



**PROVISIONS OF HUMAN RIGHTS PROMOTION AND
PROTECTION UNDER THE CONSTITUTION OF**

**THE KINGDOM OF THAILAND B.E. 2540 (1997)
AND
NATIONAL HUMAN RIGHTS COMMISSION ACT
B.E. 2542 (1999)**



The Office of the National Human Rights Commission of Thailand

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***NATIONAL HUMAN RIGHTS COMMISSION ACT
B.E. 2542 (1999)***

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***PROVISIONS OF HUMAN RIGHTS PROMOTION AND
PROTECTION UNDER THE CONSTITUTION OF
THE KINGDOM OF THAILAND B.E.2540 (1997)***

*Provisions of Human Rights Promotion and Protection under the
Constitution of The Kingdom of Thailand B.E.2540 (1997)*

CHAPTER I
General Provisions

Section 4. The human dignity, right and liberty of the people shall be protected.

CHAPTER III
Rights and Liberties of the Thai People

Section 26. In exercising powers of all State authorities, regard shall be had to human dignity, rights and liberties in accordance with the provisions of this Constitution.

Section 27. Rights and liberties recognized by this Constitution expressly, by implication or by decisions of the Constitutional Court shall be protected and directly binding on the National Assembly, the Council of Ministers, Courts and other State organs in enacting, applying and interpreting laws.

Section 28. A person can invoke human dignity or exercise his or her rights and liberties in so far as it is not in violation of rights and liberties of other persons or contrary to this Constitution or good morals.

A person whose rights and liberties recognised by this Constitution are violated can invoke the provisions of this Constitution to bring a lawsuit or to defend himself or herself in the court.

Section 29. The restriction of such rights and liberties as recognised by the Constitution shall not be imposed on a person except by virtue of provisions of the law specifically enacted for the purpose determined by this Constitution and only to the extent of necessity and provided that it shall not affect the essential substances of such rights and liberties.

The law under paragraph one shall be of general application and shall not be intended to apply to any particular case or person; provided that the provision of the Constitution authorising its enactment shall also be mentioned therein.

The provisions of paragraph one and paragraph two shall apply mutatis mutandis to rules or regulations issued by virtue of the provisions of the law.

Section 30. All persons are equal before the law and shall enjoy equal protection under the law.

Men and women shall enjoy equal rights.

Unjust discrimination against a person on the grounds of the difference in origin, race, language, sex, age, physical or health condition, personal status, economic or social standing, religious belief, education or constitutionally political view, shall not be permitted.

Measures determined by the State in order to eliminate obstacle to or to promote persons' ability to exercise their rights and liberties as other persons shall not be deemed as unjust discrimination under paragraph three.

Section 31. A person shall enjoy the right and liberty in his or her life and person.

A torture, brutal act, or punishment by a cruel or inhumane means shall not be permitted; provided, however, that punishment by death penalty as provided by law shall not be deemed the punishment by a cruel or inhumane means under this paragraph.

No arrest, detention or search of person or act affecting the right and liberty under paragraph one shall not be made except by virtue of the law.

Section 32. No person shall be inflicted with a criminal punishment unless he or she has committed an act which the law in force at the time of commission provides to be an offence and imposes a punishment therefor, and the punishment to be inflicted on such person shall not be heavier than that provided by the law in force at the time of the commission of the offence.

Section 33. The suspect or the accused in a criminal case shall be presumed innocent.

Before the passing of a final judgement convicting a person of having committed an offence, such person shall not be treated as a convict.

Section 34. A persons family rights, dignity, reputation or the right of privacy shall be protected.

The assertion or circulation of a statement or picture in any manner whatsoever to the public, which violates or affects a person's family rights, dignity, reputation or the right of privacy, shall not be made except for the case which is beneficial to the public.

Section 35. A person shall enjoy the liberty of dwelling.

A person is protected for his or her peaceful habitation in and for possession of his or her dwelling place. The entry into a dwelling place without consent of its possessor or the search thereof shall not be made except by virtue of the law.

Section 36. A person shall enjoy the liberty of travelling and the liberty of making the choice of his or her residence within the Kingdom.

The restriction on such liberties under paragraph one shall not be imposed except by virtue of the law specifically enacted for

maintaining the security of the State, public order, public welfare, town and country planing or welfare of the youth.

No person of Thai nationality shall be deported or prohibited from entering the Kingdom.

Section 37. A person shall enjoy the liberty of communication by lawful means.

The censorship, detention or disclosure of communication between persons including any other act disclosing a statement in the communication between persons shall not be made except by virtue of the provisions of the law specifically enacted for security of the State or maintaining public order or good morals.

Section 38. A person shall enjoy full liberty to profess a religion, a religious sect or creed, and observe religious precepts or exercise a form of worship in accordance with his or her belief; provided that it is not contrary to his or her civic duties, public order or good morals.

