



**COALITION TO STOP THE
USE OF CHILD SOLDIERS**



JUSTICE FOR PEACE FOUNDATION

Report

**Priority to Protect
Preventing children's association
with
village defence militias in southern Thailand**

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The Coalition to Stop the Use of Child Soldiers (the Coalition) is an international human rights research and advocacy organization. The Coalition seeks to end and prevent the military recruitment and use in hostilities of child soldiers (boys and girls below the age of 18), and other human rights abuses resulting from their association with armed forces or groups. It seeks the release of child soldiers from armed forces or groups, promotes their successful return to civilian life and accountability for those who recruit and use them. The Coalition promotes global adherence to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

www.child-soldiers.org

Justice for Peace Foundation (JPF) was founded in June 2006 as a network of human rights and peace activists to strengthen their nonviolent efforts to protect human rights, promote access to justice and to end impunity. JPF engages in human rights monitoring and advocacy while encouraging grassroots activism and supporting victims of human rights violations in their fight for justice. JPF believes that respect for human rights and rule of law is a necessary measure to reduce violent conflict and to build peace in conflict areas. JPF believes that the main catalysts for change are communities themselves and therefore focuses much of their energy and resources on community empowerment. JPF was registered by the Thai Ministry of Interior in November 2009.

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Contents

1. Summary	1
2. Methodology	3
3. Village defence militias in southern Thailand	4
4. Recruitment and use of children by <i>Chor Ror Bor</i>	6
5. Strengthening protection against recruitment and use of children by <i>Chor Ror Bor</i>	9
5.1 Legislative and policy measures	10
5.2 Implementation of law and policies	11
5.3 Oversight and accountability of <i>Chor Ror Bor</i>	12
6. Militarization and social attitudes	13
7. Detention of children under Martial Law and Emergency Decree in southern Thailand	15
8. Thailand's obligations under international law	16
8.1 Prohibition, criminalization and prevention of unlawful recruitment and use.....	16
8.2 Prohibition of administrative detention and provision of appropriate assistance to former child soldiers	17
9. Conclusion	18
10. Recommendations.....	19
10.1 Recommendations to the Thai national authorities.....	19
10.2 Recommendations to other actors	21
10.3 Recommendations to provincial, district and local authorities	22

1. Summary

The violent insurgency in southern Thailand continues apparently unabated. For more than a century Thailand's southern border provinces have witnessed a separatist movement embedded in religious, ethnic, linguistic, cultural, and historical identities. The armed groups have targeted government officials, ethnic Thai Buddhist civilians and monks, and local Muslims suspected of collaborating with Thai government authorities. The government of Thailand has responded to the violence with force, often disregarding basic human rights. Estimates by human rights organisations indicate that the violence has claimed over 4,000 lives since 2004. According to observers the level of violence has not decreased for the past three years.¹

In this situation, children have been victims of bombings, unlawful killings and other violent attacks by armed groups opposing the government. On occasion they have also been victims of lethal force and unlawful killings by the Thai security forces. Access to education has been severely disrupted by the targeting of government schools and teachers by the armed groups and by the occupation of schools by the Thai security forces.²

In 2008 the Coalition to Stop the Use of Child Soldiers (the Coalition) published a briefing which reported that children were systematically targeted for recruitment by armed opposition groups and were used by them in a variety of roles, including direct participation in hostilities.³ Since then other organizations have reported recruitment and use of children by non-state armed groups in southern Thailand⁴ and available information suggests that this practice continues today.

This report focuses on evidence of the association of boys under the age of 18 with *Chor Ror Bor* (Village Defence Volunteers), one of the government-established village defence militias.⁵ *Chor Ror Bor* is a national institution, but is particularly prevalent in southern Thailand, where it forms a part of the government's counter-insurgency efforts against armed opposition groups. *Chor Ror Bor* units consisting of some 30 volunteers are present in nearly all, if not all, of the villages across the four provinces of Narathiwat, Pattani, Songkhla and Yala.⁶

The following report, based on mid-2010 field research in 19 villages, describes patterns of association of children with *Chor Ror Bor* units in this region. In over 65 per cent (13) of the villages visited, the Coalition and its partner in this research project, the Justice for Peace Foundation (JPF), found that children were formal members of the village *Chor Ror Bor* unit or, if not actual members, were performing some or all of the duties associated with membership.

Unlike the armed opposition groups, who actively seek out and indoctrinate children in order to secure their participation in acts of armed violence, the association of children with the *Chor Ror Bor* is not formal government policy. It arises instead primarily from a lack of vigilance on the part of the

¹ See International Crisis Group, *Stalemate in southern Thailand*, Asia Report No. 113, 3 November 2010.

² See Human Rights Watch, *Targets of Both Sides Violence against Students, Teachers, and Schools in Thailand's Southern Border Provinces*, 20 September 2010.

³ See Coalition to Stop the Use of Child Soldiers, *Briefing paper: Child Recruitment and Use in Southern Thailand*, December 2008.

⁴ See International Crisis Group, *Recruiting militants in southern Thailand*, June 2009; Lowy Institute for International Policy, *Confronting ghosts: Thailand's shapeless southern insurgency*, 2010.

⁵ The term village defence militias refer to groups of volunteers locally organized to perform security and defence functions, such as *Chor Ror Bor* and *Or Ror Bor*.

⁶ "Southern Thailand" is used to refer to Narathiwat, Pattani and Yala provinces and four districts in Songkhla (Chana, Na Thawi, Sabayoi, Thepha).

Thai authorities and a lack of awareness at the village level of relevant government regulations and directives or alternative and more appropriate options for young people.

The Thai government has demonstrated some willingness to address the problem and has taken some steps to prevent formal association of children with the *Chor Ror Bor*, including issuing directives to local officials to ensure that under-18s are not recruited. However, the lack of clear prohibition in law, the incomplete implementation of existing policy and the absence of effective oversight and accountability mechanisms, result in a situation where children may still enlist or otherwise provide support to their local *Chor Ror Bor* unit.

More broadly, the problem of children's association with the *Chor Ror Bor* is one consequence of the government's lack of attention to the multi-faceted challenges of protecting children from the human rights abuses related to armed violence in southern Thailand. The persistence of children's involvement in *Chor Ror Bor*, as well as their continued involvement in armed opposition groups highlight the need for the government to develop and implement comprehensive and coordinated strategies to protect children at the national and provincial levels, to end their recruitment and use by all armed parties. In view of the fact that children are already associated with both armed opposition groups and village defence militias, such strategies must include measures to support the release, recovery and reintegration of such children. Currently there are no adequate programs to assist such children. Rather, children suspected of association with armed opposition groups have been administratively detained under the emergency legislation applicable in the region.

This report addresses the recruitment and use of children in *Chor Ror Bor*. It also reflects briefly on concerns relating to the administrative detention of children suspected of association with armed opposition groups. The report contains detailed recommendations which could form the basis for a more comprehensive governmental strategy to protect children affected by armed violence in southern Thailand and which would - if implemented - significantly contribute to ensuring that Thailand's obligations under the international human rights law are upheld.

In particular, the Coalition and JPF call on the government of Thailand to:

- Prohibit and explicitly criminalize the recruitment and use in hostilities of children under 18 years by the armed forces, paramilitaries, village defence militias and any other armed groups;
- Review and amend the 2008 Ministerial Regulation on Officials of the Security Unit to Protect and Maintain Peace and Order in a Village to explicitly prohibit recruitment of under-18s in the *Chor Ror Bor* and prevent informal association of children with the *Chor Ror Bor*;
- Ensure that children are not criminalized solely for having being recruited or used by armed groups and ensure that children are not administratively detained under the Martial Law or the Emergency Decree in southern Thailand.
- Establish monitoring and accountability mechanisms to ensure that measures and policies to protect children from involvement with all armed forces or groups are implemented effectively.

2. Methodology

This report is the result of joint research carried out by the Coalition and JPF in four provinces in southern Thailand - Narathiwat, Pattani, Songkhla and Yala - and in Bangkok from April to July 2010.

Interviews were conducted with approximately 60 people including village headmen and members of *Chor Ror Bor* in a total of 19 villages across the four provinces (eight villages in Narathiwat, four in Pattani, one in Songkhla and six in Yala) as well as government officials. The villages visited were selected on the basis of geographical location, religion, level of violence in the region and economic situation. Of the 19 villages visited, 12 were predominantly Muslim, two Buddhist and five had a mixed population of Muslims and Buddhists. The names of the villages visited have not been identified in the report to ensure the security of interviewees.

