

Human Rights Assembly Resolution

Sub-Room 1 Rights in Criminal Justice

The participants who were attending the 1st Human Rights Assembly, Sub-Room 1, Rights in the Criminal Justice Process consisted of relevant government agencies, civil society, and academics. The discussion was divided into two topics: prevention and suppression of torture and management of criminal records. It considered the challenges of promoting and protecting human rights. On the issue of prevention and suppression of torture and management of criminal record registration, the opinions are as follows:

Topic 1 Prevention and Suppression of Torture

Resolution of the National Human Rights Commission Criminal Justice Department and civil society together to drive the enforcement of laws on the prevention and suppression of torture and enforced disappearances effectively and achieve the intent of the law.

1. Development/background issues of prevention and suppression of torture

The National Human Rights Commission has always monitored the situation of torture and atrocities during detention which are key issues in the criminal justice system because torture is a violation of the right to life and body, the right to justice, as well as human dignity. From the statistics of complaints, it was found that there were cases of alleged violations of the right to life and body 115 cases of torture and assault during detention between 2011 - 2022 showing that the situation has existed for a long time and is unlikely to be resolved. Although Thailand has been a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) since 2007, the Department of Rights and Liberties Protection Ministry of Justice has studied and prepared a draft for the implementation of the two aforementioned conventions; At the same time, human rights organizations consist of Cross-Cultural Foundation People's Rights and Liberties Association (NSS) and Human Rights Lawyers Association (NSS) have jointly prepared a draft Act on Prevention and Suppression of Torture and Enforced Disappearance B.E. submitted to the Commission on Law, Justice and Human Rights House of Representatives The committee has considered studying the Bill on Prevention and Suppression of Torture and Enforced

Disappearance B.E. and submitted it to the House of Representatives on behalf of members of the House of Representatives and political parties. until the House of Representatives approved the bill. And the bill was submitted to the Senate for approval. On August 24, 2022, the House of Representatives approved a bill on the Prevention and Suppression of Torture and Enforced Disappearance B.E. as submitted by the Senate revised back to the House of Representatives for consideration.

2. Current Challenges

2.1 Developing a process for investigating human rights violations with the physical and mental examination in case of torture

The National Human Rights Commission considers that in the past, the process of investigating human rights violations. In cases of torture, there are often no traces of external wounds caused by torture, resulting in a lack of evidence to take action to protect the rights of the victims. Therefore, developed and drafted a curriculum for recording medical evidence. For doctors and medical personnel, it focuses on proving the mental damage of the detainees as evidence to prove the truth. Two hearing meetings were held on May 25, 2022, and June 14, 2022. The participants consisted of representatives of ISOC Region 4, front, and representatives of the Royal Thai Police, representatives. NACC, representative of the Department of Corrections Representative of the Rights and Liberties Protection Department Representative of the Department of Special Investigation, Representative of the Institute of Forensic Science, Representative of Kalaya Rajanagarindra, Songkhla Rajanagarindra Psychiatric Hospital, Yala Center Hospital, Hat Yai Hospital, as well as representatives of civil society, such as the Cross-Cultural Foundation, Lawyers for Human Rights Center, People's Liberties Rights Association, etc.

Later, the National Human Rights Commission organized a training program for recording medical evidence in cases of torture for doctors and medical personnel on August 30-31, 2022, at Laguna Grand Hotel & Spa, Muang District, Songkhla Province, as a pilot project which is considered as an important starting point to increase efficiency in the investigation of human rights violations in the case of torture to make the truth appear as a means to protect and heal the victims. It also develops a verification process to create transparency for government officials who work. This is an important step in building reconciliation in the area, as well as ensuring that Thailand has an appropriate mechanism for checks and balances by arranging for

forensic psychiatrists and forensic psychiatrists to conduct physical and mental examinations, who are doctors of an agency other than the agency of the officer in charge of detention. In the next phase, the law and regulations will be pushed to support the operating mechanism of medical personnel to be more efficient.

2.2 Pushing for effective enforcement of laws on the prevention and suppression of torture and enforced disappearances

National Human Rights Commission has closely monitored the situation of the legislative draft law and made recommendations to amend the law and propose it to the Cabinet. The House of Representatives and the Senate supported and push the bill to come out and enforce as soon as the House of Representatives resolved to approve the bill on the Prevention and Suppression of Torture and Enforced Disappearance Act B.E. However, although the law will come into force soon the effective enforcement of laws on the prevention and suppression of torture and enforced disappearance continues to be a challenge, especially in the development of organizations in the criminal justice process. Both the National Human Rights Commission Civil society and the people must work together to closely monitor the enforcement of this law.

