

EXECUTIVE SUMMARY

ANNUAL REPORT OF THE NATIONAL HUMAN RIGHTS COMMISSION OF THAILAND IN THE FISCAL YEAR 2019

1. Background and Introduction

The Annual Report of the National Human Rights Commission of Thailand (NHRCT), in the fiscal year 2019 presents all work carried out during 1st October 2018 to 30th September 2019. This report is compiled and concluded upon duties and powers under the Organic Act on National Human Rights Commission, B.E. 2560 (2017) (2017 Organic Act on the NHRCT), Article 45 whereas the NHRCT is mandated to make and present its annual report to the Cabinet and the Parliament within a duration of one hundred and eighty days counted from the end of fiscal year.

Within the annual report, the NHRCT, at least, is requested to summarize work carried out with problems, shortcomings and obstacles together with recommendations for further undertakings and make public accessible.

2. Summary of Performance

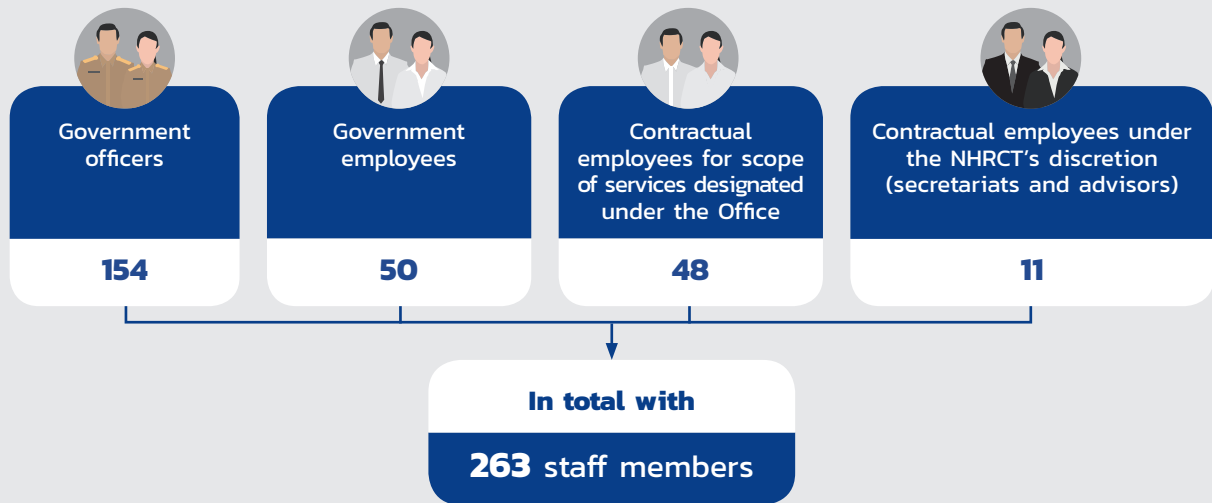
The outputs and outcomes carried out by the NHRCT would be in line with their duties and powers entrusted under Constitution of the Kingdom of Thailand, B.E. 2560 (2017), Section 247; and the Organic Act on National Human Rights Commission, B.E. 2560 (2017),

Articles 45 and 27, with responding to the NHRCT's Strategic Plan, B.E. 2560 - 2565 (2017-2022). This annual report presents outputs and outcomes delivered by the NHRCT within 7 duties and powers as follows:

- 2.1 The complaint handlings with investigation and fact-finding conducted with reports and recommendations made towards human rights violation and dispute resettlement;
- 2.2 The making of human rights assessment report of a country;
- 2.3 The making of policy recommendations or guidance towards human rights promotion and protection;
- 2.4 The strengthening with empowerment and capacity-building to all sectors with human rights awareness raised;
- 2.5 The enhancement of human rights knowledge through human rights education and researches conducted with knowledge transferred;
- 2.6 The supporting of collaboration and linkages with efforts made to international human rights communities;
- 2.7 The strengthening and development with institutionalization of their office;

Figure No.1: Overall Manpower of the NHRCT's Office

Office of the NHRCT has been operated with various categories of staff-members, as of 30th September 2019 as follows:



Source : the Administration Bureau, Office of the NHRCT, as of 30th September 2019

And for the budget allocation and management, Office of the NHRCT, in the fiscal year 2019, had received the total budget in amount of 215.7042 million baht (approximately 6,880,963.98 USD). This amount was higher than amount allocated in the fiscal year 2018, as 211.8779 million baht (approximately 6,758,905.01 USD), with increase of 3.8263 million baht (approximately 122,058.97 USD). It was covering three main workplans, as: (i) the cost of staff members and manpower; (ii) the cost of operations undertaken under mandates and powers regulated by law; and (iii) the cost of activities carried-out through plans and efforts with integration made.

