



## Chapter III

### Similarities and Differences in abortion Policies between Thailand and Vietnam

In recent decades, international understanding of the basic civil, social and economic rights with which all people are born has deepened and been progressively articulated in international covenants, treaties and other instruments.

Reproductive rights are among the basic human rights confirmed by the International Conference on Population and Development in Cairo in 1994:

*“Reproductive rights embrace certain human rights that are already recognized in national laws, international human rights documents and other consensus documents. These rights rest on the recognition of the basic rights of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. It also includes their right to make decisions concerning reproduction free of discrimination, coercion and violence. The promotion of the responsible exercise of these reproductive rights should be the fundamental basis for government- and community-supported policies and programmes in the area of reproductive health, including family planning.”* (United Nations 1995, paragraph 7.3)

In reality, the exercise of these reproductive rights and the laws of abortion are different in different countries. Abortion laws began to be liberalized across Europe and in Canada, Cuba, India, the USA, Zambia and in several other countries in the 1960s and 1970s. Many other countries in all regions of the world have continued to reduce restrictions on prosecutions for abortion, particularly since the mid-1980s (Berer 2000, Rahman et al. 1998)

The formulation of laws and policies relating to abortion varies widely across countries, reflecting their diverse historical, political and religious roots. In this chapter, the similarities and differences between the abortion laws in Thailand and Vietnam will be identified and the reasons for different positions of the two governments will be explained. To begin with, the current policies on abortion in Thailand and Vietnam will be summarized.

### **3.1 The abortion policies in Thailand**

As early as 1805 AD, the early Siamese legal code, the Three Seals Law of Rama I punished anyone causing an abortion by flogging, fine and imprisonment. In case the woman seeking abortion died, the abortionist would be sentenced to death. The Penal Code in 1908 prohibited abortion in all cases and punished abortionists with fines and prison sentences. The current law on abortion in Thailand has come into being since 1957 under the Penal Code, allowing abortion in case of rape or risk to a woman's health.

Thai abortion law in 1957

- + penalises a woman who causes an abortion to herself or allows another to procure an abortion for her: 6,000 baht or three years jail, or both (Section 301)
- + penalises the administrator or procurer of an abortion: maximum fine 20,000 baht or 10 years jail if it results in the death of the woman (Section 302)
- + penalises procuring or administering an abortion without consent: maximum fine 40,000 baht or 20 years jail if it causes the woman's death (Section 303)
- + exempts from prosecution unsuccessful or unfinished abortion attempts (Section 304)
- + allows abortion to be performed by a medical practitioner if necessary for a woman's health, or if the pregnancy is due to offences such as rape, seduction of a girl under 15, fraud, deceit or violence in procuring sex or seduction (Section 305)

The first attempt to expand the legal circumstances for terminating an unplanned pregnancy led by gynecologists in 1973. After that, there was great support among Thai press for law amendment that are more flexible for women to abort. This resulted in the 1979 draft bill of the Fifth National Plan for Social and Economic

Development (1982-1986). Concretely, it was described in the fifth plan as “(1.3) *Amend Criminal Law Article 305. There are no absolutely effective contraceptive methods available. Abortion is legal if the pregnancy is a result of family planning failure*”. This bill passed The House of Representatives to the senate, unfortunately, it faced sudden new opposition by anti-amendment group led by major Chamlong Srimuang. This draft amendment was cancelled in 1981. According to Archavanitkul and Tharawan (2005: 8), this failure of the attempt affected later attempts because “*Once failed the later attempts never made it to the parliament*”. The year 1999 witnessed the most recent attempt to amend the Criminal Law Article 305. As a result, the sub-committee agreed to make change to Article 305 (1) from necessary to do so for the *health of the woman to physical and mental health of the woman* (Archavanitkul and Tharawan, 2005:10). In addition, there were also a number of suggestions regarding the problem that there need to be a law to punish man who get women pregnant unplanned and the women have to abort as well as more penalties to punish abortion operators; yet, these attempts were not made into a draft law to pass on the cabinet and the parliament.

### 3.2 The abortion policies in Vietnam

Abortion in Vietnam has been legal since 1945 and services have been available on request since the early 1960s (Johansson et al. 1996). Both contraception and abortion services are widely available as an integrated part of the basic health care services provided by the public sector. The available Ministry of Health (MOH) service statistics indicate that abortions are sought in the public sector by over one million women in Vietnam each year, with many women undergoing repeat abortions. The data also indicate that the number of abortions has increased dramatically in recent years. (World Health Organization [WHO], 1999:6)

North Vietnam was among the earliest countries in the developing world to adopt an official policy to reduce rapid population growth. Spurred by the results of the 1960 census, the Government of North Vietnam, as early as 1963, issued a statement recommending that couples limit their family size and space their births to

reduce the excessive rate of population growth by providing IUDs to women who wished to limit their family size.

Undoubtedly, before the reunification in 1975, heavy demands of the war to have more soldiers in the front hampered the North Vietnamese Government's ability to mount an extensive family planning program beyond the provision of IUDs (Intrauterine devices) and abortion services at some health facilities.

Under the influence of the French colonialists and the French Catholic Church, the law on abortion in South Vietnam was rather strict. Some combination of family planning services was available only in urban areas, while rural areas had far less access to such services due to many difficulties caused by wartime disruptions. For this reason, fertility levels in North Vietnam were lower than those in South Vietnam during the 1960s and the 1970s. (Vu and Hanenberg, 1989; Allman et al., 1991) Prior to unification in 1975, the Government of South Vietnam did not promote family planning until the United States Agency for International Development encouraged it to do so in 1971. Nevertheless, the program in the South remained incomplete through the end of the war in 1975 (Goodkind, 1994).

