SOUTHERN THAILAND:
MOVING TOWARDS POLITICAL SOLUTIONS?

Asia Report N°181 – 8 December 2009

International Crisis Group
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EXECUTIVE SUMMARY AND RECOMMENDATIONS

On taking office, Thai Prime Minister Abhisit Vejjajiva pledged to reclaim policy on the southern insurgency from the military. But a year of distracting fights between supporters of the establishment and an ousted populist leader has meant little progress in resolving violence in the South. Despite glimpses of new thinking in Bangkok, the weakness of the government and its reliance on the military for political support have meant the top brass still dominates policymaking in the predominantly Malay Muslim South. Harsh and counterproductive laws remain in force and there are no effective checks on abuses by the security forces. Alternative policies have not been seriously explored and, after a temporary reduction in violence in 2008, the attacks are rising again. It is time for the government to follow its words with actions if it wants to move forward with a political solution.

Military sweeps from July 2007 curtailed violence in the South, although abusive detention as part of these operations may have backfired and increased resentment among Malay Muslims. While the number of attacks so far in 2009 is still below the peak since the insurgency restarted in 2004, the trend is upward. Incidents have become more brutal and bomb-making techniques more advanced. The insurgency has proved resistant to military suppression. The slaughter of ten men praying in a mosque in June heightened concerns over deepening communal tension and the consequences of government projects to arm civilians. According to a police investigation, the mosque attack was allegedly committed by Buddhists in retaliation for previous killings by suspected insurgents. This slaughter has led to renewed international attention, especially among Thailand's predominantly Muslim neighbours.

The government had made little progress in its attempts to reassert control over policymaking in the South. It pledged to empower the civilian-led Southern Border Provinces Administrative Centre by allowing it to operate independently from the military's Internal Security Operations Command. The army has opposed this as well as a plan to lift the emergency decree, which must be renewed every three months. The Abhisit government has extended the decree four times so far under pressure from the military. The decree permits the detention of suspects without charge for up to 30 days and grants officials immunity from prosecution. It is in force alongside martial law in the three southernmost provinces of Pattani, Yala and Narathiwat. For nearly six years, no security officials involved in human rights abuses have faced criminal prosecution. Public disclosure of the death of an imam in custody in March 2008 seems to have reduced the occurrence of torture, although it has not stopped. Such impunity denies Malay Muslims justice and acts as a powerful recruiting tool for insurgents.

The huge development budget that the government has been disbursing as part of its political strategy to tackle southern violence has inadvertently created an industry of insecurity. The benefits that officials might have derived from the money are contributing to inertia and obstructing the search for solutions. The government should ensure that projects are implemented transparently and with grassroots participation. Corruption undermines the government's credibility, while it is already facing an uphill struggle to gain the trust of Malay Muslims. It is also unlikely this economic stimulus would help quell the insurgency, which has been primarily driven by political grievances – such as the disregard for Malay ethnic identity and language – and a sense of injustice.

The Abhisit government has been constantly challenged by supporters of ousted Prime Minister Thaksin Shinawatra. It needs the support of the military to suppress anti-government protesters and cement its power. The reliance on the military has undermined the government's effort to make a shift in southern policies, such as lifting draconian laws and re-asserting civilian control. There is also little political will to carry out political initiatives such as exploring new administrative arrangements for the South. The Thai state's public stance of rejecting negotiations with insurgents should be reviewed and new structures for the South explored. The foundations

of peaceful engagement are already in place, should the government wish to pursue dialogue with insurgent representatives. Negotiations have proven an effective means to ending violence in many separatist conflicts and do not necessarily lead to secession, as the central government has long feared.

RECOMMENDATIONS

To the Government of Thailand:

1. Revoke the emergency decree and martial law in the three southernmost provinces and impose the Internal Security Act (ISA) in their place, together with strengthening checks and balances to safeguard against the abuse of powers.
2. Draw up strict guidelines to govern the dropping of charges in return for "training" under the ISA to ensure fair treatment and right to counsel for alleged offenders in a bid to prevent forced confession.
3. Make serious efforts to hold discussions with insurgent representatives and through these talks explore political options compatible with the unitary Thai state, such as a special administrative structure for the Deep South.
4. Disband exclusively Buddhist "self-defence" groups and loosely supervised informal civilian militias, whose operations heighten communal tension.
5. Tighten controls on the distribution of weapons to government-sponsored "self-defence" groups, private gun ownership and licensing regulations, as well as work to curb illegal possession of military weapons by civilians.
6. Increase popular participation in the planning of development projects to make sure that they serve real needs as well as improve transparency and efficiency in the disbursement of development budgets.
7. Ensure accountability for past human rights abuse by security forces as well as stop abuse and torture of suspects.
8. Expedite the investigation and prosecution of suspected perpetrators of the Al-Furqan mosque attack to demonstrate the government's commitment to justice.

Bangkok/Brussels, 8 December 2009

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I. INTRODUCTION

Soon after taking office in December 2008, Prime Minister Abhisit Vejjajiva pledged to take back policy oversight on the southern insurgency from the military. The promise gave some hope that the conflict which has claimed more than 3,900 lives might receive the attention it deserves.[1] While the language of Islam and jihad are used to frame the struggle, it is not waged in the name of solidarity with global jihad. It remains an ethno-nationalist insurgency with its own version of history aimed at reclaiming what was once the independent sultanate of Patani. Human rights abuses by the Thai government and security forces have only fuelled this secessionist fervour, and policies that centralise power in the capital have undermined a regional political solution.

Towards the end of 2009, the residents of Thailand's Deep South are still waiting for change. Political turmoil in Bangkok has polarised the country and distracted attention from the conflict. The government has also been unwilling to assert control over southern policy for fear of antagonising the military. Staying in charge on the streets and in power requires the strong support of military leaders, who want to retain responsibility for managing the insurgency.

Since 2005, political battles have been fought between supporters of former Prime Minister Thaksin Shinawatra, ousted in a September 2006 coup, and the establishment forces revolving around the monarchy, military and bureaucracy. Mass demonstrations by the "yellow-shirt" anti-Thaksin People's Alliance for Democracy (PAD) prompted the formation of a counter-movement by the "red-shirt" United Front of Democracy Against Dictatorship (UDD), who support the ousted leader. In 2008, the pro-Thaksin governments led by the People Power Party (PPP) were preoccupied with turmoil caused by the PAD. The protests peaked in December 2008 with the dramatic week-long blockade of Bangkok's airports followed by a constitutional court ruling that disbanded the PPP. These developments helped tip the political balance. The Democrat Party rode to power on this wave of political upheaval and formed a new coalition with the military's help. However, the swearing-in of the Abhisit administration did not resolve the tensions.[2]

Thai politics is in a period of intense instability. Besides the constant challenge from the red shirts, the fragile five-party coalition could collapse because of infighting among parties. The political crisis could also deepen if Thailand faces a royal succession. King Bhumibol Adulyadej, the world's longest serving monarch, has been widely seen as a unifying figure in Thailand. In theory, the king's status is "above politics", although Bhumibol has wielded significant influence. After his ascension to the throne in 1946, he gradually earned reverence and "traditional" influence unwritten in the constitution. Most Thais have never lived under another king and the recent ill health of the 82-year-old monarch has stirred profound anxiety about the country's future.[3]

Amid the political turmoil, the government has pledged to shift southern policies from a security-oriented approach towards development and justice. The move towards political solutions is welcome but little has been done thus

[1] Previous Crisis Group reports on Thailand's southern insurgency include: Crisis Group Asia Report N°170, *Recruiting Militants in Southern Thailand*, 22 June 2008; Asia Briefing N°80, *Thailand: Political Turmoil and the Southern Insurgency*, 28 August 2008; Asia Report N°140, *Southern Thailand: The Problem with Paramilitaries*, 23 October 2007; Asia Report N°129, *Southern Thailand: The Impact of the Coup*, 15 March 2007; Asia Report N°105, *Thailand's Emergency Decree: No Solution*, 18 November 2005; and Asia Report N°98, *Southern Thailand: Insurgency, Not Jihad*, 18 May 2005.

[2] UDD supporters have proved equally capable of political theatrics, managing to force the cancellation of an Association of Southeast Asian Nations (ASEAN) summit in April 2009. For a detailed analysis of Thailand's national conflict, see Pasuk Phongpaichit and Chris Baker, *Thaksin* (Bangkok, 2009).

[3] Most Thais refrain from discussing royal succession in public because of the risk of facing a lèse majesté charge (insulting the monarchy), which is punishable by fifteen years in prison. See "Thailand's king and its crisis: A right royal mess", *The Economist*, 4 December 2008. *The Economist* has written several articles about the Thai monarchy; most issues containing such articles, including this one, are banned in Thailand.

far to address the grievances that have long fuelled the violence, namely the disregard for Malay ethnic identity and language, the lack of accountability for human rights abuses, and the under-representation of Malay Muslims in local political and government structures.

Based on research carried out between June and November 2009 including interviews in the conflict-affected provinces of the South, this report analyses the pattern of violence there since Abhisit assumed the premiership and his government's response to the conflict.

II. DEVELOPMENTS IN THE SOUTH IN 2009

The January 2004 robbery of a military arsenal marked the resurgence of violence in the predominantly Muslim South. Since then, there have been some 9,400 attacks that have claimed more than 3,900 lives and injured more than 6,200.[4] In 2009, the insurgency intensified after dropping in 2008. This year, the insurgents adapted new bomb triggering techniques to circumvent counter-measures. The slaughter of ten Muslims praying inside a mosque, apparently by Buddhists, has heightened communal tension in this ethno-religious conflict. At the same time, the government has significantly increased funding for the region.

A. VIOLENCE INTENSIFIED

As of September, there had been 415 deaths and 773 injuries in 2009. The number of casualties increased 17 per cent compared to the same period last year.[5] The military's cordon-and-search operations begun in July 2007 had helped curtail violence. Security forces went from village to village detaining thousands of suspected insurgents. The average number of attacks each month fell from 150-180 before the sweep operations to an average of less than 60 per month in 2008. In the first eight months of 2009, the monthly average was 86.[6]

While still fewer than before the sweep operations, attacks have become more brutal, possibly to heighten the climate of fear. Several victims were shot, beheaded and burned. This year, nine people have been decapitated, seven in February alone – including three soldiers and one paramilitary ranger.[7] Civilians have borne the brunt of the violence, especially those perceived as collaborating with the Thai state. Government school teachers, who are seen to be indoctrinating Malay Muslim children with alien Buddhist Thai ideas, remain a prime target for insurgents. As of August, nine educators have

[4] Statistics from Srisompob Jitpiromsri's research team based at the Prince of Songkhla University at Pattani. The count is as of the end of October 2009.

[5] There were 375 people killed and 635 injured between January and September 2008. This calculation is based on statistics from Srisompob's research team.

[6] ศรีสมภพ จิตร์ภิรมย์ศรี "ชายแดนใต้เดือนสิงหาฯ 52: การต่อสู้ที่ฟาฏอนีในเดือนรอมฎอน" ศูนย์เฝ้าระวังสถานการณ์ภาคใต้, 6 กันยายน 2552 [Srisompob Jitpiromsri, "The southern border in August 2009: Struggle in Fatoni in Ramadan", Deep South Watch, 6 September 2009].

