

AMNESTY INTERNATIONAL

CASE STUDY

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Case study: Nian Vung, a refugee caned in Malaysia after fleeing Myanmar

Nian Vung, 23, fled to Malaysia in 2008 to escape forced labour and other human rights violations by the military in Myanmar's North West Chin state.

After secretly crossing into Malaysia by land, he went to register as a refugee at the mobile registration unit of the UN High Commissioner for Refugees (UNHCR) in the southern city of Melaka.

Outside a church hosting the mobile registration unit, the authorities were waiting. Nian Vung was arrested and taken to an immigration detention centre.

Under Malaysian law, Nian Vung was considered to be an illegal immigrant, because Malaysia has not ratified the 1951 Refugee Convention and refugees have no legal status.

Nian Vung was tried for illegally entering Malaysia. Like most refugees from Chin state, however, he had no access to a passport before fleeing his country.

He went on trial at a court set up directly inside the detention centre. In violation of basic standards for fair trials, he was not given an interpreter who could translate the proceedings into a language he understood.

"They read out my sentence. I didn't understand it. I knew that 'satu' means 'one'.... I asked another inmate to interpret it. It was written on a card: 3 months, 1 stroke of the cane," he recalled.

Nian Vung explained the reason: "They said it was because I was 'kosong.' The Malay word 'kosong' is slang for 'undocumented'; literally, it means 'blank' or 'bare'.

In September 2008, Nian Vung was taken to Johor Keluga Prison, where he was forced to strip nearly naked and stand in a queue of other prisoners. A doctor examined his chest and blood pressure, and certified him to be caned.

Caning is a brutal form of judicial corporal punishment that causes severe pain and suffering. Specially-trained caning officers tear into victims' bodies with a metre-long cane swung with both hands at high speed. The cane rips into the victim's naked skin, pulps the fatty tissue below, and leaves scars that extend to muscle fibre. The pain is so severe that victims often lose consciousness.

Caning is imposed for more than 60 offenses in Malaysia. Since 2002, these offenses include immigration violations like illegal entry.

"There were four or five officers [in the caning room]. Behind the glass I could see about 10 men, very big, very strong. They were looking at us, giving us a stare. Some were holding their canes," he said.

“The cane felt very hot. A very severe pain on my buttocks,” Nian Vung recalled. “Not just the physical pain, the mental pain is worse. I felt deserted, that even God had deserted me.”

Under international law, severe pain and suffering that is intentionally inflicted by an official as punishment constitutes torture. Since 2002, when Parliament made immigration violations such as illegal entry subject to caning, tens of thousands of refugees and migrant workers have been caned.

Many of the victims are refugees from Myanmar or migrant workers from countries such as Indonesia and the Philippines. Indonesian migrant workers are caned and deported en masse. In Indonesia, Amnesty International met migrant workers deported by boat from Malaysia; 63 of the men had been caned.

Nian Vung was eventually recognized by UNHCR after his release from prison. Malaysia decided not to deport him back to Myanmar.

Torture is also against international law. But Nian Vung has no guarantee that the Malaysian authorities won't subject him to torture by caning once again. Several refugees told Amnesty International they had been caned not just once, but repeatedly.

“I'm afraid I'll be arrested again even with my UNHCR card,” said Nian Vung. “If I get arrested, I'll get the cane again. So I live in fear.”

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