In November 2010, the Coalition and JPF presented its preliminary findings to the Thai authorities and held meetings with a range of senior military, police and government officials in southern Thailand and Bangkok. These included the governors of Narathiwat and Pattani; the deputy governor of Yala; representatives of the provincial child protection committees; district officers; the Internal Security Operations Command (ISOC); Director of Southern Border Provinces Administration Center (SBPAC); the Commissioner of Southern Border Provinces Police Bureau; officials from the Ministry of Foreign Affairs, Ministry of Justice and sub-committee on southern border provinces of the National Committee for the Protection of Children. The Coalition and JPF also met with the chairperson of the National Human Rights Commission. Written comments on the draft report were provided by the Ministry of Foreign Affairs and ISOC Region 4.

The Coalition and JPF appreciate the cooperation extended by the Thai government in carrying out this research and welcome the government's continued willingness to engage in discussions on issues relating to the impact of armed violence on children in southern Thailand, including their association with *Chor Ror Bor*.

3. Village defence militias in southern Thailand

Thailand has a long history of using paramilitaries and village defence militias for policing and counter-insurgency purposes.⁷ The most significant expansion of these groups in recent years has been seen in southern Thailand, where they have formed a key element of the military strategy against armed groups in the region since 2002.⁸ Four separate paramilitary or village defence militias operate in southern Thailand: the military-established *Thahan Pran* (Rangers); the provincial-level, Ministry of Interior-established *Or Sor* (Volunteer Defence Corps); the village-level *Chor Ror Bor* (Village Defence Volunteers), also under the control of the Ministry of Interior; and the *Or Ror Bor* (Village Protection Volunteers) established under the Royal Aide-de-Camp department in 2005 to protect Buddhist villages.⁹

The *Chor Ror Bor* were established in 1985 as the successor to the Village Security Teams set up in the late 1960s by the interior minister to defend villagers against communist insurgents. Although operational in southern Thailand for decades, the role of *Chor Ror Bor* in providing village-level security in the face of mounting attacks by armed groups was significantly increased after 2004. By 2005 there was a *Chor Ror Bor* unit in almost all of the approximately 1,500 villages in the three southernmost provinces of Thailand (Pattani, Narthiwat, Yala) with a total of some 47,000 volunteer members, with an expectation that numbers would increase further.

Chor Ror Bor forms a core element of the government's counter-insurgency strategy in southern Thailand. A Ministerial Regulation on the protection and maintenance of peace and order in villages (2008 Regulation) specifically states that because southern border provinces have been affected by ongoing violence and insurgencies, the district and provincial authorities had to set up *Chor Ror Bor*.¹⁰ An official from the Southern Border Provinces Administrative Centre (SBPAC)¹¹ confirmed in an interview with the Coalition and JPF their view of the importance of *Chor Ror Bor* in responding to violence by armed groups and in strengthening and protecting villages. It was noted that if the violence were to end, the role for *Chor Ror Bor* would diminish to similar levels as in other provinces in Thailand.¹²

⁷ There is no universally accepted definition of the term "militias". In this report, the term village defence militias refer to groups of volunteers locally organized to perform security and defence functions, such as *Chor Ror Bor* and *Or Ror Bor*. The term is used to distinguish them from the Thai national army and paramilitary forces, such as the Rangers and the *Or Sor*.

⁸ Human rights organizations and analysts have documented human rights violations by paramilitaries and civilian defence militia in southern Thailand and some have raised general concerns about the reliance on such groups which are less well trained and lack the professionalism of the Royal Thai Army and Thai Police Force. According to the International Crisis Group (ICG), concerns about arming villagers without sufficient training have been raised by a former Minister of Defence in 2005. See ICG, *Southern Thailand: The Problem with Paramilitaries*, Asia Report No.140, 23 October 2007. For other commentary on paramilitaries and civilian defence forces see: Human Rights Watch (HRW), "Government-Backed Militias Enflame Violence", April 2007; Ball, Desmond and David Scott Mathieson, *Militia Redux. Or Sor and the Revival of Paramilitarism in Thailand*, 2007; and Non-Violence International (NVI), *Rule by the Gun: Armed Civilians and Firearms Proliferation in Southern Thailand*, May 2009.

⁹ For a detailed account of paramilitary and civilian militia forces, including *Chor Ror Bor*, operating in southern Thailand see: ICG, *Southern Thailand: The Problem with Paramilitaries*, Asia Report No.140, 23 October 2007.

¹⁰ *Ministerial Regulation on Officials of the Security Unit to Protect and Maintain Peace and Order in a Village B.E. 2551 (2008)*.

¹¹ SBPAC was originally established in 1981 to help contain the local communist insurgency in the south. It later became involved in managing separatist tensions. It was dismantled by Prime Minister Thaksin in 2002, but re-established in 2006 following the military coup in 2006. SBPAC is part of the civilian government and operates in parallel with the military Internal Security Operations Command. SBPAC describes its role as to "promote development, peace strengthening, the elimination of injustice, and the promotion of people participation in solving problems in the southern border provinces...".

¹² Meeting with SBPAC Deputy Director and staff of SBPAC, July 2010.

Chor Ror Bor structure, duties and training

The *Chor Ror Bor* is attached to the Interior Ministry. The Department of Provincial Administration is responsible for organizing the training of local villagers to ensure sufficient numbers of recruits for *Chor Ror Bor*, although the formal appointment of *Chor Ror Bor* members is the responsibility of the District Chief Officer. However, the responsibility for the identification of recruits and the daily running of the *Chor Ror Bor* unit or platoon in each village rests with the village headman, who is also the "platoon leader". Although not stipulated in the 2008 Regulation, in southern Thailand the army's Internal Security Operations Command (ISOC) has operational command for *Chor Ror Bor* when they are participating in military operations.¹³

A *Chor Ror Bor* unit generally consists of a maximum of 30 members, although it can be more with the permission of the district office. According to the 2008 Regulation, *Chor Ror Bor* duties are to assist administrative, police or other officials in carrying out primarily law-enforcement activities. These include a range of tasks from guard and patrol duties, to intelligence gathering. Under the 2008 Regulation, *Chor Ror Bor* members also have powers to search persons or vehicles suspected of being involved in a criminal offence, and to arrest individuals caught in the act of committing a criminal offence.¹⁴

In practice, *Chor Ror Bor* units in southern Thailand perform counter-insurgency tasks in addition to the more general law-enforcement duties of *Chor Ror Bor* elsewhere. Members of the *Chor Ror Bor* interviewed for this report described their role as protecting the village against a range of threats including attacks by armed groups. The duties they described included: village patrols; manning checkpoints at entry points to villages; guarding sites vulnerable to attack, in particular schools and mosques; and in some cases providing security to teachers. They may also be required to assist the local police or the military to identify suspects, including suspected members of armed groups, and on occasion are required to participate in military operations in the surrounding area, joint patrols with the military and search and cordon operations.¹⁵

Although responsibility for ensuring training rests with the provincial administration, the training is delivered in practice by the military, specifically the local-level Special Taskforce (commonly known as *Chor Kor*). Initial training is seven to ten days in duration and includes training in hand-to-hand combat, weapon handling and use, and surveillance. Additional training is provided periodically – generally involving three days training up to once a year – and is also provided by military or paramilitary units. Unofficially, existing members of *Chor Ror Bor* units in the south also provide training to other villagers including children (see below).

Chor Ror Bor units in southern Thailand are armed, usually with a mixture of shotguns and automatic weapons. A 1981 Regulation of the Ministry of Interior regulates the use of firearms and the records of firearms distributed to each village.¹⁶ Typically, each unit will be provided with five weapons (usually shotguns) and ammunition by the authorities – although in some cases where villages have suffered armed attacks or have good relations with government officials more may be provided. Where units are not formally issued with weapons, firearms are either supplied by the village

¹³ ISOC is headed by the Prime Minister with the chief of the Army as the Deputy. In practice, all security policies relevant to southern Thailand go through ISOC Region 4, which is headed by the Fourth Army Chief. The *Chor Ror Bor* is under the Ministry of Interior. However, when participating in military operations, the *Chor Ror Bor* comes under the command of the military unit responsible for those operations.