[7] "ครึ่งปีตัดคอ 6 ครั้ง ห้าปีไฟใต้เหยื่อพุ่ง 40 ศพ, ศูนย์ข่าวภาคใต้ สถาบันอิสรา, 15 มิถุนายน 2552 ["Six cases of beheading in the first half (of 2009): In five years of southern violence almost 40 were beheaded", Isra News Agency southern desk, 15 June 2009].

been killed this year, including a teacher, Acharaphon Thepphasorn, who was eight months pregnant. A total of 95 teachers have been killed since 2004. During the same period, 319 government schools were torched, including eleven in 2009.[8]

Attacks against Buddhists continue. Monks require a military escort if carrying out religious activities outside their temple compounds. In June, one monk was killed and another injured in a bombing in Narathiwat as they walked on their morning alms collection rounds.[9] There have been a few major bombings, notably an explosion at a traditional temple fair and two other bombings outside restaurants frequented by Buddhists. Authorities fear a mass exodus would play into the hands of Muslim insurgents and have tried to maintain the Buddhist presence.

There were six car bombs in eleven months, the highest number since 2004.[10] On 2 January, a bomb in a parked car in Narathiwat's Ra-ngae district exploded as an armoured pick-up from a police bomb disposal unit passed by, slightly injuring four officers.[11] On 7 June, a car bomb in Yi-ngo district in Pattani killed one and injured nineteen as well as damaged adjacent shops.[12] On 17 July, a car bomb killed the deputy commander of Taskforce 14 in Yaha district in Yala as well as a subordinate. The attack, the first triggered by a hand-held radio transceiver, also injured four other soldiers and a passerby.[13] During Ramadan on 25 August, a car bomb outside a busy non-Muslim restaurant in the city of Narathiwat injured 43 people. Several government officials, including a district chief, were hurt.[14] Another car bomb in Yala on 4 September hit a border patrol police pick-up stopped at an intersection, killing one policeman and injuring twelve.[15] On 6 October, a car bomb exploded outside the Merlin Hotel in the border town of Su-ngai Golok in Narathiwat, killing one and injuring 26.[16]

While there has been no significant increase in the number of bombings in 2009, insurgents found a new way to transport powerful bombs into crowded areas.[17] On 3 September, a man rode a motorcycle towing a two-wheeled cart that contained a bomb in a cooking gas tank concealed by a paper box. The device was triggered by a hand-held radio transceiver and exploded near a non-Muslim restaurant in Pattani's Muang district.[18] Controversy also mounted over the effectiveness of UK-built remote substance detectors widely used by security forces in the South after they had failed to detect two major bombs. The military cited inadequate training, tiredness and stress as reasons for the malfunctioning. Some critics charge that the devices are unreliable, calling them "modern-day dowsing rods".[19]

[8] The total figure of government school teachers killed is a little lower than those in press reports. It separates the figures of school employees killed from the number of teachers killed. As of August 2009, 25 school employees were killed since 2004. Fifteen schools were torched in 2008, 166 in 2007, 43 in 2006, 32 in 2005 and 52 in 2004. Information from the Education Ministry's Office of Strategy Management and Education Integration No. 12 in Yala made available to Crisis Group.

[9] "สลด! ควงอาก้ายิงพระมรณภาพ 1 รูป บาดเจ็บสาหัส 1 รูปที่ยะลา", ศูนย์ข่าวภาคใต้ สถาบันอิศรา, 12 มิถุนายน 2552 ["Depressing! Monk shot dead by AK-47 and another injured in Yala", Isra News Agency southern desk, 12 June 2009].

[10] 2008 saw the second highest rate of car bombing since 2004, with three successful and two failed attacks. On 15 March, a car bomb exploded in front of CS Pattani Hotel, killing two and injuring thirteen. The same day, a car bomb went off prematurely in Yala's Muang district, killing the driver. On 21 August, a car bomb exploded in front of a police station in Narathiwat's Su-ngai Golok district, killing three and injuring 30. On 4 November, twin bombs – one planted in a car and another in motorcycle – exploded in Narathiwat's Sukhirin district, injuring some 70 people. The last car bomb was planted outside the Park View Hotel in Yala's Muang district on 20 December but malfunctioned.

[11] "คาร์บอมบ์ระแงะรับปีใหม่เจ็บอื้อ 'ดาบแชน' ตำรวจดีเด่นโดนด้วย", ศูนย์ข่าวภาคใต้ สถาบันอิศรา, 2 มกราคม 2552 ["Car bomb in Ra-ngae to welcome new year, several injured including awarded policeman 'Snr. Sgt. Maj. Chaen', Isra News Agency southern desk, 2 January 2009].

[12] "คาร์บอมบ์ยิ่งอตายเจ็บระนาว ยิงครูระดับ ผบ.ดับอีกที่บาเจาะ", ศูนย์ข่าวภาคใต้ สถาบันอิศรา, 17 กรกฎาคม 2552 ["Car bomb in Yi-ngo big casualties; headmaster shot dead in Bacho", Isra News Agency southern desk, 17 July 2009].

[13] "คาร์บอมบ์ยะหา พันตรีพลีชีพพร้อมลูกน้อง" ศูนย์ข่าวภาคใต้ สถาบันอิศรา, 17 กรกฎาคม 2552 ["Car bomb in Yaha killed a major and his subordinate", Isra News Agency southern desk, 17 July 2009].

[14] "กดบี๊มคาร์บอมบ์กลางเมืองนราธิวาส เจ็บระนาว 43 คน" มติชนออนไลน์, 25 สิงหาคม 2552 ["Car bomb in Narathiwat injures 43", Matichon Online, 25 August 2009].

[15] "คาร์บอมบ์กลางเมืองยะลาดับ 1 เจ็บ 12" *คมชัดลึก*, 4 กันยายน 2552 ["Car bomb in Yala town kills one and injures twelve", *Khom Chad Luek*, 4 September 2009].

[16] "บึ้มหน้าโรงแรมโก-ลกเจ็บ 26 แต่งทพ.ถล่มร้านส้มตำตร.ดับ1" *มติชนรายวัน*, 7 ตุลาคม 2552 ["Bomb outside hotel in (Su-ngai) Golok injures 26, men in ranger uniform fire at food stall killing police officer", *Matichon Daily*, 7 October 2009]. About an hour before the car bomb, unidentified gunmen opened fire at, and threw a grenade into, food stalls in the same area, killing three people and injuring ten.

[17] According to statistics from the army bomb disposal unit as of 23 November, there have been 269 bombings in 2009, compared to 265 in 2008, 489 in 2007, 327 in 2006, 258 in 2005 and 67 in 2004. Crisis Group telephone interview, officer in army bomb disposal unit, 23 November 2009.

[18] "จยย.บอมบ์อีก ปัตตานีเจ็บ 31" *ข่าวสด*, 4 กันยายน 2552 ["Motorcycle bombing injures 31", *Khao Sod*, 4 September 2009]; "บึ้มปัตตานี 3 จุดเจ็บกว่า 30 ราย รัวกระสุนดับอิหม่ามพร้อมลูกชายหลังละหมาดรอมฎอน", ศูนย์ข่าวภาคใต้ สถาบันอิศรา, 3 กันยายน 2552 ["Three bombings in Pattani injured more than 30; imam and son shot dead after prayer", Isra News Agency southern desk, 3 September 2009].

[19] Security forces in the South have 535 units of handheld "GT200" remote detectors, produced by Global Technical

There have been two significant changes in the bombing campaign this year. First, bombs increased in size. Most of the car bombs were made from 15-kg cooking gas tanks filled with ammonium nitrate-fuel oil (ANFO). When packed with an ANFO mix, these tanks weigh up to 50kg – three times heavier than the 15-kg fire extinguisher devices often used previously in car bombs. This shift is likely due to a shortage of extinguisher tanks. Bomb disposal experts believe explosive materials and containers from Malaysia have been used in some of these larger bombs. Security forces believe that insurgents assemble bombs at rented houses in cities to avoid roadside security checkpoints when driving to an attack.[20]

Second, insurgents have begun triggering bombs with radio transceivers to circumvent electronic jammers. Previously, bombs were mostly triggered by mobile phones or short-range radio remote control devices. Security forces and civilian officials have effectively used jammers for these triggering devices.[21] The shift to two-way radios has made it more difficult to prevent bombings. Between July and October, transceivers were used at least eight times. They give insurgents great mobility and most district-level army bases in the South have jammers for mobile phones and remote control devices but not for radio transceivers.[22] Blocking frequencies used by two-way radios would also interfere with the government's own communications.

However, these advances do not significantly increase the destructive capacity of the bombs. The reliance on ANFO and the absence of military explosives and munitions keep the death toll far lower than many conflict zones.[23]

B. COMMUNAL VIOLENCE AND THE RISKS OF ARMING CIVILIANS

1. Al-Furqan mosque attack

At about 8pm on 8 June, unidentified gunmen fired at dozens of Muslims kneeling in prayer in the Al-Furqan mosque of Aipayae village in Narathiwat's Cho Airong district. The attackers fired from a window at the back and a glass door on the left side of the building, killing ten and injuring twelve. The assailants ran into the darkness of a rubber plantation behind the mosque.[24] Nearly 100 bullet casings from M-16 assault rifles were found at the scene as well as a few used AK-47 and shotgun cartridges.[25]

Aipayae is close to Ban Paphai village, an almost exclusively Buddhist community of 500. A path behind the mosque cuts through the rubber plantation leading to Ban Paphai.[26] The military and police suspect that some Buddhists from this village or nearby might have been involved in the shooting.[27] Ban Paphai village leader Suchira Saensuk denied anyone from her village would commit such a brutal act, even though relations with Muslims have deteriorated. "Both Buddhists and Muslims are living in fear. If Muslims are close to Buddhists, they would be closely watched. Buddhists are afraid of being harmed (by Muslims)", she said. Prior to 2004, the two communities interacted regularly, including attending weddings.

Interfaith relations have soured since the insurgency resumed and attacks have made minority Buddhists feel under siege. In response, the Thai government set up Village Protection Volunteers (*asasamak raksa muban*,

Ltd. The device (plus sensor cards) costs about 1.2 million baht ($36,000) each. The GT200 failed to detect a car bomb in the border town of Su-ngai Golok on 6 October 2009, which killed one and injured 26 others. On 19 October 2009, a bomb hidden in the tank of a motorcycle in a market in Yala city exploded after being checked and declared safe by police using a GT200. The blast injured 25 people. Anthony Davis, "Controversy mounts over use of EOD 'dowsing rods' in Thailand", *Jane's Defence Weekly*, 30 October 2009; "ฟัง 'ทหาร-นิติวิทย์' แจงประสิทธิภาพ 'จีที200' เผยมีใช้ 535 เครื่องที่ชายแดนใต้", ศูนย์ข่าวภาคใต้ สถาบันอิศรา, 3 พฤศจิกายน 2552 ["Military and forensic experts clarify effectiveness of GT200, saying 535 units being used in the South", Isra News Agency southern desk, 3 November 2009].

[20] Crisis Group telephone interview, officer in army bomb disposal unit, 14 September 2009. The only car bomb in 2009 (as of October) that used fire extinguisher tanks exploded in Yala's Yaha district in July. In a few bombings, police found 7.5-kg green cooking gas tanks – commonly used in Malaysian households.

[21] Mobile phones and radio remote controls provide greater mobility, but could be jammed. In remote rural areas, wired controls, which are harder to prevent, are used more often to trigger bombs buried under roads.

[22] Crisis Group interview, officer in army bomb disposal unit, Pattani, 20 July 2009; telephone interview, 24 November 2009. A radio transceiver jammer produced by Thai army costs about 950,000 baht ($28,000). A jammer produced by foreign companies would cost even more.

