

# THAILAND

## GRAVE DEVELOPMENTS – KILLINGS AND OTHER ABUSES

### I. INTRODUCTION

Failure to protect members of vulnerable groups from human rights violations and intolerance of criticism have characterized the current coalition government led by the *Thai Rak Thai* Party. The lack of protection for poor people in particular, coupled with government anger at activists' critical statements have contributed to a climate of fear for many people attempting to address social and economic problems. Poor rural people involved in land rights and environmental issues; members of tribal groups; migrant workers from Myanmar; and local leaders of these groups have been at risk of intimidation, anonymous threats, arrest, and even killings. In addition during the anti-drugs campaign launched by the government from 1 February to 30 April 2003, the Thai Government appeared to condone killings of drug suspects by unknown assailants as one method of fighting the "drugs war". According to official statements, 2,245 drug suspects were killed during the three month campaign.<sup>1</sup> However, the government has failed to initiate independent, impartial, effective and prompt investigations into these killings, and as a result those found responsible have not been known to have been brought to justice.

Recent government statements about both the "drugs war" earlier this year and the Asia Pacific Economic Forum (APEC) in Bangkok from 20 - 21 October have heightened concern about policies which have already had a negative impact on human rights protection. On 30 September Prime Minister Thaksin Shinawatra, founder of the *Thai Rak Thai* party, announced that there would be a renewal of the "drugs war": "*Tomorrow will be D-Day for drugs, weapons, mafia and poverty. We will reuse the 90-day measures we used earlier for another 60 days. It will follow the same principles, but we will find more measures to fight drugs, weapons, mafia and poverty*" he said.<sup>2</sup> These statements have raised fears that killings and other abuses in the context of the anti-drugs campaign may resume.

In advance of the APEC meeting, the Prime Minister asked non-governmental organizations (NGOs) not to hold any public protests during the meeting, which was attended by many heads of government from Asia and other countries, including the United States. The Prime Minister was quoted as saying that any group who holds a demonstration will face "*long and painful consequences*" and asserted that NGOs organize such protests to "*collect a receipt*" from foreign donors.<sup>3</sup> On 19 October some 500 people held a demonstration in

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<sup>1</sup> According to the National Police Office spokesman, the number of deaths in the context of the anti-drugs campaign from 1 February – 15 April was 2,245 people; *Bangkok Post*, 24 April 2003.

<sup>2</sup> *Agence France Presse*, Bangkok, 30 September 2003.

<sup>3</sup> *Bangkok Post*, 2 October 2003.

Bangkok to protest the US Government's foreign and trade policies, but there were no reported arrests or violence.<sup>4</sup>

In May 2003 *The Nation*, an English language daily newspaper published in Bangkok, published an article quoting confidential government documents which provided evidence that Prime Minister Thaksin had planned to discourage foreign donors from funding some Thai NGOs. This move was reportedly blocked by Ministry of Foreign Affairs officials, and in the end the government did not attempt to dissuade foreign donors.<sup>5</sup> Amnesty International is concerned that these government statements about NGOs could be construed as veiled threats against their legitimate peaceful activities.

After evaluating the available evidence, Amnesty International believes that the Thai Government is not exercising due diligence in protecting some of its most vulnerable citizens. The lack of political will has been exacerbated by the weak criminal justice system in Thailand, which is open to corruption; and undermined by undue delays and a lack of investigative skills on the part of law enforcement officials. Amnesty International acknowledges that officials in the Ministry of Justice, including in the Corrections Department and in the Probation Department, are making attempts to reform the administration of justice system, which is a welcome development.<sup>6</sup> However the organization remains concerned that other parts of the justice system, including the police and the courts, are not taking the necessary steps to address the widespread problem of bribery; undue delays in the court system; and proper training for law enforcement officials in human rights and investigative skills.

Human rights defenders, who are addressing a broad spectrum of social and economic problems, have been subject to various forms of abuse, which is discussed in the body of this report. During May 2003 Mrs Hina Jilani, the Special Representative of the United Nations Secretary-General on Human Rights Defenders, visited Thailand and met with government officials and many activists in several areas of the country. It was her first visit to an Asian country in her role as Special Representative, and she welcomed the high degree of cooperation she received from the Royal Thai Government. On 27 May she presented her official statement at a press conference in Bangkok, in which she acknowledged "*several positive initiatives...that help in strengthening the protection and promotion of human rights in the country.*" These included *inter alia* the new Constitution, the establishment of a Constitutional Court and of an independent National Human Rights Commission.

However she expressed her concern about the insecure and difficult environment in which many human rights defenders operate. She went on to note: "*Especially, those exposing human rights violations, resisting or protesting against policies or projects that threaten their social, economic rights or political rights or those who are raising concerns*

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<sup>4</sup> *Agence France Presse*, Bangkok, 19 October 2003.

<sup>5</sup> *The Nation*, 9 May 2003.

<sup>6</sup> This process began in 2001. Please see *Tipping the Scales*, *Bangkok Post*, an English language daily newspaper in Thailand, 12 August 2001.

regarding governmental priorities and criticizing the social, political, and economic agenda of the government are the worst affected.” In conclusion she stated that she would be making concrete proposals to the Thai Government and that her report to the UN Human Rights Commission would be made public before its April 2004 session. Amnesty International shares the Special Representative’s concerns about the vulnerability of human rights defenders in Thailand and urges the Thai government to take immediate steps to provide them with better protection. It is also crucial that the government send a message to local authorities and others that violations against such people will not be tolerated.

In this report Amnesty International focuses on human rights violations in the context of the government’s anti-drugs campaign from February through April 2003. The report also highlights key examples of the lack of due diligence on the part of the government in protecting vulnerable groups, and examines instances of abuse against land rights and environmental activists; members of tribal groups; poor people; and migrant workers. Many of these cases are concerned with the government’s failure to properly investigate crimes committed against these people, contributing to a climate of impunity, especially with regard to violations against poor rural people who do not have the means to pursue justice.

## **II. HUMAN RIGHTS IN THE CONTEXT OF THE ANTI-DRUGS CAMPAIGN**

On 28 January 2003 Prime Minister Thaksin Shinawatra declared a three month “war on drugs” in an effort to eradicate the trafficking of a type of methamphetamine known in Thai as *ya ba*, or “crazy drug”. The campaign began on 1 February, when four people were shot dead and 264 arrested, according to the Royal Thai Police.<sup>7</sup> The police stated that by 15 April 2,245 people had been killed in the campaign, 51 of them by the police.<sup>8</sup> According to experts in the criminal justice system in Thailand, during 2002 the average rate of murders per month was approximately 400. However, during February 2003, the first month of the “drugs war”, the authorities reported over 1100 people as having been killed in the anti-drugs campaign.

The authorities repeatedly asserted that the vast majority of the deaths were as a result of drug traffickers killing one another. Prime Minister Thaksin appeared to condone such killings in various public statements made during the three month campaign. For example on 25 March he was quoted as saying, “*There are two places for drugs traffickers: in prison or in the temple,*” in reference to the Buddhist practice of cremating their dead in temples.<sup>9</sup>

### **Conduct of the Anti-drugs Campaign**

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<sup>7</sup> *The Nation*, 3 February 2003.

<sup>8</sup> *The Bangkok Post*, 24 April 2003.

<sup>9</sup> *Agence France Presse*, Bangkok, 25 March 2003.

Lists of people suspected of being users or traffickers of drugs were drawn up by local officials and also by the Ministry of Interior (MOI). According to MOI statistics, 41,914 people were “*targets for monitoring*”.<sup>10</sup> There has been widespread concern about the methodology used to draw up these blacklists, and it appears that authorities have no obligation to notify suspects that their names are on the blacklist. In addition, to Amnesty International’s knowledge there is no judicial mechanism for appeals to be made to challenge inclusion in the blacklist. Some experts on the Thai criminal justice system have stated that the lists were drawn up in a very short time. Moreover, many observers said that the process for compiling the lists was open to abuse, and could be used by local authorities and the police as a means to settle old disputes. People who appeared to have unexplained wealth were suspected of having become rich through drug trafficking and placed on blacklists. The cases described below illustrate some of the general problems associated with the blacklists.

During a 3 March Ministry of Foreign Affairs briefing for diplomats, the government spokesman explained that one list was drawn up by the police and the other list by MOI, but went on to claim that these were not blacklists, although further clarification did not appear to be forthcoming.<sup>11</sup> The central authorities reportedly stipulated that local and provincial officials were required to meet a quota in reducing the number of people on the blacklists. MOI officials warned provincial governors that they should reduce their blacklists by at least 75% during the three month campaign, or risk being transferred.<sup>12</sup> Officials who did not meet quotas were reportedly transferred to inactive posts as a punishment. Interior Minister Wan Muhamad Noor Matha said in reference to provincial governors, “*Those found to have failed to deliver good performances will be transferred immediately.*”<sup>13</sup>

Police used these so-called blacklists to summon people to police stations; or on some occasions the accused turned themselves in, to try to clear their names. Many of the killings took place when the suspects were returning to their homes from police stations. For example on 26 February Thanom Monta and Kwanla Puangchompu, a married couple, were shot dead a few kilometres from the Tha Chaliang Police Station, Petchburi Province, where they had just paid a 5,000 baht fine. Police arrested Thanan Monta earlier in the month for possession of cannabis and allegedly told him they would drop the cannabis charge if he admitted to *ya ba* possession. After he did not agree, police summoned the couple to the police station on 26 February, the same day they were killed. Police later told one of their relatives that they were involved in drugs, which the relative denied. The same family member also reported that the police made no effort to conduct an investigation.<sup>14</sup>

After the launch of the “drugs war”, many people were reportedly afraid to leave their homes and others avoided travelling to areas where they were not known, for fear of being

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<sup>10</sup> *The New York Times*, 8 April 2003.

<sup>11</sup> *The Bangkok Post*, 4 March 2003.

<sup>12</sup> *The Bangkok Post*, 26 April 2003. Governors of Thailand’s 75 provinces are appointed by MOI, not elected.

<sup>13</sup> *The Nation*, 19 February 2003.

<sup>14</sup> *The Bangkok Post*, 28 February 2003.

suspected of being drugs traffickers and shot dead. This appeared to be particularly acute in remote rural areas and in the North, where large numbers of tribal groups live. Members of hill tribes in Thailand, who number some one million people, have often been accused of drug trafficking and forest destruction. Moreover areas of the Thai-Myanmar border are under a form of martial law, due to the presence of armed opposition groups. The security forces sometimes use martial law powers in order to conduct searches of hill tribe villages, a trend that escalated during the “drugs war”. Members of tribal groups have told Amnesty International that they felt especially vulnerable to being targeted for blacklisting; arbitrary arrests and searches; and killings in the anti-drugs campaign.

In August the Royal Thai Police announced that during the six-month period from 1 February through 31 July 2003, 73,231 drug suspects were arrested, 129 suspects were killed by police, and 26 police were killed.<sup>15</sup> The Ministry of Interior (MOI) stated that from February through August, 1,763 people died in “drug-related killings”, 74 of them killed by the police.<sup>16</sup> It is not known why there appears to be a discrepancy between MOI figures and police figures in the reported number of police killed. Also in August Prime Minister Thaksin said, in reference to drugs smugglers crossing from Myanmar to Thailand, “*From now on if their trafficking caravans enter our soil, we won’t waste our time arresting them, but we will simply kill them.*”<sup>17</sup>

### **Statements by civil society and Thai Government responses**

The methods used and statements by senior government officials during the “drugs war” provoked widespread condemnation by Thai non-governmental organizations; academics;<sup>18</sup> and lawyers. Amnesty International published a statement on 20 February about the sudden and dramatic increase in killings of drug trafficking suspects beginning 1 February. Amnesty International released another statement on 6 March with regard to anonymous death threats against a Thai National Human Rights Commissioner who spoke out against high level of killings. Public outrage escalated when a nine year old boy was killed by gunfire after his father had been arrested on 23 February and his mother drove away with the boy.<sup>19</sup>

Members of the international community, including a number of governments, and the United Nations also expressed their concern. On 24 February 2003 Asma Jahangir, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions expressed “*deep concern at reports of more than 100 deaths in connection with a crackdown on the drug trade.*” She urged the Thai authorities to ensure that “*the strict limits on the use of lethal force, as stipulated under the United Nations Basic Principles on the Use of Force and*

<sup>15</sup> *The Bangkok Post*, 11 August 2003.

<sup>16</sup> *The Bangkok Post*, 2 September 2003.

<sup>17</sup> *The Nation*, 23 August 2003.

<sup>18</sup> For example 100 Thai academics signed a statement expressing concern at the high level of violence during the government’s “drug war”, as reported in *The Bangkok Post*, 10 March 2003.

<sup>19</sup> The three arresting officers were accused of shooting at the departing car and killing the boy, and charged with murder. Subsequent ballistic tests cleared the officers of involvement, but a senior policeman conceded that the officers may have handed in different guns for the tests.

*Firearms by Law-enforcement Officials, are followed rigorously and without exception.” She also called on the Thai Government “to carry out transparent and independent investigations into each individual death...”.<sup>20</sup>*

In an apparent response to growing domestic and international concern about the high death rate, on 3 March 2003 the Thai Ministry of Foreign Affairs issued a statement, which was sent to Amnesty International by the Royal Thai Embassy in London. In this three page Fact Sheet, which was also received by some 50 embassies in Bangkok, the Ministry of Foreign Affairs stated: “4.1 *In discharging their duties, law enforcement officials have been instructed to strictly observe the provision of the Criminal Code, which authorizes the use of lethal force only for self-defence. Every unnatural death occurring during the police operations must be thoroughly investigated in accordance with the provision of law without exception.*” According to the statement, anyone who believes that their relative has been wrongly accused or killed during “*drug related police operations*” can appeal to the Department of Rights and Liberties Protection and the Department of Special Investigation of the Ministry of Justice.

In the same Fact Sheet, the government went on to explain that on 28 February the Prime Minister appointed two committees “*to monitor the implementation of the present policy and protect witnesses in drug-related murder cases and those who turned themselves in to the authorities.*” The first committee is charged with monitoring police conduct, and is chaired by police lieutenant general; and the second is chaired by the Attorney General and is charged with protecting informants and witnesses. In conclusion, the 3 March statement claimed that “*The establishment of both committees reflects a firm commitment of the Royal Thai Government to ensure the rights of the innocents.*”

However on 1 April Justice Ministry officials stated that the police had not submitted any reports to the Attorney General’s investigating committee of the over 1,000 killings during February, the first month of the anti-drugs campaign. The Deputy Attorney General said that although his office had sent a written request to the Royal Thai Police for reports to be sent by 28 March, they had not received one such submission.<sup>21</sup> On 28 April the Attorney General’s Office reported that the police had finally sent information to their office about the killings, so that the Attorney General’s Office could begin its investigations into almost 1,900 deaths. Ten subcommittees were set up to conduct the investigations. At that time police officials claimed that only 36 people were killed by the police, and the remaining deaths were the result of drugs traffickers killing one another.<sup>22</sup> Amnesty International was not able to obtain specific information about progress in investigations, but it appears that in most cases investigations have not been completed and that therefore no one has been found responsible for the killings or brought to justice.

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<sup>20</sup> UN Expert on Extrajudicial Executions expresses concern over recent killings in Thailand, UN Press Release, 24 February 2003.

<sup>21</sup> *The Nation*, 1 April 2003.

<sup>22</sup> *Bangkok Post*, 28 April 2003.

The National Human Rights Commission of Thailand (NHRC) has received complaints from the general public about human rights violations in the context of the anti-drugs campaign. The NHRC was established by Article 199 of the 1997 Thai Constitution and has the power to subpoena witnesses and information in the course of its investigations. It does not however have the power to bring those found responsible to justice, but it can make recommendations and intervene on an informal level. The Law Society of Thailand, which is an independent professional organization of lawyers, also receives complaints from the general public.

The Prime Minister assigned the newly-created Rights and Liberties Department at the Ministry of Justice to serve as a complaints centre for people about the methods used during the “drugs war”. However the specific mandate of this department is not clear. People have made complaints there, but the results of any investigations which may have taken place are not known to Amnesty International. It is also not clear if the two government-appointed committees and the Rights and Liberties Department coordinate their efforts in receiving complaints, conducting investigations, and bringing those found responsible to justice.

### **Background**

In the last several years widespread *ya ba* use has alarmed all sectors of Thai society, particularly as many young people have reportedly become drug users. According to the 2002 International Narcotics Control Board report, almost 5% of the Thai population, or three million people, use methamphetamines, the highest rate in the world.<sup>23</sup> Since the mid 1990s, various methods have been employed by successive governments to attempt to reduce the trade in methamphetamines, including by interdiction at the Thai-Myanmar border. Most of the methamphetamines are reportedly manufactured in Myanmar near the Thai border by armed groups who smuggle them into Thailand. In spite of attempts to eradicate cross-border trade, drugs trafficking has flourished along the porous and remote border.

Apparent extrajudicial executions by the Thai security forces of alleged drug traffickers have been employed in the past as a means to reduce drug trafficking. In July 2001 the Police Chief of Region 4 in the northeast stated that police-backed “death squads” had killed some 350 suspected drug traffickers and that he expected some 1,000 people in total to be killed in his region during 2001 as a means of solving the proliferation of illegal drugs. He later denied his previous statement. At the time Prime Minister Thaksin also denied that extrajudicial execution was an official policy, saying: “*We have to consider human rights and rights under the constitution.*”<sup>24</sup> In a particularly high-profile case during the mid 1990s, on 27 November 1996 police shot dead six suspected methamphetamine traffickers immediately after their arrest in Supan Buri Province, which provoked widespread public

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<sup>23</sup> Fact Sheet on the Royal Thai Government’s anti-narcotic drug policy, 3 March 2003, 10am, The Ministry of Foreign Affairs.

<sup>24</sup> Associated Press, Bangkok, Thailand 25 July 2001.

outcry and a parliamentary investigation.<sup>25</sup> However to Amnesty International's knowledge, no one was brought to justice for these killings.