3. Suggestions/guidelines to drive

At the National Human Rights Assembly: Looking backward and Looking forward two Decades, the NHRC is a challenge for the National Human Rights Commission to push forward with government agencies, qualified, including network partners involved in various issues that should be pushed on important issues as follows

1. Push up effective enforcement of laws on the prevention and suppression of torture and enforced disappearances by developing a management system for both the body of knowledge personnel and corporate budgets in the criminal justice system consisting of police, Department of Special Investigation, Prosecutors, Courts, Corrections, and Administrative Agencies. Including promoting the capacity of civil society and the people in monitoring law enforcement. For example, developing criteria or guidelines for receiving complaints so that people can access justice conveniently. There is a quick and easy process, guidelines for recording images, and sound under international principles Development of document formats for recording detainees' information, etc.

2. Push up a system to record the physical and mental health of the detainees. This should be performed by a physician from an agency other than the authority responsible for detention by having forensic doctors and forensic psychiatrists examine the physical and mental conditions of the torture victims and prepare medical records.

In addition, to have a systematic development States should support the budget for diagnostic missions to use medical evidence for litigation because they are different from routine medical examinations to clarify the mission of physicians in litigation, physical and mental examination, and the preparation of records of medical evidence in cases of torture. Therefore, the need to push for laws to support the work and create incentives (incentives) should be continued.

The National Human Rights Commission is ready to support organizing training to educate doctors and medical personnel on physical and mental examinations under the Istanbul Protocol framework to comply with human rights principles.

3. Push up amendments to the rules under the Compensation of Victims Act and Compensation and Expenses for Defendants in Criminal Cases and its amendments. to be able to pay compensation to victims of the commission of torture and enforced disappearance; by requesting compensation for the injured person from the Compensation of the Victims Act and Compensation and Expenses to Defendants in Criminal Cases, B.E. 2544

4. Secondary legislation should focus on participation from all sectors and should create a network for monitoring. In addition, there should be rules and mechanisms to protect people who have witnessed or heard of the incident and inform officials about torture and disappearance and acts of cruelty, inhumanity, or degradation of human dignity.

5. Push up the government to cancel the statement of interpretation The interpretative declaration of entry into a party, Article 1 on the definition of torture, Article 4 on the designation of torture as an offense, and Article 5 on Jurisdiction over torture. Because the Draft Prevention and Suppression of Torture and Enforced Disappearance Act B.E. had designated torture as an offense. Therefore, there is no need for Thailand to interpret legal provisions in such a manner.

6. After the Act on Prevention and Suppression of Torture and Enforced Disappearance B.E. Pushing Thailand to join the International Convention on the Protection of All Persons from Enforced Disappearance (International Convention for the Protection of All Persons from Enforced Disappearance: CED) to enforce the Draft Prevention and Suppression of Torture and Enforced Disappearance Act B.E. follow the principles and spirit of the said Convention.

Topic 2 Criminal Records Management

The joint resolution drives the creation of a criminal record management database and pushes the law to be in line with human rights principles by balancing the protection of people's rights and freedoms with the prevention and suppression

1. Development/background issues of criminal record management

According to, the National Human Rights Commission has monitored the human rights situation of the country and considered the information from the investigation of complaints. It was found that the process of collecting criminal records has an impact on human rights. For example, the freedom of occupation in the event that the agency refuses to work or the employer takes the criminal record of the petitioner who was prosecuted while he was a young person and considers refusing to work, criminal records databases are out of date, problems of persons who have been beneficiaries under the law of purification but still have their names on the criminal record register, including problems with the criminal record of children and youth. The offense was committed as a minor and the court sentenced the sentence to train or having passed probation, but it can't delete the information from the criminal record register. Therefore, The National Human Rights Commission has recommended the duties and powers of the Constitution of the Kingdom of Thailand, Section 247 (3) to the Council of Ministers to assign the Ministry of Justice and the Royal Thai Police to improve the process of managing criminal records in Thailand.

