

# THAILAND

By Voravidh Charoenloet and Somboon Srikomdokcare  
of the Council of Work and Environment-Related  
Patient's Network of Thailand (WEPT)

## **Social welfare in Thailand**

State-sponsored social welfare is a recent phenomenon in Thailand. After World War II, the government set up a welfare system for civil servants. It was very comprehensive with benefits extending to families and parents. It was a non-contributory scheme financed through taxation. The social security system came into being after a long campaign led by the trade-unions in the industrial zones and NGOs in the late eighties. The Social Security (the name of the government programme) was introduced in Thailand in 1990 and initially dealt with injuries outside the workplace. After the economic crisis of 1997, the scheme was extended to cover unemployment benefits. In 2011, it was expanded to cover “informal workers” through the adoption of Article 40 but only on a voluntary basis. The benefits given include compensation for income loss during the period of illness, disability and death and a lump-sum payment for the pension. But for medical treatment, informal workers, estimated at around 24 million persons in 2011, are covered by the universal health scheme.

Thailand's Social Security system is based on equal contributions from the three concerned parties, i.e. the employer, employee and the government for a total of 5.0 percent of the monthly wage. Payments from the program can be made for sickness, maternity leave, disability and death. For child allowance and retirement pensions, the employer and employee each contribute 3 percent and the government 1.0 percent. For unemployment benefits introduced after the 1997 economic crisis, the contribution is 0.5 percent from both the employer and employee and 0.25 percent by the government. In all, the employer and employee must pay 9.0 percent and government 2.75 percent in contributions to the social security fund.

The Workmen's Compensation Fund was established in 1994 on the recommendation of the International Labour Organization (ILO). It is related to injuries at work and covers medical treatment, compensation, disability and rehabilitation. By this Act, employers are responsible for accidents that occur in workplace and are solely responsible for contributions to the fund. The rate of contribution varies from 0.2 to 2 percent of the wage bill depending on the rate of accidents incurred by the industries.

### **Gap between legal provision and reality in Social Security and WCF payments**

(1) Coverage: At present, the social security system covers enterprises with less than 10 workers. In 2006, the number of these registered enterprises was 366,897. While it appears that the social security system has been a success in its coverage across the industries, Thailand's industrial structure is dominated largely by small and medium firms, creating problems of enforcement. Some small factories, especially those operating in the rural areas, may not be registered under Social Security. The Longan Drying Factory is one example of this. The factory was not registered under the Social Security and was thus not liable to pay compensation to the families of 36 workers killed there in an explosion in 1999. The families of the victims received compensation from the WCF but only after they mounted a campaign and their story made newspaper headlines. In a similar case a Burmese migrant worker, Nang Noom became permanently disabled in an accident at a building site. The woman was denied social security and WCF, because the company was not registered and had not paid its contribution. To obtain fair compensation, Nang Noom had to negotiate directly with the company for compensation. She was only able to get compensation with the help of NGOs.

(2) In 2010, the number of persons insured under Social Security was 9.7 million persons. This is a relatively small portion of the Thailand's labour force which is around 36.2 million out of a population of 65.3 million persons. This means that most of the working poor, such as the self-employed, informal workers, agricultural workers and peasants, are not covered. The national health insurance scheme, the "30 bahts health for all" populist policy implemented under the Thaksin administration, provides another alternative to those who have no access to health care. It is based on one's place of residency. In recent years, the scheme has been shown to have serious deficits and needs new sources of funding to achieve sustainability. The more well- to-do families will get private insurance.

The recurrence of economic crises and labour flexibilisation, as practiced by many companies, has led to a massive shift of workers from formal sectors to informal work sectors. This has created a new form of exclusion of workers from Social Security.

Apart from the Thai workforce, there are two million undocumented migrant workers, labouring in hazardous conditions in construction, fishery and on plantations. Of these, about 30 percent are registered by the Ministry of Labour (MoL) and receive temporary permission to work. These migrant workers, a majority of whom are Burmese, are acknowledged to be covered by the Labour Protection Act which provides for a minimum wage and equal treatment. But the law is not wholly enforced and they are usually paid about 20 percent less than Thai workers and not the minimum wage. Migrant workers are not entitled to Social Security benefits and the WCF, because of their illegal entry into the country. There is, however, an attempt by the Thai government to sign an memorandum of understanding (MOU) with the Burmese authorities to conduct verification of nationalities and issue passports. In regularizing these migrant workers, the policy is to extent Social Security to cover them in the future. The government also has a policy of compulsory insurance against the risk of an accident involving foreign migrant workers. Employers must get private insurance in this case. The question is whether such a policy can really protect the rights of migrant workers as private insurance companies are run on a profit-making basis. And if in future, these foreign migrant workers are covered by Social Security or the WCF, it should be clarified as to whether their rights will be portable, an important consideration because of their high labour mobility.

