

# **CORRUPTION IN THAILAND**

**Matias Warsta**

**International Management: Asia**

**Swiss Federal Institute of Technology**

**Zurich, April 22<sup>nd</sup> 2004**

# 1. CONTENTS

1.	Contents .....	2
2.	Preface.....	3
3.	How Do You Define Corruption?.....	4
4.	Culture behind Corruption .....	5
5.	Reasons for Corruption.....	6
6.	What Is the Extent of Corruption in Thailand?.....	8
7.	How Thailand Is Fighting Against Corruption .....	13
7.1.	The Role of the New Constitution of 1997.....	13
7.2.	Non-Governmental Organizations Have a Big Role Too.....	14
8.	Problems in the Fight Against Corruption.....	16
8.1.	The Thai Legislation.....	16
8.2.	International Conventions.....	18
8.3.	The Situation of Media in Thailand.....	19
8.4.	Lack of Political Will.....	22
9.	What could be done .....	22
10.	References.....	23
11.	Related Reading .....	25

## 2. PREFACE

The Problem of corruption has been around for a long time in Thailand and its roots are deep in the culture.

The problem of corruption is its corroding effects on economic growth. While huge amounts of money will be lost during the implementation of projects due corruption itself, more will be lost while trying to fight against it and stop it. Of course this is a necessity if trying to look for a better future.

Thais have made efforts to clean up their own nest by introducing new laws and trying to move on to good governance at the same time. One must understand the huge egg and chicken problem in the fight against corruption: the ones reigning over the society are often up to their ears in the soup and have little if any interest in chancing anything while enjoying huge economical benefits.

Thailand's Prime Minister Thaksin Shinawatra has used very rough methods to control the media, which should be one of the most powerful watchdogs against corruption. For example during his fight against drugs, television news announced over and over again that the victims were killed as a result of gang feuds. In this war, actually, the police literally swept out the dealers from the streets. This was highly efficient in terms of reducing drug selling but offended naturally the concept of basic human rights. Everyone should be entitled a fair trial before conviction which has clearly not been the case during these measures that rose to the press titles latest when a little girl was killed during a pursuit along her drug dealing mother in Bangkok in the spring of 2003. Behind all this may be, among other things of course, the fear of corrupt buy outs during the tribunal handlings. Still it is questionable if this makes up with the killing of over 2000 people.

Mr. Thaksin himself was a highly successful media tycoon before moving in to politics and has not been ashamed to use his financial power against those who dear to oppose him. This study reveals to some extent, how complicated the problem of corruption is in a country like Thailand and what kind of hurdles there are to go over while fighting against

it. The fact that domestic announcements of companies, the media and private persons often require reading between the lines, is a sign that the freedom of word does not wholly exist and people still feel fear to come forward at least when very high state officials are involved.

### **3. HOW DO YOU DEFINE CORRUPTION?**

There is not any single widely accepted definition of corruption and the term has been used in variable contexts. The most prominent definitions emphasize the abuse of public power or position for personal benefit. This definition out-rules private-to-private corruption. It can be argued that leaving the private-to-private sector out is artificial, because the effects on the economy are very much the same in spite of the actual process where corruption is taking place. Tilleke & Gibbins International assume that the definition, which places the public sector at the centre, is so wide-spread, because the harms of private-to-private corruption have not been acknowledged as well as the public corruption, until recently, although it has always been present too /1/.

Both of the above interpretations are deficient. As I will show you in this research paper, there is one more important aspect that should be included to the definition of corruption. I would like to call it “corruption through personal financial power”. As the examples of Thailand and Italy show, a politician (or any holder of any public office), can reduce transparency of the decision making process considerably by using his personal assets for gaining more power. An example of this is buying big shares of media companies and by doing this force them into self-censorship. This is illegal neither in Europe nor in Thailand, but it is clearly against the values of a democratic society and should be addressed properly in the future. I will get back to this, when considering the difficulties of fighting corruption in Thailand.

In this study, we will concentrate on the public corruption and the further use of word corruption refers to this. This does not mean that I would consider private-to-private corruption any less important, it is just to reduce the scope of this research.

