

Memorandum to SUHAKAM on the Fire Incident at the Lenggeng Immigration Detention Centre

Background

On 21st April 2008, an incident occurred at Lenggeng Immigration Detention Centre where an administration building was burned. According to mainstream press, the riots were started by 60 Myanmar detainees after they were told news that their applications for resettlement to a third country had been rejected by United Nations High Commission of Refugees (UNHCR). Fourteen detainees were arrested under Sections 148 (possession of dangerous weapons) and 438 (committing mischief by fire or use of explosive substance) of the Penal Code. They were held at Ibu Pejabat Polis Daerah (IPPD) Seremban.

However, in a press statement, the UNHCR denies any rejection of applications and that the applications were still being processed.

Through our investigation and interviews with several migrants, some who are under detention while others who have been deported, it became clear that the actual event differs vastly from reports in mainstream press that has been very misleading and painted a negative image of refugees.

Firstly, only three of the arrested were Burmese refugees registered with the UNHCR. The others arrested comprised of a Cambodian, a documented Vietnamese migrant worker, six Indonesians, and three more Burmese asylum seekers that have yet to file their refugee status application to the UNHCR.

Secondly, we have found that the cause of the riots was due to abuse of power and violence committed by immigration officers instead of the denial of resettlement applications to the UNHCR.

Thirdly, it is still unclear who actually started the fire. It is unfair to put the blame on the detainees when no independent investigation has been conducted to verify this and only one side of the stories from the Immigration Department and the RELA are being heard.

Sequence of events

On 20th April 2008, at approximately 8.00pm, during a thorough search of the cells in Block C, immigration officers found some tobacco and a cigarette butt, both prohibited items.

According to witnesses, the officers called on nine male detainees from Block C and took them to the investigation room for questioning. The nine detainees were made up of six Burmese, two Indonesians and a Pakistani. The detainees were called in for questioning in pairs. Once the detainees were in the office, they were not questioned but were

punched, kicked and beaten by five officers. An Urdu speaking detainee from Block B was called in to interpret for the Pakistani detainee. He joined in and punched at least one of the Burmese as the officers watched. After the beatings, they were asked if they had smoked the tobacco. All six Burmese denied smoking.

The six Burmese were returned to their cells. The Pakistani and two Indonesians were then taken into the investigation room. Some detainees at the surrounding blocks could see through the glass silhouettes and hear the three being beaten. They could also hear their loud cries. The Pakistani, later identified as Mohammad Noor Bassar, crawled out of the investigation room. According to eyewitnesses, he dragged himself on his hands and was frothing at the mouth. Upon seeing the Pakistani, the detainees within the cells began to shout in protest and some threw plastic water bottles out of their cells. Thereafter, the Pakistani and two Indonesians were taken away and did not return to the cells. At approximately 10.00pm, a RELA head officer arrived at the detention centre and ordered the detainees to maintain their composure.

On 21st April 2008, at around 8am, when breakfast was being distributed, many detainees voiced their refusal to eat and went on a hunger strike. Usually, there were at least five immigration officers and ten RELA officers on duty. At approximately 12pm, many of the arrested noticed that the RELA and immigration officers left the detention blocks, leaving the detainees alone and locked in their blocks.

According to a few detainees, some detainees in Block B broke the gate at the fence surrounding the block. They got out and opened the gates of the other blocks. Some detainees rushed out of the blocks, while others stayed in their blocks. After a while, there was smoke coming from the direction of the office in the middle of the four blocks. All the detainees escaped to the main compound area.

At the compound area, the detainees were made to squat. A RELA officer pointed out the fourteen suspects. Two of the Burmese arrested, Francis Thawng and Chin Khawn Thawng, were among the Burmese who had been beaten on the 20th April 2008. The fourteen were then taken in two vans to the Ibu Pejabat Polis Daerah Seremban. On the way, Francis Thawng and Mohammad Hassan were assaulted in the van by an immigration officer who burned them with cigarette butts and beat them with a torchlight.

The rest of the Burmese detainees at Lenggeng were transferred by bus to Tanah Merah Detention Centre on the same day. According to a Burmese who was on a bus, immigration and RELA officers hit him and a few others with batons.

