

Investigation Report No. 1031/2017

Right in criminal procedure: Complaint that the prison does not provide medical treatment to sick inmates (Complaint No. 434/2016)

Issue of complaint

The National Human Rights Commission has received a complaint from the son of Mr. A (fictional name) who is a defendant in a drug case and has been sentenced to death by the Criminal Court and the Appeals Court. Currently, the case is pending consideration by the Supreme Court. Originally, Mr. A was detained at Bang Kwang Central Prison. Later, in August 2014, as per the policy of the National Council for Peace and Order to transfer key prisoners and those in drug cases to the high-security Khao Bin Central Prison, Mr. A was transferred there and placed at Zone 6 although he did not commit any wrongdoing or serious disciplinary offense. This causes Mr. A difficulty in fighting the case since the case is still in the process of appealing to the Supreme Court. In addition, Mr. A, the father of the complainant, also has health problems with high blood pressure and both leg muscles weakened due to severe iron deficiency, combined with the fact that he had received a surgical operation to have metal reinforcement on the right knee; thus, the need for regular health check-ups with doctors. The complainant claims that the detention of his father at the Khao Bin Central Prison, Zone 6, which is a 'Super Max' security area with no reasonable grounds for the duration of over one year causes his father's physical conditions to deteriorate progressively due to various factors, in particular, the restriction of basic rights to access to medical care because there was no doctors available, and the insufficient intake of proper nutrients. As a result, the father of the complainant cannot walk by himself and feels dizzy all the time. The Khao Bin Central Prison thus transferred the father of the complainant to Zone 2 (nursing zone), but still he has not yet received any medical treatment from any doctor. In April 2016, the father of the complainant had a sudden loss of consciousness. He fell and his head hit the edge of a concrete structure and bled. He was treated only with 4 fresh stitches by practical nurses, because the Khao Bin Central Prison has no doctors on duty to treat inmates who are sick or have any health problems. The complainant therefore

lodged this complaint in order to make the concerned parties aware of the said problems and that inmates should be treated humanely and with respect for human dignity, particularly those whose cases are under adjudication.

Actions Taken

The National Human Rights Commission (NHRC) found that the Khao Bin Central Prison has sent the father of the complainant to receive further treatment at the Medical Correctional Institution until his condition has already improved. Besides, due to the fact that the father of the complainant is an inmate in a drug case with high penalties, he must be detained in a high security zone for a period of at least 6 months. As such, this shall not be deemed a case of human rights violations, and it is decided that this case is closed.

However, the rights to medical treatment are the basic rights of individuals, to which inmates shall sufficiently receive. The practice of the Khao Bin Central Prison to put inmates with chronic disease in the 'Super Max' security area for a long period of time may affect the health of the inmates or may be life-threatening. Therefore the NHRC decided to notify the Department of Corrections to consider ordering the implementation of the recommendations of the NHRC that have been proposed to the Department of Corrections in the report of investigation of human rights violations No. 209 - 210/2560, dated 14 March 2017. The NHRC also recommends that the Department of Corrections consider procuring necessary medicines and equipment and setting guidelines for the appropriate detention of inmates with chronic disease in the 'Super Max' security area in accordance with Article 247 (1) of the Constitution of the Kingdom of Thailand B.E. 2560.

The Department of Corrections has issued a letter No. Yor. Thor. 0704.3/30397, dated September 28, 2018, stating that it has conducted an investigation into the complaint, and has found the following facts:

(1) The father of the complainant was transferred from Bang Kwang Central Prison to Khao Bin Central Prison on August 9, 2013 and was detained in Zone 2, which is the nursing zone of Khao Bin Central Prison. The father of the complainant has never been held in the maximum security zone. For the treatment of the inmate, Khao Bin Central Prison has followed the Department of Corrections' relevant orders in taking care of sick inmates to comply with the UN Standard Minimum Rules for the Treatment of Prisoners.

(2) Khao Bin Central Prison provides adequate medicine and necessary equipment for medical treatment in the maximum security zone for preliminary treatment of illnesses or injuries. It also arranges for prison nurses to screen the illnesses of inmates regularly. If any inmate's illness is severe and needs more than the initial medical treatment, the person will be sent to hospital outside the prison.

(3) For inmates with chronic illnesses who are held in the maximum security area, the prison allows them to take their medication to their cells. If any inmate has a sudden acute illness, the person will be sent to see doctors in the hospital outside the prison.

In addition, the Department of Corrections issued a letter No. Yor Thor 0708.4/18316, dated 11 July 2017, to report the results of the implementation as per the report of investigation of human rights violations No. 209 - 210/2560, dated 14 March 2017, on the right to receive public health and welfare services from the state in relation to the rights of prisoner after a complaint that inmates do not have enough money to pay for medical treatment, as follows:

In response to the NHRC's recommendations for the Department of Corrections to ensure that all inmates have access to appropriate and standard public health services; to provide sufficient medical personnel, medicine and medical supplies; to reduce congestion and establish a system to prevent and control communicable diseases inside the prison; to provide standard care to inmates suffering from chronic illnesses, and, for those suffering from congenital diseases, to provide medication and, occasionally, medical specialists, in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules), which also covers foreign inmates, the Department of Corrections clarifies that it has a policy to provide all inmates with access to appropriate and standard public health services in accordance with the minimum standards for the treatment of inmates, the relevant United Nations' recommendations on treatment of offenders, the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) and the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules). Inside the prison, there are basic medical care as necessary and appropriate for specific diseases, screening system of new inmates, health consultation services and the referral of sick inmates to outside hospitals for treatment.