

Report No. 112/2559 on unfair discrimination in a case of a school forcing a pupil to have blood test for HIV detection and using test result as a condition for school enrollment.

Issue of complaint

A complainant submitted a petition to the National Human Rights Commission of Thailand (NHRCT) requesting it to investigate a claim that the administration and teachers at B School, Nakhon Phanom Province, upon knowing that parent of a child who was applying to study at kindergarten level 1 was a person with HIV, requested that, for convenience in an arrangement of schooling activities, the child was to have a blood test for HIV detection before the enrollment.

Actions

The NHRCT took this case into consideration and opined that by sending a letter to Pla Baak Hospital, asking it to conduct a blood test for HIV detection on the complainant's child, claiming that test result would be used as a evidence for enrollment into the school, for arrangement of schooling activities in child's classroom where the child would receive education together with other pupils, and for determining measures to correctly take care of the child, was an unfair discrimination against the complainant's child. Even if the accused explained that parents of the child were not forced to do so and the child had already been recruited to normally study in the school, the very act that the accused sent a letter to the Director of Pla Baak Hospital, asking a favour to have a blood test on the complainant's child, was considered to be an unfair discrimination against the complainant's child as other children who applied to study at this school were not treated similarly to the complainant's child. This action was thus a violation of human dignity and violation of human rights. To prevent unfair discrimination against people with HIV/AIDS, especially in the area of education, according to the Third National Human Rights Plan (2014-2018), measures to solve the problems of human rights violation should be recommended to the National Committee for Preventing and Solving AIDS Problems, Ministry of Education, local administrative organization's child development centers, Ministry of Interior, Ministry of Social Welfare and Human Security, and Ministry of Labour to consider taking the following actions:

Measures for solving the problem of human rights violation

(1) Promote and create correct understanding about people with HIV/AIDS to reduce stereotyping and discrimination, together with public relations and education to create understanding among members of the general public about how to live happily and correctly with people with HIV/AIDS, and not to discriminate against them;

(2) Apply incentives, or consider coming up with laws, legislatives, regulations and rules to punish wrongdoers to prevent unfair discrimination against people with HIV/AIDS by employers, places of work and places of education;

(3) Monitor, invigilate, look after and periodically share information about inter-agency actions, including problems and obstacles.

Successes/progress in human rights protection

(1) Office of the Permanent Secretary of the Education Ministry reported that government agencies under the Ministry of Education were informed about the issue and told to practice according to the measures to solve the problem of human rights violation.

(2) Department of Labour Welfare and Protection reported that the department had carried out projects with activities to prevent and solve problems related to AIDS and tuberculosis in workplaces, assigning Provincial Labour Welfare and Protection Offices and Bangkok Labour Welfare and Protection Office to create understanding among employers, employees, transnational workers and bilateral committees in workplaces about situations concerning HIV/AIDS and tuberculosis, protection of rights of employees with HIV and actions according to International Labour Organization (ILO)'s recommendations No. 200 on HIV/AIDS in the World of Work by organizing training to provide knowledge and create good attitude, preventing and solving problems related to HIV/AIDS, protection of rights of people with HIV/AIDS, preventing violation of rights of people with HIV/AIDS, no social stereotype, and non-discrimination on employment, and promotion of administration system concerning HIV/AIDS and tuberculosis in workplaces which is consistent with measures to solve the problem of human rights violation.

(3) Local Administration Department reported that the department had issued a letter to every provincial governor to inform local administrative Organizations that had child development center(s) and school(s) to have measures to prevent unfair discrimination in school enrollment against people with HIV/AIDS or children of people with HIV/AIDS to prevent reoccurrence of human rights violation as in the complaint, and ask local administrative Organizations to promote and create correct understanding about people with HIV/AIDS to reduce stereotype and discrimination and to do public relations and provide education to members of the general public to have understanding and good attitude about how to live happily and correctly without discrimination with patients.

(4) Department of Children and Youth reported that it had informed all children and family shelter homes about the NHRCT's measures to solve the problem of human rights violation, so that they could work in accordance with the Children Protection Act B.E. 2546 (2003).

(5) Disease Control Department reported that the National Committee for HIV and AIDS Prevention and Alleviation issued an announcement on 27th January 2017 on a policy of non-discrimination against people with HIV/AIDS in their application, selection and continuing education in places of education. This announcement provided guidelines for places of education not to discriminate against people with HIV/AIDS in their enrollment and not to disclose personal information of people with HIV/AIDS to other persons. The announcement also request places of education to organize activities to provide correct knowledge and create correct understanding about HIV/AIDS, sow the seed of positive attitude towards people with HIV/AIDS, provide a mechanism to protect rights of students with HIV/AIDS have a system that would report cases of hatred or discrimination against people with HIV/AIDS, so that relevant situations could be monitored and problems solved.