(3) Social Security tries to provide coverage for informal workers by providing a special provision for home-based workers to voluntarily insure themselves. The competitiveness of Thai industries in the face of growing international competition is such that most have adopted cost-cutting strategies which have led to the informalisation of the labour relationship. Home-based workers, estimated at around 527,430 in 2009, are an outcome of subcontracting by factories receiving contracts from the multinational firms. Subcontracting is extensively practiced in the exporting industries. Article 40 of the Social Security Law provides the possibility for home-based workers to be voluntarily insured. They would be entitled to similar benefits as formal workers with the exceptions of unemployment benefits and pension. However, these informal workers need to pay the two contributions to the programme, both the employee and the employer's contribution, to take part. This is viewed by the home-based workers

as a great financial burden and largely impossible because of their precarious work situation with low and irregular earnings. What home-based workers desire is to receive the minimum wage (a minimum guaranteed income), unemployment insurance and a pension. They are less interested in health care benefits as there is the universal scheme already in place. Thus, the Social Security option under Article 40 for home-based workers has been reformed to provide more benefits with lower contributions and with the state subvention attracting more insurers. But home-based workers are still not covered by the WCF's work-related injury insurance.

(4) The financial fragility of the system is also a major concern. In 2010, Social Security reported their financial status, showing an accumulated balance of Baht 789,181 million as at 31 December 2010. The inflows into the fund were mainly from contributions while outflows were the benefits given out. The long-term trend is towards closing the gap, i.e., inflows matching outflows and leaving less of the excess as a margin. With demographics in Thailand pointing toward an aging population as well as an aging workforce, the cost of medical treatment as well as retirement and pension demands on the fund will play a significant role in the near future. Social Security may have to be financed more by a progressive tax, if it is to cover all workers and provide a more of comprehensive social security system.

Concerning the WCF, the fund reported an accumulated balance of Baht 30,468 million as at December 2011. In some years, the fund's balance has been very fragile as outflows or expenditures exceed inflows or the contributions received from employers. The fund management and administration of benefits has been conservative as seen by the number of confirmed OHS victims which is less than 50 cases each year. Confirmed cases of patients exposed to chemical poisoning are almost unreported. The figure for work-related disease is very small compared with the present level of industrialization. Workers have been complaining that many OHS cases went unreported as workers were diagnosed with an illness unrelated to work and were referred to Social Security for payment of their treatment of a common illness.

To cope with their financial fragility, both the Social Security and the WCF have invested some of the funds' money in higher yielding investments. For instance, Social Security diversifies its investments, putting 60 percent into financial market instruments with low risk such as government bonds and state enterprise bonds, and 40 percent into higher risk investments with higher returns, such as the stock market.

The WCF reports show it handles between 150,000 and 200,000 cases (including cases with less than or more than three days sick leave, deaths and disability, and occupational disease) of work-related injuries and illness each year. Of these, 600 to 800 workers die each year, meaning two to three workers die every day. The social cost of creating wealth in Thailand is very high, and this shows the failure of the state in managing and enforcing safety standards in the workplace. Since 1993, after the Kader Toy Factory fire in which 188 workers died in the worst factory fire in Thailand's history, an injured workers group, namely Council of Work and Environment-Related Patient's Network of Thailand (WEPT), along with trade-unions and NGOs have been demanding the government pass a bill to set up an independent occupational health and safety institute with workers' participation. The new institute has been incorporated into the OHS law, which was passed by Parliament on 12 January 2010. The role of the OHS institute is to promote prevention, set safety standards, conduct development and training of OHS manpower and conduct OHS research and data collection. It will promote networking as well as workers' organizing through raising OHS awareness.

(5) The management of Social Security and the WCF is under the control of the government. Although the Social Security committee is a tripartite body (government, representatives from employers and employees), its shortcoming is still its representation. For example, workers' representatives are elected through a voting system which gives each union one vote. Some union leaders may try to seek votes to get elected by setting up additional unions. These new unions remain small and inactive. Such a system will not work to strengthen bargaining power, as it leads to fragmentation and competition between the trade unions. Now, workers are demanding one worker one vote. In Thailand, there are less than 300,000 union members or a union membership rate of just two to three percent. There are also 13 labour councils. Similarly, there are also 11 employers' councils. The workers are demanding the reform of the committee to allow real worker representation on that body.

