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Thailand: Not Smiling on Rights

A shadow report to the Initial Report (CCPR/C/THA/2004/1)
of Thailand to the Human Rights Committee

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I. Introduction

For the first time, the United Nations Human Rights Committee will examine the Initial Report (CCPR/C/THA/2004/1) of the government of Thailand on the implementation of International Covenant on Civil and Political Rights on 19-20 July 2005.

Thailand is often mis-construed of having commitment to human rights. The fact that the government of Thailand allows holding of many international conferences also contributes to this wrong perception.

Since the modern Thailand came into being, indigenous hill tribes have been suffering from institutionalised and social discrimination because of their ethnic origin. Indigenous hill tribes have primarily been reduced as “tourist objects” without any rights. Within their own villages, those hill tribes who are suspected as “alien” despite having lived in Thailand from time immemorial have been living like virtual prisoners. Like in prisons, the hill tribes must take permission from different authorities to travel from one district to another or from one province to another.

This system of “open jail” basically makes girls and women vulnerable to trafficking. It will not be an understatement to state that the policies and practices of the government of Thailand with regard to documentation/identification of “alleged aliens” who are mainly hill tribes,

migrants and refugees encourage trafficking.

For many years, the Southern Thailand remained dormant. Since January 2004, there has been spurt of insurgency activities. The response of the Thailand government has been militarisation and providing impunity to the security forces for extrajudicial killings. Not a single army personnel has been held responsible for the death of 78 arrested persons at Tak Bai on 25 October 2004. It speaks of the lack of access to justice in Thailand.

The freedom of the press is crucial in such critical situations. But, with Prime Minister Thaksin Shinawatra being a media baron himself, independent media has been facing serious repression. The media must neither criticise the government nor take away the business of the Prime Minister.

Human rights situation in Thailand is deteriorating. The Emergency Decree of 15 July 2005, which gives absolute powers to the Prime Minister to declare emergency without parliamentary approval, take measures to derogate from Articles 4, 9, 12, 17 and 19 of the ICCPR and also provides absolute impunity to the security forces is a clear example.

The UN Human Rights Committee must make appropriate recommendations.

Suhas Chakma
Director

II. Analysis of the Emergency Decree of 15 July 2005

On 15 July 2005, Prime Minister Thaksin Shinawatra government submitted the new Emergency Decree to replace the existing martial law and grant the Prime Minister **absolute power** to declare a state of emergency. The move is ostensibly to address the situation in Southern Thailand. The government bypassed the Parliament by making the new law an executive decree, rather than an act of legislation. The decree has subsequently been submitted to His Majesty the King for endorsement.

The key features of the decree violate the key provisions of the International Covenant on Civil and Political Rights and the rights guaranteed under the Constitution of Thailand.

a. Declaration of emergency:

Under the Decree, Prime Minister, with cabinet approval, is empowered to declare a state of emergency all over the country or in certain areas as warranted by a situation for a period of three months which is renewable.¹

The process of parliamentary democracy has been subverted as parliament will no longer be involved for the declaration of

state of emergency. The fact that it is not subject to parliamentary approval implies that there are no checks and balances as to under what circumstances the emergency can be imposed. The two requirements stipulated by the United Nations Human Rights Committee in its General Comment No 29 for invoking article 4 - that the situation must amount to a public emergency, which threatens the life of the nation, and the State party must have officially proclaimed a state of emergency² – are not met by the Emergency Decree.

The Emergency Decree as discussed below derogate from Article 9, Article 12, Article 17 and Article 19 of the ICCPR.

Moreover, emergency can be renewed time and again. The Human Rights Committee in its General Comment No. 29 stated that “measures derogating from the provisions of the Covenant must be of an **exceptional and temporary** (emphasis ours) nature”.³

b. Legalising arbitrary arrest, detention and torture

“In a “critical situation” where terrorism is a factor, the prime minister may raise the security alert above an ordinary emergency and issue containment orders such as detaining suspects for seven days, subject to court permission. Further detentions may be sought, but no longer than seven days each time with the detention

¹ . Security powers to get boost, The Bangkok Post, 16 July 2005

² . CCPR/C/21/Rev.1/Add.11, 31 August 2001

³ . Ibid.

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period totalling 30 days at the most.”⁴

The power to arrest and detain for 7 days with maximum of 30 days with the approval of the judiciary under Emergency Decree of Thailand violates article 9 of the ICCPR. The Prevention of Terrorism Act of the United Kingdom allowed detention upto 48 hours which may be extended upto 5 days with the approval of the Secretary of State. This extended period of detention for five days was held illegal by the European Court of Human Rights in *Brogan*⁵ case. If 4 days of additional detention under PTA of UK constitutes a breach of the Article 5(3) of the European Convention of Human Rights, the detention upto 30 days even with the approval of the judiciary is illegal by any yardstick!

c. Restriction on freedom of movement and forced movement of civilians

*To quickly end a situation that necessitates a state of emergency, the Prime Minister is empowered to prohibit people from leaving their residences for a certain period of time and evacuate people for their safety.*⁶

This provision violates Article 12 of the ICCPR. For decades, the hill tribes who have not been granted citizenship have been issued different colours of identity cards, which restrict their freedom of

movement. It had devastating effects on the hill tribes.

With the imposition of the new restriction on the right to freedom of movement in Southern Thailand, Thailand has become an “Open Jail” for religious minorities and indigenous hill tribes.

In addition, international humanitarian laws stipulate under what circumstances the population can be relocated. Article 17 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts stipulates the following conditions against forced relocations:

“Article 17.-Prohibition of forced movement of civilians.

1. The displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand. Should such displacements have to be carried out, all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition.

2. Civilians shall not be compelled to leave their own territory for reasons connected with the conflict.”

There is no such guarantee in the Emergency Decree.

⁴. Security powers to get boost, The Bangkok Post, 16 July 2005

⁵. Case No. 10/1987/133/184-187

⁶. Security powers to get boost, The Bangkok Post, 16 July 2005

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d. Censorship:

“To quickly end a situation that necessitates a state of emergency, the Prime Minister is empowered to prohibit publication of news and distribution of printed materials or other types of media which may cause the people to panic or with an intention to distort information.”⁷

This provision violates Article 19 of the ICCPR. The freedom of the press in Thailand has already been under tremendous stress. Prime Minister Thaksin Shinawatra has been attempting to silence any kind of criticisms against the government including the allegations as to how the media companies owned by his family benefited from the government policies.

On 5 November 2004, a group of print and broadcast journalists was lured to the headquarters for “a press conference” by the officers from the Crime Suppression Division (CSB) and allegedly pressured them for four hours into giving information to the security officials about the 25 October 2004 incident, which left 85 Muslim protesters dead. Police also demanded they surrender video footage of the carnage.⁸

e. Violation of the right to privacy:

⁷. Security powers to get boost, The Bangkok Post, 16 July 2005

⁸. Thai freedom of expression is now dead, The Nation, 8 November 2004

“To quickly end a situation that necessitates a state of emergency, the Prime Minister is empowered to order examination of letters, books printed materials and telegrams, or tap telephone call.”⁹

The right to privacy guaranteed under Article 17 of the ICCPR has been undermined.

f. Impunity:

“Authorities performing duties as ordered by the Prime Minister are exempt from civil, criminal and disciplinary actions.”¹⁰

By giving complete impunity, the Emergency Decree has legalised the climate of impunity already prevailing in Thailand. It deprives the people of remedies to which they may be entitled in accordance with article 2, paragraph 3, of the ICCPR.

The Prime Minister has become judge and jury as the Emergency Declaration cannot be subject to judicial scrutiny.

The United Nations Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions lucidly summarised the impunity and extrajudicial executions in her report to the 57th session of the United Nations Commission on Human Rights:

⁹. Security powers to get boost, The Bangkok Post, 16 July 2005

¹⁰. Ibid

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“Impunity for human rights offenders seriously undermines the rule of law, and also widens the gap between those close to the power structures and others who are vulnerable to human rights abuses. In this way, human rights violations are perpetuated or sometimes even encouraged, as perpetrators feel that they are free to act in a climate of impunity., extrajudicial killings and acts of murder may sometimes also go unpunished because of the sex, religious belief, or ethnicity of the victim. Long-standing discrimination and prejudice against such groups are often used as justification of these crimes. The increasing difficulties in securing justice alienate the people from the State and may drive them to take the law into their own hands, resulting in a further erosion of the justice system and a vicious circle of violence and retaliation. If unaddressed, such situations may easily degenerate into a state of anarchy and social disintegration. Human rights protection and respect for the rule of law are central to lasting peace and stability. It is, therefore, crucial that conflict prevention strategies and post-conflict peace-building efforts include effective measures to end the culture of impunity and protect the rule of law.”¹¹

Recommendations:

The Human Rights Committee should request Thailand to inform other State parties about the derogation from the ICCPR, to inform the Human Rights Committee about the duration of these derogation and restore the right to seek remedial action in accordance with article 2, paragraph 3, of the ICCPR.

¹¹. E/CN.4/2001/9 and Corr.1

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III. Executive Summary

Article 2: Human Rights Mechanisms

The government of Thailand not only failed to ratify the Optional Protocol to the International Covenant on Civil and Political Rights but also restricted access to the Constitutional Court and threatened the members of the National Human Rights Commission. Only the parliament, the administrative courts and the office of the Ombudsman can submit petitions to the Constitutional Court, which has jurisdiction to interpret the Constitution and to judge the conformity of existing laws, and any proposed legislation with the Constitution of Thailand. Therefore, an aggrieved person or victim of human rights abuses cannot have access to the constitutional court unless the parliament, the administrative courts and the office of the ombudsman refer his or her case to it.

The members of the NHRC have been threatened by ruling Thai Rak Thai Party Members of Parliament for speaking about the extrajudicial executions in the war against drugs.

Article 4 & Article 5: Human Rights during state of emergency

Though nationwide public emergency has not been declared in Thailand, draconian statutes akin to public emergency are in operation. Martial law remained imposed in three southern

most provinces of Pattani, Yala and Narathiwat.¹²

On 15 April 2005, the government introduced Emergency Decree which clearly violate Article 4, Article 9, Article 12, Article 17 and Article 19 of the ICCPR.

Article 6: Right to life

In its Initial Report (page 32), the government of Thailand justifies “extrajudicial killings” in certain situations. The fact that there are no guidelines similar to the United Nations Code of Conduct for Law Enforcement Officials and UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials implies that the law enforcement agencies can be judge and jury and take measures to deprive the right to life under various pretexts. The results of this practice of allowing extrajudicial killings are the mass murder of 107 persons, mostly teenagers in Krue Se Mosque on 28 April 2004 and the Tak Bai killings of 25 October 2004 where 78 persons were suffocated or crushed to death after being arrested and packed into trucks by security forces for transportation to military barracks in Pattani. Since the insurgency began in January 2004 in the Southern provinces, over 8,00 persons have been killed with sharp increase of extrajudicial killings but not a single police or military personnel has so far been punished!

¹². Thailand declares martial law in 3 provinces, The Statesman, 7 January 2004

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Article 7: Freedom from torture

In the Kingdom of Thailand, torture is institutionalized. There is no domestic law to combat torture. Nor has the Government of Thailand yet ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment or its Optional Protocol. The hill tribes, refugees and migrants remain most vulnerable.

Article 8: Slavery and forced labour

The laws and executive orders of the government of Thailand promote slavery, forced labour and trafficking. The restriction on the right to freedom of movement in the name of "maintaining the security of the State, public order, public welfare, town and country planning or welfare of the youth" prohibit the movement of the hill-tribes who have not been accorded citizenship, refugees and migrants from one district to another district. Traffickers and unscrupulous employers capitalise on the fact that these indigenous peoples are unable to prove their eligibility to legally work in their country of origin i.e. Thailand and are, as such, considered illegal aliens.¹³ And therefore they easily become victims of trafficking.

Article 9: Arbitrary arrest and detention

There are reports of arbitrary arrest and detention with virtual impunity. The Emergency Decree of 15 July 2005 has further increased the power for arbitrary arrest and detention. Hundreds of

¹³. <http://www.writemedown.org/research/ubrcase/>

innocent people who were allegedly arbitrarily blacklisted by the authorities were subjected to unlawful arrest, detention and even shot dead. There was hardly any public access to such list to check its credibility.¹⁴ The credibility of the lists of suspected drug dealers prepared by the Interior Ministry was questioned by none other than the Chief of Royal Thai Police, Sant Sarutanond. He stated: "Our (police) blacklist doesn't match that of the Interior Ministry, because ours was compiled very carefully. What's happening now, is there's a cascade of new names which police were unaware of. In many cases it was just people trying to smear one another. In my opinion it shouldn't be the way to conduct a blacklist."¹⁵

Article 12: Freedom of movement

The denial of freedom of movement to the hill tribes reflects institutionalised racial discrimination. It would not be an understatement to say that over 3,77,677 hill tribes are under virtual house arrest in an open jail called "Thailand". They are issued different colours of identity cards - blue, green with red border, pink etc. Each colour indicates the kind of permission the hill tribes have to take from District Chief to Provincial Governor to travel out of the sub-district or province. They face penalty and imprisonment for the failure to take permission.

¹⁴. 74 suspects killed in just 7 days, The Nation, 9 February 2003

¹⁵ . Police chief: govt blacklist flawed, The Nation, 26 February 2003

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Article 13: Refugees

In a meeting in early July 2005, the security authorities of Thailand especially the National Security Council and the Police Immigration Bureau resolved to forcibly repatriate 6,558 Hmong refugees from Laos who have been sheltered at Ban Huay Nam Khao in Phetchabun province.¹⁶ The refugees, including children, women and the elderly, have since then been living on the roadside, about 5km from Huay Nam Khao village in Khao Kho district. The government set 4 July 2005 as the deadline for land-owners to expel the refugees or face charges for sheltering illegal immigrants. The charges carry maximum penalties of five years in prison and a 50,000-baht fine.¹⁷

This deadline tantamounts to promoting vigilante justice among the landowners to take the law into their hands without verifying the claims of the Hmongs asylum seekers in clear violation of Thailand's obligation under international law.

The Burmese refugees too face refoulement depending on the approximation of relations between Bangkok and Yangon. There is no rule of law with regard to the Burmese refugees.

Article 14: Equality before law:

The naturalized citizens, mainly belonging to indigenous hill tribes and

migrants, are not treated as equal before the law. Under Section 19 of the Thailand's Nationality Act, the Interior Minister is empowered to revoke Thai nationality of a person who acquires Thai nationality by naturalization for "any act" "amounting to an insult to the nation and "contrary to public order or good morals". Prime Minister Thaksin Sinawatra reportedly suggested before a cabinet meeting in September 2003 that any member of a hill tribe who had been given Thai citizenship and later found involved in illicit drug trading would have his entire family stripped of citizenship.¹⁸

Article 19: Freedom of Expression

Prime Minister Thaksin Shinawatra who is a media baron himself has been systematically destroying the freedom of expression and independent press in Thailand. The ruling Thai Rak Thai Party has been using the governmental machinery to silence freedom of expression. The Government used various means to increase control over the media, including direct control through ownership, the threat of withdrawing financial support and advertisements, constraints on the flow of information, and direct pressure on critical journalists and activists.¹⁹

Article 21& 22: Freedom of Association and Assembly

While the freedom of assembly and association as enshrined in the 1997

¹⁶. Hmong 'will be forced back' The Bangkok Post, 7 July 2005

¹⁷. Laos refuses to take back Hmong, The Bangkok Post, 9 July 2005

¹⁸. Another step backward for the hilltribes, The Nation, 6 September 2003

¹⁹. The co-opting of cowed Thai media, The Nation, 4 January 2003

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Constitution is generally recognized in Thailand, the authorities often interfere with the working of the NGOs critical of the Government.

