

Report of Investigation Results No. 1026/2560

Community Right in case of a claim that suspending construction of a road connecting Klong Lan District of Kamphaengphet Province with Umphang District of Tak Province was violation of human rights.

Issues of Complaint

The National Human Rights Commission of Thailand received a petition from the people requesting it to investigate and propose the Council of Ministers to review a resolution of the Council of Ministers dated 30th June 1987 that suspended construction of Highway No. 1117 (Klong Lan – Umphang) which is a route connecting Klong Lan District of Kamphaengphet Province with Umphang District of Tak Province. The complainant saw that the responsible agency just referred one-sided to environmental reason, but did not pay any attention to social, economic and security issues. Suspension of this project affected farmers who planted maize in Tak Province and sold it at low price while its cost of investment was high because these farmers had to transport their products over a long distance from Umphang District to sell at Mae Sod District. Moreover, suspension of this project also deprived people in Umphang District fairness in terms of education and development of life quality, created social inequality and unfairness which could be violation of community rights against Karen ethnic group and people of Umphang District who should have right to receive fruits of development by the state in various aspects, especially basic public utility.

Actions Taken

National Human Rights Commission of Thailand (NHRCT) took this case into consideration and saw that even though the complainant had right to access basic public utility services that were necessary for complete livelihood of the people. The Council of Ministers passed a resolution on 30th June 1987 to suspend construction of Highway no. 1117 (Klong Lan – Umphang) and another resolution on 13th November 2007 to ban construction of a new road as public throughfare in national parks and wildlife sanctuaries. The whole Ministry of Natural Resources and Environment and particularly Department of National Parks, Wildlife and Plant Conservation together with were against this highway construction project for benefits of the conservation of natural resources and environment. If this highway was constructed, the Western Forest Complex would be divided into two parts and threats would emerge to threaten the country's important area for conservation of forest and wild animals as a consequence. It was seen therefore that the suspension was an action appropriate for the situation and was not human rights violation. However, so far the government had used legal measures to fix area of Umphang District as a conservation area for benefit of preserving natural resources and environment as a common property which had resulted in restriction of several rights of people in the area, such as land and forest utilization and development of public utilities for people in the area for example. Therefore, to be fair for people in Umphang District, the government should support and promote development of life quality, economy and society of people in Umphang District together with the work to take care, maintain and recover natural resources in balanced and sustainable manner with participation of the people and community. The Commission therefore passed a resolution with recommendations on measures or guidelines for promotion and protection of human rights in a way that is consistent with human rights principle according to Section 247 (1) and (3) of the Constitution of the Kingdom of Thailand B.E. 2560 (2017) to the Council of Ministers and Ministry of Natural Resources and Environment.

Recommendations on measures or guidelines for promotion and protection of human rights

(1) The Council of Ministers should prepare a strategic plan for development of the area of Umphang District, Tak Province, as a special case by turning it to be a pilot district in order to support and promote access to basic public utility, education and health care, focusing on development based on identities, way of life and culture, geographical conditions and its specific natural and environmental outstanding.

(2) The Council of Ministers should support establishment of education institutes at secondary education, vocational education and higher education level in area of Mae Sot District, Phop Phra District or Umphang District in Tak Province with a goal to support education of people in the area to have knowledge, capability and skills for their occupations to match the economic growth, helping them to be able to fully access and benefit from development and to solve the problem of economic inequality of Umphang District, Tak Province.

(3) Ministry of Natural Resources and Environment should consider conducting studies and prepare a pilot project on financial measures for environment, such as Payments for Ecosystem Services (PES) or Benefit Sharing, to use as measures for compensation and promotion of development in various fields in the area of Umphang District, Tak Province.

Successes/progress in human rights protection

The Secretariat Office of the Council of Ministers informed that Mr. Visanu Khroe-ngam, a Deputy Prime Minister who gave orders and acted on behalf of Prime Minister, issued an order assigning Ministry of Transport to be the main agency to receive recommendations of the National Human Rights Commission of Thailand on measures or guidelines for promotion and protection of human rights to consider together with Ministry of Agriculture and Co-operatives, Ministry of Natural Resources and Environment, Ministry of Interior, Ministry of Education, Ministry of Public Health, Office of the Permanent Secretary of Prime Minister Office, Office of the National Economic and Social Development Board, and other related agencies to study appropriateness of these recommendations and Ministry of Industries is to sum up results of consideration or results of actions for presenting to the Council of Ministers.