3. Outputs and Outcomes carried out by the NHRCT, in pursuit of Section 247, Constitution of the Kingdom of Thailand, B.E. 2560 and Article 26, the Organic Act on National Human Rights Commission, B.E. 2560

The NHRCT carries out their mandates and powers through various operations corresponding

to the human rights promotion and protection in systematic ways; and the human rights situation monitoring in continuity, with the prevention and protection of human rights violation on equal and non-discrimination basis with respect to human rights and dignity in accordance with all relevant human rights principles.

Within the fiscal year 2019, there were outputs and outcomes made and delivered by the NHRCT as follows:

3.1 The complaint handlings with investigation and fact-finding conducted with reports on human rights violation:

3.1.1 The statistics of receipt of complaints

In the fiscal year 2019, the NHRCT had received 551 complaints with allegation on commission or omission caused human rights violation. The most complaints lodged, presented in number with percentage from all complaints received, could be categorized as: with the allegation

of rights violated as, 147 cases or 26.68 percent were relating to rights in judicial process; with the area of incidents incurred as, 108 cases or 19.60 percent were from the south; with gender of complainants, there were 287 male or 52.09 percent, 195 female or 35.39 percent, and 69 or 12.52 percent no prescribed. And for the comparison of statistics within 623 complaints received in the fiscal year 2018 by the NHRCT, the cases lodged were decreased in number of 72 cases or 11.55 percent, but the most complaints lodged with allegation of rights violated in 2018 and 2019 were still relating to rights in judicial process.

3.1.2 The results of complaint handlings and investigation presented in reports of human rights violation investigation

The NHRCT had considered complaints lodged with merit to receive for handling the further investigation and making of reports on consideration with measures or guidance provided for the prevention and solutions towards human rights violation, in 393 cases and found that there were 14 landmark cases which should be highlighted for the public concerns with the achievement or progress made to human rights protection of relevant agencies, as:

- **Case No.1** Right to life and to body relating to right of consumer to anti the renewal of registration of hazardous material - Paraquat, by the Department of Agriculture.
- **Case No.2** Discrimination against people living with HIV/AIDS for job securing in a private company.
- **Case No.3** Community rights relating to right to housing, in case of allegation towards impacts incurred from the

operations of workplace with agricultural product broilers.

- **Case No.4** Right of persons and communities, in case of allegation towards the Potash survey conducted without participation of communities and giving of information to the public in prior.
- **Case No.5** Right of persons with disabilities, in case of allegation towards an airline with discriminatory practices made to passengers with disabilities.
- **Case No.6** Right and liberty to life and to body, in case of allegation towards the death of the Rohingya girl within a detention room under custody of the Immigration in Song Kla province.
- **Case No.7** Right in judicial process relating to right and liberty to life and to body, in case of allegation towards the battery being made by police(s) during the search with bullying, false charge and arrest for prosecution without guilty proof.
- **Case No.8** Civil rights pertaining to right and liberty of person, in case of the dissemination and publicizing of complainant's photos during being under the custody for legal proceedings.
- **Case No.9** Right under judicial process, in case of allegation towards military officer(s) taking action inducing human rights impacts.
- **Case No.10** Right under judicial process, in case of allegation towards police inquiry officer(s) with delay of case proceeded to alleged person(s) under imprisonment with any other charge.

- **Case No.11** Human dignity with right and liberty to body, in case of allegation of human rights violation towards the using of shackles with prisoners during transfer to a court.
- **Case No.12** Community rights, in case of allegation towards the encroachment of cockle farms into public area with impacts to folk fishermen.
- **Case No.13** Community rights, in case of allegation towards the construction of Hlam Yai Gas House and its sea port with impacts to environment and surroundings and livelihoods of Klong Noi community.
- **Case No.14** Community and civil rights, in case of allegation towards the construction project of Te Pha coal-powered plant with impacts to people and the threats made to leaders who fight against the project.

3.1.3 The following-up of actions and implementations made upon recommendations with measures or guidance provided by the NHRCT for preventing or protecting human rights violation or promoting human right

The NHRCT has been following-up the actions and implementations made upon recommendations with measures or guidance provided for preventing or protecting human rights violation or promoting human rights on regular basis and could make conclusion as follows:

1) In reference to recommendations with measures or guidance provided for preventing or protecting human rights violation to 173 cases, most of them pointed out to community rights,

particularly the reiteration of public participation towards the huge development projects with impacts or possible impacts to people and communities, and right under judicial process.

