

Executive Summary

The compilation of this assessment report on Thailand's human rights situation is carried out according to the duties and powers of the National Human Rights Commission of Thailand (NHRCT) as stipulated in Section 247 (2) of the Constitution of the Kingdom of Thailand B.E. 2560 (2017), and Section 26 (2) of the Organic Act on the National Human Rights Commission of Thailand, B.E. 2560 (2017). In preparing this report, the NHRCT has compiled information from all human rights-related events which happened in 2020, consisting of measures taken by government agencies, information from civil society organizations, the work of the NHRCT itself, and information obtained from various meetings and seminars attended by various stakeholders. The gathered information was then analyzed within the framework of the various human rights guaranteed by the Constitution, domestic laws, and treaties which Thailand is a party to and has an obligation to comply with. On such basis was the situation on human rights assessed, and the recommendations then made accordingly. The content of this report was divided into four parts according to the classification found in international human rights treaties and the significant human rights issues in Thailand's context in 2020. They are: (1) assessment of human rights situation in specific circumstances (2) assessment of human rights situation relating to civil and political rights (3) assessment of human rights situation relating to economic, social and cultural rights, and (4) assessment of human rights situation of specific groups of persons. The gist of the report can be summarized as follows:

(1) Assessment of Human Rights Situation in Specific Circumstances

In 2020, there are two significant circumstances which affect human rights. They are the severe spreading of Coronavirus Disease 2019 (COVID 19) pandemic, and a series of political protests by school and university students and like-minded people.

The COVID 19 pandemic has prompted the Thai government to declare a state of emergency to set out measures for controlling the spread of the disease, some of which put additional restriction on certain rights and liberties of the people, e.g., prohibition of cross-provincial travel, enforcement of curfew requiring people to stay in their homes during certain hours, and prohibition of gathering or assembly. The above-mentioned measures are necessary and proportionate with the severity of the situation, and proved to be effective by concrete evidence. However, the government lifted or eased some of those measures when the situation had improved. Simultaneously, the government came up with measures to assist different groups of people whose livelihood had been affected economically, such as labour workers, the elderly and people with disabilities. Realizing the need to protect the right to an adequate standard of living of the affected people, the government introduced



assistance and fiscal measures to reduce the people's expenditure burden. However, certain assistance packages using online platforms could not reach some affected groups, e.g., ethnic groups due to obstacles in language or lack of internet access for those living in remote areas. The domestic violence cases against women have increased and some women face lack of access to health care services especially regarding termination of pregnancy. It is found that the new round of COVID 19 spread, mainly among migrant workers and in certain provinces among those linked with gambling places, is a result of the government's failure to strictly enforce relevant laws. The NHRCT has therefore made recommendations to the government that it should consider reaching out to certain groups of people and set appropriate practical channels to provide access for those groups to effectively exercise their rights. With regard to the distribution of COVID 19 vaccines, priorities should be given without discrimination to people with greater risks, i.e., those whose work may involve direct contact with COVID 19-infected patients and people who are more vulnerable to be infected in terms of health. COVID 19 vaccines should be given to those living in highly infected areas, where migrant workers are densely populated in quarantine places without separation of the people who may have already been infected. Additional measures should be sought to reduce the risks, including extensive communication to disseminate knowledge about disease prevention and government measures in the languages that migrant workers can understand. Laws should be strictly enforced to curb the illegal importation of migrant workers and operation of gambling establishments countrywide, especially where government officials are involved.