2. Current Challenges

Monitoring progress for relevant agencies to implement the NHRC's recommendations remains extremely challenging. This is because the management of criminal records in Thailand is a structural problem. Collaboration between multiple agencies in the justice system is needed to solve problems that have accumulated over a long period, especially the improvement of the lawsuit database and the sharing of information among agencies in the

judicial process. The National Human Rights Commission held a meeting to monitor progress from relevant agencies and jointly drive the recommendations on July 27, 2022. The participants consisted of: assistant professor Dewan Rumitkul, Police Lieutenant Colonel Prawut Wongsinil, Deputy Permanent Secretary, Ministry of Justice, Ms. Usa Janploy Boonpiam, a legal expert at the National Human Rights Commission, as well as representatives of government agencies, such as the Ministry of Justice, representatives of the Royal Thai Police, representatives of the Department of Corrections, representatives of the Rights and Liberties Protection Department, representatives of the Office of the Attorney General, and representatives of the Office of the Court of Justice, etc.

2.1 Short-term challenges

1) Request the Royal Thai Police to expedite the improvement and amendment of the Royal Thai Police Regulations on the Code of Police Regulations that are not related to the case, Title 32, Fingerprinting. Classified into 2 types of accounts, namely, Type 2, an account of the accused or defendant's history in which the case is under consideration, and Type 2, an account of a person who has been sentenced to the final judgment of an offense to address the human rights impacts and to comply with the presumption of innocence, and the Royal Thai Police should additionally record purification information in the criminal record.

2) Let the Ministry of Justice be the main agency in cooperating with agencies in the judicial process such as the Royal Thai Police, the Department of Corrections, and the Office of the Attorney General. Office of the Court of Justice in linking information technology systems to quickly share and forward case data and edit the criminal record database up to date in order not to burden the public in submitting a request to update the criminal record database by themselves.

2.2 Long-term challenges

Let the Ministry of Justice expedite the consideration of the draft Criminal Record Act B.E... to be a central law in the form of a central criminal record information center. There must be a unit responsible for managing, coordinating, and linking information, and checking all types of criminal records in the same way for the benefit of the management of the entire criminal justice system in an integrated manner. This is to ensure fairness and protect the human rights of data subjects. For instance, by adding rules and conditions on non-disclosure of the beneficiary's record of stigmatization, removing a criminal record if the owner of the

record does not repeat the crime, taking into account the severity, and type of offense Social perspectives include solving the problem completely in line with human rights principles and the context of Thai society. However, on July 21, 2022, the Ministry of Justice proposed a draft of the Criminal Record Act B.E. to the Secretariat of the Cabinet, where the National Human Rights Commission must monitor the situation and give opinions to the said bill at the Council of State.

3. Suggestions / Operational Guidelines

Criminal record management is of paramount importance for the state's effective prevention and suppression of illegal activities. to maintain order and order in society. Consequently, judicial agencies still need to collect and use the information to carry out their duties and powers at the investigative, investigative, and judicial levels to bring the offenders to justice for the rights and liberties of the people, and is one of the main reasons that the acquitted cannot return to normal life in society. In particular, the inability to access the source of work after the sentence has been released because those people have a criminal history with them. It's difficult for people around you and society to trust to work. It may cause the acquitted to return to commit the same offense again. Therefore, the management of criminal records has both practical and policy problems that should be addressed as follows:

1) Short-term troubleshooting

1.1 The relevant agencies should effectively manage the exchange of case information among agencies in the judicial process, requiring serious cooperation between agencies to mitigate the impacts of the people promptly and to ensure that the management of criminal records is following the principles of human rights. In addition, it is not a burden for the people to submit a request to update the criminal history database by themselves by using the information technology system to serve the people more.

1.2 Support and push for the Royal Thai Police to amend the regulations of the Royal Thai Police On the Code of Police Regulations, not related to the case, Type 32, Fingerprinting, B.E. 2554 so that the provincial commander can consider deleting the history in the case of the prosecutor's order not to prosecute. The court dismissed the lawsuit. The court did not accept. In addition, the next phase should include deleting the history of persons who have been sentenced to fines and suspended.

2) Long-term troubleshooting

Pushing up a law to be enforced specifically as a central law in the form of a central criminal record data center to the personal history collection process does not affect the rights and liberties of the individual beyond the necessity and is proportional or balanced between the public interest or the public interest to be received compared to the impact on the rights and liberties of the people. Furthermore, it must not affect the rights and liberties of non-criminals.
