



ศูนย์ทนายความมุสลิม  
MUSLIM ATTORNEY CENTRE

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### **Press Release**

#### **Update on the criminal and civil case on Imam Yapha Kaseng**

**At the Provincial Court of Narathiwat, the Appeals Court concurred with the Lower Court to dismiss the prosecution against the police defendant ordering the case against other military defendants to be filed with the Military Court. The mediation on civil suit at Bangkok Civil Court did not reaching an end.**

On 14 June 2011, the Provincial Court of Narathiwat was scheduled to deliver Appeals Court's decision on the criminal case filed by Ms. Nima Kaseng, wife of Imam Yapha Kaseng who was tortured to death, against the military personnels and a police officer who held the Imam in custody. The officials were accused of abusing their power, committing murder and physical assault and depriving liberty (preliminary hearing).

In concurrence with the Lower Court, The Appeals Court dismissed the case against the 6<sup>th</sup> defendant and refused to accept the case against the 1<sup>st</sup> to 5<sup>th</sup> defendants claiming that the 6<sup>th</sup> defendant, a police officer at the Rueso Police Station simply performed his duty invoking martial law and as a civilian official, he had to obey the orders of the military. How and where a person arrested was being held in custody had nothing to concern him.

In addition, it did not appear that the 6<sup>th</sup> defendant was complicit in conducting the physical assault and it was not credible that he had joined the 1<sup>st</sup> to 5<sup>th</sup> defendants to commit the offence. And since the 1<sup>st</sup> to 5<sup>th</sup> defendants are military officials, and as the case falls outside jurisdiction of the criminal court, it should be then filed with the military court.

The Military Court Procedure Act B.E. 2498 prescribes that only state prosecutors can be the plaintiff in a case filed against a military official. Any damaged party has to allow the state prosecutor to be the sole plaintiff of their case and no other parties are allowed to be co-plaintiffs.

On the same day, relatives of Imam Yapha Kaseng went to the Civil Court in Bangkok to a mediation session with representatives from the Ministry of Defence, Royal Thai Army and Royal Thai Police. A civil suit has been filed for damage claim as per the case in which Imam Yapha Kaseng was tortured to death while being held in official custody. The mediation did not succeed as an agreement was not reached on the request of the plaintiff for the concerned governmental agencies to publish an official apology to the family of Imam Yapha Kaseng in newspapers and to circulate it among security agencies. Also, the proposed indemnity was unacceptably low. Thus, the case has been reinstated for further investigation in the Court, and the pre-hearing conference was scheduled to take place on 20 June 2011 at 09.00 am.

The criminal and civil lawsuits stem from the order made by the Provincial Court of Narathiwat in the post-mortem trial of Mr. Yapha Kaseng as required by Section 150 of the Criminal Procedure Code on 25 December 2008. It was declared by the Court that the deceased person was Mr. Yapha Kaseng, and he died at Narathiwat Taskforce 39 located in Wat Suan Tham, Moo 2, Tambon Rueso-ok, Reuso district, Narathiwat, on 21 March 2008 and the cause of death is being physically abused by military officers until the ribs broke and pneumothorax was sustained on his right chest during the time the deceased was held in custody by the military officers who were competent officers.

#### **For further information, please contact**

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