

URGENT ACTION

ASYLUM SEEKERS AT RISK OF RETURN TO SRI LANKA

153 Sri Lankan asylum seekers travelling by boat from India and intercepted by the Australian Navy are at risk of being returned to Sri Lanka, where they could face serious human rights violations.

On 28 June, a boat travelling from India carrying 153 Sri Lankan asylum seekers, reportedly residents of Tamil Nadu in India, contacted refugee advocates and journalists in Australia to say they were nearing Christmas Island, a remote territory of Australia. Shortly afterwards, communication with the boat was lost, as it was intercepted by the Australian Navy. The Australian government has refused to disclose the asylum seekers' whereabouts or well-being. On 8 July, an injunction by the High Court of Australia delayed the forcible transfer of the asylum seekers to the Sri Lankan authorities, pending further investigation of the lawfulness of this action. The affidavits submitted by the Australian government were the first admission that they are detaining the 153 asylum seekers at sea.

All asylum seekers on board are at risk of being denied access to a full, fair and rigorous refugee status determination process, including access to legal representation and the opportunity to submit evidence in support of their protection claims. They are also at risk of being subjected to refoulement – return to a risk of persecution, torture or death – as the Australian government may transfer them by force to the Sri Lankan authorities.

The asylum seekers are believed to include mostly Tamils. Sri Lankan Tamils remain a target of harassment and arrest upon return because of their ethnicity and suspected links to the Liberation Tigers of Tamil Eelam (LTTE). Asylum seekers have faced torture upon return to Sri Lanka from countries such as the UK and Canada. Amnesty International has interviewed a number of people who were tortured by the Sri Lankan security forces 'on suspicion' of being members of the Liberation Tigers of Tamil Eelam (LTTE) in the last two years. All ethnic groups in Sri Lanka are at risk of torture and other ill-treatment in police custody, including sexual violence, which is pervasive.

Please write immediately in English or your own language:

- Urging the Australian authorities to immediately halt any transfer of asylum seekers to Sri Lanka who have not had access to a full, fair and impartial procedure for determining their need for international protection;
- Urging the Australian authorities to ensure that all asylum-seekers under the effective control of Australia, whether they arrive on Australian territory or are intercepted by Australia outside of its territorial waters, are given access to a full and fair refugee status determination process in Australia consistent with the country's international human rights law and refugee law obligations;
- Urging Australia to comply with its obligations under the Refugee Convention and international law in its treatment of asylum-seekers and refugees, in particular the prohibition on refoulement.

PLEASE SEND APPEALS BEFORE 13 AUGUST 2014 TO:

Prime Minister
The Hon. Tony Abbot MP
P.O. Box 6022
House of Representatives
Parliament House
Canberra ACT 2600, Australia
Fax: +612 6273 4100
Salutation: Dear Prime Minister

Minister for Immigration and Border
Protection
The Hon. Scott Morrison MP
P.O. Box 6022
House of Representatives
Parliament House
Canberra ACT 2600, Australia
Fax: +612 6273 4144
Email: minister@immi.gov.au
Salutation: Dear Sir

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

**AMNESTY
INTERNATIONAL**



Please check with your section office if sending appeals after the above date.

URGENT ACTION

ASYLUM SEEKERS AT RISK OF RETURN TO SRI LANKA

ADDITIONAL INFORMATION

In another incident in late June, a boat travelling from Sri Lanka carrying 41 asylum seekers was intercepted by the Australian Navy. The Australian government refused to disclose any information about the whereabouts or welfare of the asylum seekers on board. On 6 July, the Australian government announced that the 41 asylum seekers had undergone an “enhanced screening process.” Interviewed on the boat via video-conference by Immigration Department staff in mainland Australia, the asylum seekers were reportedly asked four questions in a brief interview relating to their asylum claims.

No legal representation or additional evidence was permitted. All 41 asylum seekers were then transferred to a Sri Lankan naval vessel. Amnesty International has monitored Australia’s use of the “enhanced screening process” and considers it discriminatory, unfair and inaccurate. Amnesty International has condemned the 6 July transfer as a violation of the non-refoulement principle, as set out for instance in the Convention Relating to the Status of Refugees (1951). On 8 July 2014, five of the 41 asylum seekers were criminally charged in a Sri Lankan court.

Everyone has the right to seek and enjoy asylum from persecution regardless of the method of arrival and, in 2012, 90% of asylum-seekers who had arrived on Australian shores by boat were found to be refugees. Depriving asylum-seekers or refugees of their liberty solely because they have sought to reach Australian shores without authorization to do so amounts to a penalty under Article 31(1) of the Refugee Convention according to which asylum-seekers and refugees should not be penalized, including by being detained, for “illegal entry or stay”.

Immigration detention should never be indefinite and it should only be used as a last resort and only according to a lawful purpose other than the person concerned being an asylum-seeker or a refugee.

Name: 153 asylum seekers

Gender m/f: both

UA: 176/14 Index: ASA 12/003/2014 Issue Date: 9 July 2014