[23] Anthony Davis, "Explosive evolution – Thai bomb-makers adapt", *Jane's Intelligence Review*, 10 September 2009.

[24] Crisis Group visit to the Al-Furqan mosque; Crisis Group interview, Saman Pa-ngo, Aipayae headman, Narathiwat, 19 July 2009.

[25] Crisis Group interview, Lt. Col. Yutthana Saiprasert, commander of Taskforce 38, Narathiwat, 5 August 2009; telephone interview, Police Maj. Gen. Surachai Suebsuk, Narathiwat police commander, 15 October 2009.

[26] Crisis Group interviews, Aipayae headman Saman Pa-ngo and Ban Paphai village leader Suchira Saensuk, Narathiwat, 19 July 2009.

[27] Crisis Group interviews, military officials and source close to police officers investigating the Al-Furqan mosque attack, Bangkok and Narathiwat, June-July 2009.

known as *Or Ror Bor*, see below), a self-defence civilian force comprised almost exclusively of Buddhists. The volunteers guard their own communities and are armed with government-issued shotguns. An *Or Ror Bor* "company" was set up for Ban Paphai and nearby communities after 2004.[28] To date, attacks by suspected insurgents have killed at least 27 villagers in and around Ban Paphai and injured another 35.[29] Seventeen hours before the shooting at Al-Furqan mosque, 37-year-old Chuai Nadee, who lived in a village close to Ban Paphai, was shot dead while tapping rubber. Chuai, a father of two, was a poor farmer who migrated from the north east to seek his fortune.[30] Police officers investigating the case believe previous attacks against Buddhists, including Chuai's murder, are linked to the mosque attack.[31]

The mosque attack caused outrage in the Muslim world. The Organisation of the Islamic Conference issued a rare statement on Thailand expressing "heartfelt regret" over the killing and called on the government to bring the perpetrators to justice. It said "this tragic incident falls within a string of aggressions conducted by armed and organised elements that have targeted worshippers and worship venues in southern Thailand in a bid to terrorise Muslims and restrain them from demanding their legitimate rights. These armed groups enjoy the support of influential parties".[32] Radical Indonesian Muslim cleric Abu Bakar Ba'asyir also condemned the killings, calling on Indonesians to protest outside the Thai embassy and consider, if capable, joining the "jihad" against the "Thai Buddhist infidels".[33]

As of November, the police had arrest warrants for 34-year-old Buddhist Sutthirak Khongsuwan, a former paramilitary ranger, and Lukmun Lateh-buering, a local Muslim believed to have guided attackers to the mosque.[34] Sutthirak's arrest warrant is the first issued for a Buddhist in a security-related case in the South since 2004. He and Lukmun, believed to be his subordinate, are still at large along with other co-conspirators. Police believe Sutthirak, who is wanted in a separate murder case, acted alone in retaliation for previous killings of Buddhist villagers, notably the murders of Chuai and the pregnant teacher.[35] Others speculate that Buddhists working with paramilitary or civilian groups were also involved.[36] A leaflet signed by "Warriors of the Patani state" distributed in Narathiwat identified six perpetrators, including Sutthirak, Lukmun and four other Buddhists in Narathiwat's Ra-ngae district. One of these was said to be a ranger, while two others are a serving and former member of the Volunteer Defence Corps (*Or Sor*).[37] No further warrants have been issued. The police investigation suggests it is unlikely that the mosque attack was carried out by Muslim insurgents. Some officials had initially speculated the attack was an attempt to wage propaganda warfare by blaming the killings on security forces and garner international sympathy.

2. Paramilitary and civilian forces

An array of paramilitary and civilian forces have been organised in the Deep South to help provide security. Paramilitary forces include 9,000 paramilitary rangers

[28] The command structure of *Or Ror Bor* resembles that of the military. A "battalion" was set up in Narathiwat's Ra-ngae district, comprising three companies. The company, of which Suchira is a member, comprises some 650 Buddhists. Crisis Group interview, Suchira Saensuk, Narathiwat, 19 July 2009.

[29] Crisis Group telephone interview, Police Maj. Gen. Surachai Suebsuk, Narathiwat police commander, 15 October 2009.

[30] Chuai's family is one of nineteen that migrated from the north east and settled in this newly built village. He was given a piece of land and a house to start a new life. The Royal Aide-de-Camp department has recruited Buddhist volunteers to resettle in the Deep South in an effort to sustain the Buddhist population after thousands fled because of fears for their safety. Some 114 families from the north east have resettled, 84 of which are in Narathiwat. Crisis Group interview, serving senior army officer working for the *Or Ror Bor* project, Bangkok, 11 August 2009. A similar but larger-scale resettlement program was carried out in 1961 by the government of Field Marshal Sarit Thanarat. By 1969, 160,000 Buddhists had moved into the area. Some Malay Muslims saw it as an attempt to water down the ethnic identity of the region.

[31] Crisis Group telephone interview, Police Maj. Gen. Surachai Suebsuk, Narathiwat police commander, 15 October 2009.

[32] "OIC secretary general condemns killing of Muslim worshippers at mosque in southern Thailand", press release, Organisation of the Islamic Conference, 9 June 2009.

[33] "Tanggapan Ustad Abu Bakar Ba'asyir Mengenai Pidato Obama di Mesir dan Pembantaian Muslim Thailand" ["The thoughts of Ustadz Abu Bakar Ba'asyir about Obama's speech in Egypt and the slaughter of Thai Muslims"], video, Muslim Daily, 14 June 2009, www.muslimdaily.net/video/youtube/3484/tanggapan-ustad-abu-bakar-ba%27asyir-mengenai-pidato-obama-di-mesir-dan-pembantaian-muslim-thailand.

[34] Crisis Group telephone interview, Police Maj. Gen. Surachai Suebsuk, Narathiwat police commander, 15 October 2009. Sutthirak's arrest warrant was issued under Thailand's Criminal Procedure Code, while that of Lukmun was issued under the emergency decree. See discussion of the decree below.

[35] Crisis Group telephone interview, Police Maj. Gen. Surachai Suebsuk, Narathiwat police commander, 15 October 2009.

[36] Crisis Group interviews, military and police officers, Narathiwat and Bangkok, July-August 2009. Also see "Massacre probe must provide answers", *The Nation*, editorial, 13 August 2009.

[37] "Insurgents issue kill order", *Bangkok Post*, 19 October 2009; "โจรใต้แนวใหม่โปรยใบปลิวตั้งค่าหัวมือถล่มมัสยิด" ไทยรัฐออนไลน์, 19 ตุลาคม 2552 ["New insurgent tactic, distributing leaflets offering bounty for mosque attackers", Thai Rath Online, 19 October 2009]. Apparently mocking the police, the leaflet states that a bounty is offered to anyone who could kill the "deadly force".

(*Thaharn Pran*) and 3,300 members of the Volunteer Defence Corps (*Or Sor*). Both receive more intensive training than civilian forces and work full-time to assist officials.[38] They are authorised to carry assault rifles, such as the M-16. The rangers are auxiliaries to regular soldiers and amount to one third of the troops operating in the South. The *Or Sor* is recruited by the interior ministry and primarily provides security for high-ranking civilian officials. Both receive a significantly lower salary compared to regular forces.

The government has also set up civilian self-defence groups. Two formally organised militias are the 47,000-strong Village Defence Volunteers (*Chor Ror Bor*) and the 24,000-strong Village Protection Volunteers (*Or Ror Bor*).[39] They receive weapons training from the military and are armed with shotguns. The interior ministry runs the *Chor Ror Bor* project and stipulates that each village should have 30 *Chor Ror Bor*; members can be either Muslim or Buddhist. Each village receives 20,000 baht ($594) per month to pay for these volunteers. *Or Ror Bor*, comprising almost exclusively Buddhists, was set up to protect communities of minority Buddhists that have been a prime target of insurgent attack.[40] This group is directed by the Royal Aide-de-Camp department under Queen Sirikit's patronage and has a military-style command structure. It is common for Buddhist villagers to work for both government-organised self-defence groups. There are other privately organised groups, which are smaller and less documented. One of the biggest private groups, again almost exclusively Buddhist, is *Ruam Thai* (Thai United), which was founded by a senior police officer in Yala and has around 8,000 members.

The Al-Furqan mosque attack should serve as a wake-up call that arming loosely supervised and poorly trained civilians could exacerbate the conflict. While paramilitary forces are cheaper, more flexible and have better local knowledge than soldiers, the downside is that many Malay Muslims harbour a deep hatred against paramilitary rangers for past human rights abuses. Although the newly recruited forces appear to be more disciplined, some locals join to avenge the deaths of friends and relatives killed by insurgents. As regards the civilian defence volunteers, the weapons distributed by the government could be used for purposes other than self protection. The official sponsorship of self-defence groups of a particular ethno-religious character could deepen communal tensions and worsen relations between Buddhists and Muslims.

Insecurity has encouraged the proliferation of firearms. The government has distributed thousands of shotguns to those working in *Chor Ror Bor* and *Or Ror Bor* and subsidised guns for officials, particularly public school teachers. Non-Violence International, an NGO carrying out a study on firearms proliferation in southern Thailand, estimates that the number of weapons distributed to government-organised civilian forces could be as high as 30,000.[41] Lax enforcement of gun regulation feeds a growing gun economy. Sub-district chiefs and village headmen are known to illegally possess assault rifles.[42] It is unclear how widespread this phenomenon is. The combination of arms proliferation and the government's mobilisation of armed civilian militia groups and paramilitary forces is exacerbating religious and ethnic polarisation, increasing insecurity and human rights abuses as well as undermining peaceful solutions.[43]

3. An industry of insecurity?

The large budgets for the South – 109 billion baht ($3.2 billion) since 2004 – could be inadvertently obstructing a solution to the conflict because it has become a lucrative source of monetary benefits for some officials. In annual terms, funding increased from 13.4 billion baht ($396 million) in 2004 to 27.5 billion baht ($814 million) in 2009.[44] The military-controlled Internal Security Op-

[38] Diana Sarosi and Janjira Sombutpoonsiri, "Rule by the Gun: Armed Civilians and Firearms Proliferation in Southern Thailand", Non-Violence International, May 2009, p. 15. The estimated number of rangers is based on Crisis Group telephone interview, Maj. Gen. Chamlong Khunsong, then CPM's deputy commander, 14 August 2009.

[39] Diana Sarosi and Janjira Sombutpoonsiri, "Rule by the Gun", op. cit., pp. 15-16.

[40] The funding for *Or Ror Bor* projects mainly comes from the government's job creation scheme. As a means to enhance economic opportunities, government agencies hire local people at a salary of 4,500 baht ($133) a month. Crisis Group interview, serving senior army officer working for the *Or Ror Bor* project, Bangkok, 11 August 2009. While presented as an economic project, the money is used for security purposes.

[41] This study by Non-Violence International also notes that there is a huge increase in imported guns nationally in recent years but it is impossible to determine how many of these weapons went to the South. The annual quota restriction for imported guns is 10,110, but the actual number has far exceeded this since 2005. A total of 81,139 guns were imported in 2007 and 54,461 in the following year. Diana Sarosi and Janjira Sombutpoonsiri, "Rule by the Gun", op. cit., pp. 16, 26.

[42] Personal communication, Janjira Sombutpoonsiri, Non-Violence International's researcher, January 2009.

[43] Diana Sarosi and Janjira Sombutpoonsiri, "Rule by the Gun", op. cit., p. 4.

