

## Executive Summary

### Annual Report of the National Human Rights Commission of Thailand Fiscal Year 2020

#### 1. Background

The annual report of the National Human Rights Commission of Thailand (NHRCT) for fiscal year of 2020 is undertaken in accordance with the Organic Act on National Human Rights Commission, B.E. 2560 (2017), Section 45. The Act mandates the NHRCT to prepare and present the annual report to the Cabinet and the Parliament within one hundred and eighty days after the end of fiscal year. The report must be composed of, at least, problems and obstacles encountered in undertaking the duties including recommendations for further actions, and then be disseminated to the general public. The annual report for fiscal year 2020 contains the activities of the NHRCT between 1 October 2019 and 30 September 2020.

#### 2. Overall performances in the year 2020

The NHRCT has the duties and powers to promote and protect human rights as prescribed in the Constitution of the Kingdom of Thailand, B.E. 2560 (2017), Section 247 and the Organic Act on the National Human Rights Commission, B.E. 2560 (2017), Section 26 and Section 27. The activities were also undertaken in accordance with the Strategic Plan, B.E. 2560-2565 (2017-2022), which can be categorized the following:

- 2.1 to examine cases of complaints related to alleged human rights violations, then prepare reports with recommendations on appropriate measures or guidelines to prevent recurring situations and redress of human rights violation, if found;
- 2.2 to prepare the annual report assessing Thailand's human rights situations;

The NHRCT staff members can be categorized as following:

**Figure 1: the NHRCT staff**



As of 30 September 2020

- 2.3 to recommend measures or guidelines for the promotion or protection of human rights within the country, including amendment and improvement of laws and other regulations to comply with international human rights standards;
- 2.4 to examine and correct facts where there is an incorrect or unfair report regarding situations of human rights in the country;
- 2.5 to raise public awareness regarding the respect for human rights;
- 2.6 to study or conduct researches in the field of human rights;
- 2.7 to promote human rights cooperation internationally;
- 2.8 to ensure efficient office administration and organizational development.

Budget in 2020 The NHRCT received a total budget of 222.5423 million THB for fiscal year 2020, an increase of 3.16% or 6.8202 million THB from the previous fiscal year. The annual budget was allocated into 3 major works: office administration, regular work-plan, and integration work-plan (projects).

### 3. Summary of major activities in 2020

In fiscal year 2020, the NHRCT has accomplished major activities which can be summarized as following:

#### 3.1 Examination of cases regarding alleged human rights violations

##### 3.1.1 Statistics on complaints

The NHRCT received a total of 465 complaints for alleged human rights violations in the 2020 fiscal year; and 170 cases or 36.60% were concerned with the rights in the justice system. Most petitions (90) were from the northeastern region; and majority of complainants with the total of 253 people (54.41%) were male.

#### 3.1.2 Human rights investigation and reports

The number of 387 admissible cases were investigated and reported. In the annual report, ten major complete cases were exemplified as follows:

- **Case 1** related to the right to life and bodily integrity in the case of the death of a student in military preparation school in Nakhon Nayok Province;
- **Case 2** related to the right to a fair trial, the right to life and bodily integrity, and the right to property in the case of an allegation made to a military personnel who detained a victim. His properties were investigated and confiscated, and his DNA sample was collected unlawfully;
- **Case 3** related to the right to a fair trial in the case of an allegation made to a government agency that used a model for environmental damage assessment after deforestation as a base for unfair damage charges in a civil trial;
- **Case 4** related to the civil right and the right of community in the case of an allegation that the right to participation of people who may be affected by the issuance of the industrial limestone mining license (for construction industry) was neglected. There was no consultation and the permission to conduct mining may severely affect the environmentally sensitive areas;
- **Case 5** related to the community right in the case of allegation that the proposal of the authority to register Kaeng Krachan Forest Complex as a World Natural Heritage site may affect the way of living of ethnic community living in the forest;
- **Case 6** related to the community right in the case of allegation that the construction of the coastal protection dam may affect the environment and the community;

- **Case 7** related to the community right in the case of the objection of the public hearing process for the coal mining project in Chiang Mai Province;
- **Case 8** related to the community right in the case of allegation made to a palm oil factory that they released waste water which affected the community and the environment;
- **Case 9** related to the discrimination against people living with HIV positive in the case of allegation made to a private company concerning its recruitment policy;
- **Case 10** related to the labour right in the case of allegation that the contract employees in state agencies were unfairly treated in terms of their welfare.

