

THEMATIC TITLE	LEGAL PROBLEMS RELATING TO LIABILITY FOR A WRONGFUL ACT OF THE OFFICIALS: CASE STUDY OF NO PROVISION PROVIDING THE OFFICE OF NATIONAL COUNTER CORRUPTION COMMISSION AS STATE AGENCY
KEYWORD	ABUSE OF OFFICIALS/LIABILITY FOR ABUSE OF OFFICIALS/THE OFFICE OF NATIONAL COUNTER CORRUPTION COMMISSION AS STATE
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ABSTRACT

This independent study was made on purpose of studying and analyzing the problem on law enforcement of Liability for Abuse of Officials Act B.E. (2539). Due to THE OFFICE OF NATIONAL COUNTER CORRUPTION COMMISSION is independent organization that is established by the constitution, the issue here is whether THE OFFICE OF NATIONAL COUNTER CORRUPTION COMMISSION is state officer or government officer according to this act, because of the section 4 of this act does not regard THE OFFICE OF NATIONAL COUNTER CORRUPTION COMMISSION as state agency or government agency. In addition, the decree B.E. 2540 (1997), stipulating an agency pursuant to “Liability for Abuse of Officials Act B.E. 2539 (1996)”, also does not regard THE OFFICE OF NATIONAL COUNTER CORRUPTION COMMISSION as state agency or government agency. Therefore, there is no certainty that THE OFFICE OF NATIONAL COUNTER CORRUPTION COMMISSION officer need to be liable if he or she abuse his or her power. This issue should be studied to address the proper resolution.

According to this study, the author found that THE OFFICE OF NATIONAL COUNTER CORRUPTION COMMISSION officers need to perform their duty complying with the Organic Act on Counter Corruption B.E. 2542(1999). If THE OFFICE OF NATIONAL COUNTER CORRUPTION COMMISSION officer damage other people's life, body, health, freedom, property, or fundamental right, according to his or her operating under the office, the officer totally need to be individually liable under Civil and Commercial Code, no matter what such act was conducted negligently or intentionally. THE OFFICE OF NATIONAL COUNTER CORRUPTION COMMISSION do not need to be liable for its officer, even direct or indirect liability. The author thinks this is not fair for the officer, because the officer act under the office for public interest, not for his or her own interest. If the officer always needs to be individually liable without THE OFFICE OF NATIONAL COUNTER CORRUPTION COMMISSION is liability, the officer might not be confident to operate or carry out his or her mission. Therefore, the officer cannot perform his duty fast and efficiently. In addition, if several THE OFFICE OF NATIONAL COUNTER CORRUPTION COMMISSION officers conducted tort together, they need to be liable as joint debtor, pursuant to Civil and Commercial Code. Such liability might exceed the actual damage.

In order to solve this problem, the mentioned decree B.E. 2540(1997) should be amended. The decree should provide that "THE OFFICE OF NATIONAL COUNTER CORRUPTION COMMISSION is government agency or state agency pursuant to Liability for Abuse of Officials Act B.E. 2539(1996)"