society.

This first and introductory exhibit tells the origins and history of labour development since the time of the feudal lords and slave owners, formally known as the “Sangkhom Sakdina” (literarily means Feudal Society). At the time, exploitation of labour took the forms of slave labour, conscripted labour and forced labour, being engaged in all modes of production to produce and feed the whole population. They were productive in agriculture, construction and building of temples, palaces, digging canals, waterways and irrigation channels and paving roads. In times of war, these forced labourers were also conscripted into fighting forces to defend the country or to wage war against neighboring city-states.

In addition to the origins of labour, the exhibits on display also tell the transitional period, changing from the traditional feudalistic mode of

production to the production-for-trade and commerce as demanded by the so-called new and modern economy. Essentially, this was the turning point of labour history in Thailand, when it actually gave birth to the labour-for-hire or wage-earning labour in the Kingdom of Thailand.

Another ironic marking of the new era was the signing of the trade treaty with Great Britain in 1855, commonly known as the Bowring Treaty, which forced the opening of the Kingdom to foreign trade. A copy of the historic treaty is on display as one of the highlights of this exhibit.

Exhibition Room 2

Chinese coolies, the first wave of immigrant proletariats to Siam

This exhibition relates the stories of the waves of migrant workers from China and how the pioneers of the labour force came to the Kingdom, how they lived and survived and what significant role they played during the first and initial phase of the trade and economic development of the country.

Exhibition Room 3

The labour development and the national reform process

The national reform introduced during the reign of King Rama V was recognized as one of the most significant transitional periods of Thai history. The brilliant monarch was hailed for his policy and strategies adopted to lead the kingdom to be internationally recognized as highly civilized and respected by the Western, colonial powers. This second exhibit reveals how the history unfolding on the reform process and how the labour force played an integral part of the national reform.

Exhibition Room 4

The workers and the first democratic movement-which resulted in the changing from absolute monarchy to a constitutional monarchy in 1932

The changing of the political system, which occurred on June 24, 1932, is considered to be an historic turning point of the modern political history of Thailand, changing the centuries-old feudalistic system of absolute monarchy to a constitutional monarchy. The basic democratic ideals subsequently began to institutionalize as the solid foundation for future political development and progress instilled by the Citizen League, the forerunners of the democratic movement in the Kingdom.

Meanwhile, major changes came to play in the life and struggle of workers in the Kingdom. This particular exhibit reflects the different conditions faced by workers before and after the changing of the political system.

Exhibition Room 5

From WW II to the Cold War

The exhibit in this room narrates the history of Thai labour during the time when Thailand was influenced by two periods of international events: one, when Thailand was drawn into World War II, and two, when the affects of the Cold War began to be felt by Thai society. The exhibit shows the viewers the living conditions and social settings in Thai society and how the workers were directly affected by the two world events.

Exhibition Room 6

From the October 14 up-Rising to the Economic Crisis

The largest among the exhibition rooms at the museum, it offers detailed sequences of political developments immediately after the conclusion of the October 14 Popular up-Rising in 1973 to the present. Thus, this exhibit provides a panorama-like perspective of the events unfolding before the eyes of audience, with special highlights on the contributions made by trade unionists and the labour movement as a vital social force. The new-found freedom of association, freedom to organize and to voice their grievances as guaranteed by the revised constitution at the time is highlighted. The exercises of basic democratic rights during the short span of democracy boom are the main features of the exhibit, with special highlights on the roles and the struggles waged by woman workers in Thailand, child labour, public transport drivers, professional boxers, workers in the informal sector and many others.

Exhibition Room 7

Chitr Phumisak Art & Culture Exhibition Room

Named in honour of the “Cultural Champion of the Working Class”, Chitr Phumisak, this particular exhibition room was conceived as homage to the cultural hero of the progressive revolutionary movement in Thailand. His creative portfolio includes movement songs and music composed in support of the working masses. Some of them were very popular at the height of the popular struggles in the early 1970’s, with some of them becoming the new national anthems of the popular movement.

