



THAILAND

“It Was Like Suddenly My Son No Longer Existed”

Enforced Disappearances in Thailand’s Southern Border Provinces

HUMAN
RIGHTS
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Map of Thailand's Southern Border Provinces



Reproduced from "The Power of Reconciliation: Report of the National Reconciliation Commission," March 2006.

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.

II. Insurgency in the South

A brief history of insurgency

To varying degrees, the southern border provinces of Pattani, Yala, and Narathiwat have been the scene of separatist activity for more than a century.

Before it was annexed by Thailand (then Siam) in 1902, the region consisted of independent Muslim sultanates. Since then its distinctive religious, ethnic, linguistic, cultural, and historical traits have often continued to clash with Thailand's Buddhist and nationalist culture.¹ The majority of the population are ethnic Malay Muslims and speak a local dialect of the Malay language known as Jawi.

Attempts by Thai authorities to suppress and assimilate those differences by various measures—from alteration of administrative structures to the assertion of centralized control over Islamic education and practices—as well as indifference towards the local economy, standard of living, the rule of law, and justice in the southern border provinces have resulted in a general atmosphere of resentment and alienation among the ethnic Malay Muslim population. This has provided the context for resistance and insurgency, based largely on three ideological foundations—namely the belief in traditional virtues and the greatness of the Islamic Land of Patani (Patani Darussalam),² the Malay ethnic identification, and a religious orientation based on Islam.³

¹ The rise of military dictatorship in Thai politics defined national security in terms of maintenance of “nation, religion and monarchy” as “the essence of Thainess.” See Thongchai Winichakul, *Siam Mapped: A History of the Geo-Body of a Nation* (Chiang Mai: Silkworm Books, 1994).

² “Patani” is the Malay spelling of the province. It refers to the Sultanate of Patani, which has been used by ethnic Malay Muslim separatist groups to express their aspiration for liberation and independence from the Thai state. “Pattani” is the official transliteration of the name used by Thai authorities.

³ For discussions on the history of separatism in the southern border provinces, see: Surin Pitsuwan, *Islam and Malay Nationalism: A case study of the Malay Muslims of Southern Thailand* (Bangkok: Thai Khadi Research Institute, 1985); Uthai Dulyakasem, “Muslim Malay in southern Thailand: Factors underlying the political revolt”, in Lim Joo Jock and Vani S, eds., *Armed Separatism in Southeast Asia* (Singapore: Institute of Southeast Asian Studies Regional Strategic Studies Program, 1984), pp. 220-222; Thanet Aphornsuvan, “Origins of Malay-Muslim ‘separatism’ in southern Thailand”, *Asia Research Institute Working Paper No. 32* (Singapore: National University of Singapore, 2005); and Supara Janchitfa, *Violence in the Mist* (Bangkok: Kobfai, 2005), pp. 273-274.

For many decades, traditional leaders in the southern border provinces—including the displaced elite who lived in exile and head teachers (*tok guru*) of local Islamic boarding schools (*ponoh*)⁴—have taken the role of defenders of the faith and upholders of ethnic Malay Muslim identity to mobilize a series of political resistance movements and armed struggles. The movement for the independence of Pattani was broadened significantly by the creation of the Patani People’s Movement by Haji Sulong (Sulong bin Abdul Kadir bin Mohammad el Patani), chairman of the Pattani Provincial Islamic Council. In 1947 Haji Sulong led a petition campaign for autonomy, language and cultural rights, and implementation of Islamic law. The nationalist military government of Field Marshal Phibun Songkhram reacted by arresting Haji Sulong together with several other religious leaders and Muslim parliamentarians on treason charges in January 1948. Haji Sulong was released from prison in 1952 but disappeared along with his eldest son, Ahmad Tomeena, in 1954. The presumed murder of Haji Sulong by Thai authorities transformed him into the symbol of ethnic Malay Muslim resistance.⁵

Political and armed groups driven by the ideology of ethnic Malay Muslim separatism in Thailand’s southern border provinces were consolidated in the 1950s by formation of the Greater Patani Malayu Association (Gabungam Melayu Patani Raya, GAMPAR) with the objective of incorporating Thailand’s Muslim provinces into Malaya. Soon after that, Tengku Jalal Nasir (also known as Adul Na Saiburi), GAMPAR deputy leader and former Narathiwat parliamentarian, established the Patani National Liberation Front (Barisan Nasional Pembebasan Patani, BNPP) in 1959 as the first organized armed Malay ethnic Muslim resistance group.⁶

The expansion of the ethnic Malay Muslim resistance and violence accelerated in the late 1970s and early 1980s. During this period four main ethnic Malay Muslim

⁴ *Ponoh* (also known as *pondok*) refers to an Islamic boarding school comprising groups of huts in which students live within the *tok guru*'s compound. There are around 400 *ponoh* in Pattani, Yala, and Narathiwat currently registered with the Education Ministry. Some include additional curriculum of secular subjects, while others focus only on Islamic studies. In addition, there are 127 unregistered *ponoh*, which do not receive government support and are not obliged to be under official supervision.

⁵ Aphornsuwan, "Origins of Malay-Muslim 'separatism' in southern Thailand," p. 7.

⁶ Chidchanok Rahimmula, "Crisis on the Southern Border" in Uthai Dulyakasem and Lertchai Sirichai (eds.), *Knowledge and Conflict Resolution* (Bangkok: The Asia Foundation, 2005), pp. 7-8. [ชิตชนก ราฮิมมุลลา, "วิกฤตการณ์ชายแดนใต้" ใน อุทัย ดุลยเกษม และเลิศชาย ศิริชัย (บรรณาธิการ), *ความรู้กับการแก้ปัญหาความขัดแย้ง* (กรุงเทพฯ: มูลนิธิเอเชีย), 2548.]

separatist groups operated in Thailand’s southern border provinces—the BNPP,⁷ the Patani United Liberation Organization (Bertubuhan Pembebasan Patani Bersatu, PULO), the National Revolution Front (Barisan Revolusi Nasional, BRN)⁸ and the Islamic Mujahidin Movement of Patani (Gerakan Mujahidin Islam Patani, GMIP). Each of these organizations was founded to establish an independent homeland by casting ethnic Malay nationalism in Islamic terms. On August 31, 1989, leaders of these groups formed the United Front for the Independence of Pattani (Barisan Kemerdekan Patani, Bersatu), which served as an umbrella organization for political coordination and pooling of resources for the ethnic Malay Muslim separatist movement. In addition, 60 other fringe groups comprised of both ethnic Malay Muslim separatists and criminal gangs were operating.⁹

The volatility of the communal situation in the southern border provinces has been fed by continued perceptions among the ethnic Malay Muslim population that they have been subject to decades of protracted corruption, exploitation, brutality, and violence at the hands of Thai authorities.¹⁰ This resentment and frustration has helped to keep the insurgency alive despite a series of massive counterinsurgency operations by the Thai government.

The need to address political and social conditions underlying armed struggles led by the Communist Party of Thailand (CPT) in many parts of the country and the ethnic Malay Muslim separatist insurgency in the southern border provinces prompted the Thai government to review its security and counterinsurgency policy. Then-Prime Minister Gen. Prem Tinsulananda issued two executive orders, numbers 66/2523 (in 1980) and 65/2525 (in 1982) respectively, resulting in a potent combination of military operations and political-socioeconomic measures that aimed to remove grievances and causes that had sparked the fight against Thai authorities in the first place.

⁷ In 1986 BNPP renamed itself the Islamic Liberation Front of Pattani (Barisan Islam Pembebasan Patani, BIPP).

⁸ The original BRN was established on March 13, 1960, but later split into three factions: “Congress,” “Coordinate,” and “Ulema” (clerics). Today “Congress” and “Ulema” are more or less defunct, while “Coordinate” has emerged as the main group involved in the current wave of violence in the southern border provinces.

⁹ Many militants operated in a grey zone of crime on the one hand, and Malay Muslim ethnic/religious consciousness on the other—which facilitated recruitment from criminal gangs for insurgent groups and vice versa. Human Rights Watch interview with Chidchanok Rahimmula, Pattani, July 5, 2006.

¹⁰ Ibid.

In the southern border provinces, the redirection of security policy was translated into the offer of amnesties, greater political openness, participatory administrative structures, and economic development for the ethnic Malay Muslim population.¹¹ The Thai government introduced a three-pronged approach incorporating politics, economics, and the harmonization of rival agencies in the southern border provinces. In 1981, the Southern Border Provinces Administrative Committee (SBPAC) and the Civilian-Police-Military Taskforce 43 (CPM 43) were established to enhance mutual understanding and trust between Bangkok and the ethnic Malay Muslim community, while improving intelligence gathering and coordination among various elements of Thai authorities and security forces. CPM 43 was placed under the Internal Security Operation Command (ISOC), while SBPAC was attached to the Ministry of Interior and made responsible for the overall administration of the southern border provinces. SBPAC was well known for being able to listen to complaints from the ethnic Malay Muslim population concerning corrupt, abusive, or inept government officials, and was believed to be able to order the transfer of those officials within 24 hours.

At the same time, the Thai government was successful in negotiating security cooperation with Malaysia in order to seal off escape routes and hiding places of members of separatist groups. Whatever sympathies Malaysia may have had for the plight of ethnic Malay Muslims in Thailand, it too did not want an Islamic insurgency operating from its territory, fearing blowback. In January 1998 Malaysia arrested PULO leaders Abdul Rohman Bazo, Haji Daoh Thanam, Haji Mae Yala, and Haji Samae Thanam, and handed them over to Thai authorities.¹² The Thai government then announced a deadline of March 10, 1998, for Malay Muslim separatist groups to take up its amnesty offers.¹³ Nearly 1,000 members of ethnic Malay Muslim separatist groups, mainly from various factions of PULO and BRN, turned themselves in to join rehabilitation programs.¹⁴ They received amnesty and were reinstated to full citizenship rights through CPM 43-run reintegration programs, which provided plots

¹¹ This policy was known as “ใต้ร่มเย็น,” which translates literally into “the South under a cool shade.”

¹² “Terrorists asked to surrender in a month's time,” *The Nation* (Bangkok), January, 27 1998, p. 1.

¹³ Ornanong Noi Wong, *Political Integration Policies and Strategies of the Thai Government Towards the Malay-Muslims of Southernmost Thailand (1973-2000)* (PhD dissertation, Northern Illinois University, 2001), pp. 149-150.

¹⁴ Rahimmula, “Crisis on the Southern Border,” pp. 24-25. [ชิตชนก ราฮิมมูลา, “วิกฤตการณ์ชายแดนใต้” หน้า 24-25.]

of land as well as vocational training.¹⁵ A number of ethnic Malay Muslim leaders also began to seize the new political openness to move away from armed struggle and take part in electoral politics at the local and national levels.

By 2000, Thai authorities were confident that the ethnic Malay Muslim separatist groups had largely been quelled. That year, CPM 43 estimated that only 70–80 separatist militants remained active in the southern border provinces, while around 200 leaders of various ethnic Malay Muslim separatist groups were living in exile.¹⁶

A new and counterproductive approach by the Thaksin government

When Prime Minister Thaksin Shinawatra took office in February 2001, the government treated ethnic Malay Muslim separatist groups as a spent force. It attributed the small number of shootings, acts of arson, bombings, and raids on government arsenals in the southern border provinces to banditry or turf wars between criminal gangs, or to influential people with vested interests in creating instability and undermining the government's credibility.¹⁷

It was this assessment, and a desire to put his own people in place—particularly by enhancing the role of the police (Thaksin is a former police official) at the expense of the army—that led Thaksin to dissolve SBPAC and CPM 43 in 2002. The leading role and authority that the army had in managing the southern border provinces was transferred to the police. The special security policy, which reflected the region's unique characteristics, was discontinued. At the same time, major changes in personnel and the transfer of most authority from the army to the police resulted in the politicization of security policy and the weakening of intelligence gathering and analysis regarding the identity of separatist groups, as well as the scale and trajectory of their violence.

Thai security personnel told Human Rights Watch that these changes fed a sense of resentment among the local population. This was partially fuelled by greater

¹⁵ Noiwong, *Political Integration Policies and Strategies of the Thai Government Towards the Malay-Muslims of Southernmost Thailand (1973-2000)*, p. 161.

¹⁶ Senate Committee on Armed Forces Presentation, Parliament Radio Broadcast (Thai), March 14, 2006.

