

## Executive Summary

### Assessment Report on Human Rights Situation in Thailand 2018

National Human Rights Commission of Thailand (NHRCT) has a duty and authority to prepare an assessment report on Human rights situation as provided in Section 147 in Part 6, Chapter 12 of the Constitution of the Kingdom of Thailand B.E. 2560 (2017), and in the Constitutional Act on National Human Rights Commission B.E. 2560 (2017). The report shall be in form of a summary that includes at least problems, obstacles and recommendations towards human rights promotion and protection to be completed within 90 days after the end of each calendar year for presenting to the Parliament and Council of Ministers and disseminating to the general public. A plan is to be made up for preparation of this report, so that actions could be taken without delays and the report is completed within a determined time frame. The Council of Ministers, on the other hand, has to appropriately and quickly improve the report after receiving it. In any case of which these actions could not be taken or more times are needed to take actions, the NHRCT should be informed reasons behind without delay.

To prepare an assessment report on human rights situation in Thailand for the year 2018, the NHRCT had systematically prepared a framework for assessment, fact screening and processing of recommendations for each issue through collection, investigation and reviews of information from various sources, that are (a) primary sources of information from actions taken by the NHRCT covering examination of complaints and hearing process or other actions, (b) sources of information about related public and private sector from circular letters, meetings and interviews, and (c) sources of information from academic sector, the media and the general public. Its content is divided into 4 groups, 14 issues, and in each issue, assessment is presented in 3 parts, that are 1) an overview, 2) assessment of situations, problems and obstacles, and 3) recommendations. The report can be summarized as follows:

#### **Part 1: Assessment of situations concerning civil and political rights in 3 issues that are:**

##### **Rights in the Justice Process**

In 2018, the state had taken actions to reform the country as required in the Constitution of the Kingdom of Thailand B.E. 2560 (2017) in part of the justice process. After declaring a country reform plan on this issue, the state had prepared the Third National Master Plan on Administration of Justice Affairs B.E. 2562-2565 (2019-2022) that is consistent with the country reform plan and prepared a Justice Affairs Implementation Timeframe Act B.E. ... to guarantee that the people shall receive justice without delay. At the same time, the state had taken other actions to promote and protect the rights of the people in justice process even more, such as to provide financial support for bail to the people in order that they shall be temporarily

released while their cases are being proceeded according to the Justice Fund Act B.E. 2558 (2015), including facilitation to make this support being quickly carried out by using a document that certifies payment by the Justice Fund as a guarantee for temporary release and public relations thoroughly to the people to ask for support, amendment of the Criminal Procedure Code to give officers or court more discretion to allow temporary release without bail in order not to become too much of a burden for defendants or alleged offenders. There were efforts to reform a system for the protection of persons affected by criminal offence by conducting studies on this matter and preparing a Protection and Assistance of Persons Damaged in Criminal Case Bill B.E. ...

In 2018, there were, however, two situations of concern, that were issue related to death penalty when it was enforced on 18<sup>th</sup> June 2018 and confidence of the people towards the justice process, reflected in opinion surveys among individuals and expression of the people towards the justice process. The NHRCT therefore comes up with 4 recommendations, that are: (1) public relations to inform the people their right to ask for assistance for their temporary release and speed up allowance to use a certificate instead of payment by the Justice Fund Office, (2) preparation of a justice process reform plan and active implementation of the plan, (3) continuous creation of knowledge and understanding in society in order to bring about abolition of death penalty together with having a policy to enact new laws without death penalty, (4) researches, studies and lesson learning from various situations that reflect trust of the people towards the justice process in order that justice is effectively delivered and creates confidence for the people, including provision of knowledge to the people about the proceeding.

### **Torture and Enforced Disappearance**

The state had taken actions to improve laws making them consistent with Thailand's obligation according to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, commonly known as the United Nations Convention Against Torture (CAT), and to recognize actions taken continuously from the previous year according to the International Convention for the Protection of All Persons from Enforced Disappearance (CPED) that Thailand became a signatory in January 2016. It was done by organizing hearings on the Protection and Suppression of Torture and Enforced Disappearance Bill B.E. ... according to a resolution of the National Legislative Assembly Affairs Extraordinary Committee in line with Section 77 of the Constitution and results of the hearings were summarized for the National Legislative Assembly (NLA). Later on 20<sup>th</sup> December 2018, the NLA took it for consideration and passed a resolution to accept the principle of this bill and appointed an extraordinary committee to consider it further. Moreover, the government had appointed a committee to deal with complaints in case of torture and enforced disappearance in order to receive complaints, check, rehabilitate and implement measures to prevent torture and enforced disappearance, including examining 82 cases that petitions were made with the United Nations in order to establish facts and helped clear up many of these complaints.