(6) Following the flooding of central areas of Thailand for many months in 2011 wherein many industrial zones were affected, the Thai economy faced a period of economic difficulties, such as a decline in exports, a slowdown in new inflows of foreign investment and the relocation of investment. Workers are likely to be forced to make sacrifices. Some factories have closed down a certain part of their production line, and some workers have been asked to stay at home and take only 75 percent of their last wage. Massive lay-offs and new large-scale unemployment are forecast. Social Security will have to play a more active role in the re-integration of workers into work.

## Overview of health and safety in the formal industrial sector

As of 2011, Thailand had a population of 65 million. The labour force is around 35 – 36 million, comprising 24 -25 million workers in the informal sector, 8 – 10 million workers in the formal sector and 2 million migrant workers. This report addresses only the situation of the workers in the formal sector.

The Office of Workmen's Compensation Fund (WCF) under the Ministry of Labour, reported a total of 149,436 cases of occupational injury and sickness for the calendar year (January – December) 2009. (See Table 4 on page 17.) The three industries with the highest incidence of disease or injury were metal goods production, trading and construction. From the reported figures, there were 598 of deaths, 8 cases of invalidity, 2,384 cases of loss of body organs, 39,860 cases of injury or illness requiring less than three days off-work, and 106,589 cases of injury or illness requiring three or more days more off-work. Although the WCF paid more than Baht1, 569 million in benefits to the eligible claimants, the amount of money is unequal to the loss suffered by those employees.

According to the experiences of The Council of Work and Environment-Related Patient's Network of Thailand (WEPT), the problems that put the employees in danger of work-related injury, sickness, invalidity and disability, death or disappearance and yet prevent them from accessing the benefits assured by the Workmen's Compensation Act (B.E. 2537) are many. They can be classified as follow.

### (1) Problems related to the workers

The problems occurred when the workers

- were ignorant of the Workmen's Compensation Act (B.E. 2537);
- blame their misfortune on themselves and become passive, discouraged and lose hope;
- afraid to be seen as ungrateful if they criticize the employer and afraid of being laid-off
- afraid to refuse the authority of the boss when asked to work in a risky or dangerous place;
- unable to access complete information because they work inside the factory for eight to 12 hours a day;
- afraid that their relationship with the boss or the employer will deteriorate;
- fail to tell the doctors that the cause of the sickness or injury is related

- to the job and environment clearly and in detail;
- after becoming ill, workers are treated as unproductive and forced to leave the job.

## (2) Problems related to the workplace or the employers

The employers

- do not inform workers about the Workmen's Compensation Fund, but send the workers with work-related illness to the Social Security scheme;
- refuse to improve machines, safety conditions and the environment in the workplace properly and correctly as this would increase the cost of production;
- speed up production, reduce the workforce, assign one worker to do many jobs and set a high production target to be achieved within a limited time;
- issue rules and regulations, use bonus as incentive for working harder, and set holidays and leave according to the individual's or department's accident record;
- ignore the human value of the workers who suffer from sickness or injury related to work, although they are the persons who produce the goods and generate income for the company;
- fail to report the sickness or injury within 15 days to avoid damaging the company's reputation or to avoid paying higher contributions to the WCF. The penalty for failure to report to the Fund is slight, a fine of less than Baht10,000 or imprisonment of less than one month. (During the 15 years since the issuance of the Act, no employer has been imprisoned.) The government, too, has no information on the real situation as experienced by the workers.
- fail to arrange annual health check-ups for the workers according to risk factors. For example, the staff working with certain dangerous chemicals are not checked for problems related to that chemical because it is not listed on their health check-up list. The workers instead are checked for a different kind of chemical to which they are not exposed. Hence, the outcome of the health check-up is doubtful. For those exposed to dust, only a partial x-ray of the lungs is taken, making any results or detection of problems inconclusive and misleading. In addition, doctors who conduct the health check-ups are not occupational and environmental medical experts.

