Thailand
Memorandum on Human Rights Concerns

I. INTRODUCTION
Amnesty International has repeatedly welcomed improvements in the human rights situation in Thailand after the May 1992 violent military crackdown on pro-democracy demonstrators. However the organization has major concerns about the slow pace of these improvements; the deeply flawed justice system; and impunity for the security forces. All of these factors have led to continuing human rights violations, including a general lack of proper investigations into abuses by both the security forces and non-state actors in the context of the violence in the South and the 2003 “war on drugs”; torture and ill-treatment of detainees; killings and “disappearances” of human rights defenders; the increasing use of the death penalty; and lack of protection for refugees and asylum-seekers. Most recently the sharp escalation of violence in the Muslim-dominated South, resulting in the deaths of hundreds of people this year, is of particular concern. Beginning in January 2004 attacks in the South by unknown armed groups have led to a deteriorating security situation for both Buddhist and Muslim civilians.

Thailand’s weak criminal justice system, which includes the Royal Thai Police, the Attorney General’s Office, and the courts, has been a major obstacle to further improvements in the government’s human rights record. Lack of proper training for the police has contributed to their reliance on interrogation under torture or ill-treatment as a method for extracting information from criminal suspects. Inadequate policing on a local level has also led to killings and “disappearances” of human rights activists. The slow pace of investigations into human rights violations and abuses and the undue and long delays in trials have undermined the government’s capacity to bring both security forces and non-state actors to justice, perpetuating a climate of impunity.

A. Background
In July 2004 Amnesty International submitted a nine page Memorandum to the Royal Thai Government, as a basis for discussions between the organization’s Secretary General Irene Khan and government officials later that month in Bangkok. The Memorandum summarized the human rights situation in Thailand, including sections on Thailand’s role in the region; lack of protection for human rights defenders; escalating violence in Southern Thailand; human rights in the context of the “drugs war”; the application of the death penalty; and the rights of refugees.

1 Please see Amnesty International publication THAILAND: The Massacre in Bangkok, October 1992, Al Index 39/10/92).
2 The Memorandum was submitted in both Thai and English language versions in advance of Ms. Khan’s visit to Thailand.
3 The government declared a “War on Drugs” from 1 February through 30 April 2003; the government reported that 2,245 people were killed during this three month period.
During its visit to the Kingdom, the Amnesty International delegation had the opportunity to meet with the Ministers of Justice and of the Interior; the Secretary General of the National Security Council; and officials at the Ministry of Foreign Affairs. The delegation requested that these officials provide written comments, which the organization would seek to reflect in a published report. What follows covers Amnesty International’s major human rights concerns in Thailand as outlined above, reflecting the substantive written response to the Memorandum received from the Ministry of Foreign Affairs and the fruitful discussions with representatives of the Royal Thai Government during the trip. Both the written comments and meetings between the government and Amnesty International have helped to further an ongoing dialogue about the protection of human rights in Thailand. Amnesty International is particularly grateful to the Ministry of Foreign Affairs for compiling material from various government departments and providing a 12 page written response.

As noted above, Amnesty International has acknowledged improvements in the human rights situation since the military’s violent suppression of pro-democracy demonstrators in May 1992. Particularly welcome was the promulgation in 1997 of a new Constitution, the provisions of which increased protection for human rights, including the establishment of a National Human Rights Commission. Moreover, in late 2002 the current administration established a Rights and Liberties Protection Department (RLPD) at the Ministry of Justice in order to provide human rights education and to investigate complaints from Thai citizens. In a 19 July 2004 meeting with Amnesty International, the Minister of Justice stated that the remit of the RLPD was the protection of human rights defenders.

Amnesty International has also welcomed the Royal Thai Government’s accession to many key human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR) in October 1997. In June 2004 the government submitted its first periodic report to the UN Human Rights Committee (HRC), who will consider it formally in March 2005. Thailand is also a State Party to the Convention on the Rights of the Child (CRC); the Convention on the Elimination on all Forms of Discrimination against Women (CEDAW); the International Convention on the Elimination of All Forms of Racial Discrimination (CERD); and the International Covenant on Economic Social and Cultural Rights (ICESCR). In its recent Memorandum, Amnesty International recommended that the Thai Government become a State Party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); the 1951 Convention relating to the Status of Refugees and its 1967 Optional Protocol.

In response to Amnesty International, the Thai Government stated inter alia: “In terms of policy, the Thai Government has also, in principle, agreed to accede to CAT but still need [sic] some time for more extensive inter-agency consultations to identify what new laws or amendments of existing domestic laws would be needed in order for Thailand to be able to fully uphold the spirit of that Convention if Thailand were to become party to the Convention.” Amnesty International welcomes the willingness on the part of the Thai

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4 The delegation also met with members of the National Human Rights Commission and of the Law Society of Thailand and other members of civil society.
Thailand: Memorandum on Human Rights Concerns

Government to accede to CAT and urges the government to also accede to the 1951 Convention relating to the Status of Refugees.

However, in spite of the Royal Thai Government’s accession to several key human rights instruments, Amnesty International remains concerned about the lack of protection for human rights defenders; the lack of rights for refugees; and the use of the death penalty. The possible extrajudicial executions during the 2003 government-initiated “drugs war” and reports of human rights violations and abuses in the context of the dramatic upsurge of violence this year in the four Muslim-majority provinces in the South are particularly disturbing.

Many of these concerns are related to the way in which the justice system is administered in Thailand. Torture and cruel, inhuman or degrading treatment or punishment of detainees; harsh prison conditions, including prolonged shackling of death row prisoners; and the use of excessive lethal force by the police, especially with regard to killings of alleged drugs traffickers are all major flaws in the administration of justice. Amnesty International urges the Thai Government to remain vigilant about the issues identified in this report and to step up the pace of improvement in the human rights situation in Thailand.

B. Thailand’s role in the region

The protection of human rights in all ASEAN countries can make a significant contribution towards stability and prosperity in the wider Asia-Pacific region. A Thai government which respects and protects human rights domestically is best placed to promote human rights more generally in the region. Moreover, continued grave human rights violations in Myanmar have had serious consequences for Thailand, India, Bangladesh, and China, including large refugee outflows, and drugs and human trafficking across borders. Thailand has an important role to play as a founding member of ASEAN and in the past helped to bring the longstanding and bitter armed conflict in neighbouring Cambodia to an end. Thailand is also widely recognized as a regional centre for civil society organizations and media.