The highlight of this special collection is on the cultural and fighting spirit of the workers' movement, the sacrifices, pride and dignity expressed through poetry, song and music. Focus is on songs written for the workers' struggle as well as the cultural contributions to the labour movement. The unique feature of the collection is an interactive program billed as "Let's sing the workers' songs", where visitors can learn how to sing labour movement songs at a mini Karaoke **corner**.

Other services offered by the Thai Labor Museum

In addition to the conventional functions generally expected from a small museum, the museum also offers some practical services for trade unionists and labour organizations to take advantage of. Despite the limited space available, due credits must be given to the technical support grant by FES in the redesigning, and innovative ideas in making every inch functional inside the museum.

Suphachai Sri-Sati Conference Room

This conference room is named after the former labour activist, Suphachai Sri-Sati, who was executed by the military Dictator, Gen. Sarit Thanarath, on charges of communism, sedition, and a list of other trumped-up charges. On July 6, 1959 Mr. Suphachai Sri-Sati was summarily ordered to die by a firing squad by virtue of a dictatorial decree, Section 17 announced by the junta, who seized the state power by way of a military coup.

This conference room is meant to function as a forum for dialogue for trade unionists and labour leaders on a regular basis. In addition, other labour organizations and groups also regularly make reservations to use the facilities for gatherings, meetings, seminars and training.

The fee for the meeting room is quite reasonable, at a rate of 500 Baht for one-half day booking and 800 Baht for a full day

function. Even food and beverage are also served at special friendship prices.

Computer Training Center for Workers

This training center is set up to train trade unionists to be computer literate, knowing how to operate basic programs for their own practical needs. Any member of the public is also invited to train at this center at a small fee. The main objective is to design and offer training courses to meet the particular needs of each labour organization.

The courses offered by the Thai Labour Museum are basic computer courses and special courses of trade union administration, database, software programs for membership registration and membership drive, campaign materials, union publications, and PR materials, etc. To sign up for courses, a small fee is required with a discount rate for movement work.

Professor Nikom Chandravitun Library

This library is dedicated to the late Professor Nikom Chandravitun, the most respected and committed labour expert of his time. In praise and loving memory of the “Workers’ Professor”, who had devoted this lifetime work to the cause of defending workers’ rights and struggles for social justice, including introduction of social security system to Thailand and other benefits being enjoyed by millions of workers today.

This library houses special collections of his work as well as other important titles most relevant to labour problems and issues, ranging from books, texts, articles, research and studies, documentation, and photo collections on labour history and development. The unique feature is the collection of posters produced by labour movements from around the world.

Mobile Labour Museum

The mobile unit is part of the Thai Labour Museum designed and assembled project to display traveling exhibits, featuring exhibits and collections for on loan arrangements to

trade unions and concerned organizations for public display. If mutually agreed, the museum may be requested to design and produce a special traveling exhibit on some occasions for labor groups or unions, which do not have the expertise to assemble their own traveling or public exhibit.

Thawat Rithidej Audio-Visual Room

Named in honour of an early days intelligentsia, passionately called the “*First Workers’ Hero*” in the Thai labour history, the Thawat Rithidej Audio-Visual Room has small but rare collections of tape recordings of important seminars, discussions, labour movement songs and music often called “Songs and Music for Social Changes”.

The public is welcome to experience the cultural relics of the past in this room.

Publications on Labour

Books and publications on labour issues are on sale at one corner of the museum.

Campaign T-Shirts

For campaign T-Shirt collectors, the Thai Labour Museum has the best collection of labour campaign items in the country. Some of the kinds of T-Shirts designed and made in limited editions for different campaigns and struggles are on sale for anyone interested in buying for a good cause.

Labour Movement Tapes and CDs

Works by top recording artists and leading bands committed to the cause of workers’ struggle are available to visitors. Many collections of tapes and CDs on the “Songs and Music for Life” or “Songs and Music for Social Change” are on sale at the Thai Labour Museum at special discount prices.

Museum hours

The Thai Labor Museum is open 5 days a week from 10.00 am – 4.30 pm, and is closed on Monday and Tuesday. For group visitors, kindly inform the museum in advance to make

special arrangements for your convenience. A special guide shall be assigned to such a group.

