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Statement on 'Abuse of migrant workers in Thailand' received by Commission on Human Rights

(Geneva, 7 April 2004) – The written statement of the Asian Legal Resource Centre (ALRC) on 'Abuse of migrant workers in Thailand' (E/CN.4/2004/NGO/22) will be distributed today at the 60th Session of the United Nations Commission on Human Rights in Geneva.

The full text of the statement follows.

This year, ALRC submitted 30 written statements to the Commission, on topics as diverse as caste discrimination in Nepal, food scarcity in Myanmar, custodial deaths and torture in India, extrajudicial killings in Thailand, policing in Pakistan, the National Human Rights Commission of Sri Lanka, and impunity in Asia.

The complete list of statements, with full texts and links to the original versions, can be viewed on the ALRC website, at <http://www.alrc.net/mainfile.php/60written/>.

Asian Legal Resource Centre — ALRC, Hong Kong

Abuses of migrant workers in Thailand

1. In the middle of May 2003, local authorities in Mae Sot, on the border of Thailand, illegally detained and later murdered six legal Burmese migrant workers, Thein Han, aged 28, Thein Naing, 44, Aye Min, 22, Ngwe Lay, 19, Maung Maung, 24, and Ah Nya Tha, 22. The men were kept bound at the front of a village headman's house before they were lead away to their deaths. The headman was later charged with the murders, and released on bail. No others were charged, despite numerous witnesses to the event, and circumstantial evidence suggesting that law enforcement officials were heavily involved. Most witnesses and relatives of the victims have since been sent back to Myanmar, and the trial is being held without any legal counsel representing the plaintiffs.

2. Murders, rapes, abductions, torture and other abuses of Burmese migrant workers in Thailand have occurred with alarming regularity for many years, particularly in the Mae Sot district of Tak province, but for a long time only cases of extreme brutality were ever made public. In January 2002, for instance, the bodies of at least 21 persons were found in the Mae Lamao stream. No one has ever been brought to account for that atrocity, which the Asian Legal Resource Centre raised before the Commission in a written statement during the fifty-ninth session (E/CN.4/2003/NGO/149). In the past year, abuses have increased, as impunity has spread in Thailand with new government policies favouring extra-judicial killing, and because migrant worker's rights have been further curtailed. The Asian Legal Resource Centre has this year made a separate written submission to the Commission on the extrajudicial killing of at least 2500 alleged drug traffickers in Thailand during 2003.

3. In 2003, the Asian Legal Resource Centre brought its concerns to the attention of the Special Rapporteur on the human rights of migrants, noting that immigration officials, police, and other officials in Thailand abuse illegal migrants at time of arrest, in detention centers, and during deportation. These abuses include extortion, physical and sexual assault, and murder. These activities by the police lead others to commit the same offences without fear of the consequences. The following cases illustrate:

a. On 13 April 2003 a gang controlled by the police and civil defence force beat an unnamed Burmese man to death at a Bangkok public bus station. The man had apparently stumbled into an argument among the gang, and they turned on him. Uniformed members of the civil defence force stood and watched, before calling some nearby police, who took the victim to a detention centre while still alive. The next morning his dead body was taken away in a truck. No action was reportedly taken against the perpetrators, despite numerous witnesses to the attack.

b. In early April 2003, police in Phop Phra district, Tak Province, detained an unnamed Burmese man they found working illegally. They put him in a cage at a village checkpoint that was used to keep dogs. During the day he managed to get out and tried to run away. The police soon caught up with him, and called him to come back; he turned and began to walk back towards the police, at which point one shot him in the chest. A local man who witnessed the killing informed other Burmese workers; the murdered man's body was found in a field the next day.

c. A security guard raped and killed 25-year-old Thandar Hlaing in Mae Sot on 31 August 2003. Police arrested him only after over one thousand angry co-workers went on strike and attacked the man. He later admitted to the crime, however attempts by witnesses to reveal that at least two other persons may have been involved have been suppressed.

4. The rape and murder of Thandar Hlaing is exceptional in that police soon secured a confession from the culprit. One of the reasons in this instance was the reaction of the others at the factory where she worked. In Mae Sot, there are some 150 factories, of which 80 per cent make garments and 95 per cent of the workers are Burmese; the number of Burmese workers in the town is estimated to be at least 80,000. Employers, immigration officials, the police and other powerful persons and authorities cooperate to deny these persons their most basic rights, as follow:

a. All migrants from Myanmar, whether legal or illegal, face the risk of being deported at any time. Most employers retain their workers' labour permits. When the police check for documents, these persons only have photocopies, and can be arrested because according to regulations they must carry the originals. Workers deported to Myanmar can also be charged and jailed for up to seven years if found that they left the country illegally.