¹⁴ 2008 Regulation, Chapter 4, Article 17.

¹⁵ Search and cordon operations involve closing off an area where a suspect is believed to be located. Suspects are then arrested during the operation.

¹⁶ Regulation of Ministry of Interior on the Distribution of Firearms to Village Defence Volunteer B.E. 2524 (1981).

headman or in some cases bought by individuals at a discount available to them as *Chor Ror Bor* members.

In general, there are significant numbers of firearms in most villages across the southern provinces. In a recent report, Nonviolence International (NVI) described a “proliferation of firearms” and “the development of a gun culture” in southern Thailand.¹⁷ Observations by Coalition and JPF researchers seemed to support the NVI findings. For example, in one village in Yaha District, Yala Province, the Coalition and JPF observed 25 firearms of which ten were automatic. In another village in the same area the *Chor Ror Bor* unit reported they were equipped with M16s, AK47s and World War II rifles in addition to shotguns. *Chor Ror Bor* members are required, under the 2008 Regulation, to wear a uniform. This consists of a blue floppy cap, a blue long-sleeved shirt, blue trousers, a blue knitted belt and black shoes. In practice, the uniform is worn to varying degrees, sometimes making it difficult to distinguish *Chor Ror Bor* members from the civilian population.¹⁸

4. Recruitment and use of children by *Chor Ror Bor*

Of the 19 villages visited by the Coalition and JPF from April to July 2010, there was evidence of association of boys (under the age of 18) with *Chor Ror Bor* units in 13 villages, while there was no evidence of children's involvement in three units, and in another three it was unclear. The levels of association varied, ranging from formal membership through to the very informal where children were simply spending time at *Chor Ror Bor* facilities or with members on duty. The ages of those involved also differed from approximately 17 to as low as nine years old, with the lower age groups tending to be among those who were informally associated with rather than being formal members of the units.

Formal membership of boys with *Chor Ror Bor* units was found in up to seven of the 19 villages (four villages in Narathiwat, two in Yala and one in Pattani) visited. In some cases the underage recruitment was acknowledged by village headmen or adult *Chor Ror Bor* members. In others, *Chor Ror Bor* members interviewed by the Coalition and JPF claimed to be below 18 years old, or reported that other members were below 18 years old. Formal membership was found in Muslim and mixed villages but not in the two Buddhist villages visited.

Two boys aged 15 and 17 years were interviewed in a village in Narathiwat province. Both were members of the local *Chor Ror Bor* unit. B claimed to have joined when he was just 12 years old. V joined in 2009 at the age of 16. The two boys said there were a total of five *Chor Ror Bor* members under the age of 18 in their village.

In another village, in Yala province, two boys, T (16) and D (17), claimed that they had joined their local *Chor Ror Bor* unit in April 2010. According to their testimony, they were unemployed but the village headman asked their parents if they could join because they were regarded as clean and decent. They explained that their duties required them to be vigilant about security and if any strangers came into the village they should follow them.

The numbers of child members of *Chor Ror Bor* varied from village to village. The highest number reported was eight or nine in a mixed village in Sukhirin District, Narathiwat Province. In two villages in Sungaipadi District and Srisakorn District, both also in Narathiwat Province, there were respectively five and six members of the *Chor Ror Bor* units who were under 18 years old. At least

¹⁷ Nonviolence International, *Rule by the Gun: Armed Civilians and Firearms Proliferation in Southern Thailand*. May 2009.

¹⁸ 2008 Regulation, Chapter 7, Article 23.

two children were formal members in units in villages in Bajoh District, in Narathiwat, and Mayo District in Pattani Province. In another village in Muang District, Yala Province, interviews were conducted with three boys under the age of 18 who were members of the local unit. As formal members of the *Chor Ror Bor*, the children were armed and performed the same duties as adult members.

In villages where formal association of boys under 18 years old was found, it was common to also find under-18s informally associated with the *Chor Ror Bor*. In addition, informal association only was reported in six villages where formal association was not reported. In total either formal or informal association or both were found in 13 villages (eight Muslim, four mixed and one Buddhist village).

Some of the boys informally associated with *Chor Ror Bor* appeared to carry out the same or similar duties as formal members. In some cases the only practical difference appeared to be that they were not officially trained (although they may have received unofficial training) and were not issued with ID cards.

A range of different scenarios was found, with some children performing duties such as guarding check-points or providing other assistance to the unit. In some cases the children were armed – a 14 year old in one village told the Coalition and JPF that he and around five other boys of a similar age had been shown how to use firearms and he was witnessed carrying an automatic weapon. In a village in Bajoh District, Narathiwat Province, boys had received training from formal *Chor Ror Bor* members, been given *Chor Ror Bor* T-shirts to wear and were providing assistance to their *Chor Ror Bor* unit. In this case, the boys were not permitted to carry weapons. In a village in Panare District, Pattani Province, children were allowed to spend time with the *Chor Ror Bor* unit and, although they were not permitted to carry out patrols, they did stand guard at checkpoints.

In other cases, contact with the unit was less regular, occurring on an ad hoc basis, for example, when a boy was asked to stand in for the shift of an adult member (usually a relative) because the adult was otherwise engaged. In such cases, the boy had not generally received either formal or informal training but was required to undertake the full range of tasks required on the shift they were covering. This practice was described during interviews in Yaha District, Yala Province and Sabayoi District, Songkhla Province. The practice was also acknowledged by SBPAC officials and a commitment was made by the Deputy Governor in Yala to take steps to address the problem.¹⁹

Children's contact with weapons, through training and more informal forms of association with *Chor Ror Bor*, posed significant risks to their physical safety and wellbeing. *Chor Ror Bor* members interviewed by the Coalition and JPF explained that several members under the age of 18 had attended both the initial and annual follow-up training, including training on weapons handling and use. It also appeared to be common for *Chor Ror Bor* members to provide unofficial training, including firearms training, to children who were informally associated with the units. More generally there appeared to be a high level of familiarity with firearms among children in the villages visited. In several villages, relatively young children were seen carrying firearms including automatic weapons.²⁰ In one, the Coalition and JPF observed boys spending time with adult members of *Chor Ror Bor* and handling firearms. In a village in Yaha District, in Yala Province, a boy who said he was nine years old reported that he had been shown how to use small automatic weapons. This familiarity with firearms among children may be attributable to the general prevalence of weapons and to processes of informal learning from family members. However, the risk of injury to children (or

¹⁹ Interview with Deputy Governor for Yala, Yala Province, July 2010.

²⁰ Visits to a villages in Yaha District and Muang District in Yala Province and Sungaipadee District in Narathiwat Province.

March 2011

indeed to other community members) resulting from children's handling of weapons or involvement in weapons training – whether formal or informal – needs to be addressed by the authorities to ensure their security is protected and guaranteed.

Children's association with *Chor Ror Bor* whether formal or informal, exposes them to further serious risks, including the risk of attacks by armed groups or their involvement in military operations against armed groups. At least 170 members of *Chor Ror Bor* were reported to have been killed between January 2004 and March 2009.²¹ In one case known to the Coalition and JPF, two boys believed to be under 18 years old serving with a *Chor Ror Bor* unit, were killed in November 2007 while on duty during an attack by armed men on Talingsung village in Sungaipadee District, Narathiwat Province. *Chor Ror Bor* members may also be engaged in military operations against armed groups. The special vulnerabilities of children, and their need for protection in view of their physical and mental immaturity, require them to be completely removed from such scenarios and their involvement to be prohibited in law, policy and practice.

Another form of boys' association with *Chor Ror Bor*, was much more informal, effectively constituting passing time at the *Chor Ror Bor* base or with its members and performing various non-military type errands. For example, the Coalition and JPF found boys, from approximately ten years of age, spending time at the *Chor Ror Bor* bases and taking part in various recreational activities or running errands. These included watching television, chatting with relatives and other adult members of the unit, making tea or coffee, or delivering food and messages from members' wives and families. In some cases, younger children stayed overnight at the bases. Through this type of association boys came into regular contact with firearms, including in some instances through playing football with armed members of the local *Chor Ror Bor* unit.