**(3) Problems related to diagnosis and treatment processes (by doctors, nurses and hospitals):**

- The diagnosis of occupational sickness is conducted following the criteria stipulated by the Workmen's Compensation Fund without participation from other concerned parties.
- Doctors are reluctant to mention that the sickness or injury is work-related in the medical certificate. Only the symptoms are mentioned, because most of them do not want to get involved in a lawsuit.
- There are only a small number of doctors knowledgeable about occupational illness and injury. There are few doctors who sympathize with the workers.
- The establishment of medical clinics for occupational disease and injury is still a pilot project, started only two to three years ago. Most practitioners in the clinics are medical interns.
- The clinics are open only half a day. The doctors in the clinics are not full time but assigned there to provide service and as an extra job.
- There is only one clinic with reasonable (high) expertise in the field of occupational medicine.
- There is no information dissemination to the workers letting them know about the existence of the 25 occupational medical clinics where they can access a work-related diagnostics service without payment.
- The budget allocated for work-related sickness diagnosis is still limited in the 25 clinics.
- The criteria for determining a work-related sickness or injury is not revealed to public.
- There is no law to protect the doctor who issues a medical certification stating that the sickness is work-related. In the past, some doctors were sued for this decision and this discourages them from identifying and stating work-related sicknesses and injuries.
- There is no incentive or policy at ministerial or departmental level to encourage medical students to study occupational and environmental medicine. Unlike those graduated in other specialties in medicine, there is no equal support for the occupational and environmental medicine graduates i.e. job advancement and salary.

**(4) Problems related to the Workmen's Compensation Act and law enforcement agencies**

- The Office of Workmen's Compensation Fund issues rules, regulations, procedures and criteria to access the fund on its own without participation from all parties concerned.
- For the workers suffering from occupational sickness or injury but

denied the benefit by the Workmen's Compensation Fund, most of them receive a diagnosis that their sickness or injury was not work-related. Therefore, they are not entitled to claim for medical expenses, compensation in lieu of more than three days leave of absence (60 percent of annual wages), and compensation in case of loss of body organs or working ability. They have to appeal (within 30 days) or bring the case to court (within 30 days). It will take them two to four years at least before they can receive a judgement and their proper and due benefits.

- Under the WCA, the employer must inform the fund within 15 days of knowing that the worker was injured, sick or died on the job. The authority must enforce the law by fining or bringing the employer who failed to inform the Fund to court in order to set an example.
- The penalty for the employer who breaks the law is too small to make them adhere to the law.
- The officers of the fund, in both central and provincial offices still have misconceptions about the WCF in that they view it as the employers' money. Although the contributions come only from the employers, the intention of the Workmen's Compensation Act is that the contribution will become a compensation for the loss of physical and mental health of workers while working for the employer.
- Most members of the Medical Board of the Workmen's Compensation Fund are not experts in occupational medicine.
- The Medical Board of the Workmen's Compensation Fund is very influential in the diagnostic procedure. The decision to grant a benefit or compensation is governed by an attitude of protecting the fund's performance rather than the protecting the rights of ill or injured workers.

##### **(5) Problems related to government policy**

The government has no clear and serious policy to follow and monitor enforcement of the law. The WCF's officers do not want to act against the employer. Thus, suspicions of conspiracy between the authority and the employer arise. The employees who get sick or injured on the job face inconvenience from the authority when reporting the case to them.

For example according to the law, whenever there is a case of work-related sickness or injury, the employer must notify the fund within 15 days. If the employer fails to do so, the employee has the right to notify the fund of the

cause within 180 days. But in practice, when the employee submits a document to inform the fund, the officer does not accept a document which does not have the acknowledging signature of the employer on it. In fact, it is the officer's duty to accept the document and get the employer to sign. Even though the employer refuses to sign the document, the officer can submit the case to the Medical Board for consideration. But in practice, the officer denies to process the document and to exercise their authority in the procedure, leading to the inaccessibility of the employees to their lawful rights and benefits.

With the advancement of production technology in many industries, dangerous chemicals and machines are used without proper protection. Nevertheless, the government fails to enforce the law and issue policy to seriously support occupational and environment medicine as well as health and safety inspections. There are insufficient funds, medical workforce and agencies with expertise in occupational and environment medicine and factory environment inspection. The systems for the collection of data and reporting of occupational sickness and injury in the different agencies are not unified. There are no standardized or accredited diagnostic criteria. The procedure to acknowledge the incident and to grant benefits according to the Workmen's Compensation Act is time consuming. The level of compensation has been unchanged for a long time and does not match the current cost of living and cost of opportunity lost of the employees in the long run.

