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## MALAYSIA

### Asylum-seekers at risk in mass deportation of economic migrants

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On 26 March 1998 Malaysian police mounted a major operation to deport more than 500 Indonesians from four heavily overcrowded immigration detention camps around the country. Hundreds more were deported over the following days. Those deported included individuals known to be at risk of human rights violations in Aceh province, Sumatra.

The deportations took place as the Malaysian authorities stepped up efforts to stem the tide of economic migrants from neighbouring Indonesia, fleeing escalating unemployment, food shortages, rising prices and social unrest. According to press reports, about 17,000 alleged illegal immigrants, the majority from Indonesia, have been detained recently in the camps as domestic pressure has mounted on the Malaysian authorities to deal with Malaysia's own growing economic crisis. More than 11,000 immigrants are reported to have been deported in March and the Malaysian authorities recently announced plans to deport a further 10,000.

Amnesty International is particularly concerned that the deportation operation conducted on 26 March appeared to be focused on Indonesians from Aceh. Although some of the Acehnese targeted may indeed be economic migrants, many others were genuine asylum-seekers, seeking refuge in Malaysia from persecution in their home province. The organization is concerned that those returned to Aceh may be at risk of serious human rights violations, including incommunicado detention, torture,

extrajudicial executions and “disappearances”. Fears have been heightened by confirmation that about 500 of the deportees are now being held incommunicado at Rancung Military Detention Centre in Aceh, Indonesia. In the past detainees in Rancung have frequently been subjected to torture and ill-treatment.

Amnesty International recognizes the economic problems being faced by Malaysia and the authorities’ responsibility to manage migration flows, but urges the Malaysian government to deal with these issues in a manner which does not violate internationally recognized human rights standards.

Amnesty International believes that the Malaysian government should halt all further repatriations until they can guarantee that all Acehnese seeking asylum have full access to a fair and satisfactory procedure to determine their refugee status. The organization is also calling on the Indonesian government to ensure that those taken into custody in Aceh are granted access to human rights lawyers and to the International Committee of the Red Cross.

### **The events of 26 March 1998**

In the early hours of the morning Malaysian police officers, reportedly armed with guns, batons, water cannon and tear gas, prepared secretly to forcibly repatriate hundreds of Indonesians from immigration detention camps at Semenyih, Lenggeng, Machap Umbo and Juru. It is believed that the majority, if not all, were from the province of Aceh in Sumatra. During the operation a disturbance broke out at Semenyih camp as the Acehnese tried to resist deportation and, according to official figures, at least eight Indonesians and one police officer died. On 27 March a Malaysian newspaper reported that the police opened fire after a riot broke out, killing one inmate. The report also claims that two other detainees were killed in “hand-to-hand combat” with police, while another died on the way to hospital. Four other inmates are reported to have died while being transported to the port for deportation.<sup>1</sup> 27 police officers are also reported to have been injured.

Efforts to obtain an independent account of the events have been hampered by lack of access to the camps. However, it is clear that the operation was coordinated with the cooperation of the Indonesian government. More than 500 Indonesians were taken to Malaysian ports where Indonesian naval vessels were waiting to take them back to Indonesia. Malaysian officials are reported to have said that hundreds more were deported over the following few days.

Amnesty International believes that the circumstances of the deaths raise grave questions about the level of force used by the Malaysian authorities and is calling for a full independent inquiry into the deaths of the detainees. A photograph published in *Time* magazine’s 6 April issue shows six inmates lying either dead or injured on the ground at Semenyih camp while police officers checked if they were “still alive after the riots”. Several of the individuals appear to have their hands tied behind their backs. Amnesty International is also deeply concerned by unconfirmed reports that further deaths occurred either during the deportation process or during transit to Indonesia. An

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<sup>1</sup>*New Straits Times*, 27 March 1998

unknown number of people were injured and many are believed to have been transported despite suffering from serious injuries. A photograph published on 1 April in the *Straits Times*, a Singapore newspaper, shows a deportee being carried ashore on a stretcher from an Indonesian naval vessel at Lhokseumawe Port in Aceh province, Sumatra. According to Indonesian newspaper reports, up to 42 deportees arriving in Lhokseumawe two days after the operation were suffering from serious injuries, including gunshot wounds. They are believed to have been transferred to hospital on arrival. The *Straits Times* article of 1 April reports that an official from Lhokseumawe hospital said that two patients were being treated for gunshot wounds to their legs, while others had bruises and broken limbs. There are also reports that some people may have had to have amputations.

