

Report No. 633 – 652/2558 on freedom of assembly which affects right and freedom to life and body, right to property, right to vote and freedom of expression in the case of violence during political protests from July 2013 – May 2014

● **Issues of Complaint:**

The violence of political protests in July 2013 – May 2014 caused deaths, injuries and damages of properties to people. Such losses were considered the negative impact to rights and liberties of people, which are guaranteed and protected in the constitution, and human rights violation. Moreover, the NHRCT received 20 complaints which asked the NHRCT to examine actions of human rights violation in such incidents. Thus, the NHRCT has examined the fact of incidents in order to prescribe the solution to the problem of human rights violation and arranged the policy recommendations and proposals on measures under the power prescribed in the National Human Rights Commission Act B.E. 2542 (1999) with the aim of expecting all sectors to realize the value of human dignity which is an important part of the principle of human rights.

Decisions of NHRCT

NHRCT examined and deemed that the political assembly of various political groups consisting of the PDRC, which is a major one, the Student and People Network to Reform Thailand (*Kor Por Tor*) and the People's Army to Overthrow Thaksin (*Kor Por Tor*). These political groups started the movement to resist and drive out the government due to the legislative process of the amnesty law, the denial of judgment of the Constitutional Court and the corruption in many mega projects of the government. Moreover, there was a pro-government group which supported the elected government and protected the democracy. The NHRCT has followed the protest consisting of a large group of people which had many chances to violate human rights in many aspects: right of the press, right to vote, right to properties, right to life and body, to ordinary people, protesters and officers taking care of peace and order. The obvious violation was the attack of protesters and offenders in this incident have not been arrested. This caused the elevation of violence in the situation and there were many events of violence. Finally, many pieces of special laws has been declared to enforce, including the Martial Law Act B.E. 2457 (1914), and the coup d'état has ultimately occurred at the end. The NHRCT deemed that NHRCT has examined actions or negligence which led to human rights violation from the protest of UDD from 12th March 2010 to 19th May 2010 and concluded the policy recommendations submitted to the Cabinet and related agencies for further consideration to find the solution to the political conflict which led to the disunity in the society. But, later, conflict and violence existed and they seem to happen every time when the change of the government occurs. Therefore, the solution to the problem

cannot be implemented by only focusing on a specific problem or the time period of the incident. On the contrary, there should be a solution which genuinely focuses on the root of conflict and this will lead to the sustainable elimination of problem. Thus, NHRCT deems appropriate to emphasize policy suggestions and Recommendations on the revision of laws which will be submitted to the Cabinet and related agencies as follows:

Policy recommendations or Recommendations on the revision of laws

(1) The Cabinet should order public officers to primarily enforce the ordinary law to administrate the public assembly with efficiency and avoid the use of special laws, such as the Martial Law Act B.E. 2457 [1914], the Decree on Public Administration in the State of Emergency B.E. 2548 [2005] and the Internal Security Act B.E. 2551 [2008], due to the objectives of such laws which should be applied with the severe security matters, not general political protests. If such protest has elevated to crisis or chaos severely affecting the security or peace, special laws can be applied. For this, there should be the prescription of the precise limitation for exercising powers of officers and acceptable actions which are not against the basic rights and liberties of people.

(2) The Cabinet by related agencies must revise their implementation to be in line with the intention of Section 63 of Constitution of the Kingdom of Thailand, B.E. 2550 [2007] in order to promote and protect the freedom to peaceful and unarmed assembly. Moreover, the government should establish a mechanism that creates an agency which its main responsibility is to take primary actions for solving problem in order to avoid the expansion of problem that might later lead to the assembly.

(3) The Cabinet must create understanding to the public that the condition of problem stated in this report was found on the severe structural conflict originated from different opinion so the public sector and the society must together find the solution, based on the principle of human rights, peaceful means, rules of law, participation and tolerance, by recognizing the best interest of the country. To search for the way out of the problem, all parties must be sincere to cooperate and open for opinions from all parties by reducing completion among political parties, groups, family members and individuals.

(4) The Cabinet by related agencies must investigate the truth, arrest offenders, i.e. public officers, protesters or any individual, and bring them into the justice for all incidents with deaths and injured persons.

(5) The Cabinet should realize and find the solution to the conflict in order to restore fairness and reduce inequality in the society. This will lead to the widespread respect of rights and dignity of human being.

