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**The NHRCT reports the investigation of human rights violations during political demonstrations: the disproportional acts by police officers and the use of artificial weapons by some protesters found. The NHRCT issues recommendations for the government to provide remedies to affected protesters, people and police officers.**

On 24 December 2021, the National Human Rights Commission of Thailand (NHRCT) led by Mr. Wasan Paileeklee and Assistant Professor Suchart Setthamaline, National Human Rights Commissioners, together with Mr. Pittaya Jinawat and Mr. Boonkua Somnuk, Advisors to the NHRCT, released the report on the investigation of human rights violations for the year 2021 in the case of political demonstrations during July-September 2021. The report was adopted at the NHRCT meeting on human rights protection and standards No. 53/2021 (28) on 20 December 2021. The details can be summarized as follows:

The NHRCT received a number of complaints related to political demonstrations during July-September 2021, and the NHRCT viewed that certain incidents should be raised to investigate whether there are acts or omissions of human rights violation during the demonstrations on 16 and 18 July, and on 1 and 7 August 2021. Therefore, the Working Group was appointed to investigate cases of human rights violations during the period. In producing the report, the Working Group collected information from all parties, namely protesters, crowd control police officers, relevant government agencies, media, residents around the demonstration areas and affected people. Brainstorming sessions were also organized to seek possible conflict solutions, including the protection of children's rights in demonstrations. Representatives of protesters, government agencies, civil society organizations, scholars on peace studies and child psychologists attended the discussion. In addition, Commissioners and staff members visited protesting areas to observe and monitor the situations, visited protesters who were arrested and coordinated the protection of their human rights.

From the investigation, the NHRCT finds that people who joined political demonstrations during July-September 2021 were mostly school and university students, and political activists who expressed their opinions demanding political reform and called for effective government's measures to manage the situation of COVID-19 pandemic. The demonstrations were organized in three main forms, which were: (1) protest marches and flash mobs (2) demonstrations in form of "Car Mob" and "Bike Mob" and (3) demonstrations

without clear leaders. The investigation of human rights violations focused on the following issues:

**1. The use of State power to control and manage the demonstrations** The NHRCT considers whether there are acts or omissions that violate human rights or not, and the investigation finds that the enforcement of the Emergency Decree on Public Administration, B.E. 2548 (2005) was used to manage and control the demonstrations by the government, resulting in most prohibition of all forms of demonstrations. The restriction of freedom of assembly is not proportionate to the reason for public health safety. In addition, the arrest and prosecution of protesters for the offenses under the 2005 Emergency Decree and other laws is considered to create fear among people to exercise freedom of assembly in such circumstance. Therefore, it is regarded the act of human rights violation against protesters.

As for the use of force by police officers to manage and control demonstrations, the investigation finds that, in several cases, crowd control police officers used tools with inappropriate methods. For example, batons were used to cause serious injury; rubber bullets were shot at head-height level; tear gas were fired into people's houses. These acts are inconsistent with “the guiding practices for police officers in using crowd control tools under the public assembly supervision plan” according to the Cabinet Resolution on 25 August 2015, and also the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement. It is also found that the use of force to arrest protesters caused injuries in the course of action since several dangerous tactics were used. For example, rubber bullets were shot to block the escape; cars cut in front of them caused collision; and motorcyclists were shoved away and collapsed. Although there were not peaceful incidents, the NHRCT considers that it is unreasonable for the authorities to resort to violent means without due consideration of harmful consequences, especially when applied to children and youth. Such operation is improper, disproportionate and thus regarded the act of human rights violation.

Concerning the administration of justice, the method used to restrain and arrest children and youth is also inappropriate. In some cases, there was no indication of fleeing or fighting but police officers still used cable tie restraints. The NHRCT also found cases of youth being detained together with adult suspects without separating them to specific places. The arrested persons were taken to police stations that were not the office of the local investigators or investigating officers in charge, such as the Border Patrol Police Region 1 in Pathum Thani Province. As a result, lawyers were unable to immediately meet the accused persons to provide legal assistance. In the litigation of some cases, police officers did not inform the accused persons of their rights or did not allow them to contact relatives which was not in accordance with the legal procedures.