## 4. CULTURE BEHIND CORRUPTION

Pasuk Phongpaichit and Sungsidh Piriyarangsarn claim that officials were traditionally not paid salaries but were entitled to retain a 10 to 30 percent portion of the money involved as a fee for their services. Even at these times wrong-doers were around and were called *ging maung* (“eating the state”). Pasuk and Sungsidh further explain that in traditional Thai value system merit is derived from power and in this way forms a basis for patron-client relationship in the political society. There is also a tradition of presenting gifts to high officials. In this context you see that some things used to be legitimate under the traditional patronage system but are clearly to be considered problematic in modern legal system. /2/

Pasuk, and Sungsidh did a survey concerning people’s attitudes towards corruption. This study showed that many Thais still accept paying fees to officials as *sin nam jai*, the 'gifts of good will' and do not see that as a form of corruption. Much more they see taking things, even small ones like pencils, home from office corrupt. An other thing they found out was that there is a growing group of middle class people who oppose the corruption in its all forms. Still people expected the corruption even grow rather than disappear. /2/

One other culture based area concerning corruption is existence of influential provincial businessmen called *Jao Pho* (“godfather”). These men must be very similar to the heads of traditional Chinese business networks, and have often raised them selves above the law. /2/

There is still one important feature in Thai political history that needs to be discussed. Between years 1932 and 1997 there has been 15 constitutions in Thailand, mostly invoked by those near the military juntas that took over the country from time to time. Of course, in those eras a sufficient amount of open discussion could not take place and due to this it would be unfair to say these constitutions were democratically invoked. It was also considered honorable among those in power to protect any state information, so it has been mostly impossible to retrieve information and criticize any decisions that had been made by the government officials.

## 5. REASONS FOR CORRUPTION

After we had a short look in typical Thai back-round of corruption I would like to make a few suggestion of my own for possible reasons for corruption all over the world and mirror them with the conditions in Thailand.

- Low salaries of public servants
- Low education of people
- Big financial gaps between social classes
- Lacking transparency of governance
- Unstable political situation
- Lack of democracy
- Lack of freedom of word
- Heavy bureaucracy
- Centralized power

The above collection is of course in no way exhaustive but lists some reasons of high importance. Let's have a closer look at them:

Low salaries make it more attractive for the officials to take bribes. If they can not make a sufficient living, they probably will not see it morally wrong of getting "their share" of the cake. Higher salaries would at least raise the minimum level before someone would be willing to take the risk and step over the edge. In Thailand the pay has usually been small if paid at all, so it has been a part of culture to get paid from the clients. This makes the decision making process totally opaque.

Low education of people leads to a situation where people do not have the needed knowledge of taking a stand. They may not know what the officials are allowed to do or are unable to take up measures to make a difference.

Big financial differences between social classes lead to many difficulties. Indirectly this causes political instability and, for instance, in Thailand it is common to hear people talking about "the parliament of the rich". More directly these differences make

corruption, like vote-buying, easy, because the poor could be willing to give away their vote even for a fairly small amount of money. Of course, this would make large-scale attempts of this kind much easier to realize.

Lacking transparency is more or less easy to understand. If it is impossible for the people to view the processes that take place at the public offices, it lowers the risk of getting cut of wrong-doing and makes it sometimes possible in the first place.

In an unstable political situation the one who has the ability to use force gains an immense amount of power, in South-East Asia coups by army generals are frequent, like we can see in today's Myanmar (Burma). This has led to corruption too, meaning the ones who pay will get protection, for example, of the local army troops against possible looting or other dangers. Prof. Nualnoi Treerat says the big gap between the Thai urban middle class and the poor rural people causes political instability, which in turn makes a reform very difficult and hence keeps the patron and client –tradition alive /3/.

Lack of democracy would of course mean that rules do not have to be widely accepted and can be unfair because of this. The undemocratic leaders are in the best possible position of accepting bribes, because they do not have to care about laws or law enforcement in particular.

Without freedom of word the media can not publish stories about the unjust going on in the society and most of the people would not know about them in the first place. One should not underestimate the power of news media nowadays. Of course the media could be bribed too and be part of the corrupted network but it is more likely that governments just regulate their output or shut them down completely. This is such an important issue that I will get back to it in a later part of this document.

Heavy bureaucracy could mean very slow implementation of projects and lead to corruption, in an attempt to accelerate things by bribing the officials involved. The role of a government is often greater than needed, giving the officials more power. For these assumptions I found hard evidence on considering the case of Thailand: table 1 shows that 79 percent of firms say that they either “always”, “mostly” or “frequently” pay extra money to the officials to get things done on time /4/. So it could be argued that the officials force firms to pay higher rates to get the service in an acceptable schedule.

**Table 1: Firms responded about "additional payment"**

	<b>Always</b>	<b>Mostly</b>	<b>Frequently</b>	<b>Sometimes</b>	<b>Seldom</b>	<b>Never</b>
It's common to have to pay additional payment	14.0	30.1	34.6	10.2	7.6	3.6
Amount of payment known in advance	11.7	27.7	35.1	10.3	9.8	5.5
If payment, service delivered as agreed.	21.6	43.2	21.6	6.9	4.3	2.4
If payment, other officials will subsequently require too.	8.0	25.4	34.9	15.0	8.5	9.2
Can go to superior to correct treatment.	5.5	7.4	23.3	25.4	21.1	17.3

The more one man has power the easier it is for him to do things he should not. It makes it also impossible to maintain transparency of governing. Very centralized power could ideally even lessen the corruption in a case of highly trust-worthy and fair leader, who would be chosen in a democratic way. Singapore is an example of a country with very strong leader and a low rate of corruption, as you will later see in Table 2 /5/.

