

EXTERNAL (for general distribution)

AI Index: ASA 28/11/92

Distr: UA/SC

Please bring this Urgent Action to the attention of the refugee coordinator in your section

UA 257/92

Fear of forcible return

6 August 1992

MALAYSIA: Asylum-seekers from Aceh, Sumatra, Indonesia

Amnesty International continues to be concerned for the safety of Acehnese asylum-seekers in Malaysia who may be forcibly returned to Indonesia. Two groups of Acehnese may be particularly at risk of human rights violations if returned: 43 asylum-seekers currently occupying the premises of the United Nations High Commissioner for Refugees (UNHCR) in Kuala Lumpur; and some 400 others, detained for more than a year and denied permission to receive visits by UNHCR officials. Amnesty International believes that some or all the Acehnese asylum-seekers risk ill-treatment, torture and possible extrajudicial execution if returned to Indonesia.

The Malaysian authorities have claimed that all Acehnese in Malaysia are migrant labourers who have no legitimate claim to asylum. In March 1992 the government announced that all foreign workers in Malaysia should register with the immigration authorities before 30 June 1992. The authorities said that those who failed to do so would be returned to their country of origin on or after 1 July. Following these announcements, many Acehnese said they were afraid of being returned to Indonesia. On 22 June, 43 Acehnese asylum-seekers entered the premises of the UNHCR in Kuala Lumpur to seek protection from UNHCR officials.

Malaysian Deputy Prime Minister, Ghafar Baba, reportedly stated on 22 July that Malaysia would not grant asylum to the 43 Acehnese. He said the authorities were trying to persuade them to return home. Minister Ghafar Babar said the Malaysian Government had received assurances from Indonesia that the Acehnese could return safely and that the government had "no reason to believe that the situation is that bad in Indonesia". The minister said, however, that the Acehnese in Malaysia would not be asked to leave the country immediately.

Many other Acehnese asylum-seekers, possibly as many as 400, have been detained since early 1991 in the Malaysian states of Penang, Kedah and Perak and some of these detainees have reportedly been returned to Indonesia. Malaysian Foreign Minister Abdullah Ahmad Badawi confirmed on 11 October 1991 that 10 of the detained Acehnese had been returned to Indonesia but said that none had been or would be sent back against their will. However, other reports indicate that some 172 detained Acehnese were returned to Indonesia during 1991 and 1992. None of the detained Acehnese has been permitted to receive visits from UNHCR officials. Indeed, Indonesian consular officials are the only people granted access to those held in detention. There are fears that some Acehnese may have agreed to return under pressure from Indonesian officials.

The Indonesian Government has continued to assert that no human rights violations

are committed in Aceh and that all the Acehnese in Malaysia are illegal immigrants. On 26 June Indonesian Foreign Minister, Ali Alatas, stated that it would be inappropriate for UNHCR officials to assess the cases of any Acehnese in Malaysia. He added that the Acehnese would soon be convinced that return to Indonesia posed no threat to their well-being.

However, available information indicates that severe human rights violations continue to occur in Aceh, and Amnesty International considers that the safety of asylum-seekers forcibly returned to Indonesia cannot be satisfactorily guaranteed. Fears for the safety of those returned are heightened by the fact

page 2 of UA 257/92...

that effective human rights monitoring is virtually impossible in Aceh. The media and other information sources in the region are tightly controlled and visits to the province by national and international human rights organizations have been severely restricted or denied outright by the Indonesian Government.

The principle of *non-refoulement* is recognized by the international community as a norm of general international law, binding on all states. It places an obligation on states not to send any person against their will to a country where they would be at risk of serious human rights violations. Amnesty International urges the Malaysian Government not to forcibly return any Acehnese currently seeking asylum and to ensure that all claims for asylum from these or other Acehnese are fully and impartially examined. It calls on the Malaysian Government to cooperate fully with UNHCR in making provision for the examination of the asylum-seekers' claims. Such a process is essential if the authorities are to identify those who would be at risk if returned to Indonesia and who should be given effective and durable protection.

BACKGROUND INFORMATION

Aceh has had a long tradition of rebellion against both Dutch and Indonesian rule. In 1976 Aceh nationalists declared independence for Aceh and formed Aceh Merdeka (also known as the Aceh-Sumatra National Liberation Front). Since mid-1989 an estimated 2,000 civilians are believed to have been extrajudicially executed by Indonesian troops during the course of government efforts to suppress Aceh Merdeka in Aceh and North Sumatra provinces. Hundreds of real or suspected members of Aceh Merdeka have been detained without trial and many severely tortured. Others, including prisoners of conscience, have been tried unfairly and sentenced to lengthy prison terms.

FURTHER RECOMMENDED ACTION: Please send telegrams/telexes/faxes/airmail letters:

- expressing concern for the safety of 43 Acehnese asylum-seekers who may face forcible return to Indonesia;
- urging the Malaysian Government to allow UNHCR officials immediate access to all Acehnese asylum-seekers who are detained;
- seeking assurances from the Malaysian Government that **all** Acehnese wishing to claim asylum will be given access to a fair hearing of their claim;
- seeking assurances that no Acehnese at risk of human rights violations will be forcibly returned to Indonesia;
- stressing that the Malaysian Government is obliged under international law to refrain from returning any person to a country where they risk being subjected to serious human rights violations.

APPEALS TO:

1) Dato' Seri Dr Mahathir bin Mohamad
Prime Minister Affairs
Prime Minister's Office
Jalan Dato'Onn Malaysia

Salutation: Dear Prime Minister

50502 Kuala Lumpur, Malaysia

Telegrams: Prime Minister, Kuala Lumpur, Malaysia

Telexes: 30091 LARA MA; 33099 PERMA MA; 30098 EPUPM MA

Faxes: + 60 3 238 3784; + 60 3 238 7214; + 60 3 238 7215

2) Datuk Abdullah Ahmad Badawi

Minister of Foreign Affairs

Jalan Wisma Putra

50602 Kuala Lumpur, Malaysia

Telegrams: Foreign Affairs Minister, Kuala Lumpur, Malaysia

Salutation: Dear Minister

COPIES OF YOUR APPEALS TO:

Ali Alatas

Minister of Foreign Affairs

Jalan Taman Pejambon 6

Jakarta, Indonesia

Faxes: + 62 21 36 0517; + 62 21 36 7781

and to diplomatic representatives of Malaysia accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Please check with the International Secretariat, or your section office, if sending appeals after 16 September 1992.