



[Joint Statement] Thailand: Strengthen National Human Right Commission before Accreditation Upgrade

(Bangkok/Geneva, 16 December 2020) — The National Human Rights Commission of Thailand (NHRCT) should continue to be accredited as ‘B status’¹ in the re-accreditation exercise by the Sub-Committee on Accreditation of Global Alliance of National Human Rights Institutions (GANHRI-SCA), said the Asian NGO Network on National Human Rights Institutions (ANNI), Human Rights Watch (HRW), Protection International (PI), Community Resource Centre (CRC), and People’s Empowerment Foundation (PEF) today.

Over the past few days, the GANHRI-SCA has conducted the accreditation process of national human rights institutions (NHRIs), including the NHRCT. The NHRIs were assessed on their compliance with the Paris Principles.² NHRIs considered to be fully compliant with the Principles are accredited as “A status” and can participate in the work of the United Nations Human Rights Council and its mechanisms. Partially compliant NHRIs are given “B status” and may only participate as observers.

The NHRCT was last accredited in 2014. At that time, the GANHRI-SCA recommended that the NHRCT be downgraded to a “B status” for its persistent deficiencies, which included its selection and appointment process of the Commissioners, functional immunity, lack of ability to address human rights issues in a timely manner, and serious questions around independence and neutrality.

The NHRCT was given a period of one year to provide evidence of improvement, yet it had failed to do so and was thus officially downgraded in 2015.

‘We believe that upgrading the international recognition of the NHRCT is the wrong move now because it would legitimize the commission’s continued, serious shortcomings, and would fly in the face of evidence from the ground showing an upgrade is not warranted.’³ The NHRCT continues to suffer from severe legitimacy challenges and a lack of public confidence because of its continued failure to effectively protect rights, its continually poor performance, and its politically compromised independence, all of which fall substantially short of the minimum international standards mandated in the Paris Principles. Urgent changes are needed in the Commission before it can be upgraded to again become a Paris-Principles-compliant NHRI,’ the rights groups said.

The Organic Act on the National Human Rights Commission

The NHRCT is performing its duties under the 2017 Constitution of the Kingdom of Thailand and Organic Act on the National Human Rights Commission (2017 NHRC Act). The amendment to the 1999 NHRC Act was enacted without a meaningful consultative process.

¹ ‘B status’ institutions: Not fully in compliance with the Paris Principles or has not yet submitted sufficient documentation to make that determination.

² <https://www.forum-asia.org/?p=22707>

³ <https://www.forum-asia.org/?p=33176>

The amendment provided a controversial new mandate to the NHRCT, which allows it to investigate, clarify and report on any publication or report concerning the human rights situation in Thailand that the government designates as being “incorrect” or “unfair.”⁴ Under this mandate, the NHRCT has launched investigations (still inconclusive) of reports by human rights organisations accredited by the United Nations, such as Human Rights Watch.

Selection and Appointment Process

The selection and appointment process of the NHRCT Commissioners continues to fall short of the minimum standards set out in the Paris Principles and General Observations. Despite the improvements provided in the Act,⁵ the current selection process has not adequately addressed the issues of transparency and independence due to the continuous interventions made by the then military-appointed National Legislative Assembly, which rejected five candidates in several closed hearings in December 2018.⁶ After the 2019 general elections, the military-appointed Senate has rejected most candidates coming from a civil society or human rights background, and appointed only government approved academics and former officials who have previously worked in the government.⁷

Functional Immunity and Lack of Leadership

The rights groups noted that some NHRCT Commissioners faced serious obstacles in effectively carrying out the organisation’s mandate. One former Commissioner, Angkhana Neelapaijit, was undermined by the Commission when it conducted a disciplinary action against her for simply performing her job.⁸ She continually noted efforts by the former NHRCT Chair What Tingsamitr to block efforts to raise and investigate civil and political rights cases. Angkhana, who was awarded the prestigious Ramon Magsaysay Award in 2019, still faces defamation charges filed by Thammakaset Farm Company due to her work as Commissioner on a case involving violations of migrant workers’ rights, yet the NHRCT has done nothing to defend her.⁹

Over the years, the NHRCT has been plagued by inefficiencies in implementation and follow-up, internal conflicts and a continuous lack of leadership from the former Chairperson. Commissioners have submitted resignations before they have finished their tenure. In 2017, Surachet Satitniramai resigned due to dissatisfaction with the management and the working system under the administration of the former Chairperson.¹⁰ In 2019, Angkhana Neelapaijit and Tuenjai Deetes resigned due to the NHRCT’s mismanagement on the complaint handling system, and its unsatisfactory working methods.¹¹