[44] According to statistics compiled by Srisompob Jitpiromsri, a political scientist at the Prince of Songkhla University at Pattani, the budget in 2005 was 13.5 billion ($399 million), 2006 was 14.2 billion ($420 million), 2007 was 17.5 billion ($518 million) and 2008 was 22.9 billion ($677 million). It should be noted that this budget also covers non-conflict areas in the southernmost provinces of Satun and Songkhla. Srisompob believes that as much as 40 per cent of the money

erations Command (ISOC) has the largest budget of any government body in the South: 7.5 billion baht ($222 million) in 2009.[45] This includes the 1.75-billion baht ($51-million) budget of the Southern Border Provinces Administrative Centre (SBPAC), which is controlled by the ISOC under the existing structure. If, as the government has proposed, the SBPAC becomes an autonomous body, the ISOC's budget could be cut by more than 20 per cent (see next section).

Residents of the Deep South feel they receive few tangible benefits from government spending. Unspent funds are transferred to unrelated projects outside the region towards the end of each fiscal year. Some projects genuinely cannot be carried out because of security and other practical problems. Other unimplemented projects appear to be an unscrupulous way to siphon off money to other regions based on the understanding that budgets for the conflict-hit South are rarely cut.[46]

Anecdotal evidence suggests that corruption is widespread, although the losses are difficult to estimate. In a telling example, the government bought fingerlings for one baht each (three U.S. cents), or four times higher than the market price, to be distributed to villagers for free in a fish farming project said to be imposed on local communities.[47] The sale of "official" gasoline for military use is common. In March, a soldier was shot dead behind a gas station in Pattani while selling government fuel to the privately owned station.[48] It should be noted that the conflict has weakened some checks against corruption. One example is an exemption from the requirement to put major projects out to competitive bidding.[49] This has been eased in the conflict zone because of alleged difficulties in finding bidders due to the security risks. It allows officials to make unscrupulous deals with contractors and receive a percentage of each contract. It is also not unusual for documents to be forged, prices marked up, and government stores sold on the black market.

III. BOOSTING DEVELOPMENT

After taking office in late December 2008, Abhisit said operations in the South were too focused on security and should instead emphasise "development" and "justice". He defined success as the ability to maintain security while withdrawing troops.[50] He proposed lifting draconian laws in the South and empowering the civilian-led SBPAC to operate independently of the military-controlled ISOC and report directly to the prime minister.[51] A "Cabinet Committee to Develop a Special Zone in Five Southern Border Provinces" chaired by the prime minister was set up to accelerate decision-making. The SBPAC monitors implementation of government projects and works closely with this committee. Still, the Democrat-led coalition's reliance on the military hinders the government's effort to shift southern policy.

A. EMPOWERING THE SBPAC

After the 2006 coup, the military-installed government led by Surayud Chulanont dissolved the coordinating body set up by Thaksin and reorganised operations in the Deep South.[52] It promoted the ISOC, which was created to fight the communist insurgency that began in the 1960s, to oversee overall security policy. It revived the SBPAC along with the joint Civilian-Police-Military Command (CPM), the two main bodies handling the southern insurgency before Thaksin dissolved them in 2002.[53] The SBPAC was originally established in 1981 to enhance consultation with Malay Muslims, tackle corruption and reduce prejudice among officials in the Deep South, while the CPM (formerly called CPM43) was in charge of security operations. Under the current structure, the ISOC controls both security and hearts-and-minds activities through the CPM and SBPAC respectively. SBPAC officials have privately complained that

was allocated to non-conflict areas. Crisis Group telephone interview, 16 September 2009.

[45] A similar amount is earmarked for the ISOC in 2010, according to the budget passed by parliament in September 2009.

[46] Crisis Group interview, Niphon Boonyamanee, Democrat Party parliamentarian, Bangkok, 14 May 2009.

[47] Muk Sulaiman, a Malay Muslim politician from Pattani, spoke at a seminar on "Budgets and government policies in the southernmost region: reality and constraints" at Chulalongkorn University in Bangkok on 31 July 2009.

[48] "กราดยิงทหารดับปริศนาคาปั๊มน้ำมันปัตตานี ผูกระเบิดใต้ท้องรถกำนันดังขยะลากู้ทันหวุดหวิด", ศูนย์ข่าวภาคใต้ สถาบันอิศรา, 23 มีนาคม 2552 ["Soldiers shot dead at gas station in Pattani; bomb underneath car defused, sub-district chief narrowly escapes death", Isra News Agency southern desk, 23 March 2009].

[49] Crisis Group interview, a senior Yala-based civilian official, Bangkok, 31 July 2009.

[50] Press conference by Prime Minister Abhisit Vejjajiva at the Isis's Fourth Region, Pattani, 17 January 2009.

[51] Abhisit delivered the first policy statement to parliament on 29 December 2008.

[52] It was known as the "Southern Border Provinces Peace Building Command".

[53] Some academics and government officials who had worked in the SBPAC said that the dissolution of the SBPAC and CPM (then called CPM43) contributed to the rise of insurgency two years later. Communication channels between Muslim leaders and the authorities were cut off and the insurgents were able to carry out their activities more freely. Crisis Group Briefing, *Political Turmoil and the Southern Insurgency*, op. cit., pp. 6, 9-10.

its work has been hindered by the ISOC, which must approve every project.[54]

The military opposed the proposal to empower the SBPAC and the government compromised by watering down the bill. In a draft introduced by Democrat legislator Niphon Boonyamanee while the party was still in opposition in 2008, the SBPAC would oversee all operations in the South and report directly to the prime minister. The chain of command between the SPBAC and ISOC was unclear and the military feared the ISOC could be placed under the SBPAC's control.[55] After the Democrat Party came to power, Deputy Interior Minister Thaworn Senniem proposed a weaker bill with a clear division of operations. The ISOC would be in charge of security, the SBPAC of development, and both would report directly to the prime minister.[56] The prime minister would appoint the SBPAC's director, who would be an interior ministry official.

Cabinet approved the weaker bill on 18 August and forwarded it to the State of Council, a government agency that advises on law enactment. The draft was returned and partially revised by the interior ministry before being approved again by the cabinet on 20 October. The lower house accepted the government's draft bill as well as five other bills proposed by members of parliament on 25 November and a 36-member committee was set up to deliberate the drafts.[57] The constant challenges by Thaksin and his allies have prompted speculation that the parliament might be dissolved before this bill passes.

The latest significant change to the government's bill is that the prime minister, instead of a senior bureaucrat, would lead the SBPAC, similar to the current structure of the ISOC. Relevant ministers would be deputy directors and a senior civilian official from the interior ministry would take a lower-ranking post of secretary-general. The new Cabinet Committee to Develop a Special Zone in Five Southern Border Provinces would oversee this restructured SBPAC.[58] While this bill grants the SBPAC the authority to transfer misbehaving officials out of the region, it would not apply to army officers.[59] This shows the government's unwillingness to antagonise the military. If it is to assert civilian control, the SBPAC should also be granted powers to examine alleged misconduct by soldiers.[60] Some military officers are critical of the government's proposal, citing the time wasted in reorganising the operation.[61] If passed, the law would give the government direct control over the SBPAC's activities and budget and sideline the military, particularly in development projects.

B. DEVELOPMENT AS REMEDY FOR INSURGENCY

The new cabinet committee is overseeing a four-year, 63 billion baht ($1.86 billion) "Special Development Plan for the Five Southern Border Provinces".[62] Approved in April 2009,[63] this plan is a follow-up of the Surayud government's effort to set up a "special development area" in the region. This revised plan is divided into six parts: first, improving quality of life and village annual household income from 64,000 baht ($1,900) to 120,000 baht ($3,554); second, enhancing security measures as well as addressing issues of injustice and improving the justice system; third, improving human resources and social services as well as promoting reconciliation and peaceful co-existence; fourth, boosting the economy and investment; fifth, promoting trade with neighbouring countries by increasing border trade and building infrastructure; and last, improving the government's management and adjusting regulations.[64] A total of 43 per cent

[54] Crisis Group interview, SBPAC senior official, Bangkok, 31 July 2009.

[55] Crisis Group interview, Thaworn Senniem, deputy interior minister, Bangkok, 22 May 2009; senior army official, Pattani, 15 January 2009.

[56] The prime minister automatically assumes the post of ISOC director. ถาวร เสนเนียม, ความเป็นมา กรอบแนวคิดและข้อเสนอประกอบการจัดทำร่าง พ.ร.บ.การบริหารราชการในจังหวัดชายแดนภาคใต้, (ไม่ระบุวันที่และสถานที่พิมพ์), หน้า 27 [Thaworn Senniem, Background, Rationale and Suggestions for the Drafting of a "Public Administration in Southern Border Provinces" Bill (undated), p. 27]. See Section IV for detailed discussion on ISOC structure.

[57] Crisis Group telephone interview, Niphon Boonyamanee, Democrat Party parliamentarian, 27 November 2009.

[58] "ครม.ดันกม.แก้ใต้! ดึงอำนาจทหารคืน นายกฯ ผอ.สอ.บต." *มติชนรายวัน*, 21 ตุลาคม 2552 ["Cabinet pushes for law to tackle South, take back power from the military; prime minister to head SBPAC", *Matichon Daily*, 21 October 2009].

[59] Crisis Group telephone interview, Niphon Boonyamanee, Democrat Party parliamentarian, 27 November 2009.

[60] Review of any misconduct of army officers has been outside the SBPAC's authority since its inception in 1981. Under the revived structure, a joint committee headed by the SBPAC's secretary general and the CPM commander was set up to review official misconduct, including soldiers. In practice, the SBPAC has often forwarded the complaints and their initial investigations to the units to which officers are affiliated, but it does not directly transfer them. Complaints of misconduct in the South mostly involve police or military officers. Crisis Group interview, Kitti Surakhamhaeng, director of SBPAC's justice administration bureau, 31 July 2009.

[61] Crisis Group interview, senior military commander, Songkhla, 8 August 2009.

[62] The five southernmost provinces are Pattani, Yala, Narathiwat, Songkhla and Satun.

[63] See cabinet resolution on 7 April 2009, available at www.thaigov.go.th.

[64] คณะกรรมการรัฐมนตรีพัฒนาพื้นที่พิเศษ 5 จังหวัดชายแดนภาคใต้, *แผนการพัฒนาพื้นที่พิเศษ 5 จังหวัดชายแดนภาคใต้ ปี 2552–2555*, เอกสารที่ไม่ได้ตีพิมพ์, พฤษภาคม 2552. [A Cabinet Committee to Oversee a Special Development Area in Five Southern Border Provinces,

of the proposed budget or 27 billion baht ($808 million) is earmarked for the first objective and 26 per cent or 15 billion baht ($448 million) for the second; the remainder is split among the other four objectives.[65]

The ISOC is operating a few development projects under this special development plan as well as supervising other projects carried out by civilian government agencies. The ISOC has set up a centre to "integrate" these projects to ensure the work of different agencies does not overlap. A senior army officer heading this centre said "some people are trying to separate security from development work. In a special area like this, it cannot be separated".[66] The ISOC is criticised for wanting to influence the allocation of funds, whether by running the projects itself or by coordinating projects managed by ministries or government agencies. If the draft bill on the SBPAC passes, it would take away the army's control over these projects and budgets such as development funds for villages and job creation schemes.

