



THERE IS A WAY OUT

STOP ABUSE OF MIGRANTS
DETAINED IN MALAYSIA

AMNESTY
INTERNATIONAL



'I have been here for the past 10 months and it has been very hard. There is very little food... There are no vegetables or fruit, and the food portions are too small. I... have gastric problems because I am always hungry. There are insects that are biting me, so much that my skin is always itchy and I am sick.'

Ghulum, a 33-year-old man from Bangladesh, held in Lenggeng detention centre, July 2009

Thousands of migrants, asylum-seekers and refugees are routinely arrested and kept in filthy and overcrowded conditions in detention centres across Malaysia. Many are held for months without access to lawyers and with no way of appealing against their detention. Once in the centres, detainees lack proper health care, sufficient food and clean drinking water. Children under 18 are held with adults, and abuse by detention staff is rife. Poor detention conditions have led to serious illness, which in some cases have been fatal.

Many of those detained originate from countries in South and Southeast Asia, including Myanmar, India, Sri Lanka, Bangladesh, Indonesia, the Philippines and Viet Nam. A much smaller number of people travel from parts of Africa and even Latin America. Whatever their point of departure, migrants arrive in Malaysia seeking work or refuge from persecution.

There are 13 detention centres, or depots, in Malaysia. These have a combined capacity of 13,000, although according to the Ministry of Home Affairs, they often

house many more. In July 2009, Amnesty International was given unprecedented and unfettered access to three detention centres near the capital Kuala Lumpur: Kuala Lumpur International Airport (KLIA) Immigration Depot, Lenggeng Immigration Depot, and Semenyih Immigration Depot. During visits to the centres, Amnesty International interviewed a number of those detained and observed first-hand the deplorable conditions experienced in detention.

THE WIDER CONTEXT FOR MIGRANTS

Malaysia hosts some 2.2 million regular migrants who are authorized to enter, stay and work in the country, making up almost 20 per cent of its official workforce. Approximately the same number of migrants are irregular, that is, they do not have permission to live and work in the country. In total, foreign workers account for nearly one third of the country's labour force.

Often, those wishing to migrate pay large sums of money to recruitment agents in

their home country in exchange for visas, travel documents and jobs in Malaysia. They believe that they are leaving behind their friends and families for gainful employment and decent wages. But once in Malaysia, many find that everything their recruitment agents told them about their new jobs is untrue – the amount they will be paid, their employer, the type of work they will do. Some agents promise jobs that do not exist.

Migrant workers account for nearly one third of Malaysia's labour force

This was the case for Sharif, who left his home in Bangladesh to search for work. He paid a recruitment agent to take him to Malaysia. Once there, the agent took his passport and kept him in a house with about 60 other migrants for weeks without enough food. He was then told to leave. He had to pay to have his passport returned and had to look for a job by himself. About a year later, Sharif was arrested because the

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'We stay inside the whole time, stay in the block. No exercise, no sunshine.'

Mairo, a Nigerian woman held in Semenyih detention centre

company that he was working for was not the one listed on his work permit. He had been held at Lenggeng detention centre – one of the worst immigration detention camps in Malaysia – for more than 10 months when he recounted his story.

Sharif's story is not uncommon. Many migrants start off with legal permission to work in Malaysia but lose their legal status through no fault of their own, for example because their employers or agents fail to renew work permits, or provide fake ones. Without legal status, irregular migrants may be arrested and placed in immigration detention. Consequently, they are more vulnerable to exploitation by their employers or the police.

Malaysia has not adopted key international standards that protect the rights of migrants, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention). This failure is one reason why the basic human rights of migrants in Malaysia are easily violated.



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Above centre: Irregular migrants in Malaysia are subject to severe and excessive criminal penalties for violating immigration laws, including caning and detention.

Above: Migrant women on their way to work on a farm in the Cameron Highlands, Pahang state, Malaysia.

