



มูลนิธิเพื่อสิทธิมนุษยชนและการพัฒนา (มผว.)

**Human Rights and Development Foundation**

เลขที่ 109 ซอยสีหิทธิชน ถนนสุทธิสารวินิจฉัย แขวงสามเสนนอก เขตห้วยขวาง กรุงเทพฯ 10310

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## Press Release

### Ministry of Justice refuses to compensate an injured person who is a survivor of human trafficking and rape, claiming the girl voluntarily entered Thailand illegally

Bangkok: The attorney of the Human Rights and Development Foundation (HRDF) who is assigned to provide legal assistance to Girl A (pseudonym), a migrant worker from Lao PDR and a trafficking survivor who had been tortured and raped, has been informed of the decision regarding her application for the “Compensation for the Aggrieved Party” by an officer of the Ministry of Justice via a phone call that the ‘Samut Prakan Subcommittee Considering the Compensation to Aggrieved Parties and the Accused in Criminal Cases’ has decided not to grant compensation to Girl A, justifying that although the girl was not involved in the commission of the offence, she had **voluntarily entered into Thailand illegally, and therefore is not considered an “injured person” who is entitled to the compensation.**

The case can be traced back to an incident in 2014 when Girl A, who is from Champasak Province, Lao PDR and who at the time was ten years old was lured together with her elder brother by Lao brokers to work as domestic workers in a house belonging to well-to-do persons in Samut Prakan Province. There, she was subjected to torture and various forms of other cruel, inhumane and degrading treatment for five years. For example, she was beaten up, stabbed with scissors, and had her skin cut and slashed all over her body. She was also forced to eat together with cats and dogs in the house. She has suffered horrendous injuries, physically and mentally.

In 2019, Girl A managed to escape from her employer’s house after several earlier attempts. But as she had no idea how to return to her family in Lao PDR, she was instead deceived by Mr. Kalong Muangchan, a resident in Samut Prakan, who raped her repeatedly. Eventually, she was rescued by the police and was transferred to the custody of the Ministry of Social Development and Human Security. On 19 February 2020, the Samut Prakan Provincial Court convicted and sentenced Mr. Kalong to ten years and three months of imprisonment



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for raping a child who was not yet fifteen years old. Meanwhile, the earlier employer and her relative who were complicit with the abuse of Girl A are currently under trial for trafficking in person.

After being assisted by officials from the Ministry of Social Development and Human Security to apply for compensation as an aggrieved person in a criminal case, since she had been physically abused by her employer and sexually assaulted by Mr. Kalong. The Ministry of Justice has, however, denied her application and refused to pay her the compensation, even though she was an injured person of these crimes, claiming she had voluntarily entered the country illegally.

Having worked to give legal assistance to a number of migrant workers, HRDF has found that the Ministry of Justice often refuses to provide compensation to migrant workers who are victims of criminal offences by claiming that they have entered the country illegally. Regarding this, Chonticha Tangworamongkon, HRDF's Director, has this to say;

*“The state is obliged to uphold human dignity and the rights and freedoms of life and body of all persons in the country without discrimination based on any reasons and is obliged to suppress criminal activities. If the state has failed to uphold these duties, it is incumbent on them to provide immediate compensation to the survivors per the Act for the Granting of Compensation to Aggrieved Parties and the Accused in Criminal Cases 2001, which stipulates in Section 17 that an injured person of certain criminal offences including physical abuse and sexual assault, such as what happened to Girl A, shall be entitled to a basic compensation from the state, **except when the injured person has been involved with the commission of the offence.** Therefore, it is not in the spirit of the law to exclude undocumented migrant workers from having access to this compensation. If this exclusion was the case, it should be specifically provided for by law.*

*Therefore, the orders and guidelines that deprive migrant workers of compensation by invoking their undocumented status is incompatible with the spirit of the Act for the Granting of Compensation to Aggrieved Parties and the Accused in Criminal Cases 2001. The orders and guidelines also constitute an exclusion and discrimination against migrant workers*



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*contrary to the Constitution and international human rights laws to which Thailand is a state party.*

*In addition, as the Subcommittee decided that Girl A had entered the country illegally and voluntarily, HRDF finds this decision unlawful and contrary to the interest of justice, since Girl A had been brought to Thailand when she was only ten years old. At that age, she was intellectually incapable of making a decision by herself. She was also lured to travel to Thailand. How could it be fair to say that she had voluntarily entered the country illegally?*

HRDF will use our best effort to assist Girl A to appeal the decision of the Subcommittee so that the “Ministry of Justice ensures “justice” for her.

*“In addition, the Human Rights and Development Foundation (HRDF) also urges the Ministry of Justice to refrain from invoking undocumented status as a reason to discriminate against and to exclude migrant workers from having prompt access to state remedy even though they are survivors of criminal offences in the country”* said the HRDF Director.

**For more information, please contact;**

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