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**Written statement submitted by the Asian Legal Resource Centre (ALRC), a
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Violent crime caused by the un-rule of law in Myanmar

1. During 2006 Myanmar continued to be characterised by wanton criminality of state officers at all levels, and the absence of the rule of law and rational government. Throughout the year, the Asian Legal Resource Centre (ALRC) monitored violent crimes caused by state officers, and the concomitant lack of any means for victims to complain and have action taken against accused perpetrators. Therefore, it came as a surprise to read the assertion in the December 2005 country report on Myanmar of the United Nations Office on Drugs and Crime (UNODC) that

"As in many tightly controlled and socially conservative societies, there is very little violent crime: not even anecdotal reports of murders, rapes or kidnappings. There is some petty crime, especially burglaries, but these tend [sic] to be non-violent. In general, crime does not appear to be a major concern among the population..."

2. This statement contradicts the findings of human rights defenders, independent journalists, lawyers and others which reveal that Myanmar is no exception from most other countries in Southeast Asia in that the primary cause of lawlessness there today is the violent crime committed by police, soldiers, local government officials and officials of mass-movement bodies, and paramilitary units. It also raises serious questions about the capacity of a United Nations agency to operate in a country with which it seems to lack even rudimentary knowledge. How can the UNODC expect to deal with the massive narcotics trade of Myanmar or 'transnational organised crime' when it appears to be in denial about the day to day criminality occurring beyond its doorstep?

3. Among the cases documented by the ALRC in recent times that speak to this situation include:

a. Death in custody due to assault of Maung Chan Kun, 20, of Dawnachan Ward, Pantanaw Township, Ayeyarwaddy Division on 11 January 2007 by Police Deputy Superintendent Soe Moe and seven subordinates of the Pantanaw Township Police Station.

b. Death due to assault in custody of Ma Nyo Kyi, 23, of Shwemyaing Ward, Myohla, Bago Division in Yetashe Township on 19 June 2006 by Police Deputy Superintendent Zaw Lwin and subordinates.

c. Death in custody due to assault of Maung Ne Zaw, 28, of Myoma Ward, Mohnyin, Kachin State on 2 May 2006 by Police Superintendent Khin Maung Nyi and four subordinates of the Special Anti-drug Squad Police stationed in Hopin on March 14.

d. Death due to assault in custody of Ko Thein Shwe, 42, of Ngayoatkaung Village, Myinkakone, Bogalay, Ayeyawaddy Division on 14 February 2006 by township police Station Officer U Tin Htun and subordinates.

e. Death due to assault of Ko Thet Naing Oo, 40, of Bawga Ward, Kyimyintaing, Yangon on 18 March 2006 by police, including two patrolling officers, Aung Myat Thu and Tin Maung Ni, with members of the municipal market security force and auxiliary fire fighters.

f. Death due to assault of Ko Than Htike, 34, of Myothit Ward, Ngathaing Chaung, Yegyi, Ayeyawaddy Division on 31 December 2005 by U Aung Myint Thein, chairman of the Myothit Ward Peace & Development Council and four other council members.

g. Abduction and death in illegal custody of Ko Min Soe, 26, of Panaw Village, Daik-U, Bago Division in December 2005 by U Win Myint, chairman of the Panaw Village Peace & Development Council and others.

h. Disappearance while in custody of U Maung Maung, 40, of Dawpon, Yangon Division on 3 July 2006 after arrest by township police officers on June 27.

i. Serious injuries in custody due to assault of Ma Khin Mar Lwin, 24, of Ohbo ward, Kyimyintaing, Yangon on 8 June 2006 by township police Station Officer Ne Myo and others.

j. Serious assault and illegal arrest of U Htun Shwe, 70, and family members of Ward 3, Daik-U, Bago Division on 19 March 2006 by a large force of police including officers Min Aye and Tin Soe Win.

k. Serious injuries due to assault at time of arrest of Ko Aung Myint Oo, 30, of Pyitharyar Ward 3, Meikhtila, Mandalay Division on 18 January 2006 by Deputy Superintendent Aung Than Htay of Meikhtila Township Police Station 3 and around 13 other police officers.