In exercising the liberty referred to in paragraph one, a person is protected from any act of the State, which is derogatory to his or her rights or detrimental to his or her due benefits on the grounds of professing a religion, a religious sect or creed or observing religious precepts or exercising a form of worship in accordance with his or her different belief from that of others.

Section 39. A person shall enjoy the liberty to express his or her opinion, make speeches, write, print, publicise, and make expression by other means.

The restriction on liberty under paragraph one shall not be imposed except by virtue of the provisions of the law specifically enacted for the purpose of maintaining the security of the State, safeguarding the rights, liberties, dignity, reputation, family or privacy rights of other person, maintaining public order or good morals or preventing the deterioration of the mind or health of the public.

The closure of a pressing house or a radio or television station in deprivation of the liberty under this section shall not be made.

The censorship by a competent official of news or articles before their publication in a newspaper, printed matter or radio or television broadcasting shall not be made except during the time when the country is in a state of war or armed conflict; provided that it must be made by virtue of the law enacted under the provisions of paragraph two.

The owner of a newspaper or other mass media business shall be a Thai national as provided by law.

No grant of money or other properties shall be made by the State as subsidies to private newspapers or other mass media.

Section 40. Transmission frequencies for radio or television broadcasting and radio telecommunication are national communication resources for public interest.

There shall be an independent regulatory body having the duty to distribute the frequencies under paragraph one and supervise radio or television broadcasting and telecommunication businesses as provided by law.

In carrying out the act under paragraph two, regard shall be had to utmost public benefit at national and local levels in education, culture, State security, and other public interests including fair and free competition.

Section 41. Officials or employees in a private sector undertaking newspaper or radio or television broadcasting businesses shall enjoy their liberties to present news and express their opinions under the constitutional restrictions without the mandate of any State agency, State enterprise or the owner of such businesses; provided that it is not contrary to their professional ethics.

Government officials, officials or employees of a State agency or State enterprise engaging in the radio or television broadcasting business enjoy the same liberties as those enjoyed by officials or employees under paragraph one.

Section 42. A person shall enjoy an academic freedom. Education, training, learning, teaching, researching and disseminating such research according to academic principles shall be protected; provided that it is not contrary to his or her civic duties or good morals.

Section 43. A person shall enjoy an equal right to receive the fundamental education for the duration of not less than twelve years which shall be provided by the State thoroughly, up to the quality, and without charge.

In providing education by the State, regard shall be had to participation of local government organisations and the private sector as provided by law.

The provision of education by professional organisations and the private sector under the supervision of the State shall be protected as provided by law.

Section 44. A person shall enjoy the liberty to assemble peacefully and without arms.

The restriction on such liberty under paragraph one shall not be imposed except by virtue of the law specifically enacted for the case of public assembling and for securing public convenience in the use of public places or for maintaining public order during the time when the country is in a state of war, or when a state of emergency or martial law is declared.

Section 45. A person shall enjoy the liberty to unite and form an association, a union, league, co-operative, farmer group, private organisation or any other group.

The restriction on such liberty under paragraph one shall not be imposed except by virtue of the law specifically enacted for protecting the common interest of the public, maintaining public order or good morals or preventing economic monopoly.

Section 46. Persons so assembling as to be a traditional community shall have the right to conserve or restore their customs, local knowledge, arts or good culture of their community and of the nation and participate in the management, maintenance, preservation and exploitation of natural resources and the environment in a balanced fashion and persistently as provided by law.

Section 47. A person shall enjoy the liberty to unite and form a political party for the purpose of making political will of the people and carrying out political activities in fulfilment of such will through the democratic regime of government with the King as Head of the State as provided in this Constitution.

The internal organisation, management and regulations of a political party shall be consistent with fundamental principles of the democratic regime of government with the King as Head of the State.

Members of the House of Representatives who are members of a political party, members of the Executive Committee of a political party, or members of a political party, of not less than the number prescribed by the organic law on political parties shall, if of the opinion that their political party's resolution or regulation on any matter is contrary to the status and performance of duties of a member of the House of Representatives under this Constitution or contrary to or inconsistent with fundamental principles of the democratic regime of government with the King as Head of the State, have the right to refer it to the Constitutional Court for decision thereon.

In the case where the Constitutional Court decides that such resolution or regulation is contrary to or inconsistent with fundamental principles of the democratic regime of government with the King as Head of the State, such resolution or regulation shall lapse.

Section 48. The property right of a person is protected. The extent and the restriction of such right shall be in accordance with the provisions of the law

The succession is protected. The right of succession of a person shall be in accordance with the provisions of the law.

Section 49. The expropriation of immovable property shall not be made except by virtue of the law specifically enacted for the purpose of public utilities, necessary national defence, exploitation of

national resources, town and country planning, promotion and preservation of the quality of the environment, agricultural or industrial development, land reform, or other public interests, and fair compensation shall be paid in due time to the owner thereof as well as to all persons having the rights thereto, who suffer loss by such expropriation, as provided by law.

