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**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL,
POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING
THE RIGHT TO DEVELOPMENT**

**Written statement* submitted by Asian Legal Resource Centre,
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.

[20 February 2008]

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

THAILAND: Law against torture needed to comply with Convention

1. The Asian Legal Resource Centre has in recent years documented and brought to the attention of the Human Rights Council and its Special Procedures the widespread practice of torture among criminal investigation and security officers in Thailand. Among the cases that it has reported recently are the following.

a. On 5 February 2008 Border Patrol Police two teachers were taken from the Rung Roi Wittaya School in Jana District, Songkhla Province and although one was released later that day, the other, 26-year-old Aminudin Kaji, was kept until February 7 and brutally tortured. The victim alleges that he was taken to the Task Force 43 camp in Nathawi District where he was beaten all over, strangulated, suffocated with plastic bags, boxed on both temples so that his eardrums burst, stomped on his throat and told that if he didn't confess to some crimes then he had a choice between being killed on the spot or being killed while being made to look as if he was escaping. His ears may never fully recover from the damage caused.

b. Three men were arrested on 6 December 2007 and allegedly tortured by the military unit stationed at Lhak Muang temple in Pattani Province before being transferred to Ingkayuthboriharn Army Camp and then to the police academy in Yala province. One of the three was seen to have severe bruising across his back, another, injuries to his chin that were allegedly caused by combat boots, and the third claimed to have been kept naked and doused in cold water in dark rooms for extended periods. All have been imprisoned since.

c. An unidentified group of military personnel attached to the unit stationed at Chang Hai temple in Pattani Province on 29 December 2007 arrested a man in Boe-rae Sub-district, Sai Buri District. They did not inform his family of where he was held. On 6 January 2008 the personnel took him to his village and asked him to point out a certain place and then took his photo and wrote down his statement. Witnesses noticed that he had bruises on his face. On January 9, his father received a communication from the authorities to allow him to visit his son in detention at the Yala Police Academy. When his father and the community leader visited, they saw that he had wounds and bruises all over his body and that he was complaining of pain in his back. He remains in detention.

2. The Asian Legal Resource Centre is following these cases closely, as it has done numerous other allegations of torture by police, paramilitary and military personnel from all parts of Thailand during recent years.

3. Although Thailand has now ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and although the 2007 Constitution prohibits torture under article 32, the absence of a discrete, enabling law in accordance with the definition of torture under the Convention is a serious impediment to justice that permits the abovementioned types of offences to continue with impunity.

4. In this respect, the recent General Comment No. 2 of the Committee against Torture is of special importance. In it, the committee makes clear in paragraph 8 that:

“States Parties must make the offence of torture punishable as an offence under [their] criminal law, in accordance, at a minimum, with the elements of torture as defined in article 1 of the Convention, and the requirements of article 4.”

5. It continues in paragraph 10:

“The Committee recognizes that most States Parties identify or define certain conduct as ill-treatment in their criminal codes. In comparison to torture, ill-treatment differs in the severity of pain and suffering and may not require proof of impermissible sources. The Committee emphasizes that it would be a violation of the Convention to prosecute conduct solely as ill-treatment where the elements of torture are also present.”

6. In this, the Committee stresses and lays plain that without a specific law to prohibit torture in accordance with the Convention, a State Party has not even done the minimum to give effect to the terms of the treaty.

7. The Asian Legal Resource Centre has for a number of years called for the introduction of an unequivocal law to prohibit torture in Thailand in accordance with international standards, and in particular, with the Convention against Torture, which the Government of Thailand has now promised to uphold and against which its performance will be assessed in the coming years. The General Comment makes clear that performance of obligations under the Convention depend absolutely upon this much.

8. The Asian Legal Resource Centre thus reiterates its call for the new government of Thailand to adopt a law to prohibit torture in accordance with the Convention against Torture, as well as implement the specific recommendations that the Human Rights Committee made in 2005 on Thailand’s obligations under the International Covenant on Civil and Political Rights, that it establish an independent civilian body to investigate complaints filed against law enforcement officials and ensure that there be prompt and effective remedies to allow detainees to challenge the legality of their detention (CCRP.CO.84.THA).

9. It also notes that there is a very heavy incidence of torture in the southernmost provinces, where the Emergency Decree that grants exceptional powers of detention to the security forces has been in effect since 2005. It calls for the non-renewal of the decree, which is re-issued every three months, and also for the lifting of martial law provisions there and in other parts of the country that prevent the exercise of ordinary rights that have the purpose of preventing torture.

10. Finally, the Asian Legal Resource Centre urges that irrespective of other factors, all victims of alleged torture be afforded protection in accordance with Witness Protection Act (2003), as well as medical and psychological treatment, and compensation as per the Compensation for Victims of Crime Act (2001), and that the former act be amended in order to include protection to victims who are imprisoned and awaiting trial as well as those who are not detained.

About the ALRC: The Asian Legal Resource Centre is an independent regional non-governmental organisation holding general consultative status with the Economic and

Social Council of the United Nations. It is the sister organisation of the Asian Human Rights Commission. The Hong Kong-based group seeks to strengthen and encourage positive action on legal and human rights issues at the local and national levels throughout Asia.