And from the following-up among them, it could be concluded that from the recommendations with measures or guidance provided in 173 human rights investigation reports, the NHRCT had considered and ordered Office of the NHRCT to stop following-up 39 cases due to most or part of them with substantive points have been implemented.

2) The findings from following-up actions with implementations made upon the recommendations with measures or guidance provided for human rights promotion and protection, categorized on means and operations taken upon those measures or guidance, have been under the implementing process for 116 cases where most of them relating to rights and liberty to life and to body.

3.2 The making of human rights assessment report of a country:

Within the fiscal year 2019, there were outputs made as follows:

3.2.1 The making of 2018 Human Rights Assessment Report of Thailand corresponding to incidents and facts incurred during 1st January - 31st December 2018, this report was presented to the Parliament and Cabinet in March 2019.

3.2.2 The making of shadow report to relevant International Human Rights Treaties is one of significant mandates of the NHRCT with the roles for reflection and following-up the bindings with implementations of the Treaties of Thailand, as a state party. This is

stipulated under Article 27 (4) of the 2017 Organic Act of the NHRCT. Recently there are two shadow reports being compiled and drafted as: to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); and to the Convention on the Rights of the Child (CRC).

3.3 The making of policy recommendations or guidance towards human rights promotion and protection:

In the fiscal year 2019, the NHRCT had made recommendations with measures or guidance on human rights promotion and protection, including the improvement and amendment of laws and regulations in line with human rights principles in 5 issues, as:

3.3.1 The recommendations for amendment and improvement of laws corresponding to human rights principles towards the draft Community Forest Act, B.E. ;

3.3.2 The recommendations for amendment and improvement of laws corresponding to human rights principles towards the draft National Park Act, B.E. ;

3.3.3 The recommendations for amendment and improvement of laws corresponding to human rights principles towards the draft Dispute Resettlement and Mediation Act, B.E. ;

3.3.4 The opinions made towards the draft Act with additional amendment of the Criminal Procedure Law (Issue No. ..), B.E. (the criteria on temporary release and the exercise of rights to litigate a case with legal proceedings or the consideration process on criminal case) ;

3.3.5 The recommendations on human rights promotion (human rights education curricula for various target groups and a manual for human rights education conducted for basic education) ;

3.4 The making of clarification and report against inaccurate or misleading facts and information, in case of there is any report made relating to human rights situation in Thailand with inaccuracy or unjust:

In the fiscal year 2019, the NHRCT had considered and opined that there were some reports being made relating to human rights situation in Thailand, in some parts, with inaccuracy and unjust, the Commission had scrutinized and made public statements against 2 main reports, as: (i) the World Human Rights Report, No.29, in 2019 (World Report 2019) of Human Rights Watch (HRW), publicized on the date of 2nd July 2019; and (ii) the County Report on Human Rights Practices for 2018 of the United State Department of State, publicized on the date of 19th November 2019.

3.5 The enhancement of all sectors in the society to have awareness on human rights:

3.5.1 The making and developing of human rights education curricula for various target groups:

The NHRCT gives high priority to the human rights education by making and developing of human rights education curricula for various target groups with the aims to promote all target groups to have more understandings and awareness on human rights and to apply these curricula within their different contexts and through various means of learning with appropriateness.

These curricula by end would expect the learners to attain human rights knowledge in systematic way, through 4 curricula, as: (i) a curriculum on human rights for executive level; (ii) a curriculum on business and human rights; (iii) a curriculum on human rights education relating to judicial process; and (iv) a curriculum on basic human rights education.

In the fiscal year 2019, the NHRCT had conducted 2 human rights education training programs for various target groups, as: one with a curriculum on human rights for executive level; and one with a curriculum on business and human rights.

3.5.2 The making and developing of tools for communications and creating of learning process on human rights:

The NHRCT has made efforts to develop tools for teachers and educators in continuity, with making of human rights education manuals and disseminating them to countrywide educational institutes for encouraging the creation of learning process on human rights in systematic way. All teachers and educators should apply these manuals to amalgamate with their class learning activities with sensitizing all learners, especially children and youth, to acquaint with human rights in general and to respect each other.

There were 5 human rights manuals designed corresponding to 5 learning steps, as: (i) for the early childhood (kindergarten); (ii) for the primary school, Grades 1-3; (iii) for the primary school, Grades 4-6; (iv) for the secondary school, Grades 7-9; and (v) for the secondary school, Grades 10-12.

3.5.3 The making of role models with creation of Human Rights IDOL:

The NHRCT has been giving high priority to acquire, seek, support and praise individuals, groups or organizations playing vital roles on human rights.

Within the fiscal year 2019, there were 4 main activities with incubation and rewarding the persons, groups or organizations taking outstanding roles on human rights promotion and protection, as: (i) The commemoration and award given for “persons or organizations dedicating for human rights”, as individuals, groups of individuals or organizations with prominent roles to promote and protect human rights within the year 2018. These persons and organizations were publicly named and given awards with tokens on the commemoration of Universal Human Rights Day, 10th December. These would be a salutation with admiration for them, while would help to inspire those working in the same way.; (ii) The commemoration and award given for “woman human rights defenders” in the year 2019, on the commemoration of International Women Day, 8th March.; (iii) The selection of youth representatives to take part in the 2019 ASEAN Community’ s Competition on Human Rights Debate, under the Project on Human Rights Debate in English for Tertiary Education.; and (iv) The consideration and giving of award named “Ardhanārīśwara” - an androgynous Hindu god, for individuals, groups of individuals or organizations with prominent roles to promote work with respect to gender equality and diversity and without prejudice and discrimination.

3.5.4 The public communications with strengthening of human rights culture:

In order to strengthen human rights culture in

Thai society, the NHRCT had created various significant programs and activities with public communications for human rights, as: the dissemination of press releases and public statements of the NHRCT on regular basis and the creating of digital media platforms for promoting human rights, i.e. the booklet with storytelling for children and kids, entitled “Rainbow Ants”, in motion graphic and the contest for human rights VDO clips. These all would help the public to be able to access with widespread to online social media.

3.5.5 The following-up, analysis, making of recommendations and partaking in processes relating to the making of strategic and action plans or any relevant activity on human rights promotion of other organizations with initiatives made on the cooperation among them:

The NHRCT has followed-up and given advices together with partaking in processes relating to the making of the National Action Plan on Business and Human Rights; and to take part in activities under collaboration with various organizations to promote and protect human rights, reflecting to issue-, area- and target-based dimensions, as: (i) to be a leading workforce providing technical supports to all relevant agencies to organize activities for propelling the United Nations Guiding Principles on Business and Human Rights (UNGPs) in Thailand; (ii) to organize and take part in the National Seminar on “Access to Effective Remedy under the UNGP”; (iii) to organize and take part in the National Seminar on “Human Rights : Driving Factors for Building Competitiveness of Thai registered Companies to Sustainability under the UNGP”; (iv) to organize and take part in the 2nd Seminar on “Penalty and Human Rights Principles”; (v) to strengthen human rights in the Deep South,

with making of human rights education manual for government officers in the Deep South; (vi) to organize and host activities for promoting rights of ethnic groups and Thai displaced persons; and (vii) to organize and host activities in the commemoration of indigenous peoples’ day in Thailand, for the year 2019.

3.5.6 The establishing and strengthening for regional human rights coordinating and learning centers:

As the NHRCT continually prioritizes the cooperation with regional networks for mobilizing human rights work, hence there were 6 regional human rights coordinating and learning centers formed together with local universities, as: (i) the Human Rights Coordinating Center in the Deep South, under collaboration with the Faculty of Political Sciences, Prince of Songkla University, Pattani Campus; (ii) the Northeastern Human Rights Coordinating and Learning Center, under collaboration with the Faculty of Law, Khon Kaen University; (iii) the Eastern Human Rights Coordinating and Learning Center, under collaboration with the Faculty of Political Sciences and Faculty of Law, Burapa University; (iv) the Southern Human Rights Coordinating and Learning Center, under collaboration with the Faculty of Law, Ratchabhat Surathani University; (v) the Northern Human Rights Coordinating and Learning Center, under collaboration with the Faculty of Law, Chiang Mai University; and (vi) the Western Human Rights Coordinating and Learning Center, under collaboration with the Faculty of Humanities and Social Sciences, Ratchabhat Petchaburi University.

These 6 regional human rights coordinating and learning centers together with the NHRCT

would make collective efforts to organize human rights learning programs and activities including ones responding to local needs with capacity building and networking, e.g.: (i) to organize and host “the human rights seminar with outreach program : the Mekong study with development of ecological and cultural communities on the bank of Mekong river”, together with the Northeastern Human Rights Coordinating and Learning Center with the aim to promote the cooperation and engagement of local universities and communities for promoting and protecting of human rights; and (ii) to organize and host “the human rights seminar with outreach program on the role of teachers in secondary schools for providing human rights education programs”, together with the Western Human Rights Coordinating and Learning Center.

