

**Summary of Actions following the Policy Suggestions
of the National Human Rights Commission of Thailand
on the Voluntary Enlistment for Military Service
under the Military Service Act B.E. 2497 (1954)**

1. Background

1.1 On 6 March 2014, there was a complaint submitted to the National Human Rights Commission of Thailand (NHRCT), Complaint No. 94/2557, which was on the case that the complainant had asked NHRCT to present a report attached with recommendations to the Constitutional Court about provisions in the Military Service Act B.E. 2497 (1954) under the Fourth Amendment B.E. 2516 (1973) which are contradictory to Sections 30-33 and Section 38 of the Constitution of the Kingdom of Thailand B.E. 2550. According to the Universal Declaration of Human Rights (UDHR), these provisions are also considered as human rights violations or unfair discrimination to a particular group of people. And the method of drawing lots should not be applied in the process of conscription. Later, on 4 August 2014, the complainant submitted the letter asking NHRCT to present the recommendation of law revision on this matter on behalf of the complainant.

1.2 Later, on 22 October 2014, NHRCT (for Human Rights Cases) made a resolution to conveying this matter to the Sub-Commission on Policy Recommendations for consideration and taking further actions.

1.3 NHRCT issued the letter no. 0004/43, dated 14 July 2015, to present the outcome report of policy recommendations or proposals for law revision on the Voluntary Enlistment for Military Service under the Military Service Act B.E. 2497 (1954) to the Cabinet for consideration. Policy recommendations in conclusion are as follows:

1.3.1 The Cabinet by the action of the Ministry of Defence (Defence Mobilization Department, Office of the Permanent Secretary and Territorial Defence Command) should jointly study several conscription processes in foreign armed forces for the change to fully apply the voluntary enlistment which conforms with current human rights principles. There should also be the solution or short-term measures of remedy or some preventive measures for people who are strictly to morality and religious beliefs, e.g. the avoidance of combat trainings or alternatives for non-combat trainings and civilian tasks, etc.

In any case, if Thailand is ready, especially for Ministry of Defence and relating agencies, to revise or amend the Military Service Act B.E. 2497 (1954) for the voluntary enlistment, this will be in line with principles of the International Covenant on Civil and Political Rights in which Thailand is a state party.

1.3.2 The Cabinet by the action of the Ministry of Defence (Defence Mobilization Department, Office of the Permanent Secretary and Territorial Defence Command) should allow all volunteers, also in areas of exceeding conscription, who demand to serve in the military to join the armed forces in any case.

1.3.3 The Cabinet by the action of the Ministry of Defence (Defence Mobilization Department, Office of the Permanent Secretary and Territorial Defence Command) should promote or make various incentives which will give a good opportunity for applying the voluntary enlistment, instead of the selection process or lots drawing, to have conscripts at the right demand of the Armed Forces. There should be a focus on benefits all conscripts will be given, such as being recruited as a military officer under the Ministry of Defence, vocational trainings, allowances, privileges and benefits. This will help the Armed Forces to have competent conscripts.

1.3.4 The Cabinet by the action of the Ministry of Defence (Defence Mobilization Department, Office of the Permanent Secretary and Territorial Defence Command) should set the target for reducing or abolishing the enforcement of laws for military service. This, later, leads to have conscripts selected from the voluntary enlistment for military service.

1.3.5 The Cabinet by the action of the Ministry of Defence (Defence Mobilization Department, Office of the Permanent Secretary and Territorial Defence Command) and the Royal Thai Police should annually discuss to set the policy on the demand for personnel and impose benefits as incentives for voluntary enlistment by emphasizing the voluntary basis, not applying any regulation in the process.

2. Responses from the Cabinet

2.1 The Secretariat of the Cabinet issued the letter no. 0503/ 31231, dated 9 September 2015, informing that the Cabinet, on 8 September 2015, acknowledged such summary report of policy recommendations and assigned the Ministry of Defence to be the main agency together with the Royal Thai Police to take recommendations from NHRCT into consideration and make a conclusion of any consideration or outcome. Then, this conclusion was submitted to the Secretariat of the Cabinet within 30 days from the date of receiving the order in order to present to the Cabinet for further actions.

2.2 The Secretariat of the Cabinet issued the letter no. 0503/ 43684, dated 2 December 2015, informing that the Cabinet made a resolution, on 1 December 2015, to acknowledge the summary report presented by the Ministry of Defence and notify the Office of NHRCT. The report can be concluded as follows:

2.2.1 In the Constitution of the Kingdom of Thailand B.E. 2550 (2007), which was abolished by the Constitution of the Kingdom of Thailand (Interim) B.E. 2557 (2014), and the draft of the Constitution of the Kingdom of Thailand B.E. 2558 (2015), there are provisions about duties of citizens to defend the country and serve in the military. In conscription, there is a chance for volunteers to serve in the military. When the number of volunteers falls short of the Armed Forces' demand, the selection through drawing lots will be applied to fulfill the demand for conscripts. Due to threats and more responsibilities, the Ministry of Defence still apply the compulsory conscription together with the voluntary basis in order to reach the demand of the Armed Forces.

For people who are strictly to morality and religious beliefs, conducting duties with weapons is thus contradictory to rights mentioned in the International Covenant on Civil and Political Rights (ICCPR). Ministry of Defence intends to train conscripts to be ready for the defense mission and equipped with the management skills applied for other civilian affairs: providing helps to people, country's development, public services or non-combating tasks.

2.2.2 Ministry of Defence has the policy on selecting registered personnel to be appointed as conscripts which distributes the number of conscripts appointed in each area by taking the similar number of personnel for each area and the domicile of any individual into consideration of the appointment. In case where volunteers exceed the demand of conscription in such area, the Royal Thai Army will recruit under the criteria and method prescribed in the official regulations.

2.2.3 Ministry of Defence has publicized benefits as incentives for more applications to military service. The Ministry set a plan supporting the possibility of the voluntary enlistment for military service in the draft of Ministry of Defence Management Reform Plan under the period of study from 2016 – 2024, by adding incentive measures to increase the number of volunteers with the purpose of fully applying the voluntary enlistment and replacing the conscription.

2.2.4 Due to main duties to prepare troops, the Royal Thai Armed Forces have prescribed a certain training's schedule for soldiers under the period of 2 years, except for a person with special qualification who deserves a period shorter than 2 years. Most countries

around the world apply the voluntary enlistment for military service because they have various different factors affecting the demand for military personnel: environment, geography, economy and society. To apply both compulsory and voluntary bases for conscription in Thailand is thus appropriate to situations and circumstances which are taken for setting the national strategy.

2.2.5 The draft of the Royal Thai Police Act (No. ...) B.E. ..., which is now under the consideration of the Council of the State, has its intention to establish a replacement force jointly performing duties with the Border Patrol Police force. There is an idea to open for all applicants and prioritize police conscripts. This will help promoting the number of volunteers for police conscripts following the recommendations of NHRCT.

Research and Technical Support Bureau

14 December 2015