



**มูลนิธิเพื่อสิทธิมนุษยชนและการพัฒนา (มสพ.)**  
**Human Rights and Development Foundation**

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**Press Release**

**Human Rights and Development Foundation (HRDF) petitioning the President of the Supreme Court  
As the attorney of trafficking victims in fisheries have been denied access to his clients**

In pursuance to the rescue of 15 migrant workers from Cambodia employed in fisheries sector by the Thai authorities on 21 January 2016 and they have undergone trafficking screening process and the case against the perpetrators have been indicted with the Provincial Court of Ranong on charges concerning trafficking in person per the Anti-Trafficking in Persons Act B.E 2551 (2008) and the Penal Code (the Black Case no. KM 2,4/2559), the Human Rights and Development Foundation (HRDF) has submitted a letter to the Ministry of Social Development and Human Security (MSDHS) asking for permission to visit and offer legal assistance to the victims who are entitled to the rights as an injured party in a criminal case. The injured parties have agreed to appoint HRDF's attorneys as their legal representatives in the Thai justice process and the injured parties have later been allowed to become co-plaintiffs in the case. And in June 2016, the attorney of the co-plaintiffs have pleaded to the Provincial Court of Ranong to transfer the case to the Criminal Court's the Division of Trafficking in Person citing safety concern of the injured parties. The request was however turned down by the Supreme Court which deemed the supporting evidence submitted by the attorney of the co-plaintiffs failed to prove materially that there would be any disruption or unrest that would significantly affect the interest of justice as provided for in the Criminal Procedure Code's Section 26 (for more information, please see <http://hrdfoundation.org/?p=1600> ).

On 18 January 2017, while the Provincial Court of Ranong was conducting a hearing of prosecution witness examination in the Black Case no. KM 2,4/2559 with witnesses from Cambodia who is the trafficking victim and co-plaintiff in this case to give evidence to the Court and the attorney of the co-plaintiffs has performed the duty during the witness examination. During the hearing, the defense attorney has objected the questions asked by the attorney of the co-plaintiffs claiming the attorney of the co-plaintiffs has used a leading question during the witness examination. The Court was asked to review how the attorney of the co-plaintiffs performed his duty. It was noted that after the injured parties have pleaded to become co-plaintiffs in the case and have authorized the attorney, they have given evidence to the Court different from the account they had given to the police. Moreover, all the 11 co-plaintiffs are "dual witnesses<sup>1</sup>." The defense lawyer requested that the court takes Witness no.8 under the court's care to prevent any bias against the defendants. The co-plaintiff's lawyer made objection though. The court considered that this case has up to 11 co-plaintiffs, who claimed that they are victims in the case. It took a lot of time for direct and cross examination. And their examination was undertaken during the pre-trial in the case KF.2/2559. Thus the defendants would not be at a disadvantage position. But to ensure smooth trial, to prevent conflicts between the parties, the Court then ordered that the court's officer take the witness under his care. Even though the attorney of the co-plaintiffs has pleaded to the Court to have the order revoked, since he thought that it would infringe on the rights of his clients in meeting with their lawyer in a criminal justice process, but the Court insisted on upholding the order as the Court deemed it would ensure a peaceful hearing fair to both parties.

As a result, today the Human Rights and Development Foundation (HRDF) has submitted a letter of petition to the President of the Supreme Court, the Chief Justice Region 8 and the Chief Judge of the

<sup>1</sup> Literal translation of the Thai term referring to witnesses who give the same testimony to the police

Provincial Court of Ranong to ask for permission for the attorney of the co-plaintiffs to have access to and to talk to his clients. The decision should be made based on principle of fair trial, equality and independence which has long been upheld by the Court of Justice in Thailand. In addition, the International Covenant on Civil and Political Rights (ICCPR) and the Constitution recognize the rights of a person in a judicial proceeding. An attorney is a major part of a criminal court proceeding. Access to lawyer can ensure that both parties shall receive legal counseling and to prepare their case properly. If the victims of human trafficking do not have a chance to meet with their attorney, their rights to legal counselling could be violated.

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