Most employers do not accept that the employees' sickness or injury is work-related. The employees are forced to apply for benefits from the Social Security scheme as a non-work related incident, due to the employers' fear of damaging the reputation of the company or its products, or the additional investment to improve working conditions in the factory and environment.

There are also conflicts between the employers and workers. When suffering from work-related sickness and injury, the workers stand up and demand their lawful rights to access compensation. But they are intimidated and thwarted by the employer in many ways, e.g. they are transferred to do a job that is new and more difficult for them, or they are laid off with claims that they are incompetent or unsuited to the nature of work and have become a burden to the company.

**Table 1: Employees with occupational injury or sickness within coverage of Workmen's Compensation Fund, 1988 – 2010**

Year	No. of employees under the WCF	No. of employees with occupational disease, sickness, disability and death	% of total employees
1988	1,346,203	48,907	3.63
1989	1,661,651	62,766	3.77
1990	1,826,995	79,028	4.32
1991	2,751,868	102,273	3.71
1992	3,020,415	131,800	4.36
1993	3,355,805	156,548	4.66
1994	4,250,000	186,053	4.37
1995	4,903,736	216,335	4.41
1996	5,425,422	245,616	4.52
1997	5,825,821	230,376	3.95
1998	5,145,835	186,498	3.62
1999	5,321,827	171,997	3.23
2000	5,417,041	179,566	3.31
2001	5,544,436	189,621	3.42
2002	6,541,105	190,979	2.91
2003	7,033,907	210,637	2.99
2004	7,386,825	215,534	2.91
2005	7,720,747	214,235	2.77
2006	7,992,025	204,257	2.55
2007	8,178,180	198,652	2.42
2008	8,135,606	176,502	2.16
2009	7,961,384	149,436	1.87
2010	8,177,618	146,511	1.79
<b>Total accumulated (23 yrs.)</b>		<b>3,894,127</b>	

Source: Workmen's Compensation Fund, Office of Social Security, Labour Ministry.

**Table 2: Chronology of Labour Protection and Workmen's Compensation Fund**

<b>16 March 1972</b>	Revolutionary Decree No. 103 (Labour Protection Act)
<b>1 January 1972</b>	Protection for enterprise with more than 20 employees (only Bangkok)
<b>1 January 1976</b>	Extended to cover the nearby provinces of Bangkok
<b>1 July 1988</b>	Extended to all provinces in Thailand
<b>1 October 1993</b>	Extended to enterprises with more than 10 employees
<b>15 June 1974</b>	Workmen's Compensation Act of 1974
<b>1 April 2002</b>	Extended to protect workers in establishments with more than one worker

**Table 3: Occupational injury or sickness, classified by degree and causes of loss (2009)**

Cause of loss	Degree of loss					Total (persons)
	Death (persons)	Invalidity (persons)	Loss of body organs (persons)	More than 3 day leave (persons)	Not more than 3 day leave (persons)	
1. Falling from high place	86	1	59	3,364	4,602	8,112
2. Slippery	7	-	30	2,021	4,443	6,501
3. Being hit by collapsing construction or building	-	-	1	17	30	48
4. Being hit by falling object	40	-	703	7,828	10,805	19,376
5. Collision	18	2	313	6,372	18,316	25,021
6. Being pulled by or caught between objects	10	-	652	4,169	5,117	9,948
7. Being cut or wounded by sharp material	3	-	495	9,486	24,501	34,485
8. Object or chemical splashed into eyes	1	-	14	976	22,706	23,697
9. Lifting heavy objects	1	-	1	237	1,308	1,547
10. Hazard from motion	-	-	2	129	404	535
11. Accidents from vehicles	291	2	33	2,462	2,500	5,288
12. Explosion	9	-	4	263	353	629
13. Electricity accident	80	3	15	410	737	1,245
14. Exposure to high temperature/ hot items	6	-	16	1,099	2,136	3,257
15. Exposure to low temperature/ cold items	-	-	-	1	5	6
16. Exposure toxin or chemical	3	-	2	192	945	1,142
17. Hazard from radiation	-	-	-	-	1	1
18. Hazard from light	-	-	-	23	2,674	2,697
19. Physically attacked	12	-	3	75	58	148
20. Attacked by animal	1	-	3	103	771	878
21. Sickness from work nature, from working condition or related to work*	-	-	35	548	3,992	4,575
22. Tsunami	1	-	-	1	3	5
23. Insurgency	4	-	-	-	-	4
24. Other	24	-	2	74	191	291
<b>Total</b>	<b>597</b>	<b>8</b>	<b>2,383</b>	<b>39,850</b>	<b>106,598</b>	<b>149,436</b>

Source: Workmen's Compensation Fund, Office of Social Security, Labour Ministry.

