

# EXECUTIVE SUMMARY

## 2016 THAILAND HUMAN RIGHTS ASSESSMENT REPORT

conducted by the National Human Rights Commission of Thailand (NHRCT)

The duty for making annual report for human rights situation assessment in Thailand with proposing of the Parliament and Cabinet and allowing public accessibility is one of the duties entrusted to the National Human Rights Commission of Thailand (NHRCT), within provisions of Constitution of the Kingdom of Thailand, B.E. 2550 (2007), Section 257 (8) and the National Human Rights Commission Act, B.E. 2542 (1999), Section 15 (6). The report highlights both progressive and retrogressive human rights impacts and incidents on annual basis, assessed through two main inductive criteria, as: (i) principles and provisions in Constitution of the Kingdom of Thailand, B.E. 2550 (2007) and Constitution of the Kingdom of Thailand (Interim), B.E.2557 (2014) including other domestic laws; and (ii) rights entitled and guaranteed under seven international human rights treaties, including international standards and pledges given by Thai government to international community.

The report for human rights situation assessment in Thailand in 2016 shall be precisely concluded in four main parts as follows:

## 1. CIVIL AND POLITICAL RIGHTS

The NHRCT assesses overall civil and political rights and makes more focusing on spectrums of rights pertaining to actions against torture and other cruel, inhuman or degrading treatment or punishment upon substantive rights, prescribed under International Covenant on Civil and Political Rights (ICCPR), International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and International Convention for the Protection of All Persons from Enforced Disappearance (CED), including all recommendations pledged or accepted by Thai government under from 2016 Universal Periodic Review (UPR). The main incidents with NHRCT's concerns and recommendations shall be presented as follows:

### TORTURE AND ENFORCED DISAPPEARANCE:

Thai government had drafted the Act on Prevention and Suppression towards Torture and Enforced Disappearance, B.E. ...., with harmonization of substantive matters in the CAT and the CED, the Cabinet then adopted a Resolution dated 24th May 2016, with a consent to ratify the CED and the drafted Act. Meanwhile, the NHRCT still receives complaints with allegations on torture and enforced disappearance committed or linked to government officers. There are challenges with the lack of or misinterpretation of laws and policies and ground settings for offences with allegations to torture and enforced disappearance. These all would affect to efficiency and effectiveness of interrogation, investigation and recovery or following-up those forcibly disappeared, e.g.:

- Criminal Procedure Code, Section 226/1 marks an exception for the legitimacy of hearing of information and evidences found through unlawful acts or any witness or evidence inquired from existing information or unlawful obtain if it is giving more advantages for judiciary facilitation than impacts to the criminal justice standards or rights and liberties of people.

These create loopholes of laws and procedures with misinterpretation, make shortcomings for accessibility to judiciary processes with retrograde of right to fair trial of all family members of disappeared and would mislead all government officers to carry on their duties with torture practices.

## RIGHT TO FAIR TRIAL:

A number of complaints lodged to the NHRCT with allegations on violation of right to fair trials in judiciary processes are higher than those in other rights spectrums, although the Government has made amount of efforts to take actions upon constitutional provisions and relevant laws with guaranteeing of rights to fair trial with ensuring of free and fair accessibility to justice with equality for all, e.g.

- The enactment and amendment of the Damaged for the Injured Persons and Compensation and Expense for the Accused in Criminal Case Act, B.E. 2544 (2001), Regulations of Justice Fund Committee under the Justice Fund Act, B.E. 2558 (2015), Criminal Procedure Code and Correction Act, B.E. 2479 (1936) and political wills;
- The regulating of clear measures with respect and protect of right to fair trial of alleged, accused and prisoner, for example: not allowing to take alleged to present in front of the media, applying of body scanners for searching of female prisoners' bodies and an Order of the NCPO's Head, No.55/2559 with allowing any ordinary person committing offences from the date of 12th September 2016 upwards would be judged by the Court of Justice in general.

