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COMMISSION ON HUMAN RIGHTS  
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**PROMOTION AND PROTECTION OF HUMAN RIGHTS:  
HUMAN RIGHTS DEFENDERS**

**Written statement\* submitted by the Asian Forum for Human Rights and Development  
(FORUM-ASIA), a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 February 2005]

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

## NO JUSTICE FOR DISAPPEARED HUMAN RIGHTS DEFENDER IN THAILAND

1. Asian Forum for Human Rights and Development (FORUM-ASIA), a non-governmental organisation in special consultative status, in co-operation with the Thai Working Group on Human Rights Defenders, wish to draw the attention of the 61<sup>st</sup> Commission on Human Rights to the lack of progress on the case of Somchai Neelaphaijit, a prominent Thai Human Rights Defender (Lawyer) who has been missing since 12<sup>th</sup> March 2004, and whose case was also brought to the attention of the 60<sup>th</sup> Session of the Commission on Human Rights through our oral statement under Item 11.

2. Somchai's case indicates the apathy and lack of respect the Thai government has shown towards the recommendations made to the government to "*Ensure the prompt investigation of all violations reportedly committed against (Human Rights) defenders, with appropriate judicial or other action.*" by the Special Representative of the Secretary General on the situation of Human rights Defenders, Ms. Hina Jilani (E/CN.4/2004/94/Add.1) after her mission to Thailand in May 2003.

3. Somchai Neelaphaijit was a well known Human Rights Defender (lawyer), who had taken on himself the task of defending five persons arrested on 23<sup>rd</sup> February 2004, and subsequently tortured, after being accused of raiding the Narathiwat Rachanakarin army camp and being a member of the group *Barisan Revolusi Nasional (BRN)*

4. It is widely believed by friends, family members and Human Rights Defenders, that Somchai's disappearance was caused by his attempts to defend persons accused of being involved in the violence in Southern Thailand, and in particular, for highlighting the torture suffered by the above mentioned five persons. This has also been mentioned by some Thai authorities in public interviews and newspapers. (All five accused were later released by the Criminal Court, after state prosecutors failed to file charges citing insufficient evidence, though four of them were again arrested, on charges of conspiring to murder Police Officers at Tak Bai Police Station)

5. Family members, led by the wife of Somchai, Mrs. Angkahana Wongrachain, Human Rights Defenders and organizations in Thailand as well as Regional and International Human Rights Organizations have been campaigning and urging Thai authorities to speedily investigate this case and ensure justice is done. The Law Society of Thailand and Thai Working Group on Human Right Defenders initiated a campaign "Where is Somchai?". On 20<sup>th</sup> August 2004, the Thai Working Group on Human Rights Defenders of Thailand, FORUM-ASIA and other organizations joined a public rally and a petition was submitted to the Prime Minister, urging the government and concerned authorities to expedite the search for Somchai. There was only an acknowledgment of receipt of this petition, but no follow up action been taken, and if there has been any, it has not been shared with these concerned persons and groups.

7. Unfortunately, the Prime Minister and other government authorities does not seem to be hearing these voices, and to date, has not even recognized and acknowledged the disappearance of Somchai. Instead, authorities have constantly attempted to downplay the seriousness of the case by their deeds and words. Prime Minister Thaksin Shinawatra and other official's attempts to downplay worries about Somchai have been recorded, including their citing "family problems" as the reason for Somchai's disappearance. Such attitudes and comments by the country's top leaders will only encourage more human rights violations and impunity. (There's

already many such incidents since Somchai's disappearance, in particular, the massacres in southern Thailand in April and October 2004)

8. The Senate Committee investigating Somchai's case has requested the Prime Minister, Deputy Prime Minister and Commander of the Royal Thai Police and other high ranking officers of the Police to assist with the investigation by coming forward to provide information, but these requests have been ignored by these "responsible" officers, including the head of the government, the Prime Minister. The fact that the country's top most political leadership, as well as head of Police doesn't deem it fit to respect the summons of a Senate Committee and assist in the process of securing justice in the disappearance of a prominent lawyer like Somchai, is a sad reflection of the situation of law and order and administration of justice in Thailand.

