

ANNEX
Summary of the public hearing on human rights situation in Thailand
for the NHRCT's report under the Universal Periodic Review process

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On 1 March 2011, the National Human Rights Commission of Thailand (NHRCT) held a public hearing forum on the human rights situation in Thailand to gain inputs for the NHRCT's report to be submitted to the United Nations under the Universal Periodic Review (UPR) process. The event was attended by about 120 representatives of NGOs working on human rights, people networks, academia, relevant government agencies and the media. The forum was broadcasted live through television radio stations across the country including TV Channel 11 and Radio Thailand, Parliamentary Radio and community radio network. The audience could also phone in to express their opinions. Comments received from the forum are summarized below.

1. Violence in the Southern border provinces

- There are problems relating to the enforcement of martial law, which allows for an arrest and detention of a person for interrogation for up to 7 days without a court warrant. The places of detention of those arrested and detained are usually not made known to the public. Relatives have difficulties visiting the detainees such as in the weapon robbery case whereby 20 detainees are currently detained in an unknown place.

- There are also problems of undue delay, unfairness and lack of independence of the judicial process. A participant of the forum proposed that inspection of detention places should be allowed and there should be a mechanism to check against abuse of power by security forces in the area where a special law is enforced.

- A relative of a victim of Krue Se Mosque incident called on the authorities to expedite the judicial process of the case. Inaction and neglect will affect the confidence of the local people on the justice system of the country. Today, both Thai Buddhists and Thai Muslims are victims of the violent situation in the South. She urged the government to quickly find the solution to problem to ensure security for the local people.

- A participant expressed disagreement with the opinion expressed in the draft NHRCT report that violence in the South was caused by some people who are not satisfied with the government as this can be misinterpreted to mean that Thai Muslims are the cause of the problem. He also noted that the mentioning of only human rights violations cases occurred during the previous government might lead to the present government's denial of its responsibility to what is happening in the South.

- Human rights defenders are still harassed and threatened for their action.

- The government continued discriminatory treatment in favour of groups having close ties with the political parties of the government, such as in the case of providing assistance to the people affected by recent floods.

2. Rights relating to the administration of justice

- A participant raised concern over the problem of torture in the South, as well as problems in the arrest procedures and human rights violations by the police. She proposed that the justice system be reformed and the power of arrest and investigation be separated from each other.

- A suggestion was made that there should be an alternative judicial process with emphasis on mediation to help resolve conflicts at family and community levels. At present, restorative justice has not made much progress. In addition, public prosecutors need to be more independent. Judges need to increase their knowledge, adjust their attitude towards seeking truth and be more sensitized to the people's misery.

- The rich and the poor do not have equal access to justice due to discriminatory attitude and practices.

- In case a government official is implicated in a criminal offence such as an enforced disappearance or extrajudicial execution, the injured party must be protected. A case was raised where the police may discontinue protection of witness whose life is in danger.

- The draft NHRCT report did not touch on the extrajudicial killings occurred during the war against drugs nor on the progress on the abolition of death penalty or lack of it. The culture of impunity must be eliminated from the Thai society.

3. Political demonstrations and related cases

- Rights of the accused as provided for in the Criminal Procedure Code have not been fully respected. The draft NHRCT report did not reflect problems with rights relating to the criminal procedures.

- Regarding the draft law on public demonstration, a police officer explained that the law will be instrumental in framing the scope of a demonstration so as to promote and protect the rights of others.

- A suggestion was made that the draft NHRCT report on this issue could be shortened. Emphasis should be on creating a society where people learn to respect the rights of others, do not resort to violence, and have meaningful participation in the political process.

- A participant observed that the draft NHRCT report did not mention the closing down of websites, lese majeste charge and victims of the government's use of force in quelling the political demonstration. The enforcement of the 2007 Computer Crime Act clearly affects the right to information and freedom of expression because such law gives state officials broad discretionary power.

- The NHRCT should add the following points in its report: 1) case of "Da Torpedo" (who is prosecuted on the charge of lese majeste); and 2) discrimination in the prosecution of United Front for Democracy Against Dictatorship (UDD) supporters and those of the People's Alliance for Democracy (PAD).

4. Community's rights and equitable and sustainable management of natural resources, environment and land

- People's rights are often violated by the centralized government's policies which affect their lives and well-being. People cannot participate in the policy making process and do not have appropriate channel to give their views and opinions on public matters that affect them. Corruption at local government level has led to implementation of many development projects despite a failure to meet the environmental impact assessment requirement. In this regard, a proposal was made that there be a public forum where people who might be affected from those projects can get involved in the process.

- A victim who is affected by cadmium in Mae Tao River Basin said that the NHRCT visited and the investigation of the case since 2003 had drawn the government's attention to the problem. However, after 2006, the government stopped providing compensation but turned to change the local people's career instead. This is not a sustainable solution since it does not address the health problem of the people.

- Gold mining has created negative impacts on the environment in several provinces, namely Phichit, Phitsanulok, Phetchabun and Loei. The underground water used by local people is contaminated with heavy metals released by the gold mines. This problem has not been solved effectively. The NHRCT should investigate the case in order that remedies are provided to the victims. As an urgent measure, it is proposed that the government stop giving concession on gold mines until the current problem is solved.

- The Southern region should be agricultural rather than industrial zones. If there will be a biomass power plant, it should be managed by the local community.

- The violation of community rights is usually a result of unlawful order of politicians. In formulating the development plan of a specific area, therefore, people living in such area should be allowed to participate in the process. A mechanism should be instituted to ensure more transparency in the political circle and prevent the taking of advantage by some capitalists.