These all incidents with economic and social disparities would make people accessible and exercising their right to fair trial with differentiation. In addition, there are some Orders granting powers with exceptional acts for government officers in specific matters that shall affect to rights of alleged, accused and prisoners, i.e. the NCPO's Order, No.3/2558 granting authorities to competent officers in charge of order keeping and restoring to summon or subpoena any person to come to meet for giving useful information or testimony and might have power to keep a person in custody not exceeding seven days. And in practices, there were reported that the custodies under this Order have been renewed in continuity and creates more impacts or risks to human rights violation including the using of fetters and handcuffs with uncovered and obloquy.

## RIGHT TO PRIVACY AND PERSONAL INFORMATION PROTECTION:

Recently the information technologies have been rapidly changed, all communications and data transmissions are easily conducted with possible human rights impacts, i.e. the procession or exposure of personal information with commercial benefits and without any proper consents given from such persons. These would be more or less creating damages or impacts to persons in terms of reputation, privacy, properties, rights and freedom of expression including physical harms and life threats. Nonetheless, the Government has made efforts to enact a common law protecting rights to privacy and personal information, but the NHRCT addresses that:

- Some provisions of this law shall not properly protect personal information, in the meantime, the legislative process is very slow and without the proper engagement and participation of key stakeholders and people;

- The proposal of drafted law with additional amendment of the Computer Crime Act, B.E. 2550 (2007) and some provisions granting powers for the Government to be able access or freeze any flow of information and communication of people regardless any clear reason given and might create disproportional impacts to rights and liberties of people.

Thus, the protection of rights to privacy and personal information is still imbalanced and inconsistent with human rights standards, the NHRCT hereby would like to propose that the activities with capacity-building and awareness-raising and development of bodies of knowledge on rights to privacy and personal information shall be provided to both private and public authorities. These would help to update all changes with more articulations for relevant officials to catching-up with information technology and communications with effective enforcement of the Personal Information Protection Act, B.E. ....

## RIGHTS AND FREEDOM OF EXPRESSION, ASSOCIATION AND PEACEFUL ASSEMBLY:

The NHRCT witnesses the limits and controls of rights and freedom of expression, association and peaceful assembly with strict manners and surveillance through the enforcement of relevant laws especially towards freedom of expression on political stands, ruling systems and public assembly, nonetheless these would relate to public policies or public and private projects creating impacts to people and communities. The Government has adopted laws and policies controlling freedom of expression as follows:

- The Criminal Code, the Public Assembly Act, B.E. 2558 (2015) and the Computer Crime Act, B.E. 2550 (2007);
- The NCPO’s Order No.3/2559 on the entrustment for approval and signing for appointment of competent officials on prevention and suppression and assistant officials on prevention and suppression offensive acts making harms for social order or destruction of economic and social system of the country.

The NHRCT finds that such laws and policies creating rooms for government officers to use wide discretion with various responses by the end, while there are legislative measures and mechanisms with the dilution of rights and freedom of people in exceeding causes and without necessities, cancellation or amendment if out of date or irrelevance with current situations or being shortcomings for making life of the public.

## 2. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The NHRCT assesses overall economic, social and cultural rights, prescribed under International Covenant on Economic, Social and Cultural Rights (ESCR), and would like to present main incidents with its concerns and recommendations as follows:

### RIGHT TO EDUCATION:

The Government has endorsed various policies and measures for ensuring the accessibility to compulsory education without any basic payments and now spends continual efforts for achievement of rights to education with progressiveness in numerous dimensions, as: to allocate 20 percent of annual government statement of expenditure for education; to guarantee accessibility to compulsory education without any basic payment and to enlarge basic education

for 15 years; to mobilize the educational reform in regional levels and take more accountability to participation of civil society; to amend the Loan for Education Fund Act, B.E. 2541 (1998) with reducing of restrictions for accessing to the Loan for Education Fund for those facing hardships and increasing more opportunities for any youth and children with talents to pursue their studies in insufficient fields of studies with high public demanding for the country development to be able to access to tertiary or vocational educations. The NHRCT witnesses principal challenges as follows:

