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Malaysia: Human rights defender Lena Hendry faces charges over screening of human rights documentary “No Fire Zone: The Killing Fields of Sri Lanka”

Amnesty International is gravely concerned by the decision of the Kuala Lumpur High Court to overturn activist Lena Hendry’s acquittal by the Magistrate Court for a charge under the Film Censorship Act 2002.

On 19 September 2013, Lena Hendry, member of the human rights NGO Pusat Komas, was charged under Section 6 of the Film Censorship Act 2002 for screening a documentary on alleged crimes committed by both the Sri Lankan government forces and the Liberation Tigers of Tamil Elam (LTTE). The documentary, titled ‘No Fire Zone: The Killing Fields of Sri Lanka’, was privately screened in July 2013, allowing viewers to attend by invite only but the authorities allege she did not obtain the approval of the Film Censorship Board of Malaysia.

In March 2016, the Kuala Lumpur Magistrate’s Court found there was insufficient evidence to secure a conviction and Lena Hendry was acquitted. However, this decision was overturned on 21 September 2016. She is expected to enter her defense in the coming days. If convicted, she faces up to three years imprisonment and a fine not exceeding RM30,000 (\$7,200 USD).

Lena Hendry is one of the first human rights activists prosecuted under the Film Censorship Act 2002. Amnesty International is concerned that the Malaysian government’s appeal against her acquittal is another tactic to harass and intimidate her. This behaviour is just another example of how the government continue to stifle dissent and silence human rights defenders.

Under international human rights law and standards, such as Article 19 of the Universal Declaration of Human Rights, “everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers.”

Section 6 of the Film Censorship Act criminalizes the possession, custody or control, circulation, exhibition, distribution, display, manufacture, production, sale or hire of any film material not approved by the Censorship Board, and imposes a penalty of up to RM30,000 (\$7,200 USD) or an imprisonment term not exceeding three years or both.

The provisions of the law are broad and effectively criminalize any form of film recording, including citizen journalists. The penalties imposed for the screening of a human rights documentary are neither necessary nor proportionate, and amount to an unlawful restriction on the right to freedom of

expression. The requirement to obtain a permission for screening amounts to prior censorship and hampers the right of the society in general to seek and receive information and ideas.

The Malaysian government should drop all charges against Hendry. The authorities should also refrain from bringing criminal charges or any other proceedings against human rights defenders that stem solely from the peaceful exercise of their rights. Instead of harassing and censoring human rights defenders, the authorities should guarantee a safe and enabling environment in which human rights defenders are able to work without fear of punishment, reprisal or intimidation.

In particular, Amnesty International calls on the Malaysian authorities to take appropriate steps to repeal or amend excessive, disproportionate and vaguely drafted laws, such as the Film Censorship Act and Section 233 of the Communications and Multimedia Act 1998, and bring them in compliance with international human rights law and standards. The authorities must also ensure prompt, effective and independent investigations into allegations of unlawful arrest, threats and intimidation by law enforcement agencies.

Background

The documentary titled 'No Fire Zone: The Killing Fields of Sri Lanka,' and screened by Hendry, highlighted alleged crimes under international law committed by both Sri Lankan government troops and the LTTE in the course of the armed conflict that ended in May 2009. It focused on the dire situation experienced by civilians caught in the cross-fire, and the denial of adequate humanitarian assistance in the 'No Fire Zone.' Since the airing of the documentary, the Sri Lankan authorities have vowed to account for such alleged violations of international law and to provide adequate reparations to victims.

The court's decision in the case of Lena Hendry is the latest example in the crackdown on human rights defenders and critics of the government in Malaysia.

In June 2016, 19-year-old Muhammad Amirul Azwan Mohd Shakri was sentenced to four months in prison for insulting Crown Prince of Johor, Tunku Ismail Sultan Ibrahim. On 16 September 2016, the jail sentence was substituted for reform school until he is 21 years of age. On 21 September 2016, Baker Idris Mohd Nasir was charged and pleaded not guilty for posting offensive remarks against the police through Facebook. Both Amirul and Idris were charged under section 233 of the Multimedia and Communications Act 1998.

On 19 September, former journalist Sidek Kamiso was arrested by several plainclothes policemen who had entered his home at 4.30 in the morning without explanation and without a warrant, while opposition Member of Parliament, Ooi Chuan Aun was quizzed at a police station. Both Sidek Kamiso and Ooi Chuan Kuan were investigated for separate social media postings on Twitter in relation to a deceased spiritual leader of the Pan Islamic Malaysian Islamic Party, Haron Dinand, and were accused of insulting Islam.

The following day, Syarul Ema Rena Abu Samah, a social media user, better known as her pseudonym Ratu Naga, was called in for questioning by police at midnight. Five plainclothes policemen came to her home, where she was questioned until the early hours of the morning for social media postings relating to the Sultan of Pahang and the Prime Minister's wife at local festivities.