### 3.1.3 Recommendations made to the government and others including the monitoring of their compliance

The NHRCT made a number of different recommendations as mandated by law, and the responses to such recommendations can be summarized as follows:

(1) Concerning recommendations to prevent or to correct the situation of human rights violation, the majority of 131 cases was related to the community right, especially the participation in the large development projects which affected people and communities. However, the measures to prevent recurring situations such as a case of ill-treatments by officers were also made to relevant authorities.

In fiscal year of 2020, the NHRCT resolved, after monitoring their compliance, that 41 cases were close as the authorities concerned fully or substantively complied with the recommendations.

(2) Concerning recommendations for human rights promotion and protection in forms of measures or guidelines to 97 cases, they were related to, for example, the promotion of the community right, the conflicts of land management, the equal treatment in employment.

### 3.2 The preparation of the annual report assessing Thailand's human rights situations

Annually, the NHRCT is mandated to prepare a report assessing the overall human rights situations of the country according to the year calendar between January 1 and December 31. The report will cover the situations of (1) civil and political rights; (2) economic, social, and cultural rights; (3) groups of people such as children, the elderly, the disabled, women, LGBTQI and gender equality, stateless people and people encountering legal status problems; and (4) specific situations of human rights concerns. In the year 2020, two additional issues were reported which were human rights situations related to (1) the pandemic of Coronavirus 2019 (COVID-19), and (2) the political demonstration including freedoms of expression and assembly. The report will be presented to the Cabinet and the Parliament in March 2020.

### 3.3 Recommendations on measures or guidelines for the promotion and protection of human rights

In the 2020 fiscal year, the NHRCT prepared six recommendations on major human rights issues by proposing measures or guidelines for the promotion and protection of human rights, including amendment and improvement of laws, rules, regulations, or orders to ensure the conformity with human rights principle, as follows:

3.3.1 Recommendation on the issue of unfair treatment in the workplace of government independent contractor;

3.3.2 Recommendation on the accessibility to public transportation system for people with disabilities;

3.3.3 Recommendation on the case of the elderly;

3.3.4 Recommendation on the case study of the traffic impact from the pink-line sky train construction project (between Khae Rai and Min Buri);

3.3.5 Recommendation on the amendment of the legislation related to the termination of pregnancy in accordance with human rights principle;

3.3.6 Recommendation on the implementation of human rights education curriculum for various target groups and the human rights study guidelines for basic education.

### 3.4 Explanation and factual report in case where there is an incorrect or unfair report on the human rights situation in Thailand

In the 2020 fiscal year, the NHRCT found that there were a number of incorrect or unfair reports on the human rights situation in Thailand, whereby, the NHRCT undertook an examination to provide clarification to the public in five statements as follows:

3.4.1 Statement no. 2/2019 concerning Country Reports on Human Rights Practices 2018 of the U.S. Department of State;

3.4.2 Statement no. 1/2020 concerning the 2019 Review of Human Rights in Asia-Pacific of Amnesty International;

3.4.3 Statement no. 2/2020 concerning the World Report (Thailand's Events of 2019) by Human Rights Watch;

3.4.4 Statement no. 3/2020 concerning Amnesty International's report, titled "They are always watching: Restrictions on freedom of expression online in Thailand.";

3.4.5 Statement no. 4/2020 concerning Country Reports on Human Rights Practices 2019 of the U.S. Department of State.

### 3.5 Awareness raising of all sectors of society on the importance of human rights, includes:

#### 3.5.1 The Production of human rights education courses for diverse target groups

The NHRCT has continuously placed importance on the work of human rights education by cooperating with experts in the field of human rights education, representatives from higher education institutes, and representatives from relevant agencies and launched four human rights education courses for diverse

target groups last year. The 4 courses are: (1) human rights education course for high-level administrators; (2) business and human rights course; (3) fundamental human rights education course in the justice system; and (4) fundamental human rights education course.

