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PROCEDURES SPECIALES DU
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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders

REFERENCE: AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)
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26 September 2013

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 16/4, 15/21, and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the charge against Ms. **Lena Hendry** under the Film Censorship Act of 2002. Ms. Hendry is a programme officer at Pusat KOMAS, a human rights NGO advocating for democracy and protecting the rights of the indigenous and urban poor since 1993. It also promotes human rights education through various educational videos and publications.

Ms. Lena Hendry and two other human rights defenders affiliated with Pusat KOMAS were the subject of an allegation letter sent to your Excellency's Government on 12 July 2013, by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders. We regret that no reply has been received so far and would like to address further concerns in light of the new information received.

According to the information received:

On 19 September 2013, the Home Ministry and Attorney General Chamber filed a charge against Ms. Lena Hendry under Section 6 (1) (b) of the Film Censorship Act (2002) for showing a documentary film titled "No Fire Zone: The Killing Field of Sri Lanka" at Selangor Chinese Assembly Hall on 3 July 2013. "No Fire Zone" is a documentary that depicts human rights violations and atrocities

committed against civilians by the Government and military in Sri Lanka during the civil war in 2009.

It is alleged that if convicted, she could face a fine of RM 5,000 to RM 30,000 (USD 1,562 to USD 9,377) and/or a maximum jail term of three years. Judge Ashraf Rezal Abd Manam released her on bail of RM 1,000 (approximately USD 312) and ordered her to appear in court on 21 October 2013.

Previously, on 7 July 2013, Ms. Hendry, along with Pusat KOMAS Executive Director Mr. Arul Prakkash, and one member of the Board of Directors Ms. Anna Har, had been arrested during the screening of the film, which was raided by 30 officials from the Home Ministry, Police, and Immigration Department.

Concerns are expressed that the charge brought against Ms. Lena Hendry may be linked to her legitimate human rights activities, in the exercise of her rights to freedom of opinion and expression and of association. Further concern is expressed that such judicial harassment may negatively affect the work of NGOs working in defence of human rights.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency's Government to article 19 of the Universal Declaration of Human Rights (UDHR) which provides that "[e]veryone 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."

Similarly, we would also like to refer to article 20 of the UDHR, which provides that "[e]veryone has the right to freedom of peaceful assembly and association."

We would like to further refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."

In addition, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and

fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency’s Government to article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned person in compliance with the above international instruments.

Moreover, since it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide legal basis of the charge against Ms. Lena Hendry and how that is compatible with the aforementioned international norms and standards on the rights to freedom of opinion and expression and of association.

We would appreciate a response within sixty days. Your Excellency’s Government’s response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency’s Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned person are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency’s Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

Frank La Rue
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and
of association

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders