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**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:
INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE,
IMPUNITY**

**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).

WITNESS PROTECTION AND COMPENSATION FOR VICTIMS OF RIGHTS ABUSES IN THAILAND

1. In other written statements to the sixty-first session of the Commission, the Asian Legal Resource Centre (ALRC) has pointed to the dismal state of witness protection and compensation for victims of rights abuse throughout Asia. However, one country that may in the future serve as an example for others in the region is Thailand, which established a witness protection programme in 2004, and has in place some limited measures for compensation of victims.

2. The Protection of Witnesses in Criminal Cases Act 2546 (2003) came into force in Thailand during 2004 when the Office of Witness Protection under the Ministry of Justice started its work. As a consequence, a number of victims of police abuses, including torture and cruel and inhuman treatment, were afforded short-term security. As one of the gravest obstacles to the prosecution of perpetrators of human rights abuses is the fear of witnesses in speaking out against the police and other state security officers, the Office is a critical step for the future protection of human rights in Thailand.

3. The ALRC is aware that operations by the Office of Witness Protection are only just beginning, and are necessarily limited. However, it urges the Commission and the international community to assess means by which material and advisory support may be provided to the Office in order that it expand and fully assume its mandate as quickly as possible. In particular, strenuous efforts need to be made to publicise the Office and its role through all available media in order that the public and legal professionals around the country are quickly and fully aware of the existence and mandate of this new agency.

4. As the management of protection for victims under this Office is setting a precedent for cases yet to come, it is necessarily cause for considerable public interest. If persons coming forward now to seek protection under the Act are nonetheless subjected to threats or harm, it will damage public confidence in the new protection regime at an early and crucial stage in its development. The ALRC expects that the Government of Thailand will make this programme a success, and will be closely monitoring its progress. It urges the Commission, and in particular its concerned special mechanisms, to do likewise.

5. Another important office established under the Ministry of Justice in Thailand during recent times is the Office of Public Compensation for Criminal Cases, established under the Compensation for Crime Victim Act 2544 (2001). While compensation in cases of human rights abuse must always be understood as supplementary to – and not a substitute for – criminal prosecutions, it is nonetheless an important element in effective redress as stipulated by article 2 of the International Covenant on Civil and Political Rights. However, the ALRC would echo its concerns stated above with regards to witness protection that much remains to be done to expand and publicise the role of this Office in order that victims obtain appropriate compensation within the shortest period of time. It would also urge the Government of Thailand, in accordance with the Act, to pay special attention to the physical and psychological needs of victims of torture and other gross abuses. Where the director-general of the Department of Rights and Liberties Protection has in the past spoken publicly of possible compensation for victims, it has been reported as meaning financial compensation. The ALRC would hasten to add that the Act also stipulates that victims are entitled to compensation for medical treatment, including physical and mental rehabilitation, and this must be taken fully into consideration particularly in cases of heinous human rights abuse.

6. One of the difficulties that has arisen in recent times over this Act is that it is necessary for victims first to obtain medical treatment for injuries suffered due to torture or other abuses, and then seek compensation through the procedure established by law. As many of the victims of torture and other police abuses are poor persons who may not be able to afford a day away from work – let alone the cost of medical bills – the Government of Thailand should consider establishing a process for immediate assistance to such victims of abuse.

7. The need for such a provision was dramatically illustrated in the publicised case of Ekkawat Srimanata, which the ALRC has described in its statement on torture committed by the police in Thailand. In that instance, the victim's friends rushed him directly from a police station to hospital with severe burns all over his penis, testicles and groin. Under the circumstances, immediate emergency treatment should have been provided by the state. However, officials of the Royal Thai Police observed that no provision exists for such an arrangement, and advised that the victim could seek compensation through the established channel, something that he is now understood to be doing. Notwithstanding, the lack of any emergency arrangements for cases such as this where there is no question that the person has suffered severe physical injuries at the hands of state officers is a gap in the current legislation in need of correction.

8. If Thailand is able to establish effective witness protection and victim compensation regimes – particularly in cases where state agents are the accused – they may stand as important examples for other countries in the region. The Commission and international community should be prepared to offer all necessary support for these initiatives by the Government of Thailand and promote them as starting points for an effective regional model to protect and compensate witnesses and victims of serious rights abuses.