Assessment of this area of situation reveals more issues of concern that are in consideration of the Prevention and Suppression of Torture and Enforced Disappearance Bill, some parties saw that some major principles should be removed from the CAT, especially the non-leniency principle and the principle that forbids forcing a person back to another State to face danger. In addition, the NHRCT received 20 complaints in 2018 that claimed assault and/or torture was carried out by state officials. The NHRCT therefore has come up with three recommendations: (1) The Prevention and Suppression of Torture and Enforced Disappearance Bill should be considered consistently with the essence of the CAT, (2) Performance of state officials who make arrest and control persons should be taken care and checked, and a handbook for actions related to human rights as a whole should be prepared and regularly monitored and evaluated, and (3) Knowledge and understanding about importance of prevention and suppression of torture and enforced disappearance should be continuously built among state officials in order to change their attitude; a learning course on this matter should be prepared.

### **Freedom of Expression and Freedom of Peaceful and Unarmed Assembly**

As a whole, it is found that to take care and maintain peace and order of the country, the state turned to use ‘ordinary’ mechanisms more, using officials according to the law rather than military officers and adapting suppressing tactics to stop violence to deal with any incident more than before. In addition, the National Legislative Assembly had approved the Constitution Act on Election of members of the House of Representatives B.E. ..., resulting in a clearer timeframe for organizing a General Election. However, the NHRCT is still worried about issues related to enforcement of promulgation/orders of the National Council for Peace and Order (NCPO) or laws enacted under Section 44 of the Constitution of the Kingdom of Thailand (temporary) B.E. 2557 (2014) that affect human rights, political rights, community rights and media rights, including right and liberty of expression, peaceful and unarmed assembly of the civil society sector, community organizations and academics that take actions or rally to show expression about any incident or actions by the state that affect quality of life and the rights and liberties according to the Constitution. Moreover, it is also found that using discretion according to the Public Assembly Act B.E. 2558 (2015) by officers under the law affected the freedom on peaceful and unarmed assembly, including making arrest of civil groups that had expressed their views different from the state for offenses according to the Offenses Related to Computer Act B.E. 2550 (2007) and its additional amendments, and Section 112 of the Criminal Code which could be seen as Strategic Litigation Against Public Participation (SLAPP). The NHRCT therefore come up with 3 recommendations as follows: (1) In case of the people’s freedom of expression and peaceful assembly, especially communities’ expression of their views in the context of community right according to Section 43 of the Constitution, the State should focus on creating understanding and participatory process to solve problems, (2) Reviewing the use of legal power, make it be according to the normal legislation process instead of using power according to Section 44 of the Constitution

of the Kingdom of Thailand (temporary) B.E. 2557 (2014) to strengthen the legal state system, including abolition of proclamation/orders of the NCPO that affect rights and liberties, making them inconsistent with Thailand's international human rights obligations, and (3) enforcement of the amended Criminal Procedure Code Bill B.E. ... that the National Legislative Assembly had approved on 4<sup>th</sup> December 2017 that allows court to dismiss dishonest persecution/civil action, including persecution/civil action to bully or exploit the accused/defendant or that aims for other results rather than benefits they should rightfully receive to prevent litigation against public participation.

**Part 2: Assessment of situations concerning economic, social and cultural rights in 3 issues, which are:**

**Right to Education**

As a whole it is found that in 2018, the government had tried to carry out education reform according to the Constitution of the Kingdom of Thailand B.E. 2560 (2017) by giving children and youth all over the country 15 years of basic education without expenses and in terms of education quality by preparing a Childhood Development Bill B.E. ..., National Education Bill B.E. ..., and a country reform plan for education to be a framework for operation, including promotion of access to higher level of education (higher education/higher vocational certificate). The state has a measure to reduce inequality in terms of education by establishing a fund for education equality to help poor children access education, including to raise the level of education quality through teacher development and allocation of budget to support teachers in private schools. In addition, the state also brought technology to reduce inequality in terms of both access and education quality, such as using of remote education technology through satellite (Distance Learning through TV – DLTV) and through information technology (Distance Learning through Information Technology – DLIT), expansion of establishment of 4,597 schools in the network of the project that weave power of the people and the state together in basic education and leader development, and arrangement of learning and teaching through the open system of a Thai cyber university, MOOC.

