

**PUBLIC**

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**Forcible return/ill-treatment**

**20 April 2004**

**MALAYSIA**

**At least 85 people from Myanmar, including a 13 year old girl  
At least 22 people from Aceh (Indonesia)**

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Amnesty International is concerned for the safety of at least 85 persons from Myanmar, including asylum seekers and refugees, arrested in a series of police operations in recent weeks. In addition, at least 22 Acehnese from the Indonesian province of Nanggroe Aceh Darussalam (NAD) are also reported to have been detained. Both the Myanmar and Acehnese detainees are at risk of serious human rights violations if they are forcibly returned to their homelands.

In the most widely reported incident, 28 asylum seekers from Myanmar, including six women, were arrested on 14 April 2004 outside the offices of United Nations High Commission for Refugees (UNHCR) in the capital Kuala Lumpur. The group, including members of Rohingya, Chin, Karen, Kachin and Barmar ethnic groups, had gathered outside the UNHCR offices early in the morning to begin queuing to lodge asylum claims when they were arrested. They are reported to have been transferred to the Semenyih immigration camp in Selangor state, where they are at risk of forcible return to Myanmar.

The police crackdown appears to have prompted partly as a response to an arson attack on the Myanmar Embassy reportedly carried out by undocumented Myanmar nationals on 7 April. Following the incident at least 35 Rohingyas were reported arrested on 10 April in residences and public areas near Klang city and subsequently transferred to Semenyih detention camp. Many of those detained are reported have been issued temporary protection letters by UNHCR pending a determination of their asylum status.

In a further police sweep on 11 April, 22 Chins, including four women, were arrested from residences in a Kuala Lumpur suburb. At least two, including a 13 year old girl, are reported to have been previously recognised by UNHCR as refugees. All the women are reported to have been transferred to Machap Umboo detention camp (Malacca state), with the men detained at Lenggeng camp (Negeri Sembilan state).

Acehenese have also been vulnerable to arrest. Police are reported to have burnt down the shelters of allegedly undocumented migrant workers near Putrajaya (Kuala Lumpur) on 3 and 15 April and to have arrested an unknown number of Acehnese. On 16 April, 22 Acehnese, some carrying temporary protection letters issued by UNHCR, were reportedly arrested at roadblocks and in residences at Selayang (Kuala Lumpur) and subsequently detained at Sentul police station. There is concern that they will be transferred to detention camps, where they are at risk of forcible return to NAD province, Indonesia.

Conditions in immigration detention camps are reported to be poor, with concerns over the provision of adequate food, sanitation and medical care. There are fears that conditions may worsen as the recent series of arrests leads to overcrowding in Semenyih and other detention camps. There are also concerns that detainees are at risk of physical and psychological pressure, at times amounting to ill-treatment or torture, to induce them to agree to speedy deportation.

#### **BACKGROUND INFORMATION**

Malaysia does not recognise refugees in its domestic law and is not party to the 1951 UN Convention relating to the Status of Refugees. All those, including economic migrants, refugees and asylum seekers, who enter the country without proper documentation are considered in breach of the Immigration Act and are at risk of arrest, detention, whipping and deportation.

However the principle of *non-refoulement*, the return of a person to a country where he or she would be at grave risk of human rights violations is considered a principle of international law and is therefore binding on all states. At times, with the cooperation of the Malaysian authorities, UNCHR therefore seeks to offer temporary protection letters to Myanmar, Acehnese and other asylum seekers pending a determination of their refugee status, and subsequently a possible grant of permission of temporary stay in Malaysia or resettlement to third countries.

However, in the context of periodic crackdowns against undocumented migrant workers, some reportedly influenced by political understandings with neighbouring states, the Malaysian authorities have frequently not sought to distinguish between undocumented workers and legitimate refugees or asylum seekers. In August 2003, some 260 asylum seekers, including from Myanmar and NAD, Indonesia, were arrested outside UNHCR offices as they attempted register for refugee determination. The majority were subsequently reported to have been deported.

The human rights situation in both Myanmar and NAD remains grave. Asylum seekers face arrest and interrogation under duress if they are forcibly returned. In Myanmar the military continue to impose forced labour or forcible relocations. In NAD fighting between the Indonesian security forces and the armed opposition group the Free Aceh Movement (*Gerakan Aceh Merdeka*, GAM) continues. Those arrested on suspicion of being sympathetic to GAM are held incommunicado and are considered to be at grave risk of torture or ill-treatment.

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

- expressing concern at the detention of at least 85 people from Myanmar, including a 13 year old girl and at least 22 people from Aceh (Indonesia), who were arrested between 10 and 16 April 2004;
- calling on the authorities to ensure that the detainees are treated humanely;
- 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;
- calling on the authorities to respect protection documentation issued to refugees and asylum-seekers by UNHCR
- urging that any child who may also have been detained be granted special protection measures as required by the UN Convention on the Rights of the Child.

**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**

Director General of Immigration Department

Dato' Mohamad Jamal Bin Kamdi  
Level 1-7, Block 1  
Pusat Bandar Damansara  
50550 Kuala Lumpur  
Malaysia

**Telegram: Director General of Immigration Department, Kuala Lumpur, Malaysia**

**Fax : + 60 3 2092 4869 /2093 9092**

**Salutation: Dear Director**

**COPIES TO:**

Human Rights Commissioner

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**

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 1 June 2004.