

**NATIONS UNIES**  
**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**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)  
MYS 6/2013

12 July 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 situation of Ms. **Anna Har**, a member of KOMAS Board of Director, Mr. **Arul Prakkash**, KOMAS Executive Director, and Ms. **Lena Hendry**, KOMAS Programme Officer. KOMAS is a non-governmental organization which promotes and protects human rights. It has reportedly produced several educational videos and publications on many human rights issues.

According to the information received:

On 3 July 2013, Ms. Anna Har, Mr. Arul Prakkash, and Ms. Lena Hendry, together with the KL & Selangor Chinese Assembly Hall Civil Right Committee (KLSCAHCRC), organized a private screening of the documentary film entitled "No Fire Zone", directed by British Director Callum Macrae, about allegations of war crimes committed in Sri Lanka during the civil war in 2009. Around 8.30 p.m., 30 minutes after the film had started, 30 officials of the Ministry of Home Affairs, together with immigration officials and police officers, entered the Chinese Assembly Hall and asked to check the film. After the screening, the officials checked the identity cards of all participants, and requested a copy of the film. Ms. Anna Har, Mr. Arul Prakkash, and Ms. Lena Hendry were taken to the Dang Wangi police station and interrogated for nearly three hours. They were informed that they were placed under arrest under Section 6 of the Film Censorship Act, which provides that "[n]o person shall (a) have in his possession or in his custody or under his control; or (b) circulate, exhibit, distribute, display,

manufacture, produce, sell or hire, any film or film-publicity material which has not been approved by the [Censorship] Board”. On 4 July at 2 a.m., Ms. Anna Har, Mr. Arul Prakkash, and Ms. Lena Hendry were released on bail after their statements had been recorded. It is reported that they should know within 30 days whether they will be charged of any offences.

It is reported that on 1 July 2013, the Censorship Board of the Ministry of Home Affairs had asked Ms. Lena Hendry not to screen the film since it had not been reviewed by the Board, to which Ms. Hendry had replied that the screening was private and upon invitation only. It is further reported that the Sri Lankan Embassy in Malaysia had sent a letter to the KLSCAHCRC, urging them not to screen the film.

Concerns are expressed that the arrest and detention of Ms. Anna Har, Mr. Arul Prakkash, and Ms. Lena Hendry, and the possible charges that they may face, may be linked to the exercise of their legitimate rights to freedom of expression and of peaceful assembly.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency’s Government to the following provisions of the Universal Declaration of Human Rights (UDHR):

- Article 19 which provides that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”; and
- Article 20 which provides that “[e]veryone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an 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 also 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 the following provisions of the Declaration:

- article 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully;
- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; and
- 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.

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:

1. Are the facts alleged in the summary of the case accurate?
2. Please indicate the legal basis of the arrest and detention of Ms. Anna Har, Mr. Arul Prakkash, and Ms. Lena Hendry, and any charges that they may face. Please indicate how such measures are compatible with the aforementioned international human rights norms and standards.

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 persons 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  
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