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**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:
DISAPPEARANCES AND SUMMARY EXECUTIONS**

**Written statement* submitted by the Asian Legal Resource Centre (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.

[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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Disappearance of a prominent human rights lawyer and further challenges for 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 growth of torture, disappearances and extrajudicial killings there. Among these was a statement highlighting the case of disappeared prominent human rights lawyer Somchai Neelaphaijit (E/CN.4/2005/NGO/34), which the ALRC strongly believes speaks to a great many of the concerns that exist over the worsened human rights situation in Thailand. The case has also been registered with the Working Group on enforced or involuntary disappearances (G/SO 217/1 THAILAND).

2. The Asian Legal Resource Centre has since the time of Somchai's abduction and throughout the entire trial stressed the historic importance of this case. It is a case that has rightly captured the public attention and been kept alive through the intense scrutiny of many concerned groups and individuals both within Thailand and abroad. It is a case in which, despite the many flaws and limitations evident in the investigation and judicial process, ranking police officers were brought before a court of law and forced to defend themselves. These achievements, however limited, deserve to be recognised.

3. On 12 January 2006 the Criminal Court in Bangkok found that Somchai was abducted, and sentenced one of the five police defendants, Police Major Ngern Tongsuk, to three years imprisonment for having forced Somchai into a car on the night of 12 March 2004. The police officer was found guilty under section 309 of the Penal Code of coercion, which carries a maximum penalty of three years. There is no penalty for forced disappearance under the law in Thailand.

4. The Government of Thailand now has a very serious burden upon it to account for what happened to Somchai. The credibility of the government now rests upon it revealing the truth about this case. In fact, the prime minister staked his personal credibility on this outcome by, shortly after the judgment, announcing that Somchai is dead and that the ongoing investigation is expected to result in charges of murder being laid by the end of February 2006.

5. The Asian Legal Resource Centre had observers present in the court throughout the trial proceedings against the five police officers, and has noted many of the failings in the investigation and prosecution of this case. These included the following:

a. Police investigators failed to collect and properly analyze all available evidence and did not follow correct procedures, causing a large body of evidence to either not be presented to the court or ruled out by the court.

b. Forensic science was not properly or adequately utilised to obtain all possible information to connect the alleged perpetrators to the crime.

c. Eyewitnesses and others close to the case were not given witness protection. The judge acknowledged in his verdict that key witnesses present in the court were visibly afraid to give accurate testimonies.

d. There has been no evidence of any attempt to establish who ordered the abduction and murder. Whichever persons were responsible for the carrying out the actual abduction, it is widely accepted that they were acting on instructions from a superior or superiors, but the investigation seems to have completely neglected this aspect of the crime.

e. The Attorney General of Thailand completely failed to ensure that the prosecution was conducted effectively. Public prosecutors changed constantly, were sometimes completely absent and lacked the ability to perform their tasks.

6. The challenges that arise out of these flaws in the proceedings over Somchai's case are challenges that are posed to every human rights case entering a court in Thailand. This has been, and continues to be, a case that is not limited to one person or incident or group of perpetrators. It is a case that stands as a challenge to the exercise of authority and direction of violence across a whole society. A system--its police, its judiciary, its administration--is in the dock.

7. What are the charges? The Thai police force is charged with demonstrating that it can enforce discipline within its ranks. Its judiciary is charged with demonstrating that it can ensure justice for its people. Its administration is charged with demonstrating that it can be held accountable for its errors.

8. The international community too has been charged. Outside agencies--especially the Commission and its special procedures--must take a key role in working with the authorities in Thailand to meet these demands, and in pointing unashamedly to continued deficiencies. The Commission could play a far greater role than it has done so far in emphasising the importance for the people of Thailand of this case reaching a satisfactory conclusion.

9. The disappearance of Somchai Neelaphajit has pricked the consciences of many, and brought greater awareness about the serious flaws in Thailand's basic institutions to many more. His loss has brought about a partial awakening to these grave and deep-rooted defects, which must be directly addressed if other lives are to be saved. Such defects cannot be avoided. They trouble the lives of millions daily. Somchai is gone, but it is those who remain that are forced to deal with them, and for who they are of abiding concern.

10. The challenges posed by the abduction of Somchai Neelapahijit will in no way disappear. There can be no rest either for the Government of Thailand and nor for the Commission until the question "where is Somchai?" has been fully answered, the perpetrators of his abduction and death have been held to account and the systemic impediments to the defence of human rights in Thailand finally removed. For its part, the Asian Legal Resource Centre will persist in highlighting and advertising this case at every available opportunity, until such a time as the Government of Thailand has addressed these issues, introduced a law to prohibit forced disappearances, and brought to an end the abduction and murder of persons in its territory by state officers.