Many workers lack knowledge of their rights. After getting seriously ill, injured or developing a chronic illness, some decide to quit the job. Some are fired and have to return to their home town. Some have to change jobs. But all of them are in a vulnerable position, and many will have to endure the condition until they die. They usually try fruitlessly to find a cure or treatment on their own, and live in distress with no dignity and future. Then, they decide to organize a victims' group.

### **Advocacy by Council of Work and Environment-Related Patient's Network of Thailand (WEPT)**

WEPT's advocacy for public policies on the protection of occupational health and safety for workers in industry and on accessibility to government health services has had many successes and some failures

WEPT, together with the Assembly of the Poor (AOP) and other labour organisations, have been demanding justice and the right to compensation for the employees who become sick or injured on the job. We have presented our proposals to the government in which we outlined many of the problems, such as the doctors identifying the cause of loss as non-work related preventing the employees from getting benefits from the Workmen's Compensation Fund; and cases wherein patients do not have the money to pay for service from private medical clinics, etc.

WEPT's proposal to the Secretary General of the Social Security Office on the establishment of occupational medical clinics brought about the memorandum of understanding between the Ministry of Labour and Ministry of Public health and WEPT on a project to establish occupational medical clinics. During the year 2007-2008, 24 secondary occupational medical clinics were set up in government provincial hospitals. The first tertiary occupational medical clinic was set up in Nopparat Rajathanee Hospital, Bangkok. The number of occupational medical clinics increased to 37 in 2009 and to 82 in 2011.

The Social Security Office announced the procedure to accept the services of occupational medical clinics and ordered the provincial and branch offices to inform employers and employees of the right to medical treatment and the procedure to send an employee to get medical treatment. When the employee gets sick or injured, with something that might be work-related, the employer must report the incident (using the official Injury or Illness Notice Form) to the Social Security Office. The office will dispatch the employee to receive medical

treatment at an occupational clinic in a hospital. If it is found that the cause of the sickness is work-related, the clinic that provides the medical treatment will be reimbursed from the Workmen's Compensation Fund. If the cause is not work-related, the employee is not required to pay for the service, because the clinic gets financial support for operational expenses from the Workmen's Compensation fund. Similarly, the employee is not required to make any payment for the diagnostic process when it is done by his/her registered hospital under contract with the Social Security scheme.

## Observations

Our observations on the establishment of the secondary occupational medical clinics in government provincial hospitals are as follow:

- 1) We are doubtful of the capability, readiness and adequacy of medical and healthcare personnel and support systems in those clinics to provide proper diagnosis and treatment services for work-related cases. We are concerned that such establishments are only an avenue for some civil servants to misuse the budget to increase their influence and heighten their positions.
- 2) The hospitals where the occupational medical clinics have been set up should improve the management to be more active and have established standard criteria to diagnose the work-related medical problems. The hospitals should also seek participation and advice from labour unions, injured workers at workplaces and related non-governmental organizations in order to have a better understanding of the situation and causes of the sickness and injuries which vulnerable employees face in the industrial areas.
- 3) WEPT and labour organizations in the location of or in the vicinity of the 25 hospitals with occupational medical clinics should take part in following up, monitoring and evaluating the performance of the clinics. They should also provide recommendations for improvement, so that the clinics would respond as much as possible to the needs and demands of the workers in terms of general health and occupational health and safety.
- 4) There is only one clinic with reasonable expertise to which WEPT is able to dispatch patients to get a diagnosis, and that is Nopparat Rajathanee Hospital

In addition, WEPT, as a member of the Assembly of the Poor, has joined forces with the labour leaders in the industrial areas, NGOs on labour issues and academics to seek support from members of parliament to propose a draft bill on the Institute for Promotion of Safety, Occupational Health and Environment in the Workplace. We have received cooperation from Ms. Rachadaporn Kaewsanit, a member of parliament (MP) from the ruling Democrat Party and Mr. Sathaporn Manirat from the opposition party, who together got 20 MPs to propose the draft bill. It was a memorable event in which MPs from two opposing political parties joined together to propose two draft bills: The first a comprehensive OHS bill and the second on the establishment of an OHS Institute. The two bills were introduced to parliament for the first reading on 11 November 2009. After passing the first reading, a parliamentary sub-committee to draft the bill was nominated by the National Assembly. Among the 36 committee members, two were representatives from WEPT and the labour side: Dr. Voravidh Charoenloet from the Faculty of Economics at Chiangmai University and Mrs. Somboon Srikomdokcare, the president of WEPT. The bill was passed by the parliament on 12 January 2010 and become law upon its publication in the Royal Gazette.

