

Report of Investigation Results No. 892/2560

Community Right in case of opposition against a project to construct paths along Chao Phraya River

Issue of Complaint

The National Human Rights Commission of Thailand received a petition from a group of people requesting it to conduct an investigation in a case that the complainant claimed to be a representative of the Friends of River Group and communities on the banks of Chao Phraya River who were worried about a project to develop areas on the banks of Chao Phraya River by Bangkok Metropolitan Administration according to the Council of Ministers' policy to construct paths along Chao Phraya River from Rama VII Bridge to Somdej Phra Pinklao Bridge covering a total distance of 14 kilometers. Seven months were spent to conduct a survey, design and prepare a master plan. The complainant saw that this project was proceeded in such a hurry, lacked well-round studies by experts in various related fields, and thus may affect ecosystem, resulting in problems of rancid water, destruction of way of life of communities on the banks, and reduction of historical, social, cultural and legal values of Chao Phraya River. Moreover, its Term of Reference was not opened for any adjustment if studies were conducted and it was found that the project was not useful for the people or images of the country, did not respond to needs of the society and might seriously affect community rights.

Actions taken

The National Human Rights Commission of Thailand (NHRCT) took this case into consideration and saw that the project to construct a way along Chao Phraya River was a project that would affect local people or communities in several ways; it therefore should be opened for stakeholders and people to participate in the project. Actions taken by Bangkok Metropolitan Administration so far, however, had lacked participation of the people, local communities and other stakeholders who had utilized Chao Phraya River from upstream to downstream and might be affected. The project lacked a process to provide all round complete information, especially news and information that affected or might affect rights of the people, including right of local communities to take part in giving their views to be considered for implementing a project of the state which is a public policy and right of the people and community to conserve, restore or promote wisdom, arts, culture and manage, preserve and utilize natural resources, environment and biological diversity in balanced and sustainable manner. Actions by Bangkok Metropolitan Administration was therefore violation of human rights according to Section 41, Section 43 and Section 58 of the Constitution of the Kingdom of Thailand B.E. 2560 (2017). The National Human Rights Commission of Thailand thus passed a resolution to have recommendations for Bangkok Metropolitan Administration and the Council of Ministers on measures or guidelines for preventing or correcting human rights violation according to Section 247 (1) of the Constitution of the Kingdom of Thailand B.E. 2560 (2017).

Recommendations on appropriate measures or guidelines for preventing or correcting human rights violation

(1) The Council of Ministers and Bangkok Metropolitan Administration should consider reviewing the project to develop banks of Chao Phraya River by conducting a Strategic Environmental Assessment (SEA) together with studying on economic, social and cultural impacts in order to plan development of Chao Phraya River. These studies should

assess how activities carried out in Bangkok area would have impacts on areas from upstream to downstream throughout Chao Phraya River.

(2) Studies in (1) should have the following contents:

(2.1) The Sustainable Development Goals should be taken into consideration. Environmental capacity and limitations should be assessed and diverse forms of alternatives for development of the banks of Chao Phraya River should be made available, in order that comparison could be made in making decisions.

(2.2) The people, communities on the banks of the river, academic circle, and stakeholders whose occupations are related to Chao Phraya River, such as hotels, restaurants/food shops, tourism business, including religious places, schools and government offices should take part in all stages of the project, have enough related all-round information on environment, economy, society, culture, technology, and primary hydrological information, such as slope of the river bottom and collection of sediments.

(2.3) Only when an alternative for development of the banks of Chao Phraya River is agreed by all parties involved, activities or projects to develop the banks of Chao Phraya River could be decided. The Council of Ministers and the target of complaint could then mix objectives of the project to develop cycling routes, viewpoints, tourism, activities for health, rest and recreation that are appropriate for ecosystem of the river, way of life and culture of communities on the banks of Chao Phraya River.

Success/progress in human rights protection

The Secretariat Office of the Council of Ministers informed the Commission that Deputy Prime Minister Visanu Khrua-ngarm acting on behalf of the Prime Minister had issued an order assigning the Ministry of Interior to be the main unit to take this case into consideration together with Ministry of Finance, Ministry of Tourism and Sports, Ministry of Social Development and Human Security, Ministry of Transport, Ministry of Natural Resources and Environment, Ministry of Culture, Ministry of Education, Office of the National Economic and Social Development Board, Bangkok Metropolitan Administration and related agencies to study directions and appropriateness of these recommendations. Ministry of Interior is then to conclude results of considerations or results of actions taken on this matter as a whole and send it to the Secretariat Office of the Council of Ministers in order to subsequently submit to the Council of Ministers.