However, there are still problems and obstacles, such as access to education of preschool children, children in higher secondary education level, children and youth in remote areas, poor and extremely poor children and other disadvantaged children (e.g. children with disability, children in child observation and protection center, homeless children, children of foreign migrant workers, and children living with HIV/AIDS, for example) who account as much as 36 percent of child population aged under 18. For some groups of these children, the state has already had a measure to allocate funds to assist them, such as the poor and extremely poor children. The fund is being implemented. On the other hand, there is still no clear measures to help them, resulting in they have not received basic education and/or have to necessarily leave school halfway. As for the quality of the basic education, it is found that the

results of the Ordinary-level National Education Test (O-NET) have an average of lower than 50 per cent which reflects that quality of education is still a significant problem even if the state has tried to improve education quality. In addition, there is still a big difference in quality of education between large schools and small schools and between schools located inside and outside of urban areas. The NHRCT therefore come up with 4 recommendations: 1) Speed up country reform in the area of education in order that children and youth all over the country, especially the various groups of disadvantaged children, can access basic education, 2) Raise the level of education quality through development of teaching personnel and media for learning/teaching by using information technology to support this operation, 3) Make education means to promote the development of children's personality, aptitude and physical and mental capability to full capacity of each child in line with the Convention on the Rights of the Child (CRC), and 4) Systematically and periodically monitor and evaluate education reform in order to know progress or problems and obstacles in its operation and determine ways to correct them.

### **Rights on Health**

As a whole, it is found that the state has tried to promote the people's thorough access to public health care service according to the country reform plan on public health through the development of primary medical system, including allowing communities all over the country to work in the health system together with the state. The state has improved access to the right to receive services in emergency cases according to the Third National Emergency Medicine Plan (2017-2021) which includes distribution of power to local administrative organizations to manage the emergency medicine system with participation of the private sector and civil society sector in its operation. Moreover, cares were given to some groups of population who faced obstacles in their access to right on health, including persons without status in form of registration, monks, prisoners and 11.4 million persons with low income who had registered and held the state's welfare card. Improvement of mental health law in order that patients with mental abnormality have access to mental health services, including rehabilitation to enable them to return back to spend their lives in society with other people and proclamation about control over the use of trans fat in food products that affect the health of the people.

The state has reduced inequality in access to health care service and quality of the service by certifying quality of hospitals (HA). In 2018, number of hospitals in the National Health Insurance System that passed the HA Standard increased by 4.56 per cent. At the same time, application had been brought to develop quality of service delivery and the Universal Coverage for Emergency Patients Project was being implemented continuously. However, some groups of the population still have limitations in their use of right on health, such as people who live in remote areas, border areas or in the backcountry, including areas in the 3 Southern border provinces, persons without status in term of the citizen registration/identity card that include stateless persons, monks and a number of prisoners and mobile labour (Thai/foreign).

Moreover, there are still situations that are cause of concern and problems that need to be solved continuously. They are pregnancy of teenagers, number of new HIV infected persons, and control of health determinants, that are chemicals used to prevent and eliminate enemies of plants which still lack policy and legal mechanisms that are consistent with health dimension. The NHRCT therefore has two recommendations, that are: (1) Speed up actions according to the health reform plan in order that the people could thoroughly access health care service, paying attention to care given to some groups of population who face obstacles in their access to health care services as mentioned above and continuous development of quality of service delivery, and (2) Speed up actions to manage factors that have impacts on health by having a clear policy and measures, including review of laws taking into consideration their impact on the right on health.