¹⁷ Ibid.

corruption and other abuses by government officials, particularly after the government launched a nationwide anti-drug campaign that quickly evolved into a violent and murderous “war on drugs” in 2003.¹⁸ Prime Minister Thaksin’s Order 29/2546, signed on January 28, 2003, called for the absolute suppression of drug trafficking by stating that, “if a person is charged with a drug offense, that person will be regarded as a dangerous person who is threatening social and national security.”¹⁹ In the ensuing weeks, the government gave governors and police chiefs in each province targets for the number of arrests of suspected drug traffickers and the seizures of narcotics. Countrywide between February and May 2003, 2,598 alleged drug offenders were shot dead in apparent extrajudicial killings;²⁰ many of these killings appeared to be based on “blacklists” prepared by police and local government agencies. Particularly in the more lawless south these lists were used by police and local authorities to settle local disputes and, at the same time, score political points with the government.²¹ As blacklisted suspects had no mechanism by which to challenge their inclusion on a list, and with the increasingly intensified climate of fear, many ethnic Malay Muslim villagers turned to separatist insurgents to seek protection from imminent threats of blacklisting, arbitrary arrest, “disappearance,” and extrajudicial killing.²²

A member of the National Revolution Front-Coordinate (BRN-C), which created a loose network of insurgent cells across the southern border provinces in the late 1990s and has become the driving force behind recent attacks, told Human Rights Watch that Thaksin’s “war on drugs” gave them a much needed impetus to start a new wave of insurgency:

There was a period of about seven to eight years of quietness, but that did not mean our movement had given up. Thai authorities thought they had succeeded in pacifying the situation. For us, it was a period

¹⁸ Human Rights Watch interview with Gen. Panthep Puwanartnurak, former Commander of the Fourth Army Region, Bangkok, September 29, 2006.

¹⁹ Order of the Prime Minister’s Office No. 29/2546 (2003).

²⁰ Human Rights Watch interview with Wasan Panich, national human rights commissioner, Bangkok, November 21, 2006.

²¹ Ibid.

²² Maj. Gen. Nanthadet Meksuwan, *Secret Operations to Put Out Southern Fire* (Bangkok: Ruam Duay Chuay Kan Publishing, 2006), pp. 35-36. [พล.ท.นันทเดช เมฆสวัสดิ์, ปฏิบัติการลับดับไฟใต้ (กรุงเทพฯ: สำนักพิมพ์ร่วมด้วยช่วยกัน), หน้า 35-36.]

of recuperating. After the government launched anti-drug campaigns, villagers were deeply in fear. Out of resentment towards Thai authorities, those villagers were desperate and requested us to give them protection. We gave them training in military and self-defense tactics, in parallel with political indoctrination about the struggle for independence. This is how we reestablished control of the population and stepped up attacks on the government. We truly believe in our cause—that we are fighting to liberate our land and protecting our people from the oppressive Thai authorities.²³

Statistics provided by the Ninth Region Police, responsible for the southern border provinces, show a significant increase in violence—with 50 insurgent-related incidents in 2001, 75 in 2002 and 119 in 2003.²⁴ But Thaksin still firmly dismissed any suggestion that the armed struggle for ethnic Malay Muslim independence might have been reactivated.

Recent escalation of the insurgency and government responses

The Thaksin government's approach to the south was seriously challenged by a new round of insurgent violence that began in January 2004. On the morning of January 4, more than 50 armed men stormed weapon depots of the Fourth Engineering Battalion at the Narathiwat Rajanakarin Camp and took a large cache of assault rifles, machine guns, rocket launchers, pistols, rocket-propelled grenades, and other ammunition.²⁵ The attackers killed four Buddhist Thai soldiers, while they rounded up soldiers who were ethnic Malay Muslims and told them to perform *shahada*—an Islamic profession of faith to reaffirm their conviction as a Muslim—and leave the army.²⁶ One militant reportedly shouted, “*Patani Merdeka! Patani Merdeka!*” (“Free Patani!”).²⁷ Elsewhere in Narathiwat, 20 schools and three police posts were

²³ Human Rights Watch interview with a BRN-C member, Narathiwat, July 25, 2006.

²⁴ Rahimmula, “Crisis on the Southern Border,” pp. 29-31. [ขีดชนก ราฮิมมุลลา, “วิกฤตการณ์ชายแดนใต้” หน้า 29-31.]

²⁵ The Fourth Army Region, responsible for Thailand's southern provinces, estimated that at least 50 people were involved in the raid. Weapons stolen were 366 M16 assault rifles, 24 pistols, seven rocket-propelled grenades, two M60 machine guns, and four rocket launchers. Thai News Agency Broadcast (Thai), January 6, 2004.

²⁶ For detailed accounts of the raid, see Supalak Ganjanakhundee and Don Pathan, *Peace on Fire* (Bangkok: Nation Books, 2004), pp. 16-30. [สุภลักษณ์ กาญจนขุนดี และดอน ปาทาน, *สันติภาพในเปลวเพลิง* (กรุงเทพฯ: เนชั่นบุ๊คส์, 2547, หน้า 16-30.)

²⁷ *Ibid.*

attacked simultaneously by arsonists. The next day, several explosions took place around Pattani. Within a week, it appeared that the Thai government was not in a position to stop a new series of shootings, explosions, and arson attacks taking place all over the southern border provinces.

The resurgence of violence badly affected public confidence and pressured Thaksin to admit on January 6, 2004, that “[t]he attack signaled to the government that they [insurgents] are professional and well trained, and do not fear the authorities.”²⁸ The prime minister ordered his deputy, Chavalit Yongchaiyudh, and other senior officials, including Defense Minister Thammarak Isarangura, Interior Minister Wan Muhamad Noor Matha and Army Chief Chaisit Shinawatra, to rush to the region, giving them a seven-day deadline to identify and capture those responsible for the attacks.²⁹

Under Thaksin’s instructions, Thai authorities responded to the quickly deteriorating situation with full force. Alongside massive mobilization of the security forces to the southern border provinces, on January 5, 2004, martial law was extended to cover every district of Pattani, Yala, and Narathiwat. Soldiers and police were authorized to search and arrest without a judicial warrant. Suspects arrested under martial law were now allowed to be detained for up to seven days without charge.

Thaksin assigned the police to take a leading role in key aspects of counterinsurgency operations—ranging from intelligence gathering and analysis to making arrests and conducting interrogation. A number of police investigation teams, led by the Crime Suppression Division (CSD), and army Special Warfare teams were dispatched to the southern border provinces.³⁰ These teams combed through villages, *tadika* (weekend elementary Koranic schools attached to village mosques), *ponoh*, private Islamic schools, rubber plantations, orchards, and mountains in the southern border provinces in the attempt to recover the stolen weapons and capture those responsible for the January 4 raid. They quickly resorted to extrajudicial means

²⁸ “Separatist Troubles: Bt1 M Reward Offered,” *The Nation* (Bangkok), January 7, 2004, <http://www.nationmultimedia.com/search/page.arcview.php?clid=2&id=91475&date=2004-01-07> (accessed January 7, 2004).

²⁹ *Ibid.*

³⁰ Human Rights Watch interviews with police officers in Yala and Narathiwat, September 4, 2004.

and human rights violations to meet the deadlines and objectives set by Thaksin.³¹ Indicating the scale of abuse taking place, 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.’”³²

Maropirin Ari, a 39-year-old rubber plantation worker from a village in Mu 3 Tambon Lalo, Rue So district, Narathiwat, told Human Rights Watch how armed men in military attire detained, interrogated and tortured him to find weapons stolen from the Narathiwat camp:³³

It was the morning of February 13, 2004, around 8 a.m. A group of men, wearing military camouflage clothes and masks fully covering their heads, turned up in my rubber plantation. There were 12 of them, all armed with M16 rifles. They held me up at gunpoint and forced me to walk with them through the rubber plantation up to the nearby Ju Rae Mountain for about two kilometers. I saw eight other men armed with M16 rifles, dressed in the same way as the first group, waiting there. They told me to sit down and began to question me about guns and weapons stolen from the Narathiwat army camp. They kept asking, ‘Where do you hide the guns?’ ‘How much do you make from selling those guns?’ and ‘Where do you keep the money?’ I said I knew nothing. They began to beat me up. I was punched in the face and in the stomach so many times. Even after I fell on the ground, they kept kicking me. One of them took out a jagged-edge knife and forced it against my throat. That man asked me if I still wanted to go back home alive or not. I begged him not to kill me because I did not know where those weapons were hidden or who took them. Those men asked me the same questions many times for about half an hour. I was beaten up so badly. The beating went on for so long until I passed out. I could

³¹ Ibid.

³² Special national broadcast from Parliament Radio (Thai), March 18, 2004.

³³ Human Rights Watch interview with Maropirin Ari, Narathiwat, February 18, 2004.

not remember how long I was lying there. But when I woke up those men were still there, complaining that they could not find the guns. They were talking to each other in Thai language, using Bangkok dialect. I pretended to be unconscious, fearing that they would kill me, and waited for about an hour for those men to go away.

In another case, Crime Suppression Division police were implicated in the arbitrary arrest and torture of Asae Manor in March 2004 in connection with the investigation on the raid on the Narathiwat camp. According to Asae Manor,

I cannot remember the exact date of my arrest, I only know it was in the first week of March 2004. The police terrified everyone in my village after they arrested Kamnan [sub-district chief] Anupong Panthachayangkul and accused him of being involved in the raid of the army camp. Kamnan Anupong lives in Tambon To Deng, but he is very famous and influential in other parts of Su Ngai Padi district as well. Many men, young and old, in my village in Tambon Sakor, are known to be Kamnan Anupong's assistants. Because of that, when Kamnan Anupong was arrested, police in uniform and plainclothes came here asking people about the stolen weapons. Then one night, the village chief told me that police wanted to talk to me and assured me that I would not be harmed if I surrendered. When I was taken to Sakor district police station, there were many police waiting for me. I was blindfolded and put in a passenger cab of a pickup truck. The interrogation began inside that pickup truck. I was questioned about the stolen guns. I was punched and slapped in the face many times. The pickup truck stopped occasionally and I was taken outside and was beaten up more. Those men told me they were *kong prab* [CSD] police. The pickup truck stopped and I was put inside a building. I was stripped naked and tortured. I was kicked, punched, and slapped. Those police beat me up with wooden clubs. While I was blindfolded, they electrocuted my testicles and my penis more than 10 times. It was so painful that I passed out. But when I woke up, the torture started again. Each time I was hit or electrocuted, those police told me to give

information about the stolen guns. They kept me in pain constantly. They did not give me food or water. At one point, they told me that they would take me to Ban Ton Airport in Narathiwat to be transferred to Bangkok. I completely lost the sense of time—did not know how long the detention and torture went on. Eventually, I was dressed up and put inside a pickup truck. When they removed the blindfold, I was outside Su Ngai Kolok district police station. The police said I was not suspected of committing any crimes, but I must keep my mouth shut. My village chief told me that I was very lucky to survive the interrogation by *kong prab* police, and that actually I had been detained for two days in the ‘safe house’ in Narathiwat’s Tan Yong Mountain. He said not many people got out of that interrogation center alive, without making a confession or giving information.³⁴

One day before his “disappearance” on March 12, 2004, Somchai Neelapaijit, chairman of Thailand’s Muslim Lawyers Association and vice-chairman of the Human Rights Committee of the Lawyer’s Council of Thailand, submitted a letter to the National Human Rights Commission and the Senate alleging that the police, particularly CSD police, tortured suspects in the investigation of the January 4 raid (see Part V, below).³⁵

Tensions created by abusive measures of the security forces continued to grow, especially after security agencies listed five *ponoh* in Yala, 12 *ponoh* in Pattani, and 10 *ponoh* in Narathiwat as being involved in separatist activities. Some schools were searched, while teachers and students were photographed, fingerprinted, and profiled—in some cases more than once—after Thaksin made a statement directly accusing some *ponoh* of being a breeding ground for separatist militants.³⁶ A number of teachers and students of *tadika*, *ponoh*, and private Islamic schools were also arrested, “disappeared,” or extrajudicially executed, resulting in heightened tension between the ethnic Malay Muslim community and the Thai government to the point

³⁴ Human Rights Watch interview with Asae Manor, Narathiwat, May 25, 2004.

³⁵ Letter submitted by Somchai Neelapaijit to the Senate, dated March 11, 2004 (copy on file with Human Rights Watch).

³⁶ “Schools linked to attacks: PM,” *The Nation* (Bangkok), January 11, 2004, <http://www.nationmultimedia.com/search/page.arcview.php?clid=2&id=91676&date=2004-01-12> (accessed January 20, 2004).

that religious leaders in Pattani, Yala, and Narathiwat announced the suspension of cooperation with Thai authorities after accusing the security agencies of heavy-handedness and insensitivity to Islamic practices.³⁷

Surging militancy

In response to the increasingly volatile situation, the government in April 2004 created the Southern Border Provinces Peace Building Command (SBPPBC), an integrated military-police command. This was an attempt to create a new version of the Southern Border Provinces Administrative Committee and the Civilian-Police-Military Taskforce 43, both of which (as noted above) had been disbanded by Thaksin in 2002 as part of his strategy to place the police at the forefront in the south.