The crushing to death of 84 demonstrators - six by shooting by security personnel during the protest demonstration at Tak Bai on 25 October 2004 and 78 while being transported to Pattani military barrack by military vehicles is a glaring example of denial of the right to assembly in Thailand.

Dozens of human rights defenders have been killed. Indigenous leaders faced harassment and intimidation.

Article 24: Rights of the Child

The children of hill tribes who have yet not been accord citizenship, asylum seekers and refugees are not accorded the rights under Article 30 of the Thai constitution.²⁰ In most countries infants are registered at birth. But in Thailand, the records of a child of a Burmese asylum seeker born in a Thai hospital are removed and not registered. This deprives the children from enjoyment of their rights without any discrimination.

On 4 August 2004, key UN agencies based in Bangkok including the Office of the High Commissioner for Human Rights, United Nations High Commissioner for Refugees, UNESCO and UNDP and a few international non-governmental organizations reportedly wrote a joint letter to the government of Thailand on the birth registration of children of non-citizens. As of today,

²⁰http://www.refugeesinternational.org/section/publications/stateless_asia/#Thailand

Thailand government has failed to provide any answer.

Article 27: Indigenous hill-tribes

Indigenous hill tribes face systematic racial discrimination. At the root of the discrimination is Article 7 of the Citizenship Act of Thailand of 1965, as amended in 1992, which provides that “people born in the Kingdom of Thailand of parents who are aliens in the Kingdom will not receive citizenship and are living in the Kingdom without the legal authority to do so”.

Case 1: The denial of the right to citizenship

Following the massive protests by indigenous hill tribes, on 29 August 2000, the Cabinet of the government of Thailand adopted a resolution to complete the review of citizenship applications by 28 August 2001. Under the Cabinet Resolutions the highland people were classified under three groups depending on their supposed arrival.

The process of reviewing the citizenship applications was to have been completed within one year i.e. 28 August 2001. Since then the Cabinet of the government of Thailand has extended the deadline by adopting resolutions on 28 August 2001, 27 August 2002, 26 August 2003 and 24 August 2004 respectively.

According to the Highland Peoples Task Force, as on 24 August 2004, there were 3,77,677 individuals, including highland

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peoples, who did not have Thai citizenship or any legal status.

The process of granting citizenship has been marred by discriminatory laws and procedures, apathy and prejudices of the officials against the hill tribes, corruption, excessive powers in the hands of the District Chief, lack of any judicial or quasi-judicial oversight over the process and the lack of cooperation of the administration with the civil society groups.

Case 2: Denial of right to education

The institutionalised discrimination had devastating effects on the hill-tribes. Indigenous children are forced to learn in Thai only. The enrollment of the hill tribe children in primary education is 51.19% compared to 87% national average.

Case 3: Land Rights and forced evictions under Master Plan

Successive Highland Master Plans sought to destroy the culture of the indigenous peoples. On 23 July 2004, 200 armed forestry and Border Patrol Police officers raided the Palong Pang Daeng village in Ching Dao district and arbitrarily arrested at least 48 residents including elderly and pregnant women on charges of encroachment in a forest conservation area. The village had been established over 20 years ago and had a waterworks, an electricity system and a primary school.

The Cabinet adopted resolutions of 27 July and 10 August 2004, agreeing to the new project entitled the “New Model of

Forested Villages,” as proposed by the Ministry of Natural Resources and Environment. This new project will cover about 10,866 villages in 70 provinces and almost 100 percent of the indigenous villages will be affected. Forest laws declared state lands on lands that tribal villagers have been cultivating for hundreds of years. With this declaration, indigenous hill tribes became illegal trespassers on their own land overnight. They may be forcibly evicted and face penalties and imprisonment.

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IV. Recommendations for Concluding Observations

The examination of the Initial Report provides an opportunity to identify the shortcomings, which prevent enjoyment of the rights accorded under the International Covenant on Civil and Political Rights in Thailand.

With a view to improve the enjoyment of human rights in Thailand, Asian Centre for Human Rights (ACHR) submits the following recommendations to the UN Human Rights Committee for inclusion into the Concluding Observations:

Article 2: Human Rights Mechanisms

Noting that international treaties are not self-executing in Thailand, Human Rights Committee should recommend that:

- Steps be taken to incorporate fully the provisions of the Covenant in domestic law, so that individuals may invoke them directly before the courts. The Committee also recommends that consideration be given by the authorities to ratifying the Optional Protocol to the Covenant, enabling the Committee to receive individual communications relating to Thailand;
- Amend the Constitution to ensure that the Constitutional Court can be approached by the citizens of Thailand; and

- Provide adequate funding for the National Human Rights Commission of Thailand.

Article 4: Human rights during state of emergency

The Human Rights Committee should express concern about the declaration of martial law in the Southern provinces and at the ongoing serious human rights violations, in particular with respect to articles 6, 7, 9 and 14 of the Covenant, committed by law enforcement agencies and insurgent groups.

In addition to the recommendations made above on Emergency Decree of 15 July 2005, The Human Rights Committee should recommend that

- the problems in Southern Thailand affected by terrorism and armed insurgency are essentially political in character and that the approach to resolving such problems must also, essentially, be political, and emphasizes that terrorism should be fought with means that are compatible with the Covenant.

Article 6: Right to life

Noting the statement of the government of Thailand that “in carrying out their duties, police or military officers may fall into a situation where they are forced to commit extrajudicial killings”, the Committee should recommend to:

- incorporate the United Nations Code of Conduct for Law Enforcement Officials and

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United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials into domestic law governing the law enforcement personnel;

- make judicial inquiries mandatory in all cases of death at the hands of the law enforcement personnel and that the judges in such inquiries be empowered to direct the prosecution of security and armed forces personnel;
- order fresh judicial inquiries into the mass murder of 107 persons in Krue Se Mosque on 28 April 2004 and 82 persons at the Tak Bai on 25 October 2004 with a view to establish criminal responsibility for the mass murder; and
- abolish death penalty by law and limit the number of offences carrying the death penalty to the most serious crimes, with a view to its ultimate abolition.

Article 7: Freedom from torture

The Human Rights Committee should express concern at allegations that police and other security forces do not always respect the rule of law and about the incidence of custodial deaths, rape and torture, and at the failure of the Government of Thailand to develop any law to combat torture.

The Human Rights Committee should recommend:

a) The early enactment of legislation for mandatory judicial inquiry into cases of disappearance and death, ill-treatment or rape in police custody;

(b) The adoption of special measures to prevent the occurrence of rape of women in custody;

(c) The mandatory notification to relatives of detainees without delay;

(d) That the right of detainees to legal advice and assistance and to have a medical examination be guaranteed;

(e) That priority be given to providing training and education in the field of human rights to law enforcement officers, custodial officers, members of the security and armed forces, and judges and lawyers, and that the United Nations Code of Conduct for Law Enforcement Officials be taken into account in this regard; and

(f) Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or

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Punishment and its first optional protocol.

Article 8: Slavery

The Human Rights Committee should deplore that the policies of the government of Thailand for denial of birth registration of refugee and migrant workers' children contribute to high incidence of trafficking of women and girls into forced prostitution. The Committee should also regret that women who have been forced into prostitution are criminalized as illegal migrants.

The Committee should therefore recommend that birth registration for all children born in Thailand be made mandatory and victims of trafficking must not be treated as illegal migrants and necessary changes in the law be made.

Article 9: Arbitrary arrest and detention

The Human Rights Committee should regret high incidents of arbitrary arrest and detention and extension of detention upto 30 days under Emergency Decree of 15 July 2005.

The Committee should recommend that that the requirements of article 9, paragraph 2, of the Covenant be complied with in respect of all detainees.

Article 12: Freedom of movement

The Human Rights Committee should deplore different colours of identify cards issued to the hill tribes to restrict

the freedom movement in the name of "maintaining the security of the State, public order, public welfare, town and country planning or welfare of the youth" and further restrictions imposed on the right to freedom of movement under the Emergency Decree of 15 July 2005.

The Human Rights Committee should recommend that all restrictions on the freedom of movement and system of taking permission from the authorities be abolished.

Article 13: Refugees

The Human Rights Committee should deplore the deadline of 4 July 2005 given to the landlords to expel the Hmong refugees from Laos or face prosecution, and also the frequent refoulement of Burmese refugees.

The Human Rights Committee should recommend that United Nations High Commissioner for Refugees be given access to all the refugees, in particular the Hmong refugees from Laos, and that in the process of repatriation of asylum seekers or refugees, due attention be paid to the provisions of the Covenant and other applicable international norms on non-refoulement.

Article 14: Equality before law

The Human Rights Committee should deplore that naturalized citizens do not enjoy the same rights as the citizens by birth on revoking of citizenship.

The Human Rights Committee should recommend to amend Section 19 of the

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Thailand's Nationality Act which empowers the Interior Minister to revoke Thai nationality of a person who acquires Thai nationality by naturalization for any act, among others, "amounting to an insult to the nation and "contrary to public order or good morals."

Article 19: Freedom of Expression

The Human Rights Committee should express concerns about the censorship imposed under Emergency Decree of 15 July 2005 and the use of state machineries to the detriment of independent media.

The Human Rights Committee should recommend that any restrictions on the media be subject to judicial scrutiny and comply with Article 19 of the ICCPR.

Article 21& 22: Freedom of Association and Assembly

The Human Rights Committee should deplore the disproportionate killings of human rights defenders in Thailand and take measures to stop recurrent of such incidents.

Article 24: Rights of the Child

The Human Rights Committee should express concern about the denial of registration of birth of all children.

The Human Rights Committee should recommend that the government of Thailand register all children born in Thailand and withdraw the reservations to Article 7 and 22 of the Convention on the Rights of the Child.

Article 27: Indigenous hill tribes

Citizenship:

The Human Rights Committee should deplore that an estimate 3,77,677 individuals, including highland peoples, as on 24 August 2004 have not yet been accorded citizenship. The Committee should note that the denial of nationality denies the hill tribes the rights accorded under the Covenant and recommend to:

- (1) amend the Nationality Act of 1965 by deleting its Section 7 and Section 19;
- (2) process the citizenship applications of the hill-tribes within a specified time frame;
- (3) lift all the restrictions on the freedom of movement and enjoyment of the rights accorded under the ICCPR; and
- (4) allow judicial oversight on the citizenship applications which are rejected by the officials of the Ministry on Interior to ensure that the processing of the applications conform to the due process of law, law of natural justice and Thailand's obligation under international human rights law.

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Education:

The Human Rights Committee should note with concern that, according to certain reports, a major obstacle to the education and vocational training of persons belonging to hill tribes is the fact that education is provided only in Thai. Language barriers are also apparently responsible for making most indigenous hill tribes non-citizens.

The Committee should recommend that the State party takes all possible measures to ensure that persons belonging to the hill tribes receive education and vocational training in their mother tongue and that it increases its efforts to ensure that they learn Thai.

study all possible alternatives with a view to avoiding displacement; that it ensure that the persons concerned are made fully aware of the reasons for and modalities of their displacement and of the measures taken for compensation and resettlement; that it endeavour to obtain the free and informed consent of the persons and groups concerned; and that it make remedies available to them. The State party should pay particular attention to the close cultural ties that bind certain indigenous or tribal peoples to their land and take into consideration the ILO Convention No 169 in this regard.

Land rights and forced evictions:

The Human Rights Committee should express concerns that resolutions adopted on 27 July and 10 August 2004 by the Cabinet of the government of Thailand to start a new project entitled the “New Model of Forested Villages,” as proposed by the Ministry of Natural Resources and Environment that has made indigenous hill tribes illegal trespassers overnight.

The Human Rights Committee should recommend that the government of Thailand brings an end to such practices and not to take any such measures without studying the scope of the impact of these policies on the lifestyles of the hill tribes and on their enjoyment of their economic, social and cultural rights. It should recommend that the state party

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V. Implementation of the articles

Article 2: Human Rights Mechanisms

The ratification of international human rights instruments does not guarantee enjoyment of rights by itself unless government takes measures to incorporate fully the provisions of the International Covenant on Civil and Political Rights into domestic law.

The government of Thailand not only failed to ratify the Optional Protocol to the Covenant but also restricted access to the Constitutional Court and completely undermined the National Human Rights Commission by threatening its members for speaking out against human rights violations.

Only the parliament, the administrative courts and the office of the Ombudsman can submit petitions to the Constitutional Court, which has jurisdiction to interpret the Constitution and to judge the conformity of existing laws, and any proposed legislation provisions.²¹ Therefore, aggrieved persons or victims of human rights abuses cannot have access to the constitutional court unless the parliament, the administrative courts and the office of the ombudsman refer his or her case to it.

The National Human Rights Commission of Thailand does not conform to the Paris Principles on National Human Rights Institutions. It does not have powers to enforce its decisions or recommendations. The government has taken little measures to implement the recommendations of the NHRC. The NHRC is dependent upon the government for human and financial resources and its works are often affected by the insufficiency of resources.

What is more disconcerting is that the government often publicly criticises or indirectly censures the NHRC for raising human rights issues. During his participation in panel discussion in the first week of March 2003, Member of the NHRC, Pradit Charoenthaithawee told that the present administration under Prime Minister Thaksin Sinawatra had its critics cowering with fear of retribution. On the very next day, a group of ruling Thai Rak Thai Members of Parliament threatened to have him impeached for crying foul over spate of drug-related killings. He also subsequently received anonymous death threats.²²

While the Office of the Ombudsman can raise concerns and recommend accordingly, it has no enforcement power either.²³

²¹. E/CN.4/2004/94/Add.1-12 March 2004: Report of the Special Representative of the Secretary-General on the situation of human rights defenders, Hina Jilani

²² . There is nothing to fear but fear itself, The Nation, 11 March 2003

²³ . E/CN.4/2004/94/Add.1-12 March 2004: Report of the Special Representative of the Secretary-General on the situation of human rights defenders, Hina Jilani

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Article 4 & Article 5: Human Rights During Emergency

Though nationwide public emergency has not been declared in Thailand, on 5 January 2004, the government imposed martial law in the three southern most provinces of Pattani, Yala and Narathiwat.²⁴ Martial law authorises the military to take control of areas where it is declared, searching suspect places or persons without a warrant from a court. Deputy Prime Minister Chavalit Yongchaiyudh justified the imposition of martial law by stating that there is shortage of police to maintain law and order the military has been used to replace police.²⁵

Article 6: Right to life

“148. However, in carrying out their duties, police or military officers may fall into a situation where they are forced to commit extrajudicial killings. Should the police commit homicide in order to protect oneself or others, and such an act is considered to be reasonable, that officer would not be charged, but shall undergo a different investigation process, unlike other ordinary homicide cases. This is to protect the people from an unreasonably or unproportionate killing done by governmental officers”. – Initial Report of the government of Thailand.

²⁴ . Thailand declares martial law in 3 provinces, The Statesman, 7 January 2004

²⁵ . Martial law and troops to remain, The Nation, 17 March 2004

The government of Thailand nowhere states under what circumstances the police and military officers can commit extrajudicial executions. International jurisprudence uniformly emphasises the importance of the cardinal principle of criminal justice system - *nullum crimen, nulla poena sine lege*²⁶ – i.e criminal conduct must be defined in law before an offense can be committed, and with sufficient precision so as to prevent arbitrary enforcement. The fact that there are no guidelines similar to the United Nations Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials implies that the law enforcement agencies can be judge and jury and take measures to deprive the right to life under various pretexts.