REFUGEES AND ASYLUM-SEEKERS

Among those considered to be irregular by the Malaysian government are an estimated 90,000 refugees and asylum-seekers who have fled persecution in their countries and have sought refuge in Malaysia.

Malaysia has not signed either the 1951 UN Refugee Convention or its Protocol, and Malaysia does not recognize refugee status. As a result, Malaysia does not have a functioning asylum system. The Office of the UN High Commissioner for Refugees (UNHCR) has taken responsibility for determining refugee status.

Even those registered and recognized by UNHCR as refugees are often not protected by the Malaysian authorities. They are vulnerable to arbitrary arrest, imprisonment, detention and forced return to countries where they may be at risk of human rights violations.

Even though Malaysia has not ratified the UN Refugee Convention, it is still bound by customary international law, which dictates that people should not be forcibly returned to countries where they are vulnerable to torture or other serious human rights violations.

ANITA'S STORY

"The agent who brought me here made me work in different houses and did not pay me any money. He was however collecting money from the owners for himself," said Anita, a 40-year-old woman from India who came to Malaysia to work as a maid in 2007. "I went to an immigration office to report the agent but was arrested myself instead. I was sentenced to four months in jail in Kajang women's prison and have been here in Lenggeng for one year already. I do not have any money to get a return plane ticket."



CRIMINALIZING IRREGULAR MIGRATION

The Malaysian government's response to irregular migrants has been to effectively criminalize them. Entering or staying in the country without the correct documents and using false documents are considered criminal offences. These are punishable by severe and often excessive penalties, including large fines, imprisonment of up to five years and caning. The use of caning violates the international prohibition against torture and other ill-treatment. Migrants bear the brunt of these punishments, even when it is clear that their employers or agents are at fault, say, for failing to supply or renew the correct visa.

Many of those detained reported having been rounded up in raids led by a volunteer citizens police force, the Ikatan Relawan Rakyat (also known as RELA). When they were unable to produce the correct documentation they were arrested. Some were arrested in their homes, others at the airport while trying to leave. Still others were arrested at their workplace, on the street or when they were trying to report mistreatment by employers and agents to the authorities.

Once taken into custody, those arrested are held in pre-trial detention for up to 14 days before they are brought before a magistrate at a special immigration court and charged for immigration offences. These hearings often fail to meet requirements for a fair and public hearing, as migrants are usually unrepresented at these hearings and are often not informed of their right of appeal. Many are sentenced to caning.

Migrants are then moved to immigration detention facilities until the Malaysian authorities can deport them or until detainees can fund their own travel from the country. Migrants can be detained indefinitely; there is no legal limit on the length of their detention.

DETAINED IN CRAMPED AND FILTHY CONDITIONS

Conditions in all the detention centres visited by Amnesty International were found to be extremely poor and dangerously overcrowded.



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At Lenggeng detention centre, people were crammed into dormitories. Men were housed in four cellblocks, each holding close to 300 detainees. Women were housed separately, with most in a two-storey dormitory. Women with children under the age of five were housed in a separate enclosure resembling a large cage. The dormitories themselves were bare, surrounded only by wire fencing and barbed wire, and there was a strong smell of sewage. Conditions were little better in Semenyih or KLIA immigration centres. There were no activities for children.

Amnesty International spoke with teenagers who were being held with the general adult population, including a 15-year-old boy from Myanmar who had been held in KLIA for six months. International law requires that children in detention should be kept separate from adults. More generally, children should be detained only as a last resort and for the shortest appropriate period of time.

Detainees in all three centres reported having to sleep in extremely cramped conditions, on hard floors often without

access to blankets or mattresses and with no privacy. Ernesto, a Filipino man held in Lenggeng, said: “Every night we sleep on the concrete – no blanket, no mattress.”

A number of people also reported insects living in the wooden floors. “I have rashes all over my body,” said a detainee at Lenggeng. “And there are blood suckers in the wood [floor], where we sleep.”