Since the unification, family planning has received increasing political attention from the national government, and efforts to extend coverage of birth-control services throughout the country gained greater priority. In 1982, various family planning measures were adopted by the government, including the use of abortion. After 1983, a series of government decisions and decrees led to the formal adoption at the national level of a policy advocating a one- or two-child family-size norm in late 1988 (Goodkind, 1995). In January 1993, the Communist Party Central Committee for the first time approved a resolution on population and family planning. In a strong statement, they identified excessive population growth as contributing to a wide range of social, economic and ecological problems. The resolution endorsed the recommendation that "each family should have one to two child" so that fertility could be lowered and population stabilization could be achieved. An official and comprehensive plan – Population and Planning Strategy to the Year 2000 – was

approved by the Prime Minister in June 1993 to guide efforts to implement the resolution. In an effort to promote implementation of family planning, Vietnam has successfully lowered its total fertility rate over the period 1970-2000 from 5.9 children per woman to 2.6 children per woman. (National Committee for Population and Family Planning [NCPFP], 1993)

In recent years, the Government of Vietnam has approved a number of laws that regulate abortion in various ways. The Law on the Protection of Public Health (30 June 1989) clearly states: “women shall be entitled to have an abortion if they so desire”. Article 6 of Vietnam’s official one-to-two child policy stipulates:

*“The state will supply, free of charge, birth control devices ... to eligible persons who are cadres, manual workers, civil servants or members of the armed forces ... and poor persons who register to practise family planning. ... The widespread sale of birth control devices will be permitted to facilitate their use by everybody that needs them.”* (JPRS, 1989)

It also calls for penalties for third and higher parity births or for violations of a three-to-five year spacing rule. Under the regulations of 1991, which deal with pregnancy termination in the context of maternal and child health care, a medical establishment or person may not perform an abortion without the proper authorization. Decree No. 12/CP on the promulgation of Social Insurance Regulations authorizes sick leave for abortions. On November 28, 2000 Prime Minister Phan van Khai issued Decree No. 136/2000/QĐ-TTg to ratify the “National Strategy for Reproductive Health Care 2001-2010”, one of whose specific aims is *“to minimize unwanted pregnancies and abortion complications”*.

Evidently, abortion is allowed in Vietnam. When checking the grounds on which abortion is permitted in Vietnam against the circumstances under which abortion is most frequently allowed elsewhere in the world, the Population Division of the Department of Economic and Social Affairs of the United Nations Secretariat states the abortion policy in Vietnam as follows:

Grounds on which abortion is permitted:

- + To save the life of the woman
- + To preserve physical health



- + To preserve mental health
- + Rape or incest
- + Foetal impairment
- + Economic or social reasons
- + Available on requests

Additional requirements:

A legal abortion must be performed by a physician.

(Population Division, 2001)

### **3.3 Similarities**

There are three similar points in abortion law and policies between Thailand and Vietnam as follows:

- + When a pregnancy threatens the woman's life, almost all countries permit abortion to save the woman's life as indicated in United Nations Population Division 1999, and Thailand and Vietnam are not an exception. Both countries allow abortion to be performed to save the life of the pregnant woman.
  
- + When pregnancy is the result of rape or incest, induced abortion is also allowed in both Thailand and Vietnam.
  
- + The abortion laws in both countries require that abortion be performed by a medical practitioner.

### **3.4 Differences**

Besides three similarities, there exist huge differences in abortion law and policies between the two countries:

- + Section 305 of Thai abortion law 1957 evidently provides very limited possibilities for legal abortion. Abortion is allowed only when it is necessary for a woman's health or when pregnancy is due to offences such as rape, seduction of a girl under 15, fraud, deceit or violence in procuring sex or seduction. The current law in Vietnam, on the

other hand, does not prohibit abortion. The Law on the Protection of Public Health 1989 clearly states: *“women shall be entitled to have an abortion if they so desire”*.

+ Because abortion is legal in Vietnam, the Government has so far made many policies to implement safe abortion at various levels (national and provincial) and at different sectors (public and private). Thailand offers very limited grounds on which abortion can be performed, so not many policies are available.

+ In Vietnam, abortion, as well as minimization of abortion complications, is considered one of the specific aims of the National Strategy for Reproductive Health Care, while it is not the case in Thailand.

+ Abortion in Vietnam is surprisingly cheap (\$4.35/case) and extremely easy for pregnant women to have access to, whereas abortion is very expensive in Thailand; in fact, it may cost a Thai woman a fortune to terminate her pregnancy safely.

+ In Vietnam, a woman undergoing abortion is often taken good care of by public- and private-health services before and after the abortion. Therefore, abortion is normally safer and there are fewer complications than that in Thailand, where most of the cases of abortion are illegal and performed by non-professionals.

+ Vietnamese Penal Code does not see abortion as a crime; therefore, there is no punishment for a woman undergoing abortion or for individuals performing abortion. Thai Legislation, on the other hand, has heavy punishment of fine and imprisonment for the administrator or procurer of an abortion.

### **3.5 Reasons for different positions of the two governments in terms of laws and policies**

As can be seen from above, there are more differences than similarities in the laws on abortion between Thailand and Vietnam. The differences may result from different religious beliefs; historical reasons; socio-economic reforms; or conservative ideas about virginity, sex before marriage, pre-marital sexual relations and women's sexuality.

### 3.5.1 Religious factors

#### 3.5.1.1 The effect of Buddhist factors on abortion laws in Thailand

In Thailand, a Theravada Buddhist kingdom where Buddhism is the state religion, there exists a very complicated interrelationship among the king, the military, the government, the universities, the religious orders, and the people. The Thai legal system has been influenced greatly by Buddhism (Florida: 1991). From Buddhist point of view, Chakosok (1981, cited in Whittaker, 2004)) sees sexual desire as an example of attachment to the material/sensual world that would inevitably lead to suffering and states that true Buddhists must be able to control their sexual instincts. In an article dated 12/7/1978 and reprinted in Chakodok's (1981, cited in Whittaker, 2004 ) book, the author "Pathisot" states:

*"The problems of abortion all stem from a single source, that people are inflamed with sexual passion [jai rakha]. Indeed lust plays an immense role. However, if sexual desire can be halted or reduced to some extent the problem of abortion will diminish or vanish entirely"*

In Thailand, the world centre of Buddhism (Srimuang 1981, cited in Whittaker, 2004), motherhood and reproductive rights are considered a primary source of female power and prestige in Thai society, where mothers are expected to accept their karmic role as mothers and nurturers (Muecke, 1984; Keyes, 1984; Kirsch, 1985). Therefore, abortion is the antithesis of Buddhist beliefs in the sanctity of life and hence un-Thai (Srimuang 1981, cited in Whittaker, 2004). Chamlong Srimuang (cited in Whittaker, 2004: 75) strongly states:

