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**APPENDICES**

*National Human Rights Commission Act B.E. 2542 (1999)*

National Human Rights Commission Act\* B.E. 2542 (1999)\*\*

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BHUMIBOL ADULYADEJ, REX.

Given on the . . . day of . . . , B.E. 2542;  
Being the . . . Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is pleased to proclaim that:

Whereas it is expedient to have the 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 (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 follow;

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\* The National Human Rights Commission (NHRC) Act is a law required to be passed within two years as from the date of the promulgation of the Constitution. The deadline is the 10<sup>th</sup> of October 1999. On October 6, 1999, the House of Representatives had approved the version of the NHRC bill as amended by the Senate, thereby completing the legislative process of the bill by the National Assembly. Once the bill is signed by His Majesty the King, it will be published in the Government Gazette and become a law of the land.

“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 1

### The National Human Rights Commission

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**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 position in a political party;
- (5) not being of unsound mind or of mental infirmity;
- (6) not being addicted to drugs;

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\*\* This translation is unofficial.

(7) not being a bankrupt person;

(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 Attorney General, the Chairman of the Law Society, 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 2 being elected 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 the 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 there is a cause requiring selection of persons to hold such positions. The resolution making such nomination must be passed by votes of not less than three-fourths of the number of the 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 names of the persons not elected on the first occasion shall be reintroduced for election. In this case, 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 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 report 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 people.

Members shall be deemed as 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 a new group of members performing their duties upon the termination of the term of the previous group of members, the new group of members shall be selected and elected sixty days prior to the expiration of the term of office of the previous group of members.

**Section 11.** Members of the House of Representatives or the Senate 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 the member has performed his or her duties without giving regard to the interests of the country and the public, or perform his or her duties with partiality or have misconduct or immoral conduct that may seriously affect or damage the performance of his or her duties or has or has had a conduct in violation of human rights or is seriously defective or 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) perform an act 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.

In the case where a case under paragraph one occurs, the remaining members can continue to perform their duties and the Commission shall be deemed as consisting of the remaining members, except where there are less than seven remaining members.

**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 it 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.** The presence of not less than one half of the total number of existing members at each meeting is required to 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 who attend the meeting shall elect a member to be the Chairman of the meeting.

The decision of the meeting shall be made by a majority of votes; in case of an equality of votes, the Chairman of the meeting shall cast an additional vote as a casting vote.

In a meeting, if there is a consideration of a matter in which a member has an interest, that member has no right to attend the 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 in 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 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;

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

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

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

(10) to carry out other matters which this Act or other laws have 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 compensation and travel allowance in accordance with the rules and rates as prescribed by a royal decree.

The sub-committee shall receive as compensation meeting and travel allowance in accordance with the rules and rates as prescribed by a royal decree.

## Chapter 2

### The Office of the National Human Rights Commission

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**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 performance of the official duties 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 right 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 performances as entrusted by the Commission.

**Section 19.** Officers in the Office of the National Human Rights Commission shall be ordinary officials of the National Assembly under the law on the regulations of the officials of the National Assembly.

The powers and duties of the National Assembly Officials Commission shall be the powers and duties of the Commission and the President shall be in charge of the administration of the affairs and recruitment of officers of the Office of the National Human Rights Commission under the law on the organisation of the performance of official duties of the National Assembly and the law on the regulation of the officials of the National Assembly.

**Section 20.** The Office of the National Human Rights Commission shall have the Secretary-General who is responsible for the performance of duties of the Office of the National Human Rights Commission, directly accountable to the President and who is the supervisor of officers and employees of the Office of the National Human Rights Commission. There may be Deputy Secretary-General to assist the Secretary-General in the performance of duties.

**Section 21.** With the consent of the Commission, the Office of the National Human Rights Commission shall submit an annual budget to the Council of Ministers via the President of the National Assembly to consider for an allocation of adequate budgets for the independent administration of the Commission in the national appropriations bill or supplementary appropriations bill as the case may be. In this case, if requested by the President, the Council of Ministers, the House of Representatives, the Senate or the Committees may allow the President or the persons delegated by the President to give statements.

### **Chapter 3**

#### **Examination of Human Rights Violations**

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**Section 22.** The Commission shall have the duties to examine and propose remedial measures under this Act in the case where there is 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 given final order or judgement.

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

- (1) name and address of the petitioner or the 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 mail 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 methods as prescribed by the Commission.

