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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 Centre (ALRC),
a non-governmental organisation 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.

[10 February 2006]

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

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PROSPECTS FOR WITNESS PROTECTION IN THAILAND

1. In a written statement to the sixty-first session of the Commission, the Asian Legal Resource Centre (ALRC) introduced the incipient Office of Witness Protection in Thailand, with reference to the persistence of gross abuses of human rights in that country (E/CN.4/2005/NGO/46).

2. The ALRC has repeatedly stressed the importance of effective protection for victims and witnesses of human rights abuses in order that effective redress can be given as envisaged by article 2 of the International Covenant on Civil and Political Rights. It is a common experience in Asia that when complainants attempt to testify in court against state enforcement officials they are subjected to a range of threats and sanctions that are often realised. The result is that most people do not dare to come forward and the prevailing impunity enjoyed by state agents persists unchallenged.

3. Under the Witness Protection Act BE 2546 (2003), the Office of Witness Protection was established in Thailand to take charge of the security of witnesses and victims where needed. While a progressive and laudable step, both the act and the office are as yet subject to a great many limitations. These include:

a. Many of the provisions under the Witness Protection Act are vague and highly discretionary; there is a lack of regulations laying down clear guidelines on how witness protection is to be conducted. Many key words, such as "intimidation" are not defined, or poorly defined.

b. The Office of Witness Protection lacks real power to enforce its instructions; in practical terms it relies upon the police and other pre-existing agencies to carry out the work of protection. Where these agencies are not cooperative there is little that the Office can do.

c. The Office is understaffed and underfunded: having established it to comply with the act, which was introduced subsequent to the 1997 Constitution of Thailand, the government has shown little interest in the capacity of the Office to fulfill its functions. Staff of both the office and their partner agencies are lacking in training to perform their tasks.

d. The Office is little-known in Thailand; however, to obtain protection a person must ordinarily approach the Office and request assistance. As most persons needing protection are not likely to have ever heard of the agency, it is difficult for them to exercise this right.

4. The following cases illustrate some of the problems that relate to the functioning of witness protection in Thailand at present:

a. Angkhana Neelaphajit, wife of prominent abducted human rights lawyer Somchai Neelaphajit, had two months of witness protection provided by the Metropolitan Police Bureau in April and May of 2005, after receiving threatening telephone calls and visits. She complained that the type of 'protection' offered was more like harassment, and it was clear that the police officers assigned to the task had had no special training and were unfamiliar about what they were meant to do. As Angkhana's husband was himself abducted by the police, she felt very uncomfortable and refused to continue with the programme after the first two months.

b. Phra Kittisak Kitisophon, a Buddhist monk, had five months of witness protection after the murder of fellow monk Phra Supoj Suwaj-jo on 17 June 2005. Phra Kittisak also received many threats, and was provided protection on request. Also on request he was not given protection by the local police, who are suspected of involvement in the murder of Phra Supoj, but rather by the Crime Suppression Division. Phra Kittisak was assigned four officers for one month only and then again had to request protection, which was given but finally withdrawn in October 2005, despite his continued requests to have protection. Both the Office of Witness Protection and another agency under the Ministry of Justice had supported his request for further protection, but it was refused by the police. Phra Kittisak still receives threats.

c. Ekkawat Srimanta, a victim of brutal genital torture by police, was at no time given witness protection despite the high publicity around his case and his lodging a criminal complaint against the alleged perpetrators. Finally, he withdrew his complaint without informing his lawyer on 11 November 2005. He subsequently stopped contact with human rights defenders and his lawyer, and is believed to have been paid money and coerced by the police into withdrawing the case. The failure to provide him with protection and give him guarantees for the duration of legal proceedings made him an easy target.

d. Urai Srineh, also a victim of genital electrocution and torture, was not given any form of protection, despite having been visited by government officers shortly after his release by the police while being treated in hospital for very serious injuries. It is known that he was also visited there by police officers representing those accused of having committed the torture, who offered him money not to report the case. Like Ekkawat, Urai has since moved to another part of the country. Again, the failure to recognise the immediate needs of the victim to be protected from possible threats and coercion made him highly vulnerable.

5. One of the biggest challenges to prospects for witness protection in Thailand is that the Government of Thailand has little demonstrated interest in developing the Office of Witness Protection into an effective functioning agency as envisaged by article 2 of the International Covenant on Civil and Political Rights, to which Thailand is a party. The government appears satisfied that the legislation and an office exist in name. The Asian Legal Resource Centre therefore calls on the Commission to pay close attention to the role of the Office of Witness Protection and the attendant laws and regulations in Thailand in order that

a. The Witness Protection Act and related regulations be greatly developed. In this respect, the Commission has much to offer by way of expert staff and special procedures that could assist in redrafting legislation and developing new regulations, using functioning models from other countries as the basis for a more advanced model for the giving of protection. The ALRC sincerely believes that the Government of Thailand, if approached with offers of assistance, will respond with enthusiasm and interest.

b. The Office of Witness Protection is given far greater resources and independence. There is no possibility for the Office to function effectively in human rights cases where it is forced to reply upon the police and other compromised state agencies to make decisions

and do the actual work of giving protection. At the very least, the Office must have the powers to enforce its instructions to other agencies, ensure that they are being followed, and be given afforded immunity from spurious counterattacks. In this respect to, the international community could play a considerable role, offering expertise and a wide range of support, particularly through bilateral arrangements. Again, the ALRC believes that such offers will receive a firm and positive response from the Government of Thailand.

6. Ultimately, for witness protection to become a reality in Thailand requires a change in thinking and behaviour across many sectors in Thailand that are part of what the Asian Legal Resource Centre has described elsewhere as the challenge of moving from rule by lords to the rule of law. The Office of Witness Protection alone will not be able to do fulfill the responsibilities with which it is charged: it will be dependant upon changes in many other areas of the administration of justice in Thailand-including the police, judiciary and prosecutions. Again the Asian Legal Resource Centre calls upon the international community, through the Commission, to become involved in this important development in Thailand, without which there shall remain little prospect for enforcement of rights as envisaged under article 2 of the ICCPR.

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