

Report No. 314/2558 on right and freedom to work: the case of unfair treatment to tourism entrepreneurs by public officers in Phuket province

● Issues of Complaint:

On behalf of the Tourism Entrepreneur Association in Phuket province and local people who are in trouble from the actions of public officers, the complaint has been submitted to the NHRCT for the request to examine the case of unfair treatment, such as driving out entrepreneurs and demolishing shops, to tourism entrepreneurs by public officers in the beach areas throughout the Phuket island. This caused the immediate severe effect of losing jobs and incomes to entrepreneurs in various tourism businesses, such as beach massage, grocery stall, restaurant, motor-tricycle (Tuk-Tuk), taxi, car, rental motorbike, long-tailed boat, parasailing, speed boat and Jet Ski. There was no prior notice from public officers and no chance for local people to inform. Such actions has created severe effects to the society and economy of Phuket province in general.

Decisions of NHRCT

The NHRCT deems that there was a point to examine whether the action of public officer for organizing and discipline to businesses in such area is contradict to the freedom of entrepreneurship and the principle of free market or not. The NHRCT found that the action of public officers as stated in the complaint has the purpose of establishing social order and peace under the government policy but such action needs the registration and list of categories for entrepreneurs and the enforcement must be applied to all beaches. The government must have a clear policy on organizing entrepreneurship. This action affected entrepreneurs around beach areas, though it is not considered as the human rights violation. To solve the problem, the solution should be a national policy and applied to other areas, not only in Phuket. The government should prescribe the same standard of measures and implementations to apply nationwide. Thus, the NHRCT deems appropriate to have Policy recommendations or proposals for improving laws and submit them to the Cabinet and Phuket province for the organizing guideline as follows:

Recommendations on the revision of laws

(1) Organizing actions shall have a criteria, i.e. the utilization of the area shall be available to all parties, people, entrepreneurs and tourists, under the action of the government;

(2) Phuket province must organize tourism entrepreneurs and traffic systems to meet the demand of tourists together with the elimination of influential people in the area;

(3) Phuket province must arrange the registered directory of entrepreneurs classified by each business in order to check for the date of entry into the area. The registration must be transparent because it can reflect the movement of protest or support;

(4) The Government should also recognize the living of affected entrepreneurs because this is considered as a foundation of peace and order and under the concept of human rights;

(5) Phuket province or local authorities should utilize the public area by allocating for businesses, such as the issuance of local regulation on rental and service fees which are collected for the maintenance of such area;

From suggestions above, the government must perform under the participation of all sectors and the same standard nationwide.

Performance outcomes of the Cabinet and related government agencies

On 8th September 2015, the Cabinet adopted the resolution of acknowledging the outcome of the NHRCT's consideration for Recommendations on the revision of laws and assigning the Ministry of Interior to study the appropriateness of such proposals.

Later, on 2nd February 2016, the Cabinet adopted the resolution on acknowledging the proposals of the Ministry of Interior. The key conclusion is that the Minister of Interior has ordered provincial governors of coastal provinces to take actions with the same standard nationwide by organizing beach areas suitable for each circumstance, prescribing the precise area for entrepreneurs to avoid making troubles to tourists and local people living in the area of beaches. For Phuket province, the humanitarian aid is provided in organizing the area of beaches, such as the prior notice about policy and regulation from the authority before the enforcement of, the period of time for the removal of building or any structure of entrepreneurs, etc. There is also the administrative plan for beach areas management, which is under the integration of people, military, police, local authority and entrepreneurs, with the aim of assisting entrepreneurs affected by the beach organizing and avoiding negative effects to tourists and local people living around beach areas.