The Royal Thai Government responded to the above issues, stating inter alia: “...we have been relentless,...to convince the Myanmar leaders offering them countless practical suggestions on steps and options for the transition towards democracy in the country. We have been pushing for dialogue between the Myanmar Government and NLD as well as the minorities....Key elements...in Thailand’s diplomatic efforts are to push for the release of NLD leaders and the all-inclusive participation in the drafting of the country’s new Constitution.” Amnesty International welcomes these initiatives, and hopes that the Royal Thai Government will redouble its efforts both within ASEAN and the wider international

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The Association of Southeast Asian Nations (ASEAN) comprises Indonesia, Thailand, the Philippines, Malaysia, Singapore, Brunei, Vietnam, Myanmar, Cambodia, and Laos.

Well over 1,300 political prisoners remain behind bars; forced labour and forcible relocation of ethnic minority civilians by the military continue at a high level in Myanmar.

The NLD is the National League for Democracy, Myanmar’s main opposition party.
community to urge the Myanmar government to make long-overdue improvements in their human rights record.

In the original Memorandum submitted to the Thai Government, Amnesty International also raised the issue of an ASEAN human rights mechanism. The organization welcomed the support which the Thai Government gave to the mechanism during the ASEAN Ministerial meeting in July 2004. Amnesty International urges Thailand and other ASEAN countries to lay solid foundations for a regional mechanism by ratifying international instruments and creating effective, independent, and properly resourced National Human Rights Commissions where they do not yet exist. Amnesty International further urges Thailand to fully support its own National Human Rights Commission and to respect its independent role.

In this regard Amnesty International is grateful to the Thai Government for its response to the issue of an ASEAN-wide human rights mechanism. The organization welcomes the role that the Thai Government is taking in the promotion of such a mechanism and reiterates its recommendation that any ASEAN agreement will not provide less protection than that which is contained in international standards.

II. VIOLENCE IN THE SOUTH

Amnesty International appreciates the grave threat to law and order facing the country after the upsurge in attacks in the South, and strongly condemns the deliberate killings of the scores of civilians by unknown individuals and armed groups. The organization also acknowledges that the government has a right and duty to protect the safety of people there. However, any action taken by the government must be in full conformity with international human rights standards. Indeed, it is Amnesty International’s belief that especially in difficult situations such as those currently prevailing in Yala, Songkla, Pattani, and Narathiwat Provinces, human rights must be protected with special vigilance.

Background

In past decades armed separatist opposition groups operating in the far South of Thailand have fought against the central government for an independent state. The majority of the population in the four southernmost provinces are ethnic Malay Muslims who speak a local dialect of Bahasa Malay. The Kingdom of Thailand is approximately 95% Theravada Buddhist and 4% Muslim. In the early 1900s these provinces, which previously comprised the Pattani Kingdom, were annexed to Thailand.

While in previous years armed struggle by Muslim separatist groups had largely ceased, violence in Yala, Narathiwat, and Pattani Provinces escalated sharply after a 4 January 2004 raid on an army camp in Narathiwat Province, when four soldiers were killed and scores of weapons stolen. Previously tensions among local Muslim people, the police, and the military had periodically flared up, taking the form of arson attacks on schools, bombs, and killings. It was often unclear who the perpetrators were, amid reports of rivalry between the police and military; and conflicting business interests. Local tensions are also reported to be related to
the use of natural resources, especially where such use affected the rights of small-scale Muslim fisherfolk.

The Royal Thai Government provided Amnesty International with substantive comments about the situation in the South, including the following background information: “Until the beginning of the year, the three Southern provinces of Pattani, Yala and Narathiwat had been examples of ‘peaceful coexistence’ between different religious and cultural elements. The recent spate of incidents and escalating violence, which resulted in the death and injuries of innocent civilians, both Muslim and Buddhist, are the handiwork of those who aim to destroy this peaceful living in diversity.”

Since the attack on 4 January, over 440 people have reportedly been killed, including civilians, police, and other government officials. The killings have occurred almost daily since the beginning of the year. The Thai Government provided Amnesty International with the following statistics about the violence:

“From 4 January – 27 April 2004 there were 497 unrest situations as follows: arson (246 times), explosions (19 times), attacks on government offices (5 times), attacks on civilians (145 times), attacks on government officials (48 times) and other disturbances (34 times). As a result, 28 government officials were killed and 28 injured, while 85 civilians were killed and 102 injured. Moreover, 3 Buddhist monks were killed and 1 was injured. The unrest in these provinces is a domestic problem and the situation involves several groups with vested interests and problems such as illegal trade, human trafficking, narcotic drugs, and arms smuggling, as well as local politics and deliberate attempts to distort the Koran to undermine social and religious harmony and instigate instability.”

The imposition of Martial Law

In June 2004 the Prime Minister declared the extension of Martial Law to cover more areas in Narathiwat, Pattani, and Yala Provinces. At that time the military was given powers to search and arrest “suspects” and the Interior Minister stated that the military operations would focus on seven districts of Yala, Narathiwat, and Pattani provinces. According to reports, Martial Law has been in force in some areas in Thailand for many years, including parts of the Thai-Myanmar border, and in the past parts of the Thai-Cambodian border, as well as some areas in the far South. However, Amnesty International has been unable to gather further information about the application of Martial Law in various areas, including to what extent and under what circumstances Martial Law powers have been exercised.

Article 4(3) of the International Covenant on Civil and Political Rights (ICCPR), which Thailand has acceded to, states inter alia:

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10 On 28 April a group of reportedly lightly armed Muslim men attacked 11 government installations. Five policemen and over 100 of the Muslim men were reportedly killed.
“Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.”