In driving forward the work of human rights education in fiscal year of 2020, the NHRCT, together with the Ministry of Education, developed the human rights education curriculum and a handbook on human rights learning tool for basic education program to promote learning and awareness raising on the importance of human rights in a systematic manner. The NHRCT also rendered its recommendation to promote human rights on the human rights education curriculum for diverse target groups, including the handbook on human rights learning tool for 5 basic educational levels to the Cabinet. **On 26 May 2020, the Cabinet approved and encouraged related agencies to adopt the NHRCT's recommendation for human rights promotion (the human rights education curriculum for diverse target groups and the handbook on human rights learning tool for basic education program) to raise awareness and promote respect for human rights in Thai society and to properly utilize it in accordance with their duties and powers.**

Furthermore, the NHRCT hosted the seminar on "Advancing Human Rights Education in Thai Society" to disseminate and handover "Human Rights Education Training Modules" to diverse target groups, including the "Handbook on Human Rights Learning Tool" for basic education program to government agencies, private sector, educational sector and civil society with the aim to develop an educational curriculum that comply with human rights principles and the context of different sectors, which will lead to a culture of respect for human rights and sustainable peace in Thai society. The NHRCT also organized a seminar on human rights education curriculum for various target groups and two other important advancement projects, which are (1) the Human rights Executive Program (HREP) and (2) the Business and Human

rights Course for Business Sector in Thailand's Capital Market.

### **3.5.2 Tools development for communication and the establishment of learning centers for human rights**

The NHRCT collaborated with Ministry of Education, educational personnel from both private and public sectors, educational institutions, and civil society sector to develop a guideline for human rights facilitators by designing the learning process to increase the learners' interest and participation and the role of facilitators to play a coaching role to create the human rights learning atmosphere. This was in line with the role of "Human Rights Education Facilitators" with the aims to facilitate and motivate the learners for active opinion sharing, to create systematic learning and thinking processes that would improve their own capability.

### **3.5.3 Learning process enhancement through human rights promotion innovation in the topic of "Human Rights and the Coronavirus 2019 (COVID-19) Pandemic"**

The NHRCT organized the Youth Standing Up for Human Rights project to promote the respect for human rights, to ensure accurate knowledge and understanding for young generation and to support the networking of youths among their friends, teachers, parents, or the nearby community leaders, taking into consideration the context of Thai society as well as the situation of the Coronavirus 2019 (COVID-19) pandemic. This activity was important to encourage youth to drive the work on promoting respect for human rights using their positive energy and information technology knowledge. The project provided a basic knowledge course on human rights for project participants and contested ideas and plans to produce innovations promoting respect for human rights under the theme "Human Rights and the COVID-19 Pandemic". The winners for secondary level

and university level both received a royal award from Her Royal Highness Princess Bajrakitiyabha Narendiradebyavati Kromluangrajasarinisribajra Mahavajrarajadhita along with a certificate.

### **3.5.4 The creation of human rights role model (Human Rights Idol)**

The NHRCT attached great importance to search, promote, and uphold human rights role models, both individuals or organizations. For the fiscal year 2020, the activities included: (1) selecting and naming individuals and organizations with outstanding work on human rights promotion and protection to receive the "NHRCT Human Rights Award 2019"; (2) organizing the Human Rights Debate Competition in English language for University Students Program for fiscal year 2020. The awardees and the winners would receive their respective awards on the Human Rights Day to be annually organized by the NHRCT to observe the adoption of the Universal Declaration on Human Rights.

### **3.5.5 Public communication to establish human rights culture**

Throughout the year, the NHRCT had constant public communication for human rights to establish the respect for human rights culture. The forms of communication included the issuance of the NHRCT's statements related to important human rights situations to the public, the production of human rights promotion publications, including a book titled "Your Rights, My Rights, Our Rights" and "Human Rights Education Handbook for State Officials in the Southern Border Provinces Area", and the issuance of the NHRCT human rights laws journal.

### 3.5.6 Follow-up, analyzing, giving recommendation, and participating in the strategic plan, action plans, or activities related to the promotion of human rights in various agencies, and initiating cooperation plans with other agencies

A strategy in the NHRCT Strategic Plan was to focus on supporting structural changes, both in public and private sectors, to prevent and solve human rights issues in a systematic manner. For example, the NHRCT fully and constantly promoted strategic plan to support the role of businesses in respecting human rights. In the fiscal year 2020, some of important projects included: (1) the collaboration between the NHRCT and the Senate Committee to advance the topic of business and human rights in terms of policy and to expand on the United Nation Guiding Principles on Business and Human Rights (UNGPs) to all levels of business groups in Thailand; (2) the study of the advancement of children's rights on the occasion of the 30<sup>th</sup> anniversary of the Convention on the Rights of the Child in Thailand, submitting policy recommendations from the study and academic seminars to advance children's rights activities in the future; and (3) projects to strengthen human rights culture in the southern border provinces.