3.6 The undertaking of human rights study and research:

The NHRCT had duties and powers to support, promote and collaborate with individuals, public agencies and private sectors for conducting researches and studies with the dissemination of human rights knowledge, awareness raising and strengthening human rights mechanisms for their full functions delivered, including to give redress or remedy to all affected persons.

In the fiscal year 2019, the NHRCT together with the Thailand Development Research Institute (TDRI) had conducted a human rights research for elaborating bodies of knowledge to promote and protect human rights and to develop efficiency for operations of relevant organizations, under the Research Integration Plan with Innovation, entitled “the Guidance

for Promoting and Protecting Rights of Migrant Workers in Thailand : Case of Migrant Workers in Poultry Industry”.

Meanwhile the NHRCT was disseminating results of 3 human rights researches conducted to relevant organizations and the public, as: (i) the area-based Participatory Action Research for Solving and Mitigating Human Rights Violation, entitled “the Movement for Human Rights of Folk Fishermen Communities on Coastal Area of Pattani Gulf”; (ii) the study and research on “the Linkages of Community Rights with Natural Resources and Environment, under Constitution of the Kingdom of Thailand, B.E. 2560 (2017)” ; and (iii) the study and research on “the Making of Policy Recommendations or Measures for Protecting and Promoting the Rights of the Elderly”.

3.7 The supporting of collaboration and linkages with efforts made to international human rights communities:

3.7.1 In the matter of cooperation made among relevant human rights treaty bodies, human rights-responsive agencies and the NHRCT, there were two shadow reports compiled with drafts, as : (i) on the compliance with the ICERD; and (ii) on the compliance with the CRC.

3.7.2 In the matter of cooperation made among the NHRIs, the NHRCT, as a member of the Global Alliance 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), has close cooperation with visibility in different platforms made, e.g. to attend the 2019 Annual Meeting of GANHRI which highlighting

the issue of “roles of NHRIs for promoting the application of the Global Compact for Safe, Orderly and Regular Migration (GCM) with human rights and gender perspectives of those emigrants and the following-up with assessment towards the GCM”; to attend and present in the 2019 Annual Meeting of the APF; and to attend the Workshop on Communications and Networking among members of the APF.

3.7.3 In the matter of cooperation made among human rights mechanisms in ASEAN, the NHRCT had cooperation with visibility in different platforms made, e.g. to attend consultation meetings with the Representative of Thailand to the Asian Intergovernmental Commission on Human Rights (AICHR) and with the Representative of Thailand to the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC); to attend the AICHR’s Seminar on Access to Justice; and to attend the AICHR Interregional Dialogue : Sharing Good Practices on Business and Human Rights.

3.7.4 Other significant outputs made under international issues were the reports and information compiled with submission of application for re-accreditation of the NHRCT to Office of the High Commissioner on Human Rights (OHCHR), as a secretariat of the Sub-committee on Accreditation (SCA)-GANHRI.

3.8 The strengthening and development with institutionalization of Office of the NHRCT:

Within the fiscal year 2019, there were outputs made as follows:

3.8.1 The results of work on information and communication technology (ICT) development:

Office of the NHRCT has been taking operations with following-up of the implementations upon the Master Plan on ICT of the NHRCT and Office of the NHRCT, with the main objective to build capacities on ICT for ensuring cost-effectiveness and competency of services provided by Office of the NHRCT, as : (i) to develop system(s)/ mechanism(s)/ personnel with ICT literacy for supporting work of the NHRCT with utmost efficiency made; (ii) to develop the Human Rights Information Center of the NHRCT; (iii) to develop the Human Rights Archives with retaining of significant data, profiles and milestones of the NHRCT, including all evidences referring to background information and progress markers made in compliance with the international means and standards of archives profession, in order to retain trustworthy with good governance and to provide services with data accessible or retrieval for educations, researches and references in the future.