It should not be regarded as acceptable for children to be spending their leisure time at facilities used by security forces or with members of security forces on active duty. The fact that *Chor Ror Bor* members are often relatives, neighbours or friends of the children should not mask the fact that *Chor Ror Bor*, like the police or military, are a part of the Thai state's security apparatus. In the same way that children should be prohibited from military and police facilities, they should not be permitted access to *Chor Ror Bor* facilities or required to undertake errands of any kind for *Chor Ror Bor* members. In the view of the Coalition and JPF, even this level of informal association creates potentially serious risks to the physical safety of children from armed attacks on *Chor Ror Bor*, from activities carried out by *Chor Ror Bor*, from their proximity to firearms and to their general well-being and development.

²¹ Deep South Watch, April 2009, www.deepsouthwatch.org/node/288.

5. Strengthening protection against recruitment and use of children by *Chor Ror Bor*

The 2008 Regulation sets out criteria for the selection of participants for pre-recruitment, or initial training, and therefore by extension for recruitment into *Chor Ror Bor*. These criteria include Thai nationality, physical fitness and residency in the village in which the unit is based.²² The Regulation does not specify a minimum age for recruits.

However, the recruitment and use of under-18s by *Chor Ror Bor* is not formal government policy: indeed, the government has issued directives specifying the minimum age for admission to *Chor Ror Bor* in 2009 and 2010.

In November 2009, a directive was issued by the Ministry of Interior, addressed to Governors of Narathiwat, Pattani, Satun, Songkhla and Yala provinces which states that applicants for admission into *Chor Ror Bor* must not be below 18 years of age and that selection must be in accordance with international standards for the protection of child rights.²³ A further directive was issued by the Department of Provincial Administration on 4 August 2010 to all provinces in Thailand prohibiting under-18s from participating in the *Chor Ror Bor* training and instructing the district administrators to inform all competent officials and to screen out any children under 18 years from the *Chor Ror Bor*, revoking their appointments and replacing them with adults. The 2010 directive suggests that an amendment to the 2008 Regulation may be introduced to prohibit recruitment of under-18s.²⁴

Despite these measures, research by the Coalition and JPF demonstrated that the practice of recruiting underage members continued to occur after the regulation was issued in August 2008 and existing information indicates that the informal association and use of children continues to be widespread. There is a combination of reasons for this, ranging from: lack of clarity of, and awareness among key officials of, the applicable rules; incomplete implementation of existing policy and procedures; and lack of effective oversight and accountability. In addition, some of those interviewed in villages for this report considered the association with *Chor Ror Bor* to be positive for the children. Protecting children from involvement in these local defence forces will therefore require a range of responses. These will include measures to strengthen existing laws and policies and ensure their more effective implementation; and measures to increase understanding of children's rights and their need for special protection among officials and the general population in southern Thailand.

The government of Thailand has already taken a number of steps to address the formal recruitment of children by *Chor Ror Bor*. In February 2010, for example, written instructions were issued by ISOC Region Four to provincial ISOC representatives requiring them to investigate reports of child recruitment by *Chor Ror Bor* units and to report on any measures taken to safeguard children from recruitment within one month. In December 2010, the Thai authorities informed the Coalition and JPF that SBPAC has carried out an inspection of *Chor Ror Bor* in Yala, Pattani, Narathiat, Satun and Songkhla provinces and found no children under the age of 18 to be in their units as a result of being formally recruited into the *Chor Ror Bor*.²⁵

In relation to concerns raised by the Coalition and JPF regarding children's participation in initial training of *Chor Ror Bor*, a senior police official committed to ensuring that in future the police would not train anyone under 18 years of age and that the prohibition on the recruitment of under-18s

²² 2008 Regulation, Chapter 1, Article 6.

²³ Directive of 12 November 2009 on "Prohibition for youth under 18 years to apply for membership of *Chor Ror Bor*".

²⁴ Directive of 4 August 2010 on "Prevention of children under 18 years from becoming *Chor Ror Bor*".

²⁵ Written response by the Thai Ministry of Foreign Affairs, December 2010.

would be included in the information sessions delivered by the police during official training sessions.²⁶

Welcome as these initiatives are, they do not constitute the full range of measures required across all southern provinces to ensure that children are prevented from recruitment and use by *Chor Ror Bor* and that any under-18s already associated with them are removed. Such measures need to address informal as well as formal association, since informal association is a particularly widespread and serious problem. The sections below detail a range of issues that the Coalition and JPF believe require the government of Thailand's urgent attention.

5.1 Legislative and policy measures

There is recognition in Thai law of the need for special protection for children. The Child Protection Act of 2003 defines a child as anyone under the age of 18.²⁷ The Child Protection Act prohibits any person (regardless of the child's consent) to, *inter alia*, "use, employ or ask a child to work or act in such a way that might be physically or mentally harmful to the child, affect the child's growth or hinder the child's development" (article 26.6).

The Labour Protection Act (1998) sets at 15 years the minimum age for employment. It also specifies the types and places of work for which children under 18 years may not be employed (in articles 49 and 50 and in Regulation no. 6), including working with certain dangerous substances or operating dangerous machinery.²⁸

The special protection needs of children are also reflected in the administration of juvenile justice regulated by the Act of Establishment of Juvenile and Family Courts and Procedure for Juvenile and Family Cases (1991, amended in 2005.) The act applies to persons under 18 years old (a "child" is defined as an individual between seven and 14 years old, and a "young person" as an individual below 18 years old). It establishes juvenile courts and procedures applicable to children suspected of having committed an offence and other issues where the court has to adjudicate on matters affecting children.

Within this general framework of protection also sits the prohibition of voluntary recruitment of under-18s into the armed forces, as reflected in Thailand's binding declaration upon accession to the Optional Protocol.²⁹

Thailand's laws and policies are more ambiguous when it comes to recruitment and association with village defence militias, such as the *Chor Ror Bor*, which are formally distinct from the armed forces and are not directly subject to military law and policies. While the 2009 and 2010 directives prohibit the formal recruitment of children under the age of 18 years into *Chor Ror Bor*, they do not explicitly

²⁶ While the military is responsible for delivering the formal *Chor Ror Bor* training, as part of this the police provide information about *Chor Ror Bor*'s responsibilities in regard to assisting officials.

²⁷ The Act does not apply to under-18s who are married and therefore deemed to have reached the age of majority. According to the Thai Civil and Commercial Code, boys and girls must be at least 17 years old if they are to be married and such marriage requires parental consent, although marriage of lower age may be allowed by the courts. See Sections 1435 and 1436 of the Code, and initial report of Thailand to CRC, CRC/C/11/Add.13, paragraph 106.

²⁸ Thailand is a party to the ILO Convention No. 138 concerning Minimum Age for Admission to Employment and ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

²⁹ Thailand's declaration under article 3.2 of the Optional Protocol includes the following: "1. Military service is compulsory by law. Thai men reaching the age of 18 have a duty to register on the inactive military personnel list. At the age of 21, selected inactive military personnel will become active military personnel. Inactive military personnel may also voluntarily apply to become active military personnel to serve in the national armed forces. Women are exempt from compulsory military service both in times of peace and in times of war, but are subjected to other duties assigned by law."

prohibit their informal association with them. An explicit prohibition of all forms of recruitment and use of children below the age of 18 years in *Chor Ror Bor* in Regulation 2008 would provide a more effective legal framework. Furthermore, the Thai government is under a binding obligation under the provisions of the Optional Protocol to explicitly prohibit and criminalize in law any recruitment and use of children in hostilities by armed forces, paramilitaries, village defence militias and armed groups.

5.2 Implementation of law and policies

If existing legislation and policy are to be effectively implemented, it is imperative that these are widely disseminated among all relevant officials and that training is provided to these officials on implementing these laws. However, interviews with many local and provincial officials conducted by the Coalition and JPF in southern Thailand indicated a generalized lack of awareness of existing policy on the minimum age of recruitment.

While senior SBPAC officials were familiar with the 2009 and 2010 directives as well as broader children's rights issues, this was not the case among provincial and village officials. There was no knowledge of the prohibition on recruitment of under-18s contained in the 2009 Directive among village headmen interviewed in April and May 2010, although one village headman did note that he had been informed by a government official of the 18 years age limit.³⁰ However, the headman also noted that where there are underage members it should be "kept secret" from officials. Village headmen or *Chor Ror Bor* members in a total of seven of the visited villages expressed some awareness that boys under 18 should not be formal members. However, elsewhere there was low awareness of age limits and in seven villages it was clearly stated by village headmen and members of *Chor Ror Bor* that there were no age-related criteria for membership.