As for the situation regarding political protests led by school and university students, 2020 saw many protests happening in several parts of the country; some are political in nature while others are aimed at putting forward demands relating to economic and social rights. Such protests took place almost throughout the year except during the period under the state of emergency, starting from the end of March 2020 as the government found it necessary to implement strict measures to control the spread of COVID 19 in protecting the people's right to health, including prohibition of any gathering or assembly. However, when the spread of COVID 19 situation improved, the government eased the measures to enable the people to organize gathering activities and exercise their right to peaceful assembly under the public assembly law from August 2020 onward, but protestors still had to observe the disease control measures as set out by the authorities. After the measures were eased, there has been a series of protests organized by various groups at different locations. The NHRCT has monitored the situation very closely and issued several statements or press releases where it deemed appropriate to the situation to ensure that both the authorities and protesters recognize and respect the human rights principles in their undertakings. It has also made a number of recommendations to the government and concerned agencies to adopt certain measures to enable the people to exercise their liberty to assemble peacefully as guaranteed by the Constitution and the International Covenant on Civil and Political Rights (ICCPR). From the NHRCT's monitoring, it is found that in general there have been no serious violent incidents during the protests apart from minor clashes between the protesters and state officers in charge of maintaining law and order in certain cases. Both sides have shown tolerance to avoid using violence. However, there are two incidents which are of concern to the NHRCT, one at Pathumwan intersection and the other in front of the Parliament House, where the authorities decided to disperse the protesters by using water cannons mixed with chemicals and tear gases. With regard to the protest at Pathumwan intersection on 16 October 2020, the NHRCT was of the view that there was no act of violence to such degree that would justify the need to end the protest, thus the use of water cannons mixed with chemicals is not proportionate to the exigency of the situation. However, on the whole, the government has facilitated the people's exercise of their right to peaceful assembly without interference. Despite the failure of some organizers to inform the authorities concerned about the protests beforehand according to Section 10 of the Public Assembly Act, B.E 2558 (2015), the protests were allowed to continue. The State has charged some protest leaders for violations of related laws, which is in line with the ICCPR Committee's (Human Rights Committee) general comment with regard to the right to peaceful assembly. The accused protestors are generally granted provisional release during trials.

(2) Assessment of Human Rights Situation relating to Civil and Political Rights

Major issues of concern in this section are: people's access to justice, overcrowded prisons, situation regarding torture and enforced disappearance, protection of human rights defenders, situation in the southern border provinces, capital punishment, the right to freedom of expression and freedom of the press.

In 2020, the government continued to promote and support the people's access to justice as in previous years, in terms of assisting the increasing number of injured and accused persons in criminal cases according to the Reparation for the Injured Person and Compensation and Expenses for the Accused in Criminal Case Act, B.E. 2544 (2001), and through the Justice Fund, mostly regarding provisional release and expenses in litigation. Meanwhile, the Court of Justice issued a number of decrees with an aim to raise the standard of rights and liberty protection both for the victim and the accused or defendant. One major step seen is the provisional release of the accused or defendant during trials. With regard to efforts to address prison overcrowdedness, apart from allocating budget to expand prison areas, the NHRCT suggests that other methods be introduced to reduce the number of inmates in prisons, e.g., resort to provisional release, use of electronic monitoring devices, and verdicts of community service time for petty crimes.

As for the prevention and suppression of torture and enforced disappearance, the government approved the Protection and Suppression of Torture and Enforced Disappearance Act B.E. and prepared to submit it to the House of Representatives for further consideration. However, the NHRCT is still concerned about reports claiming torture treatment by state officers, evidenced by complaints received, even though the number of cases has reduced. Furthermore, tendency shows that the incidents of casualties or injuries during arrest, detention, and training by state officers were on the rise compared to the previous year. The NHRCT suggests that there should be human rights awareness raising programme for law enforcement officers, and that investigation on cases of casualties during detention by state officers or during training be duly made. Measures should also be introduced to prevent recurrence of such incidents in the future.

With regard to the protection of human rights defenders, despite the amendment of the Criminal Procedure Code, Section 161/1 and Section 165/2, granting the Court power to dismiss a case filed in bad faith to cause undue trouble to the other party, there is an observation by the civil society that such amendment is applied only to cases where both parties are private entities, while cases filed against human rights defenders usually involve government agencies as the other party. Additionally, there were a number of cases where human rights defenders had been intimidated and threatened, some of which the NHRCT has rendered assistance to, e.g. the cases of community forest conservation group of Khao Lao Yai-Pha Chandai and of Southern Agricultural Cooperatives group, etc.

