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**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:
TORTURE AND DETENTION**

**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.

[26 January 2005]

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

GROWTH OF TORTURE AND IMPUNITY IN THAILAND

1. In a statement to the Commission in its sixtieth session, the Asian Legal Resource Centre (ALRC) asserted that the 2003 'war on drugs' declared by the Government of Thailand, in which at least 2500 people were killed, would result in a dramatic worsening of human rights conditions in the kingdom. Regrettably, that prediction has been realised all too soon. The ALRC has submitted other statements to the Commission this year on extrajudicial killings and enforced disappearances. It has also written on the right to food in Thailand, diminished freedom of expression, and damage to institutions of justice. In this statement, the ALRC concentrates on evidence of growth in the use of torture by the security forces during 2004, particularly by the Royal Thai Police.

2. On 26 July 2004, the ALRC communicated the details of a grave torture case to the Special Rapporteur on the question of torture. The five victims, Makata Harong (49), Sukri Maming (37), Manase Mama (25), Sudirueman Malae (23), and Abdullah Abukaree (20) were arrested and allegedly tortured in connection with a raid on an army camp by officers of Tanyong subdistrict provincial police station, Narathiwat province. After arresting the men on February 23, the police approached the court to continue keeping them in custody. On March 4, the lawyer for the men, Somchai Neelaphaijit, sought a court order that they be taken for physical examination, alleging that they had been tortured. His submission included the following remarks:

"The 4th Suspect was blindfolded by police officer(s) and physically assaulted; strangled and choked, hand-tied behind his back and beaten with pieces of wood on the back and head, suffering some head wounds. In addition, he was also hanged from the toilet door with a piece of rope and was then electrocuted with a piece of fork charged with electrical currents, on the back of his torso and right shoulder."

3. Frustrated by his inability to get a judicial response to his applications, Somchai went to government authorities in Bangkok on March 11. The following day he himself was forcibly disappeared. His case is addressed in a separate statement to the Commission.

4. On May 18 the Criminal Court released the five men after an 84-day statutory limit on detention expired without charges being laid. However, the police immediately rearrested four of them on new charges. To date, none of the alleged perpetrators have been held to account for their actions. Attempts by a senate subcommittee investigating the case to identify officers through photographs reportedly were blocked by police refusing to assist. A member of the National Human Rights Commission also is reported to have stated that the men were "severely tortured by the police but the court did not ask for any detailed information on that torture nor send them to receive any medical treatment".

5. On 12 November 2004, the sister organisation of the ALRC, the Asian Human Rights Commission, wrote to the Minister of Justice of Thailand concerning two very

grave cases of torture and cruel and inhuman treatment committed by officers of the Royal Thai Police, as follows:

a. Chol Narapinit (28), and his wife Siri-on Changluadlai (17), alleged that the police assaulted them and stole a gold necklace from their possession after accusing them of theft; Ms Siri-on was pregnant at the time. They were then kept in detention at Lumpini police station in Bangkok for 102 days without charge, before finally being released by a court. This period exceeded the statutory limit by 18 days. During this time Siri-on gave birth to a child, but obtained no assistance from the police officers in the station. Her relatives came and took the child from her after five days. It is also alleged that the officer in charge of the case, Police Major Kriangsak, recorded her age as 19 to avoid having to treat her as a juvenile detainee under the Child Protection Act 2546/2003, established to comply with the Convention on the Rights of the Child. Disciplinary action was taken against some officers, however no criminal charges are known to have been laid, despite early reported remarks by the Minister of Justice that these would follow. Meanwhile, the police acted quickly to issue new charges against the couple and have them rearrested.

b. Ekkawat Srimanta (21) was brutally tortured by officers attached to two police stations in Ayutthaya province on accusation of robbery during the first week of November 2004. Officers at Phra Nakhon Si Ayutthaya station are alleged to have covered his head with a hood and beaten him all over his body. Then they transferred him to Uthai police station, where officers electrocuted him, causing severe burns all over his testicles, penis, groin, and toes. He also suffered severe injuries from beating, including on his back, thighs, cheeks, face, throat and eyes. Again, internal disciplinary action was taken against the accused officers, but there have been no reports of criminal proceedings. This is despite initial statements by senior officials that judicial action would follow, and inquiries having been taken up by the Department of Special Investigation under the Ministry of Justice.