But instead of calming the situation, things quickly deteriorated. Separatist groups stepped up their attacks, targeting government officials, Buddhist monks and civilians, and local Muslims suspected of collaborating with Thai authorities. In many cases, separatist militants sought to justify their violent actions as retribution for state-sponsored abuses and the prevailing culture of impunity. They have particularly cited the infamous incidents at Krue Se Mosque, in which on April 28, 2004, security forces stormed into Pattani's historic mosque with excessive violence, killing all militants hiding inside despite a clear order from the government to end the stand-off through peaceful means,³⁸ and at Tak Bai, where on October 25, 2004, security forces were responsible for the deaths of at least 86 demonstrators in

³⁷ "Muslim boycott born of a long history of distrust," *The Nation* (Bangkok), February 10, 2004, <http://www.nationmultimedia.com/search/page.arcview.php?clid=11&id=93282&date=2004-02-10> (accessed February 11, 2004).

³⁸ On April 28, 2004, more than 100 militants conducted 11 coordinated attacks on government buildings and security installations in Pattani, Yala, and Songkhla. The attacks culminated in a high-profile siege of the historic Krue Se mosque in Pattani. By 6 a.m. Thai security forces began to encircle the mosque. Countermanding Chavalit's instructions to exhaust all means of negotiation, Gen. Panlop Pinmanee, deputy director of ISOC, ordered the mosque to be seized by force at 2 p.m. The resulting death toll included all 32 men hiding inside. In July 2004 the government-appointed commission of enquiry concluded that the tactic of laying siege to the mosque, surrounding it with security forces, in tandem with the use of negotiation with the militants, could have ultimately led to their surrender. However, to date the government has yet to initiate criminal investigations into the event. For details of the incident, see "Final Report of the government-appointed Independent Commission of Enquiry into the Facts about the Krue Se Mosque Case," July 26, 2004.

Narathiwat's Tak Bai district, most of whom suffocated after being piled into the back of trucks to be transported to army camps many miles away.³⁹

In the aftermath of the Tak Bai incident, 144 university lecturers from around the country submitted an open letter to Prime Minister Thaksin on November 14, 2004, calling for the government to review its policy regarding the southern border provinces, and turn its attention to peaceful means and civil society participation. Thaksin responded by encouraging people from all over Thailand to send paper birds as a peace message to the southern border provinces. In total more than 100 million paper birds were air dropped on December 5, 2004.⁴⁰

The government's failure to address criminal responsibility in these cases, and many others, has become a major obstacle to successful reconciliation initiatives with the ethnic Malay Muslim population, and to build public support for conflict resolution. While Thaksin talked about addressing injustice and economic problems, in hindsight it is clear that this was only rhetoric. The reality on the ground remained unchanged. Government abuses continued unchecked.

By the end of 2004, violence was continuing to increase at an alarming rate. In February 2005 the SBPPBC suggested that separatist insurgents had infiltrated and established control in 875 out of the total 1,574 villages in the southern border provinces.

Thaksin reached for heavy-handed solutions again when in July 2005 he announced the Executive Decree on Government Administration in Emergency Situations. The decree, which was later ratified through an abnormal procedure by the parliament,

³⁹ On October 25, 2004, during the Muslim fasting month of Ramadan, the security forces violently dispersed unarmed demonstrators in front of Tak Bai district police station in Narathiwat, using water cannon, tear gas, batons, and live bullets. Seven protesters died from gunshot wounds to the head. Around 1,300 men were arrested and loaded into army trucks to be taken to Inkayuth Camp in Pattani for questioning—many were kicked and hit with batons and rifle butts as they lay face down on the ground waiting, with their hands tied behind their backs. They were then stacked in trucks up to five or six layers deep and prohibited from moving or making noise. When all the trucks had arrived at Inkayuth Camp, 78 detainees were found suffocated or crushed to death. For details of the incident, see "Final Report of the government-appointed Independent Fact-Finding Commission on the Fatal Incident in Tak Bai District, Narathiwat Province," December 17, 2004.

⁴⁰ Piyanart Srivalo, "Thais Are United on the South, Says Thaksin," *The Nation* (Bangkok), December 3, 2004, <http://www.nationmultimedia.com/search/page.arcview.php?clid=3&id=109534&date=2004-12-03> (accessed December 3, 2004).

gave the prime minister sweeping powers and undermined or revoked many key safeguards against human rights abuses in areas where there was a declared state of emergency—including the power to authorize a state of emergency; to arrest and detain suspects without charge; to restrict movement and communication; to censor the media; and to deny access to redress for victims of abuses by government officials and security personnel.⁴¹ The National Reconciliation Commission (NRC) chairman Anand Panyarachun complained publicly that the decree was contrary to the principle of reconciliation and instead condoned abuses, bordering on becoming a “license to kill”.⁴² The human rights community in Thailand and abroad also raised similar concerns. Human Rights Watch wrote an open letter to Thaksin on August 4, 2005, pointing out that the decree allowed Thai authorities to detain suspects for an initial period of 30 days in informal places of detention. The legislation also created the possibility that detainees may be held in secret, undisclosed, or inaccessible locations where monitoring is impossible and there is no judicial oversight or access to legal counsel or family. Such measures heightened the risk of arbitrary, disproportionate, and indefinite limitations on fundamental human rights and freedoms guaranteed under the Constitution of Thailand and the International Covenant on Civil and Political Rights.⁴³

Proposals gathered by the government-appointed NRC from consultations with government officials, security personnel, local residents from ethnic Malay Muslim and Buddhist communities, religious leaders, politicians, business leaders, and civil society groups in the southern border provinces have never been implemented. Thaksin said suggestions for martial law to be lifted, the dispatch of police and soldiers to the region to be slowed down, and the investigation and transfer of government officials and security personnel found responsible for abuses or involved in disputes with the local residents were biased against the authorities.⁴⁴

⁴¹ Piyanart Srivalo and Satien Wiriyapanpongsa, “Anand Slams Govt As Editors Up in Arms,” *The Nation* (Bangkok), July 19, 2005, <http://www.nationmultimedia.com/search/page.arcview.php?clid=2&id=118572&date=2005-07-19> (accessed July 20, 2004).

⁴² Special Broadcast on TV Channel 11 (Thai) televising the debate between the NRC chairman and Thaksin about the Executive Decree on Government Administration in Emergency Situations, July 18, 2005.

⁴³ Letter from Human Rights Watch to Prime Minister Thaksin Shinawatra, “Emergency Decree Violates Thai Constitution and Laws,” August 4, 2005, <http://hrw.org/english/docs/2005/08/04/thaila11592.htm>.

⁴⁴ Piyanart Srivalo and Samacha Hunsara, “PM ‘Backs Away’ from Plan,” *The Nation* (Bangkok), April 10, 2004, <http://www.nationmultimedia.com/search/page.arcview.php?clid=2&id=96894&date=2004-04-10> (accessed April 10, 2004).

When its term finished in March 2006, the NRC concluded that injustice at the hands of government officials and weaknesses in the judicial process were among the key factors underlying the conflict in the southern border provinces. The NRC proposed that the government deal decisively with government officials against whom abuse-of-power complaints have been substantiated.⁴⁵ It said that the judicial process had to be enhanced and be based on truth, the rule of law, and accountability.⁴⁶ However, on July 19, 2006, Anand admitted in a press conference that he no longer expected that Thaksin's government would implement the NRC's recommendations.⁴⁷

⁴⁵ The Power of Reconciliation: Report of the National Reconciliation Commission, March 2006.

⁴⁶ Ibid.

⁴⁷ Press conference by NRC chairman Anand Panyarachun at the Intercontinental Hotel in Bangkok, July 19, 2006.

III. “Disappearances” in the Southern Border Provinces

Human Rights Watch interviewed eyewitnesses as well as families of 20 ethnic Malay Muslims who remain among the “disappeared”; in one further case we interviewed the wife of a “disappeared” man whose body had been found. Although cases are effectively “closed” as “disappearances” when the bodies of victims are discovered, Thai authorities still have a duty to investigate the deaths.⁴⁸

Some of these 21 men were reportedly suspected by the authorities of being involved in or having information about specific militant attacks. In some cases, witnesses also saw the “disappeared” persons in the custody of armed men who could be identified as members of the security forces. The cases are presented below in chronological order. Several occurred before the January 2004 raid on the weapons depots and related attacks in Narathiwat (see above).

Wae-harong Rohing and Ya Jae-doloh, Yala

Wae-harong Rohing, a 38-year-old farmer, and Ya Jae-doloh, a 45-year-old farmer, “disappeared” on March 27, 2002, after they went to see a police officer in Yala. They left their village in Yaha district together on a motorcycle just before dark, but never came back. About a month before their disappearances, insurgents attacked a police unit in Bannang Sta district, and Human Rights Watch has learned that the police had suspected Ya of having some connection to that attack. It is unclear what Wae-harong may have been suspected of, if anything.

Wae-harong’s wife, Mae-na, told Human Rights Watch that shortly before her husband’s disappearance he had received a phone call from a local police officer he knew, known as Do-loh, ordering him to come to Muang district police station in Yala. “My husband knew that policeman, Do-loh, for years. He told me Do-loh wanted to see him to talk about a militant attack in Bannang Sta district,” she said.

⁴⁸ Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, E.S.C. res. 1989/65, annex, 1989 U.N. ESCOR Supp. (No. 1) at 52, U.N. Doc. E/1989/89 (1989), principle 9.

According to Mae-na, Wae-harong left home without any concern that his life could be in danger. He thought that a visit to the police station could mean a chance to make some money in exchange for information. “My husband thought Do-loh wanted him to report about the situation in our village. Sometimes he received money from Do-loh when he gave information to the police. He did not earn much. For poor people like us, a small amount of money means a lot.”⁴⁹

Ya’s wife, Aminoh, told Human Rights Watch that Ya received a phone call from Do-loh telling him to go to Muang district police station in Yala:

That policeman, Do-loh, told my husband and Wae-harong to go to see him in Yala. My husband did not see anything strange. Do-loh used to visit us and other villagers very often to collect information. People here trusted Do-loh. Sometimes they received money from Do-loh when they gave information to him. That day, it was on March 27, 2002, my husband and Wae-harong both received phone calls from Do-loh. My husband told me Do-loh wanted to talk to him about the shooting of policemen in Bannang Sta district. He told me he would come back soon. It was almost dark when my husband went out with Wae-harong on a motorcycle, and they went missing. I did not know what happened to them. They did not have an accident. They were not shot by the militants. They vanished.⁵⁰

Mae-na asked the village chief to file a missing person report with the police. Around two months later she was contacted by Yala police to pick up Wae-harong’s motorcycle. They told her that it had been found in Pattalung, a province outside the southern border region. “I do not know how his motorcycle turned up there. Pattalung is very far away from our village. The police said they did not know what happened to my husband, or whether he was still alive,” she told Human Rights Watch.⁵¹

⁴⁹ Human Rights Watch interview with Mae-na, Yala, March 31, 2006.

⁵⁰ Human Rights Watch interview with Aminoh, Yala, March 31, 2006.

⁵¹ Human Rights Watch interview with Mae-na, March 31, 2006.

Aminoh filed missing person reports with the police and district officials, which she said had not led to progress in finding out Ya's whereabouts.

Every time I went to Yala town, I always asked policemen there if they had heard any information about my husband. But there was nothing, no news. They only found the motorcycle in a rubber plantation in Pattalung. How could the motorcycle get there? My husband and his friend went to Yala, not Pattalung. I do not understand.

Many policemen in Yala said my husband was involved in the shooting of policemen in Bannang Sta district. If that were true, they could come to arrest my husband. They should not take him away like that.⁵²

About two months after Wae-harong's disappearance, Mae-Na said she was visited by Do-loh. "Do-loh and other policemen from Yala came to our house. They said they did not take my husband away. They said they did not know who did it," Wae-harong's wife said. "That was the last time I saw Do-loh. I do not know his real name."⁵³

Wae-harong's family is now struggling to make a living, and they fear the escalating violence in their village. Mae-na said,

There have been shootings and explosions in my village. I am afraid of the militants—every villager feels the same when we go to work in the rubber plantations. But we cannot escape from this situation. I have four children to look after. Now three of them have to drop out of the school, and my eldest son will soon have to serve in the army. I hope that my husband is still alive, and that he will come back home.⁵⁴

⁵² Human Rights Watch interview with Aminoh, March 31, 2006.

⁵³ Human Rights Watch interview with Mae-na, March 31, 2006.

⁵⁴ Ibid.

Aminoh told Human Rights Watch that her family has been devastated: “My son dropped out of school, not because we could not afford it, but he missed his father very much. He could not concentrate on anything, and only wanted his father to come home. I miss my husband very much too.”⁵⁵

Sagariya Ka-je and Ya [family name unknown], near Yala

Sagariya Ka-je, a 51-year-old former government employee, “disappeared” on June 29, 2002, three weeks after Yala police searched his house in Yala’s Krong Pinang district. Sagariya’s wife, Pi-a, told Human Rights Watch that he went out on a motorcycle with a friend, Ya, to buy medicine. Neither of them came back.