### 3.5.7 The establishment of integrated learning centers for human rights

The NHRCT strengthened and expanded its networks with academic institutions in all parts of the country. In fiscal year 2020, the NHRCT established the Regional Center for Human Rights Study and Coordination at 6 local educational institutions namely (1) the Southern Border Provinces Regional Center for Human Rights Study and Coordination at Faculty of Political Sciences, Prince of Songkhla University, Pattani Campus; (2) the North Eastern Regional Center for Human Rights Study and Coordination at Faculty of Law, Khon Kean University; (3) the Eastern Regional Center for Human Rights Study and Coordination at Faculty of Political Sciences and the Faculty of Law,

Burapa University; (4) the Southern Regional Center for Human Rights Study and Coordination at Faculty of Law, Suratthani Rajabhat University; (5) the Northern Regional Center for Human Rights Study and Coordination at Faculty of Law, Chiang Mai University; and (6) the Western Regional Center for Human Rights Study and Coordination at Faculty of Humanities and Social Sciences, Phetchaburi Rajabhat University. These centers have missions to promote knowledge and understandings on human rights, to receive complaints relating to human rights violation and transmit them to the NHRCT Office, to provide advice and coordinate with relevant agencies to take initial steps toward the protection of human rights, to monitor and follow up on situations or incidents relating to human rights, as well as to gather and analyze data for further human rights research study.

In addition, the highlight activities in collaboration with the Regional Center for Human Rights Study and Coordination were (1) the Youth Standing Up for Human Rights project; (2) the Training of Trainers in Human Rights Education Workshop; (3) the preparation of a report on the situation, human rights impacts from the Eastern Economic Corridor (EEC) Development Project; (4) the projects on human rights campaign with local youths, schools and alternative education network; (5) the creation of space for students to develop their learning and skills for human rights education; and (6) the academic forum on the human rights issues in Thai society including the protection of human rights defenders in the Northeastern region, the impacts of COVID-19 and sustainable development. The expansion of Regional Centers for Human Rights Study and Coordination were planned to cover six other higher education institutions at Kanchanaburi, Ubon Ratchathani, Chantaburi, Phayao, Yala and Phuket in 2022.

### 3.6 Human rights study and research

As prescribed by law, the NHRCT has duties and powers to promote, support, and cooperate with individuals, state and private agencies in a study, research, and dissemination of knowledge and capacity development in the field of human rights, including the provision of assistance or remedy to persons affected by human rights violation. In the fiscal year 2020, the NHRCT together with Thailand Development Research Institution (TDRI) conducted human rights study and research under the integrated research and innovation plan. The topics covered the issues concerning natural resources management and sustainable environment. The chronic problem related to community rights and their local natural resources was also studied under the topic “The Relationship between Community Rights and Natural Resources and Environment under the Constitution of the Kingdom of Thailand B.E. 2017”.

### 3.7 The promotion of international human rights cooperation and coordination

#### 3.7.1 Cooperation with other national human rights institutions

The cooperation between the NHRCT and other national human rights institutions continued, namely the Global Alliances of National Human Rights Institutions (GANHRI), the Asia-Pacific Forum of national human rights institutions (APF), and the South East Asia National Human Rights Institutions Forum (SEANF). Activities included meetings and seminars to share experiences and to discuss the issues of mutual concern such as the prevention of torture in South East Asia region.

#### 3.7.2 Cooperation with UN, international and civil society organizations

The NHRCT cooperated with United Nations agencies through its participation in meetings and workshops on several topics, especially the role

of national human rights institutions. As for the framework of cooperation with the ASEAN Inter-governmental Commission on Human Rights (AICHR), the NHRCT together with members of SEANF participated in different meetings to discuss the human rights issues of common concern such as the right to development, the right of people with disabilities. The NHRCT also cooperated with foreign government agencies, international and civil society organizations, participating in four workshops including the regional workshop on human rights monitoring for the preparation of human rights situation assessment report.

