



To: Chairperson What Tingsamitr

Cc:

Commissioners: Mrs. Chatsuda Chandeeying and Mrs. Prakairatana Thontiravong

Commissioner ad interims: Mr. Somn Promaros, Miss Areewan Jatuthong, Mrs. Pirom Siprasat and Mr. Suwat Theparak

Office of the National Human Rights Commission of Thailand

The Government Complex Commemorating His Majesty the King's 80<sup>th</sup> Birthday Anniversary 5<sup>th</sup> December, B.E.2550 (2007)

120 Chaengwattana Road, Lak Si Intersection, Bangkok 10210

**28 August 2020**

**Dear Chairperson What Tingsamitr,**

**Re: ANNI Open Letter concerning the National Human Rights Commission of Thailand's (NHRCT) Statement on requesting all parties in demonstrations adhere to human rights principles and use peaceful means to resolve problems**

The Asian NGO Network on National Human Rights Institutions (ANNI), an initiative of the Asian Forum for Human Rights and Development (FORUM-ASIA), acknowledges the statement made by the National Human Rights Commission of Thailand (NHRCT) on 20 August about the ongoing demonstrations in Thailand.

While we appreciate the efforts made by the Commission to address the situation, we remain deeply concerned over the intensifying human rights violations, including the increasing number of intimidations and judicial harassments against the human rights defenders (HRDs) and protestors. We believe that action is needed more than ever from the Commission to promote and ensure respect for human rights, democratic principles and the rule of law in all circumstances and without exception.

We welcome some of the recommendations made by the Commission for the Government in its statement dated 20 August 2020, specifically requesting officials to adhere to the international standards in managing assemblies and ensuring the rights and safety of youth protestors.

However, we are concerned with the third recommendation on '*requesting that protestors make demands that are clear and not vague, and do not monopolize legitimacy for one side only and that conform to the constitution and relevant laws*'.<sup>1</sup> We are of the view that such a recommendation does not reflect the

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<sup>1</sup>[https://prachatai.com/english/node/8742?utm\\_source=feedburner&utm\\_medium=feed&utm\\_campaign=Feed%3A+prachatai+english+%28Prachatai+in+English%29](https://prachatai.com/english/node/8742?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+prachatai+english+%28Prachatai+in+English%29)

international human rights standards that national human rights institutions (NHRIs) should commit to, and will adversely impact the perceived independence and accessibility of the Commission.

The NHRCT plays a vital role in promoting and protecting the rights of peoples in Thailand. The opinions, findings and recommendations of the Commission carries great credibility and influence within the Government and international bodies.<sup>2</sup> The Commission is expected to provide recommendations that would improve the human rights performance at the country level. These recommendations should be in line with internationally-recognised human rights standards and principles.

We write to also express our concern that this third recommendation does not reflect the basic principles of freedom of expression as stipulated under Article 19 of the International Covenant on Civil and Political Rights (ICCPR), to which Thailand is a state party.

At a time when thousands are finding the courage to speak out, this recommendation risks trivialising their legitimate concerns and grievances. Further, it implies that these concerns are vague and one-sided, a dangerous message that can be used by the State to further silence protesters.

The Commission's recommendation for protesters to adhere to relevant laws also fails to recognise that these laws, namely the Computer Crime Act, Emergency Decree and Sedition offence from the Criminal Code Laws, have often been used to intimidate and harass activists and HRDs.<sup>3</sup> The Commission should instead highlight the intensifying human rights violations against the protesters, including through the use of these laws. It should help ensure that Thailand adheres to its obligations to protect the rights to freedom of expression and freedom of peaceful assembly as a state party to the ICCPR.

We also urge the Commission to steadfastly adhere to international standards including the Paris Principles<sup>4</sup>, General Observations<sup>5</sup> and Marrakech Declaration<sup>6</sup> for national human rights institutions (NHRIs) to operate independently and effectively in addressing such situations.

Mr. Chairperson, NHRIs are established to be independent, standing up for those in need of protection, and holding the Government to account for their human rights obligations. Victims of human rights violations may find it difficult to approach the NHRCT if it is perceived as a spokesperson of the Government rather than as a defender of the people.

We therefore urge you to ensure that the Commission's compliance with the Paris Principles and importantly, its independence in implementing its mandates.

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<sup>2</sup> <https://www.asiapacificforum.net/support/what-are-nhris/what-are-nhris/>

<sup>3</sup> <https://www.forum-asia.org/?p=32503>

<sup>4</sup> Principles Relating to the Status and Functioning of National Institutions for the Protection and Promotion of Human Rights (The Paris Principles), available at <https://www.forum-asia.org/?p=22707&nhri=1>

<sup>5</sup> Global Alliance of National Human Rights Institutions (GANHRI) General Observations of the Sub-Committee on Accreditation, available at <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/General%20Observations%201/Forms/Default%20View.aspx>

<sup>6</sup> The Marrakech Declaration on The role of National Human Rights Institutions in Expanding the civic space and promoting and protecting human rights defenders, with a specific focus on women", available at <https://www.forum-asia.org/?p=30155&nhri=1>

ANNI stands ready to continue its support to the NHRCT, and we will remain committed to continue our engagement with the Commission in its work on the promotion and protection of human rights in Thailand.

Yours Sincerely,



Shamini Darshni Kaliemuthu

Executive Director

Asian Forum for Human Rights and Development (FORUM-ASIA)

ANNI Secretariat

**About the Asian NGOs Network on National Human Rights Institutions (ANNI):**

*The Asian NGOs Network on National Human Rights Institutions (ANNI) was established in December 2006. It is a network of Asian non-governmental organisations and human rights defenders working on issues related to National Human Rights Institutions (NHRIs). ANNI has members that are national organisations from all over Asia. ANNI currently has 33 member organisations from 21 countries or territories. The work of ANNI members focuses on strengthening the work and functioning of Asian NHRIs to better promote and protect human rights as well as to advocate for the improved compliance of Asian NHRIs with international standards, including the Paris Principles and General Observations of the Sub-Committee on Accreditation (SCA) of the Global Alliance of NHRIs (GANHRI). The Asian Forum for Human Rights and Development (FORUM-ASIA) has served as the Secretariat of ANNI since its establishment in 2006.*

<http://l.forum-asia.org/ANNI>