*"The first precept, concerning the taking of life, should continue as the basis for the way this country and our society functions. If we allow this precept to be trampled on, Buddhism will no longer be a national religion. The Lord Buddha would no longer be a figure of trust anymore, the Buddhist teaching would no*



*longer be believed in by the majority of people who, in turn, would lose faith in monks.”*

Under the influence of Buddhist principles, Thailand’s law-makers recognise the foetus as a human being from the moment of conception and take the precept against killing as primary, their law against abortion is quite restrictive. (Abortions are legal only when there is a serious threat to the health of the mother and in cases of rape.) Abortion is generally believed to be a Buddhist sin or demerit (*bap*) with serious karmic consequences both for the mother and foetus (Whittaker, 2004). Believing that abortion is *akusala karma*, or unskilful deeds, most Thai people are pleased with the restrictive law. Legal abortions are very rare; only five per year on average were reported. (Hall, 1970)

### **3.5.1.2 The effect of religious factors on abortion laws in Vietnam**

Communism, in nature, has little to do with religion. In “The Communist Manifesto”, originally published on the eve of the 1848 European revolutions, Karl Marx wrote: “Communism abolishes all religion and morality, rather than constituting them on a new basis” (Marx and Engels, 1967). According to Karl Marx, “religion is like other social institutions in that it is dependent upon the material and economic realities in a given society. With no independent history, it is a creature of productive forces” (cited in Cline, 2008). In a critique of Hegel’s *Philosophy of Law*, Marx wrote: “Religion is the heartless world, just as it is the spirit of a spiritless situation. It is the opium of the people” (cited in Cline, 2008). Marx’s opinion is that religion is an illusion that provides reasons and excuses to keep society functioning just as it is. Much as capitalism takes our productive labor and alienates us from its value, religion takes our highest ideals and aspirations and alienates us from them, projecting them onto an alien and unknowable being called a god. According to Marx, religion can only be understood in relation to other social systems and the economic structures of society. In fact, religion is dependent on economics, nothing else – so much so that the actual religious doctrines are almost irrelevant. This is a functionalist interpretation of religion: understanding religion is dependent upon what social purpose religion itself serves, not the content of its beliefs.

As communists, the Vietnamese leaders build their laws on Marxist-Leninist theories that view economics as the basic determining factor of human history. As atheists, they have no belief in karmic consequences as Buddhists do, so the Vietnamese laws and policies on abortion are by no means affected by Buddhist principles as Thai's laws and policies are.

### 3.5.1.3 Comments

(a) In Thailand, the law allows a woman to have induced abortions in case of rape. Rape, however, should not be an adequate karmic ground to allow abortion, which always involves killing a relatively innocent sentient being because one unskilful act does not justify another. In the light of Buddhist theory, executing criminals or killing each other in the street or in a war is not logical either.

(b) Different from the very nature of an atheistic government (Vietnam), a majority of Vietnamese people – about 80% – are Buddhist, who understand that the present existence is conditioned by earlier existence and will condition those to follow. They believe in the Law of Karma, but many of them, especially government workers and officials, often practise abortions because they are afraid of punitive measures from the government for violations of the one- or two- child policy. They are more afraid of being punished in their present life than what may happen to them in life after death. I completely agree with Florida (1991:9) when she said:

*“Where religious prohibitions result in highly restrictive abortion laws, illegal abortions are frequent. When social pressure to limit family size or to avoid the disgrace of unmarried pregnancy conflict with religious principles against abortion, religion loses out.”*

(c) If Florida is right, then Buddhist theory cannot prevent abortion from happening. There arises a question here: which attitude should we adopt toward the issue of abortion? Personally, I think we should have a middle way of handling this issue. When a woman considers abortion, she usually experiences distressing conflict between her sexual/reproductive drive and the realities of her life. Over-simplified positions of pro-life and pro-choice do not touch the depths of the dilemma and

cannot help her solve the problem, but a more understanding and sympathetic attitude can. Robert Aitkin, the leading figure in the ‘engaged Buddhism’ movement, an informal grouping of North American Buddhists who are trying to formulate theory and practice for applying Buddhist insights and traditions to the social situation of North American practitioners, once said:

*“I get the impression that when a woman is sensitive to her feelings, she is conscious that abortion is killing a part of herself and terminating the ancient process, begun anew within herself, of bringing life into being. Thus she is likely to feel acutely miserable after making a decision to have an abortion. This is time for compassion for the woman, and for her to be compassionate with herself and for her unborn child. If I am consulted, and we explore the options carefully and I learn that the decision is definite, I encourage her to go through the act with the consciousness of a mother who holds her dying child in her arms, lovingly nurturing it as it passes from life...Once the decision is made, there is not blame, but rather acknowledgement that sadness pervades the whole universe, and this bit of life goes with our deepest love.”*

(Aitken, 1984: 21-22)

This position seems to hold them to the middle way very skilfully. The moral consequences of the precepts are fully recognized, but the persons involved are treated compassionately rather than judgementally.

### 3.5.2. Communist Ideology

While *“Thailand has been independent during most of its history, except for a few relative brief periods of occupation by Burma or the Japanese military”* and *“is also the only country in Southeast Asia never taken over by a European power, thanks in part to King Chulalongkorn and his son, King Mongkut, who modernized the country and signed trade agreements with both Britain and France in the late nineteenth century and early twentieth century”* (Taywaditep and others, 2008), Vietnam has a history of almost constant wars: the 1,000-year war against Chinese invaders (111 B.C. – 939 A.D.), the 100-year war against French colonialists (1858 –

1954), and the 30-year war against American imperialists (1954 – 1975). The women in Vietnam became accustomed to being alone, perhaps taking over the family business and the household, while the men were in the military. Most remarkably, the Vietnamese women had to suffer a lot from the colonial yoke to the Confucian dogmas.

### **3.5.2.1 Women's liberation from the colonial yoke in Vietnam**

Women's liberation is not only a matter of interest to women of the advanced capitalist countries with their relatively high educational level and standard of living, but also an issue of vital concern and importance to the masses of women throughout the world. The underdeveloped countries of the Third World are no exception.