### **Business and Human Rights**

As a whole, it is found that operation by the state has developed in 4 areas that are: 1) Preparation of a National Action Plan on Business and Human Rights (NAP), 2) Paying attention to solve the problem of cross-bordered human rights violation, 3) Promoting state enterprises and private business, particularly companies that had registered in Stock Exchange, to operate according to the UNGPs principle and adapt the HRDD for use, and 4) Promoting and protecting the rights of Thai labour and transnational labour, especially in fishery industry. However, problems and obstacles are still found, such as lack of assessment of national level basic information on business and human rights (NBA), lack of mechanisms to control, regulate and take care, both compulsorily and voluntarily, operation of transnational business, rehabilitation of human rights impacts caused by other areas of business actions apart from financial one, and delay in consideration to become a state party of ILO Convention No. 87 and 98. The NHRCT therefore has 5 recommendations as follows: (1) Collecting, processing and assessing NBA information and NAP planning with all-round participatory process together with determination of mechanisms to monitor and assess the efficiency and effectiveness of the NAP, (2) Establishing or determining mechanisms that have responsibility and power to use compulsory measures and voluntary measures to regulate and take care of business operation to prevent human rights impacts, including appropriate rehabilitation when there is such an impact, (3) Supporting adaptation of HRDD tools for use and expanding further to create standards and actions according to UNGPs principle in state enterprises, and small and medium business, and (4) Speeding up consideration to become a state party of ILO Convention No. 87 and 99, including approval of the Labour Relations Bill B.E. ... and State Enterprise Labour Relations Bill B.E. ...

### **Part 3: Assessment of human rights situation faced by five groups of people**

#### **Child Rights**

Monitoring situation in 2018 as a whole, it is found that development occurred in two areas: 1) Enactment and preparation of bills, such as Management of Correction and Rehabilitation of Wrongdoing Children and Youth Act B.E. 2561 (2018), Ministerial Decree on Determination of Education Places and Operation of Education Places in Prevention and Correction of the Problem of Pregnancy Among Teenagers B.E. 2561 (2018), and National Childhood Bill B.E. ... to integrate works of various agencies that have a duty to take care of children and to determine guidelines for appropriate development of childhood, and 2) development of effectiveness of mechanisms related to protection of children, such as preparation of National Child Protection Strategy B.E. 2560-2564 (2017-2021) to determine goals and direction of operation that is responding to situations and create systematic protection of children, Child Protection Fund Information Master Plan B.E. 2561-2564 (2018-2021), and Draft Policy and Strategy on Childhood B.E. 2560-2564 (2017-2021). However, situations can still be found as a matter of concern. They are death of children from drowning and road accidents which is still high on statistics, domestic violence against children and women is on the rise, children's risk opportunity from online dangers is at 60 per cent which is higher than an average of the world and most of these dangers are those in form of cyber bullying, sexual exploitation from children which are found in forms of sex trade, pornography and arranged marriage of children in premature age. The NHRCT therefore has 5 recommendations as follows: (1) Raising awareness of fathers, mothers and parents about safe child caring and providing knowledge to children to take care of their own safety as appropriate for their age, (2) Having measures to prevent violence against children and rehabilitation of children suffered from violence taking into consideration their best interest, (3) Protecting children from being sexually exploited and setting up appropriate recovery measures, (4) Having measures to protect children from various forms of online dangers and providing knowledge to parents and teachers in order that they are able to give advice and assistance to children on how to use online media and to cope with dangers that come with those media, and (5) Protecting children from wrong doing by strengthening family institution, having process and personnel to appropriately recover children who committed wrongdoing, and amending related regulations to prevent disclosure of children's wrongdoing records, so that they shall not become obstacles against these children to return back to society.

#### **Rights of Elderly People**

In 2018, the state proclaimed its country reform plan in April. The country reform plan on social and economic matters has many issues about elderly people, such as reforming saving and welfare system, including creating a system to provide rewards and pension after retirement and development of compulsory saving scheme, for example. In the

issue of reforming for disadvantaged people in society, which includes elderly people, the importance of changes in term of thinking process and form of action from ‘welfare-oriented’ to transforming and enhancing attitude from being receiver to being producer in order that they would be strong and can take care of themselves and the society by building work capacity of elderly people. Main activities include extension of retirement age for government officials from 60 to 63, amendment of labour law to allow elderly people to take up job piece by piece in order that they could work with others according to their capacity and environment without having to work full-time 8 hours per day as for ordinary jobs, and promoting informal workers and farmers to save money for their retirement through the National Savings Fund, for example. This country reform plan is consistent with the results of a survey on elderly people by the National Statistics Office in 2017 which reflected that most Thai elderly people did not have enough savings to maintain their living after retirement. Most Thai elderly people may not have enough savings for living after retirement. A survey found that 65 percent of elderly people depend on income from their children and work. Only 8 percent of elderly people have incomes from pension and savings, and as much as 20 percent of elderly people depend on allowances from the state. When Thai families are becoming smaller and elderly people are getting older, there may be limits in terms of their ability to work because of their health status. It is therefore necessary to create a saving system that covers all round and enough for living in old age. In addition, other areas of elderly people’s life quality should be taken care of as well. The NHRCT has three recommendations as follows: 1) Campaign to make people, especially more than 20 million people who are non-formal labour, recognize the importance of savings, including consideration to have a compulsory saving system so that all people have pension after retirement, 2) Improving labour protection law to make it consistent with the kinds of work done by elderly people in order to protect elderly people’s right to work, including law related to social security and various saving funds making them recognize works done by elderly people, 3) Taking actions to enable elderly people to thoroughly obtain other rights as stated in the Elderly People Act B.E. 2546 (2003) and its amendments, such as public health care service, appropriate vocational training and practice, and protection from being abandoned by paying attention to elderly people who face obstacles in their access to various rights or are at risk of right violation, such as elderly people living in remote areas, elderly people who live alone, and elderly people who are dependents, for example.