Point of complaint

The above incident and mayhem at the Lenggeng camp is only the tip of the iceberg. It is a reflection of the conditions in the detention centers that are becoming unbearable and inhuman. The abuse, violence and different forms of maltreatment of the detainees and mismanagement of the detention centres require serious and independent investigations with the political will to bring about drastic changes and reforms.

As a member of UN Human Rights Council, as the largest receiving country of migrant workers in Asia, Malaysia is obligated to observe and show commitment in upholding international standards and principles and human rights.

SUHAKAM as the human rights institution established by the government to promote and protect human rights in the country, must view with concern and be challenged to independently act to ensure justice is done to those unjustly treated and make accountable the officers responsible for the continuous deterioration of conditions in the camps and the intense violations of human rights.

Therefore, we would like to bring the following issues to SUHAKAM's attention:

- 1) The mistreatment of detainees by immigration and RELA officers is increasingly rampant and out of control. There is a disregard for the basic human rights of the detainees in the Immigration Detention Centres.
 - a. The baseless accusation of the nine detainees who were beaten up on 20th April 2008 without given the chance to provide defence against the accusation. It would seem the immigration officers involved were not seeking for any answers from the detainees.
 - b. Given the rampant corruption practice in detention camps, it raises questions as to how cigarettes got into the detention camp in the first place.
 - c. No officer in charge of a detention centre has the right to use force or violence on any detainees. The force and violence used on the Pakistani detainee and on others constitute assault which must be punished.
 - d. As authorities in the Immigration Detention Centres, the immigration and RELA officers have failed to guard the rights of the detainees. Instead, they are responsible for the violation of the rights of the detainees.

- 2) The management of the Immigration Detention Centres has been known to be not only incompetent, but mismanaged with little or no respect to detainees and the right to life. There are problems of severe overcrowding, unhygienic living conditions, prolonged and indefinite detention, outbreak of diseases, and no access to medical treatment.
 - a. Immigration Detention Centres are holding centres prior to deportation of undocumented migrants. However, refugees and asylum seekers are being held in detention centres for prolonged periods. Malaysia ought to protect the rights of refugees and asylum seekers as they face risks if deported to their home countries or if they fall victim to trafficking agents.
 - b. Overcrowding in Immigration Detention Centres is an ongoing problem that needs to be addressed fast. However, instead of solving the issue at hand, RELA officers continue to conduct raids and arrests of refugees, asylum seekers and undocumented migrants contributing to the swelling of numbers of detainees in already extremely overcrowded conditions.
 - c. The Immigration Detention Centres should be recognized as holding centres where foreigners remain prior to repatriation. They are not correction centres for criminals. Thus, these detention centres must be administered and managed as holding centres where it then becomes

centres for foreigners who do not have proper documents and thus not criminals.

Demands

We are of the view that the misuse of power and the violence committed by the immigration and RELA officers in this event is very serious and warrants immediate and effective actions to uphold justice.

- 1) We call on SUHAKAM to conduct an independent and open inquiry into the violence committed by the immigration officers on the 20th April 2008 event against the six Burmese, two Indonesians and Mohammad Noor Basser, the Pakistani.
- 2) We call on SUHAKAM to ensure immediate protection of victims and witnesses, particularly those currently detained in Immigration Detention Centres. SUHAKAM should also ensure that any plans to deport the victims and witnesses are stopped.
- 3) We urge SUHAKAM to call for a total review of management in Immigration Detention Centres. The government should stop the Immigration Department and the RELA from managing detention centres. The Prison Authority who is properly trained with management skills and experience should take over the management of these detention camps.
- 4) We urge SUHAKAM to press the Malaysian Government to cease the rampant raids and arrests of refugees and asylum seekers, and to release all recognised refugees, asylum seekers and persons of concern to the UNHCR.
- 5) We call on SUHAKAM to push for the Malaysian Government to immediately ratify the 1954 Convention Relating to the Status of Refugees and its 1967 Protocol. If Malaysia considers itself a civilised nation, it should not condone the practice of torture and inhumane treatment of detainees. This determination must be reflected by ratifying the 1984 International Convention Against Torture and Other Cruel, Inhumane and Degrading Treatment or Punishment.

Submitted by:

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