The fact that relevant regulations and directives had not been well disseminated among those responsible for *Chor Ror Bor* training and recruitment meant that procedures which could safeguard against underage recruitment were not fully effective. According to the 2008 Regulation, profiles of individuals who complete the initial training are maintained by the Department of Provincial Administration or any other agency responsible for organizing the training. Profiles of those actually recruited as members of *Chor Ror Bor* are kept by the District Chief Officer who is also responsible for issuing each member with an identification (ID) card. Both sets of profiles should include the date of birth and age of the individual. In theory, these procedures should ensure that under-18s who apply for training or membership of *Chor Ror Bor* are easily identified and can be removed.

However, lack of awareness of these regulations meant that in practice the procedures were inconsistently applied. In addition, it was not clear whether the age of participants in training was checked before the beginning of training by either the Department of Provincial Administration, which is responsible for organizing the training, or ISOC, which is responsible for delivery. As noted, several members of *Chor Ror Bor* units interviewed for this report, who claimed to be less than 18 years old, indicated that they had participated both in pre-recruitment and in subsequent formal *Chor Ror Bor* training. In these cases at least, it appeared that age verification procedures, which should have screened out applicants who were below the age of 18 years, were not effective.

Chor Ror Bor ID cards are issued to all those who become members (Chapter 7, Article 22 of the 2008 Regulation). However, information based on interviews suggested that the procedure for applying for membership and issuing of *Chor Ror Bor* identity cards varied from district to district. In theory, a *Chor Ror Bor* ID card – which confers official membership status – should not be issued

³⁰ Interview in Srisakorn District, Narathiwat Province, May 2010.

without the applicant's national identity card (which includes the date of birth) and the "profile" of that individual issued after the *Chor Ror Bor* pre-recruitment training. However, in some cases, village headmen said they simply sent in a list of names of applicants to the Chief District Officer. Indeed, one official with SBPAC noted that the problem was not one of policy but rather the result of an inability to fully control the recruitment processes at the village and district levels. The format of the ID card also varied between and within provinces, heightening the risk of fraudulent production.

While standardizing and implementing existing procedures for membership applications could serve to prevent under-18s from formal recruitment into *Chor Ror Bor* units, it would not resolve the extensive problem of informal association of children. The 2009 and 2010 directives refer specifically to the selection of formal members but are presumably intended to prohibit any form of association of children with *Chor Ror Bor* whether formal or informal. In order to ensure full compliance with the spirit if not the letter of the Directives, a range of complementary measures are necessary. These should include training of village headmen and *Chor Ror Bor* members on the applicable rules on membership and on children's rights in general; regular inspections of *Chor Ror Bor* units; investigations of reports of children's association with *Chor Ror Bor* (formal or informal); and measures to prevent children from entering bases, checkpoints or other facilities where *Chor Ror Bor* are on duty. In addition, children should not be permitted to handle or use firearms.

5.3 Oversight and accountability of *Chor Ror Bor*

The 2008 Regulation sets out various standards of behaviour with which *Chor Ror Bor* members must comply, such as obeying instructions, refraining from consuming, producing or trading in toxic substances and drugs, and not abusing power for personal interest. The disciplinary measures for *Chor Ror Bor* members for contravening these are written warnings or, in the case of a grave violation of discipline, removal from office. Neither the 2008 Regulation, nor the 2009 Directive make any reference to disciplinary measures related to those responsible for the *Chor Ror Bor*, while the 2010 Directive only instructs the district administration to deal with breaches of the prohibition of the recruitment of under-18s.

In general, there appears to be a lack of oversight and accountability in relation to *Chor Ror Bor*, including of its recruitment practices. The 2008 Regulation and the 2009 and 2010 Directives do not set up a mechanism to monitor compliance with recruitment requirements, or to monitor the informal association of children within the *Chor Ror Bor*. A process to verify the ages of *Chor Ror Bor* members was completed in 2010 and the government has indicated that such verification will occur on a regular basis. While this initiative and the commitment to regularly monitor the ages of *Chor Ror Bor* members are welcome moves, they do not appear to deal with the larger issue of informal association of children with *Chor Ror Bor*.

The Child Protection Act (2003) established a National Child Protection Committee and Provincial Child Protection Committees. The national committee is chaired by the Minister of Social Development and Human Security and is composed of representatives from key ministries (such as interior, labour, health, education, justice, etc.). It has advisory and monitoring roles, which includes monitoring the work of the Provincial Committees. These replicate at the regional level the composition of the national committee, being chaired by the governor and composed of regional representatives of key ministries, and experts appointed by the governor. According to the law, they are mandated to monitor compliance with the Child Protection Act at the provincial level, including carrying out inspections in places such as nurseries and welfare centres and developing child protection systems.

Provided with the necessary resources and expertise, these bodies could play a useful role in monitoring and preventing formal and informal association of children with the *Chor Ror Bor*, as well as in ensuring that children are provided with necessary assistance and support for their development and wellbeing.

Such a role could be complemented by that of the National Human Rights Commission, a body independent of the government and with a broad mandate to investigate human rights abuses in Thailand and to act upon complaints of abuses. The Commission and in particular its Sub-Committees on southern Thailand and on Children, Youth and Families could monitor the protection and promotion of children's rights in southern Thailand, as well as investigate complaints relating to children.

6. Militarization and social attitudes

The concerns relating to the association of underage children with *Chor Ror Bor* have to be viewed in the broader context and daily experiences of children in the violence-affected provinces of southern Thailand. In its concluding observations on Thailand's second periodic report on the implementation of the Convention on the Rights of the Child in 2006, the UN Committee on the Rights of the Child expressed concern "that the violence and civil unrest in the southern provinces of the country have had severe consequences on children and their families, and endangered the right of the child to life, survival and development."³¹ A UNICEF study in southern Thailand in 2008 involving more than 2,000 children concluded that "...unrest within their immediate environments combined with fear of violence clearly has a daily impact on children's lives. Yet their rights are not being prioritized."³²

Although the government has reported a reduction in troop levels, the on-going violence has made southern Thailand a highly militarized environment in which children come into daily contact with security forces. Weapons (including automatic weapons) and military uniforms are commonplace in villages and appeared to be widely regarded as symbols of status and power. Schools in the south are widely used as bases for military and paramilitary units.³³ The military is also involved in delivering a range of services which would normally be the responsibility of the civilian administration, such as vocational and agricultural training, and drugs education.

A direct impact of the high numbers of security forces throughout southern Thailand is the absence of demilitarized spaces. Most villages have one, possibly two, public spaces (typically the local tea shop and in some cases, a football pitch). With the high numbers of security forces present, including *Chor Ror Bor*, such spaces have inevitably become militarized. For example, where villages have football fields, *Chor Ror Bor* are commonly tasked with guarding them. The Coalition and JPF have also received reports of *Chor Ror Bor* members carrying their weapons while playing football.

In addition to the physical risks associated with this environment, daily exposure to the security forces and firearms can prove attractive to children and encourage their early involvement in military activities. One government official noted that when the soldiers arrived in a village the "children love to go and see what is going on".³⁴ Another civilian official suggested that boys want to join *Chor Ror*

³¹ UN Committee on the Rights of the Child, Concluding Observations, Thailand, UN Doc. CRC/C/THA/CO/2, 17 March 2006, paragraph 27.

³² UNICEF, *Everyday Fears: a study of children's perceptions of living in the southern border area of Thailand*, 2008.

³³ Human Rights Watch, *'Targets of both sides': Violence against students, teachers, and schools in Thailand's southern border provinces*, September 2010.

³⁴ Meeting with SBPAC Deputy Director and staff of SBPAC, Yala, July 2010.

Bor and agreed that many boys think being a member of *Chor Ror Bor* is “cool”.³⁵ In the words of one villager: “In my village some teenagers like to become members of *Chor Ror Bor* because it is good for their image”.³⁶

Although there are exceptions, the association of children above the ages of 15 and 16 years in *Chor Ror Bor* appears to be accepted and even supported by villagers. A commonly-held view is that involvement with *Chor Ror Bor* teaches young people responsibility and keeps them out of “trouble”. “Trouble” is frequently used to refer to drugs or involvement with armed opposition groups, both of which are problems for children and youth in southern Thailand. Some interviewees suggested that a child's membership or association with the *Chor Ror Bor* makes the local military view them in a positive light as it demonstrates that they are not sympathetic to armed groups. This in turn ensures that the children are not subjected to investigation or administrative detention by the military.