Since the mid 1990s there has been heightened public concern about drug trafficking, and about what is perceived as a flaw in the administration of justice for convicted drug dealers. There is a general perception that alleged drug traffickers who have been arrested and held in detention can bribe their way out of the criminal justice system. Indeed this public frustration is mirrored by the views of some police officials. The same Region 4 commander who stated that "death squads" were being used during 2001 further said, "*We have applied legal means, political science and even Buddhism but the problem is just getting worse. Now it's time to rely on the Death Angel.*"<sup>26</sup> On the other hand both the public and successive administrations have expressed their anger at widespread corruption in the Royal Thai Police force. Prime Minister Thaksin, a former Thai Police officer himself, announced a crackdown on police corruption on 9 July 2003 when he was quoted as saying, "*I need 4-5 years to put the police back in line.*"<sup>27</sup>

#### **Killings of suspects during the anti-drugs campaign**

Amnesty International defines extrajudicial executions as unlawful and deliberate killings, carried out by order of a government official or with the government's complicity or acquiescence. Extrajudicial killings violate the right to life, as guaranteed in Article 6 of the ICCPR, to which the Royal Thai Government is a State party. They also violate the right to a fair trial, including the presumption of innocence, because the victim is killed before a court has had the opportunity to hear his case. The right to a fair trial is proclaimed in Article 14 (1) of the ICCPR, which states: *AI*n the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. @ Extrajudicial killings are distinguished from justifiable killings by the security forces in self-defence; deaths resulting from the use of reasonable force in law enforcement; and the imposition of the death penalty. Extrajudicial killings often result when law enforcement officials use force which is disproportionate to any threat posed, although the authorities may claim that this use of force was legitimate.

When a suspected extrajudicial killing by the security forces has taken place, Amnesty International calls for a prompt, impartial and independent investigation to be conducted. In Thailand investigations into killings during police operations have been hampered by several factors. Press reports quoting police sources usually state that there are

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<sup>25</sup> For a general discussion of extrajudicial executions in Thailand and a specific description of the Supan Buri case, please see *Kingdom of Thailand: Human Rights in Transition*, 20 May 1997, Amnesty International (AI) Index ASA 39/02/97, pages 6-13; and *Thailand: A human rights review based on the International Covenant on Civil and Political Rights*, 20 January 1999, AI Index 39/01/99, pages 7-8.

<sup>26</sup> Op. cit., AP, 25 July 2001.

<sup>27</sup> *Bangkok Post*, 10 July 2003.



no witnesses to killings of suspected criminals. Moreover the police usually claim that the suspects opened fire first, and that they returned fire in self-defence.

Under a law amended in 2000 on the investigation of killings in suspicious circumstances, a local official, a forensic pathologist and a prosecutor must take part in the autopsy and/or inquest of alleged extrajudicial executions. It is not clear whether this procedure has been followed in recent police investigations. In general, police conduct an investigation and submit their findings to the Public Prosecutor, who will then file a case in court. It is the responsibility of the local police to conduct such investigations, even if their immediate colleagues from the same area are alleged to have committed the killing. The forensic doctor is also part of the police force. In practice there is often a delay in investigations being completed and cases being brought to court. Police officers are almost never convicted of crimes related to extrajudicial killings.

Amnesty International is concerned that during the recent “drugs war”, the stated policy of the Royal Thai Government has allowed the killing of over 2,000 people by unknown assailants with impunity. Some of these killings may have been extrajudicial executions by the police or other members of the security forces. Relatives and associates of those who have been murdered are often too terrified for their own lives to seek an investigation from the authorities. For example husband and wife Damrong and Somsri Tanomwaorakun, members of the Hmong tribal group from Baan Mae Sa Mai in Chiang Mai Province, were found shot dead in their lychee orchard. Damrong’s brother said: *“I wanted an investigation into my brother’s killing, but the police just said it was a drugs killing. With things as they are at the moment, I just don’t dare ask for justice, and who would I ask?”*.<sup>28</sup>

Because the relatives of those killed have often been too frightened to come forward with a complaint, it has been difficult for domestic and international human rights organizations to monitor and report on individual cases. Nevertheless, the Thai press and others have published accounts of killings of alleged drugs suspects. In June 2003 the Asian Legal Resource Centre based in Hong Kong issued a major report on extrajudicial killings during the “drugs war” in Thailand.<sup>29</sup>

Amnesty International has been able to obtain detailed information about a number of killings during the anti-drugs campaign, which are outlined below. In some instances the victims’ names have been removed in order to protect their families and associates, who may be at risk of reprisals if such details were to be made public. The anti-drugs campaign was conducted throughout the country; the cases below are taken from Chiang Rai in the North; Khon Kaen and Nakhon Rachasima in the Northeast; Petchaburi and Bangkok in the central region; and Pattalung in the South. Most of the killings described below took place in February, which had the highest reported rate of over 1,110 killings linked to the campaign.<sup>30</sup>

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<sup>28</sup> British Broadcasting Corporation (BBC), 4 March 2003.

<sup>29</sup> Article 2, a publication of Asian Legal Resource Centre, Vol 3, No 3 June 2003.

<sup>30</sup> *The Bangkok Post*, 1 March 2003.

At the beginning of the declared “drugs war”, the body of Boonterm Chaiyang, a 42 year-old man from Chiang Mai, was found in Bangkok on 2 February. Boonterm had gone missing on 28 January when he went to visit his brother, who was in prison for drugs-related offences. When his family went to inquire about his whereabouts at the Pracha-chun Police station in Bangkok, they were told that Boonterm was a drugs dealer who opened fire first on police. However relatives state that he was not involved in drugs, and that his body showed signs of having been beaten. Police from Thungkru police station stated that they had set up an undercover operation to purchase drugs from Boonterm, and that 16,000 *ya ba* pills were found in front of his car. Boonterm’s dead body was found in front of Burana Suksa School on Soi Pracha-uthit 76, Thungkru police district. A doctor concluded that he had been shot dead in the spleen, lungs, and heart. However his body was cremated before a forensic autopsy could be performed.

In Ban Lam District, Petchaburi Province, Somjit Kuanyuyen, a 42-year old woman, was shot dead in front of her house on 20 February. Three days previously, after learning that she was on a police blacklist, she reported to the Ban Lam District Police station. Somjit, who was illiterate, put her mark to a paper there, but reportedly did not know what she was signing. She was reportedly told by the police that she was now “safe”. On 20 February four unidentified men in a one ton pickup truck with darkened windows drove up to her house and shot her seven times in front of her seven year old granddaughter and her seven-months pregnant daughter. Although her house was only 20 metres from a police box, the police took a long time arriving at the scene of the crime, and did not collect the spent bullet shells. Sources indicate that the police questioned Somjit’s cousin, who said that Somjit was not a drugs dealer. Police then warned him against “speaking too much”, but did not reportedly conduct a thorough investigation.

Also on 20 February a Thai national of Vietnamese origin was shot dead in Pattalung, in the south of the country. His family owned a lucrative cock-fighting business which raised suspicions among their neighbours and the local police that they were involved in the drugs trade. He was shot dead in front of Pattalung Provincial Hall and the family’s business equipment was eventually confiscated by the police. Police also reportedly threatened the victim’s family members, who then went into hiding.

In Khonburi District, Nakhon Ratchasima Province, a married couple was shot dead on 28 March in broad daylight as they were selling merchandise from their stall. The husband had won the lottery, but did not tell anyone. According to reports, he was suspected of being a drug trafficker because of his sudden unexplained wealth. His name appeared on the blacklist and he reported to the local police to explain his circumstances. Sometime after that he and his wife were shot dead by an unknown assailant. The police searched their house for drugs and reportedly blamed the murder on drug traffickers. The police report stated that 17 *ya ba* tablets were found in the couple’s pickup truck, although close family members stated that they were not involved in drugs. The police subsequently confiscated their vehicles and their bank accounts of some 1.8 million baht pending an investigation.<sup>31</sup>

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<sup>31</sup> *The Nation*, 22 May 2003.

### **Killings of tribal people**

Tribal people, numbering slightly less than one million people in a population of over 60 million people, live mostly in northern Thailand, many of them in remote mountainous villages. There are many groups and subgroups of the so-called hill tribes, including the Karen, Mien, Lisu, Lahu, Akha, and Hmong. Many of them traditionally engage in swidden agriculture, or cultivation of mountainous fields in rotation, provoking criticism from officials and others that they are destroying the forests. They are also accused as a group of engaging in drugs trafficking, which is used to justify arbitrary arrests; searches; and extrajudicial killings of tribal people.

Full Thai citizenship for hill tribe people has been an ongoing problem for many years, and successive Thai governments have attempted to come up with solutions. However, according to a recent report, hundreds of thousands of tribal people in Thailand still do not have full citizenship, which has meant that they are unable to access the health and educational systems in Thailand. The report also states that the effective statelessness of many tribal women makes them particularly vulnerable to joining the large sex industry in Thailand. As they are often unable to obtain jobs without an education, they seek employment or are trafficked into sex work.<sup>32</sup> One tribal leader told Amnesty International: *“The Thai Constitution does not apply to me, because I am an ethnic minority”*, a sentiment echoed by many other hill tribe people.

On 12 February four members of the Hmong hill tribe were shot dead after returning from the district office in Baan Nuen Sub district, Lomp Kow District, Petchaburi Province. Seah Jer Sae Thow, a 45-year-old man; Somchai Sae Thow, his younger brother; Boonmar Sae Thow, their 59-year-old male cousin; and Seng Sae Thow, the 52-year-old headman of Doi Nam Pieng Nam Din village, Baan Nuen Sub District, Lomp Kow District, were last known to have been travelling in a white Izuzu pickup truck from the district office to their home village. They were not seen alive again.