I did not know what happened to Sagariya. He told me that Yala police came to search our house on June 7, 2002, but did not tell me what the police were looking for or if they suspected anyone in the house. The night he went missing [on June 29], he told me he would go out to buy medicine with his friend called Ya. I did not know details of Ya, only knew that he came from Yaha district. I did not know what he did for a living. Ya came to see my husband many times. He looked like a good man. That night Ya came with his motorcycle to pick up my husband from here. I did not know exactly what happened to both of them.

Pi-a told Human Rights Watch that neighbors told her what happened:

My neighbors told me they saw my husband and Ya being stopped by a group of men in a pickup truck. They were stopped and then pushed inside the pickup truck. Ya’s motorcycle was left there on the roadside on the highway to Yala town. My neighbors told me to get the motorcycle. I did not know Ya’s family. So, I did not know how to contact them to return the motorcycle. I am still keeping it.⁵⁶

⁵⁵ Human Rights Watch interview with Aminoh, March 31, 2006.

⁵⁶ Human Rights Watch interview with Pi-a, Yala, April 1, 2006.

The use of double-cab pickup trucks in arrests and “disappearances” is a signature of government security forces. Pi-a filed a missing person report with the Muang district police station in Yala and with Krong Pinang district officials.

Two years after Sagariya went missing I received a phone call asking me to come to the police station again. But instead of telling me what happened to my husband or that they found him, the policemen asked me whether my husband had ever contacted me. When I told them I had never received any contact from my husband, they told me to go home. That was it.

Baruham Ma-ela and Abdulmaman Abdullakim, Narathiwat

A local politician told Human Rights Watch that Baruham Ma-ela, a 46-year-old worker in a local market, was “disappeared” because he was suspected of shooting a senior army officer in Narathiwat on March 10, 2003. “Police believed Baruham shot ‘Se Deng’ [the alias of Col. Sutham Sirikanon]. But they did not have evidence to arrest him,” said Abdulrohimi Abdullakim, a member of Narathiwat provincial council, whose brother also “disappeared” in the same incident.⁵⁷

Baruham’s father, Ma-ila, told Human Rights Watch that he had received the same information. He believed it was the reason for his son’s disappearance:

Many people in our village said Baruham shot an Army officer. I do not know. I never saw him using guns. If police thought Baruham was involved in that shooting, they should have arrested him. They could give him the death sentence according to the law. I would not protest if police showed me evidence.

According to his father, Baruham went to visit his uncle in Su Ngai Golok district on April 30, 2003. He traveled with his friend, Abdulmaman Abdullakim, a 48-year-old businessman and Abdulrohimi Abdullakim’s brother, for his safety. “They were close friends. Abdulmaman knew many people, including policemen in Narathiwat. I

⁵⁷ Human Rights Watch interview with Abdulrohimi Abdullakim, Narathiwat, March 30, 2006.

thought my son was lucky to have a friend like Abdulmaman, who could get him out of trouble.”

Baruham’s father told Human Rights Watch that there were witnesses who saw his son being taken away:

That day, people at the market saw Abdulmaman and my son riding on a motorcycle returning from Su Ngai Golok district together. It was Abdulmaman’s motorcycle. Those people said they saw two pickup trucks block the road and stop my son and Abdulmaman. Both of them, as well as the motorcycle, were then loaded onto the back of those pickup trucks. Nobody dared to intervene. Those people were very scared that they, too, would be taken away. They also told me it was useless to file a report with the police because my son was taken by the police. I miss my son very much. I cried and prayed to have him back, even his bones would be better than nothing. His mother could not eat. She could not sleep.⁵⁸

Abdulrohim Abdullakim told Human Rights Watch that he believes his brother Abdulmaman was taken away because he was with Baruham Ma-ela, the intended target for abduction, and would otherwise have been in a position to bear witness:

Police did not want to take my brother. They wanted Baruham. They thought Baruham shot Se Deng. It was my brother’s bad luck that he took Baruham on his motorcycle to Su Ngai Golok district. When they were stopped outside Su Ngai Golok district, near the highway intersection, their fate was sealed. When my brother saw that it was the police who took Baruham on the motorcycle, they could not let my brother go. Police knew that my brother would not remain silent, and they also knew that my family had many contacts among Muslim politicians in Narathiwat and at the national level.

⁵⁸ Human Rights Watch interview with Ma-ila, Narathiwat, March 30, 2006.

Abdulrohim told Human Rights Watch that he has information about those responsible for his brother's "disappearance." But he did not believe that the authorities would deliver justice to his family:

Our family offers support to politicians from the Thai Rak Thai party [of then-Prime Minister Thaksin]. They visited our family during their election campaigns. Senior members of the *Wadah* faction [prominent Muslim politicians from Pattani, Yala and Narathiwat affiliated with the Thai Rak Thai party] all know me very well. But that does not make any difference when we talk about the police investigation into Abdulmaman's disappearance. The Narathiwat police chief asked me if I would like to file a formal complaint that my brother went missing. I told him it would not matter. I knew wholeheartedly that the police would never go after their kind. Senior police officers from *kong prab* [CSD police] and *pak khao* [Ninth Region Police] always come to visit me. They often asked me to verify their intelligence information. They also told me before they would kill suspects—drug dealers, mafia and militants. These policemen are very influential, like [name withheld] and *kong prab* special teams. They are responsible for most cases of *aum kha* ['disappearances' and extrajudicial killings] in the south. They also killed Somchai Neelapaijit. They have been promoted under Prime Minister Thaksin and Gen. Kovit [current National Police Chief]. After Abdulmaman was disappeared, I had an opportunity to meet Aripin [former Narathiwat parliamentarian from *Wadah* faction] who then served as secretary of the interior minister, Wan Muhammad Nur [former Yala parliamentarian, leader of *Wahda* faction]. I told Aripin that *pak kao* police took my brother away. Aripin told me there was nothing he could do.⁵⁹

Budiman Woe-ni and Ibrohim Gayo, Yala

Budiman Woe-ni, age 27, and Ibrohim Gayo, age 30, were last seen in police custody in Yala's Bannang Sta district on January 8, 2004.

⁵⁹ Human Rights Watch interview with Abdulrohim Abdullakim, March 30, 2006.

According to his father, Doma, Budiman was at home when his friend known as “Imron” came to tell him to go to a tea shop in the village. Budiman went out around 6 p.m. but never returned. His father said,

He went with his friend, Imron. I know that Imron is an army informant from Bo Thong district. He used many names, but he always called himself Imron when he came to my house. Imron and my son were close friends. That day, my son told me he was going to drink tea and play checkers with Imron.

Local politicians and policemen later told Budiman’s father that his son might be involved with the militants. His father explained,

I tried to find out where Imron lived so that I could ask him what had happened to my son. Police and soldiers were getting less friendly whenever I asked about Budiman. Some of them even told me Budiman might be involved with the militants. How could that be true? I told them it was impossible for that to happen without my knowledge. I felt frustrated that people I used to know are turning their backs on me. They have not given any help. Some villagers started to speak badly about my son.

Budiman’s father told Human Rights Watch that people saw his son in police custody:

The wife of Ibrohim Gayo, Budiman’s friend who also went missing, said she saw Budiman in the back of a police pickup truck when policemen came to take Ibrohim from her house. Imron came with those policemen, too. That was what Ibrohim’s wife told me.⁶⁰

⁶⁰ Human Rights Watch interview with Doma, Yala, April 2, 2006.

Ibrohim Gayo's wife confirmed this account to Human Rights Watch:

My husband was asleep when we heard a man shouting outside the house. That was around 2 a.m. He was calling my husband's name, telling him to come out to get his money back from Budiman. He was calling, 'Heng [Ibrohim's nickname], come out, come out. I am with Budiman. We have money to give back to you.' When my husband heard that, he went outside wearing only his sarong. I was awake too, as well as my daughter. When I looked outside, I saw my husband talking to policemen. There were many of them, all armed with weapons. There were two pickup trucks. Budiman was in the back of one of those trucks, his hands tied behind his back. Then I saw my husband being handcuffed and put on that pickup truck, too.

Ibrohim's wife told Human Rights Watch that she was worried about his safety:

I had heard many stories that people were taken from their home in the same way. None of them ever came back. I shouted to those policemen, asking them what they were doing to my husband. One of them told me, 'We are taking Ibrohim with us. We need to question him. It should not be long. We will send him back to you later.' But they did not tell me what they wanted to know from my husband. My husband was gone, 'disappeared.'

Ibrohim's wife was asking for financial support from the government. "My house is now crumbling to pieces. The roof is leaking," she said. "I do not earn much, barely enough to feed my children. I do not have money to repair the house. I do not know what to do when the rainy season starts."⁶¹

Budiman's father told Human Rights Watch that he reported the case to the police but they have offered him no information as to what happened to Budiman or his whereabouts:

⁶¹ Human Rights Watch interview with Ae-so, Yala, April 2, 2006.

I reported a missing person case to Bannang Sta district police station. But there has been no progress. The *AorBarTor* [sub-district council] official, who was a teacher in a nearby government school, told me that he heard two men were taken away from our village in a police pickup truck that night, the night Budiman went missing. This information has not been followed up by the police.

Budiman's father expressed his despair:

Now I do not know where to look for my son. Teachers from a nearby school recently told me they found two bodies buried in a shallow grave near the road to Narathiwat. They said they would show me pictures. I am still waiting to see those pictures. I and my wife have made up our mind that Budiman must be dead already. We just want his remains back so that we can give him a proper funeral, so that Budiman can go to heaven.⁶²

Sata Labo, Narathiwat

Sata Labo, age 34, had previously served in the army. His sister Nuriya told Human Rights Watch that his house had been searched on January 8, 2004, by police looking for weapons stolen from Narathiwat army base on January 4. Nuriya said,

After the militant attack at the Narathiwat army camp, many policemen and soldiers came here. One day before my brother disappeared, policemen came to our house. They showed a search warrant. They said they were looking for the stolen guns. But they did not find anything. Then they told my brother to go to Narathiwat police station. They did not arrest him. They had no arrest warrant. They said they wanted some information from him. They gave him some documents, and asked him to sign them. I did not see clearly what those documents were. They took his car, a red Honda Civic, and his

⁶² Human Rights Watch interview with Doma, April 2, 2006.

motorcycle back with them too. My brother went to see them in Narathiwat town and collect his car and motorcycle on the same afternoon.

Nuriya recalled that the next day, January 9, Sata went to renew his driver's license in Narathiwat. That was the last time she saw him:

It was between 7 a.m. and 8 a.m. He took his car with him. Around noon, I received a phone call from my brother. He told me that he was stopped by policemen. Those policemen searched his car and told him to go to the Narathiwat police station. That was the last time I heard from him. Sata never came back home.⁶³

Malati Mae-sae, Narathiwat (“disappearance” and killing)

Malati Mae-sae, age 35, “disappeared” on January 13, 2004. His wife Sima witnessed a group of armed men she believes were police physically abusing and questioning him about the weapons stolen from Narathiwat on January 4, before taking him away with them. Sima told Human Rights Watch,

Malati used to work at the Narathiwat army camp, the same unit which was attacked by the militants on January 4, 2004. He had been conscripted to work there. After that he became a member of the *AorBorTor* [sub-district council]. But he did not know anything about the militant attack. After January 4, there were plainclothes policemen coming to our village. They came many times, looking for information about the stolen weapons.

She explained what happened that night:

On January 13, 2004, just before midnight, I heard a man calling Malati's name from in front of my house. Suddenly, there was a group of men in black clothes breaking in. There were around 10 of them,

⁶³ Human Rights Watch interview with Nuriya, Narathiwat, March 25, 2005.

armed with handguns and rifles. All of them wore woolen masks, which fully covered their heads. They tied me up and blindfolded me, and told my 12-year-old daughter to close her eyes. I heard them ask my husband, ‘Where do you keep the money that you got from selling the guns? Tell us if you do not want your wife and children to get hurt. If you do not speak up, we will take everyone.’ My husband told them he did not know what they were talking about. He said he did not know anything. Then I heard them start to slap and kick my husband. I was crying. My daughter was crying.

I remembered that those men talked to my husband, to me and to my daughter in Malayu language, but communicated to each other in Thai language. After that, I heard the men leave the house, taking my husband with them. They kept kicking and slapping him as they were leaving. When they left our house, I struggled to free myself. Then I ran outside and saw the tail lights of pickup trucks leaving the village.