As for the situation in the southern border provinces, statistical data shows that the number of casualties and injuries in unrest incidents in 2020 declined compared to the previous year. The government and the state agencies concerned have provided assistance to the people affected by violence by unrest incidents in the area to compensate for their loss or inconvenience. Efforts have also been made to address the unrest through peace dialogue, training to provide knowledge and understanding of human rights principles to security officers, and improvement of detention places for suspects that would allow for monitoring of treatment of detainees. However, there are still issues affecting human rights which need to be continuously monitored, e.g. claims about torture of suspects in national security cases, complaints about the conduct of DNA tests by the authorities in some areas without clear explanation, thus causing mistrust among the people, and suspension of mobile phone signal for those who have not registered upon obtaining SIM cards until there is proof of identity by face recognition. Such measure may affect the right of access to information of mobile phone users amidst the spread of COVID 19 situation. The NHRCT suggests that the government agencies concerned should give priority to fostering understanding and building trust with the local people when it comes to necessary action which may affect their rights. This would result in better cooperation from the local people in curbing the unrest situation in the area.

Regarding capital punishment, there are divergent views in the Thai society on the issue. Those who support such punishment see it as an imperative mean to suppress crimes while others see it as a cruel punishment that is contradictory to the fundamental human rights principle of “the right to life”. The NHRCT has made recommendations to the government and concerned agencies to intensify communication efforts to continuously provide proper information to the public about capital punishment in a more effective manner. The justice system should also be improved. The government has been recommended to consider abolishing capital punishment for crimes which do not fall under the scope and definition of “most serious crimes”, including considering alternative measures to be used once capital punishment is abolished, e.g. changing capital punishment to life imprisonment.

With regard to freedom of expression, concern has been expressed by some parties about the enforcement of the Computer Crimes Act (No. 2) B.E. 2560 (2017), particularly the interpretation of certain terms e.g. “public safety” or “economic security” in the definition of the crime in a manner which may restrict the exercise of the freedom of expression too excessively and is not consistent with the purpose of the law. The NHRCT has therefore recommended that the government should set clear operational guidelines to reduce discretion by the authorities and to ensure that the law is enforced in accordance with its intention. As with freedom of the press, one issue of concern is when the media presents a news story in a way which may affect human rights and dignity, for example, the case of mass shooting in Nakorn Ratchasima province. Although the freedom of the press is guaranteed by the law, the media have special duty and responsibility to respect the rights

and reputation of other people in their reporting. They should also take into consideration the maintenance of national security, law and order, public health and decent morality of the people.

(3) Assessment of Human Rights Situation relating to Economic, Social and Cultural Rights

Important issues include labour rights, community rights in natural resource management, the right to health, the right to education and business and human rights.

On labour rights, the COVID 19 pandemic has severely affected the country's economy, causing a large number of workers to lose their jobs. According to statistics from the Ministry of Labour, the number of complaints received in fiscal year 2020 from workers who were not compensated for termination of work rose 74% from fiscal year 2019. The Department of Labour Protection and Welfare examined these cases, then provided advice and assistance to protect the workers' rights. The government and concerned agencies have also implemented other measures to promote and protect the rights of various groups of workers. For example, there is progress in the amendment of the Labour Relations Act, B.E. 2518 (1975) and the State Enterprise Labour Relations Act, B.E. 2543 (2000). Effort was also made to prepare a draft law on the promotion and development of informal workers' quality of life and to amend the law extending the age limit for informal workers eligible to become insurers under Section 40 of the Social Security Act from 60 to 65 years. As for migrant workers who have been affected by the spread of COVID 19, the government has introduced assistance measures and allowed them to continue their stay and work in Thailand. Regarding workers in the fishing industry, who are mainly migrants from neighbouring countries, an announcement was issued to protect their rights in obtaining their wages on a monthly basis, receiving state assistance in checking employment contracts, and being provided with medical insurance, etc. Recommendations that the NHRCT puts forward to the government and its concerned agencies include promoting workers' knowledge about their rights and benefits to which they are entitled to under labour laws and channels for making complaints, strictly enforcing the law in protecting workers' rights, continuously encouraging more informal workers to enter the social security system, and enhancing knowledge about labour laws among migrant workers.