4. Together these cases--which are just a tiny handful of the total number occurring in Myanmar today--reveal a society not where authoritarian rule is successfully maintaining "the stability of the state", as promised by its military regime, but rather a country where the rule of law is non-existent and government officers are increasingly running out of control. The characteristics of violent crime by these state officers include the following:

a. The victims are ordinary people targetted in common criminal inquiries:

In Myanmar today it is unsurprising to hear that someone has been assaulted or killed over the alleged possession of a small quantity of drugs; supposed suspicion of petty

theft; urinating in a public place, or otherwise doing anything that may cause offence to local officials. None of these are the sort of celebrated political cases for which Myanmar usually obtains attention. But they are the sort that affects the overwhelmingly large number of people in the country.

b. The victims are mostly innocent:

It is a feature of violence and other criminal or illegal actions committed by state officers against victims in Myanmar that the victims have nothing to do with the alleged wrongdoing, may only be tangentially related to the case or may themselves be the aggrieved parties who are being targeted as a counterattack to thwart their earnest attempts at obtaining some limited form of redress.

c. The victims are often targeted due to personal grievances or out of favours to others:

The victims of assaults or other illegal acts by the concerned authorities very often know their targets, or know someone who knows them and are doing that person a favour. A person may be assaulted because of connections between the police and a local family who believe that the person has wronged them, and the party to the case may even become involved in the assault. Khin Mar Lwin was assaulted by the police on behalf of a local family; a member of which was also allegedly allowed to get involved and sexually abuse her. Ma Aye Aye Aung was beaten up because she parked her betel nut cart at the front of a restaurant owned by the local council head. Deaths occur as a result of petty disputes between local officials and persons in their jurisdiction who have refused to follow some instruction or pay some amount of money.

d. Ordinary criminal and judicial procedures are completely ignored:

Where police are involved in the case from the start--as perpetrators or accomplices--or where they are brought into the case as investigators, they invariably ignore ordinary criminal procedures. Illegal arrest and detention, failure to inform of reasons for arrest or to inform family members of arrest, detention of minors and similar breaches of criminal procedure and police regulations are the norm. Maung Ne Zaw and his friends were illegally detained from the start. Ma Nyo Kyi's family were not informed that she was taken into custody. Ko Aung Myint Oo was attacked because when he was first instructed by a police officer to go to the local station with him he was not given a reason and declined to follow. The Kyimyintaing police reportedly locked up a baby. Orders given by judges also show flagrant disregard for--or ignorance of--the domestic law and are determined strictly on the basis of instructions given from the executive.

e. There is no concept of--or interest in--investigation methods:

The only techniques known to the police and other authorities who take people into their custody are to detain and beat up. If they know the person and have a particular objective, this is the method to obtain that objective. If they are not sure who they have in their hands, this is the method to find out. They learn when their family members or others come who they are and how much they can get from them. They

can decide whether it is more worthwhile to let the person go in exchange for cash or proceed with a case.

f. The victims have no possibility of complaint and are instead made the targets of counter-complaints:

Attempts to have a case opened are usually thwarted at early stages through a range of techniques, including open harassment and intimidation of the victim or family and counter-complaints by the authorities. Maung Ne Zaw's mother repeatedly attempted to have a case opened against the police who killed her son. As a result, she was constantly harassed, she says, and finally fled to Thailand near the end of June. The vigorous efforts to get justice by Thet Naing Oo's mother instead led to the arrest of some bystanders to her son's killing: also poor and innocent civilians. Aung Myint Oo's mother reportedly gave up attempts to register complaints against the police who assaulted her son and has since figured that if you can't beat them, join them: in her case, by working an illegal lottery syndicate with the police sergeant who instigated the violence. And whereas there is a persistent interest in security and emergency laws in Myanmar to deal with dissent, it must be noted that in fact the common criminal law has within it a small arsenal of provisions that enable officials to counteract private complaints, including Penal Code sections 182/189 (false information with intent to cause public servant to use his lawful power to the injury of another person; threat of injury to public servant); 211 (false charge of offence made with intent to injure); 499/503 (defamation; criminal defamation); and 504/505 (intentional insult with intent to provoke breach of the peace; statements conducing to public mischief).

5. All of this is to say nothing of the very severe and violent conditions for internally displaced persons, refugees and others in remote areas and border regions of the country, who continue to be subject to some of the worst human rights abuses in the whole of Asia, mostly at the hands of the military. In October the Bangkok-based Thailand Myanmar Border Consortium reported that over a million people are now displaced in eastern Myanmar alone, with 82,000 forced from their homes in the last year, through the systematic destruction or forced abandonment of over 200 villages in the same period. Out of the million persons, over half are believed to be living in the jungles and hills due to "systematic human rights abuses and humanitarian atrocities".

6. The Asian Legal Resource Centre submits to all United Nations and international agencies concerned by the situation of human rights in Myanmar that it is necessary to start with basic issues of policing and state violence. It also calls upon the UNODC to review the contents of its December 2005 report and move towards a better understanding of the situation of violent crime in Myanmar than it appears to have had in the past.