Malati’s wife said his dead body was found four days later in a nearby village. His body had many bruises. There was a rope mark around the neck. His feet and thighs were badly burned.⁶⁴

Ibrohim Sae, Narathiwat

Ibrohim Sae, a 41-year-old *tadika* teacher, “disappeared” in the aftermath of the militant attack on the Narathiwat army camp. His wife Nurida witnessed him being questioned about the stolen weapons by a group of armed men who broke in to their house and took him away. Nurida told Human Rights Watch,

My husband was a good man. He taught children at a *tadika* not far from here. He also worked in a rubber plantation. He did not have anything to do with the militants. I did not understand when those men came to our house and questioned him about the stolen weapons, before they took him away.

⁶⁴ Human Rights Watch interview with Sima, Narathiwat, March 25, 2005.

That night [she could not remember the exact date], around midnight, my husband and I were sleeping. Then we heard someone banging loudly on the door. They were calling, ‘Heng, [Ibrohim’s nickname] wake up! Wake up!’ My husband turned on the light and went to open the door to see who was calling him. He was worried that they would break into the house. Suddenly, a group of men pushed him and went inside the house. They had woolen masks. I could not see their faces. But I saw that they had guns. There were around 20 of them. They forced my husband to stay down on the floor with his face down. I saw one of those men press a gun at Ibrohim’s head, while asking, ‘Are you Heng?’ That man used Malayu language. But his accent was not what was used by villagers here. The rest of them went around the house searching for something. They were talking to each other in Thai language, using *Pasa Klang* [Bangkok dialect].

Ibrohim and Nurida begged for Ibrohim to be freed. According to Nurida

I told those men that my family had no valuable belongings. But they did not listen. They tied my husband’s hands behind his back. I begged them, ‘Please do not hurt him.’ They then turned to me and said, ‘We are going to take him to Bangkok. Do you want to come too?’ They took my husband outside and drove away. I saw that there were two pickup trucks, one was red and another was white, but I did not see plate numbers.

The next day Nurida reported the abduction to the police. She also submitted a complaint to Narathiwat senator Fakrudin Botor. She has still not received any information about what happened to Ibrohim.⁶⁵

Ibrohim’s neighbors told Human Rights Watch, on the condition of anonymity, that they saw policemen in uniform and plainclothes coming to their village many times before Ibrohim was taken away. They said those policemen were looking for stolen

⁶⁵ Human Rights Watch interview with Nurida, Narathiwat, February 18, 2005.

guns, but they did not know whether someone mentioned Ibrohim's name to them. Although they saw what happened to Ibrohim that night, they did not dare to help because they were afraid that they would be taken away, too.⁶⁶

Musta-sidin Ma-ming and Wae-eso Maseng, Narathiwat

Musta-sidin Ma-ming, a 27-year-old mobile phone shop owner, "disappeared" on February 11, 2004. Musta-sidin's wife Tuan-rohana told Human Rights Watch that witnesses told her that a group of men wearing black shirts came to his shop in broad daylight and took Musta-sidin away together with his assistant. She said,

I was visiting my mother in Pattani on that day. But there were many people who saw what happened to Musta-sidin. They told me that a group of men wearing black shirts came to his shop around 4 p.m. Those men arrived in a red Nissan pickup truck. They put Musta-sidin and his assistant, Wae-eso Maseng, in that pickup truck and drove away.

Witnesses told Musta-sidin's wife that the pickup truck that took her husband away had no license plate. Tuan-rohana thought this was important:

How could a car be driven in the downtown market, passing many police and military checkpoints, without a license plate? Why were they not arrested? It would have been impossible, unless that Nissan truck belonged to the authorities. Also many people saw when my husband was taken away. Those witnesses could give me details about the time and the vehicle used by those men, but none of them wanted to say anything more than that. One of them said, 'Please understand, do not blame me, I would be in trouble too if I say anything.'⁶⁷

⁶⁶ Human Rights Watch interview with neighbor (names withheld) of Ibrohim Sae, Narathiwat, February 18, 2005.

⁶⁷ Human Rights Watch interview with Tuan-rohana, Narathiwat, May 26, 2005.

Wae-eso's brother Awaë told Human Rights Watch that he did not understand why his brother was taken away:

Wae-eso was working with his boss, Musta-sidin Ma-ming, in a mobile phone shop in Tanyongmas market. They sold and repaired mobile phones. On February 11, 2004, both of them were taken away from the shop. I did not know whether both of them were involved in illegal activity. They did not do anything suspicious. I heard that police were looking for people who made mobile phone detonators. But my brother would have no knowledge to do that. He did not go to school or have formal education. He taught himself and also learned from his boss. I talked to Wae-eso's wife. She said many people in the market saw Wae-eso being taken away by a group of men wearing black shirts. Those men were armed. That was all she knew.⁶⁸

The next day Tuan-rohana filed a missing person report at Ra Ngae district police station in Narathiwat. Police officers came to Musta-sidin's shop once, but did not say anything about his "disappearance." Tuan-rohana recalled,

Those policemen took Musta-sidin's desktop computer away. A few days later they returned it back to the shop, saying there was nothing stored in the hard drive except software to adjust and repair mobile telephones. I do not think that had anything to do with the investigation of Musta-sidin's 'disappearance,' not what was stored inside his computer. I was very upset. They seemed to be more interested in who he was and what he was doing.⁶⁹

Narathiwat senator Fakrudin Botor told Human Rights Watch that Musta-sidin's "disappearance" took place when the security forces were trying to substantiate reports that mobile telephone networks around the Narathiwat Rajanakarin Camp had been deactivated before the militant raid on January 4, 2004. The investigation

⁶⁸ Human Rights Watch interview with Awaë, Narathiwat, March 30, 2006.

⁶⁹ Human Rights Watch interview with Tuan-rohana, May 26, 2005.

focused on local Muslims who owned or worked as technicians in mobile telephone shops in Narathiwat. He said that the authorities were also worried that mobile telephones were increasingly being used to trigger explosive devices used in attacks on government officials and civilians.⁷⁰

Tuan-rohana had an opportunity to meet Prime Minister Thaksin in May 2004. She asked him to help find out what happened to her husband:

I hired a lawyer to write a petition to Prime Minister Thaksin when I knew of his visit to Tanyongmas 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.⁷¹

Wae-eso’s brother said the police never came to talk to him after he took Wae-eso’s wife to file a missing person report. He spent most of his family’s savings searching for his brother:

I went to many places to find him. I used to work in a local defense unit. Many policemen and soldiers knew me. But they could not help us. I went to army camps in Yala and Hat Yai. I spent a lot of money, more than 10,000 baht [U.S.\$278] traveling back and forth. But there was nothing. I am running out of money now. I went to see a *tok guru* [Islamic teacher] and asked him to perform a ritual to find out what happened to Wae-eso. The *tok guru* told me that Wae-eso was dead. That was about four months after he went missing. I had similar thoughts because Wae-eso would have come home if he were still alive. He loved his wife and children. I could not believe that he would

⁷⁰ Human Rights Watch interview with Fakrudin Botor, Bangkok, March 25, 2005.

⁷¹ Human Rights Watch interview with Tuan-rohana, May 26, 2005.

abandon them for any reason. We arranged funeral ceremonies for Wae-eso although we did not have his body.⁷²

Muhammad-saimi Guna, Yala

Muhammad-saimi Guna, a 22-year-old university student, “disappeared” in Yala around the same time the security forces searched his parents’ house in Pattani’s Yarang district. His father was taken to Yala police headquarters the day he “disappeared” and was questioned about the bombing of the Yala power station by alleged militants on July 14, 2005. Muhammad’s father, Da-oh, told Human Rights Watch what happened:

Muhammad disappeared on July 16. That day many security forces personnel came to my house—police, soldiers, and defense volunteers. The *kamnan* [sub-district chief] brought them to my house. He said the officials received a tip-off that the militants were hiding here, and there were illegal items in my house. They did not show me any search or arrest warrants. They looked everywhere, but could not find who or what they wanted to find. At that point, I became worried about Muhammad, who was studying in Yala. I had heard stories that many young men were arrested and disappeared when the authorities were looking for suspects in militant attacks. If they came to search my house, they might want to arrest my son. I was very worried about Muhammad’s safety because my wife and I tried to call his mobile phone earlier that day, but it was switched off.

While his house was searched by the security forces, Muhammad’s father tried to find out whether his son was the target of the search. Muhammad’s father told Human Rights Watch,

I asked one of the policemen whether Muhammad was going to be arrested or not. He told me my son had not been arrested. But when they left my house, they took all documents, books, education records,

⁷² Human Rights Watch interview with Awa, Narathiwat, March 30, 2006.

and photos of Muhammad with them, too. Then they took me to the police headquarters in Yala. They did not tell me why I was taken there. When I arrived there, they put me in an interrogation room and questioned me about a militant attack at the power station in Yala. All I could say was that I knew about the incident from the news. I told those policemen that no one in my family had anything to do with it, particularly Muhammad. I told them my son would never take part in any violence. He was a student, a good student.

On the day he went missing, I and my wife were actually preparing to go to visit him in Yala. We wanted to bring him home with us because there were many militant attacks in Yala. We wanted our son to be safe. He was our youngest son. We wanted to keep him near us. That was why we did not allow him to go to Bangkok. We sent him to study at Yala *Ratchabhat* [teachers college] after he graduated from Thmama Wittaya School. He was a good student, both in modern education and religious education. His knowledge of the Koran and Islam was widely acknowledged in the village. He always came home from Yala every Friday to read sermons at Bue Nang Gue Bong Mosque, not far from our house. That day, 16 July, was the only Friday that he did not come home, and we have never seen him or heard anything from him since.

Muhammad's family has been searching in vain to find out what happened to him and to determine his whereabouts. His father said,

We kept trying to contact him, asking all his friends. But nobody knew where he was. The police could not give us any information. They said they did not know what happened to Muhammad. Now we do not have anything about him here, not one photo. The police took everything away. His mother cried many times. She could not eat, could not sleep. She wanted to have Muhammad's photos back from the police at least, while we still do not know his whereabouts.

After Muhhamad’s family filed a complaint with members of the National Reconciliation Commission about his “disappearance” and the lack of action by local police, government officials took Muhhamad’s mother to CS Pattani Hotel to collect samples of her saliva. They told her the samples would be kept so that, when any unidentified bodies were found, they could verify whether it was Muhammad’s body. “At that we were hopeful. But now, we are back in the dark again. No one ever told us the progress of investigation or whether there were any investigations at all,” Muhammad’s father said.⁷³

Wae-sainung Wae-na-wae, Gu-amad Amiden, Abdulloh Salam, and Muhammad Seren, Pattani

Wae-sainung Wae-na-wae, age 22, Gu-amad Amiden, age 21, Abdulloh Salam, age 21, and Muhammad Seren, age 21, all “disappeared” in Pattani on the same day. Available evidence indicates that the security forces abducted the four longtime friends because one of them, Gu-amad Amiden, had recently been acquitted of murder charges. They have never been seen again.

In October 2004 Gu-amad Amiden had been arrested and charged in the shooting death of a university student in Pattani. According to Gu-amad’s mother, the police told her soon after his arrest that the university student was the son of a senior police official. Gu-amad remained in custody until October 19, 2005, when the Pattani court acquitted him due to insufficient evidence. He returned home.

Gu-amad’s mother told Human Rights Watch,

During the trial, Gu-amad told the judge that he would be beaten to death if he did not confess. He was threatened when policemen took him from the cell to meet with me and reporters. He was put on trial together with two other friends. The judge acquitted him and his two friends, saying there was not enough evidence to prove that he was guilty as accused by the police.

⁷³ Human Rights Watch interview with Da-oh, Pattani, March 10, 2006.

After his release, Gu-amad was concerned about his safety. His mother said that “[h]e became very careful after that [his acquittal]. He did not go out too often.”⁷⁴

Muhammad Seren’s brother-in-law told Human Rights Watch that after Muhammad came back from Malaysia for the Muslim holiday of *Hari Raya*, Gu-amad came to their house two or three times to invite him to go out:

At first, I and my wife, Muhammad’s elder sister, did not tell him [that Gu-amad had come to their house]. We did not want him to go out. It was dangerous. Many people were shot in Pattani. There were also many police and soldiers, and they had set up checkpoints everywhere. Going out with someone like Gu-amad, who was arrested before and might still be wanted by the police, would be very dangerous.⁷⁵

Abdulloh Salam’s mother, Roshamoh, told Human Rights Watch,

I knew that one of his friends in the group, Gu-amad, was arrested in 2004. Everyone in the village knew that. After Gu-amad was freed, not long before my son went missing, all young men were careful not to go out alone. They were worried that they might be arrested.

Abdulloh told me to prepare dinner for him, and that he would not be out for too long. He went out in sarong. Then around 9 p.m., he came back home to get his ID card. He said he did not want to be stopped at checkpoints without an ID card.⁷⁶

It is not clear exactly when and where the four young men were abducted, but a large number of security force members were seen at the tea shop where they were heading. According to Gu-amad’s mother,

⁷⁴ Human Rights Watch interview with Wae-yo, Pattani, March 29, 2006.

