

PUBLIC

AI Index: ASA 28/028/2003

14 November 2003

UA 334/03 Fear of torture or ill-treatment/Fear of forcible return

MALAYSIA 8 asylum seekers (names unknown), including six men, one woman and a 13-month-old child

Seven asylum seekers from Nanggroe Aceh Darussalam (NAD) province in Indonesia have reportedly been beaten by camp guards while in detention at the Langkap Detention Camp in Perak State. It is understood that the asylum seekers have refused to be repatriated. One of the seven is a woman whose 13-month-old child is also detained in the camp. They are at risk of being forcibly returned to NAD, where they would be at serious risk of human rights violations.

It is believed that the eight asylum seekers were among the group of more than 200 asylum seekers from NAD detained by police in two separate incidents outside the office of the United Nations High Commissioner for Refugees (UNHCR) in Kuala Lumpur in August 2003, while they waited to lodge asylum claims (see UA 247/03, ASA 28/021/2003, 19 August 2003 and follow-up). Following the arrests, the asylum seekers were transferred to the Langkap Detention Camp. Conditions in the camp are said to be poor and unsanitary, and Amnesty International is concerned that conditions at the camp do not meet international standards for the treatment of detainees.

Grave concerns remain about the risk of the forcible return of asylum seekers to the Indonesian province of NAD. A military emergency was declared in NAD province on 19 May 2003, and has resulted in renewed military operations against the armed opposition group, the Free Aceh Movement (GAM). There are allegations of grave human rights violations, including extrajudicial executions, "disappearances" and torture in the province in the context of the military operations.

BACKGROUND INFORMATION

Following the arrests of asylum seekers in Kuala Lumpur in August, the UNHCR issued a statement expressing its alarm at the "unprecedented action" by the Malaysian authorities and urging that the asylum seekers be treated in accordance with international standards. The statement further requested the Malaysian government to release those who have been detained and to respect the principle of non-refoulement, which prohibits the return of a person to a country where he or she would be at grave risk of human rights violations. While Malaysia is not a signatory to the 1951 Convention relating to the Status of Refugees or to its 1967 Protocol, which prohibits refoulement, the principle is considered to be a principle of customary international law. It is therefore binding on all states. 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.

Malaysian law does not distinguish between asylum seekers and other undocumented migrants. In the past, conditions in detention camps have tended to be harsh, with reports of ill-treatment as well as unsanitary conditions and lack of adequate food and medical care. There have also been reports of deaths from preventable diseases.

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

- expressing concern at reports that seven Indonesian asylum seekers detained at the Langkap Detention Camp have been beaten by camp guards;
- calling for an immediate and impartial investigation into these reports, with the results made public and those responsible brought to justice;

- calling on the authorities to guarantee that asylum seekers are not subjected to any form of torture or ill-treatment;
- calling on the authorities to fully respect international standards for people in detention, including access to adequate food, shelter and medical care;
- urging the authorities not to forcibly return the detainees to their country of origin;
- 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.

APPEALS TO:

Prime Minister

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

Telegram: Prime Minister, Putrajaya, Selangor, Malaysia

Fax: + 60 3 8888 8344 / 3530 – (faxes may be switched off outside office hours)

Salutation: Dear Prime Minister

Inspector General of Police

Datuk Seri Mohd Bakri Omar
 Ketua Polis Negara
 Ibupejabat 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

Director of Immigration Department of Perak State

Dato' Haji.Ishak Bin. Haji.Mohamed
 Tingkat 1 dan 2, Bangunan Sri Kinta,
 Jalan Sultan Idris Shah
 30000 Ipoh
 Malaysia

Telegram: Director, Immigration Department of Perak State, Ipoh, Malaysia

Fax : + 60 5 2558386

Salutation: Dear Director

COPIES TO:

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

Salutation: Dear Chairman

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 26 December 2003.