


URGENT

No. 52101/ 208

PERMANENT MISSION OF THAILAND
GENEVA

16 March 2011

OHCHR REGISTRY

14 MAR 2011

Recipients: SPD

Dear Mr. Sow, Mr. Bielefeldt, and Mr. Méndez,

I wish to refer to your joint urgent appeal dated 8 February 2011 regarding the arrest of 60 Ahmadiyya (or Ahmadis as referred to in the urgent appeal) of Pakistani origin in Thailand. The matter has been duly forwarded to the concerned authorities in Thailand for further examination.

I also wish to take this opportunity to reaffirm our commitment to providing humanitarian assistance to the peoples in need although Thailand is not a party to the 1951 Refugee Convention and has faced with increasing numbers of illegal migrants entering the country. At the same time, Thailand, as other nations, needs to maintain this delicate balance while upholding the integrity of our immigration laws.

In the case of the Ahmadiyya, I wish to provide information and preliminary clarifications on a number of points raised in your urgent appeal as follows.

Mr. El Hadji Malick SOW,
Chair-Rapporteur of the Working Group on Arbitrary Detention;

Mr. Heiner Bielefeldt,
Special Rapporteur on freedom of religion or belief;

Mr. Juan Méndez,
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment;
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File No. UA G/SO 218/2, G/SO 214 (56-23) G/SO 214 (53-24) THA1/2011

1. General information

1.1 The group of 84 Pakistanis Ahmadiyya Muslim Jamaat arrested on 15 December 2010 consists of 47 adults who were charged with illegal entry without valid documentation and overstaying. Children under 18 years of age found with the adults have not been placed under any charge, but have been registered in the daily police record.

1.2 The group is currently detained at the Immigration Detention Centre (IDC) in Bangkok which provides facilities according to international human rights standards. The IDC has also provided them with medical services.

1.3 Thailand is well recognized for its religious tolerance. Therefore, the arrest was neither targeted on the Ahmadiyya group nor linked with their religious affiliation, as alleged in the communication. It was rather a regular enforcement of Thai immigration laws. Moreover, the arrest was not arbitrary as the adults found were charged with illegal entry without valid documentation or overstaying.

2. Condition of the Detention Center

2.1 The allegation on the overcrowded detention center should also be put in perspective, and in fact, is a result of a larger migration challenge pressing on Thailand today. Over the past decades, Thailand has faced a growing mixed flow of migrants from neighboring countries as well as from other countries in the region. As a result, Thailand inevitably became both a transit and destination country in addition to a country of origin.

2.2 By enforcing the Thai Immigration Act B.E. 2522 (1979), the Thai Immigration Police Bureau has arrested a large number of illegal migrants, some of which are indeed asylum seekers in the process of resettlement. In many instances, the asylum process takes longer than the time permitted for legal stay and therefore led to an arrest of the illegal migrant based on the Thai Immigration Act. Such a situation adds number to an already large group of non-asylum seeking illegal migrants arrested almost on a daily basis.

2.3 While Thailand has attempted to respond to the need for larger facilities with assistance from such international organizations as the International Organization for Migration (IOM) and the NGOs, other solutions are also required. Speedy resettlement and asylum processes by the UNHCR and third countries will also help relieve the crowdedness because many detainees come to Thailand only for transit.

3. Care of children

3.1 Particular attention has been given to 37 minors who were not detained but have remained with their detained parents. The Thai Government is of the view that placing the minors away from their parents outside the IDC and under guardians' care may not be in their best interest.

3.2 Given the present constraints, Thailand is trying its utmost to respect human rights, particularly the rights of children in detention facilities.

The IDC offers recreational activities for children and minors at the IDC. Child development programs are provided by the IOM at the Day Care Centre, which was recently renovated and expanded with the support of Switzerland and the US. Family activities such as family day or excursions are often arranged.

4. Case of woman in late stage of pregnancy

4.1 Thailand has had a leading role in promoting the UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (also known as the Bangkok Rules), adopted by the UN General Assembly last year. Therefore, the Thai Government attaches particular importance to providing care to women in our detention facilities.

4.2 On top of its basic services, the IDC allows non-governmental organizations such as Jesuit Refugee Service (JRS) to provide additional medical services on site as well. At the same time, the IDC provides access to outside medical services if such needs arise. In general, pregnant women receive special care from the IDC during the pre-natal, labor, and post-natal periods.

4.3 The IDC closely monitored Ms. Salam Ghazala's pregnancy, which was indeed in the final stage. In contrast to the allegation, Ms. Ghazala received regular check-ups at the IDC as provided for by the Jesuit Refugee Service (JRS). Moreover, Ms. Ghazala received regular prenatal care at a public hospital close to the IDC.

4.4 On 6 January 2011, Ms. Ghazala delivered her child at the public hospital where she received her care. Afterwards, the IDC provided both mother and child extra space in the facilities.

4.5 Since the family's asylum claim was rejected by the UNHCR, the family voluntarily returned to Pakistan on 19 January 2011 based on the travel document issued by the Embassy of Pakistan in Bangkok.

5. Case of Ms. Rizawan Mansoor

The IDC has conducted an investigation to verify the health status of Ms. Rizawan Mansoor, claiming to have serious health concerns combined with blood pressure, heart and respiratory ailments. Medical officers confirmed that Ms. Mansoor is in good health without any particular concerns.

6. Durable Solutions for the group

6.1 The Thai authorities are actively pursuing durable solutions for the group of 23 people, who have obtained the Person of Concern (POC) status according to the UNHCR, consistent with their protection needs and best interests. Their resettlement is being expedited by the resettlement country.

6.2 The UNHCR has continued the processing of protection claims of another 61 persons. There is no policy of forced return although Thailand shares the view that those who do not need protection should be assisted in returning to their home country. Many have done so using their own funds.

6. Request for an immediate release

6.1 Detainees at the IDC must comply with the Immigration Bureau procedures. Their stay is temporary, awaiting return to the country of origin or onward travel to resettlement countries. However, requests for bail may be submitted for temporary release, but so far none has been submitted.

6.2 In the meantime, 37 individuals, including Ms. Ghazala and her new baby mentioned earlier, whose asylum claims were rejected by the UNHCR, have decided to voluntarily return home to Pakistan using their own resources. Therefore, allegations concerning deportation are unfounded.

I wish to reaffirm that Thailand has no policy of forced return, and that all those detained are being well looked after to the best of the Thai authorities' ability, particularly that of the IDC, pending durable solutions. However, Thailand also shares the view that those who do not need protection should be assisted in returning to their home country.

It is my hope that the above-mentioned information can provide preliminary clarifications on Thailand's commitment to providing services that meet human rights and humanitarian needs of all illegal migrants in the detention facilities. Finally, I reiterate our readiness to engage with the mandate-holders of the Special Procedures. The Permanent Mission will keep you closely informed of any new developments regarding your inquiries.

Sincerely yours,



(Sihasak PHUANGKETKEOW)
Ambassador and Permanent Representative