

Executive Summary

The Report on the Performance of the 3rd Batch of National Human Rights Commission of Thailand (the 3rd Batch of NHRCT) is the summary and synthesis of the 3rd Batch of NHRCT consisting of 5 chapters, which include **Introduction** describing the background of the 3rd Batch of NHRCT's duties and powers, the main issue of operation and situation including main works in the promotion and protection of human rights; **Chapter 2 mechanism and work procedure** containing the mechanism and work procedure of the NHRCT according to the related provisions of the law; **Chapter 3 outcomes of operation** based on duties and powers under the Constitution of the Kingdom of Thailand, B.E. 2560 (2017), the National Human Rights Commission Act, B.E. 2542 (1999), and the Organic Act on the National Human Rights Commission, B.E. 2560 (2017), especially duties and powers in accordance with the Organic Act on the National Human Rights Commission, B.E. 2560 (2017) Section 26 and Section 27; **Chapter 4 outcomes of the main operation**, particularly the issue, which the 3rd Batch of NHRCT specified as the main point and main area of the operation during 2015 - 2021 along with the preparation and publication of recommendations of some main cases leading to the change in the policy or the improvement of the law in compliance with the principles of the human rights; and **Chapter 5 problems, obstacles and recommendations**, the summary and synthesis of the problems, obstacles including recommendations.

This report is summarized as follows:

Introduction mentions about the background of the 3rd Batch of NHRCT, duties and powers

according to the law under at least 2 main laws, the National Human Rights Commission Act B.E. 2542 (1999) and the Organic Act on the National Human Rights Commission, B.E. 2560 (2017), vision, duty, objective, and strategy as well as situation and main works of the promotion and protection of the human rights. The main situations and main works are the suggestions and recommendations to the draft of the Constitution of the Kingdom of Thailand, B.E. and the draft of the Organic Act on the National Human Rights Commission, B.E. in line with the Paris Principles relating to the status of the National Human Rights Institution for the promotion and protection of the human rights and consideration on the basic principles of the human rights.

Chapter 2 mechanism and work procedure explains the main mechanism, which supports the action of the NHRCT namely the Office of the NHRCT. The meetings of the commission are divided into the NHRCT Executive meeting, standard and protection meeting and meeting of the National Human Rights Commission as the Central Personnel Agency, appointment of the subcommittees and/or working groups, senior experts, officers and specialists to the NHRCT. It also explains the work procedure of the NHRCT based on the duties and powers in accordance with the Organic Act on the National Human Rights Commission, B.E. 2560 (2017) Section 26 and Section 27, which contain the examination and reporting on the outcomes of examination on the human rights violation including mediation and coordination of the protection, preparation of the report on the assessment of the situation of the human rights in Thailand, recommendations of measures or guidelines for the promotion and protection of human rights, clarification and

reporting of the fact in case of incorrect or unfair reporting of the situations relating to the human rights in Thailand, reinforcement on every sector of the society to realize the importance of human rights, research and publication of knowledges and development of the strengthening on the human rights, cooperation with international human rights organizations, management and development of organizations including enactment of regulations, announcements, standards and rules of ethics and guidelines on the management of organizations, human resources, and budgets, etc.

Chapter 3 outcomes of operation is based on information carried out from 26 November 2015 to 24 May 2021 presented according to the duties and powers in the Organic Act on National Human Rights Commission, B.E. 2560 (2017), summarily as follows:

Duties and powers according to Section 26 (1) examination and reporting on the human rights violation: The 3rd Batch of NHRCT received complaints of human rights violation or unfair treatment, or there are cases, which were approved by the NHRCT to verify the human rights violation, totaling 3,391 cases (information as of 24 May 2021). The most complained right is the right to the judicial process. Most of them are complaints about the right of prisoners, the right to a speedy trial, etc. For the report on outcomes, the 3rd Batch of NHRCT arranges the report on examination of human rights violation, totaling 2,108 reports. There are 279 reports with violations of human rights and 1,829 reports with settlement. The most reason for settlement refers to not finding the issue related to the human rights violation, totaling 776 reports, equaling to 36.81 percent of the total reports on outcomes

of examination.