In its response to Amnesty International, the Government has argued that “The enforcement of Martial Law in the southern provinces of Thailand is different from situation [sic.] under Art. 4 of ICCPR”, as “in the case of the southern provinces of Thailand, there is no so-called public emergency but only disorder circumstances during some period of time.” Under the ICCPR, the only time at which some limitations may be imposed on the exercise of certain human rights is a time of emergency, duly declared. In its initial report to the HRC, Thailand states that,

“In the past, Thailand on several occasions declared a temporary state of emergency. They were meant for the survival of the country, for example, the declaration of martial law under the Martial Law Act (1914), within the power of the Ministry of Defense…,”

The report goes on to say that “after Thailand had become a party to this Covenant, there had not been any declaration of a state of emergency and should there be any necessity to do so, Thailand shall strictly follow the commitment as provided under Article 4.” Thailand’s report to the HRC acknowledges that Martial Law affects several human rights: freedom from forced labour; freedom of expression; and the right to peaceful assembly.

In addition, the report to the HRC states generally that “once it [Martial Law] is proclaimed to be applied at a certain time or at a certain place, the provisions in any act or law which is in contrary to the Martial Law which is being applied, such provisions shall ceased to have force and the provisions of the Martial Law shall be applied in their place.[sic.]” The report further quotes Section 6 of the Military Law, to the effect that “In the region which the Martial Law is proclaimed to be applied; the Military officials shall have authority over the civil officials in matters related to the fighting, the extinguishing, suppressing or keeping order and the civil officials shall follow the needs of the military officials.” In other words, under the Martial Law, the military is given sweeping and ill-defined powers while all civilian institutions become subjugated to the military ones, in a situation which the Thai Government does not consider an emergency.

13 Ibid.
14 See ibid., paras. 236(a); 471-3; and 490(d)(ii); respectively.
15 Ibid., para. 471.
16 Ibid., para. 472.
With regard to the use of Martial Law, the Thai Government also responded to Amnesty International inter alia:

"Also, even though the Martial Law is enforced, the Royal Thai Government has no policy to apply all permitted measures provided by law but will select only appropriate measures….It shall be taken into account that the level of stringency of the measures of the Martial Law in each area might be different. The level of stringency to the extent of the seriousness of the situation [sic]. If the situation is highly severe, strong measures might be applied. For example, under Martial Law, the State is able to recruit civilians to assist and support military force and services. This measure is stipulated in case of war or serious armed conflict along the border where state needs civilians to assist and control the situation. However, the seriousness of the situation in the southern provinces of Thailand has still not reached that level."

The Government response further states that “The Martial Law enforced... does not revoke the use of Military Court [sic.] and the authorities concerned are only allowed to detain suspects for investigation up to 7 days if there are grounds to believe that the person(s) concerned may be involved in certain criminal acts.”

Amnesty International requests the Thai Government to provide further details about which specific articles of Martial Law are applied in which areas of the South. The organization is concerned that the situation as portrayed in the response, namely that some, unspecified provisions of the Martial Law are applied in some, unspecified areas, while others are applied in other areas, coupled with the extremely wide powers which the Martial law grants the authorities, and the vagueness of the provisions of that Law itself, have created a situation where the authorities may take measures arbitrarily and in a non-transparent fashion, in contravention of international human rights treaties binding on Thailand.

Over the years, “annexes” and “amendments” have been added to the Martial Law, increasing the confusion as to what its exact remit and provisions are. For instance, The Announcement of the Coup d’Etat Group, issue 303, 13 December B.E. 2515 (1972 AD) states that “The contents of the Martial Law Order brought into force in 1914 fail to cover some current forms of operation and equipment used both in the suppression and the support of military affairs” and that “Additional powers should be granted to military personnel to permit them to operate with increased efficiency.” However, it is not clear what exactly these additional powers are.

While states may, “in times of emergency which threatens the life of the nation,” take measures which derogate from certain obligations, they may only do so “to the extent strictly required by the exigencies of the situation.” The use, in the Martial Law, of terms such as “in any place and at any time whatsoever” clearly point to unlimited powers, in breach of this provision. Article 15(ii) of the Martial Law provides in effect that under Martial Law, human rights could be violated with impunity, in contravention of Thailand’s obligation, under Art. 2(3)(a) of the ICCPR, “To ensure that any person whose rights or freedoms as herein...”

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17 See ICCPR, Article 4(1) and 4(3), respectively.
recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.”

Amnesty International is concerned that the imposition of the Martial Law in certain southern provinces is in breach of Thailand’s legal obligation, under the ICCPR, to take measures derogating from certain human rights obligations only in an emergency duly and precisely declared and conveyed to the UN Secretary-General. The organization is further concerned that the Martial Law grants the military powers beyond what would be justifiable even in a properly declared emergency, and allows the military to violate human rights with impunity. If the Government is of the opinion that it is facing a time of emergency, it must, under the ICCPR, declare this clearly both within Thailand and to the United Nations, detailing the provisions of the ICCPR from which it has derogated and the reasons for which this was done.

Torture, ill-treatment and “Disappearances”

Since January 2004 an unknown number of people have been arrested in the context of the upsurge in violence in the South. Others have “disappeared”. Some of those who are detained were reportedly tortured or ill-treated during interrogation, most notably the five suspects whom Somchai Neelapaijit, a Muslim lawyer, was representing before his “disappearance” in March. He and other human rights defenders reported the treatment of the five by the police, which included severe beatings, near-suffocation by placing plastic bags over their heads; and electric shocks to the thighs and testicles. In this way they were forced to provide names of others allegedly involved in the violence. One of the suspects was released and the other four men are believed to remain in detention pending trial.

At the 19 July 2004 meeting with Amnesty International, the Justice Minister stated that to his knowledge there are two cases in the South of policemen who had been arrested for killing local people. However he did not provide further details about these cases. He also said that over 20 “alleged offenders” were arrested, but the Attorney General decided not to charge them. He went on to say that two people had in fact been charged, one Thai Rak Thai Member of Parliament, and one other individual, for the murder of officials and robbery. However he did not provide further details about these cases, or about the two police who have been arrested.

At least 10 people are alleged to have "disappeared" in 2003 and 2004 in the South of Thailand. For example, Mustasidin Maming, a mobile phone shop owner, and his assistant Wae-esor Masaeng, have not been seen since 11 February 2004. Eyewitnesses report that they were abducted at 4.10pm near Mustasidin's shop in the market in Rangae, Narathiwat Province. They were taken away by a group of men suspected of being linked to the security forces, who were driving a red pick-up truck without licence plates. It is not known why Mustasidin Maming and Wae-esor Masaeng were "disappeared".