Development projects must be managed transparently and with local participation to ensure that they address real needs. The risk is that unwanted projects imposed on the communities in the South or corruption could inflame existing resentments and stir up new ill-will towards the government. Authorities should ensure that benefits go to the people and not those managing the funds. It remains to be seen how these projects would help quell the violence. While economic deprivation may contribute to the sense of injustice, the insurgency is primarily driven by political grievances and so development programs do not address the core issues.

C. DEVELOPING THE "RED ZONE"

Since 2007, the government has given special development grants to villages in the Deep South through the SBPAC. Some villages perceived to be insurgent strongholds were initially left out because civilian officials feared for their safety. The military was then asked to help carry out development projects in the so-called "red zone". In 2009, the SBPAC manages the "green zone", where more than 2,200 villages are considered safe for civilian officials. The 217 "red zone" villages are the responsibility of the military. A peace development unit (*nuai pattana santi*), comprising twenty regular soldiers or paramilitary rangers, two police officers and two *Or Sor*, has been deployed in each red zone village. Local villagers are sometimes hired to supplement the teams. Such a village is dubbed a "peace development village" (*muban sermsang santisuk*).[67]

A peace development unit's main objective is military: destroy the basic unit or structure of insurgents' operations. The security forces believe that each cell (known in local Malay dialect as *ayah*) comprises several divisions, such as the secretariat, religious leader, youth and *durong-ngae* (who provide logistical, economic support and gather intelligence). The armed militants are believed to operate in a separate structure.[68] The unit's job is to identify these networks, arrest militants, undermine their influence, and strengthen the power of government officials in the village.[69] The units are not always welcome. Muslims shut their doors when soldiers walk pass and have even been known to spit contemptuously in their faces.[70] The military believes that few villagers are militants or even strong supporters of the insurgency and most are non-partisan and live in fear of the insurgents.[71] They are loath to lend a hand to these units because insurgents might target them. Locals are caught in a deadly tug of war as the two sides compete for their loyalty.

The military has claimed these operations as a success and set a goal of freeing these villages of insurgents within three years. In October 2009, the CPM announced an internal evaluation of the peace development units' work. It assessed the removal of insurgent structure as very good in six villages, good in 95, fair in 116, and low in none of the locations they were based. In terms of strengthening state power, the results in the same villages were very good (three), good (67), fair (131), and

Special Development Plan for the Five Southern Border Provinces 2009-2014, unpublished document, May 2009.]

[65] "ผ่างบดับไฟใต้ก้อนใหม่ 6.3 หมื่นล้าน…ค้นคำตอบทำไมทหารต้องขุ่งงานพัฒนา" ศูนย์ข่าวภาคใต้ สถาบันอิศรา, 19 ตุลาคม 2552 ["Dissecting 63 billion baht budget to quell southern violence, why the army has to be involved in development", Isra News Agency southern desk, 19 October 2009].

[66] Ibid.

[67] Each "green zone" village received an annual grant of 228,000 baht ($6,779). The project in "red zone" areas was launched in 75 villages in early 2008 and expanded to cover 217 villages by December 2008. There is no fixed grant for each "red zone" village and budgets vary according to need. The SBPAC earmarked 135 million baht ($4 million) for "red zone" villages in 2009. Crisis Group interview, Kitti Surakhamhaeng, director of SBPAC's justice administration bureau, 31 July 2009.

[68] See detailed discussion on the structure of insurgents' operations in the Crisis Group Report, *Recruiting Militants in Southern Thailand*, op. cit., pp. 18-19.

[69] Crisis Group interview, Maj. Gen. Samret Srirai, then deputy commander of the 4th Army Region, 4 August 2009.

[70] Crisis Group interviews, soldiers of Peace Development Unit, Pattani and Narathiwat, August 2009.

[71] Crisis Group interview, soldier of Peace Development Unit, Pattani, 6 August 2009.

low (sixteen).[72] Given the units are a façade for military action, it is questionable whether their achievements can be evaluated with such methodical precision. The fact that the military itself assessed progress in the majority of these villages as only "fair" indicates there is still much progress to be made.

Several brutal attacks on security forces indicate strong opposition to their presence in some areas. Two rangers were killed, burned and beheaded in Pattani's Yarang district on 2 February.[73] Five rangers were shot dead on 13 September as they returned from a fast-breaking meal with Muslim villagers in a mosque in Yala's Muang district.[74] The military is scheduled to transfer the development work back into civilian hands in the next three years. If these killings persist such a handover would not be possible.

IV. ADDRESSING INJUSTICE AND HUMAN RIGHTS ABUSE

A sense of injustice motivates many Malay Muslims to join the underground insurgency. Assassinations, forced disappearances, torture and other human rights violations have not been properly investigated nor have the perpetrators been brought to justice. These incidents feed into the narrative of "oppressive" Thai rule and are a powerful recruitment tool for militants. The government has pledged to work on justice as a way to achieve peace in the South but so far, such promises have not been realised.

A. LIFTING DRACONIAN LAWS?

After the 2006 coup, martial law was imposed in Pattani, Yala and Narathiwat in addition to the emergency decree that had been in place since July 2005.[75] Together they grant broad powers to the security forces. The military is allowed to carry out searches and make arrests without warrants and detain suspects for up to seven days without charge. The emergency decree permits the military or police to hold suspects without charge in locations other than prison for up to 30 days. The request for an arrest warrant needs to be jointly signed by military, police and interior ministry officials before submitting it to the court. While this provides better protection for the accused, the decree gives law enforcement officers immunity from civil, criminal and disciplinary penalties as well as suspends the jurisdiction of administrative courts to revoke illegal regulations and policies. All detainees are denied access to lawyers while held under these laws.

The security forces have abused the discretion that the joint application of these laws allows, particularly by using the "seven plus 30 formula". Suspects are arrested and held for seven days under martial law before their detention is extended for up to 30 days under the emergency decree. This practice heightens the risk of human rights abuse and creates a climate of impunity.[76] It was under such circumstances that 56-year-old imam Yapha Kaseng was beaten to death in military custody after being arrested under martial law in March 2008. His family was not allowed to visit him during detention.

[72] "ผบ.พตท.ตั้งเป้า 3 ปี 217 หมู่บ้านปลอดโจรใต้" *ไทยรัฐ*, 9 ตุลาคม 2552 ["CPM commander expects 217 villages to be insurgent-free in three years", *Thai Rath*, 9 October 2009].

[73] "ป่วนใต้เหี้ยม! ฆ่าบั่นคอ – เผาซ้ำ ทหารพรานปัตตานี" ไทยรัฐ, 2 กุมภาพันธ์ 2552 ["Brutal southern insurgents! Rangers beheaded, burnt in Pattani", *Thai Rath*, 2 February 2009].

[74] "ซุ่มโจมตีทหารพรานกลับจากมัสยิดที่ยะลาดับ 5" ศูนย์ข่าวภาคใต้ สถาบันอิศรา, 14 กันยายน 2552 ["Five rangers killed after being ambushed while walking back from mosque", Isra News Agency southern desk, 14 September 2009].

[75] Songkhla's four insurgency-hit districts of Jana, Thepha, Sabayoi and Nathawi are under martial law alone. The emergency decree is not imposed because violence there is considered relatively minimal.

[76] See background on the two laws in the Crisis Group Briefing, *Thailand: Political Turmoil and the Southern Insurgency*, op. cit., pp. 12-14.

Family visits are not regulated under martial law and are subject to the discretion of local military commanders. After pressure from human rights advocates, there has been some improvement on family visits under the emergency decree. Since February 2008, authorities have allowed immediate family to visit detainees held under the decree from the first instead of the fourth day of detention.[77]

In January 2009, the Abhisit government pledged to consider lifting the emergency decree, which requires renewal every three months.[78] The military and police are unwilling to let the decree lapse. Army commander Gen. Anupong Paochinda argued "it is difficult for officials to carry out their work without the emergency decree".[79] The first renewal in January was approved without much review because the government had just come to power. The second renewal in April coincided with a demonstration by the red shirts in Bangkok. The government was preoccupied with the turmoil and followed the advice of the National Security Council (NSC), an advisory body on security affairs, to extend the decree.

In June, the government asked Prince of Songkhla University, a leading university in the South, to carry out a public opinion survey on the emergency decree. The research found that most Buddhists, police and the military thought the emergency decree was advantageous, while most Muslims believed it had a negative impact. Police officers said lifting the decree could allow insurgents to carry out their activities more freely and lead to greater violence. Military officers said if the government was not going to use a higher dose of medicine, it at least should not reduce it. Civil servants argued the decree is necessary but should be used with stricter guidelines to limit potential abuses. Judges and prosecutors said only one special law should be in force as the concurrent imposition of several laws violated people's rights. Muslim leaders, youth, NGO groups and security-related detainees all wanted to see both laws revoked.[80]

The military and police argue both laws are necessary for intelligence gathering and investigations because they are not dealing with ordinary crimes in the South.[81] The military wants the Internal Security Act (ISA) to be imposed in addition to the two existing laws.[82] The research by the Prince of Songkhla University proposed two options for the next renewal of the emergency decree: the government could extend the decree as a temporary measure before imposing the ISA; or it could revoke the decree and immediately replace it with the ISA (concurrently used with martial law during the initial period). In the long term, the study suggested the government replace the existing special laws with the ISA.[83]

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[77] Crisis Group telephone interview, Col. Parinya Chaidilok, then spokesman of the ISOC's Forth Region, 6 March 2009.

[78] "'มาร์ค' ฉายวิสัยทัศน์ change ชายแดนใต้", ศูนย์เฝ้าระวังสถานการณ์ภาคใต้, 15 มกราคม 2552 ["Mark shows his vision to change the South", Deep South Watch (www.deepsouthwatch.org), 15 January 2009].

[79] "'อนุพงษ์' เผยอยากชนะไฟใต้ต้องแลกเจ็บตัวมีแผลบ้าง", มติชนออนไลน์, 24 กรกฎาคม 2552 ["Anupong reveals we have to suffer to win in the South", Matichon Online, 24 July 2009]; "รัฐต่ออายุ พ.ร.ก. ฉุกเฉินฯ ครั้งที่ 16 หลังใช้ครบ 4 ปี ใต้ยังระอุดักบึ้ม ตชด. เจ็บสอง", ศูนย์ข่าวภาคใต้ สถาบันอิศรา, 13 กรกฎาคม 2552 ["Government renews emergency decree for the 16th time after imposing it four years ago, South still violent, bomb injures two border patrol police", Isra News Agency southern desk, 13 July 2009].

[80] See "การศึกษาวิจัยประเมินผลกระทบของพระราชกำหนดการบริหารราชการในสถานการณ์ฉุกเฉิน พ.ศ. 2548 ต่อการจัดการและการแก้ไขปัญหาความรุนแรงในจังหวัดชายแดนภาคใต้ พ.ศ. 2552", สถานวิจัยความขัดแย้งและความหลากหลายทางวัฒนธรรมภาคใต้ ["A Study on the Impact of Emergency Decree 2005 in Managing and Solving Violent Conflicts in Southern Border Provinces in 2009", Centre for the Study of Conflict and Cultural Diversity in Southern Thailand]. The executive summary of this unpublished research is available on the website of Deep South Watch. The research, led by Srisompob Jitpiromsri, a political scientist at the Prince of Songkhla University at Pattani, has two components: a survey by questionnaire of 2,000 people in the Deep South and in-depth interviews with selected groups of 256 people from various professions, including judges, public prosecutors, military and police officers, civic officials, religious leaders, business people, NGOs, youth, security-related detainees, and victims of violence.