### **Rights of People with Disability**

As a whole, it is found that the state by related agencies have tried to uplift level of disabled persons’ life quality in order that they could equally access rights and welfare in the society. In 2018, Bangkok Metropolitan Administration increased the number of its disabled persons service centers to make it convenient for people with disability, their caretakers and networks of people with disability, reduce stages of their operation and reduce financial burden for accessing rights and welfare. In term of education, learning activities were carried out at



the home of people with disability because most of them were people with disabilities who lived in a rural area and it was inconvenient for them to travel to receive services at education places. Attention was also paid to build capacity of persons related to providing education of people with disability. In term of employment, the state by related agencies conducted studies and made preparation for establishment of mechanisms to guide and build working capacity of people with disability in Thailand in order to integrate works to promote works of people with disability at policy level and operation level of related agencies. Moreover, the state also paid attention to the problem of inequality in its health insurance system for people with disability by allowing people with disability who enter employment system to be able to choose to use either the social security system or the universal health insurance system in order to respond to the needs of people with disability as much as possible. In term of facilities for people with disability, the state came up with an action plan to drive the strategy for development of facilities for transport of people with disability and elderly people and become a framework for operation for all related sectors. As for people with a disability who do not have Thai nationality, the state is in the process of issuing regulations to assist this group of people with disability to receive basic rights and appropriate welfare from the state.

Promotion and development of people with disability's quality of life, however, still face major problems and obstacles, such as lack of awareness about the rights of people with disabilities. The society as a whole, communities, related government officials, people with disabilities themselves and their families still lack knowledge and understanding about the rights of people with disabilities, resulting in problems and obstacles for people with disabilities to face in their living and access to various rights of people with disability, including the society's treatment of people with disability in general. In terms of education for people with disabilities, even if the state had tried to drive forward to enable people with disabilities to receive more education, it is found from statistics that 89,437 people with disabilities whose ages are within the range that they should be provided with education do not receive it, and most people with disabilities have received education to only primary level<sup>1</sup>, affecting people with disabilities' opportunity to get a job. Provision of convenient facilities for people with disabilities is not yet covering all areas. From all these appearing facts, it is recommended that the state should speed up raising awareness about the rights of people with disabilities in order to promote positive attitude and practices that respect rights and human dignity of people with disabilities. The state should allocate enough budget for the education of pupils/students with disabilities in school, making arrangement for them to be able to learn together with other pupils/students in the way that respond to needs and necessities of each pupil/student with

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<sup>1</sup> From *Report of Situations Concerning People with Disability in Thailand* (in Thai language) by Promotion and Development of Life Quality of People with Disability Department, Ministry of Social Development and Human Security, 2018, searched from <http://dep.go.th.th/th/hom>

disabilities. Facilities should be provided to enable people with disabilities to live as a part of the society.

### **Rights of Persons with Status and Rights Problems**

Persons who have status and rights problems in Thailand can be divided into 3 groups: 1) transnational labour from Myanmar, Laos PDR and Cambodia, 2) stateless persons, and 3) people who come for shelter/refugees.

As for **transnational labour**, in 2018, the government brought more than 1.3 million illegal transnational labour into working system that is correct according to the Royal Decree on Administration of Aliens' Works B.E. 2560 (2017) of which its amendments were completed in June 2018. This law has been seriously enforced since then. Employers / workplaces and their labour have been checked and litigation is carried out against wrongdoers. There are reports, however, that transnational labours have some problems in registering the birth of their children born in Thailand that needs identity card and house registration of employer. However, some employers do not understand and do not allow their labours to use their house registration, resulting in the responsible agencies could not issue a birth certificate, affecting their requests to use the social security right in terms of maternity expenses and child allowance.