Contact the Thai Labour Museum at:

503/20 Nikom Roth-Fai Makkasan Road,

Rajthavee, Bangkok 10400

Tel. & Fax (66-2) 251-3173

Annex

- A. 2003 implementation plans for the six working groups of the Thai Labor Solidarity Committee.**
- B. Demands submitted on the 2003 International Woman's Day (March 8th).**
- C. Draft labour legislative amendment bill proposed by the Labour Organizations of Thailand.**
- D. 2003 economic and labour data .**
- E. 2003 minimum wage scale and enforcement in provinces.**

A. 2003 implementation plans for the six Working Groups of the Thai Labor Solidarity Committee



Work Group 1- Key Issues:

- *The Institute for the Protection of Occupational Health and Safety and Environment in Workplace*

Problem: The current state-run mechanisms for the protection of OHS apparently are not centralized, are fragmented and regulated and supervised by a number of diversified government agencies. This situation has resulted in inconsistency, inadequate and ineffective handling of OHS cases. Even when the case is reported and handled conscientiously by the concerned agency or competent officials, they are not capable of tackling the problems at the root causes.

Remedial Approach: It is imperative to establish an Institute for the Protection of Occupational Health and Safety and Environment in Workplace, which is mandated to function systematically and comprehensively. This institute shall be

adequately funded to provide a whole range of services, ranging from controlling, conducting investigations and/or on-site inspections, providing treatment and recuperation, offering rehabilitation programs, carrying out relevant research and studies aimed at tackling the problems in sustainable manners.

The Workmen's Compensation Fund must be transferred to be under the auspices and admin-management of the Institute, as a pre-requisite to provide a one-stop service type of system capable of meeting the needs of the workers.

- ***The Labour Relations Act***

Problems: The current labour relations legislature has been in force for almost decades, since 1975. It has proved to be irrelevant to the present state of labour development and problems faced by many workers, especially when employers tend to exploit the legal loopholes in the Labor Relations Act for their benefit at the expenses of employees. In fact, many workers have been unfairly and unjustifiably treated because of this outmoded and outdated legislature.

Remedial Approach: A new Labour Relations Act is urgently needed with specifically formulated core content for the provisions, taking into account the due respect for basic rights of workers, human rights and the core content of the relevant ILO Conventions.

- ***Unemployment Insurance System***

Problems: Currently laid off workers or dismissed workers lack guarantees needed to ease their hardship and suffering caused by termination of employment. This is obviously a social problem, but the existing Social Security System is not adequate to cover for their loss of income and/or any social safety net to accommodate their situations.

Remedial Approach: A new and innovative Social Security Decree must be promulgated to introduce an unemployment insurance system for the benefit of unemployed workers, serving as a form of urgently needed guarantee for the unemployed.

- ***Opposition to the series of 11 legislation (popularly known as "Selling-Out State Enterprises Laws")***

Problems: It is a known fact that the government had definite plans to liquidate most of the revenue-earning state enterprises to pay

back the huge loans received after the financial crisis in 1997 and after. The prime concerns expressed by the labour movement are at least two fold:

One, once any state enterprise is privatized, the state would lose complete control of the operations and the performance of the enterprise, especially those enterprises engaging in strategic infrastructures and vital public services, such as water supplies, electricity, public transport, etc.

Two, this series of legislation amounts to an open door to foreign investors to take virtually complete control of all the state enterprises, rendering opportunities for them to manipulate and direct the economic development of the country.

Remedial Approach: The whole series of 11 legislation must be revoked and do away with any attempts to sell out all the state enterprises as dictated by international financial institutions.

Work Group 2: Labour Protection

- ***Violations of Labor Rights***

Problem: Many workers find themselves in situations where their basic labour rights are infringed upon or violated in both private and public sectors.

Remedial Approach: Public awareness campaigns must be launched to reach out to as many workers as possible, so that they would be more conscientious of their labour rights against any possible infringement. Meanwhile, any current laws found to be unfair and unjust to the existence of workers must either be amended or revoked without unnecessary delay.