#### 3.7.3 Monitoring the government’s implementation of international human rights standards and obligations

In 2020, the NHRCT submitted two parallel reports to the UN treaty bodies, namely (1) parallel report on Thailand’s implementation in compliance with the Convention on the Elimination of Racial Discrimination (CERD) and (2) parallel report on Thailand’s implementation in compliance with the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

#### 3.7.4 Application for GANHRI re-accreditation process

The NHRCT attached importance to fully participate as an independent national human rights institution in international fora. As all the concerns of the Sub-Committee on Accreditation (SCA) under GANHRI were addressed, in 2021 the NHRCT submitted application for re-accreditation to the secretariat of the SCA. Due to the situation of Coronavirus 2019 (COVID-19) pandemic, the SCA meeting for the accreditation review was postponed to December.

## 3.8 Management and organization development

### 3.8.1 Establishing the regional office in the South

The NHRCT resolved to establish “the Southern Regional Office of National Human Rights Commission of Thailand” in Songkhla province to be the pilot regional office, to increase the efficiency in enhancing public accessibility to the NHRCT. The Southern regional office function would have the mandate to cover 14 Southern provinces, which are: Krabi, Chumphon, Nakhon Si Thammarat, Phang-nga, Phuket, Ranong, Surat Thani, Trang, Narathiwat, Pattani, Phatthalung, Yala, Songkhla, and Satun. The functions of the regional office include: (1) human rights promotion; (2) human rights protection; and (3) monitoring the human rights situation, which are human rights guarantees for the people in the region.

### 3.8.2 Affirming integrity and transparency

1) The Office of National Human Rights Commission of Thailand participated in the annual integrity and transparency assessment for state agencies, according to the guideline of the Office of National Anti-Corruption Commission (NACC). Among criteria for the assessment, they included the agency’s performance, budget spending, the means to exercise of power, the use of property, corruption prevention, and information accessibility. In fiscal year 2020, the office of NHRCT received 94.06 points from the assessment, an A-rank with the highest score when compare with 5 Constitutional independent organizations.

2) The Office of the NHRCT intended to become a learning organization by means of knowledge management. An administrative committee was; therefore, appointed to serve the purpose, organizing series of activities such as creating informal learning space, self-learning education, and organizing knowledge archive and database system, etc.

3) The NHRCT’s Human Rights Information Center is one of Thailand’s specialized libraries for human rights as the NHRCT values the promotion of human rights knowledge and understanding to the general public. It aims to facilitate the accessibility to human rights resources, open to the public both domestic and international. Therefore, the 24-hour online channel to access the information without limitation was created, which also served the purpose of preventing the spreading of Coronavirus 2019 (COVID-19), as well as the needs of the digital age and the Thailand 4.0 policy.

4) The Office of NHRCT had policy to establish a human rights archive to gather and preserve human rights historical documents related to the establishment and the operations of the NHRCT and the Office. The materials will be collected according to the professional archival principles and the international standards. It aims to demonstrate good governance, to provide services and distribution of the archived documents to benefit towards education, research, and analysis of human rights within the country.

### 3.8.3 Personnel development

Following the personnel development plan to improve the potential of its personnel, the Office of the NHRCT organized a number of activities including training courses for officers and new staff members. The subjects of training varied from administration skills to human rights knowledge organized by the Office of the NHRCT and other institutions.

### 3.8.4 Cooperation with other constitutional independent organizations

The NHRCT placed importance on the integrated collaboration among the 5 constitutional independent organizations, namely; the Election Commission of Thailand, the National Anti-Corruption Commission, the State Audit Committee, the Ombudsman, and The National Human Rights Commission of Thailand.

Thus, the NHRCT took the initiative to draft the guideline for transferring cases between the constitutional independent organizations, to set clear rules and procedures in transferring cases, to help each organization to operate efficiently, and to reduce redundancy. The Office of the NHRCT was assigned to prepare the final draft to be considered and signed by the Chairperson of each organization. The guideline was announced in the Royal Thai Government Gazette and became effective on 1 August 2020 onwards.

### 3.8.5 Progress on the information and communications technology (ICT)

The Office of the NHRCT has implemented the information and communications technology (ICT) master plan to strengthen its ICT capability to provide operational supports and services to the Office of the NHRCT in the following areas: (1) improving information system to collect and provide services on human rights and human rights network database system; (2) procuring durable supplies to support officer's operations; (3) providing services on human rights information, complaints handling system, and general information through website; (4) developing the ICT performance by renting services from the Zoom Video Conference program to support both domestic and international meetings, particularly during the COVID 19 pandemic; and (5) integrating data link with the national identification card by partnering with the Department of Provincial Administration to increase public services on human rights.

