

## **Report of investigation results No. 643/2560 on civil right related to liberty for expression in case of which officials from security agency ordered the Women's Movement for Reform of Thailand (WE MOVE) not to hold a forum to present and hear comments on the draft constitution**

### **1. Background**

The National Human Rights Commission in its meeting on protection and standards for protection of human rights no. 6/2559 on Tuesday 16<sup>th</sup> February 2016 passed a resolution agreeing that there should be an investigation of human rights violation in response to petition no. 136/2559 dated 29<sup>th</sup> February 2016 in case of security agency officials ordered the Women's Movement for Reform of Thailand (WE MOVE) not to hold a forum to present and hear comments on the draft Constitution of the Kingdom of Thailand B.E. ... which was organized by networks of people's organisations and women in the Northeastern Region on 13<sup>th</sup> February 2016 at Amnart Charoen Kindergarten School in Amnart Charoen Province without any document to show their identity, claiming that it was an order from high-level commander of a military unit not to hold the forum. This action was a threat to rights and liberties of the people to comment on the draft constitution.

### **2. Results of consideration by the National Human Rights Commission**

The National Human Rights Commission took this case into consideration and saw that the security officials' use of authority according to order of the Head of the National Peace Keeping Council no. 3/2558 dated 1<sup>st</sup> April 2558 on maintaining peace, order and national security, Public Gathering Act B.E. 2558 (2015) and proclamation of the National Peace Keeping Council no.7/2557 dated 22<sup>nd</sup> May 2014 on prohibition of political gathering, giving a reason that they didn't want voting for or against the draft constitution to be directed. Using judgment to enforce any law must base on the basis of respect and protection of human rights, especially liberties for public gathering and association, and for expression of views of the people that is done in peace without inciting violence or hatred. To restrict these liberties, affected actions must be strictly interpreted because use of authority without careful consideration of basic rights and liberties of the people would be obstruction of expression or refusal to listen to criticism from the people which is considered to be non-respect to different opinions, an act that is against the principle of democracy which enshrines participation of the people and accepts different thoughts. In addition, actions of the Women's Movement for Reform of Thailand was not political gathering; it was an academic seminar which could be organised according to Section 3 (5) of the Public Gathering Act B.E. 2558, security officials therefore could not use authority according to order and proclamation of the National Peace Keeping Council to halt the seminar forum. Action by officials from the Provincial Governor of Amnart Charoen and military officers was therefore considered to be a threat to rights and liberties of the people to express their comments towards the draft constitution disseminated by the Constitution Drafting Committee in early 2016 and was against intention of the constitution which is the highest law of the land and is the law that people should really participate in drafting. The action was then a violation of human rights on liberty to expression, inconsistent with Article 19 of the Universal Declaration on Human Rights, Article 21 of the UN Convention on Civil and Political Rights, Section 45 and Section 63 of the Constitution of the Kingdom of Thailand B.E. 2550 (2007), Section 4 of the Constitution of the Kingdom of Thailand (Interim) B.E. 2557 (2014), Section 34 and Section 44 of the Constitution of the Kingdom of Thailand B.E. 2560 (2017) and Section 6 of the Public Gathering Act B.E. 2558 (2015). The National Human Rights Commission therefore came up with measures to solve the problem of human rights violation according to Section 247 (1) of the Constitution of the Kingdom of Thailand B.E. 2560 (2017) as follows:

(1) The government cabinet and National Peace Keeping Council should review laws, proclamations or orders which are against human rights principle on liberty for honest expression of the people and issue order instructing government agencies which have duty to maintain peace and order to use authority in the scope of law with discretion in order to not affect basic rights of Thai people in democratic society.

(2) Provincial Governor of Amnart Charoen should be careful in using judgment to interpret the scope of law on political gathering, defining criteria or guidelines for actions by taking into consideration human rights principle and instruct officials to perform their duties with politeness and respect to human dignity; negotiation or problem solving in peaceful way should be used instead of using force to intimidate and threaten in any way.

### **3. Results of actions**

These recommendations are in the process of being proposed to the Prime Minister to present to the government cabinet for consideration to make the matter in line with Section 247 Paragraph 2 of the Constitution of the Kingdom of Thailand B.E. 2560 (2017).