The amount of compensation under paragraph one shall be fairly assessed with due regard to the normal purchase price, mode of acquisition, nature and situation of the immovable property, and loss of the person whose property or right thereto is expropriated.

The law on expropriation of immovable property shall specify the purpose of the expropriation and shall clearly determine the period of time to fulfil that purpose. If the immovable property is not used to fulfil such purpose within such period of time, it shall be returned to the original owner or his or her heir.

The return of immovable property to the original owner or his or her heir under paragraph three and the claim of compensation paid shall be in accordance with the provisions of the law.

Section 50. A person shall enjoy the liberties to engage in an enterprise or an occupation and to undertake a fair and free competition.

The restriction on such liberties under paragraph one shall not be imposed except by virtue of the law specifically enacted for maintaining the security and safety of the State or economy of the

country, protecting the public in regard to public utilities, maintaining public order and good morals, regulating the engagement in an occupation, consumer protection, town and country planning, preserving natural resources or the environment, public welfare, preventing monopoly, or eliminating unfair competition.

Section 51. Forced labour shall not be imposed except by virtue of the law specifically enacted for the purpose of averting imminent public calamity or by virtue of the law which provides for its imposition during the time when the country is in a state of war or armed conflict, or when a state of emergency or martial law is declared.

Section 52. A person shall enjoy an equal right to receive standard public health service, and the indigent shall have the right to receive free medical treatment from public health centres of the State, as provided by law.

The public health service by the State shall be provided thoroughly and efficiently and, for this purpose, participation by local government organisations and the private sector shall also be promoted insofar as it is possible .

The State shall prevent and eradicate harmful contagious diseases for the public without charge, as provided by law.

Section 53. Children, youth and family members shall have the right to be protected by the State against violence and unfair treatment.

Children and youth with no guardian shall have the right to receive care and education from the State, as provided by law.

Section 54. A person who is over sixty years of age and has insufficient income shall have the right to receive aids from the State, as provided by law.

Section 55. The disabled or handicapped shall have the right to receive public conveniences and other aids from the State, as provided by law.

Section 56. The right of a person to give to the State and communities participation in the preservation and exploitation of natural resources and biological diversity and in the protection, promotion and preservation of the quality of the environment for usual and consistent survival in the environment which is not hazardous to his or her health and sanitary condition, welfare or quality of life, shall be protected, as provided by law.

Any project or activity which may seriously affect the quality of the environment shall not be permitted, unless its impacts on the quality of the environment have been studied and evaluated and opinions of an independent organisation, consisting of representatives

from private environmental organisations and from higher education institutions providing studies in the environmental field, have been obtained prior to the operation of such project or activity, as provided by law.

The right of a person to sue a State agency, State enterprise, local government organisation or other State authority to perform the duties as provided by law under paragraph one and paragraph two shall be protected.

Section 57. The right of a person as a consumer shall be protected as provided by law.

The law under paragraph one shall provide for an independent organisation consisting of representatives of consumers for giving opinions on the enactment and issuance of law, rules and regulations and on the determination of various measures for consumer protection.

Section 58. A person shall have the right to get access to public information in possession of a State agency, State enterprise or local government organisation, unless the disclosure of such information shall affect the security of the State, public safety or interests of other persons which shall be protected as provided by law.

Section 59. A person shall have the right to receive information, explanation and reason from a State agency, State enterprise or local

government organisation before permission is given for the operation of any project or activity which may affect the quality of the environment, health and sanitary conditions, the quality of life or any other material interest concerning him or her or a local community and shall have the right to express his or her opinions on such matters in accordance with the public hearing procedure, as provided by law.

Section 60. A person shall have the right to participate in the decision-making process of State officials in the performance of administrative functions which affect or may affect his or her rights and liberties, as provided by law.

Section 61. A person shall have the right to present a petition and to be informed of the result of its consideration within the appropriate time, as provided by law.

Section 62. The right of a person to sue a State agency, State enterprise, local government organisation or other State authority which is a juristic person to be liable for an act or omission done by its Government official, official or employee shall be protected, as provided by law.

Section 63. No person shall exercise the rights and liberties prescribed in the Constitution to overthrow the democratic regime of

government with the King as Head of the State under this Constitution or to acquire the power to rule the country by any means which is not in accordance with the modes provided in this Constitution.

In the case where a person or a political party has committed the act under paragraph one, the person knowing of such act shall have the right to request the Prosecutor General to investigate its facts and submit a motion to the Constitutional Court for ordering cessation of such act without, however, prejudice to the institution of a criminal action against such person.

In the case where the Constitutional Court makes a decision compelling the political party to cease to commit the act under paragraph two, the Constitutional Court may order the dissolution of such political party.

Section 64. Members of the armed forces or the police force, Government officials, officials or employees of State agencies, State enterprises or local government organisations shall enjoy the same rights and liberties under the Constitution as those enjoyed by other persons, unless such enjoyment is restricted by law, by-law or regulation issued by virtue of the law specifically enacted in regard to politics, efficiency, disciplines or ethics.