The Coalition and JPF recognize that the protection of its citizens is a paramount security concern of the government in southern Thailand. Nevertheless, the militarization of southern Thailand has negative consequences for the well-being and development of children for whom the presence of security forces and wide availability of firearms has become part of everyday life and is even glamorized. The UN Committee on the Rights of the Child's has raised concerns about these types of situations where the persistence of military values in society can impact on children's physical and intellectual formation.³⁷

Recognising the negative impact of violence on children, the government has introduced a range of policies to improve prospects for youth in the region. Among these initiatives has been investment in education, the provision of skills and vocational training, the establishment of children and youth councils, and training on children's rights for local government. In meetings with the Coalition and JPF, government officials agreed on the need to create demilitarized spaces for children in each village.

The Coalition and JPF welcome measures taken by the government of Thailand to offer alternatives to children in the south. However, these steps underline the need for Thai national authorities to develop comprehensive and coordinated strategies to protect children from the impact of violence and recruitment and use of children by armed parties. While some local government officials in southern Thailand recognise that recruitment and use of children by armed groups is an issue that needs to be addressed, there is an absence of systematic monitoring and preventative measures. Neither has the government put in place adequate measures to support the release, recovery and reintegration of children associated with armed groups, or indeed the *Chor Ror Bor*. Rather, children suspected of association with armed groups have been administratively detained under the emergency legislation applicable in the region.

³⁵ Interview at Narathiwat governor's office, July 2010.

³⁶ Male villager, during discussion in April 2010 in Pattani.

³⁷ The Committee has expressed the view that activities with “a military element” for children are not in full conformity with the spirit of the Optional Protocol which emphasizes that conditions of peace and security are indispensable for the full protection of children. It has called upon state parties to the Optional Protocol to refrain from involving children in any military activities, including visits to military bases or military events or other activities “promoting militarism”. In situations of conflict it has noted specifically that the involvement of children in such activities compromises the humanitarian law principle of distinction of the civilian population and places the children at risk of retaliation by members of illegal armed groups. See for example: Committee on the Rights of the Child, Concluding Observations, Colombia, UN Doc. CRC/C/OPAC/COL/CO/1, 21 June 2010; United States of America, UN Doc. CRC/C/OPAC/USA/CO/1, 25 June 2008; the Philippines, UN Doc. CRC/C/OPAC/PHL/CO/1, 15 July 2008; Norway, UN Doc. CRC/C/OPAC/NOR/CO/1, 6 July 2007.

7. Detention of children under Martial Law and Emergency Decree in southern Thailand

Children suspected of links with armed groups have been detained under the Martial Law and/or Emergency Decree in southern Thailand.³⁸ Concerns have been raised by UN Human Rights Committee and human rights organizations that the grounds for detention under the Martial Law and the Emergency Decree are too broad and ill defined and that these laws do not provide the necessary safeguards to detainees.³⁹

According to information provided by the Southern Border Provinces Police Bureau, between 79 and 115 children had been detained under the Emergency Decree since 2005 at Yala Police Academy Detention Centre (Pitak Santi Center), although none since 2009.⁴⁰ No specific information was provided with regards to other emergency laws detention centres, such as the Ingkayut Borihan Military Camp or the special task force detention facilities.

Full and unhindered access to these places of detention by independent bodies such as the International Committee of the Red Cross and the National Human Rights Commission has not yet been granted.

It appears that children have been detained under the Martial Law and the Emergency Decree for purposes of intelligence gathering and possibly as a method of demobilizing children from association with armed opposition groups.

In an apparent shift from an earlier position⁴¹, senior government officials from the Ministry of Justice, SPBAC and Regional Police Commissioner, expressed the view that children should not be

³⁸ Under Martial Law, the military may arrest without a warrant and detain for up to seven days for interrogation or other military purposes any person suspected of "being an enemy or of being in opposition to the contents of the Act or to the orders issued by military personnel" (article 15 bis, Martial Law Order 1914.) Under the Emergency Decree an individual may be arrested and detained as a preventative measure or to "engender cooperation" with the authorities for up to 30 days.

³⁹ The UN Human Rights Committee in its Concluding Observations on Thailand clearly stated that "detention without external safeguards beyond 48 hours should be prohibited" and called on Thailand to "guarantee in practice unimpeded access to legal counsel and doctors immediately after arrest and during detention. The arrested person should have an opportunity immediately to inform the family about the arrest and the place of detention. Provision should be made for a medical examination at the beginning and end of the detention period. Provision should also be made for prompt and effective remedies to allow detainees to challenge the legality of their detention. Anyone arrested or detained on a criminal charge must be brought promptly before a judge." (Concluding Observations of the United Nations Human Rights Committee on Thailand CCPR/CO/84/THA, 28 July 2005, paragraphs 13 and 15). For a legal analysis of the relevant legislation, see International Commission of Jurists, "More Power, less accountability: Thailand's new Emergency Decree", August 2005; International Commission of Jurists, "Legal memorandum: the implementation of Thailand's emergency decree", July 2007. See also International Commission of Jurists, "Thailand's Internal Security Act: risking the rule of law?" February 2010.

⁴⁰ Meeting with Police Commissioner, Yala, November 2010.

⁴¹ In a response to concerns relating to children detained under the Emergency Decree raised by the National Human Rights Commission (NHRC) in September 2007, the Thai authorities argued that as children detainees held under the Emergency Decree and Martial Law are not suspects in a criminal investigation they do not require the usual safeguards provided by the juvenile justice system. Detention for questioning under the Emergency Decree "... cannot be construed as an investigation or interrogation under the Criminal Procedure Code. It is simply an inquiry of suspects related to the unrest or those who have violated Martial Law. And the suspects cannot be confused with alleged offenders who are indicted by criminal charges and have the rights to have lawyers present during the interrogation" and that "...one of the purposes of the inquiry is to correct the rather corrupt attitude of the persons and so that competent officers can gain more support from local population and get more cooperation." (Unofficial translation of the Southern Border Provinces Administrative Center (SBPAC) reply

detained under the emergency legislation.⁴² Representative of ISOC Region 4 was also aware of the need to ensure that children are accorded special care.⁴³ However, administrative detention of children under these laws is not explicitly prohibited.

The Coalition and JPF are also concerned that children suspected of having committed a crime may in future be sent to training, run by ISOC under section 21 of the Internal Security Act. This Act currently applies in four districts of Songkla province and Mae Lan district in Pattani. While such training must be ordered by a judge and should be voluntary, it still amounts to a limitation of the right to liberty and concerns have been raised about section 21's compliance with international human rights standards.⁴⁴

8. Thailand's obligations under international law

Thailand is a party to the Convention on the Rights of the Child and to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (the Optional Protocol). Both the Convention and the Optional Protocol are human rights treaties applicable in both conflict and non-conflict situations. They provide a comprehensive legal framework requiring states parties to prohibit and prevent the recruitment and association of children with armed forces and armed groups, including paramilitaries and village defence militias, and to respect and protect a wide range of children's human rights.

In particular, the provisions in the Optional Protocol are clearly intended to ensure that children are prevented from participating in hostilities as well as protected from the harmful consequences that association with armed forces, militias and armed groups entail for children. Such special measures of protection are needed to ensure that these children fully enjoy their human rights recognized in the Convention on the Rights of the Child, notably the right to security, the right to protection from physical and mental harm, and the right to education and development.

8.1 Prohibition, criminalization and prevention of unlawful recruitment and use

The Optional Protocol requires state parties to "take all feasible measures" to ensure that under-18s do not take direct part in hostilities (article 1); to ensure that children under 18 years are not compulsorily recruited in their armed forces (article 2); and to raise "in years" the minimum voluntary recruitment age of persons in the armed forces from 15 as established by the Convention (article 3.)

The Optional Protocol also requires states parties to take "all feasible measures" to prevent recruitment and use of persons under 18 years by armed groups "that are distinct from the armed forces of a state" (article 4.) These would include village defence militias not incorporated with the Thai armed forces, such as the *Chor Ror Bor*.