## 4. Performance evaluation analysis

Upon the instruction of the Parliament last year, the Integrated Government Evaluation Framework (Government Evaluation System: GES) was used for the NHRCT's performance assessment. The tool was applied by focusing on activities which gave benefits to the general public and achieved the NHRCT's mission in 3 areas. They were (1) human rights promotion;

(2) human rights protection; and (3) quality of monitoring function of human rights situations. It also included the efficient office administration.

The evaluation for the 2020 fiscal year to indicate the progress made and the accomplishment of the NHRCT's mission both internal and external dimensions comprised methods and indicators as follows:

### 4.1 External dimension

#### 4.1.1 Level of effectiveness

The effectiveness was evaluated from the achievement of mission. It was assessed from the percentage of success for providing legal opinions; the percentage of compliance with recommendations or measures for solving human rights violations in the investigation reports; the level of success in activities to cooperate with the local and regional networks in promotion or protection of human rights; the percentage of successful corporation with alliances in international arena and the concrete activities for collaboration; the level of success for the preparation of the annual report assessing human rights situation; and the level of success of the knowledge obtained from research studies and were utilized for the operation to solve problems.

#### 4.1.2 Quality of public services

The quality was evaluated from satisfaction of the services which the Office of NHRCT delivered by the general public. This was measured from the percentage of service recipient's satisfaction shown in questionnaires and the number of complaints filed against the Office of the NHRCT.

## 4.2 Internal dimension

### 4.2.1 Operational efficiency

The efficiency was evaluated from the operation processes and the budget spending according to the annual action plan.

### 4.2.2 Organization development

The development was evaluated from the progress made in the areas of the organizational adjustment to rapid changes, the strengthening system of organizational development, and the support for knowledge management (KM).

that it may be regarded inconsistent with the Paris Principles at the time, but to no avail.

In 2019, the NHRCT submitted application for re-accreditation to the Sub-committee on Accreditation (SCA)<sup>1</sup> under the Global Alliance of National Human Rights Institutions (GANHRI), being confident that all concerns of the SCA were fully addressed. Later, in December 2020, the Acting Chairperson gave interview virtually to clarify questions raised by the SCA. In the interview, it was clearly reaffirmed to the SCA that the NHRCT performed such function with full independence without any interference. Nevertheless, the SCA had decision to defer the consideration of the NHRCT's application for re-accreditation for 18 months due to its additional concerns on two legal issues, one of which was the mandate of Section 247 (4) of the 2017 Constitution and Section 26 (4) of the Organic Act. The SCA was concerned that such a function would compromise the actual or perceived independence of the NHRCT, and recommended the NHRCT to take full effort to advocate for the removal of this provision.

## 5. Challenges and recommendations

In fiscal year 2020, the NHRCT found major challenges and had recommendations the following:

### 5.1 Duties and Powers according to the Constitution of the Kingdom of Thailand, B.E. 2560 (2017) and the Organic Act on the National Human Right Commission of Thailand, B.E. 2560 (2017)

#### 5.1.1 The problematic function to explain and report correct facts without delay in case where there is an incorrect and unfair report on human rights situation in Thailand

The Constitution of the Kingdom of Thailand, B.E. 2560 (2017), Section 247 (4) and the Organic Act on the National Human Rights Commission of Thailand, B.E. 2560 (2017), Section 26 (4) states that the NHRCT has the duty to clarify and report accurate facts without delay in the event of false or unfair report on human rights situation in Thailand and to disseminate to the general public. The NHRCT shared its concerns with the Constitution Drafting Committee

#### Recommendations

The Parliament, the Cabinet, and the relevant government agencies should consider supporting the amendment to the Constitution of the Kingdom of Thailand, B.E. 2560 (2017) by repealing the provision in the Section 247 (4) at the first opportunity, either through the ongoing initiative to amend the Constitution or by specific amendment of the article, along with the consideration to repeal such function in the Organic Act on the National Human Rights Commission of Thailand, B.E. 2560 (2017).

#### 5.1.2 The lack of legal power of conciliation for human rights disputes

Originally, the National Human Right Committee Act, B.E. 2542 (1999) stated that during the investigation

<sup>1</sup> It is a sub-committee under the cooperation framework of the Global Alliance of National Human Rights Institutions (GANHRI) network, which had downgraded the status of the National Human Rights Commission of Thailand from status A to B in January 2016.

of the human rights violation, the Commission had the power to mediate the dispute of the parties to cease the issue of complaint. This was consistent to internationally recognition the national human rights institutions should have quasi-judicial powers which include to seek amicably settlement of human rights disputes through mediation. However, the current Organic Act on National Human Rights Commission, B.E. 2560 (2017) did not prescribe the NHRCT with such power, causing the Commission's inability to mediate the disputes between the conflicting parties.