Section 65. A person shall have the right to resist peacefully any act committed for the acquisition of the power to rule the country by a means which is not in accordance with the modes provided in this Constitution.

CHAPTER V

Directive Principles of Fundamental State Policies

Section 75. The State shall ensure the compliance with the law, protect the rights and liberties of a person, provide efficient administration of justice and serve justice to the people expediently and equally and organise an efficient system of public administration and other State affairs to meet people's demand.

The State shall allocate adequate budgets for the independent administration of the Election Commission, the Ombudsmen, the National Human Rights Commission, the Constitutional Court, the Courts of Justice, the Administrative Courts, the National Counter Corruption Commission and the State Audit Commission. Readiness

Section 76. The State shall promote and encourage public participation in laying down policies, making decision on political issues, preparing economic, social and political development plans, and inspecting the exercise of State power at all levels.

Section 77. The State shall prepare a political development plan, moral and ethical standard of holders of political positions, Government officials, officials and other employees of the State in order to prevent corruption and create efficiency of the performance of duties.

Section 78. The State shall decentralise powers to localities for the purpose of independence and self-determination of local affairs, develop local economics, public utilities and facilities systems and information infrastructure in the locality thoroughly and equally throughout the country as well as develop into a large-sized local government organisation a province ready for such purpose, having regard to the will of the people in that province.

Section 79. The State shall promote and encourage public participation in the preservation, maintenance and balanced exploitation of natural resources and biological diversity and in the promotion, maintenance and protection of the quality of the environment in accordance with the persistent development principle as well as the control and elimination of pollution affecting public health, sanitary conditions, welfare and quality of life.

NATIONAL HUMAN RIGHTS COMMISSION ACT
B.E. 2542 (1999)

NATIONAL HUMAN RIGHTS COMMISSION ACT
B.E. 2542 (1999) *

BHUMIBOL ADULYADEJ, REX.

Given on the 25th Day of November, B.E. 2542;

Being the 54th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have a law on the National Human Rights Commission;

This Act contains provisions relating to the restriction of rights and liberties of the people which section 29 together with section 35 and section 48 of the Constitution of the Kingdom of Thailand allow to be done by virtue of provisions of law;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly as follows;

Section 1. This Act is called the “National Human Rights Commission Act, B.E. 2542”.

* Published in the Government Gazette Vol. 116, Part 118 a, dated 25th November B.E. 2542 (1999)

Section 2. This Act shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3. In this Act:

“human rights” means human dignity, right, liberty and equality of people which are guaranteed or protected under the Constitution of the Kingdom of Thailand or under Thai laws or under treaties which Thailand has obligations to comply;

“Commission” means the National Human Rights Commission;

“President” means the President of the National Human Rights Commission;

“member” means a member of the National Human Rights Commission.

Section 4. The President of the National Human Rights Commission shall have charge and control of the execution of this Act and shall have the powers to issue Regulations or Notifications with the approval of the National Human Rights Commission for the execution of this Act.

Regulations and Notifications under paragraph one that are of general applicability shall come into force after their publication in the Government Gazette.

CHAPTER I

The National Human Rights Commission

Section 5. There shall be the National Human Rights Commission consisting of a President and ten other members appointed, by the King with the advice of the Senate, from the persons having apparent knowledge or experiences in the protection of rights and liberties of the people, having regard also to the participation of men and women and representatives from private organisations in the field of human rights.

The President of the Senate shall countersign the Royal Command appointing the President and members.

Section 6. The President and members shall have the qualifications and shall not be under any prohibition as follows:

- (1) being of Thai nationality by birth;
- (2) being not less than thirty five years of age;
- (3) not being a member of the House of Representatives or the Senate, a political official, a member of a local assembly or a local administrator;
- (4) not being a holder of any position of a political party;
- (5) not being of unsound mind or of mental infirmity;
- (6) not being addicted to drugs;
- (7) not being a bankrupt;
- (8) not being a person sentenced by a judgement to imprisonment and being detained by a warrant of the Court;

- (9) not being a person having been discharged for a period of less than five years on the nomination day after being sentenced by a judgement to imprisonment for a term of two years or more except for an offence committed through negligence;
- (10) not having been expelled, dismissed or removed from the official service, a State agency or a State enterprise or from a private agency on the ground of dishonest performance of duties, gross misconduct or corruption;
- (11) not having been ordered by a judgement or an order of the Court that his or her assets shall dissolve on the State on the ground of unusual wealthiness or an unusual increase of his or her assets;
- (12) not being an Election Commissioner, an Ombudsman, a member of the National Counter Corruption Commission, a member of the State Audit Commission or a member of the National Economic and Social Council;
- (13) not having been removed from office by a resolution of the Senate.