- ***Minimum Wage Structure and Provincial Minimum Wage Sub-Committees***

Problems: Many workplaces and enterprises still do not give annual raises to their employees and tend to wait for the official decisions and announcements made by either the Central Minimum Wage Committee or Provincial Minimum Wage Sub-Committees (PMWC). This has caused millions of wage earning employees great suffering and extra economic hardships. The acute and serious problem is that most of the Provincial Minimum Wage Sub-Committees do not consist of the genuine representation of workers. On top of this, these PMWCs do not have the real power and authority to decide on any wage adjustment. They can only

forward their opinions to the Central Minimum Wage Committee based in Bangkok.

Remedial Approach: At least, a two-pronged approach is needed:

One, the government must come up with a new wage scale and/or structure for different types of enterprises or workplaces.

Two, the nomination, screening and selection process for candidates or members of the PMWCs must be revised, improved and/or changed, while the new PMWCs shall be mandated to consider and decide on necessary minimum wage adjustment in their own respective province, based on a province by province basis.

- **Workers in informal sector**

Problems: Millions of workers employed in the informal sector have never benefited from any labour protection legislation. According to legal definitions, they are simply not qualified to have access to the Social Security System. Moreover, they have no guarantee of any form, while being exposed to many occupational health hazards and unsafe working environment in workplaces.

Remedial Approach: The government must take immediate steps in promoting and developing better labour protection schemes and benefits for informal sector workers, who make up the largest unorganized workforce in the country. In practical terms, they must be legally protected, have access to the social security system, and be entitled to the minimum standard occupational health and safety and environment in the workplace.

- ***Contracted and/or Sub-contracted labour***

Problems: Contracted and/or Sub-Contracted workers do not enjoy any job security or any welfare and benefits as given to regular or permanently employed workers.

Remedial Approach: The government and concerned agencies must set or change the rules and regulations, or sponsor legislative amendments, so that contracted and/or sub-contracted workers may be entitled to fair and necessary welfare and benefits and similar job security as regular workers.

- ***Section 75 of the Labor Protection Act, 1998***

Problems: The loopholes found in Section 75 of the Act are often taken advantaged of by many employers, who can arbitrarily order any worker to stop working or refrain from performing his/her tasks or functions for an indefinite period, while the law permits any employer to pay only 50% of the wage during such times.

Remedial Approach: The government must take steps toward legislative amendments, particular the Labour Protection Act, 1998, or issuing necessary Ministerial Rules and Regulations setting specific conditions for such ill-intent orders aimed at persecuting or forcing targeted workers to resign or to victimize any worker or trade unionist at will. The new rules and regulations must also set a definite timeframe for such discriminatory treatment of workers, if any.

- ***Foreign migrant workers***

Problems: The government tends to address this problem without due regards for the principles of human rights, tackling the problems at the end results. Meanwhile, local Thai workers look at them as foreign workers taking away jobs from local people or cheap labour competing in the job market.

Remedial Approach: The government and competent agencies involved must resolve the problems systematically with a humanitarian approach based on due respect for human rights.

Work Group 3: Quality of Life

- ***HIV/AIDS and Workers***

Problems: Workers have not yet acquired adequate and proper understanding of HIV/AIDS. Under these circumstances, many employers often force job applicants to take an HIV/AIDS test prior to qualifying for access to the social security system. It is unfortunate that there appears to be no standard guidelines put in place to ensure that anti-retro viral medicines of standard quality are to be dispensed to HIV/AIDS worker-patients.

Remedial Approach: It is the primary duty of the state to carry out serious public awareness campaigns to disseminate knowledge and understanding of the problems as widely as possible. In addition, the Social Security Office must set proper guidelines and standard practice in dispensing anti-retro viral medicines to HIV/AIDS

patients. This undertaking must include revocation of screening procedures imposed upon any job applicants both in private and public sectors as well as state enterprises.

- ***Child Care Centers***

Problems: In most cases, working parents do not have a suitable working schedule to spend enough time with their children and giving care and attention to their young, simply because they have to work in shifts or rotating shifts. The situation becomes worse when they have to work overtime. This is basically why many of them have to send their young back to their home village to be cared for and raised by their grandparents or relatives in rural communities. This poses some potential social problems for all parties concerned.

