



Centre for Democratic Institutions

THAILAND HUMAN RIGHTS STUDY TOUR

SYDNEY AND CANBERRA

12–21 OCTOBER 1999

BACKGROUND

Since the early 1990s the Government of Thailand has been considering the establishment of an independent national human rights commission. In 1995, the Public Prosecutor's Office drafted a law to establish a national human rights commission, however it was not proceeded with. In October 1997 the Government adopted a new Constitution. Articles 199 and 200 mandated the establishment of a national human rights commission, with Article 334 obliging the Government to have enacted the enabling legislation by October 1999.

Following discussions with representatives of the Centre for Democratic Institutions (CDI) and the Asia-Pacific Forum of National Human Rights Institutions (the Forum), the Thailand Government requested the provision of technical assistance for the establishment and running of a national human rights commission. At the initiative of the CDI, the Secretariat of the Forum was requested to develop a program for a human rights study tour to Australia for a delegation from Thailand. The Forum is well placed to develop such a proposal because of its expertise in providing advice and support to regional governments that request assistance in the development and establishment of a national human rights institution. The Program was funded by CDI and managed by the Forum.

The delegation consisted of eight people, representing a cross-section of the Thai community including members of parliament, government officials and non-government representatives. The visit was held during 12-21 October 1999.

On 6 October 1999 the National Assembly of Thailand passed the National Human Rights Commission Act – obliging the government to establish the new commission within one year. Consequently, this study tour was extremely timely.

OBJECTIVES

The objective of the study tour was to strengthen the understanding of the delegation of the operation and function of an established human rights institution and to develop human rights institutional linkages within the Asia Pacific region.

The primary aim of the program was to equip the delegation with practical and theoretical knowledge of the mandate and activities of one of the Forum's members, the Australian Human Rights and Equal Opportunity Commission (the Commission). With this aim in mind the program was designed to include the following components:

- the international human rights framework and its relationship to domestic issues;
- domestic legislative frameworks and a review of the effectiveness of those structures;
- policy programs and functions in the areas of human rights, sex discrimination, racial discrimination, disability discrimination, privacy and indigenous rights;
- the conciliation functions of the Commission including investigation, mediation, complaint management and systems;
- the legal functions of the Commission including hearings, determinations and interventions;
- community education and promotion functions, including the role of the media and human rights promotion and the development of specialist training modules;
- corporate and institutional planning, program evaluation, access and equity strategies;
- information technology systems; *and*
- the relationship between Federal, State and Territory anti-discrimination agencies.

ACTIVITIES DURING THE VISIT

The activities of the delegation included:

- Meeting with Commonwealth Attorney-General, the Hon Daryl Williams AM MP QC
- Meeting with Members of the Human Rights Sub-Committee of the Parliament of Australia
- Meeting with Opposition Spokesperson on Foreign Affairs, the Hon Laurie Brereton MP
- Meeting with Ms Janelle Saffin MLC, Parliament of New South Wales – Honorary Secretary, Burma
- Lawyers Council (Australian Section)
- Meeting with Commissioners and staff at the Human Rights and Equal Opportunity Commission
- Meeting with officials from the Department of Foreign Affairs and Trade, AusAID and the
- Commonwealth Attorney-General's Department
- Meeting with officials from the Aboriginal and Torres Strait Islander Commission
- Meeting with representatives of Australian human rights non-government organisations as organised through the Australian Forum of Human Rights Organisations
- Attendance at seminars delivered by human rights legal academic, Dr David Kinley

- Meeting with staff of the Secretariat of the Asia-Pacific Forum of National Human Rights
- Institutions – briefing on the functions of the Forum and the Forum Secretariat

EVALUATION

Measured against the stated aims and objectives, the visit of the delegation from Thailand was successful. In an evaluation session hosted by the Forum Secretariat, Mr Vitavas Srivihok, the representative from the Ministry of Foreign Affairs provided the following feedback. All other members of the delegation freely contributed and concurred with his observations.

Understanding of human rights mechanisms in Australia

The program was designed to provide both a theoretical and practical understanding of human rights mechanisms in Australia.

The program included three seminars organised by Dr David Kinley, Visiting Fellow in the Faculty of Law at the University of New South Wales covering the following subjects: human rights theory; international law, the United Nations and international human rights standards; institutions relevant to the protection of human rights (parliament, the judiciary and court system, the executive, the police, correctional institutions, non-government organisations, the media); history of national human rights institutions and the Paris Principles; and the influence of international instruments on domestic human rights observance. As an academic adviser to both the Forum and the Commission (most recently concluding a ten-week study program for government officials from the People's Republic of China) Dr Kinley was well placed to provide the delegation with an understanding of the work of the Commission within the framework of both international and domestic human rights mechanisms.

The seminar program was well complemented by the round of meetings which the delegation had in Canberra. Delegation members were able to pursue questions they had about the practical problems faced by Parliament, the bureaucracy, statutory authorities and NGOs in the implementation of Australia's human rights obligations. Their discussions with the Attorney-General, the Hon Daryl Williams AM MP QC, the Opposition Spokesperson on Foreign Affairs, the Hon Laurie Brereton MP, the Human Rights Sub-Committee, officials from the Department of Foreign Affairs and Trade, the Attorney-General's Department, AusAID and ATSIC as well as representatives of Australian non-government organisations were lively and informative. The delegation demonstrated a very good understanding of some topical human rights policy issues, notably proposed changes to the Commission and the human rights dimension of the reconciliation process. Delegation members were keen to get the benefit of a diversity of opinions from the range of people whom they met. At the same time, the delegation was able to discuss in an authoritative and open manner the issues surrounding the establishment of the Thai human rights commission as well as broader matters relating to governance and democratic-institution building in the region.