⁷⁵ Human Rights Watch interview with Mahammad-posi, Pattani, March 29, 2006.

⁷⁶ Human Rights Watch interview with Roshamoh, Pattani, March 29, 2006.

I was busy preparing food for *Hari Raya*, and did not see when Gu-amad left the house. His elder brother followed him out. He wanted to warn Gu-amad to be careful. But Gu-amad was already inside Wae-sainung's car. He was not sure whether Gu-amad heard what he was trying to say. He also tried to call Gu-amad about 30 minutes later. But he found that Gu-amad's mobile phone was switched off. That was after 9 p.m. He thought that was very strange. So he went out on his motorcycle to the tea shop. Gu-amad and his friends were not there. There were many soldiers inside and around the shop.⁷⁷

Muhammad's brother-in-law said that his motorcycle was found parked not far from their house. He tried to call Muhammad's mobile phone the next day, but found that it was switched off. "Muhammad's mother told me to keep trying to call his number everyday, hoping that someone would answer and tell me about him," he said.⁷⁸

According to Wae-sainung's brother:

My family only knew the next afternoon that Wae-sainung was missing. We first thought he had stayed at his friend's house. But after parents of his friends came here asking if we had seen their sons, we then realized that something was wrong. We all tried to call the mobile phones of Wae-sainung and his friends. Their mobile phones were switched off. We looked around in many places where we thought they would go, but we could not find any of them or know what happened to them. One thing I know for sure is that my brother did not run away. He had his brand new clothes folded in his room. Those clothes were for the *Hari Raya* celebration. He would not miss it.⁷⁹

Gu-amad's mother believed her son had been taken away by the authorities. She went to search for him at local police and army units, as well as at the Pattani Court.

⁷⁷ Human Rights Watch interview with Wae-yo, March 29, 2006.

⁷⁸ Human Rights Watch interview with Mahammad-posi, March 29, 2006.

⁷⁹ Human Rights Watch interview with Muhammad, Pattani, March 29, 2006.

I went to many police stations and army camps. An army informant told my friends that he heard that four young men from Pakaharang district were taken to an interrogation center in Pattani town. I went there, but soldiers said they had never heard of that story. Some of them joked that my son went to Aceh [in Indonesia]. Some of them said he went to Su Ngai Golok district or to Phuket.

When I went to file a missing person report at Maung district police station in Pattani, policemen there told me that my son was taken by the militants. That was absurd. The militants might kill people, but they never abducted anyone. There were also many army and police patrol units in my village on the night that Gu-amad and his friends went missing – it would have been impossible for the militants to do anything.

Gu-amad's mother told Human Rights Watch that police officers came to her house three or four days after his "disappearance." But they did not come to investigate the case. "Those policemen were trying to plant bullets and casings inside our house. My husband saw that. He shouted to them, 'Hey ... What are you doing?' Those policemen said they had dropped their bullets and then they left the house," she said.⁸⁰

Abdulloh's mother described how she felt when she learned her son was missing:

When I learned that they [the other families] were looking for their sons too, I passed out. I was shocked. It was impossible for all of them to disappear at the same time. My heart was broken. I could not prepare anything for *Hari Raya*. All four families filed missing person reports with the police and *kamnan* [sub-district chief]. I was crying so much that the police could not type what I was trying to tell him. Until now, there has been no news about Abdulloh and his friends. I did not feel comfortable when I saw policemen coming into the village.

⁸⁰ Human Rights Watch interview with Wae-yo, March 29, 2006.

I want to know what happened to my son. I want him to come home. He was a good man. He saved money to support his younger brother and to look after me.... I was so proud of him. He told me he would make the ground floor comfortable for me to move around when I became old. But he was taken away. I do not know how my family will survive without Abdulloh. Nobody came to help us. But I do not want any compensation. I just wanted my son back, even if he came back dead. I want to see him again. I pray every night.⁸¹

The “disappearances” of Muhammad and his three friends have terrified the entire community. As Muhammad’s brother-in-law said,

After Muhammad and his friends were ‘disappeared,’ other young people in this village were very scared. There were rumors that our village was listed as a red zone and many people were suspected by police as members of the militants. When we saw police and army units coming to our village, we often thought that they were coming to take our children away. Sometimes, when strangers were seen in the village, we thought they were secret agents from the police or the army. Young people hardly left the village alone. When they saw checkpoints, they were worried that they could be stopped and taken away. Even when I took my motorcycle to Pattani town, I was very nervous myself.⁸²

Ahama Wae-doloh, Yala

Ahama Wae-doloh, a 22-year-old *tadika* teacher from a village in Mu 3, Tambon Klong Maning, Muang district, Pattani, “disappeared” on November 9, 2005. According to his mother, Wae-leyoh, soldiers had searched his village several times because they suspected that militants were hiding there. She said,

⁸¹ Human Rights Watch interview with Roshamoh, March 29, 2006.

⁸² Human Rights Watch interview with Mahammad-posi, March 29, 2006.

I am so scared. During the past two years soldiers have turned our village into a terrible place. They believed militants have been hiding here. They came to set up their camp in our village. They searched many houses, but did not come to our house though. My son thought having an army camp would not make anything better. The violence did not stop. He and other villagers sometimes talked together about that—that they did not want to see soldiers here. Around June or July last year, a government school and an *AorBorTor* office in Klong Maning were attacked by arsonists. That night, army patrols and checkpoints were everywhere. But still they could not arrest anyone. Some villagers, who were members of *ChorRorBor* [village defense team], said soldiers and the police were very frustrated because they believed the militants already controlled our village or lived here among us. How could they have thought that? I am afraid of the militants. I think many villagers have the same feeling. Giving cover or any assistance to the militants will only get us into trouble with the officials—those from the district office, soldiers, and police. Those *ChorRorBor* also said many young people from our village were put on the blacklist. But they did not spell out the names. They did not say if my son was on the blacklist. That was around October 2005.

Wae-leyoh told Human Rights Watch that on November 9, 2005, Ahama took his nephew to have an x-ray examination at Yala Hospital. They went together in an ambulance from Pattani Hospital. Ahama told his nephew that he would wait there to bring the results back to Pattani. But he never came back. Wae-leyoh said,

Ahama was a kind man. He wanted his nephew to go back to Pattani with an ambulance and he would stay behind to wait for the results. He also asked his nephew to tell me to prepare food for him to eat when he got back home. But he did not come back. Nobody knew what happened. That afternoon, Pattani Hospital called Yala Hospital to enquire about the x-ray results. Staff at Yala Hospital said Ahama did not arrive. When Ahama's nephew found out about that, he told my cousin who lived just a few meters from our house. My cousin came to

tell me. The next day, he took me to report the case to the police. My cousin, my daughters, and Ahama's friends all tried to call Ahama's mobile phone. But the phone was switched off. The police did not ask me anything, but they told me they did not do it. They said that they did not take Ahama away. But they did not know who did it. Until today they still have not told me what happened to Ahama.⁸³

Wae-halem Kuwae-kama, Narathiwat

Wae-halem Kuwae-kama, a 40-year-old builder and a former deputy village chief, went missing on the evening of May 29, 2006, in his village in Joh Airong district, Narathiwat. His uncle, Kordae, told Human Rights Watch that Wae-halem was long suspected by soldiers of playing an important role in the local network of separatist insurgents.

Kordae said Wae-halem had faced threats and pressures from a local army unit before his "disappearance":

Those soldiers accused Wae-halem of being active in expanding the insurgent network around Tambon Bukit. I thought that was because Wae-halem was respected by everyone. The soldiers did not understand that he was a good deputy village chief. He always looked after everyone. He had his own construction business. He hired many people from our village, particularly unemployed teenagers, to work with him. He also allowed them to take fruits from his orchard to sell in the market to earn extra money. This village depended very much on him. But soldiers saw Wae-halem differently. The month before he disappeared, soldiers from the unit stationed near Bukit Pracha Upatham School told him that he would be 'taken down,' that is, shot dead, one day. They said Wae-halem's name was on the blacklist.

⁸³ Human Rights Watch interview with Wae-leyoh, Pattani, March 10, 2006.

Kordae told Human Rights Watch that about one month before his “disappearance,” soldiers from a local army unit raided the village and arrested Wae-halem together with other five villagers:

Wae-halem was taken to the army interrogation center in Bo Thong district in Pattani. He was kept there for 12 days, before the soldiers sent him back home without any charge. But the soldiers remained suspicious of Wae-halem and many people here. The soldiers said they had very specific information about us. Some people were said to be bomb makers, some were commandos, and some were accused of facilitating others to receive military training in Malaysia. They also accused us of providing hiding places for the insurgents, and that our orchards and rubber plantations were weapon depots. More than 100 soldiers came to search our village inside out. They found nothing.

Wae-halem’s village was put under surveillance. Villagers were often stopped at security checkpoints on their way in and out of the village. His uncle recalled that Wae-halem was stopped at a checkpoint outside his village on the day he went missing:

Wae-halem complained that he had often been stopped at army checkpoints on his way in and out of his village. That day, May 29, he left home around 7:30 a.m. on his motorcycle. He arrived at the construction site in Bukit Tamong village and told his friend that he was stopped at an army checkpoint in Kapong Baru village. Wae-halem said soldiers asked him about his money and how much he had earned. He told those soldiers that he just bought new tools for his orchard, and there was nothing wrong with that. Wae-halem finished his work and returned from Bukit Tamong village. Around 5 p.m., he arrived at a tea shop in this village. He rested there for a while, drinking tea and talking to other villagers. He always stopped there. It was not far from his house, less than a kilometer on a straight road. Wae-halem then left the tea shop and got on his motorcycle to come home. But he did not make it. Villagers saw that there was a pickup

truck, a green Mitsubishi, parked not far from the tea shop. There were four or five men there. Those men told Wae-halem to stop. Then they took him inside their pickup truck and drove away. Since then Wae-halem has not been seen again.

After his “disappearance,” Wae-halem’s uncle rushed to all the army checkpoints and army units in the area. The soldiers said they had not arrested him and did not know what had happened to Wae-halem. Kordae represented Wae-halem’s family and filed missing person reports with the police in Joh Airong district, Narathiwat. He also reported the case to the chairman for the southern border provinces of the government-appointed Independent Commission on Justice and Civil Liberties, Ukrit Mongkolnavin, on June 5, 2006. Kordae said the commission received his complaint but had not taken any serious action to find out what had happened to Wae-halem. “Is he still alive, dead, or detained somewhere?” asked Kadae.⁸⁴

Pokri Bae-apiban, Yala

Pokri Bae-apiban, a 21-year-old villager, “disappeared” after leaving his house on the morning of October 27, 2006. Witnesses saw that he was stopped and taken away by a group of soldiers at a gas station in Bannang Sta market. His father Doe-romae told Human Rights Watch that villagers at the market told him they saw what happened:

Pokri left our house in the morning around 8 a.m. I began to worry when he did not return home by noon. I began to call his number, but the cell phone was switched off. Later that day I went to Bannang Sta market to find him. Many villagers at the market saw what happened to my son. They said soldiers in uniform, arriving in two Isuzu DMAX double-cab pickup trucks, arrested my son at the gas station. They saw that my son was searched before being forced into one of those pickup trucks. The whole thing happened in broad daylight, in front of many people. But nobody dared to do anything to save my son. They were stunned and all afraid that they would be shot or arrested if they

⁸⁴ Human Rights Watch interview with Kordae, Narathiwat, June 6, 2006.

stepped in to help my son. Those soldiers drove away with my son. His motorcycle was left there, at the gas station, with the key. The gas tank was almost empty. Pokri did not have a chance to refill it before he was arrested.

Doe-romae, told Human Rights Watch that Pokri had been suspected by a local army unit as being involved in insurgent activity:

I find it hard to believe that Pokri was suspected by soldiers. I am a village defense volunteer and always against those insurgents. My son and I have been helping police as informants for many years, providing information about insurgent activity in Ban Pawang village. Every month my son received 4,500 baht [U.S.\$125] from the police. He infiltrated into their cells and spent a lot of time with them to get information about those wanted by police. But perhaps soldiers who had been assigned to our village were not aware of Pokri's status. They accused my son of being an insurgent.

Doe-romae searched for his son without success: "Until today, I do not know his whereabouts or which unit took him away. There was no record of his arrest in any police stations and military units in Yala." He filed missing person reports with Bannang Sta district police station in Yala:

There were many eyewitnesses, but nobody wanted to talk to the police about what happened to Pokri. They only told me because they felt sorry for me. Police do not seem to be able to help me. I am so disappointed and frustrated. I could not understand why police who hired my son [as their informant] did not tell soldiers that we were actually on the same side with them. I believe in the law. If my son is guilty of anything, then he should be arrested properly. I will turn him in myself. I have not given up hope that my son is still alive. He may be detained somewhere. I am keeping my eyes and ears open to all leads. I traveled to Nakhon Sithamarat recently when someone told me that

Pokri was kept at an army base there. But nobody there said they knew about him.