Remedial Approach: The competent government agencies must set up enough child-care centers and adequate facilities in industrial areas to be admin-managed by all concerned parties in a participatory manner, ensuring that such facilities and services are responsive to the needs of parent-workers.

Work Group 4: International Campaign

- ***Human Rights-Infringing Free Trade***

Problems: The so-called free trade propagated by Neo-Liberalism promoters and globalization have great influence on the livelihood of workers, forcing workers to work harder, put in longer hours while earning less.

Remedial Approach: Rigorous campaigns must be launched to make the public aware and understand the true nature of free trade and free flow of investment capital from TNCs. This is why a broad-based coalition must be formed to fight against rights-infringing free trade propagated by the school of neo-liberalism and global investors.

- ***Ratification of ILO Conventions, No.87 and 98***

Problems: The fact is that the right to freedom of association and the right to organize and collective bargaining are not fully recognized by the state or government, causing great difficulties in conducting collective bargaining or in organizing a labour union.

Remedial Approach: The government must ratify ILO Conventions, No. 87 and 98 and other core conventions recognized and endorsed by international community.

Working Group 5: Political and legislative mobilizations

- ***Constitutional amendment and amendments to organic laws***
Problems: It is unfortunate that some sections of the current Constitution and organic laws are still restricting basic democratic rights and infringe on labour rights. For instance, to qualify as a political candidate to stand in the elections, both at national and local levels, one must earn at least a Bachelor degree, or for anyone who wishes to sign a petition to propose a bill or to recall any corrupt politician, each signature must be accompanied by a copy of Citizen ID Card and the House Registration.

Remedial Approach: Constitutional amendment is needed as well as amendments to some organic laws, which have a number of rights-infringing provisions.

Work Group 6: Internal problems of labour movement

- ***Reunifying the labour movement***
Problems: It is an undeniable fact that the Thai labour movement lacks a unified stance and strength. Having been in a state of weakening for years, it is extremely difficult for the Thai labour movement to remain a dynamic fighting force for the rights and benefit of workers.

This is why many problems of workers are not being effectively addressed. Each labour council seems to cling to its own ideas and position, mobilizing its own followers towards their own chosen directions. The fragmentation of the movement is being wedged and split-up further by the undermining tactics and strategies adopted by the government. Very often, favours and vested interest are offered by the government or employers, both directly and indirectly, to some “sold-out” trade unionists, or opportunists posing as labour leaders, for example, personal gains can be offered both in cash and in kind, or even a position in a Tripartite Structure or body.

Remedial Approach: A common commitment and conscience must be shared by those who are determined to revive the labour

movement or to revitalize labour unions and their rank-and-file members. The forms of organizing structure may have to be changed as well. To begin with, changes must come from bottom-up, with unions consolidating into federations first and make a federation strong and dynamic enough to make a difference. Later on, the federations can then associate with the best labour council or bona fide national center respectively.

- ***The Tripartite System***

Problems: The current criteria set for selecting candidates or representatives to any Tripartite Body do not genuinely involve the rank-and-file in the decision-making process. Sometimes they are not involved in the casting of ballots. It is quite disheartened or even discouraging when “Block Voting” was used to manipulate the results of the supposedly democratic election process. This is why some of the so-called “workers’ representatives” can not be truly recognized as claimed.

Remedial Approach: Criteria and qualifications of candidates must be reviewed, revised and changed if necessary. Also crucial is the election procedure or methods for the new Tripartite Committee or structure, ensuring that the movement may have true representation in all levels of the tripartite committee. To achieve this objective, the election process must be free and fair.

B. Demands submitted on the International Women's Day, March 8th



The 6-point demands submitted to the government in 2003 are summarized below:

1. The government must support any effort to push or to lobby for the passing of the *Establishment of the Institute for the Protection of Occupational Health and Safety and Environment in Workplace Bill*.
2. The government must take steps in making amendments to Section 39 of the current Social Security Act, with regard to the contribution required from insured but unemployed workers. Currently, any unemployed worker, 6 months after losing a job, if he/she wishes to keep the status of an insured person in the Social Security System, he/she is required to pay 2 out of the 3 parts of the total contribution (one part employee, one part employer and one part government). This is illogical and extremely unfair to the unemployed.