With regard to community rights in natural resources management, the government conducted in 2020 a survey on the occupation of land in national parks and wildlife sanctuaries countrywide to develop measures that would enable the people to continue to live and utilize the forest conservation areas for their livelihood. However, there is concern that the people currently living in forest conservation areas and depending on the forests for their living may not be able to file their request to set up community forests since the Community Forest Act stipulates that such forest has to be outside the conservation

areas. Certain ethnic groups, i.e. the Karen and Chao Ley (sea gypsies), still face problems relating to land for habitation and cultivation, while some of them are being prosecuted by state agencies. Furthermore, there is insufficient public participation in the implementation of several state-owned or state-endorsed projects, such as mining operation and seawall construction, which may impact local communities. Towards solving these problems, the NHRCT recommends that the government improve or amend existing laws to facilitate effective exercise of community rights, including by ethnic groups, to participate in the management of natural resources. Local people should be allowed to voice their opinions on any project which may impact their health and quality of life and appropriate remedial measures should be provided to persons affected by such project.

On the right to health, in 2020 the government has made continuous efforts in ensuring people's better access to health care services through the development of primary health care system, the reduction of congestion in public hospitals with the use of technology, procurement of vaccines for disease prevention, etc. One health situation of concern that should be monitored closely is the mental health problem, especially live broadcast of suicide attempt online via social media, which might reflect insufficient counseling services. Pollution from atmospheric particulate matter having a diameter of less than 2.5 micrometers (PM 2.5) remains another health problem of serious concern. It is found that some people are not well informed on how to protect themselves from this health hazard or lack proper equipment to do so. Another important health issue is the continued use of pesticide in farming which are harmful to health. There are still calls for the continued use of paraquat and chlorpyrifos because there have not yet been alternative substances which are equally effective and affordable for farmers to use. Recommendations that the NHRCT puts forward to the government and concerned agencies include: intensifying and expediting the survey and plan to prevent suicide through detection of a signal shown up via online platform; enhancing knowledge and understanding about the danger of PM 2.5 and ways to protect oneself against such danger among the general public, ensuring equal access to sufficient supply of protection equipment at affordable price for all; and finding appropriate measures to alleviate the impact of the pesticide ban on affected farmers.

As for the right to education, statistics on access to education of Thailand's school-age population in 2020 are still of major concern. There are about two million school-age population who cannot access education or school system, even though statistics on school drop-out rates are at a relatively low level and show a tendency of decline. This is despite the government's concerted efforts to promote access to education through the Student Loan Fund (SLF) and the Equitable Education Fund (EEF). On the quality of education, the average scores by subject of the Ordinary National Educational Test (O-NET) from 2019-2020 are fairly low, most of them being lower than 50%. The test results also show discrepancy between schools in urban and rural areas. The NHRCT therefore recommends that the government consider drawing a plan or adopt appropriate measures to ensure that

the school-age population which has been slipped outside the educational system can access education more extensively. The government should also continuously support the operations of the SLF and EEF, and develop policies to improve the quality of education with wider participation of all parties concerned.

With regard to business and human rights, the government has focused its efforts on building understanding among the agencies concerned in driving forward the National Action Plan on Business and Human Rights (NAP), Phase 1 (2019-2022). Mechanisms have been set up to monitor the implementation of the NAP, and cooperation with the business sector is sought to provide knowledge and promote business operation in accordance with the United Nations Guiding Principles on Business and Human Rights (UNGPs), including the disclosure of information relating to human rights in the annual report of listed companies in the Stock Exchange of Thailand. Nevertheless, there are still some business operations that impact on human rights in terms of labour rights, environmental rights and protection of human rights defender. The NHRCT has made recommendations that the government prompt all of its agencies to strictly implement the measures outlined in the NAP within according to the set timeframe. The government should make known to the public the information on any progress made in implementing the NAP. It should also introduce incentive plans to motivate the business sector to apply the UNGPs in conducting their businesses, and should emphasize strict law enforcement when a human rights violation occurs.

(4) Assessment of Human Rights Situation of Specific Groups

In this section, the human rights situation of five specific population groups are presented, namely that of children, the elderly, people with disabilities, women including issues relating to gender equality, and people with legal status and rights problem, consisting of stateless people, asylum-seekers and refugees.