As for stateless persons, even if the state had a policy and had improved laws to facilitate their requests for official status or Thai nationality more. There are still, however, substantial problems and obstacles in practice, resulting in operation on their personal status did not progress as much as it should. There are some groups of stateless persons who continue to face these problems, affecting their rights and living. In term of right to education, it is found that actions were taken to unravel problems by providing education to most stateless children, especially children in remote areas or on the national borders of Thailand, who receive education in schools in the area where they and their family live even if they have not received legal status. Nonetheless, there are still some groups of stateless persons who may not be able to access the process that they could request for status/nationality according to the policy of the state, such as stateless elderly people who have not been covered and have no information on registration, making them face problems when they try to receive public health care service.

As for people who come for shelter/refugees, politics in Myanmar was better developed, making it possible to send a number of refugees from Myanmar who came to seek temporary shelter along Thai-Myanmar borders voluntarily back to Myanmar. However, number of persons who voluntarily return back is not high yet, even if there are measures to provide assistance for resettlement to those who travel to return back to their country. As for operation related to people who come to seek shelter, the NHRCT used to visit detention rooms of the Immigration Office in many areas and found that some people who came to seek shelter could be fugitives to escape from dangers into Thailand and could not be sent back to the country of origin, resulting in they are being detained indefinitely. Crowdedness of detention

rooms together with limitations in their access to health care could cause these detainees to have poor health and be seriously ill. Nonetheless, the state has tried not to keep children in detention room in order to observe international standards of practice which see that long-term detention would affect development of children in the future. This can be considered as an important progress because this measure would help protect children based on their best interest according to the UN Convention on the Rights of the Child of which Thailand is a state party.

The NHRCT has recommendations for the protection of the rights of persons who face status problems in Thailand by their group as follows: **1) Transnational labour.** The state should provide knowledge to and create understanding among employers and foreign labours about acting in accordance with the Royal Decree on Administration of Foreign Labours B.E. 2560 and its amendments, should pay attention to control and regulate employment enterprises in order to prevent exploitation of those labours, and should correct problems related to birth registration of children of transnational labours who were born in Thailand in order that this group of children of transnational labours would be thoroughly registered. **2) Stateless person.** The state should have measures to create understanding about stages and documents that must be used as evidence to accompany any request for status/nationality among people who have the right to hand in a request according to related policy and laws in the languages that those who have the right to hand in the request, who are mostly people of ethnic groups, could understand. Consideration should be taken to solve problems faced by elderly people of ethnic groups who have been living in Thailand for a long time but could not request for status/nationality because they were never covered by surveys to register history of ethnic groups in Thailand, and 3) People who come for shelter/refugees. Thai government should cooperate with the government of Myanmar, UNCHR and related international organizations to provide information and make continuous preparation for refugees who come to seek temporary shelter from fighting in Myanmar to be ready when they volunteer to travel back, taking into consideration importantly situation in Myanmar. Screening of people who entered the country illegally to classify those who come to seek shelter from other people who entered the country illegally should be sped up, and policy or guideline for treatment of this group of people should be appropriately determined to make it consistent with international instruments. Alternative measures should be considered to replace detention, especially for children who come to seek shelter. This would be good for people who come to seek shelter and reduce burden of the state to take care of people who come to seek shelter in terms of both budget and personnel.

### **Human Rights Defenders**

Important problems faced by human rights defenders is threats that come in many forms, such as enforced disappearance, judicial harassment and Strategic Lawsuit Against People's Participation (SLAPP). Lately women human rights defenders have played increasing role, especially in cases related to land and forest, and they are thus increasingly subject to