Section 7. A person elected as a member shall:

- (1) not be a Government official holding a permanent position or receiving salary;
- (2) not be an official or employee of a State agency, State enterprise or local government organisation or not be a director or advisor of a State enterprise or State agency;

- (3) not hold any position in a partnership, a company or an organisation carrying out businesses for sharing profits or incomes, or be an employee of any person.

In the case where the Senate has elected a person in (1), (2) or (3) with the consent of that person, the elected person can commence the performance of duties only when he or she has resigned from the position in (1), (2) or (3). This shall be done within fifteen days as from the date of election. If that person has not resigned within the specified time, it shall be deemed that that person has never been elected to be a member and a new member shall be selected and elected.

Section 8. The selection and election of members shall be proceeded as follows:

(1) there shall be a Selective Committee consisting of the President of the Supreme Court, the President of the Supreme Administrative Court, the Prosecutor-General, the Chairman of the Law Council, Rectors or representatives of higher education institutions which are juristic persons; provided that each institution shall have one representative and all such representatives shall elect among themselves to be five in number, representatives of private organisations in the field of human rights under section 24; provided that each organisation shall have one representative and all such representatives shall elect among themselves to be ten in number, representatives of political parties having a member who is a member of the House of Representatives; provided that each party shall have one representative and all such representatives shall elect among themselves to be five in

number, representatives of public media in the businesses of newspaper, radio broadcasting and television broadcasting, being elected from each business to be three in number and the Secretary-General of the National Human Rights Commission as secretary. The Selective Committee shall have the duties to select and prepare a list of names of twenty two persons who are suitable to be members under section 5; provided that regard must be given to the participation of women and men, and submit such list to the President of the Senate. The nomination must be made with consent of the nominated persons including documents or evidence showing that the nominated persons are suitable to be members and have the qualifications and are under no prohibitions under section 6 within sixty days as from the date when a ground for the selection of persons to be in such office occurs. The resolution making such nomination must be passed by votes of not less than three-fourths of the number of all existing members of the Selective Committee;

(2) the President of the Senate shall convoke the Senate for passing, by secret ballot, a resolution selecting the nominated persons under (1). For this purpose, persons who receive the highest votes which are more than one-half of the total number of the existing senators shall be elected as members in consecutive order, but if no persons are elected or if less than eleven persons are elected, the name-list of those not elected on the first occasion shall be submitted to the senators for voting on another occasion. In such case, the persons who receive the highest votes which are more than one-half of the total number of the existing senators shall be deemed to be elected as members. In the case where there are persons receiving equal votes in any order

resulting in having more than eleven elected persons, the President of the Senate shall draw lots to determine who are elected persons. In the case where no person is elected or where less than eleven persons are elected, the Selective Committee shall proceed with the selection and preparation for a list of persons under (1) to be submitted to the Senate for passing a resolution for reelection.

The elected persons under (2) shall meet and elect among themselves the President and notify the President of the Senate of the result. The President of the Senate shall tender the matter to the King for further appointment.

Section 9. Members shall perform their duties with independence and impartiality and shall have regard to the interests of the country and the public.

Members shall be a State official under the organic law on counter corruption.

Section 10. Members shall hold office for a term of six years as from the date of their appointment by the King and shall serve for only one term.

Members who vacate office upon the termination of the term shall remain in office to continue to perform their duties until the newly appointed members take office.

In order to have the newly appointed members to perform their duties upon the termination of the term of the outgoing members, the proceeding of selection and election for the new members shall be

proceeded sixty days prior to the expiration of the term of office of the outgoing members.

Section 11. Members of the House of Representatives or senators of not less than one-fourth of the total number of the existing members of each house have the right to lodge with the President of the Senate a complaint in order to request the Senate to pass a resolution removing a member from office on the grounds that such member has performed his or her duties without giving regard to the interests of the country and the public or with partiality or misconduct or immoral conduct that may seriously affect or damage the performance of his or her duties or the promotion or protection of human rights, or of having any interest in any activity or business which has directly affected or caused the same damage therein, or having or having had a conduct in violation of human rights or being seriously defective in performing his or her duties.

The resolution of the Senate under paragraph one shall be passed by votes of not less than three-fifths of the total number of the existing members of the Senate.

Section 12. In addition to the vacation of office upon the termination of the term, a member vacates office upon:

- (1) death;
- (2) resignation;
- (3) being disqualified or being under any of the prohibitions under section 6;

- (4) acting in contravention of section 7;
- (5) being removed from office by a resolution of the Senate under section 11;
- (6) being removed from office by a resolution of the Senate under the organic law on counter corruption.

When a case under paragraph one occurs, the remaining members may continue the performance of duties and it shall be deemed that the Commission consists of the remaining members, except where the remaining thereof are less than seven.

Section 13. In the case where members vacate office under section 12, the proceedings under section 8 shall be commenced within thirty days as from the date the members vacate their office. In this case, the Selective Committee shall prepare a list of persons twice the number of those vacating office and submit such list to the President of the Senate.

In the case where members vacate office when the National Assembly is not in session, the proceedings under section 8 shall be proceeded within thirty days as from the date the National Assembly commences its session.