In 2020, the government and its agencies concerned have made efforts to promote and protect child's rights in many aspects, such as granting of monthly allowance worth 600 Baht to all children aged 0-6 years across the board from fiscal year 2565 (2022) onward; provision of training for child-care personnel in private schools to prevent child rights violation; and reduction of teenage pregnancies. However, there are areas where efforts need to be intensified for concrete results, e.g. adoption of the a draft plan on Early Childhood Development, assistance to pregnant teenage mothers in school to receive appropriate education, and increased effectiveness of the justice system for child, juvenile and family cases. Meanwhile, issues of major concern are violence and sexual abuse of children by educational personnel, and bullying in schools or via social media which seems to take on a more violent tendency. Some of the recommendations that the NHRCT makes to the government and its agencies concerned are: accelerating the process of considering the

draft Plan on Early Childhood Development B.E. 2563-2570 (2020-2027) by giving priority to children who have difficulty in accessing their rights; undertaking effective measures to curb the problems of violence and sexual abuse of children in schools by educational personnel, including putting in place easily accessible mechanisms for complaints; and developing effective assistance and rehabilitation for the child victims of such incidents. At the same time, children and youth should be well informed about safe sex and the impact of teenage pregnancies. The government may consider cooperating with non-governmental organizations in arranging a system of giving counseling services to children and youth on such matters.

As for the elderly group, the government and its agencies concerned have taken measures to prepare for the ageing population to promote and protect the rights of the elderly in a more concrete manner so that they can enjoy good quality of life. Efforts have been made to drive forward the National Action Plan for Older Persons, which addresses both the pre-senior group and the elderly in economic, health, environmental and social aspects. With regard to protection of the right to work, the age of informal workers eligible to apply for social security insurance according to Section 40 of the Social Security Act, B.E. 2533 (1990) has been extended from 60 years to 65 years. Better access to public facilities for the elderly was also promoted. However, some challenges remain such as arrangement of extensive health care system for the elderly, obstacles faced by local administrative organizations in looking after the elderly in their respective areas, and the use of violence against the elderly. The NHRCT has already made a set of comprehensive recommendations to the government and the agencies concerned on the promotion and protection of the rights of older persons in various aspects as afore mentioned since April 2020. It wishes, however, to emphasize in this report some important points on this issue. Priority should be given to the elderly who have difficulty in accessing public welfare and adequate standard of living. The government should consider revising existing laws and regulations which pose obstacles for local administrative organizations in promoting the rights and quality of life for the elderly. It should lay down policies and guidelines to reach out to the elderly who cannot help themselves or who live in remote areas to ensure their access to health care services. Furthermore, there should be mechanisms to monitor and address the problems of neglect, violence or abuse of elderly people, either by family members or by other persons at the local level. The government should take advantage of the extensive network of volunteers and cooperate with related agencies in providing assistance to the maltreated elderly.

As regards people with disabilities, concerned agencies have taken measures to promote their access to human rights in several aspects, including the right to adequate standard of living. The government has increased the monthly state allowance for children with disabilities and low-income people holding the state welfare card and ensured easy and convenient access for people with disabilities to extensive state services at community level through local centers. In relation to the right to work, vocational training and job

procurement services were made available. A system was set up to allocate helpers to assist people with disabilities to live their lives independently and inclusively in their communities in accordance with the CRPD. Besides the government has responded to the NHRCT's recommendations in improving access to public transport for people with disabilities by developing a plan to improve on infrastructure design, and setting minimum standards of facilities for public transport, especially those which are accessible by people with disabilities. However, the government's effort to enable people with disabilities to access certain rights still have not brought concrete results, especially the right to education for children with disabilities, most of whom only finish primary education. As for children with intellectual, learning, behavioural and emotional impairment, including autistic children, there has been no educational programme that responds to their specific needs, and there is a shortage of teaching personnel with appropriate training. There is also a lack of support system for families to prepare these children for inclusive education with normal ones. With regard to the right to work, it is found that government measures to promote employment opportunities have not led to an increase in the number of people with disabilities who have found jobs. Job placement for this group of people by state agencies is still low. It is also found there are no specific measures in place to protect and assist girls with disabilities in cases of sexual violations against them. The NHRCT therefore recommends to the government to promote access of people with disabilities to various rights, especially the right to education, by developing appropriate educational programmes according to the Education Provision for Persons with Disabilities Act, B.E. 2551 (2008), including arrangement of a learning support system which is suitable for each type of disabilities. In relation to the right to work, the NHRCT recommends that a study be conducted to identify obstacles faced by people with disabilities in finding jobs or in their work experience, because the number of people with disabilities who are currently working is still low compared to the total number of those who are in the working age and capable of working. Furthermore, the government should adopt preventive measures for people with disabilities, especially girls, who are vulnerable to assault and sexual violation and should also strengthen measures to protect, assist and compensate the victims of violations.