- The overall educational reforms with development of comprehensive quality, especially for children and youth facing risks, statelessness and nationality problems, belonging to ethnic groups and refugees and family members of migrant workers, vulnerability and being in remote areas, these all shall be access to their rights to education corresponding to their demands and needs;
- The educational management is not corresponding to social and cultural bonds, especially the education with mother tongue-based or multi lingual-based education (MTB/MLE) including to preserve and maintain community culture and natural resources. Some laws are being criticized with poor implementation and misinterpretation, as: Section 12 of the National Education Act, B.E. 2542 (1999) with additional amendment and Ministerial Regulation on Rights of Community-based Organizations and other Private Organizations managing Basic Education in Learning Center, B.E. 2555 (2012).

## RIGHT TO HEALTH:

The Government has adopted a number of policies and measures and made continual efforts to proceed the achievement for possible highest attainable standards and indicators as: to promote the lifelong wellness; to enhance the Announcement of National Health Committee on National Health System Charter, No.2, B.E. 2559 (dated 8th November 2016); to establish 13 health zones with nationwide coverage and outreach to 99 percent of population under the Universal Health Coverage scheme; to make the transmission of HIV/AIDs and syphilis from mother to child with reduction of number not higher than 2 percent; to set-up 429 teenage clinics within hospitals under the Ministry of Public Health; and to reduce teenage mother aging during 15-19 years old (from 43.8 per 1,000 population in the same ages); to restore rights of more than 930,000 insured whom vacated their rights under Section 41 (4) and (5) of the National Security Act, B.E. 2533 (1990) and Additional Amendment (No.2), B.E. 2537 (1994). The NHRCT somehow witnesses principal challenges as follows:

- Groups of population shall not access to their rights to health and/or National Health Security, e.g. students facing statelessness and nationality problems and without civil registration records, marginalized and vulnerable groups, people residing in remote areas, teenagers and drug users;
- Management of disparities among those accessible to National Health Security with limit of healthcare system development that might be focusing on public health services and not undertaking the preventive approach with avoidance of risk factors.

## RIGHT TO WORK:

Articles 6-8 of ICESCR, ratified by Thai government, ensures the rights to work with details as: (i) right to work; (ii) right to accept proper work conditions with fairness; and (iii) right to form and partake in trade union, while Thai government is also a state party of 14 International Labour Organization's Conventions, but the NHRCT still experiences challenges with situations of right to work as follows:

- Work conditions and social security of some workers, forced labor, amount of government minimum wages that not covering substantive attainable standards of living of workers and their families and right to set up trade unions;

- Solving of labor in fishing industries by the ratification of ILO Conventions No.87 and 98 with making of proper approach for accessing social security system and Workmen's Compensation Fund.

The NHRCT finds that the Government makes efforts to promote and protect right to work of labors in formal and informal sectors, e.g. the ratification of two ILO Conventions in relation with decent work with enhancing for interpretation of designated standards for Thai workers and decent work into practices of workplaces.

### 3. SPECIFIC SITUATIONS AND CONCERNS

The NHRCT assesses overall specific situations creating massive human rights impacts nationwide including those being under social spotlighting with actions of the government. In 2016, there are four main with NHRCT's concerns and recommendations as follows:

#### HUMAN TRAFFICKING:

The Government has vigorously fought with trafficking in persons problems with creating and applying of laws and policies in proactive manners. The Anti-Human Trafficking Act, B.E. 2551 (2008), Sections 6 and 9 were amended in compliance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (UNTOC) that Thailand is a state party. The meaning of trafficked persons with affiliation to sex-work or prostitution was re-defined to cover those committing sex-work or prostitution with consent or voluntary. In addition, some laws and policies pertaining to forced labor with in fishing and seafood industries were also revised and amended with the promulgation of the Beggars Controlling Act, B.E. 2559 (2016), while some mechanisms and focal points were also designed and established for ensuring of effective investigation processes and without any irregularities and irrelevant delay on human trafficking cases. The NHRCT addresses situations with taking advantages in forms of human trafficking, as:

- Forced labors, especially with fishing industries;
- Sex work or prostitution, especially for non-Thai women in entertainment industries;
- Forced beggars with exploitation from child labors in different forms, times or places with inappropriateness that they might risk with sexual abuses or any other human rights violation.

