

## **Case Report No. 1221-1222 on Community Rights – case on the impact from the leak of raw petroleum (of P Company Limited) into the sea in Rayong province**

### **Complaint issue:**

Complainant filed the complaint to the NHRC with the No. 374/2556 and 385/2556 that they had difficulty from the leak of raw petroleum of P Company Limited in Rayong province, Therefore, NHRC was requested to investigate this Human Rights Violation.

### **NHRC Consideration on the Complaint**

According to the complaint and the fact gathered, NHRC is with the view that when the complainant raised the community rights which is regarded as collective rights and liberty endorsed by the Constitution B.E. 2550 (year 2007). The National Human Rights Commission (NHRC) has the mandate under the article 247 of the Constitution enable NHRC to investigate the case of Human Rights Violation. Moreover, article 3 and 15 of the National Human Rights Commission Act B.E. 2542 (year 1999) also empowered NHRC on this matter as well.

### **Policy Recommendation:**

1. The Cabinet, the Ministry of Energy and concerned agencies should consider to take an appropriate action and to review the risk or damage control management in the practical manner in case of disaster from petroleum either on land or water. For instances, setting up a trust fund for the prevention and reparation of the disaster to community or livelihood caused by petroleum industry.
2. The Cabinet and Ministry of Energy, Ministry of Natural Resources and Environment and concerned agencies should considered to take action by disclosing information on Petroleum Business, Petroleum and Fuel Transporting Business, as well as the information on monitoring the preventative approach and resolving environmental impact or public disaster that might be taken place. People should be able to access information through an easy channel.

## View of the National Human Rights Commission

The National Human Rights Commission had considered the complaint and the view of the Sub Commission on Community Rights. The Sub Commission on Community Rights listened to the concerned persons in the final meeting on 27<sup>th</sup> June 2014 and proposed resolutions and approach to resolve the problems and given policy recommendations to concerned agencies. Later, during the consideration period of the National Human Rights Commission on 25<sup>th</sup> July 2014 the complainants and small fisherfolk groups of Rayong province for 400 persons had filed the case against P Company Limited as the polluter to Rayong Provincial Civil Court: Black file P.1150/2557 seeking a compensation from the loss of occupation; asking to set up the Restoring of Natural Resources Fund to remedy the problem caused by the leak of Petroleum in the sea.

At the same day, the community had filed the case against the concerned agencies to Rayong Provincial Court, Those defendants included Committee for the Prevention and Eradication of Water Pollution caused by oil, Port Department, Fishery Department, Pollution Control Department, Marine and Coastal Resources Department, and the Governor of Rayong province as those who are legally and directly responsible to manage and resolve the problems of pollution and reduce the problem affecting coastal and marine natural resources. Black Case No, S 10/2557. Both cases are in the judicial process. The complaint issue is similar to the case filed at the Rayong Provincial Court and Rayong Administrative Court for consideration. Due to the provision under article 22 of the National Human Rights Commission Act B.E. 2542 (year 1999) stated that *“The Commission shall have the duties to examine and propose remedial measures under this Act for the commission or omission of acts which violate human rights and which is not a matter being litigated in the Court or that upon which the Court has already given final order or judgement”*. The NHRC, therefore, could not take the role to investigate the case as well as to provide such policy recommendation accordingly.

Nevertheless, The Sub Commission on Community Rights had ready investigated the complaint just before filing the case to criminal court. National Human Rights Commission, therefore, agreed to give the policy recommendation on item 5.2 to the Cabinet for consideration to take further action.

## **The National Human Rights Commission's resolution**

According to the reasons mentioned above, the NHRC at the 39th Human Rights Protection and Human Rights Protection Standard Meeting of 2015 on 9<sup>th</sup> November 2015 resolved to submit policy recommendation as stated in article 15(2) of the Act to the Cabinet, Ministry of Energy, Ministry of Natural Resources and Environment and other concerned agencies to consider for further action.