

Investigation Report No. 31/2562 (2019)

Rights to life and bodily integrity in relation to consumer rights in the case of objection to the renewal of the certificates of registration of the hazardous substance ‘paraquat’ by the Department of Agriculture

Complaint Issue

The National Human Rights Commission of Thailand (NHRCT) has received a complaint from the Association of Confederation of Consumer Organization, Thailand (ACCOT) and the Foundation for Consumers who claim that on 25 September 2017, the Department of Agriculture which is the agency responsible for the registration and control of the production, import, export and distribution of hazardous substances for agriculture according to the Hazardous Substance Act B.E. 2535, renewed the certificates of registration for paraquat, which is a type 3 hazardous substance. The renewal was done without waiting for the pending consideration of the Committee on Hazardous Substance which may announce the ban of paraquat use resulting in the classification of paraquat as a type 4 hazardous substance of which the production, import, export, or possession is prohibited. It was also done despite the fact that the Committee to Address the Problems of Use of High-risk Chemical Pesticides, at the meeting No.4/2560 on 5 April 2017 which was chaired by the Minister of Public Health, had already approved in principle the draft action plan to reduce and stop using 3 high-risk chemical pesticides. Such an act, the complainants argue, affects the environment and causes harmful health

Actions Taken

The National Human Rights Commission of Thailand considers that the use of paraquat as pesticide in agriculture is a matter of government policy involving various stakeholders. Although paraquat is a toxic chemical, causing harm to health and affecting the environment, there are differing opinions and varying management methods based on incongruent and mutually exclusive academic information and from among different parties. This results in complex overlapping managements with a lack of interlinked information, creating a gap that makes it impossible to thoroughly and adequately oversee and control the use of paraquat. Similar problems also happen with other hazardous substances used as pesticides such as glyphosate (herbicide) and chlorpyrifos (insecticide), etc. Furthermore, the Hazardous Substance Control Mechanism under the Hazardous Substance Act B.E. 2535 still cannot function as efficiently as it should be. It is not well received and it is incomprehensive, particularly in the aspects of sustainable agriculture along with the protection of consumers and the environment. Currently, the use of paraquat in agriculture directly affects the health and livelihoods of farmers and people. It is therefore the duty of the government to ensure that all citizens can live in a healthy environment through policies, measures or mechanisms that are efficient and well coordinated. These will ensure that the farmers can work efficiently, get high quality and quantity products, and are safe; the public, particularly as consumers, can be safe from the danger of chemicals and receive factual information; and the cumulative effects impacting the environment can be reduced. Furthermore, when it appears that the use of agricultural chemicals affects public health and damages the environment, the government must take steps to provide adequate and fair remedies according to relevant laws.

Although the use of paraquat in agriculture is an individual's freedom to engage in an occupation as provided in the Constitution of the Kingdom of Thailand B.E. 2560, the constitution has also stipulated that the government must take care of and promote good public health. This is in accordance with the International Covenant on Economic, Social and Cultural Rights, which requires State Parties to the Covenant to guarantee the right of all people to their physical and mental health to the highest standard as possible. Therefore, in order to protect consumers and for the public interest, and to seek a long-term solution to the problem of the use of paraquat in agriculture which will lead to sustainability in all dimensions, the NHRCT recommends the following measures or guidelines for the promotion and protection of human rights as well as amendments to specific laws, regulations or orders to comply with human rights principles to the Cabinet, the Ministry of Agriculture and Cooperatives, and the Committee on Hazardous Substance according to Section 247 (3) of the Constitution of the Kingdom of Thailand B.E. 2560 and Sections 26 (3) and 42 of the Organic Act on the National Human Rights Commission B.E. 2560:

Recommended measures or guidelines for the promotion and protection of human rights and amendments to specific laws, regulations or orders to comply with human rights principles

(1) The Committee on Hazardous Substance which has the authority and duties under the Hazardous Substance Act B.E. 2535 should classify paraquat as a type 4 hazardous substance under Section 18 of the Hazardous Substance Act B.E. 2535, of which the production, import, export, or possession is prohibited;

(2) The Ministry of Agriculture and Cooperatives should solve the problem of using all kinds of agricultural chemicals in the long term by establishing clear measures and time frames for the control or the termination of the use of all kinds of agricultural chemicals for which there is scientific empirical evidence indicating danger to public health and the environment. At the same time, the Ministry must systematically and actively develop alternative organic substances and biotechnology as options for farmers to pursue sustainable agriculture; and

(3) The Cabinet should develop a specific law on the control of agricultural chemicals, taking into consideration the draft Pesticide Safety Act B.E. ... which was prepared by the Working Group to Propel the Resolutions of the National Health Assembly on Agriculture and Food Safety under the Subcommittee to propel and follow up on the Resolutions of the National Health Assembly in collaboration with public health networks and civil society organizations.

Accomplishments/progress in the protection of human rights

(1) The Secretariat of the Cabinet informed the NHRCT that the Deputy Prime Minister (Mr. Wissanu Kreangam), acting on behalf of the Prime Minister, had assigned the Ministry of Public Health as the principal ministry to cooperate with the Ministry of Agriculture and Cooperatives, the Ministry of Industry, and relevant agencies in studying the feasibility of the recommendations. The Ministry of Public Health would summarize and submit the results of the consideration to the Secretariat of the Cabinet to present to the Cabinet; and

(2) The Department of Agriculture of the Ministry of Agriculture and Cooperatives and the Ministry of Industry similarly reported that the Committee on Hazardous Substance, in a meeting on 23 May 2018, resolved to restrict the use of hazardous substances, i.e., paraquat, chlorpyrifos and glyphosate, by approving the draft announcement of the Ministry of Agriculture and Cooperatives to restrict the use of paraquat, chlorpyrifos and glyphosate. The draft announcement requires farmers who use the substances to have prior training, specifies the duties of the sellers, identifies plant varieties and areas for the use of the substances, and requires the manufacturers, importers, and sellers to provide information, etc. The Committee also assigns the Department of Agriculture to promptly prepare an action plan to accelerate the expansion of good agricultural practice (GAP) or organic farming to cover the entire country within two years; to collaborate with academic institutions or the private sector to study and research for innovations in weed and pest control; to advise farmers to use bio-pesticides to reduce the use of chemicals within two years; and to disseminate knowledge and correct understanding about the use of substances, sprayers, and appropriate protective equipment. Any training must be tangible and include details on methods, procedures, duration and goals.