Seah Jer Sae Thow had apparently received a warrant of arrest for the possession of an illegal firearm at the beginning of December 2002. He was told to report to the court at the Lomp Kow District Office on 12 February 2003. He asked Seng Sae Thow, the village headman, to accompany him to guarantee his innocence. Seng Sae Thow had received an arrest warrant for drugs trafficking and was also told to report to the District Office. The two men decided to go together in the headman’s truck on 12 February. Seah Jer Sae Thow asked his brother Somchai Sae Thow to accompany him and Boonmar Sae Thow wanted to come along in order to buy medication for his young daughter who had diarrhoea. The four men set off for the District Office that morning, but Seah Sae Thow and Seng Sae Thow were unable to report to the District Officer because he was not in the office, so they decided to return home.

A Hmong villager later discovered the four bodies with bullet wounds in their heads. He called their relatives to identify the bodies, who found signs of other serious injuries on

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<sup>32</sup> Interview with David Feingold, *East Asia Today*, British Broadcasting Corporation, 20 August 2003.

the four men. Seah Jer Sae Thow had blackened eyes and a broken chin; Boonmar Sae Thow's face had a stab wound and the left side of his body was burned; Somchai Sae Thow had a broken neck and collarbone; and Seng Sae Thow had bruises on his body. The white pickup truck and other possessions were reportedly missing.

The police reportedly later stated that these deaths were as a result of drug traffickers killing one another. All the bodies were sent to Somdej Yuppharaj Hospital but no autopsy results were sent to their families. The results of the police investigation and the status of this case are not known at the time of writing.

Six local leaders, all members of the Mien hill tribe from Ban Pa Luang village, Huay Chomphu subdistrict, Chiang Rai province, were killed as they were returning from a local anti-drugs meeting on 28 February. They are: Kiattisak Saksrichompoo, the 46-year-old village headman; Kaoguai Saw Tern, age 40; Ulong Sae Fan, age 36; Bunma Sae Fan, age 29; Uguay Sae Tern, age 29, and Somdej Sae Tern, age 29. They were driving uphill near their village when gunmen in hiding opened fire on their pickup truck. Afterwards police went to the scene and found bullets from AK-47 assault rifles, and nine and 11 millimetre handguns. According to reports the village headman was a drug trafficker, but the other men were not involved in the drug trade.<sup>33</sup> It is not known if any further investigation has been conducted into the murders.

On 25 April Biasue Srimee, a member of the Lisu tribal group, went missing after he left his home in Suthep Sub District, Chiang Mai Province. After he left the house, his two sons went into their rice field where they reportedly saw their father handcuffed and kneeling, surrounded by some 10 policemen, one of whom held a gun to his head. The police officers then arrested the two brothers, accusing them of being involved in drugs trafficking and reportedly kicking them after they forced the two of them to lie on the ground. The police then took them to the Hang Dong district police station and held them there overnight.

The next day two groups of police searched the family house reportedly without a warrant. Later, after the village headwoman received a telephone call about an unidentified body, Biasue Srimee's family went to identify it. They reported that his body had been shot five times, in the forehead, right arm, right calf, left side of the chest, and the bottom of the breastbone. Biasue Srimee had also been stabbed in the back. The family denied any involvement in the *ya ba* trade.<sup>34</sup>

Amnesty International remains concerned by the climate of fear created by the killings and the lack of transparency in the procedures used to carry out the "drugs war". Both of these factors are believed to have prevented witnesses from coming forward to report to investigators. Moreover it is highly likely that the historical impunity enjoyed by state officials for human rights violations has also contributed the unwillingness of witnesses and victims to make complaints to official and unofficial bodies. The most troubling example of such impunity occurred in May 1992 when the security forces killed at least 52 pro-

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<sup>33</sup> *The Bangkok Post*, 1 March 2003.

<sup>34</sup> *The Nation*, 11 June 2003.

democracy demonstrators in Bangkok. Immediately afterwards an amnesty decree absolved them of any prosecution and no one has yet been brought to justice for these extrajudicial executions.

### III. THE RIGHTS OF RURAL AND POOR PEOPLE

*“Please encourage the police and government to recognize that community leaders are not the enemies. We all need to cooperate and work together.”*

Amnesty International Interview with local leader.

In January 2001, *Thai Rak Thai*, Thaksin Shinawatra’s newly-created political party, won the general election and formed a coalition government with Thaksin as Prime Minister. He is the former Chief Executive Officer (CEO) of a communications conglomerate and is believed to be the richest man in the Kingdom. Thaksin was elected on a broad populist platform, which included various proposals to improve the lives of poor Thai people. One of them was the “30 baht<sup>35</sup> health care” plan, which has meant in practice that a visit to a Thai public health clinic would cost only 30 baht for Thai citizens. Another scheme entailed the central government loaning each Thai village one million baht in a revolving fund to use as they saw fit.

Government critics have stated that consultation with local people is key to any reform process, which they said was not being fully addressed by the central government. Many groups representing poor and other marginalized people, including members of hill tribes, land rights and environmental activists, and migrant workers, have proposed their own solutions to economic and social problems, which has led to disputes with the Thai government. Tribal people have increasingly sought full citizenship rights, and have complained about discrimination against them by local authorities. Land rights activists have challenged a succession of arcane and contradictory laws governing land ownership; other activists have protested against dam and gas pipeline construction projects devised without proper local consultation. Groups helping migrant workers from Myanmar have campaigned for their labour rights, including entitlement in practice to the legal minimum wage in Thailand.

The establishment of these new groups was a salient feature of the growth of civil society in Thailand during the 1990s. The May 1992 violent military crackdown in Bangkok against demonstrators protesting the 1991 military coup and a non-elected Prime Minister was a watershed in the human rights movement there.<sup>36</sup> Shortly afterwards democratic elections took place and the central government began to take important steps toward reform, which included provisions for human rights protection. The new Constitution promulgated in 1997

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<sup>35</sup> Some 40 Thai baht is equal to approximately one US dollar.

<sup>36</sup> At least 52 people were killed and scores of other injured or “disappeared” when the military opened fire at thousands of demonstrators. For further information please see *Thailand: the Massacre in Bangkok*, October 1992, AI Index ASA 39/10/92.

and the accession of Thailand to the International Covenant on Civil and Political Rights (ICCPR) the same year were essential components in this reform process.

Article 199 of the Constitution provided for the establishment of a National Human Rights Commission, which is now operational and has the power to subpoena witnesses and information. Chapter III of the Constitution, entitled the Rights and Liberties of the Thai People, provides for equality before the law and also contains provisions against discrimination; illegal arrest and detention; and torture;<sup>37</sup> although it allows for the death penalty. Section 33 guarantees the right of the accused to be presumed innocent in a criminal case. After the constitution's promulgation, the government began to enact enabling legislation, known in Thailand as organic laws, to comply with it, a process which is still taking place.

However in spite of this progress in the protection of human rights, abuses in the criminal justice system have persisted. These include torture and cruel, inhuman or degrading treatment in pre-trial detention and in the prison system. Although the use of confessions obtained under duress for the purpose of evidence is expressly prohibited by Article 243 of the Constitution, confessions continue to be extracted from suspects after torture during interrogation by the police and sometimes the army.<sup>38</sup> For example in November 2002 the National Human Rights Commission found that three people had been given electric shocks, held in pits, and beaten by Thai Rangers, a paramilitary group, in order to extract confessions about drug trafficking in Mae Ai District, Chiang Mai Province.<sup>39</sup> Poor people, members of ethnic minorities and migrant workers are particularly vulnerable to these human rights violations.

One important aspect of the growth of civil society in Thailand during the 1990s has been the flourishing of local and national groups focussing on economic, social and cultural rights. In 1999 the Royal Thai Government acceded to the United Nations Covenant on Economic, Social and Cultural Rights, a welcome development. Article 45 of the 1997 Constitution protects the right to form organizations, including "*an association, a union, league, co-operative, farmer group, private organization or any other group*". Article 46 of the Constitution, which is quoted in its entirety below, provides for local consultation about projects affecting peoples' lives, as do Articles 56 and 290:

*"Persons so assembling as to be a traditional community shall have the right to conserve or restore their customs, local knowledge, arts or good culture of their community and of the nation and participate in the management, maintenance, preservation and exploitation of natural resources and the environment in a balanced fashion and persistently as provided by law."*

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<sup>37</sup> Sections 30 and 31 respectively of the Constitution.

<sup>38</sup> Please see *THAILAND: Widespread abuses in the administration of justice*, June 2002, AI Index 39/003/2002.

<sup>39</sup> *The Bangkok Post*, 8 November 2002.

One of the largest such associations formed during this period is the Assembly of the Poor, an umbrella group established in December 1995, with member organizations from the urban poor, and local farmers' and fisher folk organizations. It brings together six networks: people affected by dam projects; land and forest conflicts; government infrastructure projects; slum problems; and labour rights. In March 1996 and again in January 1997 thousands of members of the Assembly of the Poor peacefully occupied land near Government House in Bangkok for 30 and 99 days respectively in order to publicize their demands, which was tolerated by the government.