6. Subsequent to these two cases, the ALRC heard reports of further complaints of torture at the Phra Nakhon Si Ayutthaya station. It then uncovered two further credible cases of alleged torture by police there involving six victims:

a. Metta Saiphan (24) and Anucha Siriporn na Ratchasima (28), who were both arrested on 31 March 2004, allege that they were also tortured by officers of the Phra Nakhon Si Ayutthaya police station. The types of torture allegedly used included suffocation with layers of plastic bags, beating on the body, using pepper spray, and standing on the chest. The men were told that if they did not confess to charges of theft, they would have another nine charges added against them. After this time, they confessed. It is also alleged that the police did not place them in a line-up for identification by the complainant. The two men subsequently retracted their confessions; however, they were sentenced to imprisonment in December. Although in the latter stages of trial a lawyer for the men argued that they had been tortured, the court rejected the argument due to lack of evidence.

b. Anek Yingnuek (24) was arrested on 9 September 2004 on a charge of robbery and also allegedly tortured at the Phra Nakhon Si Ayutthaya police station. The types of torture included being beaten with PVC pipe, suffocation with plastic bags, and electrocution, including on his penis and testicles through a bag of ice. Anek states that due to the unbearable torture, he gave the names of three friends, Sukit Rachamontri (23), Kampon Kongwiset (19), and Pirom Kruesorn (21) as accomplices. After the three were arrested on the afternoon of September 10 they were also allegedly tortured. Sukit's girlfriend states that the police threw a bottle at Sukit's face before beating, kicking and slapping the men. She also heard loud screams coming from the room where the men were held, before being brought out showing signs of torture. It is alleged that they were constantly tortured until 1am on September 11. The four have now been charged with gang robbery.

7. These cases have also been reported to the relevant domestic and international mechanisms, but the ALRC is unaware of any subsequent inquiries or action. This is despite the Minister of Justice being made aware that one of the accused police officers is suspected of being a mentally unstable serial torturer, and the evidence of institutionalised torture at the Phra Nakhon Si Ayutthaya police station. The same can be said of each of the police stations in which these abuses have occurred. That a young woman could be left to give birth in a police cell speaks to a deep institutional tolerance of gross human rights abuse. Therefore, apart from the arresting officers and those alleged to have assaulted the victims, those officers responsible for the management of the police stations concerned also need to face formal inquiries.

8. Of particular concern in these cases is that the types of torture went far beyond the day-to-day beatings and conventional roughing-up tactics that persons in Thailand usually associate with the police. The practices of inflicting wounds and electric shocks on sensitive parts of the body suggest the work of seasoned professional torturers. The ALRC has repeatedly expressed concern that torture is widespread among state security agencies in Thailand: however, up until recently it was not publicly discussed. There is no domestic organisation campaigning against torture in the country. Lawyers, journalists and other concerned professionals there have for many years known about torture, but have shied away out of fear. The addendum to the 2004 report of the Special Rapporteur to the Commission speaks to this point, remarkably listing a mere three cases of torture in Thailand, all involving non-Thai nationals [E/CN.4/2004/56/Add.1, paras 1678–81]. Happily, this situation is now slowly changing, and the Commission should look for all available opportunities to further discussion both within government and among the wider public on how to bring an end to such practices in Thailand.

9. The ALRC wishes to draw the Commission's attention in particular to a senior Thai police officer who stated on national television that torture is acceptable. Police Lieutenant-General Amarin Niamsakul, Commissioner of the Immigration Bureau, said in a prime-time interview that as police all around the world commit torture, it is reasonable that police in Thailand do so too. He added that torture was necessary to extract confessions, and that 'bad people need bad treatment'. Although the Minister of Justice spoke publicly against his remarks, the ALRC opines that this response is inadequate. The officer's comments contradict both the Constitution of Thailand and the International Covenant on Civil and Political Rights, to which Thailand is a state party.

For the Government of Thailand to take no steps in the face of such remarks is a blot on the country's international reputation and an affront to both domestic and international law. Accordingly, the ALRC has called upon the Government of Thailand to remove Pol. Lt-Gen. Amarin from office. Failure to do so will amount to an endorsement of his remarks, and encouragement for other officials to continue to speak and think likewise, which will perpetuate the perception that torture is an acceptable method for interrogation within the Royal Thai Police.

10. Ultimately, the main obstacle to effective action against torture in Thailand is that there is no law making it a criminal offence in the kingdom. Although the Constitution of Thailand and Criminal Procedure Code prohibit torture, regrettably the government has to date not signed or ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The existing legal domestic legal provisions to deal with torture in Thailand fall far short of those envisaged by the Convention, and are unable to address the serious endemic torture and cruel and inhuman treatment demonstrated by these recent cases. The Asian Legal Resource Centre strongly urges the Commission to do its utmost to engage the Government of Thailand, and in particular the Ministers of Justice and Foreign Affairs, so that ratification be speedily completed and a domestic law introduced shortly thereafter. It was gratified to hear in a recent letter from the National Human Rights Commission that these agencies are at present making preparations towards this end, and earnestly hopes that by the time of the sixty-second session of the Commission it will not be obliged to again make this plea.

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