From overall incidents of human trafficking in Thailand, all sectors have spent their endeavors to solve problems in various dimensions, as if, to issue and enact laws and policies with measures accelerating all working processes with implementing and following-up of concluding observations from all human rights-responsive mechanisms particularly the International Human Rights Treaty Bodies. The human trafficking incidents in Thailand in 2016 would be less serious, and by then Thailand has been upgraded within the revealing of last Trafficking in Persons report (TIP) from Tier 3 (2015) to be Tier 2 (2016). The NHRCT encourages the Government to continue all policies and measures with vigor implementation for the elimination of human trafficking.

#### BUSINESS AND HUMAN RIGHTS:

The United Nations adopted the United Nations Guiding Principles on Business and Human Rights (UNGPs) (in 2011) as encompassing guidance for interpreting the linking of non-binding instruments with accountabilities

of private sectors, apart from those obliged to the state party, as to adopt and enact domestic laws and policies with enforcement for the application and respect of human rights principles into business operations. And for Thailand, though business sectors give cooperation to act corresponding to its domestic laws and policies but there are some laws with loopholes for human rights impacts as follows:

- Impacts to labor, migrant workers, communities and groups with vulnerability, as per the European Commission issued a yellow Notice to Thailand or the U.S. Department of State launched a Trafficking in Persons Report (TIP) with placement of Thailand in Tier 3;
- Impacts to communities and environment caused by mining operations, extractive industries and other mega-development projects or investments both in Thailand from any business sectors and in Thailand's neighboring countries or abroad from Thai affiliating entities.

The NHRCT addresses that the Government makes a number of measures and policies for solving recent problems with more cooperation of business and non-states actors undertaking human rights-based approach. The Cabinet adopted a Resolution, dated 16th May 2016, corresponding to the NHRCT's policy recommendation on transboundary cases with extra-territorial obligations (ETOs) to showing-up of political will to mobilize the adoption of measures and operational guidance for encouraging business actions with social responsibility and respect of human rights of both in Thailand and abroad, especially for all Thai investment or development in neighboring countries. In addition, the Government also framed a Strategic Plan for Promoting Corporate Social Responsibilities, No.1 (2015-2017) with regular review. Nonetheless, the NHRCT observes that there are very few progress actions in a moment, except for those seriously affecting to earnings of businesses and trades. It thus recommends the state authorities and private sectors to vigorously undertaking the interpretation of UNGPs into practices with precaution and preventive tools – Human Rights Due Diligence (HRDD) - comprehensively inspecting human rights impacts.

## SITUATIONS IN THE DEEP SOUTH:

In 2016, there were 807 incidents, with 307 death toll and 628 injured persons from violence in the Deep South. These were increased from the year 2015 with 674 incidents, 246 death toll and 544 injured persons. Meanwhile the Government makes efforts to solve problems with non-violence through peace talks and dialogues with all relevant parties since September 2016. Some safety zones have been demarcated in areas with most concerns including the making of agreements among parties. Anyhow there are some incidents as follows:

- The continuity of violence committed in the Deep South while there are none of concrete actions taken or with any progress outcomes from agreement made though peace talks and dialogues;
- There were some complaints lodged to the NHRCT with allegation that the adoption and using of martial and security laws in the deep south provinces causing violations towards rights to fair trial.

The NHRCT addresses that groups of affected children and women whom lost their family leaders and breadwinners in violations are still facing both direct and indirect impacts with continuity, thus would like to urge the Government to give proper remedial in due process with effective manners for ensuring that they all would be treated properly in both natures of physical and mental damages.



