

Joint Statement on the Principle of Non-*Refoulement* and the Recent Forced Deportations of the Uighurs from Cambodia and the Lao Hmong from Thailand

(Released: 14 January 2010)

We, the undersigned, condemn the actions in the last days of 2009 of some Asian governments in requesting, encouraging and performing the forcible deportation (*refoulement*) of refugees and asylum seekers from Cambodia and Thailand.

We demand that all governments in the Asia-Pacific region reaffirm the importance of the principle of non-*refoulement* of asylum seekers and refugees.

We further call on these governments and all governments in the Asia-Pacific region to resolve to make 2010 a year in which the basic rights of refugees and asylum seekers are recognised, including the fundamental principle of non-*refoulement*.

Uighurs from Cambodia

On December 19, 2009, in advance of a visit by Vice President Xi Jinping of China, the government of Cambodia forcibly repatriated 20 ethnic Uighur asylum seekers to China, before their claims for asylum had been fully examined. The forced repatriation occurred despite the protests of the international community, including the United Nations High Commissioner for Refugees (UNHCR), and civil society. Cambodia is a signatory to the 1951 Convention Relating to the Status of Refugees.

Human rights groups, including Amnesty International and Human Rights Watch, have reported that Uighurs, a Turkic-speaking ethnic minority, predominantly Muslim and living mostly in western China, are facing various forms of mistreatment and persecution which has intensified since the crackdown by the Chinese government that follows the July 2009 riots in Urumqi.

China thanked the Cambodian government for the forced repatriation and two days later signed 14 commercial deals with Cambodia worth approximately 1 billion US Dollars.

Amnesty International has documented past cases of Uighur asylum seekers forcibly returned to China who were detained, reportedly tortured and, in some cases, sentenced to death and executed.

Lao Hmong from Thailand

On December 28, 2009, the government of Thailand forcibly repatriated to Laos about 4,000 Lao Hmong from Huay Nam Khao camp in Phetchabun, as well as 158 Lao Hmong detained in the Nong Khai Immigration Detention Centre since November 2006. Amongst them were 87 children, some born in detention. The 158 Lao Hmong were recognised by UNHCR as being in need of international protection; they had already been accepted for resettlement by several countries but had been denied departure from Thailand. UNHCR was not permitted access to the larger group in Huay Nam Khao camp in Phetchabun to determine their status.

In a statement dated 31 December 2009 protesting these deportations, the Special Rapporteur on Torture, Manfred Nowak, stated, "the fact that no independent and reliable pre-screening mechanism is in place to assess whether these individuals would be at risk of torture violates international human rights norms." This statement was jointly released with the Special Rapporteur on the Rights of Migrants, Jorge A. Bustamante,

Until now, no NGO or UN agencies have been granted access to monitor the deportees back in Laos.

In recent years, forcibly repatriated Lao Hmong have been subject to disappearance, imprisonment, forced re-education, and physical and sexual assault. The Hmong population has been subject to

persecution by Lao authorities, including arbitrary arrests and detention, and the suppression of religious freedom.

Principle of Non-Refoulement

We remind the governments of China, Cambodia, Laos and Thailand and other governments in the Asia-Pacific region that under international law, the forcible deportation (*refoulement*) of an individual to a place where they will be exposed to a real risk of serious harm is absolutely forbidden under both customary international law and under the treaty provisions of the *Convention Relating to the Status of Refugees* and the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*.

We also remind these governments that under the terms of the *Charter of the United Nations*, the *Statute of the UNHCR* and the terms of the memoranda of agreement that they have signed with the UNHCR that they are bound to cooperate with it and to facilitate its efforts to ensure access and the protection of refugees.

We recall the numerous Conclusions on International Protection of the Executive Committee of the UNHCR, of which the governments of China and Thailand are members, which call on states to “scrupulously respect the principle of non-refoulement”. We further recall that the Executive Committee adopted these conclusions by consent and that the governments of China and Thailand have on multiple occasions agreed to abide by them.

