

PUBLIC

AI Index: ASA 28/023/2003

27 August 2003

Further information on UA 247/03 (ASA 28/021/2003, 19 August 2003) Fear of forcible return/fear of ill-treatment New concern: Harsh detention conditions

MALAYSIA 239 asylum seekers (names unknown), including 14 women and two children

New names: 50 asylum seekers (names unknown), including four women and one child

Twelve asylum seekers detained on 19 August have reportedly been deported to Indonesia. This is in contravention of the principle of *non-refoulement*, which requires Malaysia to ensure that refugees are not forcibly returned to countries where they are at risk of grave human rights violations. At the time of deportation, the Office of the United Nations High Commissioner for Refugees (UNHCR) had not been informed about this new development.

Amnesty International is also concerned for the safety of 50 individuals from Myanmar, Indonesia, Bangladesh and Thailand, reportedly including 4 women and one child, who were arrested on 26 August by police in the capital Kuala Lumpur while trying to lodge asylum claims with the UNHCR. All the asylum seekers are allegedly being held at the Langkap detention centre in Perak state.

In an apparent repeat of the previous arrests on 19 August, police again reportedly erected roadblocks around the office of the UNHCR in Kuala Lumpur early on the morning of 26 August. They arrested all those trying to lodge asylum claims who were not in possession of proper documentation. The 50 detainees have also been sent to Langkap detention centre. According to police reports, 30 of the asylum seekers arrested are from Myanmar, 18 are Indonesian, one is Bangladeshi, and one is from Thailand.

Conditions at the Langkap detention centre are said to be poor and unsanitary. The quality of the food is poor, and detainees are sleeping on wooden floors without mattresses or bedding. They have no access to soap, personal hygiene products, or a change of clothing.

Amnesty International is concerned that the forcible return of asylum seekers to Indonesia could put them at risk of serious human rights violations, including arrest, imprisonment, torture or ill-treatment. The whereabouts of the twelve asylum seekers returned to Indonesia is yet known, but Amnesty International is seriously concerned for their safety.

The principle of *non-refoulement* is considered to be a principle of customary international law and is therefore binding on all states. It applies not only to refugees, but also to asylum-seekers at least until their status has been determined through a fair and satisfactory procedure. Furthermore, Malaysia is a party to the UN Convention on the Rights of the Child and is thereby bound to protect the rights of child refugees and asylum-seekers.

The human rights situation in Myanmar has deteriorated severely since a government-sponsored attack on the political opposition on 30 May 2003. Eleven Myanmar refugees from the Chin ethnic minority are believed to be among those arrested. Chin asylum-seekers would undoubtedly be arrested and interrogated under duress if they were forcibly returned to Myanmar. In addition the Chin people face forced labour and forcible relocations by the Myanmar military. Some members of the Rohingya ethnic minority are also thought to be among the Myanmar asylum-seekers now detained. The Rohingyas, who are Muslims from the Rakhine State, are not only at risk of arrest and interrogation upon return to Myanmar, but are also denied citizenship in Myanmar and are particularly vulnerable to forced labour, forcible relocation, and severe restrictions on freedom of movement.

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

- expressing regret and concern that 12 of the asylum seekers detained on 19 August have reportedly been deported, in apparent violation of the principle of *non-refoulement*;
- expressing concern at the detention of a further 50 asylum seekers, in Kuala Lumpur on 26 August;
- urging the authorities to abide by international law by not forcibly returning any further detainees to their country of origin;
- calling for the release of all those detained while exercising their legitimate right to lodge claims for asylum;
- calling on the authorities to ensure that the detainees are treated humanely, and that they are held in conditions which meet international minimum standards for the treatment of detainees;
- urging the authorities to ensure that all those seeking asylum have full access to representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR) to enable them to apply for asylum if they wish to do so;
- calling on the authorities to respect protection documentation issued to refugees and asylum-seekers by UNHCR.

APPEALS TO:

Minister of Home Affairs & Deputy Prime Minister

Dato' Abdullah Haji Ahmad Badawi

Ministry of Home Affairs (Menteri Dalam Negeri)

Aras 13, Blok D1

Parcel D, Pusat Pentadbiran Kerajaan Persekutuan

65202 Putrajaya, Selangor, Malaysia

Telegram: Minister of Home Affairs, Ministry of Home Affairs, Selangor, Malaysia

Fax: + 60 3 8886 8014/8888 3963)

Salutation: Dear Minister of Home Affairs

Inspector General of Police

Tan Sri Norian Mai

Ketua Polis Negara

Ibu pejabat Polis Diraja Malaysia, Bukit Aman

50502 Kuala Lumpur, Malaysia

Telegram: Inspector General of Police, Ketua Polis Negara, Kuala Lumpur, Malaysia

Fax: + 60 3 2273 1326 (please keep trying)

Salutation: Dear Inspector General of Police

COPIES TO:

Chairman of Human Rights Commission

Tan Sri Abu Talib Othman

Suruhanjaya Hak Asasi Manusia Malaysia

29th Floor, Menara Tun Razak

Jalan Raja Laut

50350 Kuala Lumpur, Malaysia

Fax: + 60 3 2612 5620

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 8 October 2003.