## **6. WHAT IS THE EXTENT OF CORRUPTION IN THAILAND?**

Now after we are familiarized with cultural back-grounds and possible reasons for corruption, you certainly are very interested, how wide spread this parasite of society really is in Thailand. Is it an every day problem or is it just involved while making decisions in inner circles? I will now present some results from existing research papers but you will learn more on these matters during the later chapters of this document. This should give you some perspective though.

I would like to start with the Corruption Perception Index (CPI), first of all it is important for the reader to understand that CPI does not really measure corruption but the perception of it. CPI rates the perceptions of business people, academics and risk analysts



with a scale from 0 to 10, where 10 means that no corruption has been recognized by the interviewed persons and 0 means the country seems totally corrupt. To be taken on the CPI list, there has to be at least three surveys done that include this particular country. The CPI index of Thailand in 2003 was 3.3 which entitled to the 70<sup>th</sup> rank on the list of 130 countries, as shown in Table 2. The leading country by the CPI was Finland, her index being 9.7 and the last one, meaning the country that was felt the most corrupt was Bangladesh with an index of 1.3. The conclusion is that compared to other countries, the corruption in Thailand is fairly high but not exceptional. /5/

**Table 2. Corruption Perception Index 2003**

Country rank	Country	CPI 2003 score	Surveys used	Standard deviation	High-low range
1	Finland	9.7	8	0.3	9.2 - 10.0
5	Singapore	9.4	12	0.1	9.2 - 9.5
14	Hong Kong	8.0	11	1.1	5.6 - 9.3
21	Japan	7.0	13	1.1	5.5 - 8.8
37	Malaysia	5.2	13	1.1	3.6 - 8.0
66	China	3.4	13	1.0	2.0 - 5.5
	Sri Lanka	3.4	7	0.7	2.4 - 4.4
70	Thailand	3.3	13	0.9	1.4 - 4.4
83	India	2.8	14	0.4	2.1 - 3.6
133	Bangladesh	1.3	8	0.7	0.3 - 2.2

Pasuk's, Nualnoi's, Yongyuth's and Baker's study shows that in Thailand corruption is seen as the third worst national problem in Bangkok and fourth in the rural areas, following poor economy, drugs and high costs of living as shown in Table 3 /4/.

**Table 3: Amount willing to pay to eliminate national problem perceived as most serious.**

Problem considered Worst	Number consider this worst problem	% willing to pay to eliminate problem	Of those willing		
			% of annual income	Amount (baht)	Total amount (mil. baht)
Poor economy	6,566	35	4.0	5,110	11,825
Drug use and trade	2,076	56	3.9	7,778	8,977
Corruption in public sector	1,153	49	4.5	9,275	5,202
High cost of living	3,266	28	3.1	2,797	2,549
Corruption in private sector	179	34	4.6	26,463	1,609
Crime and violence	274	55	3.8	8,390	1,258
Few/bad roads	718	52	4.6	2,761	1,037
Costly education	395	44	2.8	4,170	726
Bad public services	260	64	1.7	2,640	439
Costly health care	311	53	3.1	2,617	433
Costly public services	281	35	3.1	4,168	413
Other	138	38	5.1	11,977	636
Total / average	15,617	40	3.8	5,676	35,104

In Thailand people usually see judges and prosecutors honest but still over 30 percent of those who had to go to court were asked for bribes, the requested payments were about the same size than the normal court costs as we see in Table 4 /4/. In half the cases involving requested payments, the judicial matter was concerning some kind of economic value and the amount asked to insure the decision was in average 3.5 percent of this value. The bribes were usually asked by a middle-man, so no direct indication to the judge or prosecutor could not be made. Probably because of that, the people who paid were uncertain if the money really had any effect on the outcome. /4/

**Table 4: Corruption in the judicial system**

	Percent of households	Number of households		
Total households	100.0	15,878,000		
Total involved in the court cases	7.5	1,181,000		
<b>----- base on all households involved in the court cases (1,181,000) -----</b>				
	Percent of households	Number of households	Average (baht)	Total (bil. baht)
% asked for a bribe	30.7	364,000		
% asked for bribe and amount indicated	17.3	205,000		
?? Average value of bribe			34,531	6.6
?? average court expenses			32,003	
% bribe indicated and case with economic value	8.9	105,000		
?? average economic value				
?? average bribe amount indicated	542,598			
?? bribe as % of economic value	19,133			
	3.5			

