



มูลนิธิเพื่อสิทธิมนุษยชนและการพัฒนา (มสพ.)
Human Rights and Development Foundation

เลขที่ 109 ซอยสิทธิชน ถนนสุทธิสารวินิจฉัย แขวงสามเสนนอก เขตห้วยขวาง กรุงเทพฯ 10310
109 Soi Sithichon, Suthisarnwinichai Road, Samsennok, Huaykwang, Bangkok 10310
Tel: (+662) 227 6882 /(+662) 277 6887 Fax: (+662 275 4261) E-mail: info@hrdfoundation.org

HRDF Lawyer Appeals 6-year Sentence for Cambodians, Victims of Fraud Syndicate

[24th November, Surin] Yesterday, a pro bono lawyer of the Human Rights and Development Foundation (HRDF) lodged an appeal to the Court of Appeal Region 3 at the Surin Provincial Court, appealing a 6-year imprisonment imposed on nine Cambodian defendants for forging and using fraudulent passports and immigration stamps. HRDF's lawyer contends that these individuals are poorly educated, which led them to fall prey to a fraud syndicate. Furthermore, with no access to lawyers from the beginning, they pleaded guilty to the charges without fully understanding its implications.

The investigator charged ten Cambodian workers, five men and five women, with forging and using fraudulent passports and immigration stamps, which are offences under Article 269/8, 269/9, 269/12 and 269/13 of the Criminal Code of Thailand following their arrest on 28 April 2017 by Surin Provincial Immigration Police after the workers presented them with fraudulent passports and immigration stamps at Chongjom checkpoint, Tambon Dan, Gabcherng District, Surin Province. On 24 July 2017, the Provincial Court of Surin convicted and sentenced all ten workers for multiple offences of 4-year imprisonment each, resulting in 12-year imprisonment in total for each worker. Since the workers admitted to all charges, the sentences were reduced by half, leaving each worker with a six-year imprisonment.

After the ruling of the Court of First Instance, family members of the convicted defendants contacted the Cambodian Human Rights and Development Association (ADHOC) for assistance. The family members asserted that all workers were victims of a fraud syndicate. Furthermore, according to the family members, after the arrest, the workers were informed and made to understand that if they admit to the charges, they would be released back to Cambodia. Instead, however, they were sentenced up to a six-year imprisonment. ADHOC subsequently referred the case to HRDF for legal assistance. Nine of the workers expressed their will to be represented by HRDF Lawyer.

With assistance provided by the Surin Lawyer Council, the HRDF Lawyer learned from the defendants that they had contacted a broker recommended by their acquaintances in order to come and work in Thailand. The broker then arranged all relevant documents for the defendants, charging each of them 2,500 baht. They thought the documents were legitimate.

“In Cambodia, it is very common for people living in rural areas to pay a broker to help with making a passport. People, especially those with low education, normally don’t even know what a passport actually is, let alone being able to tell the difference between a legal one from a fake one. Cambodian government agencies haven’t done enough to raise the awareness of people when compared with illegal agencies who only live next doors and advertise their service in accessible language” said Chhan Sokunthea, ADHOC’s Head of Women’s and Children Rights Section who affirmed the claim of the defendants.

The defendants held that, when investigated by the police, they admitted to the charge of the use of fraudulent passports; they did not realize that they also admitted to the charge of making fraudulent documents, due to misunderstanding, lack of legal counsel from a lawyer, and language and interpretation difficulty. Furthermore, credible evidence shows that three of the defendants were aged under 18 at the time of arrest, which classifies them as children and brings them under the protection of Thailand’s Juvenile and Family law that stipulates a different means of prosecution from those in adult cases. The procedure by which the three defendants were prosecuted is therefore inconsistent with Thai law and obligations under the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of the Child (CRC) to which Thailand is party to.

According to the defendants’ family members, up until now, there has been no action either from the Thai or Cambodian authorities to bring the broker syndicate to justice.

“This case shows that both countries of origin and countries of destination, like Cambodia and Thailand, still have so much to do to ensure that the ‘safe migration’ agenda highlighted in declarations put forth at the Mekong region and ASEAN levels, translates to meaningful protection on the ground for local people. For local people, it is these brokers who are the main source of accessible information regarding working overseas” commented Chonticha Tangworamongkon, Programme Director of HRDF.

In the case of the three child defendants who have been wrongly prosecuted and detained together with adults at Surin Provincial Prison, HRDF calls for the government authority to have this matter be inspected and rectified, and that the child defendants be accorded with the best interest principle.

Further information, please contact:

Chonticha Tangworamongkon, HRDF: mobile: +66 875539689 (accessible on 26 Nov onwards)

Email: chonatwork@gmail.com; Line ID: chon414

Chhan Sokunthea, ADHOC: Mobile: +855 93 831 990; email: chhansokunthea@gmail.com

(English or Khmer)