In response to the question of “disappearances” in the South, the Government stated:
“The Ministry of Interior has instructed all provinces and districts to announce to the people that the government proceed quickly with the prosecution of anyone responsible for those disappearances without exception. From the year 2001 onwards, there were 19 alleged cases of disappearances involving 27 disappeared persons. The Government has not been idle and investigations have been conducted in conformity with due process of the law. So far, the results of the findings are as follows: (1) 14 persons have been found alive and leading normal lives; (2) 4 persons lost their lives and the police are investigating to find and prosecute the persons responsible for their deaths and (3) 9 persons still could not be located.

- Investigations of received complaints have been conducted in accordance with judicial procedures and, to date, 8 policemen were arrested due to their involvement with some of the alleged disappearances. The actions taken by the Thai authorities concerned should rest assured the public the Government’s respect for the promotion and protection of human rights and that it does not condone impunity, including in those cases where individual government officials are found to be involved.”

While Amnesty International welcomes the government’s attention to the problem of “disappearances”, it urges the Government to provide further details, including names of the “disappeared” and information about the prosecution of the eight policemen. The organization also calls on the Government to provide all detainees, including those held in the context of the violence in the South, with access to legal counsel, their families, and proper medical treatment.

The UN Declaration on the Protection of All Persons from Enforced Disappearance states that “disappearances” occur when:

“persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials or different branches or levels of Government,...followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, thereby placing such persons outside the protection of the law.”

Article 1 of the Declaration states: “Any act of enforced disappearance is an offence to human dignity,” which “places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families. It constitutes a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life”. Article 4 states: “All acts of enforced disappearance shall be offences under the criminal law punishable by appropriate penalties.

18 “…6 persons are alive and lead normal lives; (2) 2 persons were taken under the police custody for investigation as witnesses in criminal cases; however, for safety reasons, those two witnesses wish to stay under police protection and do not wish to return to their hometown for the time being; and (3) 5 persons are now detained under the criminal procedure law as criminal offenders.”

19 Adopted without a vote by the UN General Assembly on 18 December 1992 in resolution 47/133.
which shall take into account their extreme seriousness.” The Declaration makes clear that “disappearances” cannot be justified under any circumstances whatsoever, including “a threat of war, a state of war, internal political instability or any other public emergency”.

Amnesty International is also concerned about reports of a “blacklist” of people under suspicion because of their activities in the South. This concern is heightened by the previous use of “blacklists”, notably during the “war against drugs” last year. Over 42,000 people were said to have been on the “blacklist” compiled in the context of the anti-drugs campaign, but it is not clear how these lists were drawn up. There were widespread reports that they included the names of people involved in local disputes and were not necessarily believed to be involved in drug use or trafficking. Somchai Neelapaijit was reportedly on the “blacklist” for the South, and one of his associates, also a lawyer involved in representing Muslims from the South, is believed to be on the “blacklist”.

Amnesty International calls on the Thai Government to clarify the use of any “blacklists”, and, if such a list were authorized, to provide information about their contents, and by which agency and under what provisions of the law they were drawn up. The organization also reminds the Thai Government that under international law, no one may be subjected to arbitrary arrest or detention, and calls upon the Government to ensure that persons are not otherwise adversely affected by being on a “blacklist,” namely on the basis of unsubstantiated suspicions.

Incidents on 28 April 2004

On 28 April 2004 armed groups launched coordinated attacks on government facilities in Yala, Pattani, and Songkla provinces. In the early morning of 28 April groups of men armed with knives, machetes and guns attacked 11 bases and checkpoints in these provinces, resulting in the deaths of five members of the Thai security forces. Over 100 people were killed by the security forces in response to the attacks. At the time of writing it remains unclear who coordinated these attacks and what the attackers were attempting to accomplish, considering that many of them were armed only with knives. It has been reported that the 28 April is the anniversary of a separatist uprising in 1948 in the South, when many Muslims were killed in three days of violence.

Two of the events on 28 April 2004 of particular concern to Amnesty International are the reported killings of all 32 attackers at Krue Se Mosque, Pattani province, and the killings of 19 men in Songkla Province by the security forces. In the first instance, the attackers, mostly armed with knives, had occupied the compound of Krue Se Mosque when the security forces used heavy weapons, including rocket-propelled grenade launchers and machine guns, to kill all 32 of the men. In Susoh village, Sa Ba Yoi district, Songkla province, 19 young men, who were members of the local soccer team, were reportedly unlawfully killed by the security forces. Fifteen of them are reported to have had gunshot wounds in the back of the head, suggesting that they were shot either while fleeing or were killed in what amounts to extra-judicial executions.
With regard to the Susoh village killing, the Government stated in its response: “As for the incident in Saba Yoi District, Songkla Province on that same day, it was proved that there was no shooting from the back. As all attackers were armed with bombs and guns, the government officials were entitled and had no choice but to defend their own lives.” However, Amnesty International remains concerned about investigations into the killings of the members of the soccer team, as credible unofficial sources have stated that 15 of the deaths appeared to be extrajudicial executions. The organization is also seeking information concerning whether any independent forensic autopsies have been conducted, and, if so, what the results were.

On 4 May 2004 the government convened a six-member fact-finding commission to investigate the 28 April 2004 Krue Se Mosque events. Four of the six commission members are believed to be Muslim. The Commission’s report was reportedly tabled at a 3 August Cabinet meeting, although the text of the report has not to date been made public. The full terms of reference of the Commission are also not known. Suchinda Yongsunthorn, the head of the Commission, reportedly stated: “The Krue Se incident could be taken as a lesson in training our officials to look for more peaceful methods.” Amnesty International understands that the report also suggested that the security forces should have attempted to persuade the attackers to surrender through peaceful negotiation, and that some of the tactics used were disproportionate to the threat posed by the attackers, who were lightly armed. The Cabinet reportedly approved these conclusions.

In response to Amnesty International’s comments in the initial Memorandum, the government stated:

“● Regarding the incidents on 28 April 2004, the independent fact-finding Commission appointed by the Government to investigate the incident at Krue Sae Mosque has submitted the first part of its report concluding that the level of force and types of weaponry used by the security personnel to end the incident was disproportionate to the threats posed by the militants. It, however, admitted that there were factors and circumstances which stood to mitigate the perceived excesses.