The results of this practice of allowing extrajudicial killings under certain situations are the mass murder of 107 persons, mostly teenagers, in the historic Krue Se Mosque on 28 April 2004 and the mass murder at Tak Bai on 25 October 2004 where 78 persons were suffocated or crushed to death after being arrested and packed into trucks by security forces for transportation to the military barracks in Pattani.

Since the insurgency began in January 2004 in the Southern provinces, a total of 800 persons have been killed with reports of gross human rights violations including extrajudicial killings by the security forces. Not a single police officer or military officer has so far been

²⁶. *ibid*

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punished. The fact that not a single law enforcement personnel has been punished for the death of 78 persons in the custody of the military officials speaks itself about the systematic and institutionised denial of justice.

I. Mass Murders

Case 1: Krue Se Mosque mass murder

In one of the bloodiest action by the security forces, 107 persons, mostly teenagers were killed and 17 others were arrested on 28 April 2004. The killed youth, mostly armed with machetes and only a few carrying assault rifles, allegedly battled policemen and soldiers in Pattani, Yala and Songkhla. More than 30 were killed inside the historic Krue Se Mosque alone on the outskirts of Pattani in Narathiwat province.²⁷ The probe panel into the Krue Se mosque headed by Suchinda Yongsunthron, a former constitution judge found that the security forces did not use peaceful means to end the standoff and described the killings as an over reaction by the security forces. The inquiry commission observed that the circumstances at the mosque were not so overwhelming that troops had to resort to “excessive force.” The panel also found that the bodies of the slain militants were not examined in accordance with judicial procedures.²⁸

Case 2: Tak Bai mass murder

On 25 October 2004, at least 78 persons were suffocated or crushed to death after

being arrested and packed into trucks by security forces for transportation to military barracks in Pattani, the provincial capital of Narathiwat. Following the siege of a police station in Tak Bai district by a 2000 strong mob demanding the release of 6 detainees, the security forces resorted to firing to quell the protesters. Six protesters reportedly died and several others were injured in the firing.

The military officials then arrested at least 1300 persons, loaded them into army vehicles and transported to Pattani. 78 demonstrators were found death on arrival at Pattani. Manit Suthaporn, Deputy Permanent Secretary of the Justice Ministry, said that the victims probably suffocated because they were piled on top of each other in the vehicles.²⁹

Depicting the gruesome ordeal, one of the detainees, Ismael Jeh-ali stated that he has been among 80 people piled up in three layers in one of the military trucks. Every time they moved their heads, soldiers responded by hitting them with the butt of their rifles.³⁰

The inquiry committee headed by Pichet Soontornpipit that investigated the death of the protesters at Tak Bai reported that there were serious dereliction of duty on the part of senior military officials like Lt-General Pisarn, the highest authority of the area under martial law, Maj-General Chalermchai Wiroonphet, then commander of the Fifth Infantry

²⁷. Southern carnage: kingdom shaken, the nation, 29 April 2004

²⁸. KRUE SE MOSQUE INCIDENT: MILITANTS met to plan attack, The Nation, 26 April 2005

²⁹. Scores suffocate to death in Thai protest', The Hindu, 27 October 2004

³⁰. Survivor tells of his ordeal, The Nation, 31 October 2004

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Division, Maj-General Sinchai Nutsatit, the then deputy commander of the Fourth Army Region.³¹ A probe by the National Human Rights Commission also held that the security forces responsible for the death of the protesters. At a press conference on 5 May 2005, the commission stated that the authorities violated protesters' rights, and that their actions resulted in the deaths of scores of people.³² But no one has been charged with criminal offence.

On 5 November 2004, a group of print and broadcast journalists was lured to the headquarters for "a press conference" by the officers from the Crime Suppression Division (CSB) and allegedly pressured them for four hours into giving information to the security officials about the 25 October 2004 incident, which left 85 Muslim protesters dead. Police also demanded they surrender video footage of the carnage.³³

II. Disappearance

Disappearance is nothing new in Thailand. Hundreds of students and civilians who disappeared during the three bloody uprisings - October 1973, October 1976 and May 1992 - remained missing.³⁴

With the insurgency intensifying in Southern Thailand, the increase of

disappearances is alarming. According to a petition submitted to the government peace envoy Pakorn Buranupakorn by the Muslim community leaders on 31 March 2005, around 50 Muslims have disappeared under mysterious circumstances following questioning by security officials concerning southern violence.³⁵

Case 1: Disappearance after abduction of Somchai Neelapaijit by police officers

On 12 March 2004, Mr Somchai Neelapaijit, a Muslim lawyer disappeared after he offered legal aid to four Muslim men accused of involvement in the 4 January 2004 weapons theft in Narathiwat. Mr Somchai had learned that the suspects were tortured by police during their interrogation and threatened to expose it.³⁶ On 4 March 2004, Mr. Somchai had made an appeal to the Bangkok Criminal Court for a fair treatment of the five suspects detained by police. He also asked that the suspects be transferred to the Special Bangkok Prison. At around midnight on 8 or 9 March 2004, the front door of his house was violently knocked and smashed as a sign of threat. On 10 March 2004, Mr. Somchai sent out letters to many authorities concerned appealing for a fair treatment of the five suspects. On the night of 12 March 2004, he was reportedly last seen at the Bangkapi District Office.

³¹. Tak Bai Report, The Nation, 26 April 2005

³². OCTOBER 26 CRACKDOWN: Rights panel calls for prosecution of officials at Tak Bai, The Bangkok Post, 5 May 2005

³³. Thai freedom of expression is now dead, The Nation, 8 November 2004

³⁴. The politics of disappearance - Thai-style, The Nation, 29 March 2005

³⁵. 50 Muslims 'disappear,' The Nation, 15 March 2005

³⁶. <http://www.achrweb.org/Review/2004/27-04.htm>

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On 14 March 2004, his wife, Mrs Angkana Neelapaijit filed a complaint of the disappearance of her husband at Bang Yi Rue police station. On 16 March 2004, Mr Somchai's car was found near the Mor Chit Bus Transport Station. On 18 March 2004, Prime Minister Thaksin Shinawatra set up a committee to investigate the case, but so far little or almost no significant progress has been made despite the fact that on 8 April 2004 four police officers- Lt Colonel Sinchai Nimpunyakhomphong, Major Ngern Thongsuk and Corporal Ransom Sithikhet of the Crime Suppression Division and Sergeant Chaiyaweng Phaduang of the Tourist Police Department were arrested and charged as suspects of the lawyer's disappearance.³⁷ On 9 June 2004 the criminal court released the four suspects thereby raising questions about their influence in the investigation and prosecution.³⁸

Both Prime Minister Thaksin and former deputy premier Gen Chavalit Yongchaiyuth reportedly failed to appear when summoned by the Parliamentary Investigation Committee on the disappearance of Mr. Somchai. On the other hand, both have made public comments concerning the lawyer's disappearance. In one meeting on national security, Prime Minister Thaksin Shinawatra reportedly stated that Mr. Somchai was taken by police to Mae Hong Son and then disappeared. Former deputy premier Gen Chavalit

Yongchaiyuth said in a parliamentary meeting that he has information with whom Mr. Somchai spoke to before his death.³⁹ However, even after more than a year after his disappearance, the accused police officers were not prosecuted, as the trial of the case has not yet commenced. Ironically, one of them was selected for award for being an outstanding officer. His name was subsequently removed only after public outcry.⁴⁰

Case 2: Disappearance after abduction of Musta-Sading by police

According to Tuan-Rohana Mahming, wife of the victim Musta-Sading, a mobile phone merchant of Tan Yong Mat, police abducted her husband and his assistant, Wae-isoh Maseng. They were last seen on 11 February 2004, being whisked from their home by three men thought to be police officers. The police had allegedly repeatedly harassed Musta-Sading, the only mobile phone merchant in the Tan Yong Mat sub-district, suspecting him of selling mobile phones to Islamic insurgents, who then allegedly used them to set off bombs in the area. Tuan alleged that when she went to the police station to file a missing persons complaint, the police came to her and wiped away a footprint left on the table by one of the alleged abductors instead of photographing it.⁴¹

³⁷. Book TALK: Another call for justice and the truth, The Nation, 31 March 2005

³⁸. <http://www.achrweb.org/Review/2004/27-04.htm>

³⁹. BookTALK: Another call for justice and the truth, The Nation, 31 March 2005

⁴⁰. Somchai's family despairs of justice, The Bangkok Post, 11 March 2005

⁴¹. Wife asks that her plight not be forgotten, The Nation, 1 April 2005

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The authorities also declined to award any compensation to Tuan-Rohana Mahming that was being given to the families of victims of the violence in southern Thailand. The Cabinet adopted a resolution on 29 March 2005 for paying Bt 100,000 to each victim's family.⁴²

III. Killings in the war against drugs

On 1 February 2003, Prime Minister Thaksin Sinawatra declared war against drugs and gave license to kill to the police. The killings become so systematic that His Majesty King of Thailand had to speak about the issue.

According to a report compiled by Lt-General Nawin Singhapalit, head of the body that re-investigated the unusually high death toll in the Thaksin Government's war on drugs, a total of 2,921 deaths occurred in 2,656 murder cases during the three months. Of these, 58 cases involved confirmed extra-judicial killings by police while making arrests. There were 72 people killed in these 50 incidents.⁴³

Dr Pornthip Rojanasunand, acting deputy chief of the Forensic Science Department in the Justice Ministry stated that scientific investigation indicated that many victims were murdered while under police custody. However, none of these cases had made any headway in the courts.⁴⁴

Concerned with the reports of widespread violations of human rights including the arbitrary deprivation of lives, His Majesty the King of Thailand on 4 December 2003 suggested the government to ascertain the exact number of deaths and clarify the circumstances surrounding the deaths.⁴⁵ But the government took little measures.

Case 1: Killing of nine-year-old Chakraphan Srisa-ard

At about 9 pm on 23 February 2003, a team of three policemen from Bang Chan police station in Bangkok in an under-cover operation allegedly shot dead nine-year-old Chakraphan Srisa-ard, who was on the back seat of the getaway car driven by his mother. The mother of the deceased boy, Pornwipa Kerdrunguang was reportedly trying to flee after police had captured her husband Sataporn Srisa-ard, 34, for a purported drug trade in front of their Manangkhasila Residence on the Lan Luang Road in Bangkok. The Honda Accord car in which the mother son duo was traveling came under a hail of gunfire 200 metres away and crashed into the pavement.⁴⁶ However, the government outrightly rejected the demand for a probe.⁴⁷

⁴² . Wife asks that her plight not be forgotten, The Nation, 1 April 2005

⁴³ . Police lower drug-war death toll to 1,329, The Nation, 19 December 2003

⁴⁴ . 74 suspects killed in just 7 days, The Nation, 9 February 2003

⁴⁵ . King wants drug toll explained, The Nation, 5 December 2003

⁴⁶ . Killing Of Nine Year Old: Police blame 'third party', The Nation, 25 February 2003

⁴⁷ . Govt rejects calls for neutral probe, The Nation, 9 December 2003

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Case 2: Extra-judicial killing of Pat Sriburin,

Pat Sriburin, 61, of Loei province was shot in the head a few weeks after police conducted a second search of his house in February 2003. Although the searches turned up nothing, police allegedly forced his wife to sign a confession saying that he was a drug trafficker. A close relative of Pat insisted that the deceased had never touched drugs. According to him, Pat's name found its way onto the blacklist because his family appeared wealthier than others in the community he had recently moved into. His concrete house, which he had built with the insurance money after the death of his daughter and her husband, stood out among the ramshackle huts in the village. He also owned more than 100 head of cattle and had regular visitors who drove cars. None of his neighbours defended him because his family had just moved into the village and they did not have relatives there.⁴⁸

The issue of impunity:

Very few of the accused police or military officers responsible for extra-judicial executions in the war against drugs were prosecuted. Senior prosecutors, nongovernmental organizations and legal associations claimed that most cases against police or military officers accused of extra-judicial killings eventually were dismissed because regulations outlined in the Criminal Code require public prosecutors to rely exclusively upon the recommendations of the police when

determining whether to bring a case for criminal prosecution. The resulting routine exoneration of police officers contributed to a climate of impunity. It also discouraged relatives of victims from pressing for prosecution. Procedures for investigating suspicious deaths, including deaths occurring in police custody, require, among others, that the prosecutor, a forensic pathologist, and a local administrator participate in the investigation and that family members have legal representation at the inquests. However, these procedures often were not followed. Families rarely took advantage of a provision in the law that allows them to bring personal lawsuits against police officers for criminal action during arrest. Many cases were settled out of court although the exact numbers are not available. However, in cases in which suits were filed, the official charged often compensated the family of the deceased, and the lawsuit was waived. Compensation varied widely from \$3,750 (150,000 baht) to \$75,000 (3 million baht).⁴⁹

Article 7: Freedom from torture

Torture is routine in Thailand. Apart from Section 31 the Constitution of the Kingdom of Thailand, which provides that torture, brutal act, or punishment by a cruel or inhumane means shall not be permitted, there is no domestic law to combat torture. Nor has the Government of Thailand yet ratified the Convention against Torture and Other Cruel,

⁴⁸ . Silencing Justice, The Nation, 3 February 2004

⁴⁹. <http://www.state.gov/g/drl/rls/hrrpt/2004/41661.htm>

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Inhuman or Degrading Treatment or Punishment or its Optional Protocol.

The statement of Thailand in its Initial Report that the National Human Rights Commission (NHRC) has been created to oversee the cases of human rights violations including torture remains a futile and redundant exercise. The recommendations of the NHRC are not respected and it does not have powers to enforce its decisions.⁵⁰

Case 1: Brutal torture of four terrorist suspects by police

During his deposition before the Criminal court on 31 March 2005, as the defence witness in the embassies bomb plot case, Senator Kraissak Choonhavan said that four defendants, are physician Waemahadi Waedaoh, religious-school owner Maisuru Hayi Abdulloh, his son Muyaheed Hayi Abdulloh and villager Saman Waekaji were brutally tortured by the police to coerce from them a guilty plea that they had plotted to bomb several embassies in Bangkok. He alleged that the defendants told him that police covered each defendant's head with a bag before hitting them in the abdomen and back.⁵¹

The four defendants were arrested by the police in June 2003 and were accused of planning to bomb five embassies in Bangkok with Arafin bin Ali, a key member of the Jemaah Islamiyah (JI) terror group in Singapore. Senator Kraissak Choonhavan had met the four

defendants during a fact-finding mission into the case in his capacity as chairman of the Senate committee on foreign affairs.⁵²

As a proof of their innocence, all the four defendants were acquitted by the Criminal Court concluding that the prosecution's evidence was insufficient to convict them.⁵³

Case 2: Torture of Makata Harong, Sukree Mameng, Abdullah, Suduerueman Malah and Manasae Mama in police custody

On 23 February 2004, police officials of Tanyong sub-district provincial police station, Narathiwat province arrested the above five persons on the suspicion of being involved in the raid on the Narathiwat Rachanakarin army camp on 4 January 2004. One of them Makata Harong was accused of being a member of an insurgent group, Barisan Revolusi Nasional, who hired others to work with him. The police allegedly brutally beaten all the five and tortured them during interrogations apparently to extract confessions from them.⁵⁴

During their production before the judge within 48 hours of their arrest, the five accused reportedly complained of being tortured by the police but the judge reportedly did neither ask any question about torture nor order medical check-up. Later, their counsel Somchai

⁵⁰ . There is nothing to fear but fear itself, *The Nation*, 11 March 2003

⁵¹ . Police beat terrorist suspects, senator says, *The Nation*, 30 April 2005

⁵² . Kraissak: Bomb plot doctor tortured to confess, *The Bangkok Post*, 30 April 2005

⁵³ . Muslims acquitted of JI bomb plot charges, *The Nation*, 2 June 2005

⁵⁴ . Missing lawyer Somchai accused police of torture, *The Nation*, 27 March 2004

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Neelaphajit sought a court order that they be physically examined. In his letter on 11 March 2004, the counsel alleged the following:

“1. The first suspect was blindfolded. He was kicked on his 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 3 times.