persecution and litigation. In 2018, the state took important actions that were preparation of two new laws to better protect human rights defenders. The first one is an amendment of the Criminal Procedure Code Amendment Bill (no. ...) B.E. ... which aims to prevent legal actions of which a right to do so is dishonestly used or used to libel or take advantage over defendant with an aim to obtain other results rather than benefits that they should rightfully receive. Additional discretion should be given to officials and court to temporarily release the accused while litigation is going on. This proposal was endorsed by the National Legislative Assembly on 4<sup>th</sup> December 2018. Another one is the Torture and Enforced Disappearance Prevention and Suppression Bill B.E. ... which is being considered by the National Legislative Assembly. As the law mentioned above had not been in effect in 2018, its progress needs to be continuously monitored further in 2019. The second bill, on the other hand, must also be monitored whether it comes out consistent with the UN Convention Against Torture (CAT) and the International Convention for the Protection of All Persons from Enforced Disappearance (CPED) or not. In addition, the state also provided financial supports from the Justice Fund to the people to guarantee temporary release. However, in practice there are still some problems and obstacles. The NHRCT therefore has three recommendations as follows: 1) The state should speed up the consideration of the Torture and Enforced Disappearance Prevention and Suppression Bill B.E. ..., so that it could be quickly enacted and enforced to guarantee that the rights of human rights defenders are better protected consistently with the commitment it has given voluntarily in the second round of UPR process which requires having effective measures to prevent violence and crime against human rights defenders, 2) Ministry of Justice by the Rights and Liberties Protection Department should come up with measures to protect human rights defenders in the 4<sup>th</sup> National Human Rights Plan B.E. 2562-2566 (2019-2023), 3) Ministry of Justice should amend the Regulations of the Justice Fund Committee on Criteria, Methods and Conditions for Temporary Release of the Accused or Defendants B.E. 2559 (2016) by deleting the provision that gives power to the sub-committee on assistance to consider causes or behaviours of persons who submit a petition whether or not they could be trusted that they did not commit wrongdoing as being accused because this criteria is considered to be giving it an authority to adjudge wrongdoing of the petitioner in advance of the court which is inappropriate and could be an obstacle against an access to assistance for the people in litigation.

#### **Part 4: Assessment of human rights situation in the three issues of concern**

##### **Community Right on the Management of Natural Resources and Environment**

As a whole, actions taken by the state shows important development in 2 areas. The first is implementation of the Plan and Stages for Reforming the Country Act B.E. 2560 (2017) by preparing related framework, mechanisms and driving measures, that are preparation of a Country Reform Plan on Natural Resources and Environment which received approval of the Council of Ministers and National Legislative Assembly on 13<sup>th</sup> and 29<sup>th</sup> March 2018

respectively and appointment of a Law Reform Committee in Urgent Stage to take actions according to the framework of country reform and national strategy with tasks that cover laws on land, natural resources, environment and people's participation. The second one is coming up with policies related to management of natural resources, that are allocation of land to make a living to communities and solving the problem of people's land to make a living in forest areas, management of natural resources in the area of minerals management, and solving the problem of illegal tree farming on legal estate or land with possessory right according to the Land Code, recognition of community right to participate in environmental impact assessment according to the Environment Act (no.2) B.E. 2561 (2018) and the National Agenda on Waste Elimination (since 2016).

However, assessment of the situation in this area finds issues that are problems, such as the right of communities to rally in order to demand their rights and oppose projects that affect them is limited and controlled., resulting in the communities could not participate in the management of natural resources and environment in terms of both access to information and taking part in hearing, and the state has no measure to prevent and correct impacts on communities, including to effectively heal impacts on the people and communities in the area from development projects or some types of enterprise; using orders, such as NCPO Order No. 3/2559, 4/2559 and 47/2560, to exempt enforcement of the overall town plan law for operation in some areas; spreading and increasing of pollution beyond the standards of air pollution; use of dangerous chemicals in agricultural and food products; illegal import of electronic waste and toxic waste; and increase of waste from food to 64 percent of all waste and waste in the sea. The NHRCT therefore has three recommendations as follows: (1) Review measures for serious checking operation of industrial factories or other enterprises that may have impacts on the environment in order to prevent dumping of waste or toxic substances in the environment, (2) Speedily correct problems faced by people whose health and livelihood are affected by various enterprises, such as mining, especially gold mine, and take care to ensure that those affected are fairly healed, (3) promote participation of people in the management of natural resources and environment for sustainability, including speeding up enactment of laws that promote uses of community right, such as Community Right Act, Community Forest Act, Public Information Act and improvement of related rules and regulations or stages of various actions, so that the communities could really use their right as recognized in the Constitution to manage natural resources and environment

### **Situation in Southern Border Provincial Areas**

As a whole, it is found that there have been good development in three areas: 1) decrease of incidents, death and wounded people from the unrest, 2) progress in the dialogue for peace as Cho-airong District in Narathiwat Province is agreed to be a pilot safe area. At present, it is in a public hearing process, so that local people are participating in determining measures to maintain safety of the area together with the state sector. Use of the Royal Decree

on Official Administration in the Emergency Situation B.E 2558 (2015) has been removed in two more areas – Betong District of Yala Province and Su-ngai Kolok District of Narathiwat Province, and was replaced by Internal Security Act B.E. 2541 (1998), and 3) Using proactive measures to solve problems in other related dimensions, such as recovery of the system to monitor nutrition of pregnant women and early-age children, the 1,000 Wonderful Days of Life Project, management of lunch with appropriate quality and volume, and regular monitoring and evaluation of children's malnutrition.