● Since the deaths were the result of the security personnel claiming they were undertaking actions in the fulfilment of their duties, the independent Commission viewed that the investigation should be pursued through the appropriate organs within the judicial system in accordance with the laws. It also recommended urgent initial remedial measures such as appropriate compensation to the families of both military personnel and militants killed, those who were injured as well as those whose property were damaged by the incident. In other words, independent investigation has been conducted in conformity with due process, in the glare of public scrutiny, in conformity with both letters and spirit of the country’s constitution.

20 The Nation, 4 May 2004.
21 The Bangkok Post, 3 August 2004.
which has been widely recognized as being second to none in terms of its stipulation for the protection of human rights and democracy. The Royal Thai Government have adopted the Independent Commission’s recommendations which are now being implemented, and is awaiting the result of the 2\textsuperscript{nd} part of the Commission Report”.\textsuperscript{23}

Amnesty International welcomes the Thai Government’s statement that it has adopted all the Commission’s recommendations, but is calling on the government to provide details about what these recommendations are and how it is implementing them. According to all the available information, the report has not been made public, and the precise terms of reference are not known. Amnesty International calls on the Thai Government to make the report public and to investigate all the incidents which occurred on 28 April 2004. Amnesty International also urges the Thai Government to initiate independent, impartial, prompt, and effective investigations into the other incidents which occurred on 28 April besides the killings at the Krue Se Mosque, and to make the results of such investigations public. If excessive lethal force was found to have been used in the security forces’ response to the attacks, those responsible should be brought to justice.

**Attacks on civilians and government officials**

Killings of civilians and government officials continue to occur almost daily in the far South of Thailand. However it is still not known which armed groups, if any, are responsible for the attacks. Although the 28 April attacks on government installations were coordinated, the identity of the group(s) which organized the attacks has still not been ascertained. Individual attacks against both government officials and civilians are often carried out by passengers riding on the backs of motorcycles, who approach the person they have targeted and shoot them repeatedly. Arrests in some cases have been made, but to date no concrete information concerning any armed groups, including their identities and the motivation behind the attacks, has come to light.

Scores of government officials have been killed in the attacks, including the police, the military, and civilian members of the civil service. On the morning of 22 September 2004 Rapin Ruankaew, a 37-year-old provincial judge, was shot dead in a car on his way to work in Pattani town, Pattani province. He was shot by three men on two motorcycles while he was stopped at a traffic light, and was pursued by the gunmen as he drove off. He reportedly sustained eight bullet wounds and died on his way to the hospital.\textsuperscript{24} His wife, also a judge, was promised protection by the Prime Minister, and one man was arrested in connection with the killing. However the status of the investigation is not known to Amnesty International.

Scores of civilians not known to have taken an active part in the hostilities, have also been killed by armed men. For example on 29 May 2004 Sieng Pludkaew, a 63-year-old Buddhist

\textsuperscript{23} According to reliable sources, the second part of the report will concern itself with recommendations with a view towards preventing such violence in the future.

\textsuperscript{24} *The Bangkok Post*, 23 September 2004.
rubber tapper from Todeng village, Sungai Padi District, Narathiwat Province, was beheaded by unknown assailants. His severed head was reportedly found on a dirt road, while his body was found in a nearby rubber plantation.  

Conclusion

Amnesty International fully acknowledges the right of the security forces to defend themselves when attacked. However the organization is concerned that on the 28 April the security forces’ response was disproportionate to the threat posed by the attackers in some cases. According to the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, security forces should use restraint and act in proportion to the seriousness of the threat. If excessive lethal force was found to have been used in the attacks, those suspected of responsibility should be brought to justice. After the attacks on 28 April, a Senate Committee and members of the National Human Rights Commission travelled to the South in order to investigate the ongoing violence there. Amnesty International calls on the Thai government to ensure that all security forces cooperate fully with such investigations, and that the conclusions or recommendations of any investigation be made public, and acted upon promptly.

Amnesty International strongly condemns the deliberate killings of civilians by unknown armed groups. At the same time the organization calls on government security forces to uphold human rights.

26 Correspondence to Prime Minister Thaksin Shinawatra, Royal Thai Government, from Irene Khan, Secretary General, Amnesty International, 30 April 2004, TG ASA 39/2004.002.
III. IMPUNITY

Amnesty International is concerned by the continuing climate of impunity, which is closely linked to the urgent need for reform of the justice system. No one has been brought to justice for the over 50 deaths, which may have been the result of unlawful killings, and over 30 “disappearances” during the military crackdown of pro-democracy demonstrators in 1992. Moreover there has been no progress on establishing the facts of the “disappearance” of labour leader Thanong Pho-arn in June 1991 after the military coup d’etat in February of that year. The slow rate of progress in the investigations into the killings or “disappearances” of 17 human rights defenders since January 2001 is further cause for alarm.

A. Human Rights Defenders (HRD)

Amnesty International welcomes the emergence of a vibrant civil society in Thailand, which has grown significantly since the May 1992 pro-democracy demonstrations, and includes regional and national human rights organizations; lawyers’ groups; and local environmental, fisherfolk, farmers and tribal groups. In particular local and national groups focussing on economic, social, and cultural rights have flourished in recent years, and the accession by the government in 1999 to the International Covenant on Economic, Social and Cultural Rights (ICESCR) was another step forward.

However, Amnesty International is disturbed by continuing grave abuses against human rights defenders. Over the last two and a half years at least 17 human rights defenders have been killed or “disappeared” in custody. Recently on 11 August 2004 Supol Sirichan, the headman of Ban Den-Udom Village, Mae Mok Sub District, Lampang Province, northern Thailand, was shot dead in front of his home. He had been working with local villagers for the protection of Mae Mok forest reserve and had also been campaigning against deforestation for several years. His campaign had reportedly led to several arrests and confiscation of logs from groups of “influential people” who were allegedly involved in illegal logging. According to reports, the police are conducting an investigation and Supol’s family lodged a petition with the Prime Minister’s Secretary General.

