

Report No.51/2560 on civil right related to right to life and body and right in the justice process in case of a claim that the complainant's father was shot dead by an administrative official and prosecution was slow

Complainant: Miss K

The accused: No.1 Mr. S, administrative official
No.2 Inquiry officers, Chiang Dao Police Station

A file of autopsy shows that no action involved in the autopsy was difficult or needed special equipment that ensued waiting for results and thus caused delay in filing. As filing was late, a file of investigation, charge pressing and prosecution by state prosecutor was consequently late, affecting evidence that would be used in court. It is therefore considered that the accused no.2 took actions for litigation of the accused in that case too late to be appropriate and caused unfairness to the injured person. This lateness is considered to be violation of human rights concerning right in the justice process which guarantees fundamental fairness that when a criminal offence happens, litigation must be fast, transparent and fair according to Section 40 of Constitution of the Kingdom of Thailand B.E. 2550 (2007) which is still recognized and protected according to Section 4 of Constitution of the Kingdom of Thailand (Interim) B.E. 2557 (2014). Using authority given by Section 28 of the National Human Rights Commission Act B.E. 2542 (1999), the National Human Rights Commission of Thailand (NHRCT) therefore came up with measures to solve the problem of human rights violation and informed the Commander of the Provincial Police, Region V, to take actions.

A complainant submitted a petition to the NHRCT in the petition no. 448/2555 dated 17th September 2012 requesting the commission to check and provide fairness in a case of which it was claimed that Mr. O, who was father of the complainant, was shot dead by the accused no.1 who was an administrative official. It was claimed by the accused no.1 that the complainant's father tried to escape and resist an arrest made by administrative officials for an offence of forest trespassing and clearing and another offence of attacking officials while being arrested. After the incidence took place, the complainant and family never received explanation from the administrative official about the cause of, and incidence around, the death of the complainant's father. The complainant wished to submit a complaint, but it was rejected by the accused no.2, claiming that they had to wait for court order for investigation of the death before the complainant could submit a petition.

The NHRCT took this case into consideration and saw that the accused no.1's act of shooting Mr. O was a violation of the right to life and body of Mr. O. Claiming that the act was done for self-defense was a case for criminal justice process and must be proved in court for fairness to all parties. Inquiry officers at Chiang Dao Police Station in Chiang Mai Province received a file of autopsy from state prosecutor and informed the accused no.1 about the charge pressed against him. At present, it is in the process of gathering documentary evidence and waiting for fingerprints of the accused to proceed with the legal actions. As for the accused no.2 who was late in processing the case of which Mr. O, the complainant's

father, was shot dead, the file of autopsy shows that no action involved in the autopsy was difficult or needed special equipment that ensued waiting for results and thus caused delay in filing. As filing was late, a file of investigation, charge pressing and prosecution by state prosecutor was consequently late, affecting evidence that would be used in court.

It is therefore considered that the accused no.2 took actions for litigation of the accused in that case too late to be appropriate and caused unfairness to the injured person. It is therefore considered that the accused no.2 took actions for litigation of the accused in that case too late to be appropriate and caused unfairness to the injured person. This lateness is considered to be violation of human rights concerning right in the justice process which guarantees fundamental fairness that when a criminal offence happens, litigation must be fast, transparent and fair according to Section 40 of Constitution of the Kingdom of Thailand B.E. 2550 (2007) which is still recognized and protected according to Section 4 of Constitution of the Kingdom of Thailand (Interim) B.E. 2557 (2014). Using authority given by Section 28 of the National Human Rights Commission Act B.E. 2542 (1999), the NHRCT therefore came up with measures to solve the problem of Human rights violation and informed the Commander of the Provincial Police, Region V, to take actions within 60 days as follows:

(1) Precipitating Inquiry officers at Chiang Dao Police Station in Chiang Mai Province (the accused no.2) to complete the investigation and submit a file of investigation to Chiang Mai Province State Prosecutors to consider taking actions according to the law in order that this case would proceed to the justice process in court, creating fairness for both parties.

(2) Ordering inquiry officers at Chiang Dao Police Station in Chiang Mai Province (the accused no.2) to inform the injured person and other stakeholders from time to time about progress of the litigation against the accused and their rights that they should know in the litigation, such as right to initiate litigation by themselves without having to wait for state prosecutor or to request to be joint prosecutors together with state prosecutor, and right to request to receive compensation for the injured person in criminal case according to the Compensation for Injured Persons, and Compensation and Expenses for the Accused in Criminal Cases Act B.E. 2544 (2001), and others as necessary.