Section 14. At a meeting, the presence of not less than one-half of the total number of existing members shall constitute a quorum.

The President shall preside over the meeting. If the President does not attend the meeting or is unable to perform his or her duties, the members present shall elect one among themselves to preside over the meeting.

The decision of the meeting shall be made by majority of votes; in case of an equality of votes, the person presiding over the meeting shall have an additional vote as casting vote.

In a meeting, if there is a consideration of a matter in which a member has a private interest, that member has no right to attend such meeting.

Section 15. The Commission has the powers and duties as follows:

(1) to promote the respect for and the practice in compliance with human rights principles at domestic and international levels;

(2) to examine and report the commission or omission of acts which violate human rights or which do not comply with obligations under international treaties relating to human rights to which Thailand is a party, and propose appropriate remedial measures to the person or agency committing or omitting such acts for taking action. In the case where it appears that no action has been taken as proposed, the Commission shall report to the National Assembly for further proceeding;

(3) to propose to the National Assembly and the Council of Ministers policies and recommendations with regard to the revision of laws, rules or regulations for the purpose of promoting and protecting human rights;

(4) to promote education, researches and the dissemination of knowledge on human rights;

(5) to promote co-operation and co-ordination among Government agencies, private organisations, and other organisations in the field of human rights;

(6) to prepare an annual report for the appraisal of situation in the sphere of human rights in the country and submit it to the National Assembly and the Council of Ministers and disclose to the public;

(7) to assess and prepare an annual report of the performance of the Commission and submit it to the National Assembly;

(8) to propose opinions to the Council of Ministers and the National Assembly in the case where Thailand is to be a party to a treaty concerning the promotion and protection of human rights;

(9) to appoint a sub-committee to perform the tasks as entrusted by the Commission;

(10) to perform other acts under the provisions of this Act or as the law prescribed to be the powers and duties of the Commission.

Section 16. The President and the members shall work regularly on a full-time basis and shall receive monthly remuneration and travel allowance in accordance with the rules and rates as prescribed by a Royal Decree.

The sub-committee shall receive meeting and travel allowances in accordance with the rules and rates as prescribed by a Royal Decree.

CHAPTER II

The Office of the National Human Rights Commission

Section 17. There shall be the Office of the National Human Rights Commission having the status of a Government agency attached to the National Assembly under the law on the organisation of the National Assembly and shall be under the supervision of the President.

Section 18. The Office of the National Human Rights Commission has the responsibility in the general affairs of the Commission and shall have the powers and duties as follows:

(1) to be responsible for the administrative works of the Commission;

(2) to receive petition of human rights violation and submit it to the Commission and to investigate or examine matters which are petitioned as entrusted by the Commission;

(3) to conduct study on and promote education and the dissemination of knowledge in the field of human rights;

(4) to co-operate with Government agencies, private organisations or any other organisations in the field of human rights for the purpose of protecting human rights;

(5) to carry out any other performance as entrusted by the Commission.

Section 19. Officials of the Office of the the National Human Rights Commission shall be ordinary officials of the National Assembly under the law on parliamentary official service.

The powers and duties of the Parliamentary Official Service Commission shall be the powers and duties of the Commission and the President shall be in charge of the administration of the affairs and personnel administration of officials of the Office of the National Human Rights Commission under the law on the organisation of the National Assembly and the law on parliamentary official service.

Section 20. The Office of the National Human Rights Commission shall have the Secretary-General of the National Human Rights Commission who is responsible for the performance of duties of the Office of the National Human Rights Commission, directly answerable to the President and who is the superior of officials and employees of the Office of the National Human Rights Commission. There shall also be Deputy Secretary-General of the National Human Rights Commission to assist the Secretary-General in the performance of duties.

Section 21. The Office of the National Human Rights Commission shall, with the consent of the Commission, submit an estimated annual budget to the Council of Ministers via the President of the National Assembly for its consideration of appropriation budgets, adequate for the independent administration of the Commission, in an annual appropriations bill or supplementary appropriations bill, as the

case may be. In this matter, the Council of Ministers, the House of Representatives, the Senate or the Standing Committees may, if requested by the President, allow the President or the persons entrusted by the President to give explanations.

CHAPTER III

Examination of Human Rights Violations

Section 22. The Commission shall have the duties to examine and propose remedial measures under this Act for the commission or omission of acts which violate human rights and which is not a matter being litigated in the Court or that upon which the Court has already given final order or judgement.

Section 23. Any person whose human rights are violated has the right to lodge a petition in writing which shall contain details as follows:

- (1) name and address of the petitioner or his or her representative;
- (2) facts and circumstances which are causes of the commission or omission of acts which violate human rights;
- (3) signature of the petitioner or representative appointed in writing by the petitioner.

Petition may be made verbally in accordance with a Regulation issued by the Commission.