Most underdeveloped countries, Vietnam included, are defined by the colonialist/imperialist domination and the consequent distortions to their economies. Colonial/Imperial domination means that capitalist relations of production have been superimposed on, and have combined with, archaic, pre-capitalist production and social relations, transforming them and incorporating them into the capitalist economy. In the colonized country Vietnam, imperialist penetration reinforced the privileges, hierarchies and reactionary traditions of the pre-capitalist ruling classes, i.e. the feudalists, which it utilised wherever possible to maintain stability and maximise imperialist exploitation.

Under the French rule (1858 – 1954), the majority of the population in Vietnam lived on the land and was engaged in subsistence farming, utilising extremely backward methods. The extended family – which generally included various aunts, uncles, nieces, nephews, and grandparents – was the basic unit of small-scale agricultural production. During this period, women played a decisive economic role. Not only did they work long hours in the fields and home, but they had to produce children to share the burden of work and provide economic security in old age.

Because of its productive role, the hold of the family on all its members, but specifically on women, was strong. Combined with a low level of economic

development, this brought about extreme deprivation and degradation of peasant women in the rural areas. In practice, they scarcely had any legal or social rights as individuals, and were barely considered human. They lived under virtually total domination and control by male members of the family. In many cases, the restricted resources of the family unit were allocated first of all to the male members of the family and it was not uncommon for female children to receive less food and care, leading to stunted growth or early death from malnutrition. Female infanticide, both direct and through deliberate neglect, was practised in many areas. Often illiteracy rates for women approached 100%.

Since the triumph of the August Revolution in 1945, a persistent struggle for equality of the sexes has been undertaken in all spheres, legislation, family, and society. This has led to a fundamental change in the position, rights and interests of women. The struggle for women's liberation was always intertwined with the national liberation struggle. Whatever women did, they came up against the might of imperialist control, and the need to throw off the chains of this domination was an urgent and overriding task for all the oppressed in Vietnam. Large numbers of women became politically active for the first time through participation in national liberation movements. In the process of the developing struggle, it became evident that women could play an even greater role if victory was to be won. Women in Vietnam, in fact, became transformed by doing things that were forbidden to them by the old traditions and habits. They became fighters, leaders, organisers, political thinkers and policy makers. These deep contradictions stimulate revolt against their oppression as a sex, as well as demands for greater equality within the revolutionary movement.

### **3.5.2.2 Women's liberation from Confucianism**

Confucianism (Nho giáo), a generic Western term, is a *Weltanschauung*, i.e., a social ethic, a political ideology, a scholarly tradition, and a way of life, but it is not an organized religion. Chinese governors introduced Confucianism to Vietnam from 939 to 1407. The doctrine of Confucius (Triết học của Khổng Tử) is set forth in four classical texts (tứ thư) and in five canonical books (ngũ kinh). By rigid rules, it determines the attitude that every man in society should adopt to guide his relationships as an individual with his superiors, with his wife and friends, and with



his inferiors. The philosophy suggests a moral code, which advocates the Middle Way (Trung Dung) for the worthy man's behavior.

There are four rules for a man to achieve self-perfection: to cultivate himself (tu thân), to run his family (tề gia), to rule the country (trị quốc), and pacify the world (bình thiên hạ). The three important sets of social interaction (tam cương) are between king and citizen (quân – thần), between father and son (phụ – tử), and between husband and wife (phu - thê). Five cardinal virtues (ngũ thường) have to be achieved in order to become a man of virtue: humanity (nhân), equity (nghĩa), urbanity (lễ), intelligence (trí), and honesty (tín). As for the woman, Confucius teaches four virtues (tứ đức): skill with her hands (công), agreeable appearance (dung), prudence in speech (ngôn), and exemplary conduct (hạnh), and three submissions or obediences (tam tòng): to the father until she is married (tại gia tòng phụ), to the husband after she leaves her parents' house (xuất giá tòng phu), and to the eldest son when her husband dies (phu tử tòng tử).

Since patriarchy is the basic social institution, the Confucian framed their societal norm in terms of the duties and obligations of a family to a father, a child to a parent, a wife to a husband, and a younger brother to an older brother; they held that the welfare and continuity of the family group were more important than the interests of any individual member. Indeed, women were generally regarded as subordinate to men. Their prescribed roles and responsibilities in the family were first as wives and then as mothers. They married at puberty and often gave birth to as many children as physically possible. Their worth was generally determined by the number of children they produced. A woman's influence in family affairs could be increased by giving birth to a first male child, which resulted from the Confucian attitude of “honoring men and despising women” (trọng nam khinh nữ). Interest in having children was strongly reinforced by Confucian culture, which made it imperative to produce a male heir to continue the family line. A couple with numerous offspring was envied. If there were sons, it was assured that the lineage would be perpetuated and the cult of the ancestors maintained; if there were no male heir, a couple was regarded as unfortunate, and a barren wife could be divorced or supplanted by another wife. In feudal regime, an infertile woman was considered a social disgrace and an economic disaster.

Communist ideology expects all men to behave according to the principles of a "new society" founded on a Marxist-Leninist base. Regarding gender issues, it implies equality of men and women. Because Engels depicted traditional child-rearing practices as the main impediment for achieving gender equality, communist societies tended to socialize childcare and education to enable women to work for the society as men do. The institutions of marriage and the family were considered to be the key to the reproduction of social inequality, because the practices that evolve within these institutions obviously preserved the underlying system of private property and its inheritance.

At the same time, it was the Communist government which set up the Central Committee for Mother and Infant Welfare in 1971. The committee's responsibility was to guide and unify the organization of *crèches* (day nurseries). About one third of all children were raised in such facilities. Further support was given to women to separate themselves from domestic duties according to the 1980 State Constitution Article 63, requiring the state and society to ensure the development of maternity homes, *crèches*, kindergartens, community dining halls, and other social amenities to create favorable conditions for women to work, study, and rest. Even men were asked to share household tasks. But these efforts remained rather at cultural and ideological levels. Vietnamese Communists were keen to maintain the family as a social, but not necessarily an economic unit. For that reason, they argued that it was necessary for women to handle both employment and domestic duties.