Thailand is required to take "all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions" of the Optional Protocol (article 6.1.) The Committee on the Rights of the Child has consistently held that states parties are required to explicitly prohibit in law and criminalize recruitment practices contrary to the Optional Protocol. It

to concerns raised by National Human Rights Commission, 18 April 2008, quoted in the Coalition 2008 briefing on Thailand.) It thus argued, the usual safeguards that should be put in place to ensure administrative detention does not become arbitrary detention are not necessary.

⁴² Meetings with Ministry of Justice, SBPAC and Police Commissioner in Yala, November, 2010.

⁴³ Meeting with ISOC Region 4 in November 2010.

⁴⁴ See International Commission of Jurists, "Thailand's Internal Security Act: risking the rule of law?" February 2010.

also requires setting up policies, mechanisms and programs to ensure effective protection of children from recruitment and use by armed forces and groups. These latter measures include, but are not limited to: programs to raise awareness of the prohibition of children's association with armed forces and groups; effective monitoring of authorities' compliance with relevant laws and policies; and imposition of appropriate sanctions to those failing to comply.

8.2 Prohibition of administrative detention and provision of appropriate assistance to former child soldiers

Administrative detention is generally considered in violation of the right to liberty.⁴⁵ With regards to children, their detention must be "only as a measure of last resort and for the shortest possible time" (Article 37 (b) of the Convention on the Rights of the Child.) When detained, children must be afforded special safeguards, including immediate access to families, lawyers, social welfare or other relevant child protection officials. These standards are applicable to all types of detention, whether criminal or otherwise.⁴⁶

For those children detained on suspicion of involvement with the armed groups, the Optional Protocol requires that they are provided with "all appropriate assistance for their physical and psychological recovery and their social reintegration" (article 6.3).⁴⁷ The Thai authorities had argued that children's detention is, among other reasons, for rehabilitation purposes. However, it is very difficult to envisage a situation where detention of children for rehabilitative and reintegration purposes is indeed the only, "last resort" measure the state can take to ensure the best interest of the child, as required under the Convention on the Rights of the Child.

A range of other measures alternative to detention must be available to these children, including those provided under Child Protection Act 2003, to ensure their effective rehabilitation and reintegration. Among the principles that must underpin any reintegration program for former child soldiers are: that it should be voluntary; it should not further stigmatize the children; it should be based on the child's best interests; it should build on the resilience of children, enhance their self worth and promote their capacity to protect their own integrity and construct a positive life; and it should be linked to other programs, policies and initiatives that benefit both children who have been associated with fighting forces and children affected by conflict generally.⁴⁸

⁴⁵ A range of independent human rights bodies and courts have consistently stressed that administrative detention on security grounds should not be permitted, except in very exceptional circumstances and even then such detention must be accompanied by effective legal and practical safeguards to protect the rights of detainees.

⁴⁶ Under the UN Rules for the Protection of Juveniles Deprived of their Liberty, deprivation of liberty is defined as "... any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, by the order of any judicial, administrative or other public authority." Detention under martial law and the Emergency Decree clearly fits within this definition and should therefore be subject to safeguards contained in the Rules and other international standards. The UN Rules explicitly state that "the Rules apply to all types and forms of detention facilities in which juveniles are deprived of their liberty. Sections I, II, IV and V of the Rules apply to all detention facilities and institutional settings in which juveniles are detained, and section III applies specifically to juveniles under arrest or awaiting trial." (Rule 15.)

⁴⁷ Among the principles that must underpin any reintegration program for former child soldiers are: that it should be voluntary; it should not further stigmatize the children; it should be based on the child's best interests; it should build on the resilience of children, enhance their self worth and promote their capacity to protect their own integrity and construct a positive life; and it should be linked to other programs, policies and initiatives that benefit both children who have been associated with fighting forces and children affected by conflict generally (see The Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, February 2007.)

⁴⁸ See: The Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, February 2007.

As for children who are suspected of having committed a recognizable criminal offence, Thailand has a functioning juvenile justice system which includes a range of safeguards to protect and ensure the best interests of children in conflict with the law, contained in the Act of Establishment of Juvenile and Family Courts and Procedure for Juvenile and Family Cases.

9. Conclusion

The recruitment and use of children with *Chor Ror Bor* in southern Thailand represents one way in which the violence in the region is impacting on the lives of children. While the government of Thailand has taken some welcome measures to prohibit formal association of under-18s with the *Chor Ror Bor*, a range of other legal, policy and practical measures are needed to definitively prevent children's formal and informal association with them.

More broadly, a comprehensive approach to promoting and protecting the rights of children in the region is needed to protect children from the range of human rights abuses which are known to occur in this context, including the recruitment and use of children by armed groups and the arbitrary detention of children suspected of links to such groups. Careful consideration is also required as to how the negative effects of growing up in a highly militarized environment can be mitigated. It is the obligation of the Thai government to take into account the best interests of the child in all legal and policy decisions affecting children. As with any other decision, national security policy must be weighed against the protection of children's rights. Where children may be negatively affected by a decision, action must be taken to ensure that child protection mechanisms are in place and fully functioning.

The Coalition and JPF recognize the serious security concerns and the complexity of the situation in southern Thailand and the difficulty in identifying effective measures to protect children against involvement in acts of armed violence. The Thai government is already taking some action but further measures are needed to address the protection needs of children. Some legislative and policy measures - such as an explicit prohibition and criminalization of all forms of recruitment and use of children by armed forces, paramilitaries and village defence militias such as the *Chor Ror Bor*, and armed groups; a prohibition in law of administrative detention of children - can be relatively easily accomplished, requiring mainly political will on the part of senior government officials and national politicians.

Other measures require the government to conduct further research to establish the scale and exact nature of the full range of problems relating to children's involvement in armed groups and, on the basis of their findings, to establish and implement coordinated strategies to protect children against such involvement. Effective monitoring and preventive mechanisms need to be in place as well as programs to secure the release, recovery and reintegration of children who have been associated with armed groups. The government should seek expertise on protecting children from recruitment and use in hostilities from national and international child rights and child protection organizations including UNICEF.

10. Recommendations

The Coalition and JPF make the following recommendations aimed particularly at addressing the formal and informal association of children with *Chor Ror Bor* and the administrative detention of children under the Martial Law and the Emergency Decree. Firstly, recommendations are addressed to the Thai national authorities, which are primarily responsible to ensure respect and protection of children's human rights. Secondly, the Coalition and JPF make recommendations to the UN and the international community which have a fundamental role to play to monitor the situation and provide technical and other assistance to the Thai government. Lastly, a range of recommendations are addressed to the local authorities in southern Thailand with specific focus on the prevention of formal and informal association of children in *Chor Ror Bor*.

10.1 Recommendations to the Thai national authorities

Prohibit and criminalize the recruitment and use of under-18s

Clarify in both law and policy that the recruitment and use in hostilities of under-18s is prohibited not only by the armed forces, but also by paramilitaries, village defence militias and any other armed groups associated with the state's security forces.

Explicitly criminalize the recruitment and use in hostilities of any persons under the age of 18 in armed forces, paramilitaries, village defense militias and any other armed groups associated with the security forces in accordance with the provisions of the Optional Protocol.

Explicitly criminalize the recruitment and use in hostilities of any persons under the age of 18 by armed groups in accordance with the provisions of the Optional Protocol.

Review and amend existing regulations and directives on Chor Ror Bor

Amend the 2008 Regulation to include, in the criteria for participation in training and membership to the *Chor Ror Bor*, an age limit of 18 years.

Amend the 2008 Regulation to include provisions to prevent informal association of children with the *Chor Ror Bor*, including prohibiting children from performing duties of *Chor Ror Bor*'s members and from entering *Chor Ror Bor* bases or checkpoints; and prohibiting members of the *Chor Ror Bor* from providing training - including instruction on the use of weapons - to individuals who are not formal members of their unit.

Review, and if necessary amend, laws and regulations to ensure that officials (and *Chor Ror Bor*'s members) who fail to comply with the requirements to prohibit and prevent recruitment and association of children in the *Chor Ror Bor* are subject to appropriate disciplinary sanctions, including warnings, suspension from duty and removal from office.

Training and awareness raising

Ensure that governors, district and other officials responsible for *Chor Ror Bor* and village headmen are informed of their role to prevent formal and informal association of children with *Chor Ror Bor* and are trained in children's rights, including the provisions of the Optional Protocol.