However many of these groups have been in conflict with local and central authorities as well as local business interests involved in infrastructure or extractive industry projects. Other areas of conflict include long-standing disputes about land rights, involving use of forests and cultivation of unused land whose ownership is unclear. In March 2002 a group of protestors rallied in front of the Provincial Hall in Chiang Mai, northern Thailand, and presented a list of eight demands. Various farmer's and fisher folk groups joined with tribal people to present their case, which included revision of citizenship laws for hill tribe people and various requests about land rights and resource management. During March 2002 the Prime Minister met personally with the protestors and called on his government to help resolve various disputes. However many of these conflicts continue, including three examples which are briefly discussed below, as well as cases of grave abuses against local rural activists.

The three cases below are from three different areas of Thailand; the anti-Pak Mun Dam group in the northeast; the anti-Thai-Malaysian natural gas pipeline group from the far south; and the Lamphun land rights group from the north. There is also information about assassinations and assassination attempts against rural activists. In all of these examples local activists have faced a number of human rights abuses, while the Thai authorities have not provided them with adequate protection so that they can continue their work without fear. Amnesty International calls on the Thai Government to provide proper protection to human rights defenders, particularly those living in remote rural areas, so that they are not subject to harassment, intimidation, or even assassination.

### **Assassinations and attempted assassinations of community leaders**

Unsolved murders of environmental and land rights activists, usually by unknown assailants, has been an ongoing concern in Thailand for several years. During 2001 six environmental activists were known to have been murdered, including Jurin Rachapal, who was killed in January of that year. He had been involved in protests against the destruction of mangrove forests for prawn farming in Phuket Province. At the time non-governmental organizations and others criticized the lack of progress in the murder investigations and insufficient government protection of potential victims.

In 2002 five community leaders, all men, were known to have been deliberately killed by unknown assailants. They are: Boorith Charnarong, Surat Thani Province, a community leader opposing illegal timber trading, killed on 15 December 2002; Preecha Thonpan, an

activist opposing the construction of a local water treatment facility in Nakhon Sri Thammarat Province killed on 27 September 2002; Boonsom Nimnoi, a community leader who protested against a mineral separation plant in Petchaburi Province, shot dead on 2 September 2002; Boonyong Intawong, a leader opposed to a rock grinding plant in Chiang Rai Province, killed on 20 December 2002; and Kaew Pinpanma, a member of the Northern Farmers Federation from Chiang Mai Province who was shot dead on 23 June 2002. It is not known if investigations have been conducted into these murders, or if anyone has been brought to justice. Amnesty International seeks clarification from the Royal Thai Government about the status of any such efforts on the part of the government.

The last victim named above, Kaew Pinpanma, a 59-year-old community leader from Doi Loh sub district, Chiang Mai Province, was reportedly shot dead three days after his field hut had been burned down. He was one of over 200 families who were reportedly cultivating vacant and unused land, a practice employed by the land rights movement in northern Thailand. Various plots of rural land which have not been used for many years, and whose ownership is not always entirely clear, have been occupied by farmers, which has caused conflict among local authorities, businesspeople, and the farmers themselves.

Kaew Pinpanma was reportedly at a cemetery at night when he was shot in the back by two gunmen. Some time earlier he had apparently refused to move off the land after he was told to do so by the owners.<sup>40</sup> A few days before his neighbours were also warned by local leaders to leave the land or face “*tough action*”.<sup>41</sup> One of the gunman, who may have been hired by local business people, has reportedly been arrested, although the results of any prosecution are not known to Amnesty International.

Boonyong Intawong, the penultimate name listed above, was shot dead at his house after leading a protest against the Doi Mae Ork Roo rock grinding plant, which was reported to encroach on a forest and to have damaged local caves. Boonyong was the assistant village headman of Ban Rong Haa, Pha Ngam subdistrict, Wieng Chai district, Chiang Rai province. On 2 December 2002, 18 days before his murder, he and other villagers had brought officials from Bangkok to inspect the impact of the plant on the river. The plant was owned by a powerful local politician. Before his murder Boonyong was reported to have been threatened with death if he did not stop his protest; after his murder, fellow villagers have also been threatened.<sup>42</sup>

More recently on 1 February 2003 Kham Pan Suksai, a village headman and farmer in Muang Na sub district, Chiang Dao district, Chiang Mai Province, was shot dead in the head in Chiang Dao town. According to informed sources, he and fellow villagers had attempted to prevent forestry officials from logging in their community forest. The logs were cut anyway, and Kham Pan tried to prevent the felled logs from being removed. He was later in Chiang Dao town, cooking food for local villagers, when a someone on a motorcycle drove by and shot him. There were believed to have been many witnesses to the killing.

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<sup>40</sup> *The Nation*, 25 June 2002.

<sup>41</sup> *Bangkok Post*, 26 June 2002.

<sup>42</sup> Working Group on Human Rights Defenders in Thailand.



Chankaew Kaewdaeng, a low level forestry official, reportedly turned himself in and claimed that he shot Kham Pan in revenge. He said that he was angry because Kham Pan had filed a charge against him of forest encroachment two years previously.<sup>43</sup> He was believed to have been released by the police after 15 days for lack of evidence. To Amnesty International's knowledge, no one else has been arrested and brought to justice in this case.

Amnesty International is concerned by the continued killings of human rights defenders, particularly rural activists, and calls on the Thai Government to exercise due diligence in providing protection for them. It also urges the authorities to ensure prompt, effective, impartial and independent investigations into abuses against such vulnerable people, and to bring those found responsible to justice.

### **The case of Watcharin Uprajong, local leader and farmer**

Watcharin Uprajong, a 48-year-old member of the sub district administrative council from Ban Hua Fai village, Sridong Yen sub district, Chai Prakan district, Chiang Mai Province, was the subject of an assassination attempt on 16 June 2002. He left his house alone at between 600 and 630 am that day to attend a meeting in his pickup truck. He was approximately seven kilometres from his village on a downhill slope, and as he braked for a turn, he was shot at with an automatic rifle and a shotgun. He was hit in the chest but managed to speed off until the truck broke down, when he got a ride to the local police station. He survived because the bullet only grazed his chest. The serial number of the two weapons, which the gunmen left at the scene, was reportedly an official government serial number, although police reportedly claimed the number was falsified.

Immediately after the event the police accompanied Watcharin to the scene of the crime and also visited his village regularly to provide some protection. However the police failed to follow the trail of the gunmen at the scene of the crime. Six months after the shooting, Watcharin remained in hiding. Moreover no suspects had been arrested or charged, amid concerns for Watcharin's and other villagers' safety. To Amnesty International's knowledge, no one has yet been arrested and brought to justice, as the prosecutor does not appear to be pursuing the case.

Watcharin lived in a mixed village of tribal people and ethnic Thais in a watershed area, where the villagers were working to conserve water and ensure that deforestation and logging did not occur. The villagers had set up a system of patrols to monitor logging in their local forest which the district authorities reportedly did not approve of. This caused a dispute when the villagers claimed that they were exercising their constitutional right. In 2001 villagers had made "citizens arrests" of illegal teak loggers who were caught *in flagrante*. After the attempt on Watcharin's life, the villagers also received threats from the local authorities if they persisted in their work.

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<sup>43</sup> *The Nation*, 4 February 2003.

Amnesty International is concerned that the authorities has not effectively and promptly investigated the attempted murder of Watcharin Uprajong, and that almost 18 months after the attempt on his life, no one has been brought to justice.

### **Pak Mun Dam**

The Pak Mun Dam in Ubon Ratchathani Province, was constructed by the Electricity Generating Authority of Thailand (EGAT), a state enterprise, with financing from the World Bank, from 1991 to 1994 on the Mun River, the largest tributary of the Mekong River, in northeast Thailand. Local people, including fisher folk who depend on the river for their livelihood, have been protesting against the dam construction since the beginning of the project. According to the Assembly of the Poor, the Pak Mun Dam project has violated four provisions of the Covenant on Economic, Social and Cultural Rights, to which Thailand is a State party. The four articles are: Article 1.2, the right to “*freely dispose of their natural wealth and resources*”; Article 11.1, the right to adequate food; Article 6.1, the right to work; and Article 15.1, “*the right of everyone to take part in cultural life*”.<sup>44</sup> The dam has adversely affected the livelihoods of local fisher people, as fish stocks have declined and vegetation on the banks of the river and its tributaries are no longer available food sources for the local population.

Protesters established camps near the dam site, bringing them into conflict with EGAT and with villagers who support the dam construction. In March 1993 anti-dam protestors were reportedly beaten by police with clubs during a demonstration, inuring some 30 demonstrators. During 1999 the protest site near the dam was raided and burned down three times.<sup>45</sup>

Protests against the dam have continued both in Ubon Ratchathani near the dam site and in Bangkok. In a compromise move, the Thaksin government opened the sluice gates of the dam from June 2001 until 1 November 2002. During that time fish stocks reportedly revived, enabling more people to gain their livelihood through fishing. However after the sluice gates were closed, fish species again declined, causing hardship for local people.

In September 2002 a group of elderly villagers who were protesting against the Pak Mun dam project were dragged from Ubon Ratchathani town hall and roughly treated by inebriated paramilitary forces. In December 2002 protest sites in both Bangkok and Pak Mun Dam were destroyed by unidentified assailants amid complaints that the government did not adequately protect the protesters.

The attack on 5 December 2002 was made by people armed with machetes, knives, and batons, who threatened protesters who were camping in front of Government House in Bangkok. The protesters’ belongings were destroyed during the attack.<sup>46</sup> Prime Minister Thaksin expressed his concern about the attack and a government investigation was

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<sup>44</sup> Hannah El-Silimy, Robin Reineke, and Allyn Steele, 16 December 2002, as quoted in *the Nation* website.