⁴ Article 26 ANNI, The Coming of a New Commission- Thailand’s human rights Challenges Amidst Political Tension’, available at https://www.forum-asia.org/uploads/wp/2018/12/2018_ANNI-Report_FINAL.pdf

⁵ <https://www.forum-asia.org/?p=27206>

⁶ <https://prachatai.com/english/node/8156>

⁷ <https://www.isranews.org/article/isranews-short-news/93355-isranews-236.html>

⁸ <https://www.forum-asia.org/?p=28781>

⁹ <https://www.forum-asia.org/?p=30463>

¹⁰ https://www.forum-asia.org/?p=23617#_ftnref1

¹¹ <https://prachatai.com/english/node/8156>

Failure to Address Human Rights Violations

To date, the NHRCT is still failing to adequately address human rights violations in the country. The restrictive laws and policies adopted during the National Council for Peace and Order's military rule may have created more hurdles, but this is no excuse for NHRCT's failings to investigate or act on complaints received. Civil society and human rights defenders, including women human rights defenders, have repeatedly expressed disappointment in the NHRCT's lack of meaningful and timely interventions in addressing human rights violations. A number of human rights defenders expressed that the actions by the NHRCT still lack respect towards human rights defenders, and fail to respect free, prior and informed consent by communities. This is the case when NHRCT officials conduct community visits after W/HRDs use the NHRCT complaint mechanism.

The NHRCT have provided little to no intervention in cases of human rights defenders and violations against freedom of expression and assembly in association, such as the arbitrary arrest and intimidation of P-Move¹², as well as the dozens of cases of judicial harassment by Thammakaset Farm.¹³ The NHRCT's approach is to selectively intervene on some high-profile W/HRD cases, when in reality it should be acting on all cases. For example, in the high profile case of Lertsak Kumkongsak, the environmental human rights defender who received death threats, and Dam Onmuang, the land rights defender of the Southern Peasant Federation of Thailand who suffered an attempted murder, the NHRCT acted inadequately. By simply reporting these incidents to government agencies, like the Ministry of Justice, the NHRCT is not fulfilling its role to protect W/HRDs at high risk.

With regard to the current pro-democracy street protests across the country that started in July 2020, and the authorities' crackdown on both protest leaders and peaceful protesters exercising their civil and political rights, the NHRCT has failed to fulfill its mandate to take adequate measures to protect and promote human rights. In response to the current political situation, the NHRCT has pointed to their efforts in establishing a monitoring team, promoting the complaint mechanism, and making public statements.¹⁴ While these appear to be positive steps taken by the Commission, human rights observers have correctly criticized the interventions for not being fully in line with international human rights standards, and for not fully addressing the concerns of those whose rights have been violated.¹⁵

'It is premature for GANHRI-SCA to upgrade the NHRCT from its current "B status." The NHRCT must show greater independence, diligence, competence, and commitment in seeking to promote and protect human rights. The NHRCT still needs to show it can make timely, independent, and impartial investigations and pronouncements on systematic human rights violations, and ensure that such responses and actions are informed by a long-term plan that addresses rights violations at an institutional level, before it can qualify as an "A status" NHRI,' said the organisations.

¹² <https://www.forum-asia.org/?p=26350>

¹³ <https://www.forum-asia.org/?p=31393>

¹⁴ <https://prachatai.com/english/node/8742>

¹⁵ <https://www.forum-asia.org/?p=32630&nhri=1>

About the Asian NGOs Network on National Human Rights Institutions (ANNI):

The Asian NGOs Network on National Human Rights Institutions (ANNI) was established in December 2006. It is a network of Asian non-governmental organisations and human rights defenders working on issues related to National Human Rights Institutions (NHRIs). ANNI has members that are national organisations from all over Asia. ANNI currently has 33 member organisations from 21 countries or territories. The work of ANNI members focuses on strengthening the work and functioning of Asian NHRIs to better promote and protect human rights as well as to advocate for the improved compliance of Asian NHRIs with international standards, including the Paris Principles and General Observations of the Sub-Committee on Accreditation (SCA) of the Global Alliance of NHRIs (GANHRI). The Asian Forum for Human Rights and Development (FORUM-ASIA) has served as the Secretariat of ANNI since its establishment in 2006.

<http://l.forum-asia.org/ANNI>

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