

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

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### Algeria: Arbitrarily detained asylum seekers at risk of imminent deportation

Algerian authorities should not deport a group of seven Yemeni asylum seekers registered with the UN Refugee Agency (UNHCR), immediately release them from harsh and unsafe detention conditions in Algiers, and allow them unfettered access to asylum procedures, Amnesty International said today.

Since entering Algeria in December 2019, the group of seven has been arbitrarily detained in various locations across the country for over one year. During this time, Algerian authorities have attempted to deport the Yemenis despite their registration as asylum seekers with UNHCR.

Based on information obtained by Amnesty International, the authorities appear to be preparing for group members' imminent return. Such a return before a full and fair evaluation of their asylum claims could amount to a violation of Algeria's obligation not to return individuals to countries where they face risk of serious human rights violations.

Amnesty International spoke by phone with four members of the detained group. It also reviewed photos and videos showing the conditions of detention, as well as documents confirming members' registration as asylum seekers with UNHCR in Algeria. The organization did not receive a response to a letter sent to the Algerian authorities expressing Amnesty's concerns about the group's potential deportation and prolonged arbitrary detention.

Those interviewed told Amnesty International that Algerian and Yemeni authorities are coordinating plans for their forced return to Yemen as soon as travel is possible in the context of COVID-19 travel restrictions and expressed fears that their return to Yemen would place them at significant risk of serious human rights violations. They said Algerian authorities had previously attempted to deport them on two separate occasions and did not take into account their individual concerns about returning to Yemen before taking steps to remove them.

"Zidan,"\* one of the detained Yemenis, told Amnesty International

**"We were trying to move to a country that respects human rights, to live in safety. We're not looking for anything but peace, but unfortunately we could not realize our dream... When you're from a country like Yemen, all countries lock their doors to you."**

Algeria's 2008 Law No. 08-11 criminalizes irregular migration as an offense punishable by up to two years in prison. Algerian authorities arrested the seven Yemenis for irregular entry shortly after their arrival in December 2019 and detained them in a Ghardaia province prison until their trial in spring 2020. "Zidan" described severe overcrowding and degrading conditions in the prison, referring to their time there as "hell." The group members said they received a suspended sentence for irregular entry but were then transferred to an unofficial detention site in the same province, where they remained detained along with sub-Saharan migrants.

Interviewed members of the group said that weeks after being transferred to the informal detention site, they were driven in early summer 2020 toward the Nigerien border along with sub-Saharan migrants in a caravan of buses but then returned to Algiers for a reason not fully explained to them.

In Algiers, officials detained the group in a shelter center in Dély Ibrahim. The group was then able to initiate their applications for asylum and register with UNHCR over the phone. "Samir," one member of the group, told Amnesty International that some weeks after they had done so and despite telling authorities they were applying for asylum with UNHCR, "they sent us to the airport so that they could deport us to Sudan and from Sudan by plane to Yemen. But we had not done Corona tests, and because of that they returned us from the airport to the same center we're in now."

Algeria has a long-standing practice of mass deportation of migrants and asylum seekers without ensuring a process to evaluate individual claims for protection. Amnesty International has documented its arbitrary arrests, detention, and mass expulsions without due process of migrants and refugees to desert areas bordering Niger and Mali extending back to 2017. In doing so, Algeria has violated the prohibition on *refoulement*, the forcible return of refugees or asylum seekers to a country where they are liable to face persecution or grave violations of their rights.

Asylum seekers should not be penalized for entering states irregularly and must be granted continuous access to asylum procedures. Under international law, states must conduct individualized determinations of each asylum seeker's claims for protection before taking steps to remove them, regardless of whether or not they criminalize irregular entry. States have an obligation to assess the risk of *refoulement* to ensure that they do not return people to countries where they may face irreparable harm, such as persecution, torture, ill-treatment or other serious human rights violations. They must also ensure that they do not transfer them to third states that cannot guarantee the same procedural safeguards. Returns of individuals to any third country where they will not be protected from further *refoulement* will constitute a grave breach of international law.

Throughout the course of the conflict in Yemen, Amnesty International has recorded patterns of human rights violations committed by all parties to the conflict in the country, including arbitrary detention, enforced disappearances, and torture and other ill-treatment. Returning these seven asylum seekers to Yemen could place them at risk of facing similar severe human rights abuses.

Since being taken to Dély Ibrahim, members said the group has received no formal explanation of the reason for their continued detention. "Hadi," one of the asylum seekers, told Amnesty International

**"My freedom has been deprived for so long... I don't understand the reason ... Some of us have families; some of us are students. For what fault should I be out of university for a year, for no reason?... This [entering irregularly] doesn't deserve a year of your freedom lost."**

Algerian authorities have now held the group in arbitrary detention solely related to their irregular entry, prohibited under international law, for over one year. Detention for immigration purposes can only be justified in the most exceptional circumstances, and the detention of asylum seekers during a global pandemic cannot meet this threshold. The United Nations Working Group on Arbitrary Detention has determined that immigration detention may not be of unlimited length and that asylum seekers and migrants must be informed of how they can challenge their detention to a judicial authority. In addition, the Human Rights Committee has stressed that a state's inability to carry out a deportation alone does not justify the continuation of such detention indefinitely.

Interviewed members of the group described harsh conditions during their detention at the Dély Ibrahim shelter, which is being used to hold North African and other migrants temporarily before they are deported. They described sleeping in bitter cold with no heating turned on and not being provided time to go outdoors or exercise. They reported suffering from scabies as a result of a lack of cleanliness and proper nutrition.

The frequent turnover of individuals at the shelter and the lack of preventative measures to mitigate the risk of COVID-19 poses a real threat of infection both to those detained and to employees. The detained asylum seekers said that no soap, sanitizer, or masks had been provided to them by the shelter authorities before they received some materials from organizations outside of the shelter. Algerian authorities must uphold the right to health of detainees and seek to reduce detained populations during this time, especially releasing all asylum seekers, Amnesty International said.

After more than one year in arbitrary detention, members of the group said they faced pressure to accept a return to Yemen as the only option available to them, even if it puts them in grave danger. "There's no longer any hope and no possibility" other than to "surrender to death," said "Hadi." Given their prolonged detention, Amnesty International is concerned that any such returns of members of the group to Yemen may not be genuinely voluntary.

Describing the group's past year in detention, "Zidan" said,

**"Our life is really, really, really bad, and our psychological situation is horrible... But the bigger fear is returning after all these troubles to Yemen, where we escaped death."**

Algeria has ratified the 1951 Convention on the Status of Refugees and its 1967 Optional Protocol, as well as the 1969 Organization of African Unity Convention governing the Specific Aspects of Refugee Problems in Africa, which bind it to respect the principle of *non-refoulement*. However, Algeria does not have a comprehensive national law on asylum. Article 69 of the Algerian Constitution prohibits the forcible return of political refugees, but it does not explicitly mention the right to asylum. Algeria's Decree No. 63-274 of 1963, related to the 1951 Refugee Convention, created the Bureau Algérien pour les Réfugiés et les Apatrides (BAPRA) under the Ministry of Foreign Affairs. Pending the establishment of the national asylum system, the UN Refugee Agency (UNHCR) registers asylum seekers and conducts refugee status determinations of those with international protection claims inside Algeria.

*\*Names have been changed to protect the quoted individuals' identities.*