As there is no progress in the police investigation, according to Doe-romae, insurgents in Pawang village are using the “disappearance” of Pokri to rally local support to their activity:

Working with authorities in this village already put us in a difficult situation. And now the authorities are turning their back to my family. Insurgents are gaining more control by day. They call me ‘police dog’ all the time. They told other villagers that my family was betrayed and abandoned by Thai authorities. There have been many insurgent attacks in this village lately, and each time insurgents always used what happened to Pokri to incite villagers to join them and support them.⁸⁵

⁸⁵ Human Rights Watch interview with Doe-romae, Yala, November 27, 2006.

IV. International Legal Standards and Norms Relating to “Disappearances”

An enforced disappearance occurs when government authorities arrest, detain, or abduct an individual, followed by a refusal to disclose the fate or whereabouts of the person or acknowledge the deprivation of their liberty.⁸⁶ The practice of enforced disappearance violates a number of 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.⁸⁷

In the current absence of an international treaty against the practice of enforced disappearance, the Declaration on Enforced Disappearances, adopted by the United Nations General Assembly in 1992, reflects the consensus of the international community against the crime of “disappearances,” and provides authoritative guidance as to the safeguards that need to be implemented to prevent it. Four key principles affirmed by the declaration are that “disappearances” cannot be justified under any circumstance; that “disappearances” are continuing offenses, exempt from statutes of limitation; that their perpetrators should not be eligible for amnesty from prosecution; and that the victims and their survivors have a right to compensation.⁸⁸

A multinational treaty on enforced disappearances is coming into effect. The International Convention for the Protection of All Persons from Enforced

⁸⁶ According to the preamble of the Declaration on the Protection of All Persons from Enforced Disappearance (“UN Declaration on Enforced Disappearances”), “enforced disappearances occur, in the sense that persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government... followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law.” Declaration on the Protection of All Persons from Enforced Disappearances, G.A. res. 47/133, 47 U.N. GAOR Supp. (No. 49) at 207, U.N. Doc. A/47/49 (1992).

⁸⁷ International Covenant on Civil and Political Rights (ICCPR), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976, arts. 6(1), 7, 9, and 14(1). Thailand became a party to the ICCPR in 1997. For a detailed discussion of the human rights violations committed by “disappearances,” see United Nations Commission on Human Rights, “Report submitted January 8, 2002, by Mr. Manfred Nowak, independent expert charged with examining the existing international criminal and human rights framework for the protection of persons from enforced or involuntary disappearance, pursuant to paragraph 11 of Commission resolution 2001/46,” E/CN.4/2002/71, p. 36.

⁸⁸ UN Declaration on Enforced Disappearances, arts. 7, 17, 18, and 19.

Disappearance (Disappearances Convention) was adopted by the United Nations (UN) General Assembly on December 20, 2006, and has been open for signature since February 6, 2007. At the time of writing, 57 countries had signed the convention.⁸⁹

The Disappearances Convention addresses governmental responsibility for enforcement, investigation, prevention, and accountability. The convention states that enforced disappearance is an international crime and establishes an absolute right not to be subjected to enforced disappearance. States must ensure that enforced disappearances are violations of their criminal law, and they must prosecute any person who commits, orders, attempts to commit, or otherwise participates in an enforced disappearance, or has responsibility as a superior.

The Disappearances Convention obligates authorities to promptly and impartially investigate allegations of enforced disappearances. They must also investigate if there is no formal complaint but an enforced disappearance is believed to have occurred.

The convention reinforces international legal prohibitions against secret detentions, requiring that detainees only be held in officially recognized and supervised facilities that maintain records of all detainees. Anyone detained must be allowed contact with the outside world, especially with their family and counsel, who have a right to information on the detention and whereabouts of the person. They have the right to bring proceedings before a court that can determine the lawfulness of the detention and, if unlawful, order the detainee's release. The convention also obligates states to ensure that persons set free are released in a manner permitting reliable verification that they have actually been released. States are to provide training to police and military personnel involved in the custody or treatment of detainees to prevent, investigate, and resolve cases of enforced disappearance.

The Disappearances Convention also includes provisions to ensure state accountability for enforced disappearances. States are obligated to take the necessary measures to prevent and punish delaying or obstructionist tactics by

⁸⁹ The Disappearances Convention will come into effect one month after 20 ratifications.

government officials; the failure to record information on detainees; and the refusal to provide information as required by law on detainees. The convention broadly defines a “victim” of an enforced disappearance as anyone who has suffered harm as the direct result of an enforced disappearance. It requires states to take measures to learn and report on the fate of any “disappeared” person and provide reparations to victims, including prompt, fair, and adequate compensation, for the wrong done to them.

In addition to these requirements of states parties, the Disappearances Convention provides for an international committee of 10 independent experts to monitor and consider individual and inter-state complaints. The committee will have a humanitarian urgent procedure, the power to undertake field inquiries, and the ability to bring to the attention to the UN General Assembly situations of widespread and systematic practice of enforced disappearance.

V. Thai Government's Failed Response to the Problem of "Disappearances"

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 the allegations of "disappearances" connected to violence in the southern border provinces.

The Somchai Neelapaijit case

Of all the reported "disappearances" connected to the government's counterinsurgency operations in 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.

Somchai Neelapaijit, the 53-year-old chairman of Thailand's Muslim Lawyers Association and vice-chairman of the Human Rights Committee of the Lawyer's Council of Thailand, "disappeared" on March 12, 2004. At that time, he was representing five persons arrested in connection with the militant raid on the Narathiwat Rajanakarin Camp on January 4, 2004: Makata Harong, age 49, Sukri Maming, 37, Abdullah Abukaree, 20, Manase Mama, 25, and Sudirueman Malae, 23. The authorities had detained them on charges related to national security, specifically conspiracy to commit rebellion, the recruitment of people and the

gathering of arms to commit rebellion, functioning as a secret society, and acting as a criminal gang.

Somchai accused the police of torturing his clients. In a letter to the Senate on March 11, 2004, he alleged that the police severely assaulted and forced the five men to confess to crimes while they were detained at Tanyong district police station, Narathiwat. As set out in the letter:

- Makata was blindfolded. He was kicked in the face and mouth. The police stepped on his face after thrusting him to the floor. They also urinated on his face and into his mouth. Then, they applied electrical shocks to the body and testicles of the suspect three times.
- Sukri was blindfolded. He was kicked all over and forced to lie down. The police later slapped his face with shoes and urinated on his face.
- Abdullah was blindfolded. He was kicked all over. His ears were slapped. He was handcuffed behind his back and his feet were tied. The police used electrical shocks on his body and particularly on his back.
- Manase was blindfolded. He was handcuffed behind his back and strangled. His head had wounds from the beating. The police hanged him by his head from a cell door. He was hit on his body and given electric shocks.
- Sudirueman was blindfolded. He was slapped on his face and mouth with his shoes. His ears were also slapped. He was hit in the stomach and given electric shocks several times.⁹⁰

The next day Somchai disappeared. He was last seen at the Chaleena Hotel on Ramkhamhaeng Road in Bangkok on March 12, 2004. His car was found abandoned on Kamphaeng Phet Road near Mor Chit bus terminal.⁹¹

In the weeks prior to his “disappearance,” Somchai had reported to colleagues and family members that he had received threats since taking on the cases of two Thai alleged members of the Jemaah Islamiyah, a violent, Southeast Asia-based Islamist

⁹⁰ Letter submitted by Somchai Neelapaijit to the Senate (Thai), dated March 11, 2004 (copy on file with Human Rights Watch).

⁹¹ “Lawyer’s Disappearance Darkens Rights Climate,” Human Rights Watch news release, March 18, 2004, <http://hrw.org/english/docs/2004/03/17/thaila8127.htm>.

group accused of carrying out bomb attacks in Thailand. He reported receiving further threats after taking on the five Narathiwat Camp raid suspects. Somchai had been systematically informing colleagues and his family about his movements.

Shortly before his “disappearance” Somchai told a co-worker that he was scheduled to fly to Narathiwat. But he did not show up there. After they lost contact with Somchai, his co-workers checked his flight and found that the flight had not been cancelled. Colleagues and family members said Somchai had a good reputation for keeping court appearances and appointments. When he didn’t arrive as scheduled, they feared he might have been abducted in retaliation for his participation as a defense lawyer in the “security cases” in the southern border provinces.⁹²

On March 18, 2004, Human Rights Watch expressed concern over comments by then-Prime Minister Thaksin and other senior government officials which downplayed concern for the safety of Somchai by suggesting his “disappearance” was merely due to a “family” or “personal” problem.⁹³

In April 2004 five police officers were arrested: Police Maj. Ngen Tongasuk (Crime Suppression Division), Police Lt. Col. Sinchai Nimbunkampong (Crime Suppression Division), Police Lance Cpl. Chaiweng Paduang (Tourist Police Division), Police Sgt. Rundorn Sithiket (Crime Suppression Division), and Police Lt. Col. Chadchai Leiamsa-ngoun (Crime Suppression Division). The 896-page indictment does not charge any of the five police officers with abduction or murder, or with kidnapping, as under Thai criminal law filing a murder charge requires physical evidence to prove that a person is dead⁹⁴ (Somchai’s wife spent considerable time trying unsuccessfully to find his remains). Under the law, to prove kidnapping ransom must be sought. For these reasons, the police officers in Somchai’s case were only charged with “forceful restraint of Somchai’s freedom against his will” and with

⁹² Human Rights Watch interview with Kitja Ali-ishoh, Bangkok, March 16, 2004.

⁹³ Prime Minister Thaksin reportedly said, “Somchai had disputes with his wife. Perhaps, he just wants to be away from his family problems for a while.” Supalak Ganjanakhundee, “Govt Urged to Find Muslim Lawyer,” *The Nation* (Bangkok), <http://www.nationmultimedia.com/specials/south2years/mar1704.php> (accessed March 17, 2004).

⁹⁴ In some cases, evidence in the form of severed limbs has been used in court to prove the person could not have survived and must be dead. Even a DNA trace collected from charred bones would be sufficient.

“committing robbery” and “compelling other persons to act.”⁹⁵ The officers pleaded not guilty and were released on bail.

According to testimony offered by witnesses at the Bangkok’s Central Criminal Court in August 2005, an unidentified group of men forced Somchai into a car and drove away. One witness said she was walking on Ramkhamhaeng Road at about 8:30 p.m. on March 12, 2004, when she saw a black Toyota sedan with its caution lights on parked behind a green Honda Civic. After she walked a short distance further she heard a male voice shouting. When she turned around she saw a heavysset man with cropped hair in a black jacket, white t-shirt and trousers pushing the first man, whom she later identified from media reports as Somchai, into the black car. The man was struggling as the door was closed on him. After that another man from the black car went to the green car and the two vehicles drove away together. Some days later she went to Hua Mark district police station where she identified one of the five accused, Police Major Ngen Tongsuk, as resembling the person whom she saw pushing Somchai into the car. Police Maj. Ngen had earlier been identified as being connected to the alleged torture of Somchai’s clients arrested in connection to the raid on the Narathiwat Camp.⁹⁶

On January 12, 2006, the Bangkok’s Central Criminal Court found Police Maj. Ngen Tongsuk guilty of physically assaulting Somchai and sentenced him to three years’ imprisonment. The other four accused police officers were acquitted due to insufficient evidence. The trial failed to explain what happened to Somchai after the assault or who was responsible for his “disappearance” and presumed death.⁹⁷

The next day, January 13, Thaksin publicly stated for the first time that government officials were involved in Somchai’s abduction and killing:

The Department of Special Investigation is working on this case and murder charges are being considered. I know Somchai is dead,

⁹⁵ See Penal Code of Thailand, sections 309 and 340.

⁹⁶ Witness testimony at Bangkok Criminal Court on August 25, 2005, observed by Human Rights Watch.

⁹⁷ “Government Covers Up Role in ‘Disappearance,’” Human Rights Watch news release, March 11, 2006, <http://hrw.org/english/docs/2006/03/11/thaila12876.htm>.

circumstantial evidence indicated that... and there were more than four government officials implicated by the investigation. Witnesses and evidence are still being collected, but that is not easy because this case involves government officials. I think the Department of Special Investigations will conclude the investigation by the end of February.⁹⁸

Somchai's wife, Angkhana, told Human Rights Watch that Thaksin had informed her since late 2004 that her husband had been taken to Ratchaburi province after his abduction.⁹⁹ It is unclear how Thaksin learned of this information, but neither he nor senior police officials were subpoenaed by the Justice Ministry's Department of Special Investigations (DSI)—which had taken over the investigation of the case from the police—to explain it.