2. The second suspect was blindfolded. He was kicked all over his body and forced to lie down. The police later slapped his face with shoes and urinated on his face.

3. The third suspect was blindfolded. He was kicked all over his body. The bases of 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.

4. The fourth suspect was blindfolded. He was handcuffed behind his back and strangled. His head was broken because of severe beating. The police hanged him by his head from a cell door. He was hit on his body and shocked with electricity.

5. The fifth suspect was blindfolded. He was slapped on his face and mouth with his

shoes. The bases of his ears were also slapped. He was hit on his stomach and shocked with electricity several times.⁵⁵

Somchai Neelaphajit later became a victim of disappearances at the hands of the law enforcement personnel.

Case 3: Looting and raping of Burmese migrants by policemen

According to Mo Chu, secretary-general of an association working to protect the rights of Burmese workers in Tak's Mae Sot district, police raped and robbed Burmese migrants, including those who have legally entered Thailand. He said many police officers hung around in front of factories or along roadsides, arresting any Burmese they saw. The migrants have been forced to hand over at least Bhat 200 to police or risk being put in jail until friends come to pay a bribe of at least Bhat 500 for their release. Police did not spare even those having valid legal permits to stay in Thailand. They tore papers of many such migrant workers and in case of anyone arguing with police were often imprisoned.⁵⁶

Mo Chu's accusations were corroborated by "Manit", a Thai volunteer who works with ethnic Karens. He admitted that he personally had paid ransoms for jailed Burmese at Mae Sot police station numerous times. He said that the immigrants couldn't do anything except enduring the ordeal. Detailing the plight

⁵⁵. <http://thailand.ahrchk.net/mainfile.php/2004ua/28/?alt=english>

⁵⁶. IMMIGRATION: Police prey on Burmese: report, The Nation, 6 June 2004

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of the immigrant women, Mo Chu stated that he witnessed immigration officials groping the breasts of Burmese women, saying they wanted to check if any money was being hidden.⁵⁷

Case 4: Brutal torture of rescue volunteer Ekkawat Srimanta

On 2 November 2004, Mr Ekkawat Srimanta, 21, was arrested by police officers from Phra Nakhon Si Ayutthaya Police Station and Uthai Police Station in Ayutthaya Province on allegations of theft. During interrogation at Uthai police station, the policemen allegedly brutally beat him up and also gave electric shocks on several parts of his body including his genitals in order to extract a confession. Finding him seriously injured, some of his friends rushed him to hospital after he emerged from the interrogation. The Uthai police however, did not file charges against Ekkawat but said they suspected him of theft. His friends suspected that the brutality might be payback from a police officer, who had been reassigned to Ayutthaya after being transferred out of the province two years ago because of a complaint from Ekkawat.⁵⁸

After visiting Ekkawat at Ratchathani Hospital, Member of Parliament and Chairman of the House Police Affairs Committee, Chumpon Kanjana stated that he was appalled at seeing Ekkawat's injuries and could not believe that police

could resort to such horrible mistreatment.⁵⁹

During an identification parade on 13 November 2005, Ekkawat identified some of the police officers who were involved in his arrest and torture. All 23 policemen whose names were registered in the team that arrested Ekkawat have been transferred after he filed complaints against them. Lt-Col Suebsak Pinsaeng, a crime-suppression inspector, and Sgt-Major Winai Kampaeng were dismissed from service.⁶⁰

Article 8: Slavery and forced labour

The Initial Report of the government of Thailand is economical with the truth on forced labour. It would not be incorrect to state that the laws and policies adopted by the government of Thailand promote slavery, forced labour and trafficking.

Section 43 of the 1997 Constitution and National Education Act (1999) requires the state to provide free education to children below 12 years. This provision could have prevented incidence of child labour. However, this requirement is practically meant only for the native Thai children. The children of disadvantaged groups like the hill tribes who have not been accorded citizenship as yet, Burmese and other migrant workers, in the absence of legal identity of Thailand, cannot officially pursue

⁵⁷ . IMMIGRATION: Police prey on Burmese: report, The Nation, 6 June 2004

⁵⁸ . POLICE BRUTALITY: Probe into beating, electric shocks, The Nation, 10 November 2005

⁵⁹ . Officers accused of torture transferred, The Nation, 11 November 2004

⁶⁰ . Man claims officers tortured him, The Nation, 14 November 2004

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formal education in the Kingdom thereby exposing them to forced labour.

The 1997 constitution restricts the right to freedom of movement in the name of "maintaining the security of the State, public order, public welfare, town and country planning or welfare of the youth". The restriction is only applicable of the hill-tribes Hill Tribes who have not been accorded citizenship as yet, refugees and migrants. They require permission to visit from one district to another district. This makes them illegal migrants from one district to another district.⁶¹

Women belonging to the hill tribes Hill Tribes who have not been accorded citizenship as yet cannot register births or marriages, are denied opportunities for education and work, and cannot access public health care services through the universal health care plan. Financial hardship or loss of farmland often drive hill tribe women and girls from their villages to cities where their lack of legal status pushes them into exploitative situations.⁶² Traffickers and unscrupulous employers capitalise on the fact that these indigenous peoples are unable to prove their eligibility to legally work in their country of origin and are, as such, considered illegal aliens.⁶³ And therefore they easily become victims of trafficking.

Similarly, the migrant workers including the Burmese are subjected to hazardous or exploitive labor conditions, sexual and other abuse, denial of education and healthcare, and other violations of their basic human rights.⁶⁴

It is estimated that there are at least two million migrant workers from Burma, Laos and Cambodia in Thailand. About 89 percent are from Burma. Of the two million migrant workers, only a small fraction is registered. In 2001, there were 5,68,249 registered workers but the numbers declined dramatically to only 3,53,274 in 2002 because registration does not protect them from abuse. Migrant workers are allowed as manual labourers only. They can be farm workers, factory workers, labourers in fishing boats or in fishery-related industries or household servants. The highest number of registered workers in 2002 were in fishing industries (77,577) followed by manual labourers (70,005) and farm workers (67,154).⁶⁵ Most workers are in the sectors that are not protected by minimum wage laws.

Many are employed as domestic servants. The domestic servants irrespective of whether Thai nationals or migrants are only guaranteed monthly payments in Thai Baht and at least a six-day leave each year. The law prohibits sexual harassment but the problem remains rife because domestic servants are powerless against employers.

⁶¹.http://www.refugeesinternational.org/section/publications/stateless_asia/#Thailand_

⁶².<http://www.interaction.org/library/detail.php?id=3141>

⁶³.<http://www.writemedown.org/research/ubrcase/>

⁶⁴.<http://www.refugeesinternational.org/content/article/detail/3014/>

⁶⁵.<http://www.karencenter.com/showstateless.php?id=148&comm=det>

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Most migrant workers live and work underground and thus don't have access to basic health care services. Migrant workers who are HIV-positive have no access to medical services.

The migrant workers are not allowed to change jobs for which they are registered. They are not allowed to change employers, work independently or move outside their registered areas. In reality, they receive less than half the legal minimum wage or about 70 to 80 Baht while working 10 to 14 hours a day with no holidays. Despite the low pay, most workers have to pay for room and board as well as food and work under slave-like conditions. Though registered, these migrant workers are not entitled to social security protection or compensation when work-related accidents occur. Employers normally refuse to let the workers keep their ID cards, thus subjecting the workers to extortion from police and gangsters.

Migrant workers cannot protect their labour rights because once fired, they are considered illegal immigrants and must be deported.

Providing humanitarian aid to migrant workers who face various forms of exploitation is difficult. The authorities often slap those who do so with criminal charges for offering shelter to illegal aliens.⁶⁶

Murder, rape, abduction, torture and other abuses of Burmese migrant workers in Thailand have occurred with alarming regularity for many years,

particularly in the Mae Sot district of Tak province. In January 2002, for instance, the bodies of at least 21 persons were found in the Mae Lamao stream. No one has ever been brought to account for that atrocity. Abuses have increased further with adoption of policies curtailing migrant workers by the government.⁶⁷

Following are some of the cases showing the trend of abuse and violations the migrant workers are subjected to.

Case 1: Severe beating of housemaid by employer

On 28 April 2005, 17-year-old Burmese Karen girl working as a maid at an apartment in Huai Khwang district filed a complaint with police, accusing her Thai employer of giving her such a severe beating that she suffered a fractured skull, a broken back and shattered ribs. She alleged that on 2 January 2005, her employer Ubonrat Orawongsu started pummeling her in the head and back with a heavy metal object because she was crying for being homesick. Her employer allegedly cudged her unconscious. Later, the employer called a taxi driver, gave him Bhat 20,000 to take and admit the severely battered Burmese maid at Siriraj Hospital, Bangkok. The girl had to remain hospitalized for almost two months, undergoing repeated operations for her shattered ribcage and severe head injuries. Her pate is now largely bald because of the sizeable metal plate inserted in her skull and a long thumb-

⁶⁶ . Ibid

⁶⁷. <http://www.alrc.net/pr/mainfile.php/2004pr/6>
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thick scar left by an operation disfigures her left side and back.⁶⁸

According to Orawan Wimolrangkarat of Coalition to Fight Against Child Exploitation who took up her case, the young maid had been so severely traumatized by the constant battering and persistent abuse that she continued shaking and crying much of the time.⁶⁹

Case 2: Brutal torture of Ma Suu

At about 3 am on 7 July 2002, a man found Ma Suu on the road in a seriously injured condition and sent her to a hospital in town. Ma Suu, an ethnic Mon from a poor family in Burma had been in Thailand only for one year. After paying a 700 baht to traffickers, she got the work as a housemaid in Lop Buri province. She received 1,500 baht a month for three months when her employer, the owner of a furniture shop, had accused her of stealing mobile phones, gold necklaces and money and beaten her in order to force her to confess. When she refused, the owner, his wife and their men beat her again, until she fell unconscious. Then she was tied with a rope and brought outside the house. The assailants poured gasoline on her body and set her on to fire. They stopped the fire by throwing water on her body and left her in a room for three days without treatment or food.⁷⁰

On 7 July 2002, they beat her again till she became unconscious. Thinking she

was dead, they put her in a car and dropped her in bushes beside a road. A passer-by later found her who took her to a hospital. On 16 July 2002, she succumbed to her injuries.⁷¹

Article 9: Arbitrary arrest and detention

Section 237 of the Constitution provides as follows:

“In a criminal case, no arrest and detention of a person may be made except where an order or a warrant of the Court is obtained, or where such person commits a flagrant offence or where there is such other necessity for an arrest without warrant as provided by law. The arrested person shall, without delay, be notified of the charge and details of such arrest and shall be given an opportunity to inform, at the earliest convenience, his or her relative, or the person of his or her confidence, of the arrest. The arrested person being kept in custody shall be sent to the Court within forty eight hours as from the time of his or her arrival at the office of the inquiry official in order for the court to consider whether there is a reasonable ground under the law for the detention of the arrested person or not, except for the case of force majeure or any other unavoidable necessity as provided by law.”

⁶⁸ . DOMESTIC VIOLENT: Employer accused of beating his young maid, *The Nation*, 29 April 2005

⁶⁹ . Ibid

⁷⁰ . <http://www.karencenter.com/showstateless.php?id=150&comm=det>

⁷¹ . <http://www.karencenter.com/showstateless.php?id=150&comm=det>

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However, in violation of such constitutional guarantee, there are reports of police torture, beating and abuses against detainees and prisoners with impunity.

Hundreds of innocent people who were allegedly arbitrarily blacklisted as drug dealers by the authorities were subjected to unlawful arrest, detention and even shot dead. There was hardly any public access to such list to check its credibility.⁷² The credibility of the lists of suspected drug dealers as prepared by the Interior Ministry was questioned by none other than the Chief of Royal Thai Police, Sant Sarutanond. Police Chief Sant Sarutanond said, "Our (police) blacklist doesn't match that of the Interior Ministry, because ours was compiled very carefully. What's happening now is there's a cascade of new names which police were unaware of. In many cases it was just people trying to smear one another. In my opinion it shouldn't be the way to conduct a blacklist."⁷³

Arbitrary arrest and detention in Southern Thailand is also rampant.

Case 1: Illegal detention and robbing of a naval officer, a businessman and a woman by police officers

A low-ranking naval official, a businessman and a woman were reportedly abducted from Lertubon Condominium on 30 July 2004 and

⁷². 74 suspects killed in just 7 days, *The Nation*, 9 February 2003

⁷³ . Police chief: govt blacklist flawed, *The Nation*, 26 February 2003

detained for one night at Palace Hotel on Srinakarin Road by a group of police officers, who stole Bt 300,000 from them. On 11 August 2004, arrest warrants were issued against five of the 10 policemen and civilians involved in the crimes. The five police officers were reportedly identified as - Captain Krissada Tangwitnothai, Captain Prapas Anuthongsriwilai, Sergeant Pol Thongpreechachai, Sergeant Somyos Muangnu, Sergeant Pichet Paepongsri and Sergeant Borirak Sammahadthai.⁷⁴

Case 2: Illegal detention of a couple

Royal Thai police officials of Lumpini Police Station in Bangkok had allegedly held a couple Chol Narapinit, 28, and Siriorn Changluadlai, 17 on 27 July 2004 on charges of theft. They were released after the expiry of the statutory period of 84-days on 19 October 2004 after the police failed to file charges against the couple.

However, Major Kriangsak Thipjoi allegedly rearrested them immediately after their release and detained them for another 18 days without informing about the additional charges of their re-arrest, until they were finally released by an order of the court. Siriorn also accused Kriangsak of falsifying her ID card by changing her age from 17 to 19 in order to detain her in the station's holding cell instead of at the Youth Observation and Protection Centre. Siriorn was pregnant at the time of her arrest and gave birth in the lock-up before the legal detention period expired. Major Kriangsak Thipjoi

⁷⁴ . Warrants out for 6 police officers, *The Nation*, 12 August, 2004

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was reportedly suspended and charged by Lumpini Police investigators with two counts of felony: misconduct as a public official and illegal detention.⁷⁵

Case 3: Illegal detention of one Sukipli Asae

In June 2004, five plainclothes policemen reportedly illegally detained one Sukip-li Asae in Narathiwat. After villagers intercepted the vehicle used to abduct Asae, the uniformed police officers freed him.