According to Ha Thi Que, president of the Vietnam Women's Union in the early 1980s, popularizing family reform was extremely difficult because women lacked a feminist consciousness and men resisted passively. To promote equality of the sexes, members of the women's union took an active part in a consciousness-raising campaign under the slogan, "As good in running society as running the home, women must be equals of men." (Vietnam – The Family since 1954.<http://www.country-data.com>) Such campaigns resulted in a fairer division of labor between husbands and wives and in the decline of customs and practices based on belief in women's inferiority.

In December 1986, the government enacted a new family law that incorporated the 1959 law and added some new provisions. The goal of the new

legislation was "to develop and consolidate the socialist marriage and family system, shape a new type of man, and promote a new socialist way of life eliminating the vestiges of feudalism, backward customs, and bad or bourgeois thoughts about marriage and family." The law explicitly defined the "socialist family" as one in which "the wife and husband are equals who love each other, who help each other to make progress, who actively participate in building socialism and defending the fatherland and work together to raise their children to be productive citizens for society."

Reflecting the government's sense of urgency about population control, the 1986 law stipulated a new parental "obligation" to practise family planning, a provision that was absent from the 1959 text. Family planning was practiced on a voluntary basis and through persuasion. Each couple was supposed to have only two children, with 5-year birth spacing. Program workers were instructed to focus on pregnancy prevention, not directly on abortion, when mentioning family planning with people with strong religious belief. At the end of 1986, a stronger law on marriage and family was passed. Family planning has become compulsory and law-breakers have had to face severe punishments so far.

Thus, communism brought improvement for women by reducing early forced marriages, publicly condemning wife-beating, providing free childcare, and recognizing the economic value of housework. Legislation, together with women's prolonged contribution to the war effort, assisted in dismantling the absolute authority of the Confucian "three submissions."

Today, Vietnamese women are no more considered children-producing machines, but totally liberated from the colonial, feudal yoke and familial burden of giving birth to children to the detriment of their health; they are no more confined to the family walls, but allowed to enter the world outside to do whatever they can to contribute a worthy part to the building of their country. According to the Vietnam Women's Union, *"women make up more than 50 percent of the population and the workforce. They account for 27 percent of the National Assembly deputies, which is the highest rate in Asia. The percentage of female university graduates is 36.24 percent and the percentage of female journalists is 30 percent."* (Vietnam News Agency, 2/5/2007)

### 3.5.2.3 Comments

(a) Although the traditional role of women in Thai society is also that of wife and mother (Debyasuvam, 1975), Thai women did not suffer from the burden of wars and the pressure of giving birth to as many children as possible like Vietnamese women, which put invisible yokes on their little shoulders and miserable fates. Colonial and imperialist domination, as well as Confucian dogmas, did imprison Vietnamese women in their own homes and bind them to the “three submissions” from which Thai women were free.

(b) Although Thai Government understand, to some extent, that an important way of improving women’s position and shifting social attitudes is through public policy and national leadership and, over the years, have slowly been moving forward on gender issues, in practice *“the country has not actually taken the necessary action to fulfill the commitment”*. (Stalker, 2006: 8-10)

Stalker (2006: 33) further stated:

*“In recent decades Thai women have had better access to better healthcare and education and have played a crucial part in the country’s remarkable achievement in human development. But in critical areas they still face cultural and social barriers. Thus, there will be more that needs to be done to promote and protect women’s rights to equal participation and representation in public life.”*

Somswasdi and Theobald (1997: 110-111) shared Stalker’s concern about this when they said:

*“Government’s attention remained minimal, confined and had unspecific planning for women. As a token of special concern for women, two separate committees were appointed for drafting a short and a long-term plan for women. The recommendations of the short-term committee became part of the fifth-year plan while the long-term committee drafted a separate 20-year plan for women’s development. The Fifth plan included women as a target group and discussed improvement in female labor, education, health, training, and political*

*participation which seems to be of practice measure for women's development and less ambitious than that of 20-year plan. Unfortunately, it still remains a parallel plan with more of a symbolic value than a real one".*

(c) Although the Royal Thai Government committed itself to a set of ambitious "Millenium Development Goals (MDG)-Plus", one of which was *"to double the proportion of women in national development, local government bodies and executive positions in the civil service by 2006"*, the fact was that in February 2005, *"Thailand lost the chance to double the proportion of women: the proportion did increase, but only from 9.2 percent to 10.4 percent. And much more needs to be done to increase the number of women in local government bodies and in senior level civil servant postions."* (Stalker, 2006: 1-2)

### 3.5.3 Family planning and abortion in Thailand and Vietnam

What is meant by family planning and abortion?

The WHO Department of Reproductive Health and Research defines family planning as follows: *"Family planning implies the ability of individuals and couples to anticipate and attain their desired number of children and the spacing and timing of their births. It is achieved through use of contraceptive methods and the treatment of involuntary infertility"*, ([http://www.who.int/topics/family\\_planning/en/](http://www.who.int/topics/family_planning/en/))

An unsafe abortion is *"a procedure for terminating an unwanted pregnancy either by persons lacking the necessary skills or in an environment lacking the minimal medical standards, or both."* (World Health Organization 1992)

Thus, family planning and abortion are two different concepts. Although International consensus documents in relation to safe abortion clearly stated: "In no case should abortion be promoted as a method of family planning" (World Health Organization 2003: 100). However, some countries, among which is Vietnam, include abortion as an effective method of family planning.



### 3.5.3.1 Family planning in Thailand

Family planning activities were informally developed in Thailand between 1971 and mid-1970 under the euphemism “Family Health Project”, which was carried out very quietly, without public information activities, full-time workers, targets or incentives (Rosenfield et al., 1971). It was not until 1971 that family planning programme began to be formally announced in Thailand (Frazer, 1992). By that time, the population growth rate was 3.2 percent, implying a doubling of population in 25 years, projected to 90 million by the year 2000. Confronted with the issue of high rate of population growth, the Thai government aimed to reduce the population growth rate to 2.5 percent by 1976; to inform eligible women of the programme and motivate them to practise family planning; to make family planning services available throughout the country; and to integrate family planning activities with overall maternal and child health services. (Noranitpadungkarn, cited in Whang, 1976).