Regarding the follow-ups on the operation which the NHRCT recommends measures or guidelines of protection or solution of the human rights violation and promotion of human rights with a total of 324 reports, there are 163 reports which follows up the result in outcome of operation of the public and private organizations, equaling to 50.61 percent. The rest of 161 reports or 49.69 percent is in progress of operation by related organizations. For the follow-ups of operation which the NHRCT recommends on measures or guidelines on promotion and protection of human rights including the improvement of law, regulation, provision, order to the Parliament and Council of Ministers, there are 20 reports; 6 reports or 30 percent with follow-ups and settlement and 14 reports or 70 percent with pending operation by related organizations.

Moreover, the NHRCT carried out the coordination on protection of human rights for the petitioners according to the regulation of the National Human Rights Commission, B.E. 2561 (2018). There are important cases with coordination on protection of human rights to petitioners and they were able to provide protection of the human rights violation such as cases with the requirement on protection of human rights and examination on the death of human rights defenders, Khao Lao Yai-Pha Jun Dai Forest Conservation Group in Nong Bua Lamphu, etc. For the important reporting on examinations of human rights violation and the related organizations, the operation was carried out according to the measures or guidelines recommended by the NHRCT such as the report on examination outcomes no. 283/2018, human dignity and rights

and liberty to body, in the case which claimed the use of bondage machine to the prisoners who are restrained and brought to the court. Thus, it is considered as a human rights violation.

Duties and powers according to Section 26 (2)

preparation of an annual report on the outcomes of situation assessment related to national human rights submitted to the Parliament and Councils of Ministers and publication to public: There are 6 reports, annual report of 2015 and annual report of 2016 based on the standards applied to the assessment as follows:

1) Principles under the Constitution of the Kingdom of Thailand, B.E. 2550 (2007) and the Constitution of the Kingdom of Thailand (interim edition), B.E. 2557 (2014) and other laws and 2) Rights certified by main obligations of the human rights, in which Thailand is a member. There are main findings such as the Criminal Procedure Code Section 226/1 with the exception to admit any evidence arose duly but derived by acting in bad faith or derived by means of the data arisen or derived wrongfully, causing the law gaps and practices along with the interpretation which are obstacles for the access to right to justice system of the family of the person under forced disappearance and opening the gap of human rights violation by the public officer.

Report of 2017 uses the standards determined in the indicator and principles in accordance with the main obligation of human rights, recommendations corresponding to the mechanism on Charter of the United Nations along with the principles on human rights under the Constitution of the Kingdom of Thailand, B.E. 2560 (2017) and Thai laws with an important

recommendation, for example, the government should urgently reform the education conforming to the Constitution of the Kingdom of Thailand, B.E. 2560 (2017).

Report of 2018 includes the preparation on the frame of assessment and screening of the facts to be a systematical evaluation and recommendations. The important recommendation is, for example, the government should consider a mandatory saving system so that people have pension after their retirement.

Report of 2019 is divided into 4 fields of evaluation, according to obligation range relating to the human rights and issue of human rights in Thailand. There are important recommendations, for example, the government should determine the accurate operation guidelines to the related organizations to involve people and communities in area level for the management of land and residence, and the use of natural resources.

Report of 2020 is divided into 4 fields like the report of 2019 and contains the important recommendation such as issue on crowded prisons. Apart from the allocation of budget for extension of the prison areas, there should be other methods to be collectively used.

Duties and powers according to Sections 26

(3) recommendation of measures or guidelines on promotion and protection of human rights to the Parliament and Council of Ministers and related organizations and improvement of law, regulation, or order to conform to the principles of human rights: The 3rd Batch of NHRCT prepared important recommendations for submission to the Parliament and Council of Ministers and

related organizations. They also found out that the concerned organizations accepted and carried out the measures or guidelines accordingly as recommended by the NHRCT. This includes, for example, disclosure of criminal records of children and juveniles. It was informed by the Royal Thai Police that the regulation of the Royal Thai Police on Police Act not related to the case Title 32 Fingerprinting (no. 4) B.E. 2561 (2018) has been amended, especially the supplement of principles on the selection of plate used for fingerprinting, and this should be separated from criminal data system or database in case of child or juvenile offender, who is not sentenced to imprisonment by the court. Or there is a change in punishment for children or juvenile, recommendation of the course on human rights education for varied target groups, and manual for studies of human rights for the basic education.

