

SAPA People's Hearing - Session 4: Manufacturing Industries / Labour Migration

Asahi Kosei, Malaysia

Witness

Charles Hector Fernandez – Mr. Hector is a lawyer and former member of the Malaysian Bar Council. He is an active human rights defender and blogger (<http://charleshector.blogspot.com>). Over the past few months, Mr. Hector has been publicly raising the issue of rights violations against a group of 31 Burmese migrants in relation to the Asahi Kosei (M) Sdn. Bhd. Company, a subsidiary of the Asahi Kosei Japan Company Ltd., a Japanese company operating in Malaysia. He is currently facing a lawsuit by said company for libel and defamation. <http://indefenceofcharleshector.blogspot.com>.

Case Summary

Over the past few months, Mr. Hector has been publicly raising the issue of rights violations against a group of 31 Burmese migrants in relation to the Asahi Kosei (M) Sdn. Bhd. Company, a subsidiary of the Asahi Kosei Japan Company Ltd., a Japanese company operating in Malaysia that manufactures electronic components and automotive parts. The workers allege that their employer paid them far less than their agreed wage. Upon seeking compensation, ‘gangsters’ came to their hostel and threatened them. These ‘gangsters’ took their refrigerator, television, fan, rice cooker, and other items, and turned off their electricity. Two of the workers were threatened with deportation to Burma were taken to the international airport, but managed to escape.

The workers lodged a formal complaint with the Malaysian Human Rights Commission (SUHAKAM). The following day, the employer had a meeting with the 31 workers, proposing changes to their previously-agreed contract. They were given an ultimatum: agree to sign the new contract on the spot, or be terminated and sent back to Burma immediately. The workers were not given any time to consider the proposal or to discuss the matter further. In the end, all present but 2 of the workers signed the new contract. The 2 workers who did not sign, Thiha Soe and Aung San, were handed over to the recruitment agent, presumably to send them back to Burma. They were separated and taken to undisclosed locations. Neither of these workers wants to return to Burma; both prefer to continue working at the Asahi Kosei factory in Balakong.

Mr. Hector highlighted these injustices and human rights violations on his blog, asking others to intervene on behalf of the victims. A subsequent media statement was signed by 77 organizations and was issued, calling for Asahi Kosei to respect the rights of the Burmese migrant workers, and all migrant workers under its employ. Prior to posting information related to the case on his blog, Mr. Hector sent two emails to Asahi Kosei asking them to respond to the allegations. Receiving no reply, he proceeded to post the information he received from the workers to his blog.

Mr. Hector subsequently received a letter from the lawyer of Asahi Kosei, claiming that the posts about the Burmese workers are libelous and defamatory, and demanding, within 7 days, \$3.3 million, the immediate withdrawal of the posts, and an apology to be circulated to all major English-language newspapers in Malaysia. The letter also denies all of the allegations made by Mr. Hector on his blog, indicating that the workers were supplied by an outsourcing agent and were not under the direct payroll of the company.

Asahi Kosei has also filed an application to include all 31 Burmese migrant workers as parties in the action. Of the 31 workers, 26 are still employed at Asahi Kosei. 5 others have not been allowed to return to work. Mr. Hector and his lawyers are concerned that Asahi Kosei may attempt to cancel their work permits/visas, rendering them undocumented and subjecting them to deportation. The workers, including

these 5, are crucial witnesses for Mr. Hector. Among them are those who personally complained on behalf of the 31 workers to SUHAKAM and the Labour Department, and those that were taken to the airport for deportation, allegedly to be sent back to Burma because they did not want to enter the 'new' agreement. Asahi Kosei was asked to ensure that these workers could continue their employment and remain legally in Malaysia until the end of the trial. Asahi Kosei has not agreed to this request.

Mr. Hector's case is ongoing.

Company Background

Asahi Kosei (M) Sdn Bhd is a subsidiary of Asahi Kosei Japan Co. Ltd. The company produces die-cast aluminum parts for computers, and automotive parts for, among others, Hitachi, Toyota, Kawasaki, Modenas, Seiko Instruments, Global Storage, Matsushita Kotobuki, Toshiba, Maxtor, Sony, JVC, Mitsubishi Electric, Philips, Sharp, and Sanyo.

Many of Asahi Kosei's customers also are bound by a Codes of Conducts, which also binds Asahi Kosei as a company in their supply chain. This Code of Conducts, like the Electronic Industry Code of Conduct and the Hitachi Group Codes of Conduct, all proclaim recognition and respect for human rights and worker rights. Compliance with these Codes extends to all workers working in (or for) the company, and this certainly includes the 31 migrant workers from Burma that were working at Asahi Kosei.

Context of the Case – Migrant Workers in the ASEAN Region

There are approximately 13.5 million migrant workers from ASEAN member states working internationally, 5 million of whom are working within the ASEAN region. In 2007, ASEAN adopted its Declaration on the Protection and Promotion of the Rights of Migrant Workers, a non-binding agreement among the member states recognizing the need of both sending and receiving states to adopt appropriate measures to protect migrant workers throughout the migration process.

Despite the acknowledgement that migrant workers require particular kinds of protection, cases like that of the 31 Burmese workers at Asahi Kosei are not uncommon. Migrant rights advocates throughout the region consistently report the abuse of migrant workers at the hands of their employers. Indeed, the widespread, and increasingly popular practice of outsourcing through employment agencies has led many employers, like Asahi Kosei, to evade responsibility by denying their employment relationship with these workers. This troubling trend is a pressing issue for ASEAN governments that should be taken up with the AICHR.

Proponent Organization

Migrant Forum in Asia – a membership network of migrant organizations, migrants rights advocates, trade unions, faith-based organizations, and individuals working to protect and promote the rights of migrant workers and members of their families. MFA currently has more than 200 members in 16 countries in Asia. www.mfasia.org

Support for Charles Hector

Please sign the petition to support Human Rights Defenders at: <http://www.thepetitionsite.com/319/--if-gte-mso-9xml-wworddocument-wviewnormalwview-wzoom0wzoom-wtrackmoves-wtrackformatting/>

More details and to support Charles' case: <http://indefenceofcharleshector.blogspot.com>