We already had a short look at the firms and how often they have to pay extra money to keep the so-called normal bureaucracy flowing. Probably the most significant corrupt interface between private companies and public offices is the public sector procurement. These deals are often worth amounts over comprehension. This is why it makes bribing very attractive. Current Thai estimates tell the average bribe in such cases is as high as 40% of the value of the contract /2/. It may seem hard to understand how such large-scale corruption is possible, Tilleke & Gibbins international limited list some possibilities of implementation:

Before contracts are awarded, the purchaser can:

- Tailor specifications to favor particular suppliers.
- Restrict information about contracting opportunities.

- Claim urgency as an excuse to award to a single contractor without competition.
- Breach the confidentiality of suppliers' offers.
- Disqualify potential suppliers through improper pre-qualifications.
- Take bribes.

At the same time, suppliers can collude to:

- Fix prices.
- Promote discriminatory technical standards.
- Create improper interference in evaluators' work.
- Offer bribes.

Source: Tilleke & Gibbinson International Ltd, /1/.

To finish our quick overview on the ongoing corruption we want to address one of the most important issues in any claimed democracy, namely the possibility to run fair elections. As we will see later, Thailand has done some improvements to the legislation concerning elections but the results are not as good as one would wish. During the general elections of 1996, Table 5 shows that almost one third of the population were offered money for their votes, in smaller elections the percentage was not as high but in some cases the amount offered was considerably higher. At the general elections the average sum offered was 554 baht in rural areas and 1142 baht in Bangkok, in local elections the amount tended to vary between 700 and 1000 baht. /4/

**Table 5: Vote-buying offered at the last elections**

<b>Elections</b>	<b>Base: all have right to vote (thousand households)</b>	<b>Percent of vote-buying offered</b>
General election	15,878	30.6
Provincial election	13,657	6.5
Municipal election	3,991	19.5
Sanitary district council	562	20.1
Tambon (sub-district) council	9,468	9.3

## **7. HOW THAILAND IS FIGHTING AGAINST CORRUPTION**

In 1997 a bunch of new mechanisms were included to the country's new constitution. The major improvements were the creation of the independent National Counter-Corruption Commission and the Public Information Disclosure Act (actually there has been a Counter-Corruption Commission since 1975, but it remained a paper tiger due to lack of investigative power). In addition, laws have been passed to ensure that politicians and high-level government officials provide full disclosure of their assets and liabilities. Nevertheless the results have only been limited. As mentioned before, the major problem is the clash between Thai traditions and the new methods of fighting corruption. As addressed by Professor Chong /12/, laws that are not widely accepted by the culture are rarely effective because of the lack of legitimate recognition. To adjust the old values to the new counter-corruption measures, it is vital that the initiative comes from the public. The role of the youngsters and professional classes will be decisive. /6 /

### **7.1. The Role of the New Constitution of 1997**

Because the old constitutions were mostly passed at times when military juntas were in charge of the country, it is fair to say the new one is building a basis for real democratic society where people can do more than just vote for their representatives. Every province had a member in the group forming the new constitution and hearings took place all over the country. Prof. Nualnoi Treerat says it is argued in Thailand that the process of consultation among the people was at least as important as the resulting document. Prof. Treerat sees that a process like the forming of the constitution not only raises the awareness of people about the constitution but also encourages them to determine and protect their rights and liberties. /3/

The constitution of 1997 decentralizes the power by creating independent institutions of state and should make it easier for the public to participate in decision making. There are totally seven new institutes: Election Commission that should make sure that all the elections run smoothly without cheating, the National Counter Corruption Commission that replaced the old CCC and is independent, making it much more efficient,

Parliamentary Ombudsmen who will investigate people's complaints against government officials, the National Human Rights Commission, the Administrative Court that will try cases arising from disputes among state or municipal officials, the Constitutional Court that will work on complaints involving law contradict provisions of the Constitution and the Public Finance Audit Commission. /1/

There are three substantial improvements that allow people to participate to the process of decision making of the State: The right to know, the removal from office and freedom of the press. The right to know means that people should have access to all the public documents if this does not jeopardize public security or the rights of an individual. The removal from office is interesting: by collecting 50 000 signatures any one could initiate a process to remove any public servant from his office. We will discuss more on this at a later point of this document. Freedom of the press is very important in the fight against corruption because of the influence of mass media on the awareness of people, naturally the freedom of the press will not apply if the nation is in state of war. /3 /

## **7.2. Non-Governmental Organizations Have a Big Role Too**

After the constitution of 1997 the NGOs have much better possibilities to fight the corruption: they have access to all the documents and, of course, they can organize a collection of signatures to initiate an official research. The first time NGOs used their new possibilities was during the drug-scandal of 1998. Back then hospitals were promised more money for founding their materials but at the same time they were forced to buy from certain firms for very high prices. The NGOs were able to produce such a high pressure on the public health-minister that he finally had to resign. Not all the officials suspected to be involved could be punished due to lack of evidence but this scandal clearly showed that there is more to NGOs than there used to be. In the following paragraph I present an example what the Transparency Thailand is doing to fight the corruption.