## COMMUNITY RIGHTS, NATURAL RESOURCES AND SURROUNDINGS:

In 2016, the Government makes its efforts for operating all projects and activities developing the country, but some of them are reported with the lack of proper participation from stakeholders, lack of information provided and understandings on community contexts including lack of awareness on emerged impacts which leading to conflicts among government agencies, people and communities on the ground with creating of more social disparities. There are some provocative incidents with human rights violations as:

- On the energy management, as the Government has propagated, with building-up of energy security, to set up coal-power plants in some provinces, as: Krabi, Songkla (Thepa sub-district), Ang Thong and Chaiyapoom. These contentious cases cause broad concerns to potential and possible impacts among people in communities with inaccessible to information and proper participations. There are some resistances incurred on the ground;
- On the mining management, the Cabinet adopted a resolution with termination of mining operations countrywide from the date of 31st December 2016 and has amended the Mining Act, B.E. 2510, and the NHRCT then has proposed to revoke the draft Mining Act, B.E. .... and urged the Government to delicately consider such Act;
- On the matters of natural resources, lands and forests management, in reference to the NCPO's Orders No. 64/2557 and No. 66/2557, the NHRCT opines that the Government has implemented all development policies without any full efforts made to promote and protect rights of people and communities, meanwhile the operations undertaken in accordance with other policies are also inconsistent, including with national agendas and policies;
- On the gist of development of special economic zones, they make at least 2 impacts to people and communities as: the NCPO's Order No.3/2559 and No.4/2559 with infringement to rights and participation of people, including their rights to life and to living in sound environment. The laws on city zone and planning and on controlling of building are contented with processes to protect rights and participation of people, including their rights to life and to living in sound environment, but once these are exempted in special economic zones, all people residing within or nearby would be affected.

The NHRCT finds that all projects and activities, including those pertaining to energy management, mining, natural resources, lands and forests, and special economic zones, are not in line with principles of people participation, starting from accessibility to information; rooms for participation; and remedial preparation and redress for individuals and communities affected. The Government and relevant authorities therefore shall avoid, prevent and provide effective remedy for all problems incurred with respect to rights of people and communities particularly those within or nearby the project or activity areas.

### 4.

## GROUPS WITH MARGINALIZATION AND VULNERABILITY

The NHRCT assesses situations of eight groups with the most marginalization and vulnerability, covering the ethnic and tribal groups, indigenous peoples and stateless and nationality-less persons; groups of persons with disabilities; groups of children and youth; groups of human rights defenders; sexual orientation and gender identity; groups of the older persons; groups of migrant workers and their families; and groups of women. Their rights would be protected and guaranteed by various international human rights treaties, provisions in the Constitution, other relevant international standards, including pledges and acceptances

of the Government under the UPR process. These groups are considered to be the most vulnerable and are facing human rights infringements either from anyone's actions taken with multi-discrimination and their intersectional attributions. The NHRCT considers that the Government has made its efforts to protect all eight groups, with the promulgation and adoption of laws and policies with affirmative actions taken, while there are limits and constraints found with both effectiveness and efficiency of the implementation and enforcement of these laws and policies with incoherence among state apparatuses. These groups are nevertheless not able to access to their basic rights in proper manners. Their situations with NHRCT's concerns and recommendations shall be concluded as follows:

## ETHNIC AND TRIBAL GROUPS, STATELESS AND NATIONALITYLESS PERSONS:

Thai society has been formed with embedding of social and cultural pluralism comprising self-identified 56 ethnic and tribal groups whom claiming their existence in Thailand for generations, while some of them continually face statelessness and nationality problems due to the limits of laws and policies on nationality and rights of Thai citizens. Thus, they are not allowed to access to basic rights or any other developments. The NHRCT thus delicately and strategically conducts its duties on investigation and promotion and identifies root-causes of rights derogation and infringements of these groups as follows:

- Being stateless and nationality-less persons due to lack of evidences and documents with self-proofs, of uncertainty or problems and shortcomings for adding-up their names within civil registrations and with requesting for identity cards;
- Being rootless persons or undocumented due to being founding or orphans;
- Being expelled their names from or frozen their names with movement in civil registrations;
- Lack of or ambiguity of laws, policies and operational guidance for nationalization (being Thai) for persons facing statelessness and nationality problems, e.g. persons making public contributions;
- Lack of clear, certain and official-recognized definition of “indigenous peoples” with strong links to communal and ancestral bonds practicing their earning ways for generations in continuity;

Meanwhile, the Government continually spends the great efforts solving problems of statelessness and nationality with the adoption and enactment of laws and policies corresponding to statelessness and nationality situations, in 4 main parts as: (i) the redemption for nationality problems caused by the announcement of Revolutionary Decree, No.337 through the enactment of Nationality Act, B.E. 2509 (1966) with Additional Amendment (No.4), B.E. 2551 (2008), Section 23 for solving of nationality problems from the denial of “jus soli” ; (ii) the transfer of nationality of descendants of Thai parents but without Thai nationality or losing their Thai nationalities due to the state succession with ‘jus sanguinis’, e.g. Thai displaced persons; (iii) the minimizing of work process for approval of Thai nationality on individual basis; and (iv) the solving of nationality and legal status problems of pupils, students and nationality-less persons in Thailand being descendants of ethnic minorities and ethnic groups whom born in Thailand, including children and persons being studying or graduated with the bestowment of Thai nationality in general through the enactment of Civil Registration Act, B.E.2534 (1991) and Additional Amendment (No.2) regulating the criteria for birth registration of all children born in Thailand and Civil Registration Act (No.2), B.E. 2551 regulating guiding principles for making of civil registration of persons residing in Thailand. Meanwhile



the Government also mobilizes and implements all other policies and measures with overcoming of achievements, as: a project for granting of legal statuses for persons facing statelessness, especially children and youth regardless their education status for being Thai; the Announcement of Ministry of Interior with temporarily allowing stateless and nationality-less persons registered to be able to commute out of their domicile districts but still be in a domicile province.

The NHRCT has concerns on rights situations of 80,118 elders facing nationality problems (those aging from 60 years old) meanwhile there are 90,966 undocumented children and youth facing statelessness and nationality problems being enrolled under educational institutions and children and youth growing-up in Thailand (born outside Thailand) facing problems with personal legal status development under Thai laws.

## GROUPS OF PERSONS WITH DISABILITIES:

The Government has taken a number of progressive actions with promotion, protection and development of life quality of persons with disabilities, covering the accession for Optional Protocol to the Convention of the Rights of Persons with Disabilities (OP-CRPD) with ensuring of the communications and complaint handling procedures of rights and liberties of persons with disabilities are in place as well as more effective remedy provided. In addition by virtue of the NCPO's Order No.58/2559 on accessibility of public health services for persons with disabilities in accordance with the National Health Security Act and Social Security Act, the disparities among persons with disabilities are being reduced, meanwhile persons with disabilities are also encouraged through specific laws and policies, with the life quality developments by reaching some benefits and affirmative actions provided, e.g. a project on income generation for 10,000 persons with disabilities with mobilizing of employment for persons with disabilities; a policy with agenda in 2016 with collaboration on education management for person with special needs for encouraging all persons with disabilities to be able to access to all kinds and all levels of education systems and the intensifying of universal designs for all people.

The NHRCT somehow finds gaps and challenges of policy harnessing on promotion of quality of life of persons with disabilities, especially those residing in remote or rural areas with and would like to ask the Government to provide more efforts making for awareness raising with the public pertaining to rights of persons with disabilities.