Detainees reported that it was almost impossible to maintain personal hygiene. Toilets and bathroom facilities were dirty. Toothbrushes, toothpaste and soap were not freely available, and in most cases soap for washing had to be bought from the officers.

“The conditions are very bad,” explained Mohammed, a man from Bangladesh. “The drinking water is dirty. We can see rust in it as we see rust on our clothes that we wash in the same water... The toilets are also in very bad condition and blocked.”

Women reported being given only one sanitary towel a month or having to buy them.

Above left: Immigration and RELA agents round up migrants in central Kuala Lumpur, July 2009.

Above right: Women migrants transferred from prison are registered as detainees at Semenyih Immigration Depot, July 2009.

A number of detainees reported that tensions ran high between different groups of nationalities cramped in close quarters, which resulted in outbreaks of fighting. Mounting frustration and tension are further exacerbated by the fact that there are no outdoor activities and very limited, if any, access to an outside yard.

The conditions in Malaysian detention centres fail to meet basic human rights standards, such as those laid out in the UN Standard Minimum Rules for the Treatment of Prisoners and the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

‘I have rashes all over my body, and there are blood suckers in the wood [floor], where we sleep.’

A man at Lenggeng detention centre



ALWAYS HUNGRY, ALWAYS THIRSTY

Lack of access to adequate food and clean drinking water is a serious concern in the centres. Almost all the detainees interviewed by Amnesty International complained about the poor quality and quantity of food.

In Lenggeng detention centre, breakfast consists of black tea and a piece of bread. For lunch and dinner a small quantity of rice and dried fish is provided. Detainees never receive fruit or vegetables. Similar accounts of inadequate or rotten food were given in both KLIA and Semenyih detention centres. A young woman from Zimbabwe reported that the fish provided to detainees in KLIA Immigration Depot was often rotten.

Gaining access to clean drinking water is a daily trial. Most of those interviewed by Amnesty International in all three detention centres complained that the drinking water was dirty and made them sick. Shamim, detained in the women’s wing of Semenyih, said: “Here we have dirty water. I got sick with diarrhoea from the water. They refused

to call my family or local doctor. They just want to keep us here. I had diarrhoea three times. The water we use to wash is also unclean.”

ILLNESS GOES UNTREATED

Overcrowding and poor hygiene mean that sickness among detainees is common.

According to those interviewed, access to doctors and health care was limited and many reported that officers refused to provide medication to the sick. One man, detained at KLIA Immigration Depot, described the case of a Liberian man who died in detention because the officers refused to take him to hospital. Others reported that in some cases individuals were taken to see a doctor but only when the illness had become very serious. “The officers do not give us any medicines when sick and many are ill,” said a man in Lenggeng. “Many are coughing all the time and feel very itchy.” The Malaysian human rights group SUARAM documented at least 10 deaths in immigration detention centres

in 2009 due to outbreaks of leptospirosis (a serious bacterial disease) and other diseases.

Detention, particularly prolonged detention, can also lead to a deterioration in mental health. One detainee from Uzbekistan, who had been detained for 11 months, told Amnesty International: “These people, they want to keep us. Yesterday I was so angry, I drank 15 people’s tablets. No one came, no one cared.”

ABUSE IN DETENTION

A number of people reported abuse by detention staff. “I was hit by immigration in KLIA,” said one woman. “He started to hit me with his hand after I complained about the shampoo. He tied my hands and brought me to lockup. He pulled my hair, then again started to kick me. I spent four days in lockup.” A number of detainees reported having witnessed others being beaten up and abused by staff. Sexual abuse of women detainees by guards was also reported. “At KLIA, some immigration



'Life here has been very hard. The water supply stops often and the food is very bad. Also, if we are ill, we have no access to doctors.'

Mahmood, a 30-year-old Bangladeshi man who arrived in Malaysia in February 2009, Lenggang detention centre

people would touch breasts and buttocks of girls. They gave the girls money for it," said a young Zimbabwean detainee in the women's wing.