b. Employers alert the authorities when they do not want the workers any longer, or when they ask for their rights, such as the minimum wage. It is easy to sack the workers, who are unlikely to receive compensation, and are usually deported immediately. In most cases, those seeking additional money have been paid at around half of the minimum wage. In June 2003, 420 legal migrant workers from the King Body Concept Company were fired and immediately deported to Myanmar after demanding to be paid according to regulations, and calling for improved working conditions. In violation of domestic law, the immigration office sent them back to Myanmar without any investigation of the dispute. Similarly, on 16 December 2003, police arrested over 260 legal migrant workers on strike and planning to sue their employer for insufficient pay, after 25 of their number were sacked. Police reportedly surrounded a monastery where the workers, including about 200 women, were staying after they had decided not to continue work at Nasawat Apparel Company, and to file charges against the factory. The police beat the workers before taking them to the Immigration Detention Centre for deportation. The owner of the Nasawat Apparel Company, Kwanchai Wimut, had previously had police beat and deport workers who had attempted to organise strikes, and had had his security men sexually harass women workers. On 25 November 2003, prior to the workers' walkout, drunken police had also entered the women's quarters and threatened them sexually.

c. No safety equipment is issued and nor is the health and safety of migrant workers a subject of interest for employers. Workers do their jobs without electrical shock resistant boots, gloves for cloth cutters, nose covers for knitting workers, covers for steam iron operators, gloves for dying operators of artificial flowers, or respiration protection for pesticide farm workers and button press operators. Almost no compensation is paid to victims of workplace accidents. Nor is any provision made for urgent medical assistance. For instance, on 28 August 2002, a 15-year-old boy sweeping corn grains in front of a storage yard was nearly cut in two by a factory pay loader. He had to wait for two hours to go to a hospital; he died soon after and his family received 15,000 Baht (US\$400) compensation.

d. Accommodation provided by factories is poor. There is overcrowding, insufficient rooms and toilets with little privacy. Unhygienic living conditions cause tuberculosis among workers. Fire-fighting courses are seldom held, and instead photos of previous courses are generally shown.

e. Working hours are excessive: on average, 60 to 75 hours a week. Leave is seldom given, even on religious days, when the rest of Thailand shuts down. During periods when factory owners are trying to meet contract deadlines, they may force workers to continue without sleep for days on end. Chalermopol Paiboonpol, the owner of Siritwat Garment Factory in Mae Sot, forced his 75 legal Burmese workers to work for 41 hours without rest from 19 to 21 September 2003. The workers had been on the job around 14 hours per day since September 1. When the workers refused to do any more overtime, the employer called the police, who threatened to send the workers back to Myanmar. Eventually, interventions by the Labour Welfare Office, National Human Rights Commission and others led to a compromise in which only half of the workers were fired on September 24, a day before the expiry of their work permits, but all were underpaid. The National Human Rights Commission informed the Asian Legal Resource Centre in writing that the case was settled satisfactorily according to domestic law, but that as the Government of Thailand has not signed any international agreements pertaining to migrant workers, nothing could be done in keeping with those standards.

f. Children of migrant workers also end up working at gas stations, small factories, fisheries, construction sites, agricultural plantations, garment factories and handicap workshops. In factories, for instance, they work as winding machine operators and cleaners for knitting companies, paint toys and crush gemstones. Child workers earn around 800 to 1200 Baht/month

(US\$ 20-30). Children whose parents are alien workers cannot attain permits in Thailand, as they are under age. Hence they are not eligible for medical treatment, and seldom get a chance to study in a school.

5. The organisers of strikes and human rights defenders have also increasingly become targets. In December 2003, employers had posters on two members of the Yaung Chi Oo Workers Association, Moe Swe and Ko Phyu, who had been involved in many of the above mentioned actions in 2003, plastered around Mae Sot. The police were reported to be looking for the men, who have since gone into hiding. The men are exiled activists from Myanmar, who, if deported would certainly face lengthy prison terms and torture.

6. Accordingly, the Asian Legal Resource Centre recommends the Commission, and in particular the Special Rapporteur on the human rights of migrants, to:

a. Assist the National Human Rights Commission of Thailand to establish an office in Mae Sot to oversee the rights of all migrant workers, and open telephone hotlines that migrants can contact to report abuses and request assistance, including counselling, legal services and refuge. The National Human Rights Commission should also be involved in establishing a body to resolve workplace disputes between employers and migrant workers, as none exists at present.

b. Insist that the Government of Thailand ensure that domestic law is upheld with regards to migrant workers, legal or illegal, as it is to Thai citizens. In particular, persons responsible for murder, rape or other heinous abuses of migrant workers must be prosecuted, as must factory owners violating pertinent labour laws. Reasonable efforts should be made to locate family and friends in cases of murder, and inform them of their right to participate in criminal investigations and legal proceedings.

c. Seek a guarantee from the Government of Thailand that victims and witnesses of human rights violations coming to trial will be protected against retribution by accused perpetrators. These individuals should also be granted immunity from penalties for illegal immigration. Under no circumstances should victims or witnesses of human rights violations be held in detention facilities.

d. Call upon the Government of Thailand to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. Relevant national laws and policies should be brought in line with these Conventions, along with all previously ratified international conventions and treaties, and institutions established and reformed to ensure their effective and speedy implementation.

e. Pressure the Government of Thailand to permit organisations providing assistance to migrant workers to conduct their activities openly and legally.

f. Intervene to ensure the safety of human rights defenders Moe Swe and Ko Phyu.