Case 4: Illegal detention of a foreign tourist

In February 2003, policemen in plainclothes allegedly forcefully grabbed, arrested and detained a foreign tourist in a northern Thai town. The policemen also allegedly manhandled the tourist. The plain clothed man claimed that he was a policeman, but when the tourist asked to see his identity he declined to show it. Instead, the tourist was over powered and then forcefully taken to a police station, detained for some time and was released only at the intervention of the Tourist Police personnel.⁷⁶

Case 5: Arbitrary arrest and detention of Zaw Bi

The Thai police allegedly arbitrarily arrested Zaw Bi, a Burmese citizen from Karen bordering Thailand, in connection with the school bus shooting at Tambol Ban Ka village in 2002 in Suag Pu district of Ratchabai province, 20 kilometers from the border. Three students were killed and fourteen others injured in the shoot out. He was produced before the court and was tried but the court acquitted him as the prosecution failed to probe the charges that he was one of the three gunmen. According to the court, a witness testified that Zaw Bi was picking tomatoes in the village at the time of the shooting. The parents of one of the deceased students Prasit Wanna said they knew from the beginning that Zaw Bi was innocent and that police made him scapegoat. According to Thongsuk Utrapao, father of Prasit, all the villagers know who the culprits are, but they cannot say anything, as the culprits used money to make sure that no witnesses opened their mouths. All 50 villagers of Tambol Ban Ka were present in the courtroom on the day of judgement to show their solidarity with Zaw Bi, whom they knew was innocent.⁷⁷ Touched by Zaw Bi's plight, on 21 July 2004 the Queen granted medical care and financial assistance to him. He has been reportedly shifted to a hospital from the Kanchanbari immigration center, where he was under detention for unlawful entry and stay.⁷⁸

⁷⁵ . Police officer suspended, the Nation, 7 November 2004

⁷⁶ . Heavy-handed CID officers cause anguish to foreign tourist, The Nation, 18 February 2003

⁷⁷ . Families applaud acquittal, The Nation, 1 April 2004

⁷⁸ . Queen grants aid to Zaw Bi, acquitted over shooting trial, The Nation, 22 July 2004

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Article 12: Freedom of movement

Article 36 of the Constitution of the Kingdom of Thailand, among others, provides: *“A person shall enjoy the liberty of traveling and the liberty of making the choice of his or her residence within the Kingdom. The restriction on such liberties under paragraph one shall not be imposed except by virtue of the law specifically enacted for maintaining the security of the State, public order, public welfare, town and country planning or welfare of the youth.”*

The hill tribes who have not been granted citizenship as yet continue to be issued different colours of identity cards. Each colour reflects restriction on the freedom of movement and the racial discrimination against the hill tribes. Thailand has been reduced to an “Open Jail” for these hill tribes.

Blue identity cards are used for highland people who were registered in 1993 after "surveying of highland persons for the issuance of personal history cards" in 1990-1991. This card provides as to where the individual is currently residing in Thailand and restricts all movement outside the surrounding province. To travel out of the province or district, permission must be sought from the district head. If the duration of the travel is more than 10 days permission must be sought from the Provincial Governor. Offenders of this restriction face a heavy fine and a jail term. Holders of this card have no right to employment in urban areas, education, the right to buy land or even to purchase a car.

Green cards with a red border further restrict the rights and freedom of movement. Holders of this card are restricted to movement only within their immediate district and offenders are once again subject to heavy fines and jail terms. This card is given to those who were not registered in the first round in 1993. These people are considered to have migrated to Thailand since 1999, even though in reality the families of many have resided in Thailand for generations.

Pink card holders must seek permission from the district chief if they travel out of village or sub-district. To travel out of the district, they must seek permission from the governor. To travel out of the province, permission must be sought from the Permanent Secretary of the Ministry of the Interior.

People with no card may not travel at all.

Where the hill tribes live, police officers regularly check the transports and demand to check the identification cards of all passengers. The passengers belonging to the hill tribes are addressed as "*Khon Tang Dao* (alien people)" and ridiculed, as if they belonged to another planet.⁷⁹

In the absence of legal recognition like citizenship, 3,77,677 indigenous and hill tribes' people virtually live under house arrest.⁸⁰

⁷⁹. <http://www.hrsolidarity.net/mainfile.php/2004v0114no06/2384/>

⁸⁰ . Hilltribes in a bureaucratic 'no man's land', The Nation, 23 August 2003

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Article 13: Alien lawfully in the country – the rights of the refugees

While Thailand undoubtedly provides shelter to a large number of refugees, of late it has been promoting vigilante justice with regard to the refugees and asylum seekers.

Case 1: Impending refoulement of the Hmong refugees

In a meeting in early July 2005, the National Security Council and the Police Immigration Bureau decided to forcefully repatriate 6,558 Hmong indigenous refugees from Laos who have been sheltered at Ban Huay Nam Khao in Phetchabun province.⁸¹ The refugees, including children, women and the elderly, have since then been living on the roadside, about 5km from Huay Nam Khao village in Khao Kho district. They used canvas sheets for protection from the sun and rain after they were evicted from bamboo houses they had built in the village.

The government had given deadline of 4 July 2005 to land-owners to expel the Hmong refugees or face charges for sheltering illegal immigrants. Sheltering illegal immigrants carry maximum penalties of five years in prison and a 50,000-baht fine. On 4 July 2005, one of the refugees reportedly attempted suicide and 10 others have threatened to kill themselves after being evicted from temporary shelters pending repatriation

⁸¹ . Hmong 'will be forced back' The Bangkok Post, 7 July 2005

to Laos.⁸² As on 8 March 2005, five Hmong refugees died of diarrhoea and several had fallen sick after they were forced out of temporary shelters to stay along a road.⁸³

The deadline tantamounts to promoting vigilante justice among the landowners to take the law into their hands without verifying the claims of the Hmong asylum seekers in clear violation of Thailand's obligation under international law.

On 8 July 2005, following the intervention of the National Human Rights Commission, the government however halted its plan of forceful repatriation of the refugees to Laos and providing them with shelter, food and water. The decision was taken reportedly following a meeting of security agencies where members of the National Security Council and National Human Rights Commission and Deputy Prime Minister Chidchai Vanasatidhya were present.⁸⁴

The Laotian authorities refuse to recognise these Hmong refugees as Lao citizens and do not want to take them back. It has reportedly deployed troops along the border in Thali district for fear the Thai authorities might push the Hmongs back into Laos.⁸⁵

⁸² . Hmong vow to kill themselves, The Bangkok Post, 6 July 2005

⁸³ . Laos refuses to take back Hmong, The Bangkok Post, 9 July 2005

⁸⁴ . Govt halts initiative to repatriate Hmongs, The Nation, 10 July 2005

⁸⁵ . Laos refuses to take back Hmongs, The Bangkok Post, 9 July 2005.

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Under the present circumstances, if the Hmongs are forcibly repatriated, they will face torture or may be shot at even causing of death by the Laotian security forces.

The refoulement of the Hmong refugees by the government of Thailand fails to take into consideration the grave human rights violations against the Hmongs in Laos. The human rights violations against the Hmongs are so grave that the United Nations Committee on the Elimination of Racial Discrimination (CERD Committee) had to make intervention under its early warning measures in August 2003. On 18 April 2005, the CERD Committee after examining the report of the government of Laos expressed concerns “at reports that serious acts of violence have been perpetrated against members of the Hmong minority, in particular allegations that soldiers brutalized and killed a group of five Hmong children on 19 May 2004” and urged Laos to “provide more precise information about the bodies responsible for investigating these allegations and allow United Nations bodies for the protection and promotion of human rights to visit the areas in which members of the Hmong minority have taken refuge”.⁸⁶

But no action has been taken by the government of Laos to implement these recommendations.

Case 2: Refoulement and mal-treatment of the Burmese refugees

Contrary to the assertion of the government of Thailand in its initial report that the Burmese migrants cannot be returned till normalcy pertaining to human rights situation is restored in their home country, Burmese refugees and migrant workers have been forcibly deported over the years. In the process, their rights have been violated. They have been rounded up, arrested and detained and deported back to Burma, where they face serious risk of life and liberties at the hands of the military authorities.

The plight of the refugees depends on the approximation of relationship between the Yangon and Bangkok.

Seeking to enforce a declaration that was reportedly made with an agreement with United Nations High Commissioner for Refugees (UNHCR) in July 2003, the Thai authorities ordered that all Burmese people holding UN person-of-concern (POC) status must register for transfer to a refugee camp at the Burma-Thai border by the end of 31 March 2005. According to the order, those who fail to register by the deadline will be considered illegal immigrants liable to be arrested, detained and deported.⁸⁷ Between 26 to 31 March 2005, a total of 834 Burmese PoCs, including former MPs from the National League of Democracy (NLD) and members of the All Burma Students Democratic Front (ABSDF), have reported to United

⁸⁶. CERD/C/LAO/CO/15 (Concluding Observations/Comments) of 18 April 2005

⁸⁷. Burmese exiles ask govt for more time, The Nation, 18 March 2005

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Nations High Commissioner for Refugees (UNHCR) and immigration officers in compliance of the order.⁸⁸

As a part of its ongoing crackdown on the Burmese and other illegal immigrants, three workers of Burmese World Vision were rounded up and detained in an iron cage by armed vigilante groups in mid January 2005. They were later shifted to Tai Muang Police station.⁸⁹

Claiming that there was no fighting currently taking place in the border regions, deputy permanent secretary of the Interior Ministry Mr Thirawatra Kullawanich on 7 February 2004 ordered local officials to expel Karen refugees who were crossing the border in increasing numbers. He also accused the refugees of creating a host of problems for Thailand.⁹⁰ In fact, the situation in Burma has not eased is evident from the fact that several hundreds seeking refuge into Thailand following recurrence of heavy fighting between troops of United Wa State Army (UWSA) and Shan State Army (SSA) as late as mid April 2005.⁹¹

In order to force the refugees to return back to Burma, The Thai authorities also shut down refugee camps. On 27 December 2004, the Interior Ministry officially closed down the Maneeloy Centre in Ratchaburi Province. The

Interior Ministry officials accompanied by hundreds of police and defence volunteer put the refugees in five trucks and shifted them to a less secure Tham Hin camp situated along the Thai-Burma border in Suan Phung district in the same province.⁹² Earlier, the National Security Council (NSC) secretary-general Khajadpai Buruspatana accused the United Nations High Commissioner for Refugees (UNHCR) of prolonging the refugee situation in Thailand.⁹³

Under intense pressure from the Thai government, on 1 January 2004, UNHCR suspended its screening of new asylum seekers from Burma. This is despite the fact that the horrendous conditions in Burma have not improved. Burmese continue to flee to escape from abuses such as forced labour, persecution of political activists, conscription of child soldiers, rape of ethnic minority women and children by government troops, and forced relocation.⁹⁴

More than 6,000 Burmese reportedly fled Thailand on 8 March 2004 following local media reports that authorities were planning to crack down on illegal workers in the country.⁹⁵

In a crackdown aimed at appeasing the military rulers ahead of Prime Minister Thaksin Sinawatra's February 2003 visit

⁸⁸ . 834 Burmese report for relocation, The Bangkok Post, 1 April 2005

⁸⁹ . Migrant workers: victims among the victims, The Nation, 23 January 2005

⁹⁰ . Govt orders crackdown on Karen refugees, The Asian Tribune, 9 February 2005

⁹¹ . Refugees set to flee across Thai border, The Bangkok Post, 20 April 2005

⁹² . Ministry shuts Maneeloy, The Nation, 28 December 2001

⁹³ . BURMESE 'REFUGEES': NSC chief slams UN over illegals, The Nation, 19 August 2001

⁹⁴ . The land of compassion is slowly growing cold, The Nation, 27 January 2004

⁹⁵ . IN BRIEF: Burmese illegals flee across border ahead of crackdown, The Nation, 16 March 2004

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to Rangoon, several Burmese including the eight pro-democracy activists belonging to the Democratic Party for a New Society (DPNS), National League for Democracy-Liberated Area (NLD-LA), All Burma Students' Democratic Front (ABSDF), Dawei Women's Union (DWU) and Myeik-Dawei United Front (MDUF), Tavoy Women Union, Federal Trade Union of Burma were forced out of the kingdom.⁹⁶

At least 31 pro-democracy activists in Kanchanaburi's Sangkhla Buri district were rounded up and deported to Burma by the end of August 2002.⁹⁷

Families fleeing arbitrary arrest, forced labor, rape, and killing by the Burmese military arrive at the border of Thailand with hopes of leading a life free of human rights abuses, but they are prohibited from gaining refugee status due to Thailand's narrow definition of "refugee". Only an estimated 150,000 refugees have been allowed to register to live in refugee camps, leaving more than one million others to live illegally both inside and outside of the refugee camps. The conditions of the children are worse.⁹⁸

Article 14: Equality before law

The Initial Report of Thailand at length describes the due processes of law on the equality before law.

⁹⁶ . Burmese activists taken into custody for deportation, The Asian Tribune, 20 January 2003

⁹⁷ . BETWEEN THE LINES: Rights seem expendable in national interest, The Nation, 2002

⁹⁸ .

<http://www.refugeesinternational.org/content/article/detail/3014/>

However, in Thailand, naturalized citizens, mainly belonging to indigenous hill tribes and migrants, are not treated equal before the law.

Naturalised citizens are not equal before law:

Those who are accorded citizenship by naturalisation are treated as second class citizens and do not enjoy all rights accorded to the citizens by birth. Section 19 of the Thailand's Nationality Act provides that the Interior Minister is empowered to revoke Thai nationality of a person who acquires Thai nationality by naturalisation if it appears that:

"(1) The naturalisation was effected by concealment of facts or making any statement false in material particular;

(2) There is evidence to show that he still makes use of his former nationality;

(3) He commits any act prejudicial to the security or conflicting the interests of the State, or amounting to an insult to the nation;

(4) He commits any act contrary to public order or good morals;

(5) He has resided abroad without having a domicile in Thailand for more than five years;

(6) He still retains the nationality of the country at war with Thailand.

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The revocation of Thai nationality under this section may extend to children of a person whose Thai nationality is revoked in case such children are not *sui juris* and acquire Thai nationality under Section 12, paragraph two and the Minister shall, after the order for revocation of Thai nationality has been given, shall submit the matter to the King for information."

The terms "prejudicial to the security or conflicting the interests of the State, or amounting to an insult to the nation" and "contrary to public order or good morals" are undefined legal terms. What constitutes "insult to the nation" is not defined under any law. Prostitution can be defined as an act contrary to "good morals". Naturalised citizens who might be the victims of trafficking and forced into "prostitution" can be deprived of citizenship for act "contrary to good morals". The victims can be punished under the law.

Prime Minister Thaksin Shinawatra reportedly suggested before a cabinet meeting in September 2003 that any member of a hill tribe who had been given Thai citizenship and later found involved in illicit drug trading would have his entire family stripped of citizenship.⁹⁹

⁹⁹ . Another step backward for the hill tribes, The Nation, 6 September 2003

Article 19: Freedom of Expression

In sharp contrast to its assertion in the initial report that the people have the right to check and have opinion on the administration of the government and its agencies and officials freely, leading human rights activists¹⁰⁰ and the media¹⁰¹ alleged that the Kingdom of Thailand is becoming like a police state.

Prime Minister Thaksin Shinawatra is a media baron himself. The ruling Thai Rak Thai Party has been using the governmental machinery to silence freedom of expression. The Thai Journalists Association (TJA) in its annual report of 2003 highlighted the government's attempt to intimidate the media through the use of anti-money laundering laws, which are designed to take on drug traffickers and other crime syndicates. The Government used various means to increase control over the media, including direct control through ownership, the threat of withdrawing financial support and advertisements, constraints on the flow of information, and direct pressure on critical journalists and activists.¹⁰²

In a move to control and regulate the functioning of the media, some MPs of the ruling Thai Rak Thai party Chakkraphand Yomchinda submitted the Media Ethics Bill and Broadcast Media

¹⁰⁰. 'Country becoming like a police state,' The Nation, 26 August 2002

¹⁰¹ . The co-opting of cowed Thai media, The Nation, 4 January 2003

¹⁰² . Ibid

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Business Bill in the parliament in February 2003.¹⁰³

As the following cases suggest, in Thailand media must neither criticize the government led by Prime Minister Shinawatra nor expose his business interest in media.

