

## **Malaysia Airlines must respect trade union and workers' rights**

Over 50 civil society groups have demanded that Malaysia Airlines cease its anti-union action against the National Union of Flight Attendants Malaysia and its members.

We, the 54 undersigned civil society groups, trade unions and organisations are disturbed by the news that Malaysian Airlines, a government-linked company continues to violate workers' and trade union rights.

Recently, Mas commenced disciplinary action against Mohd Akram bin Osman, the secretary general of the National Union of Flight Attendants Malaysia (Nufam), and 30 other Nufam members. The show cause letter dated on or about 14 February 2014 asked why disciplinary action should not be taken against them for their participation in an 'illegal' gathering on 27 November 2013 at the Ministry of Human Resources in Putrajaya.

On 17 February 2014, Mohd Akram received yet another show cause letter with a new allegation, and he has been suspended with half pay.

Nufam is a registered trade union, and it had sought recognition from Malaysian Airlines, the employer of some of its members. Recognition is a legal requirement in Malaysia before an employer can be compelled to sit down, negotiate and agree to a Collective Bargaining Agreement.

When Malaysia Airlines rejected the application, the Director General of Industrial Relations conducted a secret ballot which involved all qualified employees, and Nufam succeeded in getting 62.73 per cent of the votes, and thereafter, in August 2013, the Director General issued a formal letter acknowledging Nufam as a recognised union.

It must be noted that under Malaysian law, Malaysia Airlines, as employer, would have had to agree to the list of qualified employees entitled to vote before the secret ballot, and as such challenging the result and the subsequent recognition of the union is bad.

Sadly, on 4 October 2013, Malaysia Airlines challenged the decision of the Minister to accord recognition to Nufam and filed an application for a judicial review in the High Court. Malaysia Airlines also allegedly applied for an interim stay order thus depriving Nufam the ability to move forward towards a Collective Bargaining Agreement.

On 29 November 2013, Malaysia Airlines wrongly terminated Ismail Nasaruddin, the president of Nufam, without even having carried out a Domestic Inquiry, hence denying him the right to be heard and to have a fair hearing. Ismail was first suspended and then terminated allegedly for a statement he issued in his capacity as Nufam president which appeared in the media.

The statement among other things, stated: "Nufam secretariat said it is calling on the prime minister to review Jauhari's contract and remove him as the CEO of MAS, which is a government-appointed position, unhappy that there has been no changes in resolving the cabin crew's problems..." It also raised other worker issues (theSun, 8 November 2013, Nufam calls for resignation of MAS' CEO).

Malaysia Airlines sent him a show cause letter on 8 November 2013, which also immediately suspended him. Ismail then received another letter terminating him on 29 November 2013. According to a Malaysiakini report, it is alleged that Malaysia Airlines said Ismail had acted in contradiction of his duties as a chief steward of

the airlines by issuing the statement. (Malaysiakini, 14 November 2013, MAS suspends chief steward for criticising CEO).

This is absurd as the statement was issued in his capacity of union president, not a mere employee and even an ordinary employee should never be denied his freedom of opinion or expression.

In response, 43 civil society groups and trade unions, including the International Trade Union Confederation (ITUC), issued a joint statement on 3 December 2013, entitled 'MAS must immediately revoke suspension of union president Ismail Nasaruddin; workers' rights issue should be resolved by negotiations not union busting'.

Then, in December 2013, disciplinary action was taken by Malaysian Airlines against about 10 Nufam members allegedly based on comments made by them in their Nufam Facebook group. They were all suspended, but thankfully the disciplinary action seems to have been discontinued against nine. One flight attendant, Ms Farahtina Kassim, however, has been suspended from her flying duties since 8 December 2013, and even though she is now receiving full wages, she is being deprived of her flying allowance, which constitutes a substantial sum of her ordinary take-home income.

Now in February 2014, the show cause letter is against some 30 employees. The most recent allegation of participation in an 'illegal gathering' at the Human Resource Ministry is absurd given the reason that it is a fundamental right for workers and/or their unions to file complaints and make representation to the government, including the Human Resource Minister. There has also been no known report or actions taken by the police or relevant authorities that indicated that any 'illegal gathering' even took place on 27 November 2013 at the Ministry.

In any event, even if workers went to the Ministry not during their working hours, Malaysia Airlines certainly cannot regard this as workers' misconduct. Being convicted of serious crimes may be a basis for commencement of misconduct proceedings, but in this case there seems to have been no arrest, investigation or even prosecution at all.

One also wonders whether there is 'mala fide' on the part of Malaysia Airlines to suddenly, in February 2014, issue a show-cause letter with regard to things that happened in November last year. On or about 14 February 2014, Ms Farahtina Kassim and three others were terminated.

It is suspected that the timing of these recent actions by Malaysia Airlines may have been because of Malaysia Airlines' judicial review at the High Court challenging the recognition accorded by the Minister to Nufam had been fixed for 18 February 2014, which has since been adjourned to 27 March 2014.