9. In the course of the investigation, five junior police officers have been arrested, but the charges filed were assault, coercion and collaboration to commit armed robbery. No one has been charged with kidnapping, and furthermore, authorities have not attempted to find out the persons and groups behind the disappearance and investigate the whereabouts Somchai.

10. At the same time, the delay in dealing with a case where the physical safety of the person was in jeopardy is totally unacceptable. Somchai disappeared on 12<sup>th</sup> March 2004, and though four suspects were arrested on 8<sup>th</sup> April and another suspect arrested on 30<sup>th</sup> April, Court proceeding commenced only on 12<sup>th</sup> July 2004, exactly five months after Somchai's disappearance. And the next court hearing is fixed for 9<sup>th</sup> August 2005, more than a year after the initial hearing. While four of the suspects have been released on bail, there is no redress for the victim and his family.

11. The objections of the Public Prosecutor, to Mrs. Angkana Wongracchen's request to be allowed to act as co –plaintiff / Joint Prosecutor, an opportunity that allows her to present witness and evidence in the case, also demonstrates Thai authorities lack of commitment to uncover the truth in the case, and unwillingness to facilitate the involvement of family members and concerned parties in the investigation. However, the Public Prosecutor's argument was rejected by Court and Ms. Angkana is now a Joint Prosecutor.

12. The Thai government has also failed to respond to the letter sent by the National Human Rights Commission of Thailand, urging the Government to deal with the violence in Southern Thailand, and specifically highlighting the case of Somchai, in April 2004.

13. We also understand from The Asian Federation against Involuntary Disappearances (AFAD) that the UN Working Group on Enforced or Involuntary Disappearances (UNWGEID) has refused to register the case of Somchai, citing absence of steps taken by the complainants. FORUM-ASIA strongly feels that this case warrants the intervention of UNWGEID, considering the apparent inability and / or lack of political will of Thai authorities to deal with the case in a speedy manner.

14. Going by the Special Representative of the Secretary General on the situation of Human rights Defenders' observations after the May 2003 mission to Thailand that "*There is limited acceptance amongst some authorities of the fact that the critical role of defenders (HRDs) is a component and criteria by which the health of a democracy must be judged*", it is obvious that democracy and law and order in Thailand is in a critical state.

15. If the Thai government is to be recognized as a democratic country that respects human rights and rule of law, it is imperative that the truth behind Somchai's disappearance is made public, and perpetrators are held accountable.

16. Being the first UN Special Procedure invited to Thailand, Somchai's case is a good opportunity for Thai Government to demonstrate its commitment to implement the recommendations by the Special Representative of the Secretary General on Human Rights Defenders mission report to Thailand (E/CN.4/2004/94/Add.1)

17. Considering the Thai government decision to lobby for the post of UN Secretary General in 2006, we, strongly recommend to the Thai government, to clean up its own backyard in terms of human rights abuses, as an indication of its commitment to the promotion and protection of human rights worldwide, by:

- a. Immediately facilitating the fast and effective investigation of Somchai Neelaphaijit's disappearance and bringing all perpetrators to justice
- b. Lives up to it's commitments to provide effective remedies for persons whose rights have been violated as per article 3 of the International Covenant on Civil and Political Rights, specifically in the case of Somchai's disappearance.
- c. Ensuring the prompt investigation of all violations reportedly committed against Human Rights Defenders, with appropriate judicial or other action (*Recommendation to the Thai government by the Special Representative of the Secretary General on the situation of Human rights Defenders, Ms. Hina Jilani, after her mission to Thailand in May 2003*), and **demonstrate it's commitment to the above recommendation by it's action in the case of Somchai's disappearance**

18. We also urge the Special Representative of the Secretary General on the situation of Human Rights Defenders, to take up this case with the Thai government, in terms of Government's response to her recommendations published in the mission report after her mission to Thailand.

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