### **Acehnese detained on arrival in Indonesia**

Initial fears for the safety of the Acehnese have been confirmed by the news that around 500 individuals have been detained for questioning since arriving by boat from Malaysia on Saturday 28 March. They are being held at Rancung Military Detention Centre where they are being questioned by members of the Kopassus special forces army unit about their possible links with the outlawed armed separatist group *Aceh Merdeka* (Free Aceh).

Amnesty International believes they are at risk of being tortured, as they are being held incommunicado and denied access to their families and independent lawyers. Between 1989 and 1993 at the height of the Indonesian military's counter-insurgency operations against *Aceh Merdeka*, suspected members of the group were frequently subjected to torture and ill-treatment while detained at Rancung. Human rights violations continue to be reported in the province and recent cases of individuals held incommunicado at Rancung are known to Amnesty International. The situation is exacerbated by the fact that monitoring of the full scale of human rights violations in the province continues to be hampered as both independent groups and journalists are denied access to the area. The International Committee of the Red Cross (ICRC) is currently denied access to Aceh.

### **The Acehnese asylum-seekers in Malaysia**

In the wake of an intensification of Indonesian counter-insurgency operations against separatist *Aceh Merdeka* in the early 1990s, hundreds of Acehnese fled by boat to neighbouring Malaysia. Many of the Acehnese were fleeing serious human rights violations in the province, including incommunicado detention, torture and extrajudicial executions by the Indonesian security forces. On arrival in Malaysia, however, large numbers of the asylum-seekers were immediately detained as illegal immigrants. The Malaysian government refused to grant them asylum, and tried instead to persuade them to return home, claiming that the Indonesian authorities had given assurances that they could return safely. The Malaysian government's position was strongly influenced by a desire to maintain a cordial relationship with Indonesia.

Following pressure from domestic and international human rights groups, the Malaysian government later altered its position and agreed to grant several hundred Acehnese special leave to remain in Malaysia, based on a decision by the United Nations High Commissioner for Refugees (UNHCR) to grant them "political protection". However, their situation remained precarious. In late 1996, for example, after 40 Acehnese attempted to seek asylum in six foreign embassies in the capital, Kuala

Lumpur, then Deputy Home Minister Megat Junid Megat Ayob warned that up to 300 Acehese asylum-seekers would have their status revoked and be forcibly returned to Indonesia “*if they caused further trouble*”<sup>2</sup>. Amnesty International is particularly dismayed by a comment, reported in the press, by police spokesman Ghazali Mohamed Amin that the recent deportation operation was targeted at the Acehese in particular “*because they have been here for too long*”<sup>3</sup>.

UNHCR estimates there are about 2,000 Acehese in Malaysia. However, UNHCR efforts to determine their refugee status have been seriously hampered by a lack of access to the detention camps, where the asylum-seekers have been detained along with alleged illegal immigrants. On 28 March 1998 Sadako Ogata, the UN High Commissioner for Refugees, urged the Malaysian authorities to stop deporting Acehese back to Sumatra, citing concerns that genuine refugees in need of international protection could be among those sent back. The UNHCR later expressed concerns that at least seven Acehese under UNHCR protection were among those forcibly repatriated. Other sources have also identified seven individuals with special leave to remain in Malaysia who have been sent back.

On 30 March 1998, 14 Acehese sought refuge in the UNHCR compound in Kuala Lumpur. Twelve of them are seeking protection from deportation and are now being interviewed by UNHCR officials to determine their refugee status. Some are believed to have escaped from Lenggeng detention camp during the forced repatriation operation on 26 March. Police officers are guarding the UNHCR compound, reportedly to prevent further Acehese from trying to enter the building. Tajol Rosli Ghazali, Deputy Minister of Home Affairs is reported to have said, “*We don’t recognize the Acehese as political refugees. They (UNHCR) can send them to any country they want. If we provide them political asylum, it will be like the Vietnamese boat people before. Tens of thousands will come*”.<sup>4</sup>

While Malaysia is not a party to the 1951 UN Convention Relating to the Status of Refugees, it is nonetheless bound by the fundamental principle of *non-refoulement*, which prohibits any person being returned to a country where they face serious human rights violations. This principle, outlined in Article 33 of the 1951 Convention and in numerous other international instruments and declarations of the UN General Assembly, is a norm of customary international law and is binding on all states.