He or she should only pay his/her share (one part only) of the contribution until he/she is employed again.

3. Extending social security benefits to cover those employed in the informal sector, i.e., Social Security Act, Labour Protection Act, etc. must be amended to provide such extended coverage.
4. The Office of Social Security Fund must set clearly defined criteria and standard procedures for dispensing anti-retroviral medicines (ARV) to workers, who are HIV/AIDS patients, instructing all hospitals and clinics to render services with the same standards and humanistic approach.
5. Necessary mechanisms must be installed to develop and promote meaningful participation from woman workers, actively taking part in the decision-making process or in the policy-making process at all levels.
6. The government must expediently set up an Unemployment Insurance Fund to serve as a guarantee for the unemployed, who may be dismissed or laid off or his/her employment may be terminated due to relocation of production bases and facilities for higher profit to be made from cheaper labour in foreign countries. Another cause may be due to employers' decision to close down operations or close the production lines. The employers must contribute to this unemployment insurance fund.

C. 2003 Economic and Labor Data

1. Economic Data

Economic growth.....	6.70 %
Marked growth.....	Manufacturing, construction, logistics, retailing, hotel & restaurants, real estate.
Major Threats.....	Higher oil price, world <u><i>economic trends, exchange rate, etc.</i></u>

Source: the National Economic and Social Development Board.

2. Structure of Labor Force

As a result from a survey conducted in September 2003 by the National Statistics Office, the labour force is structurally divided as follows:

Total population.....	64.11 Millions
Labor force.....	35.09 Millions (54.7% of Population)
Not in labour force.....	13.35% Millions (20.8% of Population)
Under 15 Years Old.....	15.67% Millions (24.5% of Population)

The labour force was divided into 3 major groups as outlined below:

1. Being employed.....34.33% Millions or 97.8% of total
Workforce:-
Employment rate: Male.....98.1%
Female.....97.5%
2. Being unemployed.....630,000 persons (out of job and
those willing and ready to take jobs)
Unemployment rate: Male.....1.8%
Female..1.9%
2. Seasonal workers (semi-unemployed)... 130,000 persons (currently
not productive or not employed pending seasonal opportunity,
mostly in agricultural sector) or 0.4% of population.
Seasonal unemployment rate:
Male.....0.2%
Female.....0.6%

3. Employment

Based on the employment survey conducted in September, 2003, the labour force was employed in various sectors as categorically divided as:

Total labour force.....	34.33 Millions
Male.....	19.13 Millions
Female....	15.20 Millions
Agricultural Sector.....	14.44 Millions or 42.1% of employed workforce
Male.....	8.39 Millions
Female....	6.05 Millions
Non-Agricultural Sector.....	19.89 Millions or 57.9% of employed workforce
Male.....	10.74 Millions
Female....	9.15Millions

Compared to the employment rate documented in the previous year (2002), there was an increase of employment as outlined below:

Agricultural Sector.....	620,000 persons.
Non-Agricultural Sector.....	930,000 persons. (from 18.9 Millions to 19.89 Millions)

Employment was up in transport/logistics, retailing, auto/motorcycle repair, personal and household products, etc. For these parts of the Non-Agricultural Sector alone, there was a marked increase of 440,000 jobs, documented as the highest rise in employment rate.

Hotel and restaurant sector is documented at 200,000 jobs.

Transport/logistics, cargo, being documented with 140,000 more jobs than previous year.

Real estate, rental and related sector was documented with an increase of about 50,000 jobs.

Construction sector provided about 30,000 more jobs.

Manufacturing sector was noted for employing about 20,000 more jobs.

Education sector saw no significant change from previous year.

Meanwhile, the employees working in public administration and those employed with mandatory social security schemes and benefits were streamlined with a drop of employment, losing about 60,000 jobs.

As for those employed in the agricultural sector, about 310,000 of them became unemployed. It simply means that the work force employed in the agricultural sector was reduced from 14.75 Millions to 14.44 Millions.