No confidential complaints mechanism exists. If migrants wish to complain about abuse, their only recourse is to complain to the guards themselves. "Last week, I complained," said one detainee. "They took me to lockup, the holding cell, for three days. No blanket, no food."

RESTRICTED CONTACT WITH THE OUTSIDE WORLD

Detainees' main contact with the outside world is by telephone, but many told Amnesty International that they could only place phone calls irregularly. Some said that calls were limited to two minutes each; others reported that calls were expensive. Limited access to telephone calls meant that some detainees could not tell friends and family where they were and could not notify their consulates that they had been detained.

PROLONGED DETENTION, DELAYED RETURNS

Detention is the rule for irregular migrants ordered to be deported. While awaiting deportation, it is practically impossible for migrants to challenge their detention, no matter how long it lasts. Severe delays in obtaining travel documents considerably contribute to prolonged, at times indefinite detention of migrants in Malaysia. A number of detainees said that they wanted to return home but were expected to pay for their own flights. Since most detainees cannot afford to pay for air tickets, they become stuck in detention with no idea of what will happen to them.

One young Nigerian woman explained: "We all pray together for help because we need to go back home; we are tired of staying here. If you get a ticket then they can issue a passport and travel cards. We have to ask for a ticket from friends because nobody has any money." Another detainee said: "Personally, I want to go back. I've been here for 11 months now. Why can't Malaysia buy us the ticket?"

Above left: The KLIA Immigration Depot is so overcrowded that detainees sometimes cannot stretch out to sleep.

Above right: Lack of access to adequate food and drinking water is a serious concern at the immigration detention centres visited by Amnesty International.

FIRST STEPS FORWARD

In April 2009, Malaysia saw a change of government, with new Prime Minister Najib Razak coming to power and bringing with him some positive new initiatives.

The authorities have partially opened up the detention centres to UNHCR, who are now permitted to enter and register those wishing to claim asylum and obtain their release. Amnesty International is also encouraged by the fact that the Malaysian authorities allowed the organization's researchers to visit the detention centres and speak with those detained.

Although some positive steps have been taken, concerns remain that minimum human rights standards are not being met in detention facilities. Amnesty International urges the Malaysian government to recognize, respect and promote the human rights of migrants, asylum-seekers and refugees in Malaysia.



Above: Laundry hung out to dry at Lenggeng detention centre.

Cover: Immigration detainees at Lenggeng detention centre, Malaysia, 23 July 2009.

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TAKE ACTION NOW

Please write to the Malaysian authorities asking them to:

- Ensure that migrants, refugees and asylum-seekers are not routinely detained.
- Ensure that conditions in detention meet the relevant international standards. This includes providing detainees with adequate drinking water and food; health care; implementing a confidential and effective complaints process; and respecting their right to communicate with the outside world.
- Ensure that the detention of children is used only as a last resort and for the shortest appropriate period of time.
- Stop detaining asylum-seekers and refugees recognized by UNHCR, and allow UNHCR personnel unfettered access to immigration depots and other places of detention.
- Release detainees who cannot be deported because their home countries will not accept them.
- Ensure that people are not forcibly removed to countries where they are at risk of serious human rights violations.

PLEASE SEND APPEALS TO:

Y.A.B. Dato' Sri Mohd. Najib Bin Tun Haji Abdul Razak
Prime Minister
Main Block, Perdana Putra Building
Federal Government Administrative Centre
62502 Putrajaya
Malaysia
Fax: +60 3 8888 3444
Salutation: Dear Prime Minister

Dato' Abdul Rahman Othman
Director General of Immigration
Headquarters of the Department of Immigration
Level 1-7 (Podium) No. 15
Persiaran Perdana, Precinct 2
62550 Putrajaya
Malaysia
Salutation: Dear Director General

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Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

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