Therefore, we, the undersigned, call on the following governments to take the following specific actions:

- The government of Cambodia:
 - To recognize the right to seek asylum of all Uighur asylum seekers;
 - To cease their *refoulement* before a proper determination of their status; and
 - To abide by their obligations as a state party to the 1951 Convention Relating to the Status of Refugees, its 1967 Protocol, as well as the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- The government of China:
 - To provide UNHCR with access to forcibly repatriated Uighur asylum seekers;
 - To cease making demands of other Asian states to forcibly repatriate asylum seekers; and
 - To abide by their obligations as a state party to the 1951 Convention Relating to the Status of Refugees, its 1967 Protocol, as well as the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- The government of Thailand:
 - To recognize the right to seek asylum of all Lao Hmong refugees and asylum seekers;
 - To cease the *refoulement* of the Lao Hmong;
 - To issue exit permits to those Lao Hmong who have been accepted for resettlement in third countries; and
 - To abide by their obligations as a state party to the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- The government of Laos:
 - To provide UNHCR with access to forcibly repatriated Lao Hmong;
 - To cease making demands of other Asian states to forcibly repatriate asylum seekers
 - To make all necessary arrangements for those individuals who had already been accepted for resettlement in a third country prior to their return to Laos to be expeditiously processed and depart from Laos
- All governments in the Asia-Pacific region:

- To respect the fundamental principle of non-*refoulement*,
- To cease requesting, condoning, cooperating with, carrying out or otherwise allowing the *refoulement* of asylum seekers and refugees, and
- To respect the principle that the granting of asylum is a peaceful and humanitarian act and should not be regarded as an unfriendly act by any state.

We call on all governments in the Asia-Pacific region to resolve to fully respect the rights of all refugees and asylum seekers under international law as of 2010, including by renouncing the practice of *refoulement*.

This statement was written by members of the Asia Pacific Refugee Rights Network (APRRN) and has been endorsed by the following organisations:

Australia

1. Amnesty International Australia
2. Australian National Committee on Refugee Women
3. Centre for Refugee Research
4. Refugee Council of Australia
5. Survivors of Torture and Trauma Assistance and Rehabilitation Service of South Australia

Bangladesh

6. Ain o Salish Kendra (ASK)
7. Odhikar
8. Ovibashi Karmi Unnayan Program (OKUP)

Cambodia

9. Cambodian Human Rights and Development Association (ADHOC)
10. Cambodian League for the Promotion and Defense of Human Rights (LICADHO)
11. Khmer Kampuchea Krom Human Rights Association (KKKHRA)
12. The Cambodian Human Rights and Development Association (ADHOC)

Canada

13. Canadian Council for Refugees
14. Fellowship Christian Reformed Church Refugee Committee
15. Quaker Committee for Refugees

Egypt

16. Egyptian Foundation for Refugee Rights

Hong Kong

17. Amnesty International Hong Kong
18. Hong Kong Refugee Advice Centre

Indonesia

19. Human Rights Working Group - Indonesia
20. Lembaga Bantuan Hukum Jakarta (The Jakarta Legal Aid Institute)

Japan

21. Amnesty International Japan

Lebanon

22. Frontiers Ruwad Association

Malaysia

23. Aliran Kesedaran Negara
24. Amnesty International Malaysia
25. Bar Council of Malaysia
26. Health Equity Initiatives
27. Kumpulan ACTS Berhad
28. Parti Sosialis Malaysia

29. Suara Rakyat Malaysia (SUARAM)
30. The National Human Rights Society (HAKAM)

Nepal

31. INHURED International

New Zealand

32. Amnesty International New Zealand
33. New Zealand National Refugee Network

Pakistan

34. Pakistan International Human Rights Organization

Philippines

35. Amnesty International Philippines
36. Centre for Migrant Advocacy

South Africa

37. Lawyers for Human Rights

South Korea

38. Korean Public Interest Lawyers Group (GONGGAM)
39. Korean House for International Solidarity

Sri Lanka

40. South Asian Network for Refugees, IDPs & Migrants, Sri Lanka (SANRIM)

Switzerland

41. Tibetan UN Advocacy (TUNA)

Taiwan

42. Taiwan Association for Human Rights

Thailand

43. Amnesty International Thailand
44. US Committee for Refugees and Immigrants – Thailand

Turkey

45. Helsinki Citizens' Assembly Refugee Advocacy and Support Program

United Kingdom

46. Christian Solidarity Worldwide
47. The Equal Rights Trust

United States of America

48. Citizens Against Trafficking
49. Defense Forum Foundation
50. Jubilee Campaign

Regional/International

51. Advocates International
52. Asia Pacific Forum on Women, Law and Development (APWLD)
53. Asian Federation Against Involuntary Disappearances (AFAD)
54. Borneo Child Aid Society/ Humana
55. Caram Asia
56. Chin Human Rights Organization
57. Christian Solidarity Worldwide - Southeast Asia
58. Committee for Asian Women
59. ESCR-Asia
60. Fahamu Refugee Programme, Fahamu Trust

61. Forum Asia
62. Human Rights Without Frontiers
63. International Detention Coalition
64. International Women's Rights Action Watch Asia Pacific
65. Pax Romana
66. The Arakan Project
67. UNANIMA International
68. Unrepresented Nations and Peoples Organisation (UNPO)