The government has promoted and protected women's rights in various aspects, such as suppression of human trafficking for exploitation from prostitution, resulting in reduction of such cases as shown by statistics. Measures have been adopted to prevent and address the problems of sexual violation and harassment in the workplace, which are in line with the recommendations of the CEDAW committee. Amendments to Section 301 and Section 305 of the Criminal Code regarding the conditions for termination of pregnancy will benefit women with necessity to access safe abortion services. The government also encouraged both state agencies and private companies to adopt measures promoting gender equality in their respective organizations. The Civil Partnership Bill and amendments to the Civil and Commercial Code are being prepared to promote gender equality for LGBT people in founding families.

However, cases of domestic and family violence, especially violence against women, have increased as high as 84% according to statistics while discrimination against LGBT people can still be found. The NHRCT recommends that the government consider measures to end violence against women in families by solving the problem at the root causes in accordance with the recommendations by the CEDAW committee. It should also promote greater access to basic services for female sex workers and obtain their participation in giving opinion on the amendment of prevention and suppression of prostitution law as direct stakeholders. There should be measures and mechanisms for monitoring and follow-up to eradicate cases of sexual abuse and harassment in state agencies.

With regard to persons with legal status and rights problem, the Ministry of Interior has made concerted efforts to remove factors which hinder the process of consideration in granting status and nationality to them, speeding up the process without creating more burden on the people who filed such requests. For example, setting clearer operational procedures or guidelines for consideration in granting status/nationality has positively resulted in the higher number of people granted with Thai nationality than the set target. Moreover, the government has embarked on providing additional basic health services to this group of people. Also seen is closer cooperation and more integration among state agencies concerned in solving the problem of school students whose identification number begins with the letter G. However, there are still as many as 480,694 persons with status and nationality problem, while difficulties at operational level persist and have yet to be overcome, e.g. problem in finding reliable witnesses who can confirm proof of a person's identity, and problems regarding operational mechanisms, limited personnel and budgets compared to the number of the target population.

Regarding protection of asylum-seekers/refugees, the state agencies concerned are in the process of laying down criteria and guidelines under the Regulation of the Office of the Prime Minister on the Screening of Aliens who Enter into the Kingdom and are Unable to Return to the Country of Origin, B.E. 2562 (2019). The Regulation is therefore not yet put into practice. Also, the implementation of the Memorandum of Understanding on the Determination of Measures and Alternative Approaches to Detention of Children in Immigration Detention Centers, B.E. 2562 (2019) is under process, particularly in setting the standard operating procedure (SOP). However, in practice, the Immigration Bureau has sought cooperation from the Department of Children and Youth to protect children in vulnerable circumstances by sending them, together with their mothers, to be looked after at shelter homes under the Ministry of Social Development and Human Security or those run by the private sector. As regards Myanmar asylum seekers fleeing fighting in their home country, repatriation cannot be done during 2020 due to the COVID 19 pandemic situation.

On the issue of persons with legal status and rights problem, the NHRCT recommends to the government and related agencies that sufficient personnel and budget be allocated

to increase effectiveness of the status/nationality granting process. Efforts should be made to expedite the verification of information to identify and separate “G” students from other students who have already obtained a status. At the same time, there should be measures to look after the health of the “G” students group. As regards asylum-seekers/refugees, it is recommended that the process of laying down criteria and operational guidelines under the Regulation of the Office of the Prime Minister on the Screening of Aliens who Enter into the Kingdom and are Unable to Return to the Country of Origin, B.E. 2562 (2019) be expedited so that the Regulation can be put into practice as soon as possible. Another recommendation given is for Thailand to consider withdrawing its reservation to Article 22 of the CRC, to guarantee that refugee children in Thailand will receive appropriate protection. And finally, the preparation of SOP for state agencies to follow under the Memorandum of Understanding (MOU) on the Determination of Measures and Alternative Approaches to Detention of Children in Immigration Detention Centers, B.E. 2562 (2019) should be expedited and promptly implemented.