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**HUMAN RIGHTS SITUATIONS THAT REQUIRE
THE COUNCIL'S ATTENTION**

**Written statement* submitted by the Asian Legal Resource Centre (ALRC),
a non-governmental organisation with 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.

[18 February 2009]

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

Thailand: The rise of the internal-security state and decline of human rights in Thailand

1. Since the military coup in Thailand of September 2006 the Asian Legal Resource Centre (ALRC) warned of a strong resurgence of regressive anti-human rights forces, especially within the military and the network of their allies in ultra-conservative political circles. Unfortunately, events of the last year offer ample evidence that these forces have now firmly re-entrenched themselves in all parts of government in Thailand and are in the process of pulling apart the nascent liberal-democratic state nurtured during the 1990s, replacing it with an internal-security state reminiscent of that found during earlier decades.

2. A few examples showing the decline in respect for human rights, the rule of law and the public interest in Thailand follow:

a. Repeated overthrow of elected governments by antidemocratic forces: Twice in 2008 governments formed from a mandate in the general election held at the end of 2007 were removed from office through judicial coups under the terms of the undemocratic army-backed 2007 Constitution of Thailand, which was passed through a referendum that can be charitably described as a charade. Neither of these removed governments was a friend of human rights. In fact, the prime minister of the first, Samak Sundaravej, even denied that certain gross abuses of human rights in the 1970s and during the last decade had ever taken place. However, the removal of his and a subsequent government through bizarre provisions in the 2007 Constitution, which among other things has returned Thailand to government by a semi-appointed legislature, were clearly orchestrated with the willing participation of a compliant senior judiciary consisting of political appointees, not fair-minded judges. The overthrow of these two governments stands as evidence that electoral politics in Thailand have been sidelined and that the senior judiciary has been made into a tool for conservative political forces and is not at all independent.

b. Large-scale public criminal activity not followed with investigations or prosecutions: The overthrow of the second of these governments was accompanied by the occupation of the Government House compound, which includes the prime minister's offices, for a period of three months; and finally of both of Bangkok's international airports for a period of over one week. These illegal occupations were evidently organized in coordination with parts of the armed forces, and resembled in many respects military-style logistical operations. The group spearheading them, calling itself the People's Alliance for Democracy, ran a de facto police force whose members openly and covertly carried and used weapons, including guns, explosives, knives and an array of blunt instruments, and which assaulted and illegally confined numerous persons, and is believed to have been responsible for at least one killing. This is to say nothing of the vast array of offences against public and private property that members of the group committed. Notwithstanding, there have been no reports of progress into criminal investigations against them, least of all their leadership, and the current unelected administration of Thailand also has taken no steps towards this end. The prime minister has reportedly stated that criminal inquiries and prosecutions are a matter for the police and courts, which is utter nonsense, because as legislative head he has ample authority to call for special investigations. In fact, he has an

obligation to do this, given the scale and consequences of these events, which he has deliberately avoided. He could also order parliamentary or other independent inquiries, and furthermore, as head of the board overseeing the Department of Special Investigation (DSI) under the Ministry of Justice he could at any time initiate special criminal investigations through that agency. However, given that he was brought to power thanks to these events and given that the new Minister of Foreign Affairs of Thailand, Kasit Piromya, publicly supported the occupations, and by implication, the criminal acts that accompanied them, it is unlikely that the current administration will see its way through to addressing the question of lawlessness in Thailand during its time in office.

c. Internet censorship and lese majesty witch-hunt: While the DSI is not known to have been called to investigate the perpetrators of violence and vandalism during the Government House and airport occupations, it has instead been called to deal with cases that are apparently of a much greater concern to the Government of Thailand, relating to trivial comments about the country's royal family. In January 2009, the DSI, which is supposed only to take up "special" cases of national security or of peculiar complexity, arrested a man who had done no more than post remarks about the monarchy on Internet chat forums. In the same month, an Australian was convicted and imprisoned for a few lines in an obscure book that he had written some years before. In February an academic fled abroad facing the same charges, saying quite rightly that he would not get a fair trial in Thailand. These exemplify the growing number of complaints of lese majesty, which in Thailand can be made by private citizens. A new website set up apparently on the parliamentary server is calling for citizens to "Protect the King" by reporting on anyone whom they think has committed the offence of lese majesty. Simultaneously, the government has channeled vast funds into new units for blocking webpages deemed offensive to the monarchy, or anything else threatening the internal-security state, and in 2009 alone thousands of such pages have already reportedly been blocked.