To address the problem of raising the awareness among the citizens Transparency Thailand has launched a counter-corruption radio show that is aired every Saturday

afternoon in Bangkok since 2001. This show is two hours long and takes the form of a live talk show. A local radio station called Ruam Duay Chuay Kan provides the air time and the necessary technical support. Transparency Thailand claims they are able to reach up to one million listeners with very diverse back-round. After starting the show in Bangkok, Transparency Thailand has also provided the national military radio network with a 15-minute show every Saturday evening. Over this network, it is possible to reach people at rural areas too. Here is a list of some of the topics covered by the radio shows:

- Basic understanding of corruption in its various forms.
- The negative and corrosive effects of all forms of corruption on Thai society.
- How does corruption detract from good governance?
- What is good governance?
- Why is corruption so rampant in Thai society? Analysis of values and practices, structures and systems, legal loopholes, cronyism and patronage systems, low social standing, and so on.
- How can conflicts of interest be avoided and prevented?
- What are the different methods (incremental as well as radical measures) that we can use to curb corruption in Thai society?
- Examination of corruption elsewhere in the world and best practices, alternative measures to deal with it.
- A look at various cases of corruption, forms of corrupt activity and some suggested solutions.

Source: Transparency International, /6/.

Transparency Thailand also started a youth program that included five youth camps for high school students in the summer of 2001, writing contest and so on. The target of these events was to enhance the awareness among the youngsters. Supposedly happenings like this have since been arranged on a regular basis. /7/

## **8. PROBLEMS IN THE FIGHT AGAINST CORRUPTION**

Although the constitution of 1997 includes many new ways to fight corruption, the past seven years show that the most important thing, the political will, is missing among the Thai leaders. That is why some of the improvements included in the constitution, which is by the way already seven years old, are still not implemented in the legislation. The probably most important step forward was the actual creation of the new independent National Counter Corruption Commission in the late 1999. There is an impressive number of laws against corruption in Thailand but many of them contain loopholes or are otherwise toothless. In this chapter we will have a look at the existing legislation in Thailand and at the international conventions. In addition we will learn about the situation of the Thai media.

### **8.1. The Thai Legislation**

Tilleke & Gibbins international limited expects any effective criminal law to provide for the six basic offenses which are:

- Bribery of public servants.
- Soliciting or the acceptance of gifts by public servants.
- Abuse of political positions for personal advantage.
- Possession of unexplained wealth by a public servant.
- Secret commissions made by agents or employees in the case of private sector corruption.
- Cases of bribes and gifts to voters.

All of these are dealt with different Thai laws except the question of private corruption. The law distinguishes between active and passive bribery, as well as interference by intermediaries. Even the promise to bestow a benefit is penalized. The relevant regulations are contained in the following sections of Penal Code B.E. 2499 (A.D. 1956): 143, 144 (Offenses Against Officials), 148, 149, and 150 (Malfeasance in Office), 151-155 (Other Abuses of Authority for Personal Gain), Title III (Offences Relating to



Justice) and 167-199 (Offences Against Judicial Officials). Following loopholes are to be noted:

- Many sections contain inaccurate sentences, which leave a lot of freedom for the court
- Use of a broker is not criminalized by section 143, which would let person using a middle man go penalty free
- Section 144 does not penalize bribing with the intention to induce an official to act in accordance with his functions. This is in harmony with the old culture of *sin nam jai* (the 'gifts of good will'). It is unclear whether this was intended by the legislators.
- Section 167 imposes a penalty to anyone who gives or agrees to give a benefit to judicial official to act dishonestly. Again one could claim that it is not illegal to bribe a judicial person to insure a legally right decision.

The penalties for breaking these corruption laws vary from fines to death. This may give a wrong picture of the efficiency of the penal code. You must remember that there must be an existing paper trail to get a conviction and only bribery is handled in this law. New sophisticated ways of corruption are difficult to include to a criminal law. In addition to all this, the cases that have gone to court and produced a conviction, show that the penalties were out of proportion to the damage incurred. To overcome all this, Thailand included a new, powerful asset to their constitution, namely the concept of "unusual wealth". This means that officials and politicians must be able to show that their property is legally earned, otherwise it is presumed gained by corrupt means.