3.8.2 The results of work on personnel development:

Within the fiscal year 2019, there were outputs made as follows:

1) The NHRCT had developed 2 training curricula for providing in-house training programs with personnel development corresponding to the contexts and necessity, as : (i) a training curriculum on “Awakening Powers with Inspiration made” with the aim to encourage staff members of Office of the NHRCT to develop their skills with enhancing of effectiveness and ensuring of efficiency upon 3 main modules, as: knowledge and skills on applying of information technology to support the operations; knowledge

and skills on management with changes; and preparation with readiness and inspiration made to cope with changes in constructive ways; and (ii) a training curriculum for “competent officers” with more corresponding to practical skills and obligations of the NHRCT. These all curricula were made contextualizing with target groups and the Commission for ensuring of effectiveness and efficiency of services provided.

2) The personnel development with increase of knowledge, skills and competencies in various aspects corresponding to necessities and requirements for ensuring of effectiveness and efficiency of services provided, e.g. a curriculum on human rights and issues relating to trade laws and other relevant investment; a curriculum on Business and Human Rights with investigation and prevention of corruption for sustainable development; and a training curriculum on “Awakening Powers with Achievement made” that consisting of three training modules, as: (i) knowledge and skills on applying of information technology to support the operations; (ii) management with driving-up of organization to achievement; and (iii) inspiration made towards work carried out.

3) The personnel development through services of other organizations providing training programs with capacity-building and networking among organizations for supporting the further operations, including the training programs with preparation for promotion of career path. In fiscal year 2019, 76 staff members were supported to attend 60 training programs/curricula conducted by other organizations.

3.9 The applying of Public Sector Management Quality Award (PMQA) to develop and ensure the effectiveness and efficiency of duties carried out:

The NHRCT had applied the Public Sector Management Quality Award (PMQA) to be a tool for monitoring and analyzing the management of work with standard development for effectiveness and in alignment with the criteria and means of good governance, corresponding to 11 core values, as: (i) visionary leadership ; (ii) customer drive excellence; (iii) organization and personal learning; (iv) valuing employees and partners; (v) agility; (vi) focus on future; (vii) managing for innovation; (viii) management by fact; (ix) social responsibility; (x) focus on results and creating value; and (xi) system perspective.

4. Challenges, Obstacles and Recommendations

For the undertaking of duties and powers of the NHRCT, in pursuit of Section 247, Constitution of the Kingdom of Thailand, B.E. 2560 (2017) and the Organic Act on National Human Rights Commission, B.E. 2560 (2017), challenges, obstacles and recommendations could be summarized as follows:

4.1 Challenges and Obstacles

4.1.1 On budget allocation in alignment with the duties and powers exercised with tasks delivered for the enhancement of all sectors in the society to have human rights awareness:

Constitution of the Kingdom of Thailand, B.E. 2560 (2017), Section 247 (5) together with the Organic Act on the National Human Rights Commission, B.E. 2560 (2017), Article 26 (5) authorize the NHRCT to hold duties and powers for the enhancement

of all sectors in the society to have human rights awareness and in Article 27 (1) and (3) of the Organic Act stipulates the NHRCT with roles and duties on human rights promotion with targeting to all sectors in the society. And in pursuance of those duties and powers with vast and various target groups, covering state- and non-state actors, civil society organizations, educational institutes, mass media, children and youth, and the public, the NHRCT has been developing the modules and approaches for human rights promotion with awareness raising, media advocacy and human rights education kits corresponding to each target group. These could be used to disseminate knowledge and strengthen the capacity with human rights for all.

Anyway in practicality with operations undertaken in the fiscal year 2019, there was none of explicit budget allocated to such duties and work carried out by Office of the NHRCT and it was indeed given with limited amount accumulated under the budget line of training programs and public relations, while the main purposes of such activities would be focusing on human rights awareness raised merely not only public relations. Thus, this limited amount had to be divided and allocated to such tasks.

This could imply that with limits of budget allocated to the NHRCT, it is indeed not covering all main functional duties carried out, upon the 2017 Constitution and the 2017 Organic Act on the NHRCT.

4.1.2 On laws and regulations in any case which the NHRCT deems expedient to mediate and reconcile with dispute resettlement made on human rights aspects:

Constitution of the Kingdom of Thailand, B.E. 2560 (2017), Section 247 (1) together with the Organic Act on the National Human Rights

Commission, B.E. 2560 (2017), Article 26 (1) authorize the NHRCT to hold duties and powers for scrutinizing towards and making of a report against inaccurate or misleading information provided towards human rights violation without the delay, including making of policy guidance and recommendations with appropriateness to prevent or give solutions to human rights violation and to ensure effective remedies made to affected persons, to all relevant public or private sectors.