### **Other Acehese at risk of imminent *refoulement***

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<sup>2</sup>AFP, 25 December 1996

<sup>3</sup>Reuters, 26 March 1998

<sup>4</sup>AFP, 1 April 1998

At least ten, and possibly as many as 25, Acehnese are reported to have been arrested in Malaysia since 18 March. Two are known to be members of the Acehnese Refugee Committee in Malaysia (ARCM) and all of the group are understood to have identity cards issued either by the Malaysian authorities or by the UNHCR, granting them special permission to remain in Malaysia. No reasons have been given for their arrest, although it is believed they may have been targeted because of their activities in connection with the Aceh-Sumatra National Liberation Front (ASNLF).

Iqlil Hyas Leube, Zahizi Tengku Ubaidullah, Musanna Tengku Abdul Wahab and Muhammad Diah Badai are believed to have been detained at the Rawang Police Station in Selangor State. A Qader Hasan is believed to have been detained at the Port Klang Immigration Depot, also in Selangor State. The whereabouts of Ishak Daud, Burhan Syamaun, Syahrul Syamaun, Ali and Effendi are unknown. There are fears that they may also be at imminent risk of *refoulement*. Amnesty International is concerned that they are being denied access to lawyers and to UNHCR. The police are also reported to be stepping up operations to arrest other alleged illegal immigrants as part of the current clampdown.

### **Conditions in the detention camps**

Domestic and international human rights groups have expressed concern in recent years about conditions in the detention camps, where both asylum-seekers and those alleged to be illegal immigrants are held. Detainees have frequently complained of beatings, sexual abuse, denial of medical treatment, and inadequate food and water supplies. The camps have also become increasingly overcrowded. In 1996 the Malaysian authorities admitted that 70 detainees had died in the camps over a four-year period, but denied there had been any violation of human rights. The same year, a Board of Visitors was set up by the authorities to study conditions in the camps but to date it has failed to publish its findings. Amnesty International is particularly concerned that independent monitors, including UNHCR, continue to be denied access to the camps.

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#### **WHAT YOU CAN DO:**

##### **Please write politely-worded letters to the Malaysian authorities:**

- urging them to put a halt to the current spate of repatriations until they can guarantee that all Acehnese seeking asylum have full access to a fair and satisfactory procedure to determine their refugee status;
- calling on the authorities to ensure that all those seeking asylum have full access to the UNHCR;
- expressing concern over the fate of at least 10 Acehnese with special leave to remain in Malaysia who are reported to have been arrested;

- urging the authorities to clarify their whereabouts and not to deport them to Indonesia, where they are at risk of serious human rights violations;
- calling for a full independent investigation into the deaths and injuries of Indonesian detainees during the deportation process on 26 March 1998;
- urging the authorities to allow independent monitors, including the UNHCR, access to the immigration detention camps;
- acknowledging that Malaysia is currently feeling the effects of an economic crisis, and that illegal immigration is an issue, but urging the authorities to deal with the crisis in a manner which does not violate internationally recognized human rights standards.

**APPEALS TO:**

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**COPIES TO:**

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**You may also ask your own government to raise this issue in talks with the Malaysian government.**

**Please write politely-worded letters to the Indonesian authorities:**

- urging them to clarify the identity, whereabouts and circumstances of all those who have been returned from Malaysia on 26 March 1998;

- urging them to allow immediate, on-going and regular access for independent lawyers to those Indonesians who have been taken into custody since their return to Indonesia;
- urging them to allow access to Aceh for the International Committee of the Red Cross, particularly for those wounded during the disturbances in the detention camps in Malaysia and for those believed to be in custody;
- urging them to take immediate steps to ensure that none of the returnees are at risk of human rights violations because of alleged links with Acehnese separatists.

**APPEALS TO:**

Prof. B.J. Habibie  
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Telegrams: Vice-President Habibie, Jakarta, Indonesia

**COPIES TO:**

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Please send appeals immediately. Please check with the Southeast Asia Team if sending appeals after 1 June 1998.

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