The National Family Planning Programme (NFPP) carried out by the Ministry of Public Health (MOPH) had been able to reach all towns and around 20% of the villages by 1973. However, there were still many rural villages where the MOPH did not visit. In 1974, the Population and Community Development Association (PDA), a private non-profit organization and the largest non-governmental agency in Thailand, proposed an imaginative expansion to the project and began to provide information and services to those villages not yet contacted by the MOPH. In 5 years, this programme reached 15,000 villages – approximately one-third of the villages at that time. The people were able to get information and contraceptives in their own village without travelling to a clinic in towns. PDA was accredited with having introduced the community based family planning service. The most popular form of contraception used by married couples is the contraceptive pill; other forms include IUDs and condoms (Whittaker, 2004: 14). Using the philosophy that in order for family planning to succeed, contraceptives need to be as freely available in villages as vegetables, so the villages distributed contraceptives free of charge to those who were practising family planning. Thanks to PDA’s efforts in conjunction with the national family planning programme, *“Thailand has gained impressive control over its growth rate. Use of contraceptives among married couples has increased from 15*

*to 70 percent, and in 15 years Thailand's population growth rate has been cut in half, from 3.2 percent to 1.6 percent" (Frazer, 1992).*

### 3.5.3.2 Family planning in Vietnam

The family planning programmes in Vietnam appear to have been motivated by long-standing concerns about pressures on the land and associated chronic food shortages in the North as well as by the related desire to improve women's welfare, part of a strategy to enhance productivity to meet the needs of the struggle for independence and reunification. (Jones, 1982; Hull and Duong, 1992; Allman et al., 1991)

The family planning programmes in Vietnam has started since the early 1960s. An official population policy was outlined in the North of Vietnam in 1963, the stated goal of which was **that "in the coming years, in all of North Vietnam the population growth rate must be brought down from 3.5 percent to 2.5 percent, then 2 percent, and each family will have only 2 – 3 children with 5 – 6 years birth spacing"** ("Guidance on Birth Control Activities", Directive No. 99-TTg of the Prime Minister's Office, 10 October 1963; quoted in Vu, 1992: 41). Formal attempts were not made to reach such goals, but the IUD (Intrauterine device) and condoms were increasingly promoted and abortion services were available at some health facilities (Vu, 1992). However, the Vietnam War (1965 – 1975) reduced the human and material resources needed for the implementation of the family planning programme. After reunification in 1975, Vietnam set about standardizing the availability of contraceptives. The Family Law of 1977 attempted to promote the protection of women's rights, which created a favourable climate for contraceptive use (Cimit, 1989). The 1979 census revealed a rapidly growing population, which heightened concerns about family planning. In 1981, the Ministry of Health increased the availability of contraceptives and abortion services at some state-run medical facilities. Government favour toward family planning was indicated by the sharp increase in the target for use of contraceptives and abortion in 1991 compared to the previous years (Jones, 1982). In 1984, the formal attempt to coordinate the family planning program with national goals to limit population growth resulted in the formation of the National Committee for Population and Family Planning (NCPFP).

In late 1988, Vietnam officially introduced a national “one-or two-child” policy (JPRS, 1989), which formalized a system of childbearing guidelines, free provision of contraceptives and abortion, and economic incentives and disincentives that have been implemented in certain areas of Vietnam (Goodkind, 1994). Since 1989, the private sector has grown, and medicine, contraceptives, and abortion services have become increasingly available outside of public health facilities (Allen, 1993)

In her statement at the Twenty-first Special Session of General Assembly for the Overall Review and Appraisal of the Implementation of the Programme of Action of the International Conference on Population and Development (ICPD) from 30 June to 2 July, 1999 in New York, Dr. Tran Thi Trung Chien, Minister of Health and Chairwoman of the National Committee for Population and Family Planning of Vietnam said:

*“In recent years, Vietnam has recorded important socio-economic achievements, particularly in the health and population sectors. The fertility rate has declined considerably. So have the infant and maternal mortality rates while maternal and child health care and family planning services have considerably been improved. Compared with other countries at the same income level, Vietnam’s achievements are noteworthy. The present population growth rate of 1.8% per year (as compared with 3.2% at the beginning of 1990’s) and its trend of further decline give a realistic hope that the replacement level fertility will be reached by 2005. This will be a low scenario of population growth projection envisaged for Vietnam by the United Nations. The economic and financial crisis in Asia has adversely affected Vietnam. Yet, the Government of Vietnam has been determined to continue its investment with a view to meeting the basic social needs including those for reproductive health and family planning.”(Tran,1999)*

### 3.5.3.2 Comments

(a) Although both countries, Thailand and Vietnam, launched family planning programmes with a view to decreasing the fertility rate and improving the quality of life for women in both countries, Thai government excluded abortion as a means to control population growth rate. Whittaker (2004: 14) clearly stated: *“While [Thai] women are valorised as the epitome of the responsible citizen if they limit their*

*family size through family planning, they are viewed as irresponsible criminals if they do so through abortion*". On the contrary, given the fact that abortion is legal in Vietnam, abortion was considered one of the important alternatives to terminate unwanted pregnancies.

(b) To decrease the fertility rate, Vietnam's government tend to favor the promotion of the IUD and abortion. Like other poor socialist nations, Vietnam has viewed the IUD and abortion as methods allowing maximum state control and monitoring of family planning. However, Vietnam has so far faced the issue of population policy and its interactions with inadequate availability and use of contraceptives.

Despite the fact that, in recent years, there has been a marginal improvement in the number of contraceptive methods available, Vietnam still lacks the resources to provide alternative choices. The 1992 data in Vietnam suggests that abortion appears to be concentrated among married women at the peak of their child-bearing years (Khong, 1992; Do et al, 1993). The prevalence of repeat abortions reported in some provinces, and survey responses of those reporting having had abortions, suggest that a number of women are using abortion as a means of fertility control. Goodkind (1994: 351) firmly stated: *"Vietnam's population policies, although not directly compelling abortion, raise the marginal costs of childbearing in some areas to such an extent that pregnancy termination becomes more acceptable"*.