Upon receiving the petition, the Office of the National Human Rights Commission shall notify the petitioner or the representative without delay, 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 the commission or omission of an act which violate human rights and 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 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 seek profits from carrying out such business.

**Section 25.** In the case where the Commission deems it appropriate to examine any cases 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 there 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 response within the period specified by the Commission. In the said notification, the Commission shall summarise details of the 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 it, the Commission shall notify the petitioner or the private organisation in the field of human rights that has made the

submission without delay and for the interest of protecting human rights the Commission 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 the 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 notify the petitioner or the private organisation that has made a submission without delay.

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

In examining a 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 examining a human rights violation, the Commission may appoint one or more sub-committee tasked with investigation and making factual inquiry, hearing response 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 sub-committee 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 carrying out its duties.

**Section 27.** If during the examination of human rights violation, the Commission deems mediation is possible, the Commission shall 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 proceed with the examination under its powers and duties.

**Section 28.** Subject to section 27, when the Commission has completed its examination, if the Commission is 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.

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 a remedy and notify it to a person or agency to 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 that has the duties to perform and in case a petition has been lodged, the Commission shall also notify the petitioner.

**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 request to the Commission for an extension of the implementation period together with reasons and the length of period sought for extension before the expiration of the previous period, 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 details for the exercise of the legal power for issuing such order of the Prime Minister, provided where the implementation of the remedial measures is not within the power of the Prime Minister to issue an order, the Commission shall proceed in accordance with section 31.

**Section 31.** In the case where it appears that there is no proceeding or order for the implementation of remedial measures for solving the human rights violation under section 30, 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 people at large, the Commission may disseminate to the public the case in which no action has been taken to implement the remedial measures for solving the human rights violation.

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

(1) to summon 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 persons, juristic persons or private agencies involved to give statements or to deliver objects, documents or other related evidence in the date, time and place as specified.

The delivery of a summons shall be made by a registered mail with return receipt to the domicile or office of the receiver. In the case where the delivery by the

said method 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 petition to the Court of proper jurisdiction to issue a warrant for entering into a dwelling or any place for the interest 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 a delegated official shall manifest that he has nothing concealed on his person and as far as possible shall conduct the examination and gathering 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 co-operate to facilitate the performance of duties of the member or the delegated official.

(4) to issue Regulations 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 deemed as official under the Criminal Procedure Code.

#### **Chapter 4**

#### **Penalty**

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**Section 34.** Whoever does not give statement, deliver objects, documents or evidence as summoned under section 29(2) shall be punished with imprisonment not exceeding six months or fine not exceeding ten thousand baht, or both.



**Section 35.** Whoever resists or obstructs the performance of duties under section 29(3) shall be punished with imprisonment not exceeding one year or fine not exceeding twenty thousand baht, or both.

#### **Transitory Provisions**

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**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 Attorney General, the Chairman of the Law Society, 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 Office of the Secretary-General of the Senate within thirty days as from the date this Act comes into force, 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 the secretary.

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

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*Principles Relating to the Status of National Institutions (Paris Principles)*

## ANNEXES

### Annex I

#### PRINCIPLES RELATING TO THE STATUS OF NATIONAL INSTITUTIONS<sup>a</sup>

##### Competence and responsibilities

1. A national institution shall be vested with competence to promote and protect human rights.
2. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.
3. A national institution shall, *inter alia*, have the following responsibilities:

(a) To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicize them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:

- (i) Any legislative or administrative provisions, as well as provisions relating to judicial organization, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;
- (ii) Any situation of violation of human rights which it decides to take up;
- (iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;
- (iv) Drawing the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government;

(b) To promote and ensure the harmonization of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;

(c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;

(d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations, and, where necessary, to express an opinion on the subject, with due respect for their independence;

(e) To cooperate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the promotion and protection of human rights;

(f) To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;

(g) To publicize human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness; especially through information and education and by making use of all press organs.

##### Composition and guarantees of independence and pluralism

1. The composition of the national institution and the appointment of its members; whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the promotion and protection of human rights, particularly by powers which will enable effective cooperation to be established with, or through the presence of, representatives of:

(a) Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists;

(b) Trends in philosophical or religious thought;

(c) Universities and qualified experts;

(d) Parliament;

(e) Government departments (if they are included, these representatives should participate in the deliberations only in an advisory capacity).