Regulations of the Office of the Prime Minister on Procurement as Amended to No. 5 B.E. 2542 (A.D. 1999) is passed to protect the public procurement bidding processes and includes the needed measures, only flaws are exceptions from the law, which leave to much latitude to the person in charge, to maintain the transparency of the process. Such exceptions exist in Clause 15 bis of Part 1 of Chapter 2 about fair and transparent bidding and in the Chapter 1, Part 1, in the part that defines major shareholder.

Other corruption laws in Thailand are listed below:

- Organic Act on Counter Corruption B.E. 2542 (A.D. 1999).
- The Civil Service Act B.E. 2535 (A.D. 1992).

- The Act Governing Liability for Wrongful Acts of Competent Officers B.E. 2539 (A.D.1996).
  - The Act Regulating the Offense Relating to the Submission of Bids or Tender Offers to Government Agencies.
  - The Act on the Management of Partnerships and Securities Owned by Ministers B.E. 2543 (A.D. 2000).
  - The Thai Official Information Act (OIA) B.E. 2540 (A.D. 1997).
  - The Organic Law on the Election of Members of the House of Representatives and Senators B.E. 2541 (A.D. 1999) as amended up to No. 3 B.E. 2543 (A.D. 2000).
- Source of this chapter: /1/

## **8.2. International Conventions**

Thailand has not signed any of the major anti-corruption conventions, but these are still of pretty high importance. For example the OECD Convention on Combating Bribery puts citizens of countries that have ratified it, to the same position concerning bribery of domestic officials or abroad officials. This means that even though something would be legal in Thailand, it does not have to be legal for foreigners. This does not work the other way round, which means that a Thai citizen cannot be prosecuted on crimes done abroad, unless this can be achieved through local laws (where the corruption takes place), because Thailand does not have any laws that penalize corruption committed abroad.

The most important conventions are the following ones:

- The OECD Convention on Combating Bribery.
- The OAS Inter-American Convention.
- The Council of Europe Criminal Law Convention (COE Convention).
- The Council of Europe Civil Law Convention.

They are similar in many ways, differentiating in the scope of application and the types of bribery covered. For instance Switzerland, Germany, USA and Finland have ratified the

OECD Convention on Combating Bribery, which makes all their citizens liable for corruption crimes in Thailand, even though these crimes would not be implemented in Thai laws /8/.

### **8.3. The Situation of Media in Thailand**

Free media is one of the pillars of democracy. Media spreads information and in that way keeps the public updated of important ongoing events. Independent media has a role of a watchdog too, making sure decisions are really made in a sufficient democratic way. An other important property of media is that it offers a public arena where two-way communication between citizens and officials can take place, for instance many newspapers around the world offer a possibility like that.

To be able to fulfil this task media has to be independent and free but also accountable and ethical. Its position should be secured by law and should not be subject to political or otherwise opportunistic leadership /9/. As we will soon see it is utterly important that all of the above criteria are fulfilled to have a really trust-worthy medium.

In 1987 a new press bill was pending before the Thai National Assembly, this new legislation was to ensure a wide freedom of press in Thailand except in times of war. Even before 1987 it was agreed by most observers that the Thai press enjoyed fairly wide freedoms already during the older legislation. It is though to be noted that foreigners could not own any newspapers published in Thailand. Despite the freedom, editorial writers and journalists exercised continuous self-censorship. Even though there was no official censorship, the media was aware that there in fact were real government constraints, especially on coverage relating to the monarchy, government affairs, internal security matters, and Thailand's international image. The existing statutes gave broad powers to the director general of the Thailand National Police Department, including the authority to revoke or suspend the license of an offending publication. The severity of penalties varied, depending on the political climate and the sensitivity of an issue /10/

In the 1980s all the major newspapers were privately owned and financed by selling the dailies and advertisements but the broadcast media was owned and controlled by the

government and was thereby considered less credible. About the quality of Thai press in 1980s, the U.S government said the following:

*“In the 1980s, Thai journalistic standards improved steadily, as reflected in the print media's growing emphasis on political and economic issues, as well as on major foreign news events. This could be attributed to the emergence of a more discriminating readership. On the negative side, sensationalist coverage and insufficient professional training continued to mar the reputation of the Thai press.”*

Considering the broadcast media, US government continued:

*“All aspects of radio and television broadcasting, such as operating hours, content, programs, advertising, and technical requirements, were set by the Broadcasting Directing Board, which was under the Office of the Prime Minister and headed by a deputy prime minister.”* Source: U.S.Library of Congress, /10/.