## GROUPS OF CHILDREN AND YOUTH:

In 2016, the Government adopts some measures with actions taken corresponding to concerns of the Committee to the International Convention on the Rights of the Child (CRC), as: to provide more resources with nutrition and feeding for new born infants; to adopt the draft law supervising advertisement for products substituting breast feeds; to issue measures and solutions for solving problems of drop-out; to protect children from all violations; and to protect children from all forms of child labors. Meanwhile, there are some incidents with concerns addressed as follows:

- Violence against children;
  - Incidents with death of children from being drown, road accidents and accidents from school transportation, there are 699 death toll of children being drown and 10 died from road accidents with excursion and school transportation;

- Cyber bullying, with increased number of children abused either from the lack of media literacy and abusive contents, the Government exercises some measures that might not suitable, without coverage and not responding to current situations and challenges with wide access to internet countrywide;
- Situations of children on the move and children as family members of migrant workers, there are some restrictions with accessibility to basic education and public health found, while for those accessible to education are facing challenges with school adaptation. Some are even worsen with exposing to physical and mental abuses, discrimination, sexual harassment and exploitation, narcotic drugs and human trafficking.

## GROUPS OF HUMAN RIGHTS DEFENDERS:

The United Nations General Assembly had adopted substantive matters described in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (in 1998) or the so-called “Human Rights Defenders Declaration”. These persons hoist their strong commitments to promote and strive against all acts with the protection of and awareness on human rights and fundamental freedoms. The NHRCT records some incidents as follows:

- Threats and abuses with lawsuits against public participation or Strategic Litigation Against Public Participation (SLAPP) with applying of defamation charges through advertisement and bringing in or uploading information into computer system, these cause the specter with self-censorship for expression or delivery of opinions in all incidents;
- Enforced disappearance with less amount of cases litigated in the court of justice, including there are many cases with allegation to offenders found without any penalization and undertaking of culture of impunity, there is none of information and update given to family members and relatives of those forcibly disappeared.
- Limits of remedies to damages or injuries, as by the nature of law, there are only financial help with legal aids provided.

Nevertheless, the draft Prevention and Suppression against Tortures and Enforced Disappearance, B.E. .... has been proposed to the National Legislative Council, while the Government gives more focusing on incidents of human rights defenders, reflecting from the review of human rights situation of Thailand under the second Universal Periodic Review (UPR), the Cabinet adopts a resolution with pledges to any proposals from any state parties with commitment for inscription of human rights defenders within the draft National Human Rights Action Plan, No.4.

## SEXUAL ORIENTATION AND GENDER IDENTITY:

Within the last decade, there are more actions with reconstruction of social mindsets and tolerance on sexual orientation and gender identity (SOGI), the NHRCT observes five main domains with incidents in Thailand as follows:

- In the matter of criminalization, there are some laws and policies found with provisions or interpretation with misleading to discriminatory practices, e.g. the Gender Equality Act, B.E. 2558 (2015) with loopholes or exemption for discrimination on grounds of religious manifestation or national security causing derogation of rights of any specific persons with identities or to protect public welfares and security;
- In the gist of stigmatization with stereotyping, some incidents showing the blanket prejudice with sexual harassment and violence against persons with sexual orientations and gender identities or

lesbian, gay, bi-sexual, transgender, intersex and queer (LGBTIQ) found, especially within media coverage that cause reproduce and retain of stigmas towards LGBTIQ and social exclusion;

- Status identity recognition, particularly within laws and policies, there are very few with avoidance of binary concept of sex, but spectrum of choices, nonetheless some laws, especially the draft Same Sex Marriage Act, are still pending with delay and irregularities;
- Religion and culture with gender inclusion, LGBTIQ are more accepted in term of social cohesion with employment, particularly within entertainment industry while there are some reports with abusive manners claimed, particularly on systematic discrimination on grounds of access to education, vocational training programs for capacity strengthening, job seeking and application and being government officers or in any careers;
- Empathization with more broad mindset and accurate understandings, it addresses that some groups of people might have positive perceptions with SOGI and LGBTIQ, while there are some rooms of understandings that might need to be filled with gender sensitivity.