Assessment of situations in the Southern border provinces also reveals other problems that is a matter of concern, such as complaints which claimed that violation of rights and liberties in life and body involved state officials, children and women were dead and wounded from the unrest incidents, limitations in term of access to vaccines and highest acute malnutrition of children in the areas, and access to justice and reproductive health right of women in the Southern Border Provinces. The NHRCT therefore has 5 recommendations as follows: (1) Regularly review the necessity of imposing security laws in the area in order to avoid and reduce impacts on human rights in all dimension, (2) Regulate and supervise actions of officials involved in making arrest and detention to ensure that they are done according to the laws in order to prevent torture, including thorough examination of the body of people who are arrested before sending them to any place of detention and record results of this examination in written form and give opportunities to their relatives to visit them, (3) Increase measures to protect, providing safety to, people in the area, especially children, youth and women, including healing those affected by violent incidents appropriately and fairly, (4) Reduce malnutrition of children in the area by providing quality food, and (5) develop a justice process that takes into consideration gender sensitivity of women in the Southern border provinces.

### **Human Trafficking**

As a whole, there is good development in two areas: The first is implementation of measures at practice level to prevent and suppress human trafficking by combining forces of officials to search various places of entertainment, organizing anti-human trafficking activities, signing memorandum of understanding on anti-human trafficking cooperation with other countries, and protecting and assisting victims of human trafficking, including proceeding of cases with wrongdoings covered by the Human Trafficking Prevention and Suppression Act B.E. 2541 (1998) without delay of which most of the cases are completed within a year. The second is enactment of law and having policy and action plans to correct, prevent, monitor and give assistance to victims of human trafficking systematically, such as declaring prevention and correction of human trafficking problems in Thailand a National Agenda since 2004, issuing many laws and proclamations, such as Human Trafficking Court Procedure Act B.E. 2559 (2016), Human Trafficking Suppression Act B.E. 2560 (2017), Royal Decree on Administration of Aliens' Works B.E. 2560 (2017), proclamation of the Ministry of Labour on criterion, methods and conditions for requesting a permission to work and work permission according to

the Royal Decree on Administration of Aliens' Works B.E. 2560 (2017) dated 6<sup>th</sup> July 2017, Royal Decree on Administration of Aliens' Works (no.2) B.E. 2561 (2018) and the National Human Rights Plan No.3 (B.E. 2557-2561) which sets measures to prevent, protect and provide assistance in the National Human Rights Plan on the justice process, groups of injured persons/victims, including groups of women, of which operations have been monitored according to the National Human Rights Plan.

It is found from assessment of situations that even if the government has continuously implemented measures to solve the problem of human trafficking, various forms of human trafficking still appear, such as in fishing industry, sex trade and beggar, and some state officials still commit wrongdoings in human trafficking cases. The state therefore has to continue putting efforts and commitment in its operation to solve the problem of human trafficking, and has to have cooperation with many parties at both national and international level. Importantly, existing laws have to be seriously and continuously enforced. The NHRCT therefore has 4 recommendations as follows: (1) Government agencies should take actions continuously to suppress human trafficking and punish wrongdoers, including state officials involved in the wrongdoing. At the same time, attention should be paid importantly more to preventive measures, especially for women and children, (2) State agencies should take actions seriously according to the National Human Rights Plan and periodically report results of their operation to the Rights and Liberties Protection Department in order to improve their operation further, (3) There are many laws, proclamations and rules related to human trafficking. Officials therefore should be continuously trained in order to have knowledge and understand their real intention which would help put actions of officials in line with the laws, proclamations and rules, and to increase effectiveness of officials' actions to prevent and suppress human trafficking even more, and (4) Persons involved in human trafficking are often foreigners. Related agencies should therefore prepare interpreters to help facilitate related process and give fairness to those involved. Law enforcement officers should be given knowledge about appropriate treatment towards victims of human trafficking who are women, especially in case of human trafficking for sexual exploitation and towards victims who are children.