

Report No. 1220/2558 Community Rights: Deep Sea Port Project and Tavay Economic Zone in Myanmar: A project of Italian-Thai Development Public Company. Thailand had signed an MOU with Myanmar on this project development which caused the violation of human rights.

- **Issues of Complaint:**

The National Human Rights Commission received the complaints that in 2551 (or year 2008), the Italian-Thai Development Company had signed MOU with the Port Authority of Republic of Myanmar on the project development in Tavay, Later on in 2012, the project mentioned had changed the status to Mega projects such as Deep Sea Port, Fuel Industry, Petro-Chemical Industry, Coal Mining Power Plantation, Irrigation Dams, to support the industrial Estates and the Connecting the Highway from Thailand to Myanmar. All of these projects affected livelihood and human rights violations against people and community in those areas.

- **NHRCT findings and consideration on the case**

The National Human Rights Commission had considered the complaint together with the information gathered from various concerned agencies and field visit to investigate the case. NHRC found that the operation of the project had cause human rights violation against Myanmar peoples. It implied that the Thai government had involved and directly joined in the Tavay Special Economic Project. That's because Myanmar and Thai government had signed agreement to support this Tavay Special Economic Project while the human rights violation problems caused by the Thai private corporate were not yet resolved. Moreover, the violation will be continued in the future. Therefore, NHRC had given the policy recommendation to the private corporate Italian – Thailand Company Limited and the Cabinet as follow:

- **Policy Recommendations and Recommendations on the revision of laws**

- (1) The Italian-Thailand Company Limited should consider proper compensation and remedy to the affected victims. Victims should be able to participate in the decision on compensation until an end of the compensation work.
- (2) The Cabinet, Ministry of Foreign Affairs, Ministry of Commerce, and other related agencies should set up the mechanism or the mandate to control/ supervise the Thai investment abroad to respect Human Rights principle by applying United

Nations Guiding Principles on Business and Human Rights: Implementing the Protect, Remedy Framework 2011.

- **Success/ Progress in the Protection of Human Rights**

The Cabinet's resolution on 26th January 2016 acknowledged the NHRC report on the complaint and policy recommendations and Recommendations on the revision of laws and designated the Ministry of Foreign Affairs to be the main agency in cooperation with Ministry of Commerce to study for an appropriate approach and recommendations. Then summarize the finding and consideration to submit the report to the cabinet.

Later, the cabinet had resolved on 16th May 2016 to acknowledge the recommendations on the community rights which was complaint on the case of Tavay Deep Sea Port and Special Economic Zone in Myanmar administrated by Italian-Thailand Development Company Limited. However, Thailand had signed an MOU on project development together with Myanmar government on the project development proceeded while human rights violation still continued.. The project still violated the rights of Tavay peoples of Myanmar while the Foreign Affairs was in charge. Key content are as follow: (1) Private-owned business in abroad especially those mega investment projects faced great challenge regarding human rights impacts and the community livelihood. Deep Sea Port project and Special Economic Zone in Tavay in Myanmar which was belong to the Italian-Thai Company Limited is an example amongst them/ (2) The joint meeting of Ministry of Foreign Affairs, Ministry of Justice Ministry of Finance, National Bank of Thailand, Thailand Economic Development Cooperation Office (Public Organization) and the Security Exchange of Thailand (???) to support the principle to have supervisory mechanism or support the private agencies to respect the human rights principle. The government should have the duty to support the private/ corporate social responsibility on investment both in Thailand and also Thai (nationality) investment abroad. (3) Thailand has various channels to move forward implementation. The current approach is along the line with the principle e.g. Strategy on Corporate Social Responsibility No. 1 (2015-2017), National Environmental Quality Protection and Conservation Act 1992.

The government should advocate the measures to apply this principle seriously and widely such as dissemination and promote understanding on the principle, advocating the private sector to have the measures to promote human rights in addition to social responsibility. Private investment in abroad should pay more attention on this matter especially the

establishment of counseling and complaint mechanism for the community affected by the violation, Human Rights Impact Study on the projects, including the annual reports or publicize information on human rights impacts.

And if the government would like to show their higher political wills, then they might consider to apply political tools such as Investment strategy which include human rights matter; formulate National Action Plan on Business and Human Rights, some tools such as those incentive on tax or any condition to get loan or benefits from the government in advocating the private sector to respect human rights and conserve environment; offering awards to the corporates or entrepreneurs; and follow up mechanism. Thailand can also perform a leading role at the regional level especially in ASEAN to advocate for the adoption of communiqué on Business and Human Rights.