

PUBLIC

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UA 162/07 Fear of forcible return/ill-treatment

MALAYSIA **217 asylum-seekers, including children and pregnant women**

Approximately 217 people, including refugees and asylum-seekers, were detained on 25 June in a raid on the Chin Refugee Centre in the capital, Kuala Lumpur. They are mainly Chin people from Myanmar, recognised as refugees by the UNHCR. Among them are five pregnant women and at least 10 children. They are at risk of corporal punishment for breaking Malaysia's immigration laws, and of being forcibly returned to Myanmar, where they would be at grave risk of torture.

The Chin ethnic group live mainly in the north and north-west of Myanmar, and thousands have fled the country to escape persecution, torture and even death at the hands of the military government. They are mainly Christian, in Buddhist Myanmar, and face particular persecution because of their minority status.

The 217 are now held in two detention camps near Kuala Lumpur: 100 in Semenyih and 117 in Lenggeng. Both camps are reportedly overcrowded and in poor condition. With the arrival of the refugees just arrested, it is feared these camps will deteriorate to the point where the conditions amount to cruel, inhuman and degrading treatment. Conditions in Semenyih have been described as "poor" by the Malaysian Human Rights Commission. There is insufficient food and water, and very limited medical facilities. In several camps, guards have reportedly ill-treated inmates, including pregnant women, who have been kicked, hit with batons and given inadequate food.

After they arrive in detention camps, detainees are commonly charged under the Immigration Act. Punishment for breach of this act can include caning, which is prohibited under international human rights standards relating to cruel, inhuman and degrading treatment and punishment. Recently, 42 Chin asylum-seekers were sentenced to caning. Children are among those being caned: a 15-year-old boy, arrested in September 2006 was sentenced to one stroke of the cane as well as four months' imprisonment. Corporal punishment of minors is a breach of the Convention on the Rights of the Child, to which Malaysia is a state party.

Over 1,000 asylum-seekers and refugees have reportedly been detained so far this year. The immigration authorities have been systematically targeting refugee communities. There is little scope for asylum-seekers to have their cases assessed individually by the immigration authorities or the United Nations High Commissioner for Refugees (UNHCR), and detained asylum seekers and refugees face mass deportation.

BACKGROUND INFORMATION

Malaysia does not recognise refugees in its domestic laws and is not party to the 1951 UN Convention relating to the Status of Refugees. However, Malaysia and all countries are bound by the principle of *non-refoulement*, which says that no one may be returned to a country where they would be at risk of serious human rights violations.

All those who enter Malaysia without proper documentation, including economic migrants, refugees and asylum-seekers, are considered in breach of the immigration Act and risk arrested, whipped and forcibly returned. During periodic crackdowns on undocumented migrant workers, the Malaysian authorities have frequently rounded up both undocumented workers and legitimate refugees or asylum-seekers.

It is against customary international law to return people to places where they would be at risk of human rights violations. The UNHCR gives letters of protection to those it has classified as refugees in Malaysia. These UNCHR-recognised refugees should be seen as temporary residents and should not be detained or deported.

The human rights situation in Myanmar is grave. Forcibly returned asylum-seekers face arrest and interrogation under torture.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:

- expressing concern that 217 people, including asylum-seekers and refugees from Myanmar, among them five pregnant women and at least 10 children, were arrested on 25 June, and urging the authorities to release them;
- urging the authorities not to forcibly return any of them to Myanmar, where they would be at risk of torture;
- calling on the authorities to ensure that the detainees are treated humanely while they are in custody;
- calling on the authorities to respect UNHCR-issued protection documentation held by refugees and asylum-seekers;
- urging the authorities to stop using caning as punishment, as it is a cruel and inhuman form of punishment amounting to torture, and pointing out that caning minors is a breach of the Convention of the Rights of the Child, to which Malaysia is a state party.

APPEALS TO:

Prime Minister

Dato' Abdullah Haji Ahmad Badawi
Prime Minister's Department, Block 1
Federal Government Administration Centre
62502 Putrajaya, Selangor, Malaysia

Salutation: Dear Prime Minister

Director General of Immigration Department

Tuan HJ. Wahid Bin MD Don
Director General Office
Immigration Department of Malaysia
Level 1-7 (Podium) Block 2G-4, Precint 2
Federal Government Administration Centre
62550 PUTRAJAYA, Malaysia

Fax: +60 3 8880 1200

Salutation: Dear Director

COPIES TO:

Human Rights Commission of Malaysia

Tan Sri Abu Talib Othman
Chairman,
Level 29, Menara Tun Razak,
Jalan Raja Laut,
50350 Kuala Lumpur, Malaysia.

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and to diplomatic representatives of Malaysia accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 7 August 2007.