Until today the situation has not changed dramatically and not all the developments have been to the hoped direction. Currently there is one independent television channel in Thailand, the others still being state owned or controlled. The fact that the majority of shares of the independent channel are held by the current prime minister Thaksin Shinawatra and his family, does not have positive effects on the credibility of the Thai broadcast media. Shin Corp, owned by Shinawatra family, took over iTV just before the elections of 2001. After the elections, the new management fired 23 journalists. Lee Kim Chew claims the reporters were put out of jobs after criticizing iTV's election coverage and saying the coverage was in favor of Shinawatras Thai Rak Thai Party. /11/

The tendency of politicians getting into media business has since been going on. For example, 20% of the Nation Multimedia Group that runs the newspaper “the Nation” is now owned by relatives of the secretary general and Cabinet minister of Thai Rak Thai /13/. This makes the family the biggest stake holder of the company with a share more than twice as much as the next two leading shareholders. Events like this are especially frustrating because of the fact that the English-language newspapers have been regarded by many as more reliable than the Thai dailies, all though self-censorship in domestic political matters has taken place all over /10/.

The politicians buying shares of media groups is one, the direct financial meddle of government into media business is the other disturbing observation. In Thailand, the law prohibits the state from granting money or other properties to private newspapers or other mass media. Doing so would violate article 39 of the constitution. Yet, the Thai Journalist Association says in its 2003 report on the Thai mass media that *'State enterprises, state agencies and companies connected to people in power tended not to place advertisements in newspapers which presented negative reports about the government. On the contrary, they directed a large amount of their PR budgets to the papers which carried positive reports.'* The association also said this has created an atmosphere of fear and self-censorship /16/.

The Shin corporation now ran by the relatives of Premier Shinawatra, is very eager to sue anyone who claims the corporation has financially benefited from Thai Rak Thai reign. Thaksin Shinawatra himself denies having any current involvement in his families businesses. Thai Post newspaper was sued for publishing an article claiming Thai Rak Thai pursued policies aimed at boosting the value of Shin Corporation's core businesses. /13/

The constitution calls for the privatization of the countries radio and television frequencies, which are now held by the military or government agencies. This process has been stalled completely, probably until Thai Rak Thai have completed a bill that will again reduce the freedom of press considerably. The idea of the bill is to create a broadcast media council that would have the power to issue ethical guidelines and punish offending outlets with sanctions, including jail and closure. /13/ Of course such a law could be easily misused and should be considered as unacceptable in a democracy.

Duangkamol Chotana and Frank Flatters list a couple of further reasons restricting the Thai press' capability to act as a tool against corruption: One is that reading newspapers is not as common in Thailand as in many other countries. In fact even if economical development is taken accord, Thailand still has a very low press circulation. The other is that in addition to reasons restricting press freedom already considered, the press is hampered by strong libel laws that are often used against it, even though there are some constitutional guarantees /14/.

## **8.4. Lack of Political Will**

The above chapters clearly show that Thai people want to get rid of the corruption blooming in their society and have taken the first steps to achieve their goals as the constitution of 1997 and the forced resignation of the health minister in 1998 tell us. Unfortunately, the politicians do not seem to have the political will to let the wheels roll with a high gear on. One wonders the motives of the persons reigning the country, why did they get into politics in the first place? Do they really want to serve their country or do they have more personal interests in sight? The populist Thai Rak Thai Party bangs loudly on the corruption drum, but at the same time does nothing to implement the improvements written in the already seven years old constitution. Transparency International puts this global fact into words in the following way:

*“A principal challenge in assessing political commitment is the ability to distinguish between reform approaches that are superficial and designed only to bolster the image of political leaders, and those which are substantive efforts to create real and sustainable change.”*

Source: Transparency International, /15/.

Most of the problems in Thai Fight against corruption handled in this document are actually there only because of the lack of political will.

## **9. WHAT COULD BE DONE**

It is often said that corruption should be countered with a battle starting from the grassroots. Well, yes, there too, but it is not enough. The fight should be launched at all fronts. The example of Thailand shows, as revealed by the study by Pasuk et al, that I have so many times referred in this document, that the people of Thailand are sick of corruption. They do not report incidents they witness, because they believe no one cares /4/. I have learned from people living in highly corrupt countries that the problem seldom is knowing who the corrupt ones are. This is where the NGOs have to come into picture. By organizing the collection of enough signatures they could force a few of the most corrupt officials to resign and in that way cause fear to those guilty of malfeasance of

their power. The NGOs have to continue their important work at the bottom level but at the same time work on higher targets. The media is also more than just a messenger, Thailand needs brave editors who have the guts to take a stand instead of just saving their own bacon by releasing only self-censored stories that have lost their bite and message. The academics and professional have to believe that it is possible to change things and keep on working for the common good. What comes to politicians, they should build the political will and act in an honest way or be replaced by others. All this will not happen in a blink of an eye, but require years of hard work. Foreigners can help in this battle to by providing the NGOs with financial means to help them rise the awareness of people and supporting the development of Thailand. Today, the urban middle class is the one that could play a decisive role: they have the needed knowledge, there is a lot of them and they are the ones losing a lot due to corruption. In longer term, reducing the huge gap between the middle class and the poor rural people is the key to success.