And in the matters of human rights complaint handlings, the Paris Principles Relating to National Human Rights Institutions (the Paris Principles) declares that the substantive duties and mandates of the National Human Rights Institutions (NHRIs) in general shall cover the fact-finding mission carried out with trustworthiness and conciliation, the mediation process shall be introduced and undertaken for making of solutions. And in reference to work carried out under the National Human Rights Commission Act, B.E. 2542 (1999), Article 27, it authorizes the NHRCT, during the investigation conducted, shall initiate the mediation process among relevant individuals or agencies. This aims for the dispute resettlement among relevant parties with their mutual agreement and satisfaction, but for the 2017 Organic Act of the NHRCT, there is none of provisions made to authorize the NHRCT to keep exercising duties and mandates on mediation, thus the NHRCT is now not authorized to carry out the mediation function which is one of the functions designated to the NHRIs under the Paris Principles.

4.1.3 On the roles and duties exercised of the NHRCT:

1) The NHRCT could not play full functional mandates during the period when there were only three members in office and not be a quorum.

Constitution of the Kingdom of Thailand, B.E. 2560 (2017), Section 246 together with the Organic Act on the National Human Rights Commission, B.E. 2560 (2017), Article 8 stipulate that the NHRCT shall consist of seven commissioners. But as time goes by within the third quarter of fiscal year 2019, some commissioners had resigned from the office with vacate of the duties carried out in accordance with the 2017 Organic Act on the NHRCT, thus there were only three commissioners in office and not be a quorum. During 1st August to 1st November 2019, there was none of official meeting of the Commission with resolutions adopted upon the duties and powers of the NHRCT stipulated under the 2017 Constitution and the 2017 Organic Act on the NHRCT, thus there was a backlog of cases considered in significant number and could not be finalized within the 2019 fiscal year, i.e. the discretion with adoption of complaints received with merit; the discretion with adoption of human rights investigation reports made, including policy recommendations and guidance or solutions of human rights promotion; the discretion with endorsement for report (s) on the acts with compliance to the Paris Principles and relevant documents, submitted to the SCA-GANHRI; and the discretion on personnel management under the duties and powers of the NHRCT as an authorized body for personnel management.

2) The shortcomings with time delay and incompleteness of information provided with comprehensiveness for the making of annual human rights assessment report of a country.

Constitution of the Kingdom of Thailand, B.E. 2560 (2017), Section 247 (2) and the Organic Act on the National Human Rights Commission, B.E. 2560 (2017), Article 26 (2) together with Article 40 authorize the NHRCT to hold duties and powers for making of annual human rights assessment

report with compilation, analysis and synthesis of data and information with comprehensiveness, accuracy and updates.

In the fiscal year 2019, the NHRCT had initiated a work process with the engagement to relevant government authorities and civil society organizations along with each human rights issue. Some activities were organized as: the seminars for data sharing with opinions compiled and the issuing of official letters to relevant agencies with request for information, statistics and actions taken on relevant duties. So in general, all relevant agencies gave responses with fruitful cooperation, but there were some agencies not partaking in this process, with either not nominating any person to attend a seminar or not responding to a letter with request and even though submitting data and information requested but with late reply.

Anyway, there is a proof of conflict of timeframe for data gathering, as most of agencies would gather and manage their database upon the fiscal year, while this report would be accountable to incidents incurred with information compiled on calendar year. Thus, there would be a limit of data acquired and provided with accuracy and completeness.

4.1.4 On the perceptions with mindsets towards roles and duties with outputs and outcomes of the NHRCT in comparison with international standards designed for the NHRIs under the Paris Principles:

1) Duties and powers of the NHRCT for making of clarification and report of fact with accuracy and within the delay in case of there is any report made relating to human rights situation in Thailand with inaccuracy or unjust are not in compliance with duties and powers of the NHRIs under the Paris Principles.

Constitution of the Kingdom of Thailand, B.E. 2560 (2017), Section 247 (4) and the Organic Act on the National Human Rights Commission, B.E. 2560 (2017), Article 26 (4) together with Article 44 authorize the NHRCT to hold duties and powers for making of clarification and report of fact with accuracy and with prompt action in case of there is any report made relating to human rights situation in Thailand with inaccuracy or unjust and providing to the public in general.

The NHRCT has been receiving comments and observations from various networking organizations both inside and outside Thailand that the exercise of such duties and powers would be in conflict with the principle of independence of operations made to the NHRIs under the Paris Principles, meanwhile the Government had already designed some certain organs and mechanisms with resources allocated to carry out such mandates, thus the NHRCT, in order to ensure their duties carried-out with independence, effectiveness and trustworthiness, had officially made the certain criteria for considering the validity of actions taken to human rights reports, in case of they should be responded with clarifications or statements.