[81] According to police statistics, some 1,740 suspected insurgents were held by police under the emergency decree between 2005 and 2009 (as of 3 July) and 380 were prosecuted. The military detained some 2,280 people under martial law and 670 under the emergency decree between 2004 and June 2009 and 325 were prosecuted. Statistics from the police interrogation centre in Yala (known in Thai as *Soon Pitak Santi*) and army interrogation centre in Pattani (known in Thai as *Soon Sermsang Samannachan*) cited in ibid, pp. 4-5. The police and the military gather their statistics separately; data cited here does not cover the same period. Many suspects held by the military under the emergency decree were initially arrested and detained under martial law. There is no information available regarding how many were held under both laws. Crisis Group telephone interview, Srisompob Jitpiromsri, political scientist, Prince of Songkhla University at Pattani, 4 September 2009.

[82] Lt. Gen. Daphong Ratthanasuwan, army assistant chief-of-staff, in a seminar on "Internal security act and resolution of southern conflicts" on 18 January 2009 in Bangkok, attended by Crisis Group. He is one of the officers designing the ISOC's structure under the newly enacted ISA. Lawyers said it seems unlawful to have the ISA and emergency decree concurrently in force because Section 15 of the ISA states the government can impose the act in an area that is facing security problems but does not yet require the declaration of a state of emergency under the emergency decree.

[83] "การศึกษาวิจัยประเมินผลกระทบของพระราชกำหนดการบริหารราชการในสถานการณ์ฉุกเฉิน พ.ศ. 2548 ต่อการจัดการและการแก้ไขปัญหาความรุนแรงในจังหวัดชายแดนภาคใต้ พ.ศ. 2552", อ้างแล้ว, หน้า 12-13, 17-20. ["A Study on the Impact of Emergency Decree 2005 in Managing

On 16 July, the government extended the emergency decree. The prime minister ordered the NSC to draw up plans for an independent mechanism to receive complaints about mistreatment by officials and prepare to impose the ISA in four violence-hit districts in Songkhla, where martial law is in place.[84] Abhisit said that the emergency decree was "a two-edged sword": it is useful for investigations and intelligence gathering, but could be seen as violating people's rights and used by insurgents to increase resentment against the state.[85]

The cabinet renewed the emergency decree for the seventeenth time on 13 October, the fourth renewal under this government. The decision did not wholly restate the status quo. The cabinet approved the imposition of the ISA in four districts in Songkhla for one year after revoking the martial law, starting on 1 December 2009.[86] If it works effectively there, the government would extend it to Pattani, Yala and Narathiwat and revoke the emergency decree and martial law. A committee was also set up to receive complaints about misuse of the emergency decree by officials. This committee – headed by Sathit Wongnongtoey, a minister attached to the prime minister's office and Thaworn Senniem, deputy interior minister – will report the complaints directly to the cabinet at the time of renewal.[87] It remains doubtful this mechanism will function effectively.

B. INTERNAL SECURITY ACT

The ISA was passed by the post-coup interim parliament and came into force in February 2008. Under this law, the ISOC is in charge of maintaining "internal security", which is defined as "any threat of disorder, destruction, loss of life, limb or property of the people or the state". The act makes the ISOC the focal point of internal security policymaking, granting it powers to monitor, investigate and evaluate potential internal security threats and to suggest necessary actions to the government. The ISA could be invoked in a particular area by a cabinet resolution, which would grant the ISOC authority over security affairs and the activities of all government agencies and officials there.

The law allows the ISOC to "prevent, suppress, eradicate, overcome or mitigate occurrences that affect internal security". The ISOC can impose curfews; declare areas off-limits; and control weapons possession and electronic devices as well as use of roads and vehicles. Similar to the emergency decree, the ISA suspends the jurisdiction of administrative courts to determine the legality of state actions. It allows lawsuits to be filed through the regular courts. Those harmed by the implementation of the ISA have the right to seek compensation and judicial remedies.

There are concerns, particularly among human rights advocates, that the ISA could grant wide powers to the military-controlled ISOC without providing sufficient checks and balances. The vague definition of "internal security" leaves room for the military to use the law against its political opponents as well as curtail rights to freedom of expression and peaceful assembly. Although the ISA appears to establish civilian control over the ISOC by making the prime minister its director, the prime minister may delegate his or her powers to the army commander. In 2008, then Prime Minister Samak Sundaravej was so preoccupied with his own political trouble that he formally delegated southern policy to the army commander.[88]

A key measure in the ISA in the context of southern insurgency is Section 21. It allows the ISOC, with the consent of a court, to drop criminal charges against an alleged offender in a security-related case, if the person confesses his or her wrongdoings and agrees to undergo up to six months of "re-education".[89] The idea resem-

and Solving Violent Conflicts in Southern Border Provinces in 2009", op. cit., pp. 12-13, 17-20].

[84] Cabinet resolution dated 14 July 2009, available at www.thaigov.go.th.

[85] "เปิดรายงาน สมช. ต่ออายุ พ.ร.ก.ฉุกเฉินฯ – ใช้กฎหมายมั่นคงนำร่อง 4 อำเภอสงขลา", โต๊ะข่าวภาคใต้ สถาบันอิศรา, 16 กรกฎาคม 2552 ["NSC report on the extension of emergency decree – ISA to be used in four districts in Songkhla", Isra News Agency southern desk, 16 July 2009].

[86] Cabinet resolution dated 24 November 2009, available at www.thaigov.go.th.

[87] "สั่งยกเลิกอัยการศึก 4 อำเภอในสงขลา" *ข่าวสด* ,14 ตุลาคม 2552 ["Martial law revoked in four districts in Songkhla", *Khao Sod*, 14 October 2009].

[88] Crisis Group interview, International Commission of Jurists, Bangkok, 28 October 2009. Samak died of liver cancer in a Bangkok hospital on 23 November 2009.

[89] If the ISA is imposed, the military would revise and expand an existing "training" program under a "political school" project (*rongrean kan muang*) to be used for alleged offenders under section 21. The idea originally started in 2007 when the military carried out a four-month training for some 400 suspected militants in upper southern provinces. Human rights activists charged that the army had no legal authority to hold these people for an extended period of four months. They submitted the case to provincial courts, which ruled that the army release them. The military resumed the training in May 2008 under the political school project and requested attendees to sign a written consent to avoid legal dispute. As of August 2009, the program had thus far given a twenty-day training for some 1,550 Malay Muslims. Most of them were categorised as rank-and-file members who had not committed any serious crimes. The ISA would give the military legal authority to hold suspects for up to six months. Crisis Group interview, Col. Niphon Rongsawat, deputy chief of the "political school", Pattani, 18 August 2009.

bles an amnesty implemented under the *kanmuang nam kan thaharn* policy (politics leading the military) that succeeded in neutralising the communist insurgency in Thailand in the 1980s.

In April 1980, then Prime Minister Prem Tinsulanond announced Prime Ministerial Order 66/2523, which stated that "throughout this struggle to defeat the communists, political actions much prevail, and military actions must basically be supportive of these political actions".[90] Army officers who called themselves "Democratic Soldiers", including Gen. Chavalit Yongchaiyudh and Gen. Han Leelanond, were the major architects of the policy.[91] Instead of using military force to dismantle the communist movement, Order 66/2523 focused on the political dimension of the insurgency. It attributed the communist insurgency to political, social and economic injustice, which derived from undemocratic government and lack of people's participation in politics. It said "social injustice must be eliminated at every level … corruption and malfeasance in the bureaucracy must be decisively prevented and suppressed. And all exploitation must be done away with and security … provided". The policy suggested that the government treated communists, repentant defectors or prisoners all as "fellow countrymen". Amnesty was granted in return for surrender.[92] It also gave the military a pretext for its direct involvement in politics and legitimised its role as "builder" of democracy in years to come.[93]

It is unlikely that Section 21 would have the same impact on the southern insurgency as Order 66/2523 did on the communist insurgency in the 1980s.[94] Today's insurgents live in or near their own villages, unlike previous generations of separatists who lived and fought in the jungle. They do not need to surrender to return home. They have not yet been defeated militarily and, if anything, have shown themselves to be resilient, adaptable and resourceful. The underground struggle appears to resonate with enough Malay Muslims to sustain it. Besides, this measure appears to be a weak bargaining chip and poor intelligence-gathering tool. The government's perception of insurgents as "misled" people, as stated in the ISA, is also problematic. It is unlikely that reverse indoctrination through a re-education course would change the beliefs of those who take pride in Patani history and have a strong sense of religious devotion, particularly since the insurgency is rooted in opposition to Thai nationalism and questions the state's legitimacy.[95]

Section 21 would only be effective alongside moves to address the larger political, economic and social problems that gave rise to the insurgency. It is crucial to prove to Malay Muslims that they can live under a just rule in Thailand and the state respects their distinct ethnic and religious identity. They need to feel their aspirations and grievances can be addressed in a peaceful manner through a political process. Otherwise, it is unlikely this policy would help reduce the number of insurgents.

Human rights advocates and lawyers distrust this proposal and fear that the authorities might use it to pressure detainees to confess to crimes they did not commit.[96] The International Commission of Jurists, a Geneva-based NGO working to promote the implementation of human rights-related international law, argues that the "training" is a form of administrative detention and there are insufficient procedural safeguards.[97]

While the ISA does not directly grant authorities power to detain suspects without charge, Section 21 could permit a maximum detention of six months. It raises questions about the rights of detainees but the problems are different from the two draconian laws currently imposed. While a special law that grants security forces greater authority to fight the insurgency might be needed, it should not give overly broad powers. Effective and independent checks and balances should be in place to prevent abuse.

C. PROSECUTION OF PAST HUMAN RIGHTS ABUSES BY SECURITY FORCES

No member of the security forces involved in human rights violations against Malay Muslims has been prosecuted in the past six years. Two incidents in 2004 – the 28 April and Tak Bai incidents – remain powerful symbols of injustice for many. In the 28 April incident,

[90] Prime Ministerial Order 66/2523, 23 April 1980.
[91] Gen. Chavalit was prime minister in 1996-1997 and Gen. Han applied this "politics leading military" policy in the South and called it *tai rom yen* (calming the South) when he became a commander of the Fourth Army Region in 1981.
[92] Suchit Bunbongkarn, *The Military in Thai Politics 1981-86* (Singapore, 1987), pp. 91-92.
[93] Ibid, p. 73.
[94] The success of the "politics leading the military" policy had to do with the political context of the Cold War, such as the growing internal rifts in the Communist Party of Thailand (CPT) and diminishing Chinese support for the party. Student activists had fled the cities to join the communist movement in the jungle after the 1976 massacre and became disheartened by the CPT leadership due to its close adherence to Beijing. The Order 66/2523 provided an exit strategy for disgruntled student activists who wanted to leave the jungle.

[95] Duncan McCargo, *Tearing Apart the Land: Islam and Legitimacy in Southern Thailand* (Ithaca, 2008), p. 183.
[96] Crisis Group interview, Kitja Ali Ishak, Muslim Attorney Centre, Pattani, 19 July 2009.
[97] Crisis Group interview, International Commission of Jurists, Bangkok, 28 October 2009.

popularly known as "Krue Se", 106 Malay Muslims died in clashes with security forces in eleven locations. Of these, 31 were killed when security forces stormed the Krue Se mosque in Pattani and nineteen were killed at Saba Yoi district in Songkhla. Many appeared to have been executed. During the Tak Bai incident on 25 October 2004, 78 Muslims died from suffocation and injuries after the authorities rounded up protesters and packed them into military trucks.