(6) The Cabinet must restore fairness during the transition period of the society, expose the truth of the incident to public and issue the measure of punishment under the principle of justice process along with the establishment of the compensation, remedy and rehabilitation system for affected persons.

(7) The Cabinet must not directly or indirectly act and ignore the actions which obstruct the access to information as prescribed by law, interfere or violate right and freedom of expression of people and the press. Moreover, the government must reform the press by following the spirit of the Constitution of the Kingdom of Thailand without any hesitation and taking the interest of people into consideration. From the real circumstance of this violence, the anarchy of the press did exist. The press was divided and took sides. Political mass media produced contents which stirred up the situation, urged people to protest, created hatred among people. Expression of different opinions, rights and freedoms of the press must be accepted by the government and the society but these rights and freedoms must not be exercise over the limit.

(8) The Cabinet should coordinate with the Election Commission and related agencies to consider the accuracy of exercising power as prescribed in the Organic Act on the Election of Members of the House of Representatives and the Installation of Senators B.E. 2550 [2007], especially the change of the general election day for the original one as prescribed in the Royal Decree on the Dissolution of the House of Representatives. The adjudication of Constitutional Court No. 2/2557 stated that the Prime Minister and the Chairperson of the Election Commission shall be jointly in charge of this decree. If there is an incident which will lead to severe damages to the country or people and is caused by the prescription of the general election day as prescribed in the Royal Decree on the Dissolution of the House of Representatives, the Election Commission is lawful to notify the Prime Minister or the Cabinet for the consideration on the change of the general election day under powers, duties and responsibility of the Prime Minister and the Chairperson of the Election Commission who are in charge of the Royal Decree on the Dissolution of the House of Representatives and need to work together in order that the upcoming general election will be successful according to the spirit of the constitution.

(9) The Cabinet by the Royal Thai Police as the enforcement agency and it has duties to secure peace and order of people. When any action affecting rights and liberties of people occurs, the Royal Thai Police will interrupt such actions, e.g. the stop of protest or the prevention of violence from both sides of protesters. It appeared that police's actions did not comply with the universal principle about the stop of protest, the rules of engagement and use of weapon according to the code of conduct for law enforcement officers and the

rules of engagement and use of weapon for the law enforcement officers. The Royal Thai Police should produce an operational manual for the use of force to stop the protest or the prevention of violence from various sides of protester in order to be in line with the universal principle.

Performance outcomes of the Cabinet and related government agencies

On 15th September 2015, the Cabinet adopted the resolution on acknowledging the outcome of the NHRCT consideration on policy recommendations and Recommendations on the revision of laws and assigned the Ministry of Justice to be the central agency to consider together with the Ministry of Defence, the Ministry of Interior, the Royal Thai Police, the Office of the National Security Council, the Internal Security Operations Command and related agencies to study the guideline or the appropriateness of such proposals and summarizing the outcome of consideration or the outcome of performance about such issues in general.

On 26th April 2016, the Cabinet adopted the resolution on acknowledging the conclusion of outcome performance according to the report on the freedom to assembly affecting right and freedom to life and body, right to properties, right to vote and freedom of expression: the case of violence of political protests in July 2013 – May 2014 of the NHRCT under the submission of the Ministry of Justice. The key conclusion is that the Ministry of Justice has put the framework of justice administration to reduce the inequality in the society which is a part of working guideline of the Ministry of Justice. Today, Thailand has a remedy and rehabilitation system for persons affected by such incidents by applying the Damages for the Injured Person and Compensation and Expense for the Accused in the Criminal Case Act B.E. 2544 [2001]. Furthermore, on 8th September 2015, the Cabinet adopted the resolution in favor of the criteria and measures for the provision of the financial assistance under the humanitarian principle to persons affected by the violence of political protests in 2013 – 2014 and assigned the Department of Social Development and Welfare to be the agency responsible for providing the assistance and disbursing the budget for remedy. The Office of the Permanent Secretary of the Ministry of Education is also assigned to be responsible for providing scholarship to entitled persons. The Royal Thai Police informed that the plan for taking care of the public assembly according to the Public Assembly Act B.E. 2558 (2015) has already been prepared the practical guideline for officers and related agencies to create understanding of basic rights and freedom of public assembly. Moreover, subordinate laws and regulations have also prescribed to support the Public Assembly Act B.E. 2558 [2015].