2) The downgrading of status of the NHRCT from “A status” to be “B status” due to the uncontrolled factors and apart from the improvement and solving of the NHRCT themselves.

The NHRCT had been downgraded from “A status” - a status with full functions and acts in compliance with the Paris Principles, to be “B status” - a status with partial functions and acts in compliance with the Paris Principle, due to other uncontrolled factors and apart from the improvement and solving of the NHRCT themselves, especially the legal challenges.

The NHRCT had come into the application of re-accreditation with review of the SCA-GANHRI in November 2015, and at that time the SCA considered and opined that there were main concerns towards the operations of the NHRCT as: (i) the selection and appointment process; (ii) the functional immunity and independence; and (iii) the effective response to human rights incidents in due process. For both (i) and (ii), they need to be stipulated with amendment in any laws relating to the NHRCT, which somehow, the NHRCT is not in a position for the amendment of these laws.

Anyhow, the NHRCT had make efforts with clarification of facts and opinions to the Constitutional Drafting Committee, during the time of 2017 Constitution was drafted, until there were additional provisions made pertaining to the selection and appointment process for the NHRCT together with the functional immunity and independence which were main concerns and root causes for downgrading of status upon the SCA’s opinion and these significant changes had been made and stipulated in the 2017 Organic Act on NHRCT.

Within the fiscal year 2019, the NHRCT had compiled and submitted a report on compliance with the Paris Principles and all relevant documents to Secretariat of the SCA for consideration with review of application for re-accreditation.

4.2 Recommendations

4.2.1 The Cabinet, by the Budget Bureau, the Select Committee on Consideration of Draft Public Spending and Budget Act in Fiscal Year, B.E. and together with the Parliament shall consider to allocate budget for Office of the NHRCT in accountable with the NHRCT’s duties and powers,

under Constitution of the Kingdom of Thailand, B.E. 2560 (2017), Section 247 (5) and the Organic Act on National Human Rights Commission, B.E. 2560 (2017), Article 26 (5), in alignment with the enhancement of all various sectors in the society to have human rights awareness, by segregating the amount allocated for human rights awareness raised from the amount allocated for training programs and public relations of Office of the NHRCT.

4.2.2 The Parliament shall consider to support the additional amendment of the Organic Act on National Human Rights Commission, B.E. 2560 (2017), with provisions on duties and powers of the NHRCT in alignment with duties and powers of the NHRIs under the Paris Principles, especially to adding provisions stipulated with duties and powers carried out by the NHRCT for initiating mediation process among relevant individuals or agencies during the process of investigation of human rights violation. This would for the aim to encourage all relevant parties to make an agreement with conciliation and settle down the solutions, likewise those used to stipulate under the National Human Rights Commission Act, B.E. 2542 (1999).

4.2.3 All relevant government authorities and human-rights responsive non-governmental organizations shall collaborate together with the NHRCT to develop the data gathering system with accumulation of human rights promotion and protection database with comprehensiveness, inclusiveness and regular update. This data platform should link and synergize with all other relevant data infrastructures for the systematic management with monitoring and following-up of outputs,

outcomes and impacts. They would be used for articulating the precise human rights assessment report with checking of progress markers made and would be used to compare with all relevant standards within International Human Rights Treaties that Thailand is a state party.

4.2.4 All relevant agencies and organizations in charge of the selection and appointment of the NHRCT upon the Organic Act on National Human Rights Commission, B.E. 2560 (2017) shall speedily undertake all processes with ensuring of the recruitment and selection of commissioners in certain number to meet a quorum or certain components the Commission without any delay, in order to make sure that there is a quorum with validity to adopting resolutions upon duties and powers stipulated under Constitution of the Kingdom of Thailand, B.E. 2560 (2017) and the Organic Act on the National Human Rights Commission, B.E. 2560 (2017).

4.2.5 All relevant government authorities and private sectors shall apply and replicate the human rights education curricula for various target groups, being made by the NHRCT, to conduct and organize training programs or activities on human rights education. These would cover the common understandings on fundamental human rights; roles, duties and powers of the NHRCT; human rights mechanisms with access to remedy under the Paris Principles and the Organic Act on the National Human Rights Commission, B.E. 2560 (2017); and the NHRCT's mandates with international cooperation on human rights, as a member of the GANHRI that would be regularly reviewed for their functions and mandates with performance by the SCA-GANHRI.