<sup>45</sup> *The Nation*, 9 December 2002.

<sup>46</sup> *The Nation*, 6 December 2002.

launched. However to Amnesty International's knowledge, the results of the investigation have not been made public, and no one has been brought to justice for the attacks. At the time the Prime Minister also reiterated that the sluice gates would remain closed.<sup>47</sup> A second attack occurred on 15 December at the protest site near the dam itself in Ubon Ratchathani Province, when 250 shelters were destroyed.<sup>48</sup> No one was injured during the December attacks.

Since the beginning of the protests in the early 1990s leaders of the protests have been subjected to harassment and intimidation. During 2003 one leader received threatening anonymous telephone calls and others have been threatened by local leaders who support the dam. In November 2002 another anti-dam activist received threats from local EGAT officers.

Amnesty International is concerned that the Thai government, both on a local and central level, is not providing adequate protection to the protesters, nor does it appear to be initiating proper investigations into the abuses they have suffered. Amnesty International is further concerned that local people who oppose the construction of Pak Mun Dam have been subjected to intimidation, threats, and other forms of harassment during their legitimate and peaceful protest activities. The organization calls on both local and national authorities to provide adequate protection to them, and to conduct prompt and effective investigations into abuses against them.

#### **Thai-Malaysian natural gas pipeline project**

A natural gas pipeline project from Malaysia to Thailand is one of several infrastructure and extractive industry projects facing opposition from local people, placing them into conflict with the Thai authorities. In 1994 Petronas, a Malaysian conglomerate, and the Petroleum Authority of Thailand (PTT), a 70% Thai government-owned energy firm, signed an agreement for an offshore natural gas pipeline and gas separation plant at Jana in Songkla Province, southern Thailand.<sup>49</sup> Since the late 1990s local fisherfolk, who are mostly members of the Muslim religious minority in Thailand, have protested against the project's construction because they believed it would adversely affect their traditional way of life and pollute the Gulf of Thailand. In July 2003 PTT began construction of the pipeline amid continuing protests. According to widespread reports, Thailand has a surplus of natural gas.

Tensions escalated during a December 2002 government meeting in Hat Yai, Songkla Province when anti-pipeline protesters from Jana and Sagom Districts attempted to hand over a petition to Prime Minister Thaksin. That evening a group of some 2,000 people gathered in front of the JB Hotel in order to submit a petition to the Prime Minister, who was attending the meeting there. An aide to the Prime Minister had reached an agreement with them about a demonstration and instructed them to sit and wait in a designated area. However after the protesters complied, some 1,000 police confronted the protesters, resulting in some demonstrators being injured. Police officers reportedly beat the protesters with batons while

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<sup>47</sup> *The Nation*, 7 December 2002.

<sup>48</sup> *The Bangkok Post*, 16 December 2002.

<sup>49</sup> *The Irrawaddy*, a magazine published in Thailand, July 2003.

they were praying or eating dinner. Some police officers were also believed to have been injured. Amnesty International issued a statement on 24 December expressing concern about the excessive use of force by the local police against the demonstrators.

Twelve leaders of the group were detained and released on bail three days later. They were charged on six counts, including carrying arms in public without permission; disturbing the peace; violently resisting an official; causing property damage; causing bodily harm; and leading an assembly in order to commit violence. However according to videotape footage of the demonstration, none of the 12 had committed any acts of violence. Another eight community leaders were arrested after the 20 December demonstration on the same charges, and also released on bail. At the time of writing, the court case against the 20 people is continuing.

The National Human Rights Commission appointed a subcommittee to investigate the events, who reported their findings on 11 June 2003. They concluded that excessive use of force was used by the police and that the detained people were denied access to lawyers, families, and were not informed of the charges brought against them. Also in June a Senate panel report suggested that excessive use of force by the police had been employed during the 20 December protests, which Prime Minister Thaksin refuted.<sup>50</sup>

Other leaders of the anti-pipeline protests have received anonymous threats and have been the subject of surveillance by the local authorities. One leader received anonymous phone calls for several months telling her to stop protesting; her house was also under surveillance and in April 2003 someone attempted to run her off the road when she was returning home at night. Nevertheless the anti-pipeline protesters have continued their activities, including the occupation of a protest site at Lan Hoi Sob, Chana District. The government has stated that it will go ahead with the project.

Amnesty International remains concerned that the police used excessive force in confronting the demonstrators on 20 December 2002. The organization is also concerned that local leaders are being targeted for prosecution in the court system and that some of them have also been subjected to intimidation and harassment.

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<sup>50</sup> *The Nation*, 18 June 2003.

### **Land rights activists in Lamphun Province, northern Thailand**

Land use for cultivation by farmers and other rural people has been a disputed issue for decades in Thailand, partly due to a lack of transparency in the land ownership laws. For example tribal people who had lived in forest areas for decades have been evicted after the forest was declared a National Park, even though when they originally moved to the land it was not restricted. Agriculture is one of the largest industries in the Kingdom, particularly rice farming, and in 2002 Thailand was the top rice-exporting country in the world.<sup>51</sup> Successive governments have made attempts at land reform for poor farmers, but lack of consistency in policy implementation; corruption in obtaining land deeds; and contradictory land laws have contributed to the ongoing problem of land reform. The current Thaksin administration has recently promised that it will grant one million poor farming families free land, and that the mechanism for this will be in place by January 2004.<sup>52</sup>

One of the most notable cases of a land rights dispute began during 2000 in Lamphun Province, northern Thailand. Problems of land tenure and ownership are reported to be particularly acute in that province. From 1997 onwards a group of farmers organized by the Northern Farmers Alliance began to occupy vacant plots in three Lamphun districts: Ban Hong, Pasang, and Vieng-Ngong Long. Some of the land was reportedly public land, whereas other plots were owned by private individuals, who held the land deeds. According to reports, much of the vacant land held by individuals in Lamphun Province was used as collateral for bank loans. During the pan-Asian economic crisis, which began during 1997 in Thailand, some of this land reverted to the banks when the owners defaulted on their bank loans. Also as a result of the 1997 economic crisis, many Thai people lost their jobs in urban centres around the country, and returned to their home villages in rural areas, where they had no land or means to earn a living.

As the land occupation continued and expanded during 2000 in Lamphun Province, four of the owners filed a lawsuit that year against these farmers. On 22 January 2001, some 400 farmers held a demonstration at the Lamphun Town Hall, presenting a list of demands for land redistribution and reform. In response the Governor of Lamphun set up a committee in 2001 in order to resolve this dispute, but the committee's work has not yet been finished.<sup>53</sup> In early 2002 farmers began to occupy more plots of land in Lamphun Province. The local authorities attempted to dissuade the farmers from this occupation, but they continued to remain on the land and staged more demonstrations, demanding that the Governor solve the problem of landless farmers in the province.

During April and May 2002, as tensions escalated after the March demonstrations in Chiang Mai, just north of Lamphun,<sup>54</sup> 26 farmers and land rights activists in Lamphun Province were detained in a series of arrests by the police. Some of them were charged with

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<sup>51</sup> Consultative Group on International Agricultural Research website, <http://www.cgiar.org/>.

<sup>52</sup> *The Nation*, 15 September 2003.

<sup>53</sup> The Working Group on Human Rights Defenders in Thailand.

<sup>54</sup> Please see above; farmers from Lamphun Province and elsewhere joined with hill tribe people in the Chiang Mai demonstration.

over 40 separate offences, including trespassing and damaging property. The farmers reported that they understood the charge of trespass, but did not know why they were being charged with property damage. They were apparently told that they were being accused of destroying teak trees, but according to the farmers there were no teak trees on these plots of land.

They were eventually all released on bail, but seven of the 26 people were detained without bail for 53 days in extremely overcrowded prison conditions with very poor sanitation and food. Detainees reported that the Lamphun provincial prison was so crowded that it was impossible for everyone to sleep at the same time. Bail was reportedly set at levels varying from 50,000 baht per person to 100,000 per offence. Bail was eventually negotiated for all 26 farmers, but not before many of them had been held in pre-trial detention conditions amounting to cruel, inhuman or degrading treatment. Apparently overzealous prosecutors bringing multiple charges on the grounds of trespassing and property destruction set bail at inordinately high rates. Amnesty International is concerned by what appears to be discriminatory practices by the criminal justice system against land rights activists and by their poor conditions of detention. The cases are ongoing in court.

Also during May 2002, hundreds of police, accompanied by the land owners went to areas of Pasang District on two occasions, uprooting the farmers' orchards and burning their field huts and vegetable plots. Plots of land in Pasang District were believed to have been allocated in the past by the authorities to villagers to use for farming, but local business people held the land deeds.

Leaders of the Northern Farmers Alliance have repeatedly received anonymous threatening phone calls and were also under covert surveillance during 2002. In mid 2002 a bullet was received by a local farmer and activist in Lamphun Province from an anonymous source, presumably as a warning about his activities. Human rights defenders in Thailand, including rural activists, tribal leaders, and staff of non-governmental organizations in the provinces and in Bangkok, are often targets of such abuses particularly if they have recently been critical of government policies and practices. Amnesty International urges the Thai Government to provide protection for such human rights defenders; to initiate prompt and effective investigations into abuses against them; and bring those found responsible to justice.