## 10. REFERENCES

1. Anon, *Thailand Legal Basics*, Tilleke & Gibbins, International Ltd, March 2003. Available on the Internet: [http://www.tillekeandgibbins.com/Publications/thailand\\_legal\\_basics/](http://www.tillekeandgibbins.com/Publications/thailand_legal_basics/)
2. Pasuk Phongpaichit and Sungsidh Piriyarangsarn, *Corruption and Democracy in Thailand*, Silkworm Books, Reprint edition, June 1999.
3. Nualnoi Treerat, *Thailand: Fight against Corruption*, Political Economy Center, Chulalongkorn University, Bangkok 2000. Available on the Internet: <http://www.fes.or.kr/Corruption/papers/Thailand.htm>
4. Pasuk Phongpaichit, Nualnoi Treerat, Yongyuth Chaiyapong and Chris Baker, *Corruption in the Public Sector in Thailand: Perception and Experience of Households*. Political Economy Center, Chulalongkorn University, Bangkok 2000.
5. Anon, *Transparency International Corruption Perception Index 2003*, Transparency International, July 2003. Available on the Internet: [http://www.transparency.org/pressreleases\\_archive/2003/2003.10.07.cpi.en.html](http://www.transparency.org/pressreleases_archive/2003/2003.10.07.cpi.en.html)

6. Kanokkan Anukansai, *Anti-Corruption and Transparency Radio Broadcasts, Thailand*, Transparency International, 2003. Available on the Internet:  
[http://www.transparency.org/toolkits/2002/ch1-awareness/1anti\\_corr\\_radio\\_thailand.pdf](http://www.transparency.org/toolkits/2002/ch1-awareness/1anti_corr_radio_thailand.pdf)
7. Kanokkan Anukansai, *Transparency Youth Camp, Thailand*, Transparency International, 2003. Available on the Internet  
[http://www.transparency.org/toolkits/2002/ch1-awareness/1transparency\\_youth\\_camp\\_thailand.pdf](http://www.transparency.org/toolkits/2002/ch1-awareness/1transparency_youth_camp_thailand.pdf)
8. Anon, OECD Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions, Ratification Status as at 10 March 2004, OECD, March 2004. Available on the Internet: <http://www.oecd.org/dataoecd/59/13/1898632.pdf>
9. Jeremy Pope, *Confronting Corruption: The Elements of a National Integrity System*, Transparency International, 2000. Available on the Internet:  
<http://www.transparency.org/sourcebook/index.html>
10. Anon, *THAILAND – A Country Study*, Federal Research Division, U.S. Library of Congress, September 1987. Available on the Internet:  
<http://lcweb2.loc.gov/frd/cs/thtoc.html>
11. Lee Kim Chew, *THAILAND: Taking the bite out of the Thai press*, The Straits Times, Friday, February 27, 2004.
12. Li Choy Chong, Lectures of the course "International Management: Asia" that took place at Swiss Federal Institute of Technology, University of St Gallen, 2004.
13. Anon, *Attacs on the Press 2003: Documented Cases from Asia for 2003*, Committee to Protect Journalists, 2003. Available on the Internet:  
<http://www.cpj.org/attacks03/asia03/thai.html>
14. Duangkamol Chotana and Frank Flatters, *Corruption in Thailand: The Media are Only the Messengers*, The Nation, Bangkok, April 19, 2001.
15. Anon, *Source Book 2000*, Chapter 5, Transparency International, 2000. Available on the Internet: [www.transparency.org/sourcebook/](http://www.transparency.org/sourcebook/)



16. Anon, *Government meddling leads to self-censorship*, Bangkok Post, December 29, 2003.

## 11. RELATED READING

1. Tomas Larsson, *The Race to the Top*, Cato Institute, 2000.

2. Thaksin Shinawatra's home page, Available on the Internet:

[http://en.wikipedia.org/wiki/Thaksin\\_Shinawatra](http://en.wikipedia.org/wiki/Thaksin_Shinawatra)

3. Shamlal Puri, *Self Censorship & the Media*, Newslink Africa, Brussels, September 1998.

4. Prasit Damrongchai, *Good Governance & Counter Corruption in Thailand*, Thai Government, 2000.