

Existing National Human Rights Institutions in Thailand

Information provided by the Department of International Organizations, Ministry of Foreign Affairs of Thailand for the Seventh Annual Meeting of the Asia-Pacific Forum of National Human Rights Institutions, 11-13 November 2002, New Delhi, India

Background

Thailand's respect for human rights is clearly reflected in our present Constitution. Promulgated in 1997, the Constitution is unique as it was drafted by representatives of peoples from all walks of life. It is therefore known as the People's Constitution and contains provisions that largely reflect Thailand's adherence to international human rights standards. Section 4 of the Constitution clearly stipulates that "The human dignity, right and liberty of the people shall be protected." Article 28 of the Constitution also provides that a person can invoke the provisions of the Constitution to bring a lawsuit or to defend oneself in the court. Therefore, the Constitution does guarantee that people have access to justice through the judicial system in the case of human rights violations.

In addition to the development in the judicial system, the Constitution also provides for the establishment of a number of national institutions which work to enhance the protection and promotion of human rights, to increase transparency of policy making and conduct and to enhance government accountability for the public. These institutions are the Parliamentary Ombudsmen, the National Human Rights Commission, the Constitutional Court, and the Administrative Courts.

Constitutional Court

Set up in 1998 as stipulated by Article 255-270 of the Constitution, the Constitutional Court consists of the President and fourteen judges appointed by the King upon advice of the Senate. The Constitutional Court is mandated to ensure that draft laws and laws are not contrary to provisions contained in the Constitution. The Constitutional Court has a final say on the interpretations of the Constitution. The decision of the Court must be abided by the Parliament, the Council of Ministers, the Judiciary and other governmental bodies.

Parliamentary Ombudsmen

The Office of the Parliamentary Ombudsmen was set up in 2000 as stipulated by Article 196-198. The Ombudsmen shall not exceed three in number and shall be appointed by the King with the advice of the Senate. At present, two Ombudsmen have been appointed. The Ombudsmen have the powers and duties to consider and inquire into the complaint in the case which a Government official fails to perform in compliance with the law. The Ombudsmen also have the powers and duties to investigate a performance or an omission of performance of a duty of an official which unjustly causes injuries to the complainant or the public whether such act is lawful or not.

Administrative Courts

The Administrative Courts were set up in 2001 in accordance with Article 276-280 of the Constitution. The Administrative Courts have the powers to try and adjudicate dispute between a State agency or State official and a private individual or dispute between State agencies. The dispute must have been a consequence of the act or omission of the act that must be according to the law performed by such State agency or official. The Administrative Courts comprise the Supreme Administrative Court, the Appellate Administrative Court and the Administrative Courts of First Instance. The Judicial Commission of the Administrative Courts consists of 1.) the president of the Supreme Administrative Courts as Chairman; 2) nine qualified members who are administrative judges and elected by administrative judges among themselves; and 3) three qualified members, two of whom are elected by the Senate and the other by the Council of Ministers.

National Human Rights Commission

The National Commission was set up by the 1999 National Human Rights Commission Act as a result of Article 199-200 of the Constitution. The Commission began to officially function in 2001. It comprises 11 members. The Commission members are appointed by the King with the advice of the Senate. The Senate elected 11 from a group of 22 persons nominated by an independent Selection Committee. The National Human Rights Commission (NHRC) works to promote respect for human rights at domestic and international levels. The NHRC examines and reports the commission or omission of acts which violate human rights or which do not comply with obligations under international human rights treaties to which

Thailand is a party. The NHRC is mandated to propose policies and amendments of laws, rules and regulations for the promotion and protection of human rights to authorities concerned. The NHRC also promotes human rights education and research, coordinates work on human rights among different agencies, and is required to prepare annual reports on the country's human rights situation and on its own annual performance.

Assessment of the Work of the National Human Rights Institutions(NHRIs)

It is now still too early to assess the NHRIs' performance. However, some observations can be made. The Constitution Court and the Administrative Courts have been quite influential as they have punitive powers. While the Parliamentary Ombudsmen and the Human Rights Commission both have an advisory, monitoring and mediating role. Though the Ombudsmen and the Commission do not have any punitive power, government agencies and authorities have readily rendered cooperation to both mechanisms.

On the whole, these institutions are still in the pioneering period. The public still needs to be made aware of the availability of all these mechanisms to protect their rights. These institutions need to coordinate among themselves and with concerned government agencies in order to produce synergy in their common mission to protect and to promote human rights. In the future, they may also wish to work collectively to review laws and regulations which may be outdated or violate human rights. To ensure the effectiveness of these NHRIs, a strong civil society is needed to monitor the functioning of these institutions and at the same time to actively cooperate with them.

Role of the Ministry of Foreign Affairs in Human Rights Promotion and Protection

The Ministry of Foreign Affairs serves to coordinate work among different agencies concerned to formulate Thailand's position in the international arena in the field of human rights. Presently Thailand serves as member of the United Nation Commission on Human Rights (CHR) (2001-2003). We attach high importance to the right to development which encompasses both civil and political rights on one hand and economic, social and cultural rights on the other hand. We pay special attention to enhancing cooperation among countries to promote and protect human rights of vulnerable groups, women, children, the disable, the elderly, minorities, and victims of human trafficking. The Ministry also serves as a focal point to

follow up on the implementation by Thai agencies of the United Nations' and the CHR's resolutions concerning human rights.

In addition, the Ministry serves to clarify allegations on Thailand's human rights violations from international actors such as the United Nations human rights mechanisms, governments or citizens of other countries, international governmental or non-governmental organizations, and foreign media. Our approach in answering the allegations is to try to gather as much information surrounding the case and to ensure that in case of actual human rights violation, justice and remedies have been sought or, at least, are in the process. To prevent human rights violation and to address the problem at its root cause, the Ministry has also undertaken a number of activities on human rights education through publications, seminars, workshops and training programmes for school teachers around the country. The activities have received positive and encouraging responses.

In formulating Thailand's foreign policy with regard to human rights, the Ministry also attaches particular importance to the issue of human security. Thailand is now a member of the 13-country Human Security Network (HSN) initiated by Norway and Canada. The HSN serves to advance freedom from fear and freedom from want. In the sphere of freedom from fear, the HSN pays special attention to the issue of protection of children and civilians in armed conflict and the issue of landmines. The Ministry will host the Fifth Meeting of State Parties to the Ottawa Convention in September 2003. In the sphere of freedom from want, the HSN gives priority to HIV/AIDS, drugs, and poverty. To highlight the serious threat and impact of HIV/AIDS on human security, the Ministry organized in January 2002 an intersessional meeting of the HSN on HIV/AIDS and human security in Thailand and is now drafting a concept paper and project proposal on HIV/AIDS and human security cooperation project among countries in the Greater Mekong Sub-region (China, Myanmar, Lao PDR, Vietnam, Cambodia and Thailand). To enhance both freedom from fear and freedom from want, the HSN also attaches high importance to human rights education.