- Some community leaders were intimidated and could not live in their community.

5. Human trafficking

- The government should work closely with NGOs while the civil society should monitor the government's work.
- The government should allow for the registration of migrant workers during each year.
- The government mechanisms for prevention of human trafficking both at national and provincial levels, should improve their performance, particularly in the prosecution of offenders. There must be a multidisciplinary team to identify and give assistance to victims of trafficking.
- It should effectively enforce human trafficking law. Efforts should be made to prosecute traffickers. A participant stressed that migrant workers should not be arrested.

6. Women's rights

- Most women still lack knowledge about laws on women's rights. Some provincial mechanisms have not focused on promoting and protecting women's rights. In some cases, government officials themselves committed sexual exploitation. A proposal was made that the number of female police officers should be increased and sent to work in other parts of Thailand rather than concentrating only in Bangkok. The number of public prosecutors should also be increased to expedite cases relating to women's rights.
- The draft law on gender equality is very useful but an exception on reasons of religion, academic and public interest in the draft law should be deleted because it could lead to discrimination.

7. Rights of the child

- The draft NHRCT report lacks the cultural dimension of children's rights and did not mention the situation of children in the South. The report should raise the issue on the right of children to participate in the national policy making process. Attention should be paid to reference of children in public or media coverage so as to respect to the rights of children.

8. Rights of persons with disabilities

- A participant proposed that the rights of persons with disability be included. Disabled children are exploited by being forced to beg on the streets. The government has an obligation to provide appropriate facilities to enable disabled persons to participate in public life. The lack of such facilities constitutes a violation of the rights of disabled persons.
- Violence in the Southern border areas has caused injuries and disabilities. The government must provide compensation and remedies to those individuals who have become disabled as a result of violence in the South.
- The NHRCT should produce its draft report in Braille alphabets to ensure the rights of disabled persons to information. The draft report should include the issue on unfair discriminatory practices.

9. Labour rights

- The draft NHRCT report did not mention issues relating to labour rights which include unfair dismissal from work, safety working condition, non-compliance with labour laws and privatization of state enterprises. A representative from a labour organization put forward the following proposals: 1) Setting up of a fund to support workers who are unfairly dismissed from work; 2) Ratification of ILO Conventions No. 87 on Freedom of Association and No. 98 on Collective Bargaining Rights; 3) Increase of minimum wage in accordance with the ILO standards; 4) Amendment of the Social Security Law so that the Social Security Office become an independent organisation and the executive committee responsible for the management of the Social Security Fund are directly elected by the Fund members; 5) Greater participation of workers by allowing them to elect their representatives in the workplace and allowing workers without a bachelor degree to stand for election; and 6) Review of government policy to enter into

free trade agreements. The national development policy should accord more importance on the social and cultural dimensions rather than focusing solely on economic interests.

- Family members of migrant workers have not received any protection. The law on the working of aliens should be amended to protect their rights. Illegal women migrants should not be deported while pregnant. The government should adopt a long-term policy on migrant workers.

- Migrant workers usually work in dangerous conditions but the Compensation Fund refuses to pay them compensation and pushes the burden on to employers. Not all migrant workers have gone through the nationality verification process and the government policy on this issue remains vague and unclear.

10. Ethnic groups and stateless persons

- There are two groups of displaced persons (or refugees) in Thailand. The first group are some 160,000 asylum seekers living in camps along the Thai-Myanmar borders, about 60,000 of whom have not yet been registered. They face problems relating to right to education, right to health care, freedom of movement, access to the justice system and right to work. The second group are some 3,000 asylum seekers living in urban areas. Despite their special status accorded to them by the UNHCR, they are arrested by immigration officers. A participant proposed that the NHRCT report should include the problem faced by the second group of displaced persons and they should be protected in accordance with international human rights principles rather than on humanitarian basis.

- The issue of the right to nationality of tribal people should be reflected in the NHRCT report. They have not acquired their Thai nationality because of corruption and prejudice among concerned authorities. A participant called on the government to expedite the process to grant nationality to the tribal people.

- Tribal people should be guaranteed the same fundamental rights as the Thai people, particularly the right to health care.

- Tribal people can be arrested on the land where they have been living for a long time for trespassing charges and can be fined up to 150,000 baht per rai. Families of some tribal people who were victims of the war against drugs have not received any remedies from the government.

11. Sexual diversity

- Thai society does not understand the concept of sexual diversity as a result of traditional attitudes. In this connection, a representative of the sexual diversity group proposed that relevant laws be amended to prohibit discrimination on ground of sexual diversity in the workplace, education and public participation. There are instances where violence is used against transgender groups such as attacks to transgender groups at a parade in Chiang Mai province.

- The draft NHRCT report did not mention the issue of discrimination based on sexual orientation (such as life insurance companies which provide benefits to the spouse of the opposite sex only) and discriminatory practices in the civil services. The representative of the group made the following proposals: 1) The gender equality law should be approved; 2) A law should be enacted to legalize the changing of sex; 3) sex education should be promoted to reduce social prejudice against transgender groups.

12. Other issues

- The following issues are proposed to be added in the NHRCT's report: 1) the case of Vietnamese women hired as surrogate mothers in Thailand; 2) the use of shackling with prisoners 3) the case of seven Thais being arrested in the disputed area between Thailand and Cambodia; and 4) highlight of the vulnerable groups such as women, ethnic group, children, persons with disabilities and elderly people.
