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Malaysia: Politically Motivated Prosecutions against Human Rights Defenders Must Stop

Malaysia continues its vicious crackdown on dissent through the selective prosecution of outspoken activists.

The latest instance is the trial, conviction and sentencing of Lena Hendry, a Malaysian woman human rights defender who was found guilty under the Film Censorship Act and fined RM 10,000 (\$USD 2,260) by the Kuala Lumpur Magistrates Court on 22 March 2017 for screening a film on alleged war crimes and crimes against humanity committed in Sri Lanka. The film, entitled 'No Fire Zone: the Killing Fields of Sri Lanka' documented crimes by both the Sri Lankan government forces and the Liberation Tigers of Tamil Elam (LTTE) at the end of the armed conflict in 2009.

On 10 March 2016, the Magistrates Court acquitted Lena on criminal charges and found that the prosecution had failed to prove its case against her. In September 2016, the High Court ordered Lena's case to be returned to the Magistrates Court, allowing the prosecution's appeal against her acquittal. Lena and her lawyers have been in communication with the Sri Lankan High Commission who have stated via letter that they no longer take issue with the film.

The work of a human rights defender in Malaysia is becoming increasingly challenging. Under the current political climate, critics of government policy and human rights defenders are criminalised, and prevented from carrying out legitimate activities. Human rights defenders must be able to raise awareness of the important work they do, whether it be through the screening of human rights documentaries or organizing a peaceful assembly to promote civil and political rights.

Provisions of the Film Censorship Act 2002 are broad and effectively criminalize any form of film circulation or display of any film that has not been approved by the Film Censorship Board, including work of citizen journalists. The Act carries a maximum penalty of three years imprisonment or a fine up to RM 30,000 (\$USD 7,200). The excessive penalty of RM 10,000 (\$USD 2,260) for screening a

human rights documentary in this case is disproportionate, unduly restricts the human right to freedom of expression, and hampers the right of society to seek and receive information and ideas.

Amnesty International believes that the long, drawn-out trial of Lena Hendry that began in September 2013, after her overnight arrest and detention alongside her colleagues is part of a wider pattern of intimidation, harassment and criminalization of human rights defenders in Malaysia.

Moreover, there is a concerning trend of government prosecutors ardently appealing court or requesting a higher, more punitive sentence for prosecutions against human rights defenders.

Background

The Malaysian government uses a wide range of criminal laws to target human rights defenders, such as the Sedition Act 1948, the Communications and Multimedia Act 1998, the Peaceful Assembly Act 2012, and the Security Offences and Special Measures Act 2012.

The Malaysian authorities have investigated and arrested a range of individuals including activists, journalists, lawyers and opposition politicians all of whom were peacefully exercising their human rights.

These arrests have had a chilling effect on public debate and the civic space in Malaysia, as people are discouraged from speaking out in different ways, from posting content on social media, to screening documentaries and participating in peaceful assemblies.

Under 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.”

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 Liberation Tigers of Tamil Elam (LTTE) during the final stages of the internal armed conflict 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 crimes and to provide adequate reparations to victims.