



The Senate has agreed to the expansion of the NHRCT's mandate to include the conciliation function for human rights disputes.

Mrs. Prakairatana Thontiravong, the Acting Chairperson of the National Human Rights Commission of Thailand (NHRCT), revealed the outcome of the Senate meeting on 15 February 2021 where she provided information and clarification on the issue of the legal administration to include the conciliation function in the NHRCT's mandate and said that "I am thankful for the senators' unanimous approval to the recommendation made by the Senate Standing Committee on the Independent Organs under the Constitution to amend the Organic Act on the National Human Rights Commission B.E. 2560 (2017) to increase the duties and powers to conciliate human rights disputes."

Mrs. Thontiravong said that the 2019 Annual Performance Report of the National Human Rights Commission of Thailand, submitted to the Cabinet and the Parliament, has presented one of the challenges the NHRCT encountered. The provision of Section 247 (1) of the 2017 Constitution which is reflected in Section 26 (1) of the 2017 Organic Act does not prescribe the NHRCT with human rights issue conciliation power. Consequently, the NHRCT is unable to provide expeditious protection and remedy to the human rights victims. The Senate Standing Committee on the Independent Organs under the Constitution brought up the issue and conducted an in-depth study, inviting representatives from various agencies to provide information, including the information from the Australian Ambassador to Thailand regarding the functions of the Australian National Human Rights Institutions. Besides, the Committee was informed by the NHRCT about the Sub-Committee on Accreditation (SCA) under the Global Alliance of National Human Rights Institutions (GANHRI)'s recommendations in the December 2020 report, specifically concerning the NHRCT's quasi-judicial functions. The SCA referred to the Paris Principles and viewed that the national human rights institutions should be provided with the necessary functions and powers to adequately fulfil the complaint-handling mandate, including the conciliation power.

Mrs. Thontiravong further said that she explained to the Senators regarding the NHRCT's status downgrade from A to B in 2015 and the application for re-accreditation in 2019, being confident that all concerns of the SCA were fully addressed. She was also interviewed virtually by the SCA in December 2020 and received the SCA 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.

The first issue is the independence of the NHRCT, which is attributed to the provisions of Section 247 (4) of the Constitution of the Kingdom of Thailand B.E. 2560 and Section 26 (4) of the Organic Act on the National Human Rights Commission. The NHRCT is required to explain and report correct facts without delay in case where there was an incorrect or unfair report on the human rights situation in Thailand. It never appears that any other national human rights institutions are provided with such function. The SCA was; therefore, concerned that such a function would compromise the actual or perceived independence of the NHRCT. The SCA recommended the NHRCT would take full effort to advocate for the removal of this provision.

The second issue is the quasi-judicial function of the NHRCT. In the previous enabling law, the NHRCT was vested with the conciliation function as prescribed in Section 27 of the National Human Rights Commission Act, B.E. 2542 (1999). However, the current enabling law is absent on such function. The SCA is of the view that the NHRCT should continue to advocate for the expansion of its complaint-handling mandate to include the conciliation function. The SCA's recommendation is consistent with the Commission's study report which will promote a systematic and standardized dispute resolution, allow some disputes to be resolved amicably and in a short time without the need for prosecution. This would also help lessen victims' burden and the number of court cases.

"I am grateful to the Senators, especially the Chairperson and members of the Senate Sub-Committee on the Independent Organs under the Constitution that has attached great importance to the recommendations for the NHRCT's challenges and supported the NHRCT to regain the conciliation power. After the Senate unanimously approved in its meeting on 15 February 2021, the Senate will submit the report, along with the remarks and recommendations, to the Cabinet and the NHRCT for further steps to amend the law". Mrs. Thontiravong concluded.

Office of the National Human Rights Commission of Thailand

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