## GROUPS OF THE OLDER PERSONS:

The Government undertakes various actions with fulfilling of rights of the older persons including the issuing of policies and laws with adoption of national action plans and measures corresponding to the need of older persons, nonetheless Thailand is ranked as 34th from 96 countries worldwide with Global Age Watch Index, highlighting vital schemes showing life quality of the older persons as: income security, health, competencies and friendly environment. The NHRCT addresses some challenges as follows:

- On the economic rights, some older persons are struggling with poverty, they earn lower income than poverty line (2,647 THB/person/moth), while they are depended on incomes of other family members or persons and there is none of certain source of incomes for daily life;
- On the accessibility to social security, many of older persons are facing constraints with daily subsistence taken;
- On the matters of living with violation, some are found with unaccompanied and isolation, discrimination and lack of infrastructure with appropriateness for older persons, financial exploitation and there is none of caregiving in the long run.

In addition, there are some reports exposing increased number of older persons committing suicides on annual basis, while some policies and laws are not near the achievements. The NHRCT would like to propose the Government to proceed any affirmative and concrete actions with necessity for ensuring such rights would be made to be real with the mobilization of solutions and resources for older persons; the guaranteeing, protection and promotion on rights of older persons; and the acts in accordance with development policies and Sustainable Development Goals (SDGs), capacities strengthening and networking with promotion and protection of rights of older persons; and the enhancing of constructing of United Nations Convention on the Rights of Older Persons under a framework of UN Open-Ended Working Group on Ageing.

## GROUPS OF MIGRANT WORKERS AND THEIR FAMILIES:

Thailand has not yet ratified the International Convention on the Rights of Migrant Workers and Members of their Families (ICRMW) but for the rights of migrant workers (alien labour), they are guaranteed under

various international human rights treaties while Constitution of the Kingdom of Thailand (Interim), B.E. 2557 (2014) only guaranteeing rights and liberties of Thai persons. In the meantime, Thailand has depended on migrant workers, especially from neighboring countries and in 2016, several policies and measures protecting and promoting rights of and with solutions for migrant workers, e.g. the promulgation of Royal Decree on Taking of Migrant Workers for Domestic Employers, B.E. 2559 (2016); the establishment of academic cooperation for solving of unacceptable or indecent work in fishing industries and continuing activities of fishing industries; and the management for policy with nationality proof or registration of migrant workers. These cause the declining number with statistic of illegal entries of migrant workers while there are problems with human rights impacts towards migrant workers and their dependent, as:

- The process for nationality proof of migrant workers is found with difficulties for accessibility and high expenses;
- The work conditions with safety, accessibility and exercise of rights within social security healthcare security schemes, including the prohibition for forming and being members of trade union.

The NHRCT addresses that problems of migrant workers are still unsolved or solved but with very few concrete outputs, therefore the Government shall consider to take them into account.

## GROUPS OF WOMEN:

The Government has made progressive development with law reforms in accordance with the International Convention on the Elimination of Discrimination against Women (CEDAW), including to inscribe gender equality within provisions of Constitution of the Kingdom of Thailand, B.E. .... (one with referendum on 7<sup>th</sup> August 2016)<sup>2</sup>. And in 2016, Thailand is ranked in 71<sup>st</sup> country with the most reduction of gender disparities from 144 countries worldwide which was lower than its 40<sup>th</sup> rank in 2006. A number of vital factors are criticized with cause of the decline as: educational achievement and opportunities and participation on economy and political powers. On the dimension of health and livelihood, Thailand is ranked as 1<sup>st</sup> country from 144 countries worldwide. And for the violence against women, there are 18,919 women facing violence and approaching to One Stop Crisis Center (OSCC) in 18,919 cases (increasing from 2015 with 13,265). The incidents of domestic violence are tentatively increased with battered women's syndrome, as: in 2009, there were 175 killed in family, in 2010, 186 killed in family and in 2013, 206 killed in family and most of killers were husbands while there are increasing numbers of divorcing cases within the past decade, as increase to be 33 percent (during 2006-2016).

The rights situation of women would somehow link to stereotyping with discrimination or prejudice on sex and gender disparity, therefore the Government shall spend its endeavors in all aspects to ensuring the protection and acts without discrimination with achievement of equality as per its pledges and acceptances given and with affirmative actions for gender equality. The SDGs, particularly those in line with women's rights, shall be used to standardize and inspect for policy development.

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