On the night of 11 - 12 March 2004 Somchai Neelapaijit, a prominent Muslim human rights lawyer who was campaigning for the lifting of martial law in Southern Thailand, was “disappeared” in Bangkok, and remains missing. He had also been defending Muslim detainees in the South of Thailand arrested in connection with the upsurge of violence there after the raid on 4 January 2004 of a military camp in Narathiwat Province. Although five policemen have been arrested in connection with Somchai Neelapaijit’s “disappearance”, they...


have not been charged with abduction, but with coercion, assault, and armed robbery. All five have been released on bail. On 27 November 2004 the Central Criminal Court in Bangkok will reportedly assign the Narathiwat Provincial Court to arrange the hearings of witnesses for the prosecution. The Central Criminal Court will reportedly begin taking evidence in August 2005. Hearings in court cases in Thailand typically take place over a period of several months or years. With regard to the case of Somchai Neelapaijit as well as other cases of “disappearances” in the past, Amnesty International is concerned that there has been undue delay in bringing those found responsible to justice.

On 21 June 2004 environmental activist Charoen Wat-aksorn was killed by unknown assailants after filing a complaint with a Senate committee the same day. Charoen was a small-scale fisherman who had led a campaign against the construction of a coal-fired power plant in Ba Nok district, Prachuab Kiri Khan Province on the Gulf of Thailand. Local people opposed the project on the grounds that it would pollute the Gulf, and endanger their livelihood as fisherfolk. Human rights defenders have called on the government to initiate an investigation at the national rather than local level, as they believe local police would not conduct an impartial and independent investigation.

During the 19 July 2004 Amnesty International meeting with the Minister of Justice, the Minister noted that Charoen’s family had requested the Department of Special Investigations to investigate his murder rather than the local authorities. The Prime Minister ordered the Department of Special Investigations to conduct an inquiry with the local police. However the Chief of Regional Police reported that the investigation was progressing; two suspected gunmen and the “mastermind” were then arrested. According to non-official sources, the first court hearing for the suspects will take place on 1 December 2004.

With regard to Somchai Neelapaijit and Charoen Wat-aksorn, the Thai Government said in its response to Amnesty International: “Despite our clear policy to support for the work of human rights defenders we also recognizant [sic], of the possibility of some individual cases of possible violations of human rights and have taken every necessary measures to resolve the reported cases and to bring those who are responsible to justice without exception. This includes the case of Mr. Somjai Neelapphaijit... and the case of Mr. Charoen Wataksorn...In both cases, suspected offenders have been arrested and the cases are within the due process of the criminal judicial procedures.”

The Government’s response also stated, under: “Important Future Initiatives ● The Department of Rights and Liberty Protection under the Ministry of Justice recently held consultations with non-governmental organizations on the cooperation in setting up a joint mechanism to help provide protection for human rights defenders. The Department is preparing similar consultations with relevant governmental agencies to further discuss the setting up of such joint mechanism.”

Amnesty International welcomes this initiative. Amnesty International’s Thailand section is among the organizations who are working with the government on this project. A working group will comprise representatives of the Justice and Interior Ministries, police, military, academics, NGOs, and the media. This group will gather information on human rights
defenders who have received death threats, and a “risk list” will be compiled so that officials can provide those identified as being at risk with protection. Such cooperation is a positive step forward. In this regard Amnesty International urges the government to ensure that such joint initiatives are properly resourced, and are not subjected to undue delays.

In the Memorandum Amnesty International also drew the government’s attention to the report of Hina Jilani, the Special Representative of the UN Secretary-General on the situation of human rights defenders, which was submitted to the Sixtieth Session of the Commission on Human Rights on 12 March 2004. With regard to her visit, the Thai Government in its response stated inter alia: “Although we may not agree with some of her approaches and conclusions, we have extended our full cooperation as requested including after the visit and have not hesitated to act upon any recommendations that we deem beneficial to our people and society, and also intend to keep the Special Representative informed of related developments.” Amnesty International welcomes this statement, but is seeking more specific information from the Thai Government on the implementation of the Special Representative’s recommendations.

Amnesty International calls on the Thai Government to take effective action and measures to ensure that state officials at every level of the state apparatus, including law enforcement officials, respect the legitimacy of the work of human rights defenders and allow them to carry out this work safely and without interference or harassment. The government should also publicly acknowledge the legitimacy of the work of human rights defenders. Finally, Amnesty International renews its calls to the Government to publicly condemn each abuse in the strongest possible terms. The government must also initiate prompt, independent, impartial, and effective investigations into allegations of violations or abuses against human rights defenders; make the results of any investigations public; and bring the suspected perpetrators to justice in proceedings which meet international standards of fair trials.

B. The 2003 “War against Drugs”

Amnesty International has expressed grave concern about the way in which the government-launched “war on drugs” was conducted from 1 February to 30 April 2003, during which 2,245 people were reportedly killed. According to the government, the vast majority of the killings were cases of drugs traffickers killing one another. Amnesty International acknowledges the widespread problem of drug trafficking and use in Thailand, and the government’s attempts to eradicate the practice. However the organization remains concerned about the lack of impartial investigations into the deaths, many of which were alleged to be unlawful. Amnesty International is also concerned that the failure to bring the perpetrators of these killings to justice has contributed to a large degree to the climate of impunity among the security forces.


The climate of impunity has seemingly been reinforced recently by statements made by Prime Minister Thaksin Shinawatra on 3 October 2004, when he launched another year-long drugs suppression campaign that day: “Nobody will be able to help them if they continue dealing in drugs. If they want to see the Prince of Hell, let me know.” 32 According to another report, the head of the Narcotics Control Board, when asked whether there would be extra-judicial killings in the current campaign stated: “It depends on the circumstances. There won’t be many this time because we have done that in the first war and we don’t think there will be many left.” This official also said that the current campaign would concentrate on anti-money laundering and tax evasion laws. 33

According to the Ministry of Interior, almost 42,000 names of drugs suspects were placed on “blacklists” during the 2003 “war against drugs”. It is not known how these lists were drawn up, amid widespread reports that they were used to settle local disputes. Many of those who were reportedly killed were shot dead immediately after reporting to the local police station in an attempt to clear their names.

Amnesty International has reported specific cases of killings during the “war against drugs” but it has not received a response from the government to its requests for information about the results of investigations into these deaths. 34 Two government-appointed committees were designated in February 2003 to receive complaints about abuses during the campaign, but effective investigations into the killings are not known to have been initiated. In December 2003 His Majesty the King called on the government to carry out an investigation into the killings of the 2,245 people. In response the government stated that 200 people had been arrested for the killings, and it also set up two additional committees to investigate the murders. However Amnesty International is not aware that the results of the investigations by the two committees appointed after the King made his request have been made public. If the two committees’ reports have not yet been made public, Amnesty International calls on the Government to make them available publicly.

