

PRESS RELEASE – THE OBSERVATORY

Malaysia: Libel suits undermine the legitimate work of human rights defenders - Defamation case against human rights defender Charles Hector Fernandez ended with a settlement

Geneva-Paris, August 26, 2011. *The Observatory for the Protection of Human Rights Defenders, a joint programme of the World Organisation Against Torture (OMCT) and the International Federation for Human Rights (FIDH), expresses its concern about the outcome of the judicial case against human rights defender Charles Hector Fernandez, who was sued by a company for publishing information regarding the violation of the rights of 31 Burmese migrant workers in Malaysia.*

On August 25, 2011, the case against human rights defender **Charles Hector Fernandez** before the Shah Alam High Court ended in a settlement between the defender and the company that had sued him for civil “defamation”. According to the settlement, Mr. Charles Hector Fernandez will pay 1 Malaysian Ringgit (less than one USD) in costs and the same amount in damages to the company, and will publish a half-page apology in the Malaysian daily newspapers *The Star* and *Nanyang Siang Pau*.

Mr. Charles Hector Fernandez was sued in February 2011 by the Japanese-owned company Asahi Kosei, in Selangor, Malaysia, for publishing information on-line regarding the violation of the rights of 31 Burmese migrant workers by this company management. Asahi Kosei Company was demanding a compensation of USD 3.3 million, in addition to a public apology, with the argument that these 31 Burmese workers have not been under their responsibility, as they were supplied to them by an ‘outsourcing agent’¹.

The Observatory sent an international mission to observe the trial against Mr. Charles Hector Fernandez and to investigate the situation of human rights defenders in Malaysia.

“The case of Charles Hector Fernandez shows how powerful corporate interests are taking on and silencing a human rights defender by his horns. Using exorbitant civil libel claims against human rights defenders reporting alleged corporate abuse sends a dangerous precedent with a chilling effect on the legitimate work of human rights defenders”, said Ms. Sudha Ramalingam, following the observation of the trial.

The Observatory is concerned that the human rights defender in this case was left with little choice other than accepting a settlement having the effect of sanctioning his activities as a defender of the rights of migrant workers. For many years, Mr. Charles Hector Fernandez has provided vital legal assistance to workers and migrants seeking justice.

The Observatory calls upon the authorities of Malaysia to put an end to all forms of harassment against human rights defenders in the country, including through criminal or civil libel laws, and to ensure full conformity with the United Nations Declaration on Human Rights Defenders and other international and regional instruments ratified by Malaysia. The Observatory also reminds private actors including business enterprises of their responsibility of respecting human rights and exercising due diligence to avoid complicity in abusing human rights in countries where they operate.

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¹ See The Observatory Press Release issued on June 27, 2011.