

Report No. 161-193/2558 on the rights in the Judicial Administration: the case of complaints about tortures and other inhuman treatments or punishments in the South Area

● Issues of Complaint:

Many complaints have been submitted to the National Human Rights Commission of Thailand (NHRCT) for the request to examine the case of tortures, inhuman treatments or punishments performed by security officers in the Deep South Area committed. These include the detention for confession in exchange for being released by cruel methods, the physical harm or torture while being detained by officers, such as being covered by a plastic bag over the head, being kicked, being punched, being beaten, being detained in a dark room, a long session of investigation, intimidation, electric shocks, the ban for religious practice during detention, etc.

Decisions of NHRCT

The NHRCT used to consider a complaint with similar details before according to the 2010 and 2012 outcome reports on the examination. The NHRCT has provided the solving measures to the government and related agencies. The solving measures have 5 aspects: (1) law (2) human rights study (3) human rights protection mechanism (4) criminal justice process and (5) remedy. Policy recommendations were also submitted to the government which will deliver such suggestions to related agencies for taking actions under their powers and duties. This will help prevent tortures or improper treatments which might create any obligation leading to the unrest situation in the area of Southern border provinces and protect people's rights in the criminal justice process as guaranteed in Constitution, the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Criminal Code and the Criminal Procedure Code. Thus, NHRCT deems appropriate to submit additional policy recommendations or Recommendations on the revision of laws to the Cabinet and related government agencies as follows:

Recommendations on the revision of laws

(1) The Cabinet and security agencies in the area of Southern border provinces should reiterate operational officers to conduct by following the solving measures provided by the NHRCT as stated in Reports No. 275 – 308/2553 and Reports No. 67 – 89/2555, especially measures on human rights protection mechanism and justice process, with the aim of gaining confidence among people in the area and reducing any obligation which might lead to unfairness.

(2) Security agencies in the area of Southern border provinces should coordinate with doctors in the public provincial hospital for providing medical examination and record of medical examination as evidences. This will help reflect the transparency in actions. But this medical process should be done before the suspect is transferred to the military facility for detention.

(3) The Cabinet by the Ministry of Justice should accelerate the amendment of domestic laws to be in line with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and International Convention for the Protection of All Persons from Enforced Disappearance (CED) in order to comprehensively prevent tortures and inhuman treatments or punishments or degradation of humanity according to such conventions.

(4) The Cabinet by the Ministry of Justice, the Internal Security Operations Command and the Royal Thai Police should cooperate on the enhancement of the visit system in the area where the freedom of individual is deprived with the aim of preventing tortures and other inhuman treatments or punishments.

(5) The NHRCT has arranged many sessions of training program for officers in security agencies. Such training is about the essence and good practices under the CAT. Also, the NHRCT will coordinate with the Internal Security Operations Command, Region 4 (Front Command), and the Southern Border Provinces Police Operation Center in order to promote the arrangement of training program on knowledge of human rights for military officers and police officers, particularly in special forces or intelligence units.

(6) The Cabinet by the Department of Mental Health under the Ministry of Public Health should emphasize on the mental remedy given to the family of the victim of tortures in order to create the understanding and relieve the people's distrust of public officers in the area of Southern border provinces.

Performance outcomes of the Cabinet and related government agencies

On 23rd June 2015, the Cabinet adopted the resolution on acknowledging the outcome of the consideration of NHRCT for policy Recommendations on the revision of laws and assigned the Ministry of Defence, the Ministry of Social Development and Human Security, the Ministry of Interior, the Ministry of Justice, the Ministry of Public Health, the Royal Thai Police, the Southern Border Provinces Administrative Centre and the Internal Security Operations Command to consider the study of guideline and appropriateness of such proposals and summarize the outcome of consideration or the outcome of performance about such issues in general. And the Ministry of Defence shall be the central agency for the accumulation of performance outcomes which will later be submitted to the Cabinet.

Later, on 5th April 2016, the Cabinet adopted the resolution on acknowledging the performance outcomes of the Ministry of Defence. In conclusion, the Internal Security Operations Command, Region 4 has strictly followed the measures in the human rights protection mechanism and the measures in the justice process by recognizing rights, liberties, security measures and transparency. The Southern Border Provinces Administrative Centre (SBPAC) has executed the project for relieving distress from the origin of problem called the Civil Society Network for Justice Administration Project or KEADILAN CENTER in order to administer justice in the local area. Furthermore, there was the compensation and remedy for affected persons under powers and duties as prescribed by laws. The Royal Thai Police has reiterate officers who operate in Southern border provinces to deliver a suspect to a public provincial hospital for the medical examination before the interrogation. The Ministry of Justice by the action of the Department of Rights and Liberties Protection has coordinated with the Central Institute of Forensic Science and the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the arrangement of training program on the examination of evidence about tortures for doctors under the conduct as prescribed in the Istanbul Protocol. In 2016, there will be the joint development of training program for doctors who perform duties of the forensic science and evidence examination. The Ministry of Justice has executed the improvement of related laws and prepared for the accession to the optional protocol of CAT. Now there are many projects relating to this matter: the dissemination of knowledge on the prevention of torture and improper treatment in prisons, the publication of manual for working and living in the area of Southern border provinces, the provision of legal aid and remedy for affected persons in the area of Southern border provinces and the establishment of the Community Justice Center. The Royal Thai Police by the action of the Southern Border Provinces Police Operation Center has also sent police officers to participate in the training program on the essence and good practices under the CAT provided by the NHRCT. And the Ministry of Public Health has continuously supported with budgets for the performance of mental assistance project.