

The Complaint No. 252/2554: Rights and Liberty upon Life and Body, Case of Military Officers, Kromluang Narathiwat Ratchanakharin Military Camp besieged and committed bodily harm causing the death of a Private;

Miss Narisarawan Kaewnopparat lodged a Complaint to the National Human Rights Commission of Thailand (NHRCT) with allegation on a Case of death of Private Wichien Pueksom, her uncle. Mr. Pueksom was conscripted to be a Private in 2011 at the Division on Development, No.4, Kromluang Narathiwat Ratchanakharin Military Camp, in Jor Ai Rong District, Narathiwat Province. Due to the hardships experienced during the training period, Private Pueksom fled from the Camp and headed to his house in Songkla province. But afterward military officers followed and snatched him back to the Camp and then besieged and committed bodily harms and by the end causing the death of him. A Complainant requested the NHRCT to conduct investigation on the Case.

The National Human Rights Commission of Thailand (NHRCT) has acquired and considered the facts gained from examination of relevant laws and opined that on the date of 1st June 2011, during 12.00 pm. to 11.00 am., Private Wichien Pueksom – an uncle of Complainant- had been penalized by several military officers due to his guilt of fleeing from a Training Unit. On 2nd June 2011 due to his unbearable trauma, Private Pueksom spent his efforts to request for admitting in a Hospital, nonetheless there was none of response. On 3rd June 2011, he was transferred to the Jor Ai Rong Hospital and physicians first diagnosed that Private Pueksom was severely injured with muscular inflammation and potentially faced the acute renal failure. The same diagnosis was confirmed by second opinion of physicians after he was transferred to and admitted in the Narathiwat Ratchanakharin Hospital with more muscular death found on both legs and coming-up of complications of the acute renal failure. On 4th June 2011, Private Pueksom was announced with death. This Case drew attentions to relevant officers with disciplinary actions conducted by the 4th Army Area. As a result, the Order on Appointment of Committee Examining Facts with then the Order on Disciplinary Actions was issued with granting of penalties to 16 military officers. On the side of criminal liabilities, inquiry officials of the Jor Ai Rong Police Station compiled facts and evidences with identification of 9 offenders being military officers under the Company No.151, the Battalion No.3 and then notified all with allegations that to gather round but

without intent to commit murder, but instead to commit bodily harm to a person with torture or other inhuman treatment and causing the death of such person. Inquiry officials came up with conclusion of file of a Case to order the legal proceedings against all 9 alleged persons and then handed over such file of a Case to an Attorney of Military Circle No.42.

An Attorney of Military Circle No.42 then considered to submit a Case to the National Anti-Corruption Commission (NACC) to act under their scope of duties on prima facie case. After the finalization of the NACC, an Attorney of Military Circle No.42. shall continually proceed a Case under a judicial process. The NACC, upon their discretion with certain scope of duties, delivered a Case to the Public Sector Anti-Corruption Commission (PACC), Ministry of Justice. A Case is now pending on process of consideration.

The National Human Rights Commission of Thailand (NHRCT) has acquired and considered the facts gained from examination of relevant laws and opined that actions taken by alleged parties shall be considered as practices with torture and cruel, inhuman or degrading treatment or punishment causing violation of rights and liberties upon life and body of Private Wichien Pueksom, under Constitution of the Kingdom of Thailand, B.E. 2550 (2007), Article 32, supplementing with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Part I and Article 1 (1) and the Penal Code, Section 289, Section 290 and Section 291 and these caused the death of Private Wichien Pueksom. Actions taken by alleged parties therefore would be considered as serious human rights violation. The NHRCT deems expedient to adopt a Resolution to propose recommendations and measures solving human rights violation problem, in a Case of Private Wichien Pueksom to relevant agencies, with implication to Section 28 of the National Human Rights Commission Act, B.E. 2542 (1999) as follows:

Measures Solving Problems:

The NHRCT deems appropriate to propose measures solving problems in case of human rights violation above to the Internal Security Operations Command, the 4th Army Area and Office of the Public Sector Anti-Corruption Commission (PACC), as follows:

- 1) A competent official under judicial process shall pursue the legal proceedings upon a Case against all alleged parties with legitimacy and without prejudice and

nepotism. If there is any additional guilty found upon the interrogation with committing of any person not under a list of alleged parties, this person shall be litigated under the law too.

For the legal proceedings upon the Case, in a step taken by competent official under judicial process, the delay of process with complexity was found with swirl in several agencies, starting from delivery of duties of police officers, the NACC and eventually the PACC. The PACC thus shall accelerate their process of investigation with legal proceedings against those wrongdoers.

- 2) A Case emerged is relating to actions with conspiracy taken by military officers as alleged parties whereas under the process of consideration. It seems to be actions of person or group of persons without strong disciplinary supervision. Therefore it deems expedient for those relevant agencies, particularly the Internal Security Operations Command, the 4th Army Area shall put preventive measures in place for avoidance and prohibition of similar actions taken in the future.
- 3) All relevant agencies shall provide remedies, both in cash or in-kind supports to families of deceased, particularly with relief of traumatic sufferings.

Under the Measures Solving Problems, all relevant agencies shall consider to take any particular actions responding to them within 60 days counting from the date of receipt of this Report.

Policy Recommendations:

The NHRCT deems expedient to have policy recommendations to the Cabinet that the Cabinet shall draft, adopt, enact and amend the domestic laws existed to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), including to the preparation for accession to be a Member State of the Optional Protocol of CAT which the NHRCT has ever proposed recommendations to the

Cabinet and relevant agencies. These particularly regard to the enactment and amendment of domestic laws in line with the CAT, with reference of the Report on Result of Consideration for Proposing of Policy Recommendations or Suggestions on Improvement of Law (NHRCT.7), issued by the NHRCT, with No.800/2556, dated 26th December 2013.

By the conclusion, Office of the NHRCT is entrusted, by the NHRCT, to following-up and monitoring any actions undertaken corresponding to a Resolution in accordance with Section 30 and Section 31 of the National Human Rights Commission Act, B.E. 2542 (1999).