This OHS institute, which is to be named the Thailand Institute of Occupational Safety and Health (TIOSH), is incorporated in the comprehensive OHS legislation under Article 52. It is to be set up as an independently managed institute under the supervision of the labour ministry and is expected to be in operation within a year of the enactment of the law. At present, the MoL has completed the drafting the legislation governing the new OHS institute and is in the process of conducting public hearings before sending the bill to be finalised in the ministerial cabinet meeting.

However, workers have raised their grave concerns about the autonomy of the new institute, workers' involvement in it and their representation on the Board of Directors.

### **The formation of WEPT**

The Group of Sufferers of Byssinosis<sup>1</sup> from Workplaces, also known as The Council of Work and Environment-Related Patient's Network of Thailand (WEPT), was formed by eight workers who fell sick from working in a textile factory in the Bangkok area. Over time, participants in the group grew with workers from different industries, different areas and with different diseases joining every year. The membership of WEPT also grew to include communities

affected by sulphur dioxide emissions from the Mae Mo Power Plant in Lampang province. As a result of those toxic emissions, people from those communities developed pneumoconiosis. As WEPT grew, it created more leaders on health issues in many industrial areas, such as Phra Padaeng, Ayudhya, Chonburi and Rayong, through training and trade union capacity building in OHS work. WEPT offers assistance to all workers who get sick, so that they can access their right to medical treatment, compensation and rehabilitation which are basic human rights. It also provides information on how to prevent the sicknesses and raises awareness on health issues.

Workers in the spinning and weaving sections of textile factories are exposed to health hazards. The workplace is usually very noisy, dark, hot and dusty with fine and large particles floating in the air, and these areas generally have poor ventilation. However, these unhealthy working environments are seldom reported by the officers inspecting the factory, often because the hazards were covered up before their arrival. Many workers in these plants suffer the loss of lung capacity, characterized by difficult respiration, which often leads to irreversible lung disease, known as byssinosis. They also suffer from hearing impairment, damaged eyesight, and problems due to exposure to toxic chemicals.

In the case of the first WEPT group of eight, their employers denied responsibility despite the obvious signs of work-related byssinosis. The Workmen's Compensation Fund agreed with the employers and refused to pay compensation. At that time, the Assembly of the Poor (AOP) was organizing a mass demonstration. The group of byssinosis sufferers requested to join them and add their demands to AOP's. Such activism was very new to the sick workers. During the 99-day mass demonstration in front of government house, 100 patients took part until they were granted compensation for the loss of lung capacity according to the normal compensation rule of the Workmen's Compensation Fund.

Representing the 37 workers who had contracted this illness and who decided to continue their fight, WEPT pursued the court case against the company. The attorney sued the company as a polluter who negligently allowed toxic cotton dust to spread in the air and be inhaled by the workers causing grave health impact including byssinosis and the permanent loss of pulmonary function. The lawsuit, demanding compensation for their loss beyond that paid by the Workmen's Compensation Fund, lasted almost 15 years. The Supreme Court delivered the final verdict on 8 November 2010 in favour of the sick

workers. But the bitter experiences encountered during their struggle to seek justice through the courts have become painful memories for these sick workers.

At the early stage, there was only one special clinic belonging to Dr Oraphan Methadilokkul of Rajvithi Bangkok Hospital that would diagnose, confirm and treat occupational sicknesses. At the clinic, the sick workers found many patients from different places who suffered the same symptoms and from the same situation. In all, these sick workers have undertaken more than 100 court cases. These include cases of employers' appeals against the workers' successful judgements of occupational sickness; employers' demands for the Workmen's Compensation Fund's to cancel the payment of benefits; action against the Workmen's Compensation Fund for withholding compensation payments, and against the lay-off of workers, among others. By joining the AOP's action, WEPT was able to make its issues known to the public.