At the 19 July 2004 Amnesty International meeting with the Minister of Justice, the Minister reported that the Deputy Chief of Police and the Attorney General had submitted their committees’ findings, and that there were less than 30 cases where relatives thought police had played a part in the killings. Amnesty International is seeking further information from the government about the investigations, including whether the investigations have been completed and whether the results have been made public.

In its response to Amnesty International, the Thai Government stated inter alia: “The Government declared the War on Drugs in January 2003 and the nationwide comprehensive campaign was launched in February 2003 and expected to finish in September 2004. In so doing the Royal Thai Government has strictly observed international human rights instruments and the rule of law in our own country. The nation-wide anti-drug campaign

32 The Nation, 4 October 2004.
33 Reuters, Bangkok 4 October 2004.
mainly aims to bring to justice drug traffickers and dealers, and not drug users who are treated as 'patients' not 'criminals'. From February 2003 to June 2004, more than 500,000 drug abusers/addicts reported themselves to the authorities and more than 400,000 persons voluntarily applied for treatment and rehabilitation.”

In this regard, Amnesty International notes that the Ministry of Justice has initiated a major rehabilitation program for habitual users of illegal drugs, but remains concerned that some of the 2,245 killings may have been extrajudicial executions by the security forces. The Thai Government has categorically stated in its response that such practices did not occur: “As for allegations concerning violations of human rights, it has to be first understood that the Royal Thai Government strongly opposes extra-judicial killings and that there was no extra-judicial killing during the period of the campaign as alleged. However, there were many murder cases among drug dealers and addicts to avoid the disclosure of information to the police. Conflicts among them was another major cause of these murders. As for drug related homicides involving government officials, the cases were from the use of deadly legal force by law enforcement and have all been investigated in accordance with the provision of law without any exception…Petitions regarding unfair treatment caused by government officials could be filed at Damrong Dharma Centre (under the Ministry of Interior) or the Department of the Protection of People’s Rights and Liberties (under the Ministry of Justice).”

The government did not provide further details about the progress of investigations or whether anyone had been brought to justice for the killings. Amnesty International calls on the government to make these details public.

IV. THE DEATH PENALTY

Amnesty International is unconditionally opposed to the death penalty in all cases anywhere in the world, and has raised concerns for many years about the death penalty in Thailand, where it is provided in law for a wide range of crimes, including drugs trafficking. Moreover, Article 31 of the 1997 Constitution, while prohibiting the use of torture, further states that “...punishment by death penalty as provided by law shall not be deemed the punishment by a cruel or inhumane means under this paragraph [sic].” After a nine year hiatus, the government began in January 1996 to execute people by machine gun fire. In 2003 lethal injection was introduced as an execution method and at least four people were known to have been executed that year, all by lethal execution.

In its written response to Amnesty International, the Thai Government stated inter alia: “Thailand believes that capital punishment is first and foremost a criminal justice issue rather than a human rights issue, and, to date, there is no universal consensus that capital punishment should be abolished. Also the retention of capital punishment is still the general wish of the Thai public at large as a crime deterrent and the protection of the rights of victims and their families as well as to maintain public order. Nevertheless, Thailand has applied capital punishment with full respect to the rule of law and the judicial process in the country as well as its commitments under the International Covenant on Civil and Political Rights...Thai law permits capital punishment only for the most serious crimes and heinous
offences committed in the country. Thailand has for several years not applied capital punishment to offenders under 18 years of age and pregnant women. It has also recently amended its penal code to (1) prohibit the application of capital punishment to offenders under 18 years of age, who will instead be imprisoned up to 50 years and (2) change the method of delivering capital punishment from firing squad execution to lethal injection to ensure minimum suffering to the convicts.”

In fact the death penalty in Thailand is applied for a wide range of crimes. The death penalty is mandatory for premeditated murder; murder of an official on government business; regicide; and the production and import of heroin. It is discretionary for robbery, rape, kidnapping, arson and bombing if death results, insurrection, treason and espionage, possession of more than 100 grams of heroin or amphetamines, and aircraft hijacking.

Amnesty International’s rejection of the death penalty is based on the organization’s principled position that the death penalty is a violation of the basic right to life and is the ultimate cruel, inhuman or degrading punishment. As such, it should be abolished regardless of assertions of social utility. Furthermore, on a more practical level, claims by governments, including that of Thailand, that the death penalty provides a uniquely effective deterrent against crime remain unsupported by scientific evidence.

In opposing the death penalty, Amnesty International in no way seeks to minimize or condone the crimes for which those sentenced to death were convicted. As an organization deeply concerned with the victims of human rights abuses, Amnesty International does not seek to belittle the suffering of the families of murder victims, for whom it has the greatest sympathy. However, the death penalty legitimizes an irreversible act of violence by the state and will inevitably claim innocent victims. As long as human justice remains fallible, the risk of executing the innocent can never be eliminated.

Moreover the Thai Government’s claim that lethal injection provides for “minimum suffering” ignores crucial aspects of the way in which it is used. Lethal injection increases the risk that medical personnel will be involved in killing for the state, in breach of long-standing principles of medical ethics. Any form of execution is inhumane. The death penalty is not only about the minutes during which the prisoner is brought from the cell and killed; a prisoner lives with the penalty of death hanging over their head from the moment he or she is sentenced to the moment of unconsciousness and death. The search for a “humane” way of killing people should be seen for what it is -- a search to make executions more palatable to those carrying out the killing, to the governments which wish to appear humane, and to the public in whose name the killing is to be carried out.

According to Amnesty International’s most recent information, some 900 people are currently on death row at Bangkwang Prison, most of them held continuously in metal shackles. With regard to the use of shackling, the Minister of Justice stated during the 19 July 2004 meeting with Amnesty International that prisoners are held in shackles because prison wardens occupy the same area as the prisoners, so shackles are necessary to prevent the wardens from being
taken hostage by the prisoners and to prevent unrest. He also stated that not all people on
death row are held in shackles.