March 2011

Ensure that the military and other security forces responsible for training *Chor Ror Bor's* recruits and members are informed of the prohibition of participating in training of children under the age of 18.

Ensure that members of provincial and district offices, especially the provincial child protection committee, members of the armed forces, paramilitaries, police, village defence militias and any other armed groups associated with the security forces are trained on children's rights, including the provisions of the Optional Protocol.

Ensure that children's rights, including the provisions of the Convention on the Rights of Child and the Optional Protocol, are widely recognized and understood by adults and children, including by disseminating and raising awareness of children's rights among communities in southern Thailand.

Publish and disseminate Thailand's initial report to the Committee on the Rights of the Child on the Optional Protocol.

Monitoring and Accountability

Ensure that the process for verifying the ages of all *Chor Ror Bor* members is carried out regularly. Any under-18s who are found to be either formally or informally associated should be assisted in leaving the *Chor Ror Bor*. Where necessary, they should be provided with appropriate support to continue their education or to find employment

Ensure, through regular monitoring that children are not formally or informally associated with the *Chor Ror Bor* or with any other paramilitaries and civil defence forces.

Establish - in consultation with national and international child rights and child protection organizations - a system for monitoring the situation of children in the hostilities in southern Thailand.

Conduct effective investigations into reports of recruitment or association of children under the age of 18 years with the *Chor Ror Bor* or with any other paramilitaries, civil defence forces or armed groups.

Prosecute individuals suspected of recruiting and using children under the age of 18 years.

Irrespective of the initiation of any criminal proceedings, ensure that appropriate sanctions are imposed on district and other officials and village headmen responsible for the *Chor Ror Bor* units where children have been found to be members or regularly associated with them.

Prohibit in law the administrative detention of children

Ensure that children under-18 years are not criminalized for the fact of having being recruited or used by armed groups and are not subjected to any form of arbitrary detention, including in the context of "vocational training" or other similar programs.

Ensure that no child is detained under the Emergency Decree or Martial Law.

As an immediate step, amend the ISOC Regulation of Internal Security Operations Command Region 4 Concerning Guidelines of Practice for Competent Officials as per Section 11 of the Emergency Decree in southern Thailand to explicitly prohibit the detention of children under the age of 18 years. Similarly the military authorities should order that no child can be detained under Martial Law.

Amend the Martial Law and the Emergency Decree to explicitly state that children cannot be detained under these laws.

Allow independent monitors, such as the International Committee of the Red Cross, the National Human Rights Commission, and other non-governmental organisations, unhindered access to all places of detention, including the Yala Police Academy Detention Centre (Pitak Santi Center), the Ingkayut Borihan Military Camp and the special task force detention facilities.

Develop a range of methods and measures, alternative to detention, for demobilizing children associated with armed groups and provide them with all the appropriate assistance for their physical and psychological recovery and their social reintegration.

Ensure that regulations on the Internal Security Act exclude children from ISOC run training under Section 21.

Collaborate with international human rights mechanisms and ratify treaties

Seek technical assistance and expertise in implementing the provisions of the Optional Protocol from relevant UN bodies and agencies, such as UNICEF and UN Office of the High Commissioner for Human Rights (OHCHR).

Continue constructive engagement with the UN Special Representative of the Secretary-General for children and armed conflict, and issue standing invitations for UN special procedures to visit Thailand.

Ratify the Additional Protocols I and II to the 1949 Geneva Conventions and the Rome Statute of the International Criminal Court.

10.2 Recommendations to other actors

10.2.1 To the UN Country Team (UNCT)

In accordance with UN Security Council Resolutions 1612 (2005) and 1882 (2009), the UNCT should take steps to establish systems for gathering information on grave human rights abuses against children by parties to the violence in southern Thailand, including the association of children with armed forces or groups.

Offer expert assistance to the Thai government to develop responses to issues of concern.

10.2.2 To the diplomatic community

Support the Thai government in implementing the Convention on the Rights of the Child and its Optional Protocol.

Encourage and support the Thai government to strengthen law, policy and practice to ensure better protection for children in southern Thailand against human rights violations, including their recruitment and use by armed forces or groups.

Encourage and support the Thai government and the UNCT to establish systems for gathering information on grave human rights abuses against children by parties to the violence in southern Thailand.

Provide support to human rights and other NGOs working on or in southern Thailand and to local community groups engaged in monitoring children's rights in southern Thailand. In line with the UN Declaration on Human Rights Defenders and the EU Guidelines on Human Rights Defenders, the diplomatic community should also use its influence to ensure that independent human rights organizations, its members and others working to protect the rights of children in southern Thailand are not subjected to harassment, attacks or other human rights abuses.

Carry out regular visits to the provinces of southern Thailand to conduct assessments of the human rights situation, including children's rights.

10.3 Recommendations to provincial, district and local authorities

Preventing formal association of children with Chor Ror Bor

As the authority responsible for the appointment of *Chor Ror Bor* members, Chief District Officers must take specific measures to ensure children under the age of 18 are not appointed as *Chor Ror Bor* members. Such measures shall include:

- Requiring production of reliable proof of age, such as a birth certificate, prior to appointment.
- Ensuring that the individual profiles of *Chor Ror Bor* members always include the individual's date of birth, supported by written evidence such as a photocopy of birth certificate.
- Ensuring that *Chor Ror Bor* membership ID cards are not issued to children under the age of 18 and strictly adhere to the procedure and requirements for issuing ID cards contained in 2008 Regulation.

As the authority responsible for organizing the training of *Chor Ror Bor* recruits, the Department of Provincial Administration should ensure that children under the age of 18 are prevented from joining the training.

Village headmen should be instructed to check the age of individual candidates for training and for recruitment into the *Chor Ror Bor*.

Military units responsible for training *Chor Ror Bor* recruits and members should vigilantly check the age of the individuals to whom they are providing training, in order to effectively prevent children under the age of 18 from taking part in the training, and refer cases of under-18s attending training to the relevant Chief District Officer and Provincial Child Protection Committee or other relevant authorities.

Commanders of military units should ensure that *Chor Ror Bor* units participating in the counter-insurgency activities under their command do not include children.

Preventing informal association of children with Chor Ror Bor

As the authorities responsible for the *Chor Ror Bor*, Chief District Officers and village headmen should:

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- Monitor and actively prevent informal association with *Chor Ror Bor* units, with particular attention to children's association.
 - Inform the *Chor Ror Bor* units under their authority of the prohibition on the formal or informal membership of children under the age of 18; of the content of the 2008 Regulation and the 2009 and 2010 Directives and any subsequent amendments; of their role in the implementation and the consequences of non-compliance.

Chief District Officers and/or village headmen should give strict instruction to the *Chor Ror Bor* units under their responsibility to:

- Prohibit children from performing the duties of *Chor Ror Bor* members;
- Prohibit children from entering *Chor Ror Bor* bases or checkpoints;
- Prohibit non-members from having access to the unit's weapons and ammunition, or from being provided with either official or non-official training;
- Report any suspected association of children with their unit to the Chief District Officer, Provincial Child Protection Committee and other relevant authority.

Chief District Officers should ensure that *Chor Ror Bor* members who fail to comply with the instructions to prohibit children from performing duties of *Chor Ror Bor*'s members and from entering *Chor Ror Bor* bases or checkpoints are subjected to appropriate disciplinary measures.

Monitoring, providing protection and assistance

Provincial Child Protection Committees or other relevant bodies should verify the age of *Chor Ror Bor* members and monitor informal association of children with *Chor Ror Bor*, and develop region-wide responses to the protection of children from association with *Chor Ror Bor* and other armed groups associated with the state, as well as with and non-state armed groups.

Recommendations on mitigating the negative effects of militarization

Ensure that schools or other public places in the villages are never used for weapons training. Suitable facilities should be established elsewhere by the military for the provision of such training.

Avoid military or security presence in places usually designated for children's recreation, education or other activities. In the exceptional circumstances where security does not allow this, officers present should not interfere in any way with these activities and should not interact with the children unless necessary.

Consider establishing weapons-free public spaces in villages, including designating public spaces in each village for children to play in a non-militarized environment where there is no public display of firearms.

Consider creating spaces and opportunities for youth to interact with adults that are not militarized or related to security.



COALITION TO STOP THE USE OF CHILD SOLDIERS
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