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**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:
INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE,
IMPUNITY**

**Written statement* submitted by the Asian Legal Resource Center (ALRC),
a non-governmental organization in general consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2006]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

THE DISINTEGRATING SOCIAL AND LEGAL FABRIC OF CAMBODIA

1. Cambodia's basic institutions of justice have no independence and are subordinate to the ruling party. The Government of Cambodia has taken many steps to push the country backwards, away from the limited developments that have taken place with and since the intervention of the United Nations Transitional Authority for Cambodia in the early 1990s and adoption of a constitution based on the principles of liberal democracy.

2. The police force in Cambodia is a political tool for the party in power. Its officers have little education, are highly unorganised and are unable to coordinate as a single unit. Many of the country's police stations do not even have paper upon which to record complaints. Furthermore, there is no code or mechanism by which disciplinary inquiries can be made. Corruption exists at all levels of policing and Cambodian citizens distrust and fear police officers. Under these circumstances, little coercion or intimidation is needed to obtain confessions. If it can be proved that a confession was obtained through the use of torture or other illegal means, it cannot be used in court. However, the lack of forensic science facilities and other scientific resources make it impossible to prove that a victim was tortured.

3. The Government of Cambodia intimidates and dominates the judiciary. When judges have released detainees on the grounds of insufficient evidence, they have been accused of taking bribes. Such allegations are often made publicly by the prime minister himself. Other judges have been removed from office for giving judgements adverse to the executive, thus proving that the role of the courts is to protect the ruling party, not due process and the rights of those seeking justice. For example, the arrest of two persons for the murder of prominent trade unionist Chea Vichea in 2004 was only a response to international criticism. The cases instructing judge concluded that the allegations were fabricated and ordered the release of the suspects. The judge was then accused of corruption and later suspended from office. Thereafter, the two suspects were immediately arrested again and sentenced to 20 years imprisonment. Despite the doubt and suspicion surrounding the case, there is no possibility of effective review within the Cambodian legal system.

4. Cambodia lacks an elementary foundation for the rule of law. Numerous countries and international agencies have poured large sums of money into Cambodia to encourage the development of democracy and human rights. However, no such development is taking place due to defective policing, prosecution and judicial agencies.

5. The Asian Legal Resource Centre (ALRC) therefore urges the Commission to review all the recommendations made by United Nations agencies since 1993 and pursue more fruitful ways to improve the lives of the Cambodian people. The ALRC also encourages the Commission to direct the international community to take a more proactive role in establishing the rule of law in the country, by providing the necessary assistance to the police, prosecution and judicial institutions. The key points of reform in Cambodia driven by the international community should include, but not be limited to, the Government of Cambodia

a. Becoming a party to the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), thus creating the possibility for actual implementation of human rights.

- b. Adopting as quickly as possible a criminal code, a civil code, a code of criminal procedure, a code of civil procedure, a law on the statutes of prosecutors and judges and a law on the administration of justice. These laws should take into account the following points.
- c. Decriminalising defamation, and reducing civil liability for defamation.
- d. Abolishing its ban on demonstrations and other forms of assembly.
- e. Allowing bail in all misdemeanours.
- f. Separating prisons from temporary detention facilities.
- g. Making public and international commitments to not interfere in judicial affairs, and ordering members of parliament on the same, including via having contact with judges and prosecutors.
- h. Prohibiting prosecutors and judges from political party affiliation.
- i. Opening the Supreme Council of the Magistracy to complaints against prosecutors or judges.
- j. Giving investigators, especially investigating judges, adequate resources and training to do their jobs properly.
- k. Providing of legal aid, monetary assistance and witness protection where necessary.
