

I. Summary

It was like suddenly my son no longer existed... Now I only want to know what happened to my son. Is he still alive? Where is he? Is he dead? Who killed him? I want to know.

—Mother of “disappeared” man in Yala province

Thailand’s southern border provinces of Pattani, Yala, and Narathiwat have been in turmoil since separatist militants attacked the army’s Fourth Engineering Battalion in Narathiwat on January 4, 2004. The militants, who did not claim responsibility for the attack or issue any demands, took a large cache of weapons, killed four Thai soldiers, and torched 20 schools in simultaneous arson attacks across the province. In the three years since that attack, violence by separatist groups and the government has dramatically escalated. As of the end of January 2007, there have been 2,034 deaths and 3,101 injuries reported as a result of 6,094 violent incidents—mostly attributed to militant attacks.

In the past three years, militants have carried out almost daily bombings, arson attacks, and assassinations of government officials, Buddhist monks, and civilians including local Muslims suspected of collaborating with Thai authorities.

In response, the Thai government has put Pattani, Yala, and Narathiwat under special national security legislation and mobilized massive numbers of security and counterinsurgency forces into the south. These have had little positive impact on the security situation, but have alienated the local population. Then-Prime Minister Thaksin Shinawatra put pressure on the abusive and largely unaccountable Thai security forces with unrealistic targets and deadlines, and they resorted to extrajudicial killings, enforced disappearances, and other human rights abuses to create an impression of successful operations. As Deputy Prime Minister Chavalit Yongchaiyudh told the Thai parliament on March 18, 2004, “Villagers [in the southern border provinces] complained to me that they have been abused continually by the authorities. They said more than 100 people have been ‘disappeared.’”

Abuses by both the militants and the security forces have fueled a deadly cycle of violence over the past three years. The predominant militant group, the National Revolution Front-Coordinate (Barisan Revolusi Nasional-Koordinasi, BRN-C), has taken advantage of abuses by the Thai security forces to gather support for their separatist cause. On an almost daily basis, the BRN-C's youth wing (*pemuda*) and guerrilla units (Runda Kumpulan Kecil or RKK) have carried out shootings, bomb attacks, arson, beheadings, and machete attacks; statistics show clearly the intensity and lethality of their attacks, as well as evidence of a disturbing trend towards more frequent attacks on civilians and civilian objects. A Human Rights Watch report on militant abuses in southern Thailand is forthcoming.

The present report focuses on the practice of the Thai security forces of “disappearing” persons suspected of being militants, or of supporting them, or of having information on separatist attacks. Under international law an enforced disappearance occurs when a person has been arrested, detained, or abducted by government officials or their agents, followed by a refusal to acknowledge the deprivation of the person's liberty or to disclose the fate or whereabouts of the person. Enforced disappearances invariably violate a number of fundamental human rights, including the right to life; the prohibition on torture and cruel, inhuman, and degrading treatment; the right to liberty and security of the person; and the right to a fair and public trial. “Disappearances” are particularly pernicious as they also cause untold suffering to family members and friends, who never know whether the person they care about is alive or dead.

In this report we document 22 cases of unresolved “disappearances” in or associated with the south. There are, as Chavalit told parliament, likely to be many more. But with little or no physical evidence, “disappearances” are often hard to document. Moreover, our field investigations in the three southern provinces were carried out under dangerous and volatile circumstances. We therefore have erred on the side of caution, presenting only those individual cases in which we have concluded, or the evidence strongly indicates, that the Thai security forces were likely responsible.

Our investigations found that many of the “disappeared” had been suspected by the police or army of involvement in or of having information about militant attacks on government posts. In some cases, witnesses last saw the “disappeared” person in the custody of armed men who were identified as members of the security forces. In many cases witnesses saw victims being forced into double-cab pickup trucks commonly used by members of the police and army in operations against militant groups.

Fears for the safety and lives of those believed to have disappeared have been heightened by extrajudicial killings and torture of detainees suspected of involvement in the insurgency. The security forces have been accused of torturing detainees to obtain information and confessions, most notably by severe beatings, near-suffocation by drowning or placing plastic bags over their heads, and electric shocks to the thighs and testicles. Human Rights Watch has learned that detainees have often been held illegally in informal places of detention, commonly referred to as “safe houses,” making it virtually impossible for family members and lawyers to locate and gain access to the “disappeared.”

The wife of Musta-sidin Ma-ming, a 27-year-old mobile phone shop owner who “disappeared” in Narathiwat on February 11, 2004, told Human Rights Watch that she asked Prime Minister Thaksin directly in May 2004 to find out what had happened to her husband:

I hired a lawyer to write a petition to Prime Minister Thaksin when I knew of his visit to Tambon Tanyongmas [in Narathiwat] in May 2004. When the prime minister received my petition, he told me three times that ‘I am going to look into the case.’ I also received similar assurances from officials from the Ministry of Justice. But those words have led to nothing. I came home empty-handed every time I went to the police station. There was no sign of progress if the police would be able to say who took my husband away, or what they did to him.