One reason the trial did not conclusively address the “disappearance” and apparent murder of Somchai was the weak evidence produced through the police investigation. The investigation was almost certainly hindered because of political interference and the allegations of police involvement. In addition, the criminal inquiry suffered significantly from inadequate forensic information: the Institute of Forensic Science, created under the Justice Ministry 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 in Somchai's case. Dr. Pornthip Rojanasunant, director of the institute, told Human Rights Watch that the public prosecutors never requested the evidence she collected, and no one from the institute was called to testify in court.¹⁰⁰

Despite deep public concern in Thailand and abroad about the whereabouts of Somchai, Thaksin's government directed most of its efforts towards deflecting criticism over the handling of the case rather than providing prosecutors with what it actually knew and pressing for a serious investigation. On September 23, 2004, Angkhana requested the DSI to take up the case, and publicly complained about the

⁹⁸ TV Channel 3 Evening News (Thai), January 13, 2006.

⁹⁹ Human Rights Watch interview with Angkhana Neelaphaijit, Bangkok, January 10, 2005.

¹⁰⁰ Human Rights Watch interview with Dr. Pornthip Rojanasunant, Bangkok, January 15, 2006.

lack of efforts by investigators. The DSI did not agree to carry out a new investigation based on her application until July 2006—six months after the trial of the five police officers.¹⁰¹

On April 15, 2005, Angkhana submitted a formal complaint to the United Nations Working Group on Enforced or Involuntary Disappearances expressing disappointment that the authorities in Thailand had failed to solve the case. In a statement prepared for the United Nations Commission on Human Rights, she said, “Now the only thing that we wish is to see his remains. Even if only his ashes, still we would be happy. But our hopes are not strong. We do not see any genuine goodwill from the authorities.”¹⁰² She specifically stated that, according to the deputy director of the Institute of Forensic Science, there had been no cooperation from the police despite useful evidence found in Somchai’s abandoned car.¹⁰³

Angkhana told Human Rights Watch that the Working Group entered into continuing dialogue with the government in June 2005, and noted that the Working Group has a particular mandate to address enforced disappearances when they apply to human rights defenders such as Somchai.¹⁰⁴ On July 22, 2005, the Working Group sent a prompt intervention letter to the Thai government expressing serious concern about the reported harassment and intimidation of Angkhana, which might have been in retaliation for her activities related to calling for justice and searching for Somchai.¹⁰⁵

The interim government of Gen. Surayud Chulanont formed after the September 2006 coup has put pressure on the DSI to speed up its investigation. The government sidelined the DSI chief, Police General Sombat Amornwiwat, by transferring him to the post of deputy permanent secretary for the Ministry of Justice in November 2006, replacing him with Sunai Manomaiudom—a widely respected Appeal Court judge.

¹⁰¹ Human Rights Watch interview with Angkhana Neelaphajit, Bangkok, August 26, 2006.

¹⁰² Statement presented by the Asian Legal Resource Center on behalf of Somchai’s wife to the United Nations Commission on Human Rights, April 18, 2005.

¹⁰³ *Ibid.*

¹⁰⁴ Human Rights Watch interview with Angkhana Neelaphajit, August 26, 2006.

¹⁰⁵ Report of the Working Group on Enforced or Involuntary Disappearances (E/CN4/2006/56), December 27, 2005, p. 113.

Angkhana says she is still not confident that actions taken by the interim government would be sufficient to end what she considered “serious incompetence and deliberate obstruction of justice by many police, especially those from CSD [Crime Suppression Division], who are still playing important roles in DSI investigations” of her husband’s “disappearance.”¹⁰⁶ She also expressed concern about the safety of witnesses who testified in this case during the criminal court trial.

International criticism of “disappearances,” and prospects for redress under the new government

On July 28, 2005, the UN Human Rights Committee stated in its concluding observation on Thailand’s compliance with the International Covenant on Civil and Political Rights that it was concerned about the practice of enforced disappearance and the question of impunity.

The State party [Thailand] should conduct full and impartial investigations into these and such other events and should, depending on the findings of the investigations, institute proceedings against the perpetrators. The State party should also ensure that victims and their families, including the relatives of missing and disappeared persons, receive adequate redress. Furthermore, it should continue its efforts to train police agents, members of the military and prison officers to scrupulously respect applicable international standards. The State party should actively pursue the idea of instituting an independent civilian body to investigate complaints filed against law enforcement officials.¹⁰⁷

The government of Prime Minister Thaksin appeared to be indifferent to allegations of abuses. Promises for investigation and justice appear to have been only rhetoric, aiming only to defuse criticisms and political pressures. Thaksin on August 6, 2005,

¹⁰⁶ Human Rights Watch interview with Angkhana Neelaphajit, Bangkok, November 1, 2005.

¹⁰⁷ UN Human Rights Committee, “Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: Concluding Observations of the Human Rights Committee: Thailand” CCPR/CO/84/THA, July 28, 2005.

in a speech condemning “disappearances” and extrajudicial killings, told a forum hosted by the National Human Rights Commission that these practices were a result of some police officers with “good intentions” who “wanted to be effective but chose to violate human rights.”¹⁰⁸ In the face of continuing enforced disappearances, there have been no serious criminal investigations focusing on the reported disappearances to bring those responsible to justice.

The military coup on September 19, 2006, that ousted Thaksin from power created euphoria among many in the ethnic Malay Muslim population. When the interim prime minister, Gen. Surayud, 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,” some expressed hope that things would change.¹⁰⁹ On November 2, 2006, Gen. Surayud took another important step in the government’s reconciliation efforts by making an unprecedented public apology for the deaths and injuries of the Tak Bai protesters. At an assembly of more than 1,500 ethnic Malay Muslims at CS Pattani Hotel in Pattani, Gen. Surayud said, “I have come here to apologize to you on behalf of the previous government and on behalf of this government. What happened in the past was mostly the fault of the state.”¹¹⁰ The apology was followed by Gen. Surayud’s promise to instruct the Public Attorney’s Office to withdraw criminal charges against Tak Bai protesters.¹¹¹ At the same time, he also announced the reestablishment of the Southern Border Provinces Administrative Center, led by Pranai Suwannarat, to help coordinate the overall administration of the southern border provinces. Gen. Surayud also promised that the SBPAC would address complaints from the ethnic Malay Muslim population concerning corrupt, abusive, or

¹⁰⁸ “Some police officers wanted to be effective. Despite their good intentions, they chose to violate human rights. The authorities must be very patient and respectful of 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?” “Human Rights Thaksin-Style”, *Thai Post*, August 7, 2005, [“สิทธิมนุษยชนแบบทักษิณ”, ไทยโพสต์ 7 สิงหาคม 2548] http://www.thaipost.net/index.asp?bk=sunday&post_date=7/Aug/2548&news_id=111126&cat_id=110100 (accessed August 7, 2005).

¹⁰⁹ Special broadcast on TV Channel 11 (Thai) televising the inaugural speech of Gen. Surayud Chulanont after he was sworn in as Thailand’s 24th prime minister, October 1, 2006.

¹¹⁰ Special broadcast on TV Channel 11 (Thai) from CS Pattani Hotel in Pattani, November 2, 2006.

¹¹¹ *Ibid.*

inept government officials, and would be able to order the transfer of such officials within 48 hours.¹¹²

Gen. Surayud's statements focusing on justice and reconciliation are a good start. While the words are welcome, it is now time for action. At this writing, it remains unclear whether the new government will take strong measures to end state-sanctioned abuses and the prevailing culture of impunity. Deep structural reforms and a clear commitment to human rights protections, even in the face of militant bombings and other attacks, are desperately needed.

¹¹² Ibid.

VI. Recommendations

The Thai government must take all necessary steps to end, prevent, and deter the practice of enforced disappearances.

The Royal Thai Government should:

1. Promptly sign and ratify the Disappearances Convention and adopt all necessary legislation and other measures to comply with its terms. Act in accordance with the convention prior to ratification and prior to its coming into force.
2. Make an enforced disappearance a criminal offense. The law should be amended so that it is not necessary to produce a body to proceed with a murder prosecution.
3. Ensure that all persons detained by the police and security forces are held at recognized places of detention, and are not subjected to torture or cruel, inhuman or degrading treatment. Their whereabouts must be made known to family and legal counsel. They must be allowed contact with family and unhindered access to legal counsel of the detainee's choice. All procedural rights guaranteed under the constitution and the code of criminal procedure must be respected. In cases where a "disappearance" has been reported, the relevant security forces should immediately make known the whereabouts or circumstances of the detainee.
4. Ensure that the police, prosecutors, and the National Human Rights Commission conduct prompt, independent, and impartial investigations into allegations of "disappearances." Strengthen the independence and capacity of the Ministry of Justice, state prosecutors, and the National Human Rights Commission to ensure stronger investigations and public reporting of allegations of "disappearances" and other human rights abuses. It is vital that each is able to act independently and have the resources and security to perform their respective functions.
5. Prosecute officials regardless of rank responsible for "disappearances" and other abuses, including officials ordering "disappearances" or who knew or should have known about the pattern of abuses but took no action.

6. Provide prompt, fair, and adequate compensation for the victims and family members of those who have “disappeared” or were otherwise arbitrarily detained.
7. Support measures during the drafting of the new constitution to empower the National Human Rights Commission to present the findings of its investigations to the Office of the Public Attorney as the basis for prosecutions. In this regard, the Office of the Public Attorney should be required to reply promptly in writing to the National Human Rights Commission about its decision to pursue or not to pursue criminal prosecutions in each case.
8. Stop undermining and discrediting the work of persons working to protect and report on human rights abuses, such as the National Human Rights Commission, human rights lawyers, journalists, and others who have played a crucial role in reporting allegations of “disappearances” and other human rights abuses.
9. Invite the United Nations special rapporteur on torture, the United Nations special rapporteur on extrajudicial, summary or arbitrary executions, and the United Nations Working Groups on Enforced and Involuntary Disappearances, and Arbitrary Detentions to Thailand to investigate and report on the situation. These agencies’ recommendations should be implemented in a timely manner.

Foreign governments and international agencies should:

1. Continue to press the Thai government to act on its stated human rights commitments under international human rights law, and publicly condemn specific violations and urge the Thai government to address them.
2. Actively monitor the end use of any weapons and material provided to Thailand to determine whether they have been used by security forces to commit violations of human rights. The United States has the closest relationship to the Thai military, while the United Kingdom has the closest relationship to the Thai police.
3. Urge the Thai government to ensure that security forces at all levels are receiving suitable training to improve compliance with international human

- rights law. This training should be woven into the training and operational instructions received by all security personnel.
4. Support the National Human Rights Commission and the human rights community in Thailand to be able to safely monitor, investigate, and report on allegations of abuses. Insist that the government, army, and police do not interfere with, threaten, or intimidate human rights workers.

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“It Was Like Suddenly My Son No Longer Existed”

Enforced Disappearances in Thailand’s Southern Border Provinces

The Thai security forces have used enforced disappearances as a tool to quell armed separatists in the southern border provinces, most notably since the escalation of militant violence in January 2004. Based on interviews with families of victims and with witnesses, *“It Was Like Suddenly My Son No Longer Existed”* documents 22 cases of unresolved “disappearances” in which the evidence strongly indicates that the Thai security forces were responsible. Many of those who have been “disappeared” were suspected by the police or army of being militants, or of supporting them, or of having information on separatist attacks. The actual number of “disappearances” in the southern border provinces may be significantly underreported, since many families keep silent due to fears of reprisal and the lack of effective witness protection.

Most of the enforced disappearances took place during the period in office of the government of Prime Minister Thaksin Shinawatra, who was deposed in a September 2006 coup. The military-backed government of Gen. Surayud Chulanont announced it would have a more human rights friendly and sophisticated approach than the heavy handed one used by Thaksin, but little has changed. The police, the Justice Ministry’s Department of Special Investigation, the National Human Rights Commission, and the newly reinstated Southern Border Provinces Administration Center have failed to carry out full and impartial investigations. This has created a vicious cycle of violence and alienation in which attacks are carried out by the security forces and armed separatists on a daily basis. Human Rights Watch is calling on the Thai government and the security forces to immediately end the practice of “disappearances” and other human rights abuses, including extrajudicial executions, torture and arbitrary arrest, and to take concrete steps to hold perpetrators accountable.

Ethnic Malay-Muslim women, who lost family members in Thailand’s southern border provinces, attend a demonstration in Bangkok on April 22, 2006. From January 2004 to January 2007 there have been more than 2,000 deaths and 3,000 injuries in the southern border provinces. Human Rights Watch has criticized the Thai security forces for carrying out enforced disappearances, extrajudicial killings, and other human rights abuses as part of their strategy to quell the insurgency.

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