Case 1: Crackdown on radio stations critical of the Government

At about 4 pm on 14 April 2005, Pol Maj General Kosin Hintao, commander of Metropolitan Police Bureau reportedly went to the FM 92.25 station's office at TPI Tower on Chan Tat Mai Road to check and warn that the station was suspicious. On refusal by the host of radio station Anchalee Paireerak to allow the police officer to enter without a warrant, the officer told her that he was on the premises to warn the station that complaints had been filed with police that the station's wave had disturbed those of other stations.¹⁰⁴

Anchalee alleged that her radio station was being targeted for being critical of the government. According to Anchalee, her station's radio pole was 18 metres high and had 30 watts of generation power, and the wavelength was within the permitted limit of 15 kilometers distance. She alleged that in fact, PM's Office Minister Suranand Vejjajiva gave the policy to the Public Relations Department executives saying the contents on many radio programs have

obstructed the country's security and democracy, with FM 92.25 station and Anchalee's name as an example.¹⁰⁵ The Senate Committee on Social Development and Human Security investigating into the incident observed that the police warning given to community radio station FM 92.25 about its transmission power was politically motivated. It followed comments by PM's Office Minister Suranand Vejjajiva that the station was critical of the government. The Senate Committee observed that police did not have the authority to order the station to lower its transmission power, as was licensed by the Public Relations Department (PRD), not the police.¹⁰⁶

Case 2: Illegal grilling of reporters after confinement

On 5 November 2004, a group of print and broadcast journalists was lured to the headquarters for "a press conference" by the officers from the Crime Suppression Division (CSB) and allegedly pressured them for four hours into giving information to the security officials about the 25 October 2004 incident, which left 85 Muslim protesters dead. Police also demanded they surrender video footage of the carnage.¹⁰⁷

¹⁰³ . MEDIA WATCHDOG: PM won't stand in way of bills, *The Nation*, 26 February 2003

¹⁰⁴ . Community Media: Police warn radio station Small operator often critical of government, *The Nation*, 15 April 2005

¹⁰⁵ . Community Media: Police warn radio station Small operator often critical of government, *The Nation*, 15 April 2005

¹⁰⁶ . Inquiry suspects political motive, *The Bangkok Post*, 13 May 2005

¹⁰⁷ . Thai freedom of expression is now dead, *The Nation*, 8 November 2004

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Case 3: Government interference into the programmes of Siang Samyod station

In its bid to completely gag the voice of the media in March 2004, the police headquarters reportedly sent two letters to a radio stations, demanding a ban on criticism of the government's plan to privatize key state enterprises. The first letter was sent from the Public Relations Division of National Police Headquarters to a supervisor at AM 1179 kHz, known as the Siang Samyod station, instructing her to make sure that an evening news discussion programme excluded any criticism of the plan while the second letter was sent by the radio station chief himself to the host of the "For the People" show, journalist Samarn Sri-ngarm. It was reportedly signed by Police Major Poppol Jiraplin, a crime suppression officer who oversees the station. The letter warned Samarn that if he continued to include "personal opinions", his programme would be pulled off the air.¹⁰⁸

Case 4: Removal of Veera Prateepchaikul, Editor of Bangkok Post

On 20 February 2004, the editor of the national daily, "The Bangkok Post" was removed from his post and was transferred to the post of deputy editor-in-chief of Post Publishing. The management committee of the daily claimed that Veera's transfer was purely administrative and was not connected with politics as reported by the press.

¹⁰⁸ . Ex-editor of 'Post' confirms meddling, The Nation, 5 March 2004

The Thai Journalists' Association (TJA) and other independent media personalities, however, said that Veera was transferred from the editorship for publishing several articles critical of Prime Minister Thaksin Sinawatra's leadership. They said that the 4 December 2003 edition, which carried a headline quoting the King as advising Thaksin not to be an arrogant leader, had greatly upset the Prime Minister.¹⁰⁹ On 25 February 2004, former Bangkok Post editor Pichai Chuensuksawadi reportedly confirmed that political pressure on the management of the daily had been "intense" prior to the controversial removal of editor Veera Pratheepchaikul.¹¹⁰

Case 5: Sueing of Supinya by Shin Corp to threaten critics

Giving another blow to the campaigners of media reforms, in October 2003, the Shin Corp, the telecommunications giant owned by Prime Minister Thaksin Shinawatra's family, sued Campaign for Media Reform (CMR) deputy secretary-general, Supinya Klangnarong for accusing the Shin Corp of being a major beneficiary of the Thaksin administration's policies, having trebled its wealth since the premier came to power three years ago. She also accused the firm of using the profits, in turn, to further advance Thaksin's political clout. In its libel suit, the plaintiff-Shin Corp demanded Baht 400 million as compensation for damages from the defendants- Supinya, Thai Journal

¹⁰⁹ . Reporters decry editor's removal, The Nation, 21 February 2004

¹¹⁰ . Press interference: Pressure 'intense': ex-editor, The Nation, 26 February 2004

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Group Co, and Thai Post newspaper's Roj Ngarmman, Kannikar Wiriyakul and Thavisin Sathirattanacheewin.¹¹¹

Case 6: Alleged discrimination against Thai TV (TTV)

On 4 September 2003, Campaign for Media Reform (CMR) deputy secretary-general Supinya Klangnarong said that the government's plan to grill subscription television-network operator Thai TV (TTV) over alleged contract concession violations is discriminatory and part of a campaign to silence independent news sources. She said that the Public Relations Department (PRD) had targeted TTV ever since National Broadcasting Corporation began airing its popular 24-hour television news programme on TTV on 1 May 2003, after leaving UBC and forming a partnership with World Star. According to her, such strict action against TTV was a clear discrimination with political and economic motives, as the government did not probe possible violations by stations with political connections. She cited the lack of action by the PRD in controversial cases such as Channel 7's concession renewal; the changes to iTV's contract relating to shareholders and programming content; and UBC's subscription-fee rise and advertising.¹¹²

Case 7: Cancellation of license of Independent News Network (INN)

In March 2003, the Independent News Network (INN) radio broadcast was temporarily cancelled after the network aired the Deputy Prime Minister's criticisms of the administration. In response to public protests, the Government restored the broadcast and claimed that INN's failure to renew their license was the reason for the temporary closure.¹¹³

Case 8: Illegal dismissal of reporters and journalists by iTV

In February 2001, iTV that is owned by the family of Prime Minister Thaksin Shinawatra allegedly arbitrarily dismissed 21 journalists working with it. Employment of seven of the journalists was terminated on the ground that they allegedly criticized the management for interfering in editorial content that favoured the ruling Thai Rak Thai party led by the Prime Minister while 13 others were dismissed on the ground that they were made redundant. However, the Supreme Court on 8 March 2003 upheld the ruling that the 21 journalists have been dismissed by the iTV illegally. The court ordered iTV to reinstate the journalists and pay them their salaries dating back to February 2001. According to the ruling of the Supreme Court, 13 of the journalists were dismissed for applying to become members of the station's labour union while one journalist was dismissed because he refused to cover a news event. The Court ruled that the journalists had the freedom to choose what news to cover and that the station could not interfere. In respect of the seven other journalists,

¹¹¹ . Shin Corp's criminal libel suit on hold until July, *The Nation*, 7 September 2004

¹¹² . Govt probe into TTV slammed, *The Nation*, 5 September 2003

¹¹³<http://www.state.gov/g/drl/rls/hrrpt/2003/27790.htm>

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management had already settled the work disputes with them pending the decision of the Supreme Court.¹¹⁴

Article 21 & 22: Freedom of Association and Assembly

While the freedom of assembly and association as enshrined in the 1997 Constitution of Thailand is generally recognized in Thailand, the authorities often interfere with the working of the NGOs critical of the government. According to a report prepared by a coalition of nine human rights groups, the authorities often harass the rights groups or activists who opposed the Government's policies, most particularly its foreign policy on Burma.

A number of human rights groups working to support democracy in Burma have also been harassed by state authorities. In 2002, a group working to protect women's rights in Burma's Shan State had to close down its offices after receiving a warning from a government agency.

There have also been countless cases of those who believed they had been intimidated by the authorities.¹¹⁵

The climate of fear amongst the human rights defenders and organizations was best described by UN Secretary General's Special Representative on Human Rights Defenders, Hina Jilani.

At the end of her 10-day visit on 27 May 2003 to Thailand during which she held talks with Prime Minister Thaksin Shinawatra and other senior cabinet members, as well as human-rights activists, she said, "*I have sensed a level of insecurity among human-rights defenders which ranges from general unease to actual fear.*" According to her, a "climate of fear" was created by public statements against NGOs made at the highest level of government, by blatant attempts by the authorities to cut off their foreign funding and by the use of the state security apparatus and judicial process to harass human rights defenders through false or unjust prosecution.¹¹⁶ In her report to the 60th Session of the Commission on Human Rights she stated that defenders who seek to raise concern with regard to the economic, social and cultural rights implications of a planned activity by individuals or companies from the private sector have reportedly been "killed, attacked, sent death threats, intimidated, placed under surveillance, arrested and detained by the police, and had civil and criminal court cases filed against them by both private actors and the State". In almost all these instances, there was collusion between wealthy private-sector actors and local authorities.¹¹⁷

¹¹⁴ . SUPREME COURT VERDICT: Fired iTV staff win legal fight, The Nation, 9 March 2005

¹¹⁵ . 'Country becoming like a police state,' The Nation, 26 August 2002

¹¹⁶ . UN envoy cites climate of fear, The Nation, 28 2003

¹¹⁷ . All the cases have been taken from ACHR REVIEW titled "In the line of fire: Human Rights Defenders in Thailand" of 30 June 2004 available at <http://www.achrweb.org/Review/2004/27-04.htm>

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Dozens of human rights defenders have been killed. Indigenous leaders faced harassment and intimidation.¹¹⁸

Case 1: The killing of human rights defenders

On the night of 21 June 2004, human rights defender, Charoen Wat-aksorn, an opponent of the Bo Nok power plant project was murdered. Members of four Senate panels on social development and human security, foreign affairs, environment, and justice were scheduled to travel to Tambon Bo Nok on 30 June 2004 to investigate the land grab allegations. In the meanwhile, the police claimed to have arrested a suspect on 29 June 2004 for the murder of Choren Wat-aksorn.

Charoen Wat-aksorn led the Love Bo Nok Group against construction of two coal-fired power plants for the last seven years. He was shot dead on his way home after testifying before the Senate committee on social development and human security and the House committee on counter-corruption on the alleged malfeasance of local land officials. He had accused the officials of trying to issue title deeds covering 53 rai of public land in tambon Bo Nok of Muang district to Phuan Wanwongsa, allegedly for a local "influential person". He also accused many government officials and influential figures of encroaching on public land.

Earlier, on 12 March 2004, Somchai Neelapaijit, a Muslim lawyer disappeared after he offered legal aid to

Muslim men accused of involvement in the 4 January 2004 weapons theft in Narathiwat. Mr Somchai had learned the suspects were tortured by police during their interrogation and threatened to expose it. Although five suspected policemen have been arrested, Neelapaijit's whereabouts were still unknown. On 9 June 2004 the criminal court released four suspects, Lt Colonel Sinchai Nimpunyakhomphong, Major Ngerm Thongsuk and Corporal Ransom Sithikhet of the Crime Suppression Division and Sergeant Chaiyaweng Phaduang of the Tourist Police Department thereby raising questions about their influence in the investigation and prosecution.¹¹⁹

Since Prime Minister Thaksin Shinawatra took over in January 2001, sixteen community leaders, community rights activists or environmentalists have been killed.¹²⁰

30 January 2001: Jurin Ratchapo of tambon Pa Khlok in Phuket's Thalung district was gunned down after campaigning against the destruction, by a private-sector company, of mangrove swamps filled with nesting birds. The trial of two suspected gunmen is proceeding.¹²¹

1 May 2001: Narin Phodaeng, former chairman of a conservationist group in Khao Cha-ang Klangthung in Rayong's Khao Chamao sub-district was shot dead for opposing a rock quarry owned by a

¹¹⁸ . Ibid

¹¹⁹ . Ibid

¹²⁰ . Ibid

¹²¹ . Ibid

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local politician. Nobody has been arrested in the case.¹²²

17 May 2001: Pithak Tonwut, a leader of the Environment Conservation Student's Club of Ramkhamhaeng University and adviser to the Chompoo river basin villagers, was shot dead for leading the villagers against a rock quarry owned by a national-level politician in a forest reserve in Phitsanulok's Noen Ma Prang district. Two men were arrested but acquitted by the provincial court.¹²³

21 May 2001: Chaweewan Pueksungnoen, a member of the Na Klang tambon administration organisation, was shot dead for resisting a construction project involving local influential figures and corrupt officials. Nobody was arrested.¹²⁴

28 June 2001: Suwat Wongpiyasathit, an environmental activist opposing the creation of foul-smelling rubbish dump which was a health risk to the villagers near Samut Prakan in Bangplee district by a private-sector company was shot dead outside a grocery shop while talking to friends. The next day he was due to meet with a Senate environmental committee.¹²⁵

July 2001: Somporn Chanapol, leader of the Environmental Conservation Group of the Kratae river basin in Surat Thani's Kanchanadit district was shot dead after he resisted the building of a dam.¹²⁶

20 June 2002: Kaew Binpanma of Chiang Mai's Doi Lo sub-district was shot dead, believed to the result of a land dispute.¹²⁷

2 September 2002: Boonsom Nimnoi, who headed a protest against a plantation project in Phetchaburi's Ban Laem district, was killed by unknown assailants.¹²⁸

27 September 2002: Preecha Thongpaen was shot dead after opposing a waste treatment project in Thung Song district of Nakhon Si Thammarat.¹²⁹

15 December 2002: Boonrit Channanrong was shot dead after protesting against the illegal trade in logs taken from Kaeng Krung National Park in Tha Chana district of Surat Thani by state officials.¹³⁰

20 December 2002: Boonyong Intawong, a community leader from the Wieng Chai District of Chiang Rai was killed for opposing the Doi Mae Ork Roo quarry project.¹³¹

1 February 2003: Khampan Suksai, a village chief from Chiang Mai's Chiang Dao district, was shot dead after opposing encroachment on a community forest.¹³²

4 February 2003: Chuan Chamnankit, a community leader who fought the spread

¹²² . Ibid

¹²³ . Ibid

¹²⁴ . Ibid

¹²⁵ . Ibid

¹²⁶ . Ibid

¹²⁷ . Ibid

¹²⁸ . Ibid

¹²⁹ . Ibid

¹³⁰ . Ibid

¹³¹ . Ibid

¹³² . Ibid

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of drugs, was shot dead in Chawang district, Nakhon Si Thammarat.¹³³

25 May 2003: Samnao Srisongkham, chairman of a conservation group protecting the Nam Phong river basin in Khon Kaen, was killed.¹³⁴

Case 2: Indigenous rights defenders

The indigenous rights activists have also been targeted. The Special Representative of the UN Secretary General on Human Rights Defenders reported that in some districts police officers had compiled a “blacklist” of individuals, including community and hill tribes leaders, who had been critical of the police human rights record and used this list as the basis for their action to meet a quota under the anti-drugs campaign that led to killing of about 3,000 people in 2003.¹³⁵

Ms. Nasae Yapa, a founding member of the Assembly of Indigenous and Tribal Peoples of Thailand (AITT) was arrested and detained after local police allegedly planted drugs in her home. In a police raid of the village of Huay ieng Sang Moo, in Chiang Mai, on 26 April 2002, the police allegedly planted drugs in the homes of five defenders working with AITT.¹³⁶

Wiwat Tamee, a human rights defender who has worked with AITT, and who is a member of the Lisu ethnic group and coordinator of a study on the impact of the drugs campaign on the rights of

ethnic groups, reportedly attempted to submit a petition complaining about the campaign to ministers from Thailand, Myanmar, the Lao People’s Democratic Republic, China and India who were meeting in Chiangrai on 24 July 2003 to discuss progress in ending drug trafficking. On 22 July 2003 he reportedly received threatening phone calls in Chiang Mai from police officers. On the same day, his wife was reportedly visited at their home by a drug suppression police officer and other officers from outside the regional police force who questioned her about the petition and her husband’s activities.¹³⁷

On 14 July 2002 Chutima Morlaeku, Coordinator of the Association of Inter-Mountain Peoples Education and Culture in Thailand was reportedly arrested at Chiang Mai Airport and her home was searched. In its comments, the Government denied that Chutima Morlaeku had been arrested and maintained that the search of her house was conducted in accordance with the law.¹³⁸

Case 3: Legal harassment

In addition to physical threat, the government and private sectors mis-use the law to harass and intimidate human rights defenders. According to information provided to the Special Representative of UN Secretary General on Human Rights Defenders, there were approximately 560 cases pending before the courts with regard to members of the Assemblies of the Poor and 118 arrest warrants outstanding against members of

¹³³ . Ibid

¹³⁴ . Ibid

¹³⁵ . Ibid

¹³⁶ . Ibid

¹³⁷ . Ibid

¹³⁸ . Ibid

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the Northern Peasant Federation (NPF), detailing 996 criminal and civil charges. In May 2002, in Lamphoon Province, committee members of the NPF were arrested with one defender reporting 42 civil and criminal cases outstanding against him. Another NPF member described his assistance to farmers in gathering information, negotiating and contacting the law society, the media and the Government. He reported that 54 criminal lawsuits and 10 civil suits had been filed against him on charges of trespassing and destruction of property.

