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**Written statement submitted by the Asian Legal Resource Centre (ALRC), a
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The disappearance of a person and the disappearance of justice in Thailand

1. The story of Somchai Neelaphaijit is in many respects the story of Thailand. From the time of the abduction of the human rights lawyer by the police on 12 March 2004 the case has attracted immense national and international interest. It has also evolved into a story of successive insincere mouthing of commitments by state officials as to their obligations.

2. The wife of Somchai, Angkhana Neelaphaijit, has worked to obtain some answers and a modicum of justice. In the course of her personal struggle, during which time she has received death threats, she has become an outstanding human rights defender in her own right, who has now established an organisation to fight for the rights of other families of disappearance victims in Thailand. On the second anniversary of her husband's abduction, both her struggle and his were acknowledged when he was awarded the 2nd Asian Human Rights Defender Award of the Asian Human Rights Commission. Angkhana herself has also received an award from the National Human Rights Commission of Thailand and is a 2006 joint recipient of the Gwangju Prize for Human Rights, from Korea.

3. In January 2006, after the Criminal Court in Bangkok sentenced one of the five accused police to three years in prison and stated that state officers had been responsible for Somchai's disappearance, the then prime minister, Pol. Lt. Col. Thaksin Shinawatra, insisted that the Department of Special Investigation (DSI) under the Ministry of Justice would lay fresh charges within a month. It never happened. Nor have any other promises by one government official after another been fulfilled. These include numerous written commitments by senior government officials since 2004 that various high-level investigation teams were hard at work on the case.

4. Then at the end of October, the head of the military junta that took power on September 19, General Sonthi Boonyaratglin, said that he had information that the mastermind of the disappearance of Somchai was a close aide of the former prime minister. The revelation came as little surprise to persons who have followed the case. It was alleged from the start that there was evidence linking someone in the prime minister's office to the abduction. It was also widely agreed that the five police who stood trial in connection with his disappearance--one of whom was convicted--were acting on orders from higher up. However, the DSI has repeatedly said that it lacks evidence to lay further charges.

5. The DSI's constant excuses for its inability to solve the case have no credibility. Under the Special Case Investigation Act BE 2547 (2004) it has extensive authority to investigate any case it has been assigned. Under section 22 it can oblige other government agencies to cooperate. Under section 23 its officers have full investigative powers in accordance with the Criminal Procedure Code. Under section 24 further specific powers are described. These are considerable. They include the power to search a place or person without a warrant, summon any agency or person to come for investigation or give information, and seize evidence. Under section 25 the DSI can obtain a court order to open mail, tap telephones, and intercept faxes, email messages or other communications in connection with an offence being investigated. Under other sections it can issue fake documents, exempt its staff from ordinary regulations on use of firearms, and appoint special consultants and public prosecutors to cases where necessary. Together with the resources that the DSI is known to have at its disposal this array of powers makes nonsense of claims that it is having trouble uncovering witnesses or evidence. It has used these powers in other instances with good result, particularly relating to financial crimes: so why have human rights cases, and especially that of Somchai Neelaphaijit, not been given equal respect?

6. The DSI has failed miserably in this and all other human rights cases, including those of murdered environmentalists Charoen Wat-aksorn and Phra Supoj Suwajo. Many attributed this to the placing of a senior police officer at the head of the department, which is under the justice ministry. Many more believe that Pol. Gen. Sombat Amornvivat and his senior colleagues personally thwarted the investigation of Somchai's disappearance. At the start of November 2006 Pol. Gen. Sombat was removed by the new military administration. However, to date the DSI, including his subordinates still at work there, has failed to make progress on the case, and indeed all other human rights cases in Thailand.

7. Apart from the resurgence of questions about who ordered Somchai's abduction, the Asian Legal Resource Centre wishes to direct the following questions to the Government of Thailand about the failure of the DSI to solve the case:

a. What attempts have been made to follow the chain of command from the five accused officers upwards?

b. Which senior officers have been questioned directly over the lawyer's disappearance?

c. Why were the former prime minister and members of his cabinet not themselves summoned for questioning after admitting that they had heard things about the case?

d. Was there any attempt by investigators to learn what they had heard? If so, what further steps did they take?

8. The case of Somchai is at its heart about the public ritual--as opposed to substance--that purveys Thailand's administrative institutions. The trail of ministers, government officials and officers that have given reassurances about the case leads in endless circles, because each has made commitments without a corresponding sense of obligation. Even the most basic official exchanges among functionaries, or between

functionaries and the public, are hollow. As a substitute for good service and effective administration, the state is reinforced by propaganda. The rule of law is denied and authoritarian governance predominates. This is the challenge for the rule of law and human rights in Thailand, not only in Somchai's case but in every case of violation or omission by the state and its agents there.