Amnesty International has raised the problem of shackling in prisons repeatedly with the
Royal Thai Government in the last several years, but the practice continues. Amnesty
International renews its call to the Thai Government to abolish the death penalty in law and
in practice. The organization also urges the government not to shackle those prisoners on death
row.

V. THE RIGHTS OF REFUGEES

Amnesty International recognizes the provision by the Thai government of a safe refuge to
hundreds of thousands of asylum-seekers and refugees from neighbouring countries over the
past decades. At the same time Amnesty International believes that the Thai Government
needs to do more to protect their rights.

Amnesty International is concerned that several Burmese refugees have in recent years been
forcibly returned to Myanmar, where some of them were later arrested, reportedly tortured,
and imprisoned for their political activities. Amnesty International calls on the Thai
Government not to forcibly return refugees and asylum-seekers who have a well-founded fear
of persecution in their country of origin. Although Thailand is not a State party to the 1951
Convention relating to the Status of Refugees nor to its 1967 Protocol, the right to non
refoulement is a rule of customary international law binding on all states.

Currently there are some 142,000 Karen and Karenni refugees in camps on the Thai-Myanmar
border. Since December 2003, initial cease-fire discussions between the Karen National
Union (KNU)35 and the State Peace and Development Council (SPDC, Myanmar’s military
government) have taken place intermittently, which raises the possibility of the eventual
repatriation of refugees. It is imperative that any plans for the voluntary repatriation of some
142,000 Karen and Karenni refugees take into account the concerns of the UNHCR, non-
governmental organizations, and most notably the refugees themselves; and that the principle
of voluntary return is fully respected.

In this regard Amnesty International takes note of the Thai Government’s response: “●At the
UNHCR’s initiative, preliminary consultations among parties concerned have begun on the
contingency planning for the voluntary repatriation of Myanmar displaced persons once the
situation in Myanmar allows. Other principal stakeholders will be involved in this planning.
●It is a major development when the Myanmar’s Government [sic] decided to grant access to
UNHCR to the eastern region of Myanmar to conduct needs assessment in the area as a
preliminary preparation for return of the displaced persons to their homeland. ●Thailand

35 The KNU, a Karen armed opposition group, has been fighting the central Myanmar authorities for
over 50 years. The Myanmar Government and the KNU agreed an unofficial truce in December 2003
but skirmishes between the Myanmar army and KNU continue, amid ongoing but sporadic ceasefire
talks.
believe that the international community could play a vital role in providing a meaningful assistance to the repatriation of displaced persons programme which could take place in the near future once the peace talks between the Myanmar Government and the KNU has concluded [sic].”

Amnesty International believes that such cooperation among all stakeholders would indeed be welcome. However, there are several major problems which must be addressed before this return can take place in conditions of safety and dignity, including but not limited to the clearance of anti-personnel landmines; fair and equitable distribution of arable land to the returnees, the vast majority of whom are small-scale farmers; and international monitoring on both sides of the border that provides for direct and unhindered access to returnees by UNHCR and guarantees that returnees are not subjected to human rights violations. Between December 1995 and May 1996 some 10,000 Mon refugees from Myanmar who had been living in Thai camps were forcibly repatriated in the absence of any international monitors. Since their return many of the Mon civilians have faced human rights violations at the hands of the Myanmar military.

Amnesty International believes that it is necessary for the treatment of asylum seekers and refugees to be based on the framework of international protection set out by the 1951 Convention relating to the Status of Refugees and its 1967 Optional Protocol, both which the Thai government should ratify.

VI. CONCLUSION AND RECOMMENDATIONS

As noted above, Amnesty International welcomes the initiatives by the Royal Thai Government to promote human rights abroad and to make improvements in the human rights situation in Thailand over the last 12 years. However the organization has ongoing concerns about continuing violence in the South; the imposition of Martial Law there; the lack of protection for human rights defenders; the way in which the 2003 “drugs war” was conducted; the use of the death penalty; and the denial of rights for refugees. The impunity enjoyed by the security forces has in effect meant that these violations go unpunished, which contributes to their continued occurrence.

Amnesty International makes the following recommendations to the Royal Thai Government:

♦ To continue to urge the Myanmar government, in both bilateral and multilateral fora, to take immediate steps to improve its human rights record.

♦ Ongoing violence in the South: ensure that all people in detention have immediate access to legal counsel, to adequate medical care, and to their families, and are brought promptly before a judge. Initiate prompt, impartial, independent, and effective investigations into all allegations of human rights violations, including torture and other cruel, inhuman or degrading treatment or punishment, “disappearances”, and excessive use of lethal force, with a view to prosecuting suspected perpetrators. Ensure that trials of those arrested in connection with the violence meet international fair trial standards, including the right to a judicial appeal, and that the death penalty is not imposed.
The imposition of Martial Law: Comply with its legal obligations under Article 4 of the ICCPR by either fully respecting all human rights in the southern provinces or, if the government if of the opinion that it is facing a time of emergency, duly declare this state of emergency within Thailand and to the UN, detailing the provisions of the ICCPR from which it has derogated to the extent strictly required by the exigencies of the situation and the reasons for which this was done.

Human rights defenders: take effective action and measures to ensure that state officials at every level of the state apparatus, including law enforcement officials, respect the legitimacy of the work of human rights defenders and allow them to carry out this work without hindrance or harassment; publicly acknowledge the legitimacy of the work of human rights defenders. publicly condemn any violations against human rights defenders; initiate prompt, impartial, independent, and effective investigations; bring suspected perpetrators to justice in proceedings which meet international standards of fair trials;

The “war against drugs”: ensure that all investigations are independent, impartial, and effective and bring those responsible for alleged extrajudicial killings to justice in proceedings which meet international standards of fair trials; and ensure that security forces do not use excessive lethal force in any future campaigns aimed at the eradication of drugs use and trafficking.

The death penalty: put an immediate halt to all executions and abolish the death penalty in law and in practice. Abolish in practice prolonged shackling of any detainees or prisoners.

Asylum-seekers and refugees: Ensure that asylum-seekers and refugees from neighbouring countries are not forcibly returned to their country of origin where they have a well-founded fear of persecution.

Become a State Party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the 1951 Convention relating to the Status of Refugees and its 1967 Optional Protocol; and the Rome Statute of the International Criminal Court.