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PRESS RELEASE

Malaysia: Charles Hector Defamation Case Cause for Concern

Kuala Lumpur, 27.06.11: Ahead of Malaysia human right defender and blogger - Charles Hector's defamation trial on 28-29 June 2011, ARTICLE 19 calls on the Malaysian Court to consider the case in line with international freedom of expression standards. Given the fundamental importance of the right to freedom of expression, and its recognition in Article 10 of the Malaysian Constitution, ARTICLE 19 urges the Court to ensure that Malaysian defamation law is interpreted, to the extent possible, in a manner that respects Hector's freedom of expression.

Charles Hector is being sued for defamation at the High Court of Malaya in Shah Alam by the Malaysian subsidiary of Asahi Kosei Japan Co. Ltd, a Japanese electronics company. The defamation case centres around articles Hector posted on his blog in which he raises his concerns about the companies' treatment of 31 Myanmar migrant workers. His findings were based on research he carried out. The company, which has already obtained an injunction against Hector's blog posts, is demanding damages of RM10 million (app. US\$ 3.2 million).

"International standards on defamation provide protection and defences to certain statements in order to provide for free flow of information and open public debate," said Dr Agnès Callamard, ARTICLE 19 Executive Director. *"Under these standards and in many countries around the world, a case like this would be rejected,"* continued Dr Callamard.

Although Malaysia neither signed nor ratified the International Covenant on Civil and Political Rights and international standards on defamation are not formally binding on the country, ARTICLE 19 believes the constitutional guarantee of the right to free speech in Malaysia allows wide scope for interpretation.

In particular, ARTICLE 19 calls on the Court to recognise that the burden of proof regarding the falsity of the blog statements should lie with the plaintiff. Furthermore, under international standards, even if a statement of fact on a matter of public concern has been proven to be false, defendants in a defamation law suit should benefit from a defence of 'reasonable publication', also known defence of 'due diligence' or 'good faith'. Hence, ARTICLE 19 argues that Hector should not be held liable if it is established that he held a *good-faith belief in the truth* of his posts.

ARTICLE 19 also believes that given the nature of his blog, Hector should benefit from the privilege of reasonable publication granted in the Defamation Act of

Malaysia. Finally, should the Court reject defences and find the statements defamatory, the amount of damages must be assessed in the view of the proportionality.

ARTICLE 19 warns that the award in amount sought by the company could be expected to have a substantial chilling effect on the future exercise of the right to freedom of expression, not only for Hector but for other human rights defenders and media in Malaysia.

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NOTES TO EDITORS:

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- For ARTICLE 19 standards on defamation, see *Defining Defamation: Principles on Freedom of Expression and Protection of Reputation*, available at: <http://www.article19.org/pdfs/standards/definingdefamation.pdf>; or Defamation ABC, available at: <http://www.article19.org/pdfs/tools/defamation-abc.pdf>.
- ARTICLE 19 is an independent human rights organisation that works around the world to protect and promote the right to freedom of expression. It takes its name from Article 19 of the Universal Declaration of Human Rights, which guarantees free speech. For more information on ARTICLE 19 please visit www.article19.org or follow [article19org](https://twitter.com/article19org) on Twitter.