Duties and powers according to Section 26 (4) declaration and reporting of correct facts without delay for the potential reporting in case of incorrectness or unfairness related to human rights in Thailand: From 2017 - 2021, it is declared or there are preparations of declaration in a total of 8 reports: 2 reports in 2018, 2 reports in 2019, and 4 reports in 2020. For that, there are guidelines to the declaration that have been issued for the potential reporting in case of incorrectness or unfairness related to human rights in Thailand. Afterward, it was defined as the regulation of the NHRCT on the principles and methods of declaration of the potential reporting in case of incorrectness or unfairness related to human rights in Thailand, B.E 2564 (2021). The concern of independence of NHRCT, raised by the Sub-committee on Accreditation

(SCA) of Global Alliance of National Human Rights Institutions (GANHRI) was considered as well.

Duties and powers according to Section 26 (5) and Section 27 (2) and (3) strengthening of all sectors in the society to realize the importance on human rights: The 3rd Batch of NHRCT announced the use of a strategic plan on the human rights of the NHRCT, B.E 2560 - 2565 (2017 - 2022) to improve knowledge, understanding and realization of issues on human rights. There are relevant outcomes of operation such as the arrangement of the course on the human rights education to varied target groups, preparation on manual for studies of human rights for the basic education, the strengthening of the learning process through innovation of the human rights promotion with the topics “Human Rights and the Spread of COVID-19 Pandemic”, stimulation and making of Human Rights Idol together with annual award to person and organization with excellent works in aspect of the promotion, prevention, protection of the human rights. In addition, they prepared and published the press conference, declaration, important news documentation up-to-date relating to human rights, which may be human rights violation at that time and set up 12 provincial education and coordination centers in cooperation with educational institutions.

Power and duties according to Section 27 (1): Research and publication on knowledges of human rights by supporting important researches and adapting the researched findings in favor of the promotion on human rights such as research on the business strategic plan and the human rights of the NHRCT B.E. 2560 - 2562 (2017 - 2019), research of the relationship between the human

rights and environment for sustainable protection of environmental human rights, etc.

Power and duties according to Section 27 (3) and (4): Cooperation with international human rights organizations is an important cooperation under 3 frames namely cooperation of the GANHRI, cooperation between the Asia Pacific Forum of National Human Rights Institutions (APF), and cooperation between the South East Asia National Human Rights Forum (SEANF). The main issues with the relevant continuing operation are solving on a concern of the SCA in every field without delay together with the stimulation to cancel Section 247 (4) of the Constitution of the Kingdom of Thailand, B.E. 2560 (2017) and Section 26 (4) of Organic Act on the National Human Rights Commission, B.E. 2560 (2017) and amendment on duties and powers in mediation according to Organic Act on the National Human Rights Commission, B.E. 2560 (2017) related to the status review of the NHRCT from status “B” into status “A”.

Chapter 4 Important outcomes of the operation: There are outcomes, which have been determined as the main issue or relevant area in the annual operation plan as well as the preparation and publication on the recommendations of some important cases leading to the change of the policy or the improvement of law in accordance with the principles of human rights for example.

1) Allocation of natural resources, land, forest, community rights: To prepare important recommendations such as the determination of land, living area, and life of the Karen tribe and life of the traditional local communities in the areas of

National Forest and National Park. There is also a recommendation in promotion and protection of human rights, case study: Transport effect on the construction of BTS Pink Line Khae Rai - Minburi.

2) Business with human rights: To arrange important continuing different activities with the purpose of publication and drive of compliance in line with UNGPs and other concerned principles along with signing ceremony on the declaration of cooperation in order to drive the guidelines of UNGPs in Thailand, the participation of the meetings/seminars with different organizations on international stages to publish the success of the operation of this issue in Thailand together with the exchange of experiences with other countries, the arrangement of important research and adaptation of outcomes of the research, for example, research report named “The verification of human rights in all fields and use of the findings resulting from activities and research to extend results by preparation of recommendations” to be submitted to the Parliament.

3) Fair treatment to elderly, person not having legal status and rights, and woman: For the elderly, the “public inquiry” has been applied for the studies and preparation of recommendations and important recommendations has been submitted to the Council of Ministers. These contain recommendations detailed and covered in all elderly dimensions. For person not having legal status and rights, the documentation on agreement of cooperation for proof and certification as Thai diaspora with several organizations was carried out. There are public institutions, which are main sectors: educational institutions and public sectors along with the

organization of important activities under such agreements, especially the data record of Thai diaspora in Prachuap Khiri Khan province to be applied to the development as policy recommendations. For to the promotion and protection of human rights for woman, the recommendations on termination of pregnancy in accordance with human rights were prepared. Their objectives are promotion and protection of human rights for woman, particularly the pregnant woman, access to and obtaining of health care services, safe reproduction with the appropriate standard for the pregnant woman or for those, who wish to terminate the pregnancy along with the prevention on rights of the embryo to survive safely as a baby in case of unready pregnancy.