These incidents attracted widespread international condemnation. Post mortem inquests into them were conducted in accordance with the Criminal Procedure Code that requires an inquiry for any death in official custody.[98] Three inquests for the Krue Se, Saba Yoi and Tak Bai incidents have been completed. Prosecutors decided not to file a lawsuit against five police and one army officer involved in the Krue Se incident. No explanation was given.[99] They have not yet publicly announced whether to place criminal charges in the other two cases. None of the three inquests conceded any wrongdoing on the part of officials. Inquests for other locations where Muslims died after clashes with security forces on 28 April 2004 still have not been completed and the delay has been partly attributed to the refusal of officials to testify.

The latest finding of the Tak Bai inquest is equally disturbing. The Songkhla provincial court ruled on 29 May 2009 that security forces had acted in line with their duties and in a justified manner.

> The situation was hectic. There were more than 1,000 demonstrators gathered in front of the Tak Bai police station, which has limited space, and the location where the incident took place was near the Thaksin Ratchaniwet Palace. The suppression of the demonstration was only completed in the evening and the authorities could only find trucks available at the scene. It was a long distance between the Tak Bai police station and Ingkayuthaborihan Camp. The climate was not favourable for the transportation and there were obstacles on the road. Therefore, if the transportation of the demonstrators had not taken place, the situation would have been exacerbated and might have led to unexpected results.
>
> There is no evidence that there was any action taken against, or any bad incidents occurring with, the 78 deceased or other protesters after they had been put into the trucks to be transported to Ingkayuthaborihan Camp. … For that reason, the court rules that … the cause and circumstances of the deaths was due to suffocation while they were in the custody of officials working in line of duty.[100]

The verdict disregarded the fact that protesters were stacked on top of one another in the military vehicles. Such accounts have been confirmed by survivors and photographs. The verdict sparked an outcry among many Malay Muslims and human rights advocates.[101] Human rights lawyers have submitted a petition to the Bangkok Criminal Court on behalf of relatives of the Tak Bai victims stating that the verdict was "unjust and violated the constitution". It urged the court to overrule the decision; the case is pending in the Appeal Court.[102] In June, an English-language newspaper, citing a security source, reported that militants were planning to kill two judges who ruled on the Tak Bai inquest and that the judges had requested to be transferred out of the region.[103]

The verdict from the post-mortem inquest for imam Yapha Kaseng clearly suggested that soldiers were responsible for his death. In March 2008, Yapha was arrested under martial law and died in military custody two days later. An excerpt of the court's finding reads:

> The court thus ruled that Mr Yapha Kaseng died at Narathiwat Taskforce 39 … The cause of death was physical abuse by military officers which left him

[98] Separate post-mortem inquests were conducted for each incident (eleven in total) on 28 April 2004. The court's finding does not automatically lead to the conviction of officials responsible for the deaths. However, the finding could be used as a guideline for prosecution by a criminal court.

[99] The Office of the Attorney General sent an official letter dated 10 February 2009 to the Working Group for Justice, a Bangkok-based human rights organisation, after it had requested a clarification of whether the Office of the Attorney General had decided to file a lawsuit against officials involved in the Krue Se incident. Crisis Group telephone interview, Puttani Kangkan, Working Group for Justice staff, 27 October 2009.

[100] Official transcript of Songkhla Provincial Court's verdict (in Thai). Translation into English by Crisis Group.

[101] The International Commission of Jurists issued a statement expressing its disappointment with the verdict. It said that the court failed to acknowledge "all the factual circumstances that caused their deaths" and called upon the government to carry out a "speedy, impartial and independent investigation". See "Thailand: Court delivers disappointing post-mortem inquest findings in Tak Bai incident", press release, International Commission of Jurists, 29 May 2009. The government of Thaksin Shinawatra set up two independent fact-finding committees to investigate the Krue Se and Tak Bai cases in 2004. No action was taken after the fact-finding reports were submitted.

[102] Information from the Cross Cultural Foundation, a Bangkok-based human rights NGO, made available to Crisis Group.

[103] "Rebels target Tak Bai judges", *Bangkok Post*, 26 June 2009.

with broken ribs and a ruptured lung while in custody of officers who were carrying out their duties.[104]

Five soldiers from Taskforce 39 were transferred out of the region and faced disciplinary penalties. While the post-mortem inquest clearly identified the wrongdoers, no decision has been made whether to place charges. In the interim, lawyers for Yapha's wife filed a criminal lawsuit in her name on 20 August 2009 against the five soldiers and one police officer.[105]

The investigation into the March 2004 disappearance of Muslim human rights lawyer Somchai Neelaphaichit has stalled. Abhisit gave a boost to the investigation by appointing Gen. Thanee Somboonsab, then a deputy police chief known for his honesty, to lead the investigation.[106] Thanee said after his appointment that "the sky has opened", suggesting that the change of government would make it easier to pursue the investigation.[107] Official investigators carried out DNA tests on bones found in an area where the missing lawyer was believed to have been killed but there was no match. No evidence to prove his death has been found. Some have speculated that the perpetrators have not been found because some suspects are senior officials.[108]

The justice system is a crucial mechanism in conflict resolution in the Deep South and its failings undermine trust in the government. As of August 2009, there had been 6,758 security-related cases in the region. Of these, police suspended 4,580 cases as no suspect was identified and dropped another 123 cases due to insufficient evidence. 1,318 cases were forwarded to prosecutors and only 545 cases proceeded to court. Verdicts were delivered in 195 trials resulting in 203 convictions and 152 acquittals.[109] Very few of the security-related cases in the police's hands eventually go to court. Poor quality investigations lead to long delays, charges often being dropped, and a high acquittal rate. The system needs to work quickly and fairly to stem resentment. In March, the cabinet approved a justice ministry five-year strategic plan that aims to build trust by improving the system in the southernmost provinces and removing obstacles that deny people justice.[110]

D. TORTURE

The death of Yapha Kaseng was a wake-up call for the security forces and the attention it attracted forced them to address torture and abuse during interrogations.[111] Military commanders have prohibited torture and promised to punish those who commit such acts. In January 2009, a video posted online showed unidentified Thai soldiers beating a young Malay Muslim man in an open field.[112] An official investigation found the assault took place on an army base in Narathiwat's Chanae district. The victim had been arrested a year earlier after a powerful roadside bomb killed eight soldiers in a Humvee. Three non-commissioned officers involved in the beating were detained (for an unspecified period) as punishment.[113]

Human rights advocates believe that torture and abuse are less frequent than before Yapha's death but have not ceased. At least three serious cases of alleged abuse in detention have been documented in 2009, among many other less violent cases. On 19 February, Sapae-ing Satoh was arrested in Yala's Bannang Sata district after a shooting near his house. Border patrol police beat him during interrogations in two locations. On 30 March, Makoseng Pohtae was slapped, beaten and kicked in turn by police, soldiers and paramilitary rangers while in detention. At one point, police placed a plastic bag over his head. On 26 July, Sobri Haji and Sanuti Doloh were

[104] Official transcript of post-mortem inquest for Yapha Kaseng dated 25 December 2008 (in Thai). Translation into English by Crisis Group.

[105] Information from the Cross Cultural Foundation made available to Crisis Group. Previously, the imam's family filed a separate civil lawsuit against the Defence Ministry, the army and the police on 19 March 2009 demanding 15 million baht ($441,000) in compensation.

[106] Thanee headed the investigation team from the Department of Special Investigation, Thailand's equivalent of the U.S. Federal Bureau of Investigation, which took over the case from police in 2007. He retired in October 2009 and was appointed the prime minister's deputy secretary general in mid-November.

[107] "พล.ต.อ. ธานี รับบิ๊กตำรวจพันอุ้มทนายสมชาย" *กรุงเทพธุรกิจ*, 27 มกราคม 2552. ["Police Gen. Thanee admits senior police officers involved in Somchai's kidnapping", *Krungthep Thurakit*, 27 January 2009]. There was no progress in the investigation while governments led by the PPP were in power in 2008.

[108] Crisis Group telephone interview, Angkhana Neelaphaichit, wife of the missing lawyer Somchai, 16 September 2009.

[109] Statistics from Police Forward Command in Yala.

[110] *แผนยุทธศาสตร์การพัฒนากระบวนการยุติธรรมในจังหวัดชายแดนภาคใต้ พ.ศ. 2553–2557*, กระทรวงยุติธรรม, 2552) หน้า 1- ก [*Strategic Plan to Develop the Justice System in Southernmost Provinces 2010–2014*, Justice Ministry, 2009, p. 1 - ก].

[111] In a January 2009 report, Amnesty International concluded that Thai security forces engaged in "systematic torture" and ill-treatment in southern Thailand. The report documented 34 cases of torture. It argued that torture is systematic because it is habitual, widespread and deliberate in at least a considerable part of the territory, even if it is not government policy. "Thailand: Torture in Southern Counter-Insurgency", Amnesty International, 13 January 2009.

[112] The clip can be found online: "pattani menangis", video, YouTube, 6 January 2009, www.youtube.com:80/watch?v=KUGXOsIB8No.

[113] The CPM provided a written explanation to the Cross Cultural Foundation after it requested an investigation into the matter. The information was made available to Crisis Group.

arrested in Pattani's Khok Pho district. This happened after a friend, Hamdi, came to give them a wedding card. Having a pistol in his pocket, Hamdi ran away when he saw soldiers. Sobri and Sanuti were frightened and followed him to hide in a neighbour's house. Hamdi and a soldier were killed by gunfire. After the two were arrested, they were kicked and stamped on the head. While in a public hospital, a soldier entered the facility and hit Sanuti on the head and face as well as squeezing his neck. After being transferred to a military hospital, they were kicked, punched and stamped on.[114]

E. PARTIAL IMPLEMENTATION OF SHARIA

In response to longstanding community demands, the justice ministry and the SBPAC have drafted a bill to improve the application of Sharia (Islamic law) in the southern provinces with regard to family and inheritance matters.[115] The 1946 law that allows the use of Sharia to settle family and inheritance disputes in Pattani, Narathiwat, Yala and Satun is not used in practice because of several shortcomings in the implementation. First, *datoh yuttitham* (Islamic judges) can only give religious advice, while the official judge has sole authority to rule. Second, the law does not cover the adjacent province of Songkhla, which has a sizable number of Muslims. Last, there are no penalties for non-compliance with judgments and hence, they cannot be enforced. Many southern Muslims seek advice from imams or other local religious leaders to reach out-of-court settlements.[116] The initiative to draft a new law attempts to address these problems.

This bill, if enacted, would be generally well received by Muslims in the South. It is clear that the government would only support the implementation of Sharia with regard to family and inheritance matters, which does not cover criminal offences such as the consumption of alcohol or illicit sexual activity. Even so, such accommodations make some Buddhist Thai security officials uncomfortable and the timetable for such changes remains uncertain. They are also opposed by some official judges who question the legal qualifications of Islamic judges. Others ask whether Sharia courts should also be set up for Muslims living elsewhere in Thailand.[117]

[114] Detailed information on torture cases courtesy of the Muslim Attorney Centre.
[115] "Self-rule is out, but room for shariah law", *Bangkok Post*, 15 June 2009.
[116] Crisis Group interview, Kitti Surakhamhaeng, director of SBPAC's justice administration bureau, 7 August 2009.
[117] Ibid.

