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SPECIFIC GROUPS AND INDIVIDUALS: MIGRANT WORKERS

**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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CONTINUED INJUSTICES SUFFERED BY MIGRANT WORKERS IN THAILAND

1. In a series of written statements to the sixty-first session of the Commission, the Asian Legal Resource Centre (ALRC) raised concerns over impunity in Thailand and its effects on the country in terms of gross human rights abuses there (E/CN.4/2005/NGO/34, 44, 62, 112). The ALRC also in March 2005 submitted a 98-page report to the Human Rights Committee speaking to the same concerns, in advance of the Committee's assessment of Thailand's compliance with the International Covenant on Civil and Political Rights (ICCPR).

2. In its concluding observations of July 2005 (CCPR/CO/84/THA), the Committee pointed to some key areas for the Government of Thailand to address in order for the national human rights situation to be improved. These included the prevailing culture of impunity enjoyed by the country's security forces and its effects on conditions for the millions of migrant workers in the country.

3. In paragraph 23 the Committee wrote that

"The Committee is concerned about the lack of full protection of the rights of registered and unregistered migrant workers in Thailand, particularly with regard to liberty of movement, access to social services and education, and access to personal documents. The deplorable conditions in which migrants are obliged to live and work indicate serious violations of articles 8 and 26 of the Covenant. The Committee notes that ethnic minorities and migrants from Myanmar are particularly vulnerable to exploitation by employers as well as to deportation by the Thai authorities. The Committee is also concerned that a significant number of mainly Burmese migrant workers remain missing in the aftermath of the Tsunami in December 2004 and that others were not provided with the necessary humanitarian assistance due to their lack of legal status. (arts. 2, 8 and 26). The State party must take measures to effectively implement the existing legislation providing for the rights of migrant workers. Migrant workers should be afforded full and effective access to social services, educational facilities and personal documents, in accordance with the principle of nondiscrimination. The State party should consider establishing a governmental mechanism to which migrant workers can report violations of their rights by their employers, including illegal withholding of their personal documents. The Committee also recommends that humanitarian assistance is effectively provided to all victims of the Tsunami disaster without discrimination, regardless of their legal status."

4. While the ordinary person in Thailand daily may encounter problems associated with the country's flawed policing and judicial systems, for the millions of migrant workers there these difficulties are compounded by a range of other obstacles. Up until recently, it was unheard of for Thai citizens, and certainly persons of authority, to be held criminally liable for the murder, rape or other physical abuse of migrant workers. The sister organisation of the ALRC, the Asian Human Rights Commission, has reported on how it has taken years for the case against an airforce officer and his wife accused of brutally killing an 18-year old Burmese woman in 2003 to be brought into the courts: hearings are due to commence only on 8 March 2006. In the meantime, a group of men in Tak Province, including a village headman, were in September found guilty of murdering six Burmese migrants: the first conviction of its kind. Notwithstanding, abuses against migrant workers by

government agents in Thailand continue to be rife, and are rarely reported or officially documented. In October, for instance, a police officer in Tak attempted to rape a migrant worker there, leaving behind ample forensic evidence to prove that he forcibly entered her house and assaulted another woman. However, the victims of the assault fled back to Burma rather than attempt to lodge a complaint, speaking to their overwhelming fear of the Thai authorities, and particularly the apparently unassailable power of the police. In January 2006, the ALRC also heard of a murder case among migrant workers where the police attempted to negotiate between the parties for compensation, rather than press charges. Meanwhile, they released the suspect in the case while reportedly detaining four of the suspects in order to provide them with "witness protection".

5. Of special concern to the Asian Legal Resource Centre is the Government of Thailand's cabinet resolution of 20 December 2005 aimed at placing even further restrictions on the rights of migrant workers and the activities of their advocates. This very regressive policy was encapsulated in its final point, which stated that, "There shall be special measures to handle illegal immigrants; special strategies shall be put into place; human rights principles shall not be overemphasized" (item 17; unofficial translation). This policy is a sad indictment on an administration that only a few months earlier had sought to strongly defend its record before the Human Rights Committee in Geneva, and yet another that shows the Government of Thailand has failed to treat the recommendations of the Committee with any seriousness.

6. Accordingly, the ALRC calls upon the Commission to closely scrutinise the situation of migrant workers in Thailand and in line with the recommendations of the Human Rights Committee call for immediate changes to be made to enhance, rather than further retract, the very limited human rights that at present these persons are able to enjoy in the country. In particular, the ALRC calls for the Commission to demand that the Government of Thailand immediately review and amend, or withdraw entirely, its December 20 cabinet resolution as it blatantly violates Thailand's obligations under the ICCPR.

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