4) Rights in the judicial process: There are projects for the visit of the risk places relating to human rights violation with a focus on prison visits in charge of the Department of Corrections and use of findings for submission to the Department of Corrections with important recommendations concerning congestion of the prisons and an insufficient number of staff and issues on medical and health care services, etc.

5) Situations in the southern border provinces: It is the project under the integration concept to drive and solve the problems in the southern border provinces with the objectives to promote and publish knowledge and understanding of human rights based on the situations in the area. There are important activities such as training with human rights topics to juveniles and local staff of concerned organizations and law enforcement officers and preparation on manual of human rights for the public officers in the southern border provinces.

6) Consequences related to human rights during the COVID-19 pandemic: These explain about working process of the 3rd Batch of NHRCT under the restrictions in the concerned situations. There are surveillance and follow-up on the spread of the COVID-19 pandemic and 15 daily-report, publication and news documentation to inform about human rights including the appointment of the working groups to watch out consequences caused by the spread of the COVID-19 pandemic.

7) Rights and liberties in the political rallies: For the operation of this matter, the 3rd Batch of NHRCT appointed a working group to follow up in case of political rallies which officers in charge were assigned to observe the situation of gathering in the area, to summarize the situations of the demonstration and the arrest and judicial proceeding against the demonstrators including human rights issue from weekly observation of the area, along with to prepare recommendations for submission to the Council of Ministers regarding the treatment to the demonstrators according to human rights.

Chapter 5 Problems, obstacles and recommendations: Synthesis of problems, obstacles, restrictions along with preparation of recommendations required for the development are as follows:

Field 1 Provisions of Constitution and laws related to the NHRCT consist of operation on duties and powers under the Constitution of the Kingdom of Thailand, B.E. 2560 (2017) Section 247 (4) and Organic Act on the National Human Rights Commission, B.E. 2560 (2017) Section 26 (4) and law restrictions in case of mediation and/or

compromise on a dispute relating to the human rights. There are recommendations required for the development such as continued operation to request the Parliament, the Council of Ministers or related organizations to support the amendment to the Constitution of the Kingdom of Thailand, B.E. 2560 (2017) for cancellation of the provisions of the law Section 247 (4) as part of the amendment to this constitution. It is in progress or should be considered separately for the amendment to this section and followed up for the review on request of amendment to the Organic Act on the National Human Rights Commission, B.E. 2560 (2017) by supplementing provisions of law for the duties and powers of the NHRCT in case of mediation.

Field 2 Use of legal measures and management to drive on promotion and protection of human rights by submission of recommendations related to the duties and powers of the NHRCT conforming to the Paris Principles to the Constitution Drafting Committee (Mr. Meechai Ruchuphan as the President) during the drafting of the Constitution of the Kingdom of Thailand, B.E. and of the Act on the National Human Rights Commission, B.E., issuance of regulation, announcement, rule for the framework of the NHRCT and the Office of the NHRCT along with the more precise division on the scope of responsibilities of each commissioner. The recommendations for the development of the division on the scope of responsibilities for each commissioner not only consider the area and issue, but also the coverage and compliance with the qualification according to the Organic Act on the National Human Rights Commission, B.E. 2560 (2017) Section 8, as well as the duties and powers Section 26.

Field 3 Development of operation according to duties and powers Section 26 and 27 of the Organic Act on the National Human Rights Commission B.E. 2560 (2017). It refers to the improvement and development of the work quality based on duties and powers, especially the examination and reporting on correct facts related to each case of human rights violation without any delay, focusing on the examination to obtain correct facts and revelation of facts without any delay. There are studies and analyses showing the reasons for human rights violation required for resolving problems and protection to avoid any human rights violation or in any similar way. Nevertheless, there are some restrictions related to the application of information technology to support operation on the promotion and protection of human rights according to the duties and powers of the NHRCT. For the recommendations on the development, the NHRCT and the Office of the NHRCT may consider giving priority to allocation of natural resources required for the development of database system of the Office of the NHRCT for storage and retrieving of data, which are accessible, easy to understand, updated and available for application by every person along with the development of skill required for the related officers.

Moreover, there are recommendations related to the mechanism development of the public sector to promote all sectors of the society to realize the importance of human rights and the extension of the scope on duties and powers for protection, promotion and human rights surveillance to the provincial sectors.