

Complaint No. 531/2554: Right in the judicial process – A case of prison officials physically hurt detainee

Mr. Suvitr Bunsongkram complained to the NHRCT that on 10<sup>th</sup> September 2011, while the complainant was cheering takraw game at a sport field in the Khon Kaen's Correctional Institute for Drug Addicts, he was summoned by correctional officials to punish and physically hurt, claiming that the complainant cheered the game in a way that irritated the opposing side. The officials then ordered disciplinary action as punishment on the complainant. The complainant asked the NHRCT to investigate the incident.

The NHRCT considered facts obtained from an investigation and related laws, and saw that for this complaint, investigation can be conducted in two issues. The first issue is whether prison officials acted or did not act in a way that was violation of human rights by ordering unfair disciplinary action as punishment to the complainant or not. Facts show that after the incident of which the complainant was accused of irritating the opposing side during his sport cheering and he was summoned by officials of the Khon Kaen's Correctional Institute for Drug Addicts, resulting in crashing with each other, the Khon Kaen's Correctional Institute for Drug Addicts issued an Order appointing a Fact-Finding Committee which interrogated witnesses, both prison officials and detainees, about the complainant's cheering behaviors and the incident that the complainant claimed that he was physically hurt by officials of the Khon Kaen's Correctional Institute for Drug Addicts. The Committee viewed that the complainant's sport cheering behavior was irritating and mocking players of the opposing side, which was an inappropriate behavior, lacking sportsmanship, and when officials of the Khon Kaen's Correctional Institute for Drug Addicts summoned the complainant for instruction and ordered him to do push-up, the complainant resisted the Order and acted aggressively, not showing respect to prison officials, which was a disciplinary offence on charge of openly disobeying order of the commander. These facts showed that the prison responded to the incident according to its authority and duties and gave fairness to all parties involved.

As for the case that the complainant claimed that he was physically hurt by officials of the Khon Kaen's Correctional Institute for Drug Addicts, when deposition from witnesses, including officials of the Khon Kaen's Correctional Institute for Drug Addicts, that appeared in the prison's investigation report, facts can be established that the Khon Kaen's Correctional Institute for Drug Addicts officials' head-lock and hand-hit on the back of the complainant while he was taken up to the second floor of the Administration building were acts against body of the complainant, appearing to be physical harming, which were inappropriate actions because they might cause discontent among detainees and consequently create other problems. Moreover, when facts are considered, officials of the Khon Kaen's Correctional Institute for Drug Addicts could use other methods to better solve the problem rather than striking against body of the complainant. Section 32 of Constitution of the Kingdom of Thailand recognizes rights and liberty to life and body of a person with an objective to prevent the state to use authority to do anything at free will that affects a person's life and body. Therefore when those acts of officials of the Khon Kaen's Correctional Institute for Drug Addicts are taken into consideration, it was found that they were done at free will without legal authority and directly affected body of the complainant and thus violation of right and liberty to life and body of the complainant.

The NHRCT then came up with measures to solve the problem and prevent human rights violation as appeared in this complaint and proposed them to the Department of Correction to oversee and emphasize penitentiaries and correctional institutes all over the country to treat detainees appropriately, take into consideration human rights principles and human dignity, and use this case as a case study to prevent other similar incidents being repeatedly occurred. Office of the NHRCT is required to follow-up and monitor results of these actions within 60 days after receiving this report.