Mr Srivihok noted that both Thailand and Australia share the same belief in the indivisibility of human rights. He suggested however that the two countries have a different emphasis on the importance of economic, social and cultural rights and that there is a need to strike a balance between these rights and civil and political rights. The delegation was appreciative of finding out how national institutions strike this balance in the performance of their role.

Paris Principles

Mr Srivihok commented that in Thailand there is not a great awareness of the Paris Principles [Principles Relating to the Status of National Institutions (Paris Principles 1991)] and their importance in the independence of a national human rights institution. Mr Srivihok felt that the study tour had been extremely valuable in providing detailed information on this issue.

National Action Plans

The delegation learned of the weakness between the goals of the Australian government's national action plan on human rights and the activities of the Human Rights and Equal Opportunity Commission and noted that this would be an issue of importance between the Thai government and the new human rights commission.

Understanding of both practical and theoretical knowledge of the activities of the Human Rights and Equal Opportunity Commission

In his feedback, Mr Srivihok said that the delegation had gained both a theoretical and practical understanding of the activities of the Commission. Of particular relevance to the establishment of a national human rights institution in Thailand was the opportunity to learn about the structure and organisation of the Australian Commission and to learn about its relationship with the public, non-government organisations and federal and state governments

The delegation was interested to learn about the recent amendments to the Human Rights and Equal Opportunity Act [HREOCA] and the political issues surrounding the restructuring of the Commission.

Several members of the delegation, including Ms Yindee Lertcharoenchok, Ms Valai na Pombejr and Ms Charinratana Buddhapan noted the importance of human rights education and the need to identify and target vulnerable groups in the community for assistance.

Development of a broader understanding of Australia's institutional and societal human rights framework

The delegation was pleased with the structure and the administration of the program, particularly the opportunity to meet with (in addition to Commission members and staff) representatives of the Federal Parliament, Australian government officials and representatives from non-government organisations.

The group also made constructive comment regarding the program by suggesting the inclusion of meetings with Australian media, union and business representatives. The delegation also suggested that an observation of a Commission hearing would be very useful. However, due to time constraints within the program and the fact that there were no Commission hearings scheduled during the time of the visit, these additional items were unable to be included in the program.

Another interesting observation made by the delegation was in regard to the composition of the delegation itself. It was pleased by the diversity of the group and the equal representation between women and men. The delegation remarked that it would be highly unusual for such a diverse group to meet together in Thailand. The members of the delegation were very pleased with the opportunity to meet each other and discuss and exchange ideas in 'neutral territory'. The delegation remarked that this exercise had contributed to a common understanding amongst the individual members of the delegation. It recommended that all future delegations should reflect diversity in composition.

The delegation regarded the study tour as an important step in the development of bilateral and regional linkages between Thailand and Australia and Thailand and the Forum and the CDI.

Mr Srivihok concluded his observations by saying that a meaningful and productive study tour program such as this is possible because both Thailand and Australian enjoy the existence of a democratic society, the respect for democracy and the rule of law. The establishment of a successful and credible national human rights institution in Thailand would be based on an adherence to universal human rights principles (including the Paris Principles); the use of a transparent process; and the engagement of capable and impartial people in the establishment and work of the commission.

CONCLUSION

The passage of the National Human Rights Commission Act by the National Assembly of Thailand is a critical step forward in the establishment of a national human rights commission in Thailand. Alongside these recent legislative developments the Thailand Human Rights Study Tour has been an important and well-timed practical project developed in partnership between the Centre for Democratic Institutions and the Secretariat of the Asia-Pacific Forum of National Human Rights Institutions. The study tour program provided the delegation with a practical understanding of human rights mechanisms in Australia; a practical and theoretical understanding of the activities of a national human rights institution in the region; and the development of a broader understanding of Australia's institutional and societal human rights framework.

The Thailand Human Rights Study Tour concluded with the eight participants looking toward their future responsibilities in the establishment of the human rights commission in Thailand. As a group the eight delegates will be involved in the establishment of a selection committee that will make recommendations to the Thai Government about choosing members of the new commission. The importance of this task highlights the value of involving a 'mixed delegation' on a study tour such as this.

ACKNOWLEDGMENTS

The Centre for Democratic Institutions and the Secretariat of the Asia-Pacific Forum of National Human Rights Institutions would like to acknowledge the support of the following organisations and individuals who contributed to the success of this study tour:

Royal Thai Embassy (H.E. Mrs Laxanachantorn Laohaphan, Ambassador and Mr Krairawee Sirikul,

First Secretary)

Royal Thai Consulate General (Dr Chaiyong Satjipanon, Consul General and Mr Thanavit Sinhaseni,

Deputy Consul General)

Australian Embassy, Bangkok, Thailand (Ms Samantha Brown)

Human Rights and Equal Opportunity Commission (the President, Commissioners and staff)

Department of Foreign Affairs and Trade (Mr Michael Potts, Mr Peter Heyward and Ms Elizabeth

Wetherell)

Australian Agency for International Development (Ms Lynne Richards)

Attorney-General's Department (Mr Geoff Skillen)

Australian Forum of Human Rights Organisations (Mr Michael Curtotti)

Parliament of New South Wales

Ms Janelle Saffin MLC – Honorary Secretary, Burma Lawyers Council (Australian Section)

Commonwealth Parliament

Office of the Minister for Foreign Affairs (Ms Sonya Odgers)

Office of the Attorney-General (Ms Nicole Easton)

Office of the Opposition Spokesperson on Foreign Affairs (Ms Bernadette Shaw)

Human Rights Sub-Committee (Ms Catherine Cornish, Secretary)

Aboriginal and Torres Strait Islander Commission (Mr Paul Burke)