#### **IV. THE RIGHTS OF MIGRANT WORKERS FROM MYANMAR**

Migration to Thailand from neighbouring countries has increased dramatically in recent years, particularly from Myanmar, which accounts for an estimated 80% of migrant workers in the Kingdom. An estimated one million people from Myanmar are currently living in Thailand.<sup>55</sup> Some 140,000 of them are staying in refugee camps along the border, but the vast majority are working in low-paying jobs, or looking for work. Many migrant workers from Myanmar have suffered from human rights violations such as forced labour and forcible relocation at

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<sup>55</sup> *Bangkok Post*, 20 December 2002.

the hands of the Myanmar military. In particular members of the Shan ethnic minority from the South-central Shan State in northeastern Myanmar, have been victims of a wide range of human rights violations in the context of counter-insurgency operations against Shan armed opposition groups. The Shan ethnic minority people are not permitted by the Royal Thai Government to live in refugee camps.<sup>56</sup>

The Royal Thai Government has adopted a series of measures to legalize the employment of migrant workers in some sectors of the Thai economy, including agriculture, fisheries, the garment industry, construction, and domestic service. Nevertheless migrant workers are extremely vulnerable to exploitation, particularly extortion and physical abuse, at the hands of smugglers, employers, or the local police. Amnesty International has raised concerns about these issues, most recently in July 2002 in a report entitled *MYANMAR: Lack of Security in Counter-Insurgency Areas*, which examined both the human rights situation in Myanmar and the problems migrant workers from Myanmar face in Thailand.<sup>57</sup>

In August 2001 the Royal Thai Government established a new registration system for migrant workers from neighbouring countries; some 560,000 workers subsequently registered. In late 2002 those who originally registered were eligible to re-register, but only 281,162 registered.<sup>58</sup> In August 2003 the Thai Labour Minister reported that the cabinet has resolved to permit more than 400,000 registered migrant workers, to continue working in Thailand for one more year.<sup>59</sup> During September 2003 migrant workers who had previously registered could re-register, but those who had never gone through the process or who had lost their jobs were not eligible. Also only migrants working in certain sectors of the economy, including agriculture, factory work, and fisheries, were permitted to register.

Registered workers are theoretically exempt from arrest and deportation by the Thai authorities but those found without a registration card are vulnerable to arrest. In practice employers often retain the workers' registration cards and provide them with a copy, which does not prevent them from being arrested. Moreover police in areas of large concentrations of migrants from Myanmar often arrest both registered and unregistered workers, demanding a bribe before releasing them. Much of migrant work is seasonal and workers can spend long periods of time unemployed. When they are working, they usually make far less than Thailand's minimum daily wage and most report working extremely long hours.

The Royal Thai Government has not ratified two of the core International Labour Organization (ILO) Conventions, Convention No 87, Concerning Freedom of Association and

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<sup>56</sup> Beginning in 1998 Amnesty International published a series of reports on the human rights situation in the context of the Myanmar army's counter-insurgency activities against the Shan State Army South (SSA-South); most recently *MYANMAR: Lack of Security in Counter-Insurgency Areas*, AI Index ASA 16/007/2002, 17 July 2002.

<sup>57</sup> Please see above, pages 37- 43.

<sup>58</sup> *Bangkok Post*, 9 September 2002. This number also includes workers from Cambodia and Laos.

<sup>59</sup> *Bangkok Post*, 20 August 2003

Protection of the Right to Organise, which protects the rights of workers to organize themselves; and Convention No 98, Concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, which further protects trade union rights. Moreover the Government has not ratified two other core ILO conventions, Convention 111 on racial discrimination and sexual harassment; and Convention 138 regulating minimum age for work.<sup>60</sup> Amnesty International urges the Royal Thai Government to ratify all eight core ILO Conventions as a means of protecting both Thai and migrant workers.

On 1 July 2003 the United Nations (UN) International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families entered into force as an instrument of international law. This treaty imposes a series of obligations on State parties to promote *inter alia* “sound, equitable, humane and lawful conditions” for migrant workers. Amnesty International calls on the Royal Thai Government to become a State Party to this treaty as an important step in the protection of migrant workers.

Migrant workers who register to work are entitled to some protection under the Labour Protection Act of 1998, but are not permitted to form unions. Both Thai and Myanmar nationals who attempt to help migrant workers are themselves liable to harassment. Several of them have received threatening anonymous phone calls and others are under frequent surveillance. Moreover during certain periods migrant workers are at an increased risk of arrest and deportation. During the recent APEC meeting in October, hundreds of Cambodian beggars were deported to Cambodia and hundreds of workers and beggars from Myanmar were reportedly sent across the border to Myawaddy, a Myanmar border town on the Myanmar side of the Moei River.

### **The murder of six migrant workers from Myanmar – May 2003**

On 14 May 2003 six migrant workers were killed in Mae Sot, a town on the Thai-Myanmar border in Tak Province, where tens of thousands of migrants from Myanmar work, most of them in local factories and in agriculture. This border is also a common smuggling route for agents who bring Myanmar nationals into Thailand. Migrants pay large fees to smugglers and are also at risk of physical abuse. In February 2002 local police announced that they had discovered the bodies of some 20 people from Myanmar in a stream, where they had been dumped after having been shot dead. However at the time of writing the investigation into these murders had not been completed and no one had been brought to justice. Amnesty International reported these killings in its July 2002 report, but has received no information about the Royal Thai Government’s efforts to conduct an investigation into this case. Unofficial sources have stated that no investigation has been completed because the family members of the 20 murdered migrants were not present to pursue the case.

According to widespread reports in both the English language and Thai language press, six men, Min Hein, age 28; Thein Naing, 33; Aye Min, 22; Ah Nge Lay, 19; Maung Maung, 24, and Ah Nyar Thar, 22, were killed on 14 May 2003 in Mae Sot District, Tak Province. A group of migrant workers, including Aye Min, was accosted by local Thai men

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<sup>60</sup> The ILO has designated eight Conventions as Core.



in an attempt to extort money from them as the group was walking through fields near the Uni Ocean factory in Sub district Mae Pa. Aye Min, who could speak some Thai, was released and taken by one of the Thai men to a dormitory area of a factory in order to extort 300 baht from each migrant worker there.

Of the remaining migrants, two were released and the others were taken to the Mae Sot Governor's Office and detained there for a few days until they were released unharmed. It is not known why they were arrested, but some sources state it is because they did not pay bribes to the Thai men.

In the meantime the remaining Thai men sent another migrant worker along with one of their number to the same factory compound. The Burmese male migrant workers there chased the Thai man away, as they reportedly believed him to be a drugs trafficker. The migrants eventually caught up with the Thai man and a fight ensued. Some of original Thai men appeared and fired shots in the air, at which point some of the migrant workers fled the scene. However six of them, Aye Min, Min Hein, Thein Naing, Ah Nge Lay, Maung Maung, and Ah Nyar Thar were seized by the Thai men and taken to the house of the village headman in Ban Song Khwe and reportedly beaten up.

The six men were eventually taken away the same day in a pickup truck by men dressed in uniforms.<sup>61</sup> On 23 May their bodies were discovered in a forest near Huay Kalok village, Mae Sot District. The bodies had been burned and spent pistol cartridges were found at the scene.<sup>62</sup>

Relatives of the victims filed a complaint with the National Human Rights Commission and the Law Society of Thailand, both of whom sent representatives to Mae Sot. On 29 May Amnesty International wrote to Prime Minister Thaksin Shinawatra about the case, calling on the government to ensure that a prompt, effective, impartial, and independent investigation take place. The letter also urged the government to bring those found responsible to justice, in line with Thailand's obligations as a State party to the International Covenant on Civil and Political Rights (ICCPR). On 3 June Amnesty International received a reply from the Prime Minister's office stating *inter alia*: "*The Prime Minister is very concerned about this case in particular and about any cases regarding the violation of migrant workers in Thailand in general. He, therefore, has instructed the Royal Thai Police and the Mae Sot police authorities to hasten the investigation into the case and report any developments to him.*" Amnesty International welcomes these developments and calls on the Royal Thai Government to exercise due diligence in the timely prosecution of this case.

The Myanmar authorities also reportedly requested the Thai authorities to conduct an investigation,<sup>63</sup> which was initiated by Region 6 of the Royal Thai Police, covering the Mae Sot area. In the meantime relatives of the victims and eye witnesses to the beatings and abduction of the six men went into hiding in fear of reprisals, and are currently under police

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<sup>61</sup> *The Bangkok Post*, 26 May 2003.

<sup>62</sup> *The Nation*, 26 May 2003.

<sup>63</sup> *The Irrawaddy*, an English language publication covering Southeast Asia, 26 May 2003.

protection. On 31 May police arrested a local kamnan, or head of the sub district, and charged him with murder of the six migrant workers. Police officials reported that the evidence indicated that the kamnan had ordered members of a village security team to kill the workers.<sup>64</sup> The Tak Province police chief reportedly instructed local authorities to deny him bail, but on 2 June he was granted bail after villagers allegedly petitioned for his temporary release.<sup>65</sup>

The case is continuing in the Thai court system. The wife of one of the victims, the only family member in Thailand, was reportedly willing to give power of attorney to the Law Society of Thailand. However the court reportedly did not permit a Thai Law Society lawyer to represent the victim's wife because she did not possess a marriage certificate. As there was no legal counsel permitted to represent the plaintiffs, only the public prosecutor formally initiated the case. Other witnesses for the plaintiff had reportedly already been sent back to Myanmar. On November 4 -5, 2003, witnesses' statements on extortion will be examined. In spite of the continuing court case, Amnesty International remains concerned that the Thai Government has not done enough to protect the migrant workers, particularly the witnesses and relatives of the victims.