In an assessment of policy, programme and research issues of abortion in Vietnam (World Health Organization [WHO], 1999: 1), the team in charge wrote:

*"The high levels of induced abortion in Vietnam reflect an unmet need for effective contraception, and the findings of this assessment confirm the need to improve the quality of care in the national family planning programme. Weaknesses in the provision of information and counselling, as well as constraints in the range of available methods, contribute to high levels of unwanted pregnancy. Although abortions are provided in family planning clinics, usually by the same providers who deliver contraceptive services, the team observed that family planning counselling and services in the context of*



*abortion were weak or even non-existent. This contributes to the many repeat abortions experienced by women”.*

(c) Unlike Thailand, family planning in Vietnam is coercive. Family planning was described as voluntary and dependent upon persuasion at first, but in the end it turned out to be compulsory. The program's guidelines called for two children per couple, births spaced five years apart, and a minimum age of twenty-two for first-time mothers – a major challenge in a society where the customary age for women to marry, especially in the rural areas, was nineteen or twenty. Campaign workers were instructed to refrain tactfully from mentioning abortion and to focus instead on pregnancy prevention when dealing with people of strong religious conviction. Enlisting the support of Catholic priests for the campaign was strongly encouraged. In 1987 it was evident that the government was serious about family planning; a new law on marriage and the family adopted in December 1986 made family planning obligatory, and punitive measures, such as pay cuts and denial of bonuses and promotions, were introduced for non-compliance, which obviously pushed the rate of abortion in this country even higher.

### **3.5.4 Conservative ideas about virginity, women’s sexuality, premarital sex, and unmarried mothers**

#### **3.5.4.1 Conservative ideas about virginity, women’s sexuality, premarital sex, and unmarried mothers in Thailand**

Female virginity is highly valued in Thai society. A good girl is expected to save her virginity for her would-be husband and *“virginity is still considered an important qualification of a wife”* (Women’s Studies Center, 2002:28).

With regard to the issues of men and women’s sexuality, there exists a strong double standard that views sexuality of females as passive and that of males as active. Sexual innocence among women is valued and overt display of sexual potency, shown through numbers of sex partners among men, is tolerated (Isarabhakdi, 2000). The most visible sexual double standard in Thai society is in the sexualization of girls and boys; *“girls are taught to be sexually reserved, boys face no restraints in their sexual behaviours”* (Archavanitkul & Tharawan, 2005). Normative Thai masculinity



expects of men sexual expertise, accumulation of sexual knowledge, and active use of heterosexual opportunities. Based on these gendered norms, Thai men often lack sexual sensitivity and responsibility in the sexual acts that they initiate. *“For Thai men, engaging in the premarital and extramarital sex is common. Women are, on the contrary, expected to be sexually naïve and engage in sex only with their husbands”* (Archavanitkul & Tharawan, 2005: 5). For them, engaging in premarital or polygamous sex is considered socially wrong. Aeusrivongse (2004:12) has the same viewpoint:

*“Thai culture, at least ancient Thai culture, has never treated men and women equally in sexual relationships. When a man and a woman consummate their love, it is viewed as a matter of gain and loss: the man gains while the woman loses, and much more than her virginity... In a certain sense, it reflects the traditional Thai view that sex must lead to marriage, and within a marriage the wife is always subservient to her husband.”*

Thai tradition does not approve of premarital sex. However, it is well documented that the practice of premarital sex has existed in both urban and rural areas among all strata in Thailand since the early twentieth century. The findings of many research works show that Thai men practise premarital sex more than Thai women, which seems to spring from the permissive attitudes of Thai people to tolerate male sexual promiscuity (Women’s Studies Center, 2002: 25 – 27). From Isarabhakdi’s (2000) study of sexual attitudes and experience of rural Thai youth, these permissive attitudes can easily be identified: almost 40 percent of both sexes held the double standard that premarital sex is legitimate for males, but not for females. The female youth, however, held more conservative attitudes toward premarital sex: about 60 percent believed in abstinence before marriage compared with only 27 percent of males. Surveys about attitudes toward premarital sex all reveal that women disapprove of it more than men:

*“In a 1979 survey of Bangkok university students, 40.58% of the male students and 68.10% of the female students were against premarital sex between boyfriends and girlfriends. In a 1988 nationwide survey of young people, 83.9% of the men and 98.0% of the women queried were against*

*premarital sex relations. During courtship, the ethical burden of keeping female chastity has lain heavily on the women. It has been their responsibility to draw the line, while men have felt their natural right to make advances as far as they can.”*

(Women’s Studies Center, 2002: 27-29)

Under the influence of the “*sexual double standard*” in Thai society, girls are taught to be sexually reserved, while boys do not have to suffer from any restraints in their social behaviours. Thai men are expected to accumulate sexual knowledge and gain sexual expertise. “*For Thai men, engaging in the premarital and extramarital sex is common. Women are, on the contrary, expected to be sexually naïve and engage in sex only with their husbands. For them, engaging in premarital or polygamous sex is considered socially wrong.*” (Archavanitkul & Tharawan, 2005: 5) Unmarried mothers, for this reason, often bear the stigma of being pregnant without marriage and those who cannot live down their shameful scandals tend to have recourse to illegal abortion as a way out.

#### **3.5.4.2 Conservatives ideas about virginity, women’s sexuality, premarital sex, and unmarried mothers in Vietnam**

Confucianism, which arrived in the 10<sup>th</sup> century and flourished between the 15<sup>th</sup> and 18<sup>th</sup> centuries, finds its way into every aspect of Vietnamese life and introduces a strict concept and secretiveness to sexuality (Khuat, 1998). In sexual matters, Confucianism is quite “puritanic.” Virginity is highly valued. A “good” young girl is expected not only to keep her virginity until she gets married but also to get married only once in her life. She is not supposed to make herself attractive, even to her own husband. Confucianism does not consider sexual activity morally wrong, but love and tenderness are treated with mistrust, and physical displays of them are considered at least questionable. This rule applies not only to showing affection in public, but also to its display in the privacy of the home.