4. Unemployment

As of September, 2003, the figures on unemployment were documented as follows:

Total unemployment.....	630,000 persons	= 1.8 %
Male.....	330,000	=1.7 %
Female.....	300,000	= 1.9%

Compared to 2002 of the same period, there was a decrease in unemployment about 40,000 persons, with a break down of:

Northeastern Region.....	60,000 less unemployed
Southern and Central Region.....	10,000 less unemployed
Northern Region.....	30,000 more unemployment
Bangkok.....	10,000 more unemployment

Based on the above statistics documented in September 2003, the break down is:

Northern Region.....	2.7 % Unemployment
Bangkok.....	2.5%
Central, Northeastern & Southern...	1.4 %.

Points for Observation on Unemployment

Based on the September, 2003 Survey, the following are some of the interesting points to note:

Out of the total unemployed of about 630,000 persons, approximately 220,000 of them had never been employed before or just entering the job market, amounting to 34.9 %

Those previously employed....about 410,000 or 65.1 %.

Break down:

Agricultural Sector.....	130,000 persons
Non-Agricultural Sector.....	280,000 persons

Out of the Non-Agricultural Sector:

Break down:

Manufacturing.....	70,000 persons
Construction.....	70,000 persons
Wholesale/Retail, Auto/Motorbike Repair, Personal and household products.....	60,000 persons

Hotel & restaurants.....20,000 persons
Others.....the rest

Statistics on educational qualifications of the 630,000 unemployed persons can be shown as:

College & university graduates.....170,000 persons
High Scholl graduates.....100,000 persons
Junior High School graduates.....150,000 persons
Elementary School graduates.....100,000 Persons
Elementary school or lower.....110,000 persons

It must be noted that High School graduates and Elementary School graduates are in similar situation, with 100,000 of each group being unemployed.

E. Provinces and Minimum Wage in Force 2003

Minimum Wage	No. of Province	Provinces where minimum wage in force
1. 169 Baht	4	Bangkok, Nakorn-Pathom, Pathum-Thani, Samut-Prakarn and Samut-Sakorn
2. 168 Baht	1	Phuket
3. 167 Baht	1	Nonthaburi
4. 150 Baht	1	Cholburi
5. 148 Baht	1	Saraburi
6. 145 Baht	1	Nakorn-Rajsima
7. 143 Baht	3	Chiangmai, Pang-Nga and Ranong
8. 141 Baht	1	Rayong
9. 139 Baht	1	Phranakorn Sri-Ayudhaya
10. 138 Baht	2	Krabi and Ang-Thong
11. 137 Baht	3	Chacheong-Sao, Lum Poon and Sukhothai
12. 136 Baht	3	Khon Khane, Burirum and Petchburi
13. 135 Baht	17	Kanchanaburi, Karasin, Kampangeth, Chantaburi, Chumporn, Chainart, Trad, Nakorn-Panom, Narathiwat, Prachinburi, Petchburi, Rajburi, Song Khla, Singburi, Surat-Thani, Nongbua-Lumpoo and Uthai-Thani
14. 134 Baht	1	Nakorn-Nayok
15. 133 Baht	35	Chiangrai, Chaiya-Phum, Trang, Tak, Nakorn-Sri-Thammaraj, Nakorn-Sawan, Nan, Prachuab-Kirikhan, Pattani, Phayao, Pitsanuloke, Pichit, Phrae, Pathalung, Maha-Sarakam, Mukdaharn, Mae Hong Sorn, Yala, Yasothorn, Roi-Ed, Lopburi, Loey, Lampang, Sri-Saket, Sakorn-Nakorn, Satul, Samut-Songkram, Sra-Kaew, Suphanburi, Surin, Nong Khai, Udorn-Thani, Utaradith, Ubon-Rajthani and Amnraj-Chareon.

Remarks: The Minimum Wage in Samut-Sakorn was adjusted from 165 Baht to 169 Baht per day, equal to Bangkok, since August 1, 2003. It was due to collective bargaining engaged by the Coalition of Industrial Area Labour Unions of Omnoi-Omyai industrial districts, with the support of the Democrat MP of Samut-Sakorn and the House Commission on Labour Affairs.