On the issue of temporary release, this included both arrested persons and detainees who were released temporarily without bail and with bail. There were cases where

the court did not grant bail for the circumstances of the latter's offense of breaking the conditions of temporary release or there may be repeat offences. The NHRCT considered that in this case, even it was the exercise of discretion under the jurisdiction of the court but the consideration of provisional release should be based on the principle that everyone should be allowed to temporary release. The provisional suspension of release should be applied in cases where there are reasonable grounds as stipulated only in the Criminal Procedure Code in order to be consistent with the Constitution and the International Covenant on Civil and Political Rights (ICCPR) which guarantees the right of accused person or defendant to be presumed innocent until final judgment is made, and safeguards the right to be temporarily released pending trial.

**2. Consideration of the exercise of right and freedom of assembly of the people** Although political demonstrations in July-September 2021 occurred during the enforcement of the 2005 Emergency Decree to prevent and control the spread of COVID-19, the assembly in form of activities such as “Car Mob” and “Bike Mob”, driving vehicles along different routes, proved its aim to prevent the spread of the disease and there was no violence manner harming life, body and property of other people. As for the violence, it occurred after the end of assembly, or was caused by the mass who did not conform with the assembly rules. As for march protests and flash mobs, they were generally genuine political demonstrations with no violent purpose. These two forms of assembly are thus considered a constitutional exercise of the right and freedom to peaceful assembly and without arms. However, in the assemblies without clear collective or individual leadership, the use of imitation weapons in retaliation to the police by demonstrators are regarded violent, thus not peaceful assembly. Therefore, officials can use legal enforcement measures, but it needs to meet the requirement of the principles of necessity and proportionality, especially the treatment of children and youth.

**3. Consideration of the impacts and remedies for damage from the protest situation** At present, there is still no specific law or regulation to support those affected by political violence or conflicts. Despite the Council of Ministers’ resolutions on July 5, 2016 and June 13, 2017 assigning the Ministry of Finance, together with related agencies, to draft a law or regulation related to State’s assistance and remedies to cover all harms, the operation has yet to complete without imminent progress. Therefore, the NHRCT recommends to complete the amendment of such law soon.

**4. Consideration of the case of child protection in the protest situation** It finds that government officials did not distinguish groups of children from adults in the assemblies. They were treated indiscriminately, both in the use of force to control protests and in the judicial process. The NHRCT, therefore, has recommendations to protect the rights and safety of children in protest situations (in the case of the Din Daeng Triangle) to the Royal

Thai Police, the Ministry of Justice and the Ministry of Social Development and Human Security in September 2021, which all agencies agreed with.

Based on the results of the investigation and the above consideration, the NHRCT, therefore, proposes recommendations to the Council of Ministers and relevant agencies relating to the prevention and the redress of the situations of human rights violation, including the promotion and safeguards of human rights which can be summarized as follows:

**Regarding the prevention and the redress of the situations of human rights violation,** the Royal Thai Police has to refrain from using barbed accordion wire for the purpose of crowd control, to improve the procedures and operation of crowd control officers to comply with legal and international standards, to ensure that all arrested persons will enjoy and can access their rights in the judicial process, and to avoid the acts that impede the right of the arrested to obtain legal assistance.

**Regarding the promotion and safeguards of human rights,** the Council of Ministers has to avoid declaring a state of emergency to keep the assembly in order. The purpose of the 2005 Emergency Decree is to prevent serious threats of national security, and it must not be used in general political gatherings. The Council of Ministers should also assign the Ministry of Justice to expedite the preparation of law or regulation to help and remedy all effected harms to the public, including in the situation of political assembly. Meanwhile, the Royal Thai Police should establish guidelines for the management of public assemblies by uniformed police officers. In the arrest and prosecution of the demonstrators, the Royal Thai Police has to strictly respect the rights of the arrested and the accused and to avoid charges that impose an unreasonable burden on rights and liberties bearers. The NHRCT has also proposed to the Court of Justice to determine the guidelines for the exercise of discretion on provisional release in accordance with the principles recognized and protected by the Constitution and the International Covenant on Civil and Political Rights, and other measures in lieu of detention should be considered.

At the same time, the NHRCT has **recommendations on the organizing of assemblies** which has to be peaceful and free from weapons and imitation weapons. The organizers or demonstrators must consider the rights and safety of other people, and be responsible to participants in the assembly. The organizers of the assembly have to assess the risks in the assembly and the COVID-19 pandemic as well as other causes, especially the safe areas for children and youth. Lastly, the communication channel between the organizers and government officials should be provided. The assemblies will then be in accordance with international standards.

Office of the National Human Right Commission of Thailand  
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