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**Written statement submitted by the Asian Legal Resource Centre (ALRC), a
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**No effective way to complain about abuses by the state in Thailand: an Article 2
violation**

1. The Asian Legal Resource Centre (ALRC) has over a number of years observed how the Government in Thailand works to apparently but not actually respond to complaints of abuse by the state. Communications by the ALRC and its sister organisation--the Asian Human Rights Commission--with various government agencies reveal a pattern of inaction in all cases where the accused persons are state officers. The following are some examples:

a. Uthai Boonnom and his partner were in March 2002 allegedly abducted by police in Saraburi who assaulted him and took all their possessions before forcing them to sign documents that later served as confessions that they had been buying and selling drugs. From 2002 to 2005 Uthai complained to the prime minister, justice minister, privy councillor, National Counter Corruption Commission (NCCC), courts, chief of police, attorney general, ombudsman and Department of Special Investigation, among others. The prime minister's office replied that it had referred the case to Police Region 1 headquarters. But Police Region 1 never contacted Uthai. The justice ministry replied that the case had been referred to its Department of Rights and Liberties Protection (DRLP), which replied that it had checked with the police and they had said that the arrest was legal. It indirectly blamed Uthai for not making a complaint with the investigating officer immediately following his arrest, or launching criminal proceedings against the alleged perpetrators. The ombudsman replied that he could do nothing as the case is still in court. The Department of Special Investigation replied that the case did not come within its criteria for investigation.

b. The alleged attempted rape of Ma Thet Thet by a policeman in Mae Sot, Tak was inquired into by the DRLP. In a letter of 11 April 2006 one of its deputy directors stated that the department "had contacted Provincial Police Region 6 in order to verify this case and was informed that... this incident really occurred as claimed... but by persons who falsely claimed to be police officers by dressing [in] similar outfits".

c. The alleged brutal torture of Urai Srineh by police in Chonburi was inquired into by the Ministry of Interior. Through a letter of 3 November 2005 it stated that it had instructed provincial authorities to investigate and that they had found that the victim had been tortured but "Mr. Srineh said that he was not tortured brutally by the Police and confirmed that the group of men were not the Police".

d. The alleged illegal raid and confiscation of documents from a migrant workers union in Mae Sot by immigration and police officials was inquired into by the DRLP, which stated in a 25 October 2005 letter that "Immigration Division 3 has investigated the matter and revealed that... all concerned officials followed the prescribed procedures without the use of violence or damage of any personal properties".

e. The alleged extrajudicial killing of Sunthorn Wongdao by police in Nonthaburi was inquired into by the Ministry of Interior, which stated in a letter of 25 August 2005 that provincial authorities were instructed to investigate and had found that "Bang Yai District Police had performed the autopsy and concluded that it was a suicide". The police said that the victim killed himself by shooting five bullets into his chest and head. The DSI said that it could not take up the case.

f. The alleged brutal torture cases of Anek Yingnuek and three others and also Ekkawat Srimanta by police in Ayutthaya were inquired into by both the DRLP and Ministry of Interior, which reported that the cases had been passed to the NCCC. There is also no evidence that it ever investigated any of the complaints; nor was it a suitable agency to do so. The ALRC also found out that statements that the concerned police had been removed from duty made by the Government of Thailand to the United Nations Human Rights Committee and others were either false or that the police had resumed their duties after a short period of suspension. The Ombudsman declined to take up the case because it was in court, even though the complaint to the Ombudsman and matter before the court were different. The victims testified in court that they had been tortured but their testimony was overlooked by the court on procedural grounds. A family member of one of the victims has since herself been sued for defamation by one of the accused police.

2. The AHRC is not aware of a single genuine complaint in Thailand that has led to a satisfactory investigation and prosecution of the alleged perpetrators where they are police, military or other officials. Even high-profile cases struggle to get into the courts and obtain a fair hearing. The reason for this failure, which has been pointed to by many concerned agencies and experts, is the absence of an independent unit to receive and investigate complaints.

3. Ultimately, the possibility of justice and human rights in any society depends upon there being the means through which genuine complaints of illegality and wrongdoing by state officers can be received, investigated and, where necessary, prosecuted. This is the essence of Article 2 of the International Covenant on Civil and Political Rights (ICCPR), to which Thailand is a party. Failure to establish effective avenues for complaint amounts to a violation of this key provision.

4. In some well-established jurisdictions, existing agencies are sufficiently robust and trusted by the population as to be able to do this work themselves. In other places, it is necessary to establish completely new and independent bodies to do this work: the Independent Commission against Corruption in Hong Kong is a good regional example. The 1997 Constitution of Thailand opened the door for the creation of many such bodies, but many have not performed as had been expected by the public. The Department of Special Investigation is a case in point: whereas many human rights defenders and organisations had hoped that it may be the starting point for objective

investigations of police, with a police officer in charge it only served as another layer of protection for alleged perpetrators in uniform.

5. The Asian Legal Resource Centre recalls the concluding remarks of the Human Rights Committee in 2005, when it assessed Thailand's compliance with the International Covenant on Civil and Political Rights (CCPR.CO.84.THA):

"The Committee is concerned at the persistent allegations of serious human rights violations, including widespread instances of extrajudicial killings and ill-treatment by the police and members of armed forces [in Thailand]... any investigations have generally failed to lead to prosecutions and sentences commensurate with the gravity of the crimes committed, creating a culture of impunity. The Committee further notes with concern that this situation reflects a lack of effective remedies available to victims of human rights violations, which is incompatible with article 2, paragraph 3, of the Covenant (arts. 2, 6, 7).

"The State party should conduct full and impartial investigations into these and such other events and should, depending on the findings of the investigations, institute proceedings against the perpetrators. The State party should also ensure that victims and their families, including the relatives of missing and disappeared persons, receive adequate redress... The State party should actively pursue the idea of establishing an independent civilian body to investigate complaints filed against law enforcement officials."

6. The Asian Legal Resource Centre calls upon the Government of Thailand to comply with its treaty obligations and make its domestic commitments to the rights of citizens meaningful by establishing an independent civilian body to investigate complaints filed against law enforcement officials as proposed, and free countless victims of alleged abuse from years of complaints that lead nowhere and achieve nothing.