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Asylum-seekers detained in the USA: a disproportionate and harsh measure

One of the main architects of the international system of refugee protection is systematically violating the basic rights of asylum-seekers, Amnesty International said today, in a new report which strongly criticises the USA's treatment of those seeking protection in its territory.

“In balancing state interests against asylum-seekers' rights, the use of detention by the USA is a disproportionate and harsh measure,” Amnesty International said. “Furthermore, the conditions in which they are being held are often inhuman.”

No one knows exactly how many people are currently confined in US detention centres and jails for the sole crime of trying to escape from their countries by travelling without documents, but estimates go into the thousands.

According to the report – *USA: Lost in the Labyrinth* -- asylum-seekers arriving in the USA without proper documents are automatically locked up, often indefinitely, without knowing when or if they will be released.

Many are confined with criminal prisoners, but unlike them, they are frequently denied any opportunity of parole. They are held in conditions that are sometimes inhuman and degrading, and are stripped and searched, shackled and chained, verbally or physically abused.

“Asylum-seekers are not criminals and they should not be treated like criminals,” Amnesty International stressed. “Most refugees can only escape from their countries by travelling without documents or with false papers and should not be penalized for that. This fact is recognized by international laws the USA has helped to create, and which the country is consistently breaking.”

Every asylum-seeker has a story to tell of fear and suffering, of being uprooted from home, family and friends. Every asylum-seeker held behind bars in the USA has another story to tell, of uncertainty, delay and stress:

Yudaya Nanyonga, an asylum-seeker from Uganda, began crying uncontrollably on learning that she had been assigned to the maximum security section of York County Prison. Prison officials responded by stripping her naked, injecting her with sedatives and placing her in a four-point restraint.

She says she regained consciousness two days later with no memory of how she had been removed from the restraints, or how and when her underwear had been put back on. During her interview with Amnesty International, Yudaya seemed deeply troubled over

her loss of memory. She has told her attorney that she experiences frequent nightmares about the incident.

R. B., a young man from Liberia, attempted suicide while spending 10 months in an Immigration and Naturalization Service (INS) detention facility in Texas. He spent his first 10 days in the USA in a county jail and was handcuffed while being transferred to the INS facility. He was not allowed the assistance of a lawyer when he appeared before an Immigration Judge, was verbally threatened and was forced to stand for hours when he refused to sign a travel document.

The INS -- the US government agency which deals with asylum claims -- controls the lives of thousands of men, women and children. It gives extraordinary power to its District Directors to imprison asylum-seekers indefinitely, which effectively means that a single government official can jail another person for years with no review of that decision.

No other procedure in US criminal or civil law allows for something like that, and -- to make matters worse -- the INS does not have national, enforceable standards to govern the actions of its officials, nor does it provide coherent national data on asylum-seekers in its custody.

“Once asylum-seekers are caught in the labyrinth of the INS detention system, its complexity and almost complete disregard of the needs of refugees create a ‘trial by ordeal’. Only the most persistent, courageous or lucky emerge unscathed,” Amnesty International said.

The Amnesty International report asks the US government to revise its detention law and policy in the light of international law -- which requires that the detention of asylum seekers should normally be avoided-- and recommends a series of minimum procedural guarantees which the USA should implement to be in line with its international obligations.

“Detention policies and practices in the USA clearly fail to follow the United Nations High Commissioner for Refugees (UNHCR) guidelines and violate fundamental standards of international human rights law,” Amnesty International says.

“We urgently call on the UNHCR to monitor US compliance with guidelines relating to the Detention of Asylum-Seekers and other international standards, and on the Working Group on Arbitrary Detention to investigate the US authorities’ detention of asylum-seekers and report its finding publicly.”

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For more information, to request a copy of the report or to arrange an interview, please phone Amnesty International's press office in London, UK, on+ 44 171 413 5566 or visit our website at <http://www.amnesty.org>