Taking into consideration all these actions of Malaysia Airlines, it is difficult not to come to the perception that Malaysia Airlines is on a 'union-busting' mission, which also includes persecution of union leadership and those active in Nufam.

Malaysia, being a member of the international community, must also act in accordance with international standards including Ruggie's Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework. Under this framework, in the case of government-linked companies like Malaysia Airlines, the obligation is even greater. The Guiding Principles state: "States should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from State..."

No worker, group of workers or union should be barred from making public statements to the media or otherwise in the struggle for workers' rights and human rights. This right is clearly acknowledged in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, commonly known today as the UN

Human Rights Defender Declaration.

We call on Malaysian Airlines to immediately cease all 'union busting' activities including the commencement and continuation of disciplinary actions against members and potential members of Nufam.

We call on Malaysia Airlines to immediately discontinue the High Court action challenging the recognition of Nufam, and to immediately sit down and work towards a collective bargaining agreement with Nufam.

We call again on Malaysia Airlines to immediately and unconditionally reinstate Ismail Nasaruddin, the president of the Union, Ms Farahtina Kassim and the three other flight attendants who have been terminated.

We call on Malaysia Airlines to recognise and respect workers' rights including the freedom of association and the right of qualified employees to join the union.

We call on the Malaysian government, a member of the International Labour Organisation (ILO) to ensure that workers' rights and union rights are respected by Malaysia Airlines, a government-lined company over which the government has substantial influence.

We call on Malaysia to immediately amend or repeal all laws that hinder or delay the speedy formation of trade unions and entry into collective bargaining agreements with employers.

Senator Syed Shahir bin Syed Mohamud – Senator in the Malaysian Parliament  
Charles Hector – Human rights defender and lawyer;  
Mohd Roszeli bin Majid President of the TNB Junior Officers Union;  
Pranom Somwong – Workers Hub For Change (WH4C), Asia Pacific Forum on Women, Law and Development (APWLD)

For and on behalf of the organisations listed below:

- Aliran
- All Nepal Federation of Trade Unions
- AMRC, Hong Kong
- Cambodian Human Rights and Development Organization – Adhoc
- Centro De Reflexión Y Acción Laboral (Cereal)
- COAC (Center for Orang Asli Concerns), Malaysia
- Committee for Asian Women, Bangkok
- Community Action Network (CAN), Malaysia
- CWI (Committee For Workers International) Malaysia
- Damn the Dams
- Dignity International
- FARR(Friends' Association for Rural Reconstruction) Orissa, India
- Human Rights Ambassador for Salem-News.com, UK
- Kesatuan Eksekutif Airod
- Kesatuan Eksekutif Canon Opto (Malaysia) Sdn Bhd
- Kesatuan Pekerja-Pekerja Perodua

- Kesatuan Pekerja-Pekerja Dalam Perkhidmatan Perubatan Dan Kesihatan Swasta
- Kesatuan Pekerja-Pekerja Polyplastics Asia Pacific (KPPAP), Malaysia
- Kesatuan Sekerja Industri Elektronik Wilayah Selatan, Semenanjung Malaysia
- Malaysians Against Death Penalty and Torture (Madpet)
- Malaysians for Beng Hock
- Malaysian Physicians for Social Responsibility (MPSR)
- Malaysian Trade Union Congress (MTUC), Pahang
- Malaysian Trade Union Congress (MTUC), Perak
- Malaysian Trade Union Congress (MTUC), Selangor & Wilayah Persekutuan
- MHS Employees Union, Malaysia
- Migrant Forum in Asia (MFA)
- Migrante International
- National Union Employees in Companies Manufacturing Rubber Products (NUECMRP)
- National Union of Hotel, Bar and Restaurant Workers (NUHBRW), Malaysia
- National Union of Transport Equipment & Allied Industries Workers (NUTEAIW)
- Network of Action for Migrants in Malaysia (NAMM)
- Paper Products Manufacturing Employees' Union of Malaysia (PPMEU)
- Parti Rakyat Malaysia (PRM)
- Parti Sosialis Malaysia (PSM)
- Pax Romana ICMICA
- Peoples Green Coalition
- Persatuan Kesedaran Komuniti Selangor (Empower)
- Persatuan Masyarakat Selangor & Wilayah Persekutuan (Permas)
- Persatuan Sahabat Wanita Selangor, Malaysia
- Pusat Komus
- Sahabat Rakyat Working Committee, Malaysia
- Saya Anak Bangsa Malaysia (SABM)
- Selangor & Federal Territory Textile Workers Union
- Suara Rakyat Malaysia (Suaram)
- Tenaga Nasional Junior Officers Union (TNBJOU)
- Thai Labour Campaign, Thailand
- Think Centre, Singapore
- WAC, Cavite, Philippines
- Workers Hub For Change (WH4C)
- Women Workers Lead, Malaysia
- Yayasan Lintas Nusa - Batam
- Asia Pacific Forum on Women , Law and Development (APWLD)
- Club Employees Union Peninsular Malaysia