V. PEACE TALKS AND NEW GOVERNANCE STRUCTURES

A. DIALOGUE

Publicly, the Abhisit government has not supported dialogue with insurgents in the South. Since 2004, the Thai state has maintained its stance of "no negotiations", claiming they would elevate insurgents' status. Behind the scenes, there have been several tracks of "dialogue" undertaken by officials – in both official and "private capacity" – with the help of third party facilitators. None has so far achieved tangible results. Such efforts are hampered by a lack of sustained commitment on the part of the government and the unclear and fractious leadership of the insurgency.

Crisis Group has previously documented dialogue processes between 2005 and 2008.[118] The last failed attempt was the Indonesian-initiated "Bogor talks". This two-day meeting hosted by then Indonesian Vice President Jusuf Kalla was held at a presidential palace in West Java on 20-21 September 2008.[119] The Thai participants included a retired general and fifteen Malay Muslim representatives claiming to represent four insurgent groups. Most of the Malay Muslim representatives live outside Thailand and were thought to have limited roles, if any, in the conflict. Unlike Kalla's experience with the Aceh peace process that dealt with one dominant and open insurgent group, the leadership of the Thai insurgency remains divided and enigmatic. The talks were aborted after news of them broke in the media. Thailand did not want to have it perceived that another country had a role in an "internal" conflict.

Parties involved in other discussions since 2005 are likewise reluctant to acknowledge past or ongoing dialogues. Under the PPP-led government, a confidential dialogue that had been started by third party facilitators in 2006 and involved Thai officials and representatives of the exiled Pattani United Liberation Organisation (PULO) and the Barisan Revolusi Nasional-Coordinate (BRN-C) was frozen. PULO primarily operates as a foreign political front with an elected committee based in Europe, the Middle East and Malaysia. Thai authorities believe BRN-C is the most important group behind the violence. Although PULO and BRN-C representatives claim to control a significant number of militants, they admit that others operate outside their control. The December 2008 change of government gave new momentum to

[118] Crisis Group Briefing, *Thailand: Political Turmoil and the Southern Insurgency*, op. cit., p. 10.
[119] "Secret talks aimed at isolating insurgents", *Bangkok Post*, 23 September 2008.

this dialogue process and insurgent representatives have proposed a political settlement based on a special administrative structure, without any demand for independence.[120] Only if the government demonstrates a serious commitment to dialogue will the extent of control that the insurgent representatives have over militants become clear.

B. SPECIAL GOVERNANCE STRUCTURES

Governance reform has proved to be a crucial component in successful negotiations in several "separatist" conflicts, notably Aceh and Northern Ireland. For some years, political and military leaders have dismissed any proposal to set up a special administrative structure in the Deep South, claiming it would be a first step towards independence and violate the core principle of the unitary Thai state. This taboo has deterred efforts to explore new governance arrangements that could help end the conflict.

The rhetoric softened in 2009. Several public seminars have discussed the possibility of a new form of political administration that better recognises the distinctive ethno-religious character of the Deep South. Prime Minister Abhisit told a conference in Bangkok in June that he was "willing to talk" about a special form of local governance. He cited Bangkok and Pattaya as examples of administrative areas governed by elected leaders, but added that special arrangements alone would not necessarily resolve the southern conflict.[121] He said that the heart of just rule was the relationship between the ruled and the rulers. There was no guarantee that a new political structure would improve the relationship.[122]

In October, Malaysia's Prime Minister Najib Razak publicly suggested that Thailand should grant a degree of autonomy to the South as a means to end the insurgency, but made it clear that his country would not intervene in the conflict. Ahead of his scheduled December 2009 visit to the South with his Thai counterpart, he said some form of self-determination on issues such as the selection of local leaders, employment, religion and education should be allowed.[123] A few days later, Chavalit Yongchaiyudh, the new leader of the opposition and pro-Thaksin party Puea Thai, also said the government should set up an autonomous "Pattani city" to give Malay Muslims more control over their own affairs.[124] Chavalit's remarks appear to have been an attempt to undercut the government rather than a genuine effort to champion such a proposal. Abhisit then backtracked on his previous comments saying the government was interested in increasing local participation rather than inventing a new administrative structure. It had no plan to allow residents of the Deep South to elect their governors.[125]

Some Thai academics have proposed models for a new governance structure for the Deep South. Srisompob Jitpiromsri and Sukree Langputeh have suggested creating a new agency to oversee the administration of the region, along with new consultative bodies designed to allow local people to take part in governance.[126] The SBPAC's status would be elevated to a *thabuang* (a small ministry) and come under the prime minister's

[120] Crisis Group telephone interview, observer in close contact with the insurgent movement, 21 June 2009.

[121] Bangkok is the only province in Thailand that has an elected governor. The popular beach resort city of Pattaya in the central province of Chonburi, about 165km south east of Bangkok, has an elected mayor.

[122] Closing remarks by Prime Minister Abhisit Vejjajiva in a seminar on "Politics must lead the military: sustainable solutions to solve southern violence", Bangkok, 30 June 2009. Another conference on "How to end Southern crisis" discussed this issue at length. It was organised by a parliamentary committee on southern violence in Bangkok on 30 March 2009.

[123] "Let South have autonomy", *The Nation*, 26 October 2009.

[124] "Chavalit suggests autonomous region", *Bangkok Post*, 3 November 2009. His decision to become the leader of the Puea Thai in October is highly controversial. Prem Tinsulanond, who chairs the Privy Council, warned him against joining the pro-Thaksin party, saying it would be "an act of betrayal against the country". The Thai-Cambodia diplomatic spat began after Chavalit visited Cambodian Prime Minister Hun Sen in Phnom Penh in late October 2009, during which Hun Sen said Thaksin was his "eternal friend" and he had a residence waiting for the exiled leader. Hun Sen later appointed Thaksin an economic adviser to his government, prompting Bangkok to protest by withdrawing its ambassador and Phnom Penh reciprocated. Thaksin received a warm welcome from Hun Sen when he visited Cambodia in early November to take up the post. The Cambodian prime minister declined Bangkok's request to extradite Thaksin on the grounds that the conviction was politically motivated.

[125] Abhisit's remarks to parliament on 5 November 2009. See "นายกฯ ดับฝัน 'นครปัตตานี-เลือกตั้งผู้ว่าฯ' ", ศูนย์ข่าวภาคใต้ สถาบันอิศรา, 6 พฤศจิกายน 2552 ["PM trashes the dream of 'Pattani City-electing governors'", Isra News Agency southern desk, 6 November 2009].

[126] ศรีสมภพ จิตร์ภิรมย์ศรี และสุกรี หลังปูเต๊ะ, การปกครองท้องถิ่นแบบพิเศษในจังหวัดชายแดนภาคใต้, รายงานวิจัยที่ไม่ได้ตีพิมพ์, 2551 [Srisompob Jitpiromsri and Sukree Langputeh, "Special local administration in the southern border provinces", unpublished report, 2008]. Srisompob teaches political science at Prince of Songkhla Universtiy at Pattani and Sukree is a lecturer in Faculty of Arts and Social Sciences at Yala Islamic College, a private university. They jointly conducted the research, which was supported by Bangkok-based Mahidol University's Research Centre for Peace Building. The 113-page-long report, completed in June 2008, is a rare detailed study on possible governance structures for the South. An abridged version of the report was published in English as Srisompob Jitpiromsri and Duncan McCargo, "A Ministry for the South? New Governance Proposals for Thailand's Troubled South", *Contemporary Southeast Asia*, vol. 30, no. 3 (2008), pp. 403-428.

office. The most important consultative body would be the Chamber of the Southern Border Provinces, a consultative, liaison and advisory assembly for the three provinces. Representatives from a wide range of organisations would be elected to the chamber. Its primary task would be to produce a political and economic development strategy for the three provinces.

This proposal also suggested establishing an "advisory council of religious authorities" at the sub-district level. These councils would have some characteristics of *shura* or Islamic consultative decision-making bodies and would also include non-religious representatives. Together with the existing elected municipal and sub-district organisations, they would oversee cultural matters, including curtailing activities that contradicted Islamic sensibilities. Other suggestions included implementing Sharia to settle family and inheritance disputes, integrating secular and religious curricula at all level of education; using Malay and Thai as working languages in government offices and schools; and increasing representation of Malay Muslims in local bureaucracy in greater numbers and at more senior levels.

Srisompob and Sukree's study provides one example of a new governance arrangement that could better address the needs and grievances of local people in the South; other options should also be explored. Despite the widening public space for discussing special administrative structures, the issue is still too politically sensitive for the government. Without widespread popular support, which is unlikely outside of the South, it would be political suicide for the Abhisit government to take any action that might be seen as promoting autonomy. It would immediately prompt a backlash from conservative forces. Despite the sensitivity, the government could push the issue forward by seriously considering the insurgent representatives' proposal on new administrative structures and exploring other possibilities. At the same time, it should lay the groundwork for public acceptance of a reformed local governance structure.

VI. CONCLUSION

Despite some sound policy guidelines, the Abhisit government has failed so far to make any concrete policy shifts in the South. The fragile coalition government needs to maintain political equilibrium and avoid antagonising the military, whose backing is necessary to cement its power. This dependence affects its southern policies that have been controlled by the military since the 2006 coup. The government's plans to lift the emergency decree and separate the SBPAC from the army-controlled ISOC have been delayed because of the military's objections.

Addressing the insurgency has been overshadowed by conflict between the ousted Prime Minister Thaksin Shinawatra and establishment forces; the polarisation is unlikely to end anytime soon. It is unclear how long this weak coalition government will last, given that it is constantly challenged by pro-Thaksin forces. Early elections are widely expected.[127] If a Thaksin-allied party was returned to power at the next general elections, political tension would intensify and the confrontation would likely be more violent. It is a daunting task for this government to change policy towards the South under such circumstances.

Meanwhile, the southern insurgency continues unabated, claiming more than 3,900 lives during the last six years. While sweep operations launched in mid-2007 temporarily curtailed violence, intensifying attacks in 2009 show the rebellion against Thai rule has not been extinguished. The June attack on Al-Furqan mosque was an alarming sign of deepening communal tension and steadily deteriorating relations between Muslims and Buddhists. The government has made little progress in addressing political grievances or alleviating the sense of injustice among Malay Muslims. Its inability to hold security forces accountable for human rights abuse feeds into the narrative of "unjust" Thai rule and provides more fuel for the ethno-religious struggle. The failure to arrest and prosecute perpetrators of the mosque attack has become another symbol of injustice and inevitably a rallying cry to attract new recruits.

Political solutions should be seriously pursued as a way to end this deadly insurgency. The government's rhetoric of development and justice needs to be translated into policy and practice. Development projects should be implemented transparently and with grassroots participation to ensure they address real needs rather than going into unwanted projects or the pockets of those managing them. Investigation and prosecution of secu-

[127] Technically, the government's term will end in December 2011.

rity forces accused of abuses should be expedited. The foundations of peaceful engagement are already in place, should the government wish to pursue dialogue with insurgent representatives. If it is committed to this route, there are plenty of ideas to bring to the negotiation table to encourage compromise from the insurgency. Hope rather than fear should be the spirit of engagement. Dialogue with insurgent movements elsewhere in the world has not often led to separate states splitting off but exploring a new governance structure for the South could help stem the mounting death toll.

Bangkok/Brussels, 8 December 2009

APPENDIX A

MAP OF THAILAND

APPENDIX B

MAP OF THAILAND'S SOUTHERN PROVINCES

APPENDIX C

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