Thaksin provided a general response to such cases in August 2005. He told the National Human Rights Forum, “Some police officers wanted to be effective. Despite

their good intention, they chose to violate human rights. The authorities must be very patient and obliged to due process of law... They must not ‘abduct and torture’ suspects, or kill them when they cannot get suspects to talk. That practice is out of date. I am a former police officer, so is Deputy Prime Minister Chidchai. If we can’t solve this problem now, when are we going to do it?” Despite that statement, there have been no criminal investigations by his government, or the military-backed government that took power after the September 2006 coup, to directly look into the scores of reported enforced disappearances in the south and bring those responsible to justice.

The failure to bring to justice those responsible for serious human rights abuses in the south, despite Thaksin’s public acknowledgement that some police officers resorted to extrajudicial means to be “effective” in solving cases, has further deepened a widespread frustration among the ethnic Malay Muslim population in the southern border provinces. Many have concluded that the security forces are being allowed to commit abuses with impunity. The Thai army and police have not pursued criminal prosecutions of their personnel—either under the criminal law or military law—and only one regional commander has been transferred for a human rights abuse in the south since the escalation of violence in January 2004. The government agencies—including the police, the Justice Ministry’s Department of Special Investigation, and the National Human Rights Commission—charged with investigating extrajudicial killings and other human rights violations have failed to carry out full and impartial investigations.

Of all the reported “disappearances” in or associated with the southern border provinces, renowned lawyer Somchai Neelapaijit’s disappearance is the only case that has led to a prosecution and received significant public attention. This was because of widespread publicity and local and international pressure, yet even then only one police officer was convicted on a relatively minor charge. Exactly what happened to Somchai after his abduction from a Bangkok street and exactly who was behind the crime remains unsolved and unpunished. The police investigation was weak and suffered significantly from inadequate forensic information. The Central Institute of Forensic Science, created under the Justice Ministry in 2002 in response to the public’s loss of faith in the impartiality of police forensic

investigations, did not have an opportunity to properly collect evidence and testify during the investigation and trial of Somchai's case.

In a half-hearted attempt at reconciliation, Thaksin appointed a special committee to collect and verify information regarding reported "disappearances" in the southern border provinces. The investigation, carried out between August 10 and December 31, 2005, was not intended to lead to the identification and charging of the perpetrators, but to help families of the victims. Most of the 22 families Human Rights Watch interviewed said they had already received 100,000 baht (U.S.\$2,778) financial assistance from the government. All of them, however, told Human Rights Watch that they did not believe that compensation was a substitute for serious investigations to determine the whereabouts of their fathers, husbands, or sons, or for appropriate prosecutions of those responsible for the abuses.

The coup on September 19, 2006, which ousted Prime Minister Thaksin from power created euphoria among many in the ethnic Malay Muslim population, particularly when the interim prime minister, General Surayud Chulanont, noted in his inaugural speech on October 1, 2006, that "injustice in the society was primarily the cause of problems in the southern border provinces." On November 2, 2006, Gen. Surayud's public apology to the assembly of ethnic Malay Muslims in Pattani—admitting that what happened in the past was mostly the fault of the state—was televised throughout the country. At the same time, he also announced the re-establishment of the Southern Border Provinces Administrative Center (SBPAC), to help investigate and take action against complaints from the ethnic Malay Muslim population concerning corrupt, abusive, or inept government officials.

However, little has been done to follow through on Gen. Surayud's early statements. It remains unclear how serious the new government is and what concrete action it plans to take to end the practice of enforced disappearance—as well as other state-sanctioned abuses—and end the culture of impunity in the southern border provinces.

Key recommendations

1. The Thai government should promptly sign and ratify the United Nations Disappearances Convention and abide by its terms, including by making enforced disappearances a criminal offense.
2. The Thai government must ensure that all persons detained by the police and security forces are held at recognized places of detention, are not subjected to torture or cruel, inhuman or degrading treatment, and their whereabouts are made known to family and legal counsel.
3. The Thai government must conduct prompt, independent, and impartial investigations into allegations of “disappearances,” and prosecute all officials, whatever their rank, implicated in enforced disappearances, including those who knew or should have known about the pattern of abuses.
4. The Thai government should provide prompt, fair, and adequate compensation to the victims or family members of those who have “disappeared.”

Human Rights Watch’s full recommendations can be found in Part VI, below.

Methodology

This report is based on a series of trips to the southern border provinces between February 2005 and November 2006. Our research was limited by security concerns for the families of the victims and for witnesses in what is a dangerous and volatile region. We also interviewed academics, journalists, lawyers, human rights defenders, and government officials (including police and security personnel) in Bangkok and the southern border provinces. We interviewed members of separatist groups. Reports from the Thai authorities and from Thai and international media were also used in producing this report.

The full names of some interviewees are not used, for their protection. For that reason, information that might identify them—such as village names and specific dates of interviews—has been withheld in certain cases as well.