In Vietnam, a strong double standard in gender norms exists in Confucianism and feudalism. According to this double standard, women’s chastity is valued above all things, while this is not the case for men (McMahan, 1995). While more young men engage in sexual activity at an earlier age, Vietnamese women are still expected

to be virgins until marriage. (Vu et al., 1996). While young men are expected to be knowledgeable and active in terms of intimate relations, young women are expected to be “pure” and “innocent” (Khuat, 2003)

Traditionally, premarital sex is not normative behaviour in Vietnam. In fact, it is considered socially taboo, particularly if it occurs outside of a stable union that will lead to marriage (Ghuman, et al. 2006). Severe punishment was meted out for premarital and extramarital affairs, especially to women. Only today do people dare expose the reality that love, sexuality and children born out of wedlock did exist in the midst of bombings and selfless labour in the period of socialist construction and wartime. (Khuat, 2003) Premarital sex and unmarried mothers, therefore, are condemned and stigmatized (Nguyen & Liamputtong, 2007). Unmarried mothers are very much looked down on, find it difficult to get married and have to suffer from a long, lonely life upbringing their fatherless children (Nguyen and Hoang, 2002). Fear of stigma and the vision of a long, lonely life have so far driven a lot of single pregnant women to abortions.

#### **3.5.4.3 Comments**

It is well documented in Thailand and Vietnam that conservative ideas about virginity, premarital sex and unmarried mothers in both countries are almost the same. However, the laws and policies on abortion in each country are quite different. In Vietnam, abortion is legal, while abortion is not legal in Thailand. Why is there such a big difference?

It may be argued that Thai government’s viewpoints behind the anti-abortion laws can be traced to the Buddhist nature of the government (Florida, 1991; Ratanakul, 1999), as well as to its wish to control women’s sexuality and their reproductive bodies. (Scott, 1985; Whittaker, 2004).

It is undeniable that Buddhist thought has a great influence on both ordinary people and high-ranking officials in Thailand, where approximately 98 per cent of the population professes to be practising Buddhism (Whittaker, 2004: 18). Thai laws on abortion are, as a matter of fact, deeply rooted in Buddhism, the principles of which are against abortion as presented in 3.5.1.1.

In a speech to the Senate in 1981, Chamlong (cited in Whittaker, 2004: 73) suggested that the public should adhere to the five moral precepts of Buddhism, controlling sexual desire through stringent laws against bars, nightclubs, massage parlours, pornography and women wearing revealing clothing, as well as promoting the practice of sexual abstinence on Buddhist holy days.

However, some questions should be raised here: Can anti-abortion laws in Thailand really control women's sexuality? Can anti-abortion laws in Thailand reduce illegal abortions? Unfortunately, research works show the opposite.

It is well documented that, despite the strict anti-abortion laws in this country, illegal abortions in Thailand are on the increase. An early attempt to estimate the national annual abortion rate indicated a total of 200,000 to 230,000 cases of induced abortion per year during 1972 – 1973, corresponding roughly to an induced abortion rate of 28 per 1,000 women aged 15 – 45 (Cook and Leoprapai, 1974, cited Population Council, 1981). A 1978 study of abortion practitioners in rural Thailand reported by Research and Evaluation Unit, National Family Planning Programme in 1979 showed that abortion is widely practised using methods ranging from very primitive to modern. The study estimated that a minimum of about 300,000 illegal abortions occurred per year in rural and urban Thailand, which would correspond to approximately 1 abortion per every 4 live births, or an abortion rate of approximately 37 per 1,000 women, excluding the Bangkok population, which was not covered in the study. A 1980 study in an overwhelmingly rural north-eastern province indicated a considerably higher incidence of abortion: over 8 abortions for every 10 live births and an abortion rate of 107 per 1,000 women aged 15 – 44. (Narkavonnakit and Bennett, 1981, cited in Knodel et al., 1987). The most accurate current estimates on illegal abortion in Thailand derive from an epidemiological study funded by WHO conducted in 1999 of clients of public hospitals in 76 provinces by the Ministry of Public Health. It included a cross-sectional data collection of a total of 45,990 cases of women presenting with symptoms relating to spontaneous miscarriage or abortion. 28.5 per cent of these women were found to have had induced abortions. This study shows the abortion rate is higher than standard, at 19.54 per every 1,000 newborns (Boonthai and Warakamin, 2001). In "Abortion, Sin and the State in Thailand", published in 2004, Andrea Whittaker described:



*“Every day, women like these [patients with complications of illegal abortions] present to hospital wards in Thailand with complications of illegal abortions. Despite restrictive abortion laws, it is estimated that between 80,000 and 300,000 abortions are performed each year, many using unsafe methods. Although many women experience no complications, others experience injury, infection, infertility and maternal death.”*(Whittaker, 2004:1)

In an article entitled “Buddhist approaches to abortion”, Florida (1991: 5) firmly stated:

*“The law on abortion in Thailand is widely broken. Virginity is highly valued and there is a heavy social stigma against unmarried mothers so that fear and shame drive many single pregnant women to illegal abortions. They are unable to face the social consequences of their situation and thus sacrifice their Buddhist principles against taking life. Some rationalise that a very small foetus is not yet conscious and thus an abortion does not involve killing. However, as we have seen, this is contrary to the traditional Buddhist understanding. Some medical professionals more or less discretely advertise for abortion business, but many abortionists are untrained, which leads to the usual dreadful consequences”.*

Thus, the fact that abortion is illegal does not stop Thai women from making the decision to seek an abortion. They consider abortion as *thamada* (ordinary, normal); they speak of abortion as “*a small sin*”; they regard abortion as an unfortunate but necessary act, and the illegality of the act has little perceived relevance to the realities of their lives and circumstances (Whittaker, 2004: 109). In reality, the restrictive anti-abortion law in Thailand is – to use Florida’s words – “*widely broken*”. That is the reason why there has been a hot debate over legal reform of the abortion law in Thailand since 1973. A reform was passed in 1981 in The House of Representatives, but defeated in The Senate, primarily due to the lobbying efforts of Chamlong Srimuang, the leader of a broad-based religious coalition, who has been central in the anti-reform movement since then. Though abortion remains a politically sensitive issue, a new advocate network has been formed, including a range of women’s organizations, public health advocates, academics and journalists, which offers the



best hope for reform (Whittaker, 2002). Bioethicist Pinit Ratanakul (1999: 62) suggests that although institutionalised Buddhism rejects abortion, most lay Thai Buddhists agree with a *“middle path”* on the morality of abortion, which is apparent in a number of studies on the social acceptability of abortion demonstrating that the Thai public is willing to allow abortion in certain circumstances not currently permitted under the law (Population Council, 1981). Germain (1989) is reasonably right when he said:

*“Laws do not stop abortion; they simply make it unsafe.”*