

An open letter

Scrapping the Emergency Decree, heeding to the public input to put Covid 19 outbreak to rest

The Covid 19 outbreak appears to upend livelihood of people all over the world. Its social ramifications are multifaceted, not to mention its economic impact or its effect on safety and security as well as public health. The crisis challenges the leaderships and people in all countries as to how to survive its staggering impacts while ensure that no one or no groups of people are left behind. Until now, the United Nations has issued a guidance to each country regarding the measures to impose to contain the epidemic while retaining respect on human rights of a variety groups of people since to ensure a sustainable effort in disease control, it is inevitable that the state must respect people's rights to ensure it can garner cooperation from all people.

Thailand has imposed measures and restriction as well as made an effort to raise the public awareness in this regard. The government led by Prime Minister General Prayut Chan-ocha has imposed the Emergency Decree on Government Administration in States of Emergency 2005 or the Emergency Decree and issued its regulation for disease control per the detail of the disease control measures issued by invoking the Emergency Decree's Section 9 from Articles 1-7 including closure of places, prohibition of entry into risk areas, prohibition of the hoarding of goods, prohibition of the assembly of people, or the presentation of news. A curfew ban has also been put in place to prevent people from leaving their homes from 23.00 – 04.00, as recently changed from 22.00 – 04.00, except for people who are in need. The curfew ban has been renewed to until 31 May 2020.

The Human Rights Lawyers Association (HRLA) has been receiving feedback from its members and a network of people who work for public interest regarding the impacts and the inappropriateness of the imposition of the Emergency Decree and certain regulations. Even though some leniency has been made to the restriction, it continues to fall short of responding to the

need of a variety of people. In addition, given a lack of comprehensive remedy, a number of people have to increasingly bear the immeasurable brunt in their daily life including;

1. Thai and migrant workers: Given the economic impacts and the dwindling income, the companies' ability to employ people has been compromised. Worse, some employers take advantage of the crisis to unfairly cut wages of their employees or to force them to resign. Moreover, the migrant workers have not been included among people who have received financial support from the government since the majority of them belong to an informal sector and the existing measures are exclusively designed to remedy Thai nationals.

2. People with disability: The incumbent situation has made them become much more vulnerable. For instance, the practice of social distancing is impractical for people with visual impairment without the sighted guide. Many of them who earn their living as resource persons speaking at events are deprived of their opportunity to work given the prohibition of the assembly of people and restriction on inter-provincial movement. Also, information pertaining to the disease and its prevention has not been made accessible to each and every group of people with disability.

3. Children: They are affected since they have to shift to an online education by learning from home. But the different degrees of knowledge among their parents and the varying degrees of access to technology of each family take their toll on children's ability to develop and access to education.

4. The homeless people: The imposition of the curfew ban and the punishment for its violation per the Emergency Decree has made it extremely vulnerable for the rough sleepers who have no permanent homes. It makes them vulnerable to both the infection and legal prosecution as attested to for example by the arrest and conviction of the rough sleepers in Chiang Mai for breaking the curfew ban.

5. People with chronic comorbidities: They are in constant need of treatment and are obliged to periodically see the doctor. But given the incumbent situation, their medical

appointments have to be postponed or their access to the needed treatment made more challenging given their local situation and the delayed referrals of cases. The state is obliged to come up with measures to address the specific needs of the people.

The impacts from the aforementioned measures imposed by the state have also been exacerbated by the existing inequality and the impeded access to fundamental rights among many groups of people. Such predicament precedes the pandemic. It has been lingering in Thai society and left unaddressed for a long time. Given such sheer crisis and coupled with the restrictions by the state, the problems have become even more discernable. In addition, the imposition of the Emergency Decree effectively stifles public expression on various issues beyond the disease control, given the prohibition of the assembly of the people. Such right to freedom of assembly is a fundamental right in a democracy and is indispensable to ensure the government is aware of feedback from the public in order to address solutions for national development and to address specific issues that occur while competent officials enforce the state of emergency including the case of the arrest of fishers for breaking the curfew ban by the defense volunteers in Songkhla's Chana district, even though fishing is exempted from the curfew ban. Such problems have arisen from the imprudent enforcement of the laws and regulations by the state without considering the impacts on all groups of people.

The Human Rights Lawyers Association (HRLA) and the undersigned organizations urge the state to take this opportunity to ensure systematic and comprehensive solutions are applied to the situation and to promote access to fundamental rights of the people effectively and fully as follows;

1. Review and suspend the imposition of the Emergency Decree on Government Administration in States of Emergency 2005 and the shelter-in-place regulation and instead resort to enforcing normal laws including the Disease Control Act 2015 since the enforcement of the Emergency Decree without checks and balances is prone to give rise to excessive restriction of rights and freedoms, disproportionate to the need for disease control.

2. The disease control measures by the state should be meted out considering how appropriate they are to the situation and with respect on the people's rights in compliance with the guidance issued by the United Nations during the Covid 19 outbreak. The state should take this opportunity to review the problems that prevent people from having access to their fundamental rights and to undertake the effort to ensure their fundamental rights of all people are effectively and fully realized including the promotion of universal access to healthcare.

3. The state should listen to input from a variety of people as much as possible given the exigencies of the situation and should ensure the availability of the outlets to listen to their voice directly to ensure the problems can be solved at their root causes and to ensure sustainable development of the nation. The power to review the situation and to make decision which is exclusively vested for too long in the hand of a handful of people and the muzzling of freedom of expression shall never bring about genuine solutions to the problems.

With respect in human rights and human dignity of all people

16 May 2020

Human Rights Lawyers Association (HRLA)

Union for Civil Liberty (UCL)

Community Resource Centre Foundation (CRC)

Human Rights Law Center

Empower Foundation

Cross Culture Foundation (CrCF)

Center for Protection and Revival of Local Community Rights (CPCR)

National Health Security Coordination Center (Chiang Mai)

Upper Northern Non-Governmental Organization Committee

Foundation for AIDS Rights

We fair for Welfare State Network

Muslim Attorney centre foundation (MAC)

Thai Lawyers for Human Rights (TLHR)

People's Health Systems Movement

Thai Volunteer Service Foundation (TVS)

Sor Rattanamani Polkla Lawyer

Pasuta Chuencharoen Lawyer

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Sumitchai Huttasarn Lawyer

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