In the case of the first WEPT group, WEPT found that even those sick workers who had been granted compensation for the loss of body organs, the physical damage was irreversible and remained with the man or woman for the rest of his or her life. Although WEPT was able to help more than one hundred workers, the problems remained. From discussions with some academics and NGOs on labour, WEPT realized that an independent OHS institute to work on protection and prevention was urgently needed.

WEPT then proposed the idea to the Ministry of Labour. Initially, there was a joint effort to draft a bill on the establishment of an independent body, but the ministry finally did not agree and drafted one on their own. WEPT, therefore, pursued it alone, attempting to initiate a law by collecting 50,000 signatures in support as stipulated in the new constitution. WEPT and the labour organizations spent two years on the campaign and collecting signatures, producing a one-page statement declaring their support for the establishment of the new institute with the signatures and I.D. numbers.

A mass rally was organised and held in front of the parliament and the 50,000 signatures were handed to the president of the National Assembly. The move to collect signatures to propose a law was not successful because it failed to meet two conditions of the 1998 Constitution drafted after the launch of the campaign, i.e. each signature needed to be accompanied by photocopies of the I.D card and household registration. However, it is symbolic of the workers and OHS victims' struggle for social reform. What remains is galvanize the political will of legislators.

At the same time, WEPT has found that the Ministry of Labour itself does not want to have an independent body such as the Institute for Promotion of Safety, Occupational Health and Environment in the Workplace. It therefore drafted another bill on occupational health and safety. This draft put the regulatory power in the hands of the government, in particular making the bureaucrats in the labour ministry responsible for the management of health and safety. It also excluded the establishment of an independent OHS institute. It is the view of WEPT that if this bill succeeds, the institute will be a complete failure due to the absence of workers' participation.

WEPT together with AOP and other labour organizations launched a campaign to oppose the ministry's draft. The paradox of the labour ministry is that they have two drafts: the first draft was done by a committee set up under MoL where WEPT and AOP were equally represented and the latter draft done by the labour ministry alone because it opposed the first draft. The MoL's draft proposed a comprehensive OHS bill excluding the establishment of an OHS institute. Past governments were undecided as they did not want to get into conflict either with the bureaucrats of the labour ministry or the labour organizations, AOP and WEPT. Then, under the Abhisit government the two bills went through parliament and finally became the present OHS bill where OHS institute is incorporated into this bill.

The demand for the establishment of an independent OHS Institute has now become one of the priorities of all labour organizations. Through long years of continuous work since the 1993 Kader Tragedy, we could say that WEPT has succeeded in bringing OHS issues into the trade union movement.

In addition to its work with workers, WEPT also continues to work with communities affected by industrial hazards and polluted environments such as Mae Mo Community of 300 villagers. They are in the legal process of demanding compensation from



Meeting with the Lampang Group on OSH issues.

Mae Mo Power Plant in Lampang province that is emitting sulphur dioxide and causing pneumoconiosis among villagers. The villagers have won their cases in the lower court but are waiting for the final judgment from the High Court. How many of them will have died before justice is delivered?

\*\* Good health for a stable life, Safety at the heart of work\*

## References

- Center for Education and Labour Studies (CELS). *Labour regimes and sustainable growth in Thailand*. (Chiang Mai: National Research Council of Thailand Research Report, 3 vols, 2006) (in Thai language).
- International Labour Organisation (ILO). *ILO Report: Key indicators of the Labour Market*, 5th Edition (Geneva ILO. 2007).
- Jetin, B. *The Cognitive International Division of Labour Hypothesis: What Possible Effects for Thai Labour and Education* (CELS, Faculty of Education, Chiangmai University. 2008).
- Mounier, A. and Charoenloet, V. “*Thailand: Labour and Growth after the Crisis, New Challenge Ahead*”; Thai Studies Conference, Thammasart University. 2008.
- Oudin, Xavier, “*Progress in education of the labour force. A tentative measurement.*” (The Journal of Education, 33:1-2, 2006), 108-19.
- Thailand Economic Monitor, *Growth and Development 2007* (Bangkok: The World Bank.2007)
- Charoenloet, V, “Industrialization and labour fragmentation in Thailand”, in K.L. Tang (ed.). *Social Development in Asia*, (Amsterdam: Kluwer Academic Publishers. 2000)

## Endnotes

1. Byssinosis, also called brown lung disease, is defined as an occupational respiratory disease caused by the long-term inhalation of cotton, flax, or hemp dust. It is characterized as a chronic, asthma-like narrowing of the airways, with shortness of breath, coughing, and wheezing and eventually by irreversible lung disease.