Article 24: Rights of the Child

The children of hill tribes who have not been accord citizenship as yet and asylum seekers and refugees are not accorded the protection under Article 30 of the Constitution of Thailand.¹³⁹

In most countries infants are registered at birth. However, the records of a child of a Burmese asylum seeker born in a Thai hospital are removed and not registered. Removing the birth records of these children deprives them to be considered as a person before the law as provided under Article 16 of the ICCPR.

On 4 August 2004, key UN agencies based in Bangkok including the Office of the High Commissioner for Human Rights, United Nations High Commissioner for Refugees, UNESCO and UNDP and a few international non-governmental organizations reportedly wrote a joint letter to the government of

Thailand on the birth registration of children of non-citizens. As of today, Thailand government has failed to provide any answer.

The government of Thailand had expressed reservations to Article 7 of the Convention on the Rights of the Child relating to birth registration and the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents and Article 22 relating to refugee children. The government in its reservation stated that "The application of articles 7, 22 of the Convention on the Rights of the Child shall be subject to the national laws, regulations and prevailing practices in Thailand."

Thailand's reservation is contrary to Article 2 of the CRC on non-discrimination "irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status". It is also "incompatible with the object and purpose" of the CRC as provided under the Vienna Convention on the Law of Treaties.

During the consideration of the initial report of Thailand on 26 October 1998, the Committee on the Rights of the Child expressed deep concern that the certain vulnerable groups of children, including girls, children with disabilities, children belonging to minorities including hill tribes, children living in rural areas, children living in poverty, children living and/or working on the streets and asylum seeking children,

¹³⁹http://www.refugeesinternational.org/section/publications/stateless_asia/#Thailand

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illegal-immigrant children remained excluded from measures adopted to ensure that all children are guaranteed access to education and health services and are protected against all forms of exploitation.¹⁴⁰

The situation remains the same.

Article 27: Indigenous hill tribes

Notwithstanding the submissions made in the initial report by the Royal Government of Thailand, the hill tribes of Thailand like Karen, Mong, Yao, Muser, Lisu, Akha, Thin, Lua, and Khamu, whose population is estimated to be nearly a million, face institutionalised racial discrimination due to the denial of citizenship.

At the root of the discrimination is Article 7 of the Citizenship Act of Thailand of 1965, as amended in 1992, which provides that “people born in the Kingdom of Thailand of parents who are aliens in the Kingdom will not receive citizenship and are living in the Kingdom without the legal authority to do so”.

Under the National Household Registration Act, the first population census was conducted in Thailand in 1956. At that time indigenous and tribal peoples were not recorded due to both the difficulty in accessing their villages and due to the lack of officers.

The first official survey of indigenous and tribal peoples took place in 1969 to 1970 covering 16 provinces in the

lower and upper parts of northern Thailand, namely Nan, Chiang Rai, Chiang Mai, Mae Hong Son, Lampang, Lamphun, Tak, Sukhothai, Kampaengphet, Uthaitanee, Phisanulok, Loei, Phetchaboon, Prachuabkeereekhan, Phetburi and Ratchaburi. About 1,19,591 people were officially recorded.¹⁴¹ But, majority indigenous peoples had already been declared alien as the 1965 Citizenship Act already had already come into effect. As the government officials did not even visit them for census how could they possess the documents to prove their citizenship?

Case 1: The continued denial of the right to citizenship

To highlight the repression and dispossession primarily because of the denial of citizenship, in April 1999 about 4,000 representatives of rural and highland peoples within the upper nine provinces of Northern Thailand organized a protest rally at the Provincial Office in Chiang Mai. They submitted a memorandum to ensure basic human rights such as citizenship rights and control over land and water resources. This peaceful gathering continued for about one month and was finally dispersed by the government using police and forest department officials.

After the protest, the government decided to review the citizenship applications. On 29 August 2000, the Cabinet of the government of Thailand adopted a resolution to complete the

¹⁴⁰. [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/02a192648dec9a802566db00539232?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/02a192648dec9a802566db00539232?OpenDocument)

¹⁴¹. The Indigenous World 1999–2000, International Work Group for Indigenous Affairs

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review of citizenship applications by 28 August 2001.

Under the Cabinet Resolutions the highland people were classified under three groups. The first category consists of the highland people residing in Thailand who migrated to Thailand between 1913 and 1972. It was estimated that 100,000 people fall within this category. The second category consists of highland people who migrated to Thailand between the 14th of December 1972 and the 3rd of October 1985. They are eligible for permanent resident status. Their children are eligible for full Thai citizenship. Approximately, 90,000 hill tribes fall into this category. The third category consists of highland people who have allegedly migrated after 3 October 1985 and are considered "alien and illegal" and can be forcibly removed from the country. Approximately 2,20,527 persons fall under this category.

The process of reviewing the citizenship applications was to have been completed within one year i.e. by 28 August 2004. Since then the Cabinet of the government of Thailand adopted resolutions on 28 August 2001, 27 August 2002, 26 August 2003 and 24 August 2004 respectively.

Yet, according to the Highland Peoples Task Force, as on 24 August 2004, there were 377,677 individuals, including highland peoples, who did not have Thai citizenship or any legal status. Of these, 90,739 were original hill tribes eligible to apply for Thai citizenship, another unknown numbers were eligible to apply under para 7 of the Nationality Act of

1965 and about 2,20,527 were eligible to apply for legal migrants status.

The process of granting citizenship has been marred by discriminatory laws and procedures, apathy and prejudices of the officials against the hill tribes, corruption, excessive powers in the hands of the District Chief, lack of any judicial or quasi-judicial oversight over the process and the lack of cooperation of the administration with the civil society groups. The officials reportedly demand additional documents other than those required by law or just simply refuse to take applications or demand a little "tea money" as bribes. To be eligible, the law prescribes that the villagers must be included in one of several surveys by the government and must have some form of record with the authorities. They must also submit written documents such as birth certificate, house registration papers or others required by law, as well as having witnesses who can guarantee their eligibility.¹⁴²

Case 2: Denial of access to education

The institutionalised discrimination of the Thailand government had devastating effects on the hill-tribes. As the Thailand government states in its Initial Report that "The Department of Public Welfare has set up 97 child care centers, 8 provisional schools and cooperate with agencies under the Ministry of Education to bring education services to hill tribe communities who shall enter the ordinary educational system with the knowledge of the Thai

¹⁴² . EDITORIAL: Hill tribes get a welcome reprieve, The Nation, 29 August 2001

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language". The fact that indigenous children are not taught in their mother tongues in clear violation of the Article 27 of the ICCPR has devastating effects on the hill-tribes. The enrollment of the hill tribe children in primary education is 51.19% compared to 87% national average.

Their access to education is limited although the Ministry of Education issued a regulation in 1992, which gave guidelines to provide education to children without domicile and with non-Thai nationality and to provide a certificate of education to such students upon completion of studies. Yet education department officials and schools often do not accept hill tribe children for admission. Some schools, although admitting these students, do not provide them with scholarships, food subsidies and quota to continue their education. Without financial and material support, many of them are unable to continue their studies. Only 19 per cent of the total primary school hill tribe students carried on with their secondary education. Many schools also do not issue these students with certificates upon completion of studies. These practices obstruct the hill tribe students from pursuing their further studies or obtaining gainful jobs.¹⁴³

Case 3: Land Rights and forced evictions under Master Plan

In utter disrespect to its promise of establishing a working group to jointly revise the Draft Highland Master Plan, Thaksin Shinawatra Government

secretly tabled the Draft Master Plan at the Cabinet's weekly meeting on 30 July 2002 for approval. The Cabinet subsequently approved the controversial Draft Highland Master Plan, ignoring the agreement made earlier with the Assembly of Indigenous and Tribal Peoples of Thailand (AITT). The AITT alleged that since 1992, successive governments' Master Plan on Community Development, Environment and Narcotics Control for highland areas "has had a tremendously negative impact on indigenous and tribal populations".¹⁴⁴ In July 2002, unabashedly renegeing on its promise the Government approved and passed the third phase plan of the Highlands Master Plan (2002-2005) without consulting the AITT.¹⁴⁵

On 23 July 2004, 200 armed forestry and Border Patrol Police officers raided the Palong Pang Daeng village in Ching Dao district and arbitrarily arrested at least 48 residents including elderly and pregnant women on charges of encroachment in a forest conservation area. Protesting the arrests, the villagers lodged a complaint with the National Human Rights Commission and the Law Society of Thailand and asked Natural Resources and Environment Minister Suwit Khunkitti to investigate the case. After visiting the village, a member of the Law Society, Winit Leulam, stated that he found that the village had been established over 20 years ago and had a waterworks, an electricity system and a primary school. According to him, there was no evidence that the village farmers

¹⁴³. <http://www.hrsolidarity.net/mainfile.php/2004vol14no06/2384/>

¹⁴⁴ . Hilltribes 'betrayed', The Nation, 16 October 2001

¹⁴⁵ . EDITORIAL: Hilltribes again get the short end, The Nation, 17 October, 2002

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had tried to encroach on any more land. He called the police raid and arrests "suspicious".¹⁴⁶ The Law Society of Thailand bailed out all the 48 detainees on 9 September 2004.¹⁴⁷

The Cabinet adopted resolutions of 27 July and 10 August 2004, agreeing to the new project entitled the "New Model of Forested Villages," as proposed by the Ministry of Natural Resources and Environment. This new project will cover about 10,866 villages in 70 provinces and almost 100 percent of the indigenous villages will be affected. Forest laws declared state lands on lands that tribal villagers have been cultivated on for over hundreds years. With this declaration, indigenous hill tribes became illegal trespassers on their own land overnight and they will be forcibly evicted and face penalties and imprisonment.

Case 4: Torture, Killings and Looting of the Akhas

The Akhas are one of the main indigenous hill tribes in Thailand. The cases of extrajudicial killings in the war against drugs, disappearances, torture, looting, robbery and harassment by the law enforcement personnel illustrate the deplorable situation of indigenous peoples in Thailand.

In cooperation with the Akha Heritage Foundation, the following cases of gross

human rights violations have been collected.

a. Extra-Judicial Killings

Case 1: Extra-judicial killing of Mr Ah Byeh

In November 2000, police reportedly arrested Mr. Ah Byeh, aged 33 years, resident of Aih Oh Mai Akha Village under Mae Chan or Mae Faluang in Chiangrai province while he was traveling in Lopburi area. Police allegedly told him that because he was hilltribe he must have been dealing with drugs and his pickup truck was searched but no drugs were found.

The police took him to the Lopburi police station and severely tortured him. He was tortured by burning with something similar to cigarettes and was given electric shocks to extract confession. After seven-month detention at the Lopburi Prison, he was moved back to the Chiangrai Prison following deterioration of his health. Two weeks after his transportation to Chiangrai Prison, he died vomiting blood.

Post-mortem report revealed that the body had burn marks and scars all over his chest and hands and bruises to his ribs. He was very emaciated. However, police authorities told the deceased's wife that the deceased wasn't feeling well.

¹⁴⁶. Law Society trying to raise bail for 48 villagers, *The Nation*, 27 July 2004

¹⁴⁷ . Hill tribe villagers released on bail, *The Nation*, 10 September 2004

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Case 2: Extra-judicial killing of an Akha man and torture of several others by the Army in the guise of detoxification

On 9 December 2001, Mr. Ah Juuh Cheh Mooh, 37, an Akha man of Meh Maw Akha village in Haen Taek District in Chiangrai province, was taken by the army officers from Som Yaek Army Base 4th army battalion 241 Cavalry along with a number of other Akha men from that village and from the neighboring village of Bpah Cheeh Akha, to an army base near Meh Maw (500 meters away) for "voluntary detox" from opium smoking.

They were allegedly all thrown in a pit in the ground and had ashes and water poured on them. On the next day all were taken for interrogation, not detox, and beaten with fists, boots and rifle butts. Terrified by the torture and fearing for death, one of the older Akha men escaped on the evening of 10 December 2001. On discovery of the same on the next day, the army blamed the remaining Akhas for the escape and badly tortured Mr. Ah Juuh and Mr. Ah Dtay. Mr. Ah Juuh was beaten with rifle butts while blindfolded and his teeth were knocked out. He was electrocuted all over the body with electric wires. The severe torture caused bleeding and he urinated blood and passed blood from his anus. On 11 December 2001, he fell down and succumbed to his injuries. An hour later, Mr. Ah Dtay was taken to the hospital and a unit of blood drained out of his lungs.

No action was taken by the army against the extra-judicial killing of Ah Juuh

Cheh Mooh and torture of several others in the guise of detoxification till the English Daily; *Bangkok Post* carried a story on 21 February 2002. The maximum punishment given to the accused army officers was their transfer but no criminal charges were filed.

Case 3: Extra-judicial killing of Ah Bah Rgoeuh Zurh (56)

At about 5 pm on 17 May 2001, one policeman from Som Yaek and one unnamed informant believed to be Akha came to the house of Mr. Ah Bah Rgoeuh Zurh, 56, at Mae Salep Akha on highway part of a village under Mae Faluang district of Chiangrai province and tied him with rope and dragged him from the house. They beat him on the head and body with a club in front of his wife and took him by motorbike to Som Yaek. They beat him there further although his wife pleaded to stop beating him. Later, he was put in a truck driven by a police officer and taken toward the Mae Faluang police station. 10 minutes later at about 7 pm, his body was found 3 kilometers east, lying in the road in a sleeping position. A small amount of blood was reportedly found running from his ear.

Police removed his body for an autopsy at Haen Taek Hospital. Some policemen came to the family house of Mr. Ah Bah and asked his daughter living next door to pay money to get her father out of jail, even though he was already dead.

The daughter, wife and son-in-law of the deceased went to the Haen Taek hospital and requested that the body be moved to Chiangrai for autopsy. However, the

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body was not moved until 20 May 2001. The autopsy was later conducted by Dr. Sukrachat at Chiangrai Provincial Hospital. According to the autopsy report, the deceased died of brain stem hemorrhage resulting from fracture to base of skull.

