



มูลนิธิเพื่อสิทธิมนุษยชนและการพัฒนา (นสพ.)
Human Rights and Development Foundation

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Press Release

Appeals Court Region 9 confirms 22-year-and-six-month-imprisonment of a former member of the Satun Provincial Administration Organization (PAO) and grants the request for the Rohingya victims to become co-plaintiffs in trafficking in persons charges

On 20 October 2016, the Provincial Court of Songkhla read the verdict of the Appeals Court Region 9 (Black Case no. KM 2/2559, Red Case no. 1100/2559) in which Mr. Anat Hayeemasae, former member of the Satun Provincial Administration Organization (PAO) had appealed the order of the Court of first instance which had sentenced him to 22-year-and-six-month-imprisonment for an offence against the Anti-Human Trafficking Act B.E.2551 (2008), the Penal Code's provisions concerning an offence against life and liberty and the Immigration Act (1979). He had been ordered to provide indemnity to the Rohingya people who have become victims of trafficking in persons (more information about the verdict of the Lower Court, please see <http://hrdfoundation.org/?p=1388&lang=en>)

The Appeals Court Region 9 decided as follows;

1. Whether the act of the accused was simply human smuggling or not? The Court deems that in this case aside from bringing individuals across the borders illegally, the accused had also arranged to have his agent to deceive, to instigate and to persuade the injured parties to take a trip abroad from Myanmar. The travel was made via sea and they were then held up in a camp where they had been subject to violence, intimidation, and physical abuse and forced to tell their relatives to bring forth ransoms. Their custody was made possible with the use of firearms to prevent them from escaping. Apparently, the injured parties had no powers to make decision over their destiny and were subject totally to the control of the perpetrators who forced their relatives to bring them money in exchange for their freedom. Such behavior is tantamount to exploitation and a kidnap. Therefore, it was not simply human smuggling.

2. *The injured parties in this case who are co-plaintiffs and the Rohingya had been lured from Myanmar and Bangladesh and such an offence is akin to the act of transnational organized crime involving a large number of injured parties.* From their behavior, it could not be construed otherwise but the act of an organized movement conspired by more than two persons. Based on the evidence from witnesses including reports of the inquiry officials, prior to the offence in this case had been committed, the arrangement was made to bring forth the Rohingya to be held in captivity in the premises belonging to Mr. Pajjuban Angchotphan, aka "Ko Tong" and the offence had been collectively made by several individuals including local politicians, hitmen, and local villagers. Also according to the investigation report, prior to the crime, communication had been made among the perpetrators including those who had been paid by the accused several times. It clearly indicated that the accused had known and must have been involved with the commission of the offence in this case.

3. As to his involvement in conspiring the trafficking in persons office, since at least two persons had conspired to commit the offence, it is already culpable of the office of trafficking in persons. And anyone who have conspired to do the act and had actually been involved in the commission of the act as well, they shall be held accountable as well.

4. That the Court of First Instance has convicted the accused in the trafficking in persons offence as the offence that carries the harshest punishment, the Appeals Court deems that according to the law, the offence concerning restraining a person for a ransom carries even heavier penalties, and therefore decided to change to convict the accused on kidnap instead of trafficking in persons, though the sentencing remains the same including the 22-year-and-six-month-imprisonment and the indemnity of 126,900 baht to provide for the injured parties.

The Appeals Court Region 9 grants the request for the Rohingya victims to become co-plaintiffs in trafficking in persons charges

The Human Rights and Development Foundation (HRDF) has been providing legal representation for the Rohingya victims in this case and authorized by them to plead with the Provincial Court of Songkhla to have them as co-plaintiffs in this case. The Provincial Court of Songkhla has granted the request for them to become co-plaintiffs in this case only on charges excluding trafficking in persons citing that such an offence was an offence made against the state and a private person cannot be an injured party. **Nevertheless, the Appeals Court Region 9 has granted the request and allowed the victims to become co-plaintiffs with the public prosecutors on trafficking in persons charges deeming that “Even though it is the intent of the Anti-Human Trafficking Act B.E.2551 (2008) to protect the state and ensure peace and order in society at large and it has been promulgated in compliance with the UN Treaties and Protocols to which Thailand has become a state party, but the elements of crime of trafficking in persons charges involve the treatment forced unto an individual and lead to the ramifications of their lives, bodies, freedoms, or properties. In addition, the law has been promulgated to provide for the right of the injured party to demand indemnity and to access help and welfare protection as well. Therefore, it is not simply an offence against the state, but including the victim who have become an injured party as well. Therefore, such injured party should be entitled to becoming a co-plaintiff in the offence against the Anti-Human Trafficking Act.”**

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