

Report No. 1058/2558 on right and freedom to life and body, right to justice process: the case of the implementation of war against drugs policy in 2003 with the consequence of widespread damages and negative effects to human rights

● **Issues of Complaint:**

Many complaints have been submitted to NHRCT for the request to examine various cases of harms to life and body, damages from seizure of properties, deprivation of freedom, i.e. enforced disappearance, being lost, etc., and damages to family's reputation due to the implementation of war against drugs policy under the administration of former Prime Minister Thaksin Shinawatra.

Decisions of NHRCT

The NHRCT has considered the complaint and found the question whether the determination and announcement of decisive war against drugs policy under the administration of former Prime Minister Thaksin Shinawatra and the implementation of related agencies and public officer affected the human rights or not. The NHRCT deemed that former Prime Minister Thaksin Shinawatra had announced the war against drug policy in 2003 which was considered as the policy making of the administration and the incentive for public officers to implement at all costs, even violence, to eliminate drug problems. If public officers cannot effectively implement, their career will be affected. Public officers extremely implemented this policy to people and these actions led to widespread damages to life, body and property of people. Such damages were considered as the impact to life and liberties of people which are guaranteed and protected the constitution. These actions were considered as the severe human rights violation which systematically and widely occurred and could be categorized as "Crime against Humanity" according to the Rome Statue of the International Criminal Court. Furthermore, such violence has not seriously been brought into the justice process, exposed to public, identified the responsibility, and taken into consideration for compensation and remedy by the government. This was a major cause of disunity of people. The government and related agencies should take actions in order to give rise to the human rights protection for various cases. Thus, policy recommendations or Recommendations on the revision of laws should be submitted to the Cabinet as follows:

Policy recommendations or Recommendations on the revision of laws

(1) The Cabinet by related agencies should return fairness and justice to injured persons and their families under 3 actions as follows: (1) exposing the truth of incidents to public; (2) providing compensation and remedies to injured persons and their families; and (3) bringing offenders to justice, by submitting the outcome of the examination to the NCCC,

conducting the inquiry under the power to recover the investigation of the case and considering the possibility of the submission of the case to the International Criminal Court.

(2) The Cabinet by related agencies and the Parliament should take actions to protect the rights of persons affected from the government policies and to prevent the chance of human rights violation in the future, such as the amendment of laws relating to human rights in the criminal justice process, the amendment of laws relating to procedural laws in the justice process with the aim of improving the investigation system applied to the action of human rights violation, the amendment of laws on the Damages for the Injured Person and Compensation and Expense for the Accused in the Criminal Case, the amendment of laws relating the measure of suppression on offenders of drug crimes and the arrangement of training courses for officers with duties to prevent and suppress the crime to understand and respect human rights.

(3) The Cabinet by related agencies and the Parliament should take actions on developing the standard of human rights protection from the performance of public officers, such as the ratification of the Rome Statue of the International Criminal Court, the accession to the International Convention for the Protection of All Persons from Enforced Disappearance, the issuance of laws on the protection and suppression of tortures and enforced disappearance and the revision of laws, subordinate laws, orders, and measures/guidelines which might be against the protection of people from torture by public officers together with the prevention of enforced disappearance according to related international conventions.

(4) The Cabinet by related agencies should build more confidence on the image of human rights and justice process of Thailand among foreign countries, such as the presentation of the government performance on solving severe human rights violation in the war against drug policy by attaching it in the country's reports according to the International Covenant on Civil and Political Rights and the UPR process of the Human Rights Council of the United Nations

Performance outcomes of the Cabinet and related government agencies

On 8th December 2015, the Cabinet adopted the resolution on acknowledging the outcome of the NHRCT consideration for policy recommendations and Recommendations on the revision of laws and assigned the Ministry of Justice to be the central agency to consider together with the Ministry of Interior, Office of the Attorney General, Royal Thai Police and Office of the Judiciary to study the guideline or the appropriateness of such proposals and summarizing the outcome of consideration or the outcome of performance about such issues in general.

On 1st March 2016, the Cabinet adopted the resolution on acknowledging the conclusion of the performance presented by the Ministry of Justice. The key conclusion is that the Independent Committee on Examining, Studying and Analyzing the Determination of Narcotics Suppression Policy and Its Implementation with the Consequence of Damages to Life, Body, Reputation and Property of People (*Kor Tor Nor*) has disclosed the data from the examination to public in 2009 and agreed with the recommendations of NHRCT on the amendment of laws relating to the consideration on compensation and remedy for injured persons or their families. The ordinary criminal proceedings or the charge of abstaining duties under Section 157 of the Criminal Code can be performed to related persons with sufficient evidences. The restoration of investigation of case completely investigated shall not be performed except there are new evidences that can recover the investigation which is under the prescribed laws. Moreover, the recommendation which is about the submission of case to the ICC is sensitive to the National Security, so the Cabinet should appoint the special committee to consider this issue under the awareness of all aspects. It is appropriate to amend laws on the permission to make a copy of a whole investigation report and assign a public prosecutor to participate in the investigation of severe case of human rights violation. The Department of Rights and Liberties Protection accepted such recommendation to consider for the improvement of Section 20 (3) and Section 22 of the Damages for the Injured Person and Compensation and Expense for the Accused in the Criminal Case Act B.E. 2544 (2001). The Office of the Narcotics Control Board has already drafted the Narcotics Code in a part of confiscation of properties in narcotics cases. The Royal Thai government has signed the International Convention for the Protection of All Persons from Enforced Disappearance (CED) and the ratification of this convention is under the process of the submission to the Cabinet for consideration. The department of Rights and Liberties Protection has made a draft of the Prevention and Suppression of Tortures and Enforced Disappearance Act, including subordinate laws and related guidelines, and organized training programs to disseminate related knowledge which all had been considered by the Office of the Council of State and related agencies. And the draft has been later submitted to the Cabinet for consideration. The country's report under the ICCPR has already been submitted to the UN. For the report submitted to the UPR process, its details are general and consist of many various issues under the limitation of not over 20 pages so only significant issues were selected to be in the report and the content of such report must be about the current situation.