### **Arrest and Deportation of Migrant Workers in labour disputes**

On several occasions during 2002 and 2003, migrant workers from Myanmar who protested against their lack of basic labour rights were arrested and deported from Mae Sot to Myawaddy, a town directly across the border in Kayin State, Myanmar. Some of these workers had registered with the Thai authorities and held valid work permits. Others had not registered and were thus considered to be "illegal immigrants" under Thai law, and at risk of deportation. Migrant workers from Myanmar are routinely arrested in many areas of Thailand and deported to the border, where they often make their way back into Thailand with the help of smugglers.

The two cases summarized below illustrate the harassment and intimidation which migrant workers can face if they demand to be paid properly and provided with adequate working and living conditions. In both instances, the employers appeared to have contacted the Thai immigration police after refusing to resolve a labour dispute. The protesting migrant workers were arrested and sent to the border in what appears to be a targeted effort by the police to silence their demands for basic labour rights.

#### **Nut Knitting Factory, Mae Sot**

On 7 October 2002 a group of some 60 Burmese migrant workers at the Nut Knitting Factory were dismissed from their jobs after they had protested to their employer about his refusal to help 19 fellow migrant workers register, thus putting them at risk of arrest.<sup>66</sup> The 19

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<sup>64</sup> *The Bangkok Post*, 1 June 2003.

<sup>65</sup> *The Bangkok Post*, 4 June 2003.

<sup>66</sup> Employers normally pay the 1500 baht registration fee for each of their migrant employees, per the Thai regulations on migrant labour, but they then deduct part of this fee each month from the

unregistered workers had in fact been arrested by the police on 23 September and were held at the Mae Sot Police Station Immigration Detention Centre. The employer reportedly refused to bail them out. After the 60 workers were dismissed, the employer forced them to leave the factory compound without being able to collect their belongings from the dormitories. The employer called the police who reportedly told the workers that they had no rights and then left. Five Thai men then arrived on the scene and reportedly beat the workers with iron and plastic pipes.

The workers were only paid an average of 77 baht per day, slightly more than half the legal minimum wage in Tak Province of 133 baht per day. They worked 15 hours per day and were paid one packet of instant noodles for their overtime work. Thirty-three of them took their grievance to Tak Province Labour Protection Department in order to demand unpaid wages. In February 2003 this office ruled that the 33 must be paid 4,643,906 baht in total, a ruling which the employer ignored.<sup>67</sup> Under Article 151 of the Labour Protection Act of 1998, the employer had 30 days to appeal against the verdict, or be liable to up to one year imprisonment and/or a 20,000 baht fine. In April 2003 the Law Society, representing the workers, took their case to the Nakon Sawan Labour Court in order to obtain enforcement of the order from the Tak Province Labour Protection Department. At the time of writing, the case is ongoing and further hearings were scheduled to occur from 27 to 31 October and 4 to 7 November 2003.

On 21 April 2003 26 of the workers were arrested by immigration police, taken to the Mae Sot Immigration Detention Centre (IDC) and then taken to the border.<sup>68</sup> Some of them are in hiding but are able to attend the court hearings. Amnesty International is concerned by a number of problems facing migrant workers in Thailand when they demand their rights. If they lose their jobs for protesting to their employers, under Thai law they are at risk of arrest and deportation, and thus have no means for seeking redress.

#### **King Body Concept Co. Ltd Factory**

Amnesty International has received detailed and reliable reports regarding another labour dispute in Mae Sot, Tak Province. The King Body Concept Factory employed some 420 migrant workers from Myanmar, all of whom were believed to have possessed valid Thai work permits. Beginning in June 2003, the living conditions for the migrants, who stayed in dormitories provided by the company, were reportedly very poor. Dormitories were overcrowded, and sanitation facilities and water supplies were inadequate. For example on 16 June there was no drinking water whatsoever for the workers. In addition migrant workers were only being paid 55 baht per day whereas Thai workers were paid 133 baht per day, the legal minimum wage for Tak Province. Migrant workers were also reportedly forced to work long hours of overtime, but were not adequately compensated.

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employees' wages.

<sup>67</sup> *The Bangkok Post*, 24 April 2003.

<sup>68</sup> *Ibid*, 26 April 2003.

On 18 June all the migrant workers signed a petition demanding that they be paid 80 baht per day and that their living and working conditions be improved by the employer. After receiving no response from the employer, on 20 June the workers sent a formal complaint to the Tak Province Labour Protection Department. The Labour Protection Office told the migrants that they would send an official to the factory on 23 June. That day the official met with the factory owner and also met with 10 representatives of the migrant workers. During the latter meeting, a combined force of Mae Sot Police, Immigration Police, and armed soldiers reportedly surrounded the remaining migrant workers in the factory compound. In the meantime the employer said he would not meet the workers' demands, and that they were dismissed. The workers asked for two months' wages but the owner only gave them one month's salary.

The combined security forces arrested the 420 workers and transported them on trucks to the Mae Sot Immigration Detention Centre (IDC). They were deported to Myanmar at 5pm on 23 June. According to Thai law, they had seven days after having been dismissed to find another job in Thailand before they should have been deported to Myanmar. Amnesty International believes that they were arrested and deported solely for peacefully exercising their rights to freedom of association and for demanding the rights to which they were entitled under Thai law and international labour standards. With regard to the rights of migrant workers, Amnesty International calls on the Thai Government to ensure that migrants peacefully attempting to ask for their labour rights under Thai and international law are able to do so without fear of harassment, arrest, and deportation.

## **V. CONCLUSION AND RECOMMENDATIONS**

In the last 11 years, the Royal Thai Government has taken important steps in improving the human rights situation in the Kingdom. These include the promulgation of a new Constitution which protects many fundamental rights; accession to the ICCPR and the ICESCR; and the establishment of an independent National Human Rights Commission and other mechanisms. A new Constitution was drafted with popular participation for the first time in Thai history in 1997. Many Thai people became aware of their rights and began to claim them by directly approaching their government and through other peaceful means, including by joining organizations and staging public protests. Moreover a relatively free press which reports human rights violations on a regular basis has contributed to the protection of human rights in Thailand. Finally, successive administrations in the last 11 years have made some genuine attempts to consult the populace and find solutions to common problems.

Nevertheless Amnesty International remains concerned at the inconsistent levels of protection offered to people in Thailand by a democratically-elected government. Those who are poor, live in rural areas, are members of ethnic minorities, or are migrant workers are particularly at risk of abuse. Human rights defenders, who are themselves often members of these marginalized groups, are also vulnerable. Government critics, rural activists, and others

demanding their rights or the rights of their fellow citizens are not receiving adequate protection from either local or central government authorities.

In order to ensure that all sectors of Thai society receive adequate protection from abuse, Amnesty International makes the following recommendations to the Royal Thai Government:

**Killings of drugs suspects**

1. Make public the list of 2,245 people who were killed from 1 February through 30 April 2003 during the anti-drugs campaign.
2. Send a clear public message to the national police force, the military, and paramilitary groups, that extrajudicial executions by the security forces are not acceptable.
3. Ensure that all suspicious deaths are promptly, effectively, independently, and impartially investigated.
4. Ensure that the work of the two government-appointed committees have adequate resources to conduct their work.
5. Ensure that witnesses and families receive protection if they provide information.
6. Ensure that the National Human Rights Commission can conduct its work without interference and ensure that they receive adequate resources to do so.
7. Bring those found responsible for extrajudicial executions to justice, in order to send a clear message that no one can commit such crimes with impunity.
8. Invite the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions to visit Thailand in order to assess the situation and make appropriate recommendations.
9. Submit their first periodic report on the International Covenant on Civil and Political Rights to the UN Human Rights Committee as soon as possible in order to *inter alia* seek guidance on how to bring those found responsible for killings in the anti-drugs campaign to justice, while ensuring respect for human rights.

**Protecting the rights of rural people and human rights defenders**

1. Ensure that local people are properly consulted on infrastructure and extractive projects in line with Article 46 of the Constitution.
2. Provide local rural activists with adequate protection by instructing local authorities to ensure that they do not become targets for those who oppose their views.

**Protection for migrant workers**

1. Ratify the core International Labour Organization (ILO) Conventions, Convention No 87, Concerning Freedom of Association and Protection of the Right to Organise, which protects the rights of workers to organize themselves; and Convention No 98, Concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, which further protects trade union rights. Ratify two other core ILO conventions, Convention 111 on racial discrimination and sexual harassment; and Convention 138 regulating minimum age for work. Amnesty International urges the Royal Thai Government to ratify all eight core ILO Conventions as a means of protecting both Thai and migrant workers.
2. Ratify the United Nations (UN) International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families.
3. Ensure that migrant workers are not arbitrarily arrested by local police if they are registered as migrant workers.
4. Ensure that those migrant workers who peacefully demand labour rights are not targeted for arrest and deportation as a means of punishment.