2. The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.

3. In order to ensure a stable mandate for the members of the institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

##### Methods of operation

Within the framework of its operation, the national institution shall:

(a) Freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner;

(b) Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence;

(c) Address public opinion directly or through any press organ, particularly in order to publicize its opinions and recommendations;

(d) Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly convened;

(e) Establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its functions;

<sup>a</sup> Commission on Human Rights resolution 1992/54 of 3 March 1992, annex (*Official Records of the Economic and Social Council, 1992, Supplement No. 2 (E/1992/22), chap. II, sect. A*); General Assembly resolution 48/134 of 20 December 1993, annex.

(f) Maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular, ombudsmen, mediators and similar institutions);

(g) In view of the fundamental role played by non-governmental organizations in expanding the work of national institutions, develop relations with non-governmental organizations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialized areas.

#### **Additional principles concerning the status of commissions with quasi-jurisdictional competence**

A national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties,

non-governmental organizations, associations of trade unions or any other representative organizations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles:

(a) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;

(b) Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them.

(c) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law;

(d) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.

*Interview Guideline Questions*

- 1) When, in your opinion, did lobbying for a national human rights commission in Thailand begin?
- 2) What role did you or your organisation play in the establishment of the national human rights commission in the following three periods:
  - a) Prior to the 1997 Constitution
  - b) During the 1997 Constitution drafting process
  - c) During the *National Human Rights Commission Act*, 1999 drafting process
- 3) What strategies did you or your organisation use in advocating for the national human rights commission? Which were most successful and why?
- 4) In your opinion, which individual or organisation was most important in advocating for the national human rights commission? Why?
- 5) In your opinion, how would you describe the status of civil society in Thailand?
- 6) Would you say that the national human rights commission was largely a product of local, internal lobbying or was it the result of more international forces?



## BIOGRAPHY

Robb Stewart was born January 16, 1971 in Victoria, British Columbia, Canada. His first year of post-secondary education was undertaken in Bangkok, Thailand having received the Asia-Pacific Initiatives Scholarship of the Province of British Columbia. He then returned to Victoria, Canada where he completed his Bachelor of Arts (with distinction) Major: Pacific and Asian Studies (Southeast Asia/Oceania) and Minor: Political Science (International Relations) at the University of Victoria in 1996. He then took employment in the field of HIV/AIDS education and also worked at the Canadian Embassy in Bangkok, Thailand. He entered the Master of Arts in Thai Studies programme at Chulalongkorn University in 1998. He is current board member and former acting Executive Director of Amnesty International Thailand. His main research interests are in the area of human rights, HIV/AIDS, and Buddhist Studies.

นายร็อบบี้ สจ๊วต (รูนัน) เกิดเมื่อวันที่ ๑๖ มกราคม ๒๕๑๔ ที่เมืองวิกตอเรีย มณฑล British Columbia ประเทศ แคนาดา หลังจากได้รับทุนการศึกษาจากรัฐบาลมณฑล British Columbia เขาได้ศึกษาปริญญาตรีปีที่แรกที่ จุฬาลงกรณ์มหาวิทยาลัย และ มหาวิทยาลัยศรีนครินทรวิโรฒ ประสานมิตร กรุงเทพมหานคร แล้วได้กลับไป ประเทศแคนาดา ในปี พ.ศ. ๒๕๓๘ สำเร็จการศึกษาปริญญาอักษรศาสตร บัณฑิต (เกียรตินิยม อันดับหนึ่ง) สาขา เอเชีย และแปซิฟิกศึกษา วิชาเอกเอเชียตะวันออกเฉียงใต้ศึกษา วิชาโท รัฐศาสตร์ (ความสัมพันธ์ระหว่างประเทศ) จากมหาวิทยาลัยวิกตอเรีย ต่อมาได้ทำงานกับองค์กรเอกชนด้านโรคเอดส์ ที่วิกตอเรีย และที่สถานทูตแคนาดา ประจำ ประเทศไทย ในปี พ.ศ. ๒๕๔๑ ได้เข้าศึกษาหลักสูตรปริญญา อักษรศาสตรมหาบัณฑิต สาขาวิชาไทย ศึกษา คณะอักษรศาสตร์ จุฬาลงกรณ์มหาวิทยาลัย เป็นอดีตกรรมการผู้ อำนวยการนิรโทษกรรมสากล ประเทศไทย (๒๕๔๔) และปัจจุบันเป็นกรรมการองค์การนิรโทษกรรม สากลประเทศไทย การศึกษาและความ สนใจของเขาเน้นไปในเรื่องที่เกี่ยวข้องกับสิทธิมนุษยชน โรคเอดส์ และพุทธศาสนา