The petition shall be submitted at the Office of the National Human Rights Commission or by registered post with return receipt or to any member or via a private organisation in the field of human rights to be referred to the Office of the National Human Rights Commission or by any other mean as prescribed by the Commission.

Upon receiving the petition under paragraph one, the Office of the National Human Rights Commission shall, without delay, notify the petitioner or the representative; provided that notification shall be made no later than three days as from the date the petition is received.

Section 24. In the case where a petition from a person whose human rights are violated is lodged with a private organisation in the field of human rights or where there appears to the said organisation of such committed or omitted act thereof, if that organisation considers the case to be *prima facie* it may propose the matter to the Commission for further proceeding.

A private organisation in the field of human rights under paragraph one shall be a juristic person under Thai law which carries out business directly related to the promotion and protection of human rights as prescribed by the Commission and which does not have political objectives or seeks profits from carrying out such business.

Section 25. In the case where the Commission deems it appropriate to examine any case of a human rights violation or where the Commission has received a petition of human rights violation under section 23 or has received a petition from a private organisation

in the field of human rights under section 24 and is of the opinion that it is a prima facie case which is under its powers and duties, the Commission shall notify a person or agency alleged to be a human rights violator or a person or agency whom the Commission considers to be involved in human rights violation to give a responded statements of facts within the period specified by the Commission. In the said notification, the Commission shall summarise details of facts sufficiently for a correct and complete response.

In the case where the Commission deems the received matter is not within its powers and duties or has rejected to consider such matter, the Commission shall, without delay, notify the petitioner or the private organisation in the field of human rights of which the petition is submitted, and, for the interest of protecting human rights, may refer the matter to a person or agency involved with the matter as it deems appropriate.

In the case where the Commission deems the matter should be appropriately considered by another responsible agency, it may refer the matter to such agency regardless of the stage of proceeding of the matter. In this case, the Commission may make a written inquiry of the progress to the agency. If it appears that that agency has not proceeded or has rejected to consider the matter, the Commission may bring the matter back to its consideration; provided that such matter is within its powers and duties.

In making a referral to another agency or bringing back the matter for consideration under paragraph three, the Commission shall, without delay, notify the petitioner or the private organisation that has made a submission.

Section 26. When the period for responding statements of facts under paragraph one of section 25 has lapsed, the Commission shall proceed its examination of human rights violation by giving the petitioner and those involved an opportunity to provide details and present appropriate evidence to prove facts concerning the act alleged to be a human rights violation.

In conducting the examination of the human rights violation under paragraph one, if the parties are required to be present before the Commission, the parties have the right to bring lawyers or their counsel to the examination proceedings in accordance with the rules prescribed by the Commission.

In conducting the examination of a human rights violation, the Commission may appoint one or more sub-committee to carry out investigation and making factual inquiry, hearing responding statements of facts and evidence and preparing a report in accordance with the regulation prescribed by the Commission and submit it to the Commission. In this case, the subcommittee shall have the same powers and duties as the Commission, except as provided otherwise by the Commission.

In carrying out the examination of human rights violation, the Commission may appoint an official to assist in the performance thereof.

Section 27. In conducting the examination of human rights violation, the Commission shall, if it deems mediation is possible, mediate between persons or agencies involved to reach an agreement for compromise and solution of the problem of human rights violation. If the parties agree to compromise and solve the problem and the Commission considers the agreement is within the scope of human

rights protection, the Commission shall prepare a written agreement for the parties and settle the matter.

If it appears to the Commission thereafter that there is non-compliance with the written agreement under paragraph one, the Commission shall further proceed with the examination under its powers and duties.

Section 28. If the Commission is, subject to section 27 and when the examination is completed, of the opinion that there is a commission or omission of acts which violate human rights, the Commission shall prepare a report of the examination which shall specify details of the circumstances of human rights violation, reasons for such opinion and remedial measures for solving human rights violation which shall clearly set forth the legal duties and methods of performance of a person or agency, including the period for implementation of such measures.

In setting forth the remedial measures under paragraph one, the Commission may require a person or agency to perform his or its duties by appropriate methods to prevent a recurrence of similar human rights violation.

In the case the Commission is of the opinion that the said commission or omission of acts does not violate human rights but there is an unjust practice from which the aggrieved person deserves a remedy, the Commission may set forth remedial guidelines and notify a person or agency to appropriately perform within the scope of powers and duties of such person or agency.

The Commission shall promptly notify the examination report to the person or agency having duties to perform and to the petitioner in case a petition has been lodged with the Commission.

Section 29. The person or agency shall, upon receiving the examination report under section 28, implement the remedial measures for solving the problem of human rights violation within the period specified by the Commission and shall notify the results of the implementation to the Commission.

In the case where the implementation of the remedial measures for solving the problem of human rights violation cannot be completed within the specified period, the person or agency shall, before the expiration of the previous period, request the Commission for an extension of the implementation period together with reasons and the length of period sought for extension; provided that no request shall be made for an extension of the implementation period more than two times.