In its annual report in fiscal year 2019, the NHRCT cited the lack of mediation power as one of challenges, and raised the issue to the Chairperson of the Senate Standing Committee on the Independent Organs under the Constitution to support the amendment of the Organic Act on the National Human Rights Commission of Thailand, B.E. 2560 (2017), resulting in the ongoing in-depth study on the reconciliation function of the NHRCT. The NHRCT also officially expressed its concern by sending a note to the Prime Minister and the Cabinet. Additionally, the Acting Chairperson raised the issue with the SCA during the virtual interview for re-accreditation. Subsequently, the SCA also consistently recommended that in fulfilling the NHRCT's complaint-handling mandate, it should be provided with the necessary functions and powers which included the ability to seek an amicable and confidential settlement of the complaint through an alternative redress process. The SCA; therefore, encouraged the NHRCT to continue to advocate to regain the function to seek an amicable settlement to disputes through conciliation.

### **Recommendations**

The Parliament and the Cabinet should support the amendment of the Organic Act on the National Human Rights Commission of Thailand, B.E. 2560 (2017) prescribing the NHRCT with the mandate to seek an amicable settlement to disputes through conciliation.

## **5.2 The implementation to comply with the NHRCT's recommendations contained in the annual report assessing human rights situations**

The Constitution of the Kingdom of Thailand, B.E. 2560 (2017), Section 247 (2) prescribed the NHRCT with duties and powers in preparing the annual report assessing human rights situations within the country, and presenting the report to the Parliament and the Cabinet. The Organic Act on National Human Rights Commission, B.E. 2560 (2017), Section 43, paragraph one, stated that once receiving such report, the Parliament, the Cabinet, or the relevant agencies needed to promptly take appropriate actions to improve or correct the situations. In the case that it cannot be implemented or need time for the implementation, the said parties have to notify the NHRCT of reasons.

In practice, the NHRCT continually received explanations from the Cabinet and the relevant government agencies, mostly concerned with their comments and activities related to the issues raised in the report rather than the results of the implementation based on the recommendations contained therein, or the reasons why those recommendations cannot be implemented, or the reasons for taking time.

### **Recommendations**

The Cabinet should reiterate with the government agencies to consider implementation of the recommendations contained in the NHRCT annual report on the assessment of human rights situation. The results of the implementation should be informed as prescribed in the Organic Act on the National Human Rights Commission of Thailand, B.E. 2560 (2017), Section 43. The Cabinet should also support essential resources (such as budget, digital technology, transfer of knowledge and other skills, etc.) in the development of the database system for storing and utilizing the data to be used as a tool to support the follow-up process on the implementation of the NHRCT's recommendations, similarly to

the national monitoring and evaluating system (eMENSCR) to monitor the implementation of the 20-Year National Strategic Plan or other similar systems.

### 5.3 Operation during the situation of the Coronavirus 2019 (COVID-19) pandemic

In fiscal year 2020, people all around the world were experiencing problems and were impacted from the Coronavirus 2019 (COVID-19) pandemic. The measures to prevent and control the pandemic such as the limited number of people in a gathering, social distancing measures or the prohibition of travelling had vast impacts on the NHRCT action plan. The activities to be undertaken with networks around the country, and internationally were cancelled, postponed or virtually conducted. The investigation of the human rights violations must be conducted on-location. The situation also caused delays in preparing the NHRCT reports in terms of gathering information from all parties.

In such situation, the NHRCT balanced the duty to deliver public services such as receiving human rights complaints with social responsibility to contain the pandemic by adhering to the official instructions. The NHRCT had periodically assigned staff members to work from home, instructed the Office of the NHRCT to revise and adjust the action plan, to utilize digital technology as a tool to support the implementation of duties and legal powers. On the other hand, the works of the NHRCT also focused on human rights situations during the pandemic of Coronavirus 2019 (COVID-19), appointing a working group to monitor the situation, contacting networks to report the human rights impacts caused by the pandemic, issuing statements instructing the government and the general public to respect human rights while combatting the disease.