No one was prosecuted, as Mae Faluang police did not investigate the case. The wife of the victim was allegedly given money by the police and told to keep quiet

Case 3: Shooting dead of one Loh Guuh Zurh Shaw

After three consecutive contacts by undercover police through an old Thai man to buy speed pills, on 30 July 2001, Loh Guuh Zurh Shaw, 30, a villager of Bah Doh Akha, Huai Krai, Ampur under Mae Chan in Chiangrai province tried to locate speed pills for this Thai man. Loh Guuh was asked to go to a cornfield near his sisters' hut and be a "lookout". While he was waiting a plain-cloths police man walked up from behind. His sister who was sitting at her hut saw this and called out but Loh Guuh did not respond.

According to the deceased's sister, who was eye-witness to the incident, the plain-cloths policeman said "now I kill you drug dealer" and shot Loh Guuh three times, hitting him at the back of the head, the side of the head and the low kidney area. The victim neither possessed drugs nor was he armed. The assailant policeman shot at him from about 1.5 meters away with a handgun and the deceased died immediately.

A complaint was lodged with the Chiangrai police; but no criminal charges were filed against the officer involved.

Case 4: Shooting dead of Meeh Paw and looting, arson at villages in Buma

On the morning of 8 February 2002, Thai security personnel crossed into Burma and attacked Meh Joh Akha village in Burma. 23-year-old Meeh Paw Seh Dooh, an Akha girl from Thailand was preparing the morning's rice when soldiers fired into the hut of her uncle where she was visiting for three days. She was shot through the chest.

Fearing that the army personnel would burn the hut, her brother Ah Doh dragged her from the hut back door and down the hill. After setting the hut on fire, the Thai soldiers pursued him but he fled into a ravine leaving Meeh Paw. The soldiers reportedly stripped her of her headdress, gold necklace, gold earrings and watch and left. Later, she succumbed to her bullet injuries while being taken to a clinic for medical help.

After looting and burning the village, the assailant Thai security personnel drove back to Thailand in motorbikes and two vehicles loaded with the loot. The matter was reported to the Thai Army authorities; but no investigation was held.

Case 5:

On 28 October 2003, 33-year-old Yah Pooh, a Lahu man of Mae Kah Noi, Chiangrai was shot three times through

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the back by the army. He was deprived of medical care for one hour and later died.

Case 6

In July 2003, Mr. Leeh Huuh, an Akha of Joh Hoh Akha Phrao, Chiangmai was killed after the police ambushed him and shot many times. Another Akha person, Mr. Loh Pah of Joh Hoh Akha, Phrao in Chiangmai was also ambushed and shot

Case 7

In July 2003, Mr. Ah Yeh, an Akha man of Joh Hoh Akha, Phrao in Chiangmai was shot dead at his home by the police.

Case 8

In February 2003, Ms. Ah Yeh, an Akha woman, wife of Mr. Yah Pooh was shot six times in the chest and left to die.

Case 9

In February 2003, 21-year-old Ah Zeh, an Akha man of Loh Sah village, Phrao in Chiangmai was shot dead by the police. He was shot in the face and back.

Case 10

In February 2003, Mr. Eh Dturh (43), a Lahu man of Phrao, Chiangmai was chased by police, shot dead and thrown off a cliff.

Case 11

In April 2003, 37-year-old Headman of Hua Mae Kom village, Lisu Male,

Ampur Mae Faluang in Chiangrai was ambushed and shot dead by the police.

Case 12

In April 2003, Vice Headman, a 50-year-old Lisu, of Hua Mae Kom village, Ampur Mae Fahluang in Chiangrai was shot dead by the police.

Case 13

In April 2003, Second Headman, a 40-year-old Lisu of Hua Mae Kom Village, Ampur Mae Fahluang in Chiangrai was ambushed and killed by the police.

Case 14

In April 2003, Second Headman Lt., 30 years, Hua Mae Kom Village, Ampur Mae Fahluang was ambushed and killed by the police.

Case 15

In March 2003, Mr. Boon Mah Sae Pahn, a 29-year-old Yao man, was shot dead by Police in Chiangrai.

Case 16

In March 2003, Mr. Geh Dteeh Sap Sak See Chompoo, a 44-year-old Yao man of Chiangrai was shot dead by the police.

Case 17

In March 2003, Mr. Gow gkway Sai Tuin (44), a Yao man from Chiangrai was shot dead by the police.

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Case 18

In March 2003, Mr. Nai Sahn Sai Tuin, 29, a Yao man from Chiangrai, was shot dead by the police.

Case 19

In March 2003, Mr. Ooh Gkway Sai Tuin, 29, a Yao man from Chiangrai, was shot dead by the police.

Case 20

In February 2003, Mr. Ah Buuh Cheh Muuh, a 35-year-old Akha, and Ah Churh, an Akha of Chiangrai, were shot dead while sleeping by the police.

Case 21

In March 2003, Mr. Ah Bah (45), an Akha of Gowland, Chiangrai was shot three times and killed while sitting in front of house.

b. Disappearances

There have also been reports of disappearances.

Case 1: The disappearance and presumed execution or death of Mr. Ah Tsah Say Yah Muser (Lahu)

On 26 June 2002 Mr. Ah Tsah Say Yah and Mr. Leeh Cheeh Bpow Sheh Leeh, both Muser men, left their village Loh Mah Ket under Mae Faluang in Chiangrai province to drive a car, purchased by a man from Burma, across the border road that used to lead to Meh Joh Akha village inside Burma which was burnt six months before. To their

knowledge the vehicle, a small black pickup like car, was not stolen. They needed money to pay workers to help finish planting their rice crop and the man offered to pay them 1500 baht each (about \$60 US).

They delivered the car but on their return, the Bpeh Lang army 514 at Gow Lang caught them at Gow Lang Akha village and took them away.

They were last seen at Hooh Maw Army base near Haen Taek. Mr. Jah Law Dteeh and Mr. Jah Uuh from Bpah Eh Muser, who were there at the camp to get their trucks back, claimed to have seen these two men brought in blindfolded and shot in the chest with a handgun and killed. Rumor is that they were buried near to Hooh Maw Army base in the jungle on the side of the southern hill.

The family did not hear from these two men. The army first claimed they did not even see them, but later admitted that they were indeed arrested. However, the army claimed that both of them were released. The army said after their release the two went to Chiangrai, where they got drunk and did not come back.

While Mr. Ah Tsah had seven children, Mr. Leeh Cheeh Bpow had three children. Both are presumed dead.

Case 2: The disappearance of Mr. Ah Aw, Meh Maw Akha Village

On 9 February 2002, Meh Joh Akha village in Burma was attacked. A channel 5 TV reporter from Maesai is married to Mr. Ah Aw's daughter and it

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is said that the two of them went to film the attack in the early hours of the morning.

After return from that attack, Mr. Ah Aw, 55, resident of Meh Maw Akha Village, near Pai Ah Prai Village under Mae Faluang in Chiangrai province was seen to be riding a motorcycle taken from Meh Joh. Within two weeks of the attack, Mr. Ah Aw was seen riding with a Thai man on the motorbike going into Bpah Cheeh Muser village near Bpah Cheeh Akha, and he was captured by the army there. His shirt was taken off, he was put blindfolded in an army truck and taken away, according to witnesses.

Reporters from the Bangkok Post inquired as to his whereabouts and the army confirmed, "he is dead". It is believed by family that he was executed by the army. However, his body was never found.

C. Torture and Illegal detention

Case 1: Torture and illegal detention of father-son duo

On 5 November 2001, Dah Gkeh Dah Deeh Dvak Dah Veeh, 50, a mountain farmer and his son Laoh Urh Dah Gkeh Dvak Dah Veeh, both resident of Wan Soh Jah Lit, Mooh T 9, house 4, Haen Taek, Mae Salong Nai, Ampur (Government Office), Mae Faluang in Chiangrai province were reportedly clearing weeds in their lychee orchard at Maesalong when they were approached by 20 Thai army soldiers from Som Yaek 241 unit of the 4th Army. They were taken into custody and accused of

trafficking in speed pills though they had no pills in their possession.

Both were taken to Som Yaek Army base and then were tied and beaten, kicked in the ribs. In order to extract a confession, the Army personnel electrocuted both by the ears. Dah Gkeh was repeatedly beaten with a club on the back of the neck and his head was pushed forward. The army personnel kicked him in ribs under left up, entire side. They were released and returned to their village after three days. According to them, they were not killed only because they could speak enough Thai to be able to convince the Army personnel of their innocence.

Though the incident has been taken up with the local officers of the government, no investigation was conducted and further appeal is futile as it often results in retaliation.

Case 2: Illegal detention and torture of Ah Dteeh

On 18 December 2001, Army personnel from the Som Yaek Army Base reportedly picked up Mr. Ah Dteeh of Meh Maw Akha from Gow Lang Akha village under Mae Faluang in Chiangrai province and took him to Som Yaek Army Base. The army asked him if he knew about gun sales to the Shans in Burma. In order to elicit information, the army personnel tied and beaten him. He was electrocuted and kicked in the ribs. Some of his ribs were broken in the beating. He bore signs of burns, bruises and fractured ribs.

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On 21 December 2001, fearing that he would be beaten to death, he escaped his ropes and crawled out of the army base, unable to walk and went into hiding.

The matter was reported to Ampur (Government Office) Mae Faluang District Officer but no action was taken as in January 2002.

Case 3: Illegal detention and torture of Ah Peeh

At around 7.30 pm on 19 December 2001, personnel of the 514 Task Force from Bpeh Lang base near Gow Lang Village came to the Soih Yah Kah Akha village under Mae Faluang district in Chiangrai province and fired at the hut of Mr. Ah Peeh. According to family members, about five men began shooting into the house. When Mr. Ah Peeh ran from his home, he was grabbed by soldiers and taken away. The security personnel also took away Ah Peeh's elder brother Mr. Ah Zeh and another man, Mr Ah Nyoh.

Ah Peeh was taken to the prison and detained for two months. During the detention, he was badly burned with fire on the back of the neck. He was also beaten and his head was held under water for long periods of time in order to get him to confess information about drug dealing in the village.

Despite complaints to the police and the Army, no action has been taken against the accused security personnel.

d. Looting, robbery and harassment by the law enforcement personnel

Case 1: Robbery and imprisonment of Mr. Ah Myah Cheh Muuh, Pah Luang by army personnel

On 21 February 2002, Army from the Gow Lang Bpeh Lang 514 unit caught a man by the name of Law Dteh in the village of Loh Mah Cheh in Mae Faluang district in Chiangrai province with methamphetamine (ecstasy drugs) pills in his possession. The army soldiers allegedly severely beat him making him unable to walk well and later brought him back to the house of the headman, Ah Myah Cheh Mooh (47) while he was away. The army personnel broke the lock of the door and entered the house. They forced Mr. Law Dteh to dig up the floor and also conducted a thorough search of the house. But no drug was found. The army personnel however took away the refrigerator, beer, silver and a motorbike as well as household items from the hut.

When the village headman Mr. Ah Myah Cheh Mooh went to the Bpeh Lang Army authorities and pleaded for return of his possessions, they beat him and took him prisoner for three days until he signed a paper stating that nothing was taken away from the hut. Later, they gave him back his motorbike but other things including his ID card were not returned.

Neither investigations were conducted nor any action was taken despite reporting to the army authorities.

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Case 2: Torture, looting and detention of villagers

On 27 June 2002, five army vehicles with soldiers including Major Orachai from the Sam Yaek Army base and officers from Hooh Maw Army base in Haen Taek came into Bpah Eh Muser village under Mae Faluang in Chiangrai province at 6 AM and went into the hut of Jah Law Dteeh, one of the registered opium smokers, and caught him smoking opium. They arrested him with a small quantity of personal opium for smoking. They then ordered all the occupants to come out of their huts and began searching the huts of the entire village.

During the search, the army personnel took cash and gold from the huts. The Army looted 1000 baht from Mr. Yah Gooh, 300 Baht from Mr. Jah Jay and 30,000 baht from Mr. Jah Law Dteeh. A gold necklace weighing one baht worth more than 10,000 baht was also taken from Mr. Pah Seeh. They also took the trucks of Mr. Jah Law Dteeh and Mr. Jah Uuh, and six men down to the army base. According to the Army, the truck owners were not able to own the trucks without selling Methamphetamine. The villagers produced receipts for crops sold to show this was not true.

After the search was over, the army personnel showed the villagers 7 kilos of opium they claimed to have "found" in the village but when the villagers demanded to know from whose house opium was recovered, the Army would not say.

All the six men were later released from the Army base at Hooh Maw but the

army did not return back the trucks of Mr. Jah Law Dteeh and Mr. Jah Uuh. Later, when both went to Hooh Maw Army camp, the army said that they would not give the two trucks back. On the other hand, the Army detained both saying that Mr. Jah Uuh could go but that Mr. Jah Law Dteeh would stay for "detox". While the two were being detained, other army (possibly from Bpeh Lang Army 514 at Gow Lang) brought in two Muser men from Loh Mah Ket Muser village and shot both of them dead. The army told Mr. Jah Law Dteeh and Mr. Jah Uuh that this would happen to them too if they kept asking for their trucks. Both Mr. Jah Law Dteeh and Mr. Jah Uuh fled for their lives back to the village and hid.

Other Muser reportedly went to the Ampur (Government Office) office at Mae Faluang and told about what happened. There was no investigation and soldiers told everyone not to talk about it.

Case 3: Robbery of 91,000 baht from Mr. Yah Tooh at Booh Hah Akha village, Chiangrai

At about 5 pm on 6 July 2002 when Mr. Yah Tooh (45) of Booh Hah Akha Village under Mae Faluang in Chiangrai province was returning from an incident in another village (someone shot a neighbor's pig eating in their rice or corn field) he saw a black pickup truck with 4 soldiers talking to one of the residents of his village. He stopped to ask what was going on and the army asked him how this man could have enough money to build a block house. Mr. Yah Tooh explained that the Akha saved from

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crops enough to build a house and then built it. This house cost about 50,000 baht. He told the army that he was also saving for building a block house. He told the army that now he had 91,000 baht and when he saved 100,000 baht more, he would be able to build a block house for himself.

The army asked him to prove it and went to his house. He had 91,000 baht plus a couple thousand baht extra. He offered the army as a gratuity (common) the smaller cash for drinks and cigarettes to appease them but they took the 91,000 baht instead and left him the couple thousand baht.

After many trips to the army they did not return it. They said it was drug money but Mr. Yah Tooh had receipts for cattle, pigs, corn and ginger crops sold in excess of that amount.

Case 4: Robbery from Mr. Yah Goh, Mr Yah Tooh and Mr Ah Dauh at Meh Maw Akha village, Chiangrai

On 20 July 2002, Mr. Ah Dauh, 65, of Meh Maw village under Mae Faluang in Chiangrai province went to work in the fields and left his wallet at Mr. Yah Goh's house, neighbour with 45,000 baht in it. While he was away, three army soldiers from Meh Maw Army base, some 300 meters from the village, came to the adjacent house of Mr. Ah Tooh and asked for money. He did not have any; so they dragged him next door to Mr. Yah Goh's hut and left him on the ground outside. They went inside and Mr. Yah Goh was sleeping and had a fever. He woke up with the soldiers searching through his hut and they found

both his wallet and Mr. Ah Dauh's wallet. They took both wallets. Mr. Yah Goh lost more than 32,000 baht and Mr. Ah Dauh lost 45,000 baht. The men had saved the money for over two years from selling ginger crops. As a result of the hardship that this imposed Mr. Ah Dauh and his wife immediately split up over the incident.

The matter has been reported to the Army and the Ampur Government Office but the money were not returned.

e. Implication in false charges

In February 2003, Mr. Ah Kurh Wurh Churh, an Akha man of 40 years, was arrested at Doi Chang, Chiangrai under a false charge. He was kept in prison for 7 months without any charge and released later.