d. Threats to human rights defenders: The climate of fear being encouraged throughout the Net and media worlds through censorship, lese majesty and ongoing criminal defamation allegations has also been engendered in the human rights world through continued unsolved forced disappearances, and physical and verbal threats to rights defenders in Thailand. These threats are not sporadic but are a part of the institutional make up of the internal-security state. For instance, in February 2009 the Internal Security Operations Command (ISOC), which answers directly to the prime minister, issued a report in which it allegedly stated that insurgents in the south of the country were using human rights groups as cover to sow distrust and hatred among the local people. Two days later, army and police personnel raided the office of a local human rights organisation, the Working Group on Justice for Peace, which has previously brought its documentation and findings to the Human Rights Council, and for some hours inspected computer records and printed documents and interrogated volunteers present inside. This unabashed intimidation of the group was a relatively small incident by comparison to the many attacks on human rights defenders in Thailand in recent years, but following the ISOC invitation for security personnel to take aim at rights groups and in light of the conditions in the south of the country where the army and police have been operating with impunity for a number of years, it should be taken very seriously.

e. Refolement, murder and impunity on the high seas: The extent to which the internal-security state is committed to ensuring that none of its officers are ever held to account for human rights

abuses was made glaringly obvious when in January 2009 the Royal Thai Navy forced hundreds of persons travelling on boats from across the Bay of Bengal who passed into or near its waters back into the sea, having allegedly destroyed engines, thrown food overboard and in some cases thrown people overboard with limbs bound. Others whom it brought to shore in Thailand were in some instances assaulted in full view of shocked tourists, again with ISOC involvement. The denials and equivocations of the armed forces and political leaders, including the prime minister, are both preposterous and insulting given the parallels in stories that survivors have told to officials and journalists in Indonesia and India alike. However, they are unsurprising both given that the authorities in Thailand have for years routinely issued such denials, and that they have for years forcibly repatriated people fleeing from war-zones and poverty in neighbouring countries, notably recently from Myanmar.

3. The above are just a few examples from the last year concerning the continued marked decline in protections for human rights and respect for the rule of law in Thailand since after the rise to power of the former prime minister, Pol. Lt. Col. Thaksin Shinawtra, but most especially since the military coup of 2006. They come on top of the innumerable other mundane instances of abuse in the country of which the ALRC has previously brought some to the attention of the Human Rights Council, including custodial torture, extra-judicial killing and enforced disappearance.

4. Given that Thailand is today languishing under another government that came to power not through electoral process but through the machinations of the revived internal-security state, one that manifestly has no regard for the values for which the Council stands, the ALRC has little expectancy of any improvements to the situation of human rights in Thailand in the immediate future.

5. Under such circumstances, a special responsibility falls to the international community to speak strongly and directly to the human rights issues in Thailand so that its government is made aware of the negative external perception of events there and so that it is strongly encouraged to reverse the downwards trend as quickly as possible. Accordingly, the ALRC calls upon the Council to make clear to the Government of Thailand that it no longer can be considered to have favourable human rights credentials. It is especially necessary that this understanding of the international community be made explicit, lest the government persist with trips and programmes abroad aimed simply at bolstering the national image rather than addressing the grave obstacles to human rights and the rule of law under its watch.

6. In this respect, the Asian Legal Resource Centre calls upon the following mandates to take special note of the deteriorating human rights situation under the internal-security state in Thailand and urges them to seek visits to the country and other information to make accurate assessments themselves at the nearest possible time:

a. The Special Rapporteur on extrajudicial, summary or arbitrary executions, who has had a standing request to visit Thailand since 2004 and on whose behalf the Council should be entitled to ask of the Government of Thailand as to why the request has not been entertained; nor should an excuse such as that the country can handle a visit by only one special expert per year be considered acceptable;

- b. The Special Rapporteur on human rights defenders;
- c. The Special Rapporteur on the independence of judges and lawyers;
- d. The Special Rapporteur on the human rights of migrants;
- e. The Special Rapporteur on torture, and other cruel, inhuman or degrading treatment or punishment;
- f. The Special Rapporteur on the promotion and protection of the right to freedom of expression;
- g. The Working Group on enforced or involuntary disappearances; and,
- h. The Working Group on arbitrary detention.

7. There is an acute need for serious study and debate on the human rights issues in Thailand pertaining to all of these mandates and the ALRC strongly encourages the mandate holders to make the country a priority in their work in the coming year. Whereas Thailand was not long ago held up as a leading example of improved government and human rights in Southeast Asia, it is now an example of how everything can go wrong. Unfortunately, the implications are not only for the country itself but for the region as a whole, because if the situation of human rights in Thailand cannot be rectified, then the prospects for neighbours such as Myanmar and Cambodia are very grim indeed. For this reason too it deserves special attention.