Section 30. When the period under section 29 is lapsed, if the person or agency has not implemented the remedial measures for solving the human rights violation or has not completed the implementation without justifiable reasons, the Commission shall report to the Prime Minister to order an implementation of the remedial measures within sixty days as from the date the report is received. In this case, the Commission shall specify, to the Prime Minister, details for the exercise of the legal power in the issuance

thereof, except the implementation of such remedial measures is not within the power of the Prime Minister, the Commission shall proceed in accordance with section 28.

Section 31. In the case where no proceeding or order for the implementation of remedial measures for solving the human rights violation under section 30 has been taken, the Commission shall report to the National Assembly for further proceeding. In reporting to the National Assembly, if the Commission deems it beneficial to the public, the Commission may disseminate to the public the case in which no implementation of remedial measures for solving the human rights violation has been taken.

Section 32. In the performance of duties, the Commission shall have the powers as follows:

(1) to summon a Government agency, State agency or State enterprise to give written statements of facts or opinions concerning the performance of official duty or other duties or to deliver objects, documents or other related evidence or to send a representative to give statements;

(2) to summon a person, juristic person or private agency concerned to give statements or to deliver objects, documents or other related evidence at the date, time and place as specified.

The delivery of a summons shall be made by a registered post with return receipt to the domicile or office of the receiver. In the case where the delivery by the said mean cannot be made or no action was

taken in accordance with the summons within reasonable period, the Commission shall redeliver the summons by the said means or by other means as the Commission deems appropriate;

(3) to request the Court of proper jurisdiction to issue a warrant for entering into a dwelling or any place for the benefits of examining facts or gathering related evidence which shall be proceeded as necessary and without delay. Before commencing an examination or gathering of evidence, a member or an official entrusted shall manifestly show no concealment on his personal identity and shall, as far as possible, conduct the examination and gathering thereof in the presence of the occupier or the caretaker of the place or relevant person. If such persons cannot be found, the examination and gathering shall be conducted in the presence of at least two persons invited to be witnesses. In this case, the occupier or the caretaker of the place or relevant person shall facilitate the performance of duties of the member or the delegated official;

(4) to issue Regulation concerning rules and methods of paying living expense and travel allowance for the witness or the official appointed by the Commission to examine human rights violation.

Section 33. In the performance of duties under this Act, members, members of the sub-committee or official appointed by the Commission to examine human rights violation shall be official under the Penal Code.

CHAPTER IV

Panalties

Section 34. Any person, who fails to give statement, deliver objects, documents or evidence as summoned under section 32(2) shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding ten thousand Baht, or to both.

Section 35. Any person, who resists or obstructs the performance of duties under section 32(3) shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding twenty thousand Baht, or to both.

Transitory Provisions

Section 36. The Selective Committee shall commence the selection proceeding for the election of members under section 8 within sixty days as from the date this Act comes into force.

Section 37. In the case where there is a selection of members when there is no President of the Supreme Administrative Court, Secretary-General of the National Human Rights Commission and private organisations under section 24, the Selective Committee under section 8 shall consist of the President of the Supreme Court, the Prosecutor-General, the Chairman of the Law Council, Rectors or representatives of higher education institutions which are juristic persons, provided that each institution shall have one representative

and all such representatives shall elect among themselves to be five in number, representatives of private organisations in the field of human rights that have registered with the Secretariat of the Senate within thirty days as from the date this Act comes into force, provided that each organisation shall have one representative and all such representatives shall elect among themselves to be ten in number, representatives of political parties having a member who is a member of the House of Representatives, provided that each party shall have one representative and all such representatives shall elect among themselves to be five in number, representatives of public media in the businesses of newspaper, radio broadcasting and television broadcasting, being elected from each business to be three in number and the Secretary-General of the Senate as secretary.

The rules and procedures for the registration of private Organizations under paragraph one shall be as specified by the President of the Senate.

Countersigned by:

Chuan Leekpai

Prime Minister

Certified correct translation

(Dr. Ackaratorn Chularat)

Secretary-General of the Council of State

Office of the Council of State

SOURCE : <http://www.krisdika.go.th>

Members of the National Human Rights Commission of Thailand

1.	Mr. Saneh Chamarik	Chairperson
2.	Mr. Jaran Dita-Apichai	Commissioner
3.	Khunying Chandhanee Santaputra	Commissioner
4.	Miss Naiyana Supapung	Commissioner
5.	Mr. Pradit Chareonthaitawee	Commissioner
6.	Mr. Vasant Panich	Commissioner
7.	Mr. Suthin Nophaket	Commissioner
8.	Mrs. Sunee Chaiyarose	Commissioner
9.	Mr. Surasee Kosolnavin	Commissioner
10.	Khunying Ambhorn Meesook	Commissioner
11.	Miss Arporn Wongsang	Commissioner

Office of the National Human Rights Commission of Thailand

Mr. Choochai Supawongse	Secretary-General
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