

AMNESTY INTERNATIONAL PUBLIC STATEMENT

13 November 2017
Index: ASA 39/7433/2017

Thailand: Act on commitments to prevent *refoulement*

Two years after Thailand forcibly returned Chinese refugee Dong Guangping to China, Amnesty International urges the Royal Thai Government to implement measures, in law and in practice, to stop forcibly returning people to situations where they are at a real risk of serious human rights violations.

On 13 November 2015, Chinese activist Dong Guangping and one other individual were forcibly returned from Thailand to China, despite their status as UNHCR-recognized refugees. Thai authorities handed the two men over to Chinese officials despite the fact that they had already been accepted for rapid resettlement in Canada and were scheduled to depart Thailand within days. Since his return to China, Dong Guangping has been continuously detained and has not had access to his family or the lawyer of his choice. He currently faces charges relating to his flight to Thailand and peaceful exercise of his human rights. He remains at risk of torture and there is concern that any trial would be unfair. His family have yet to receive official notification from authorities about his whereabouts, arrest, indictment or the charges against him.

Dong Guangping's case is one of several similar cases highlighted in Amnesty International's report, *Between a Rock and a Hard Place*, which was published in September of this year. The report described Thailand's policies towards refugees and the government's violations of the principle of *non-refoulement*. The principle of *non-refoulement*, which is a cornerstone of the international refugee protection regime, obliges states not to return anyone to a territory where they would be at risk of persecution or other serious human rights violations. The principle of *non-refoulement* has also been codified in numerous international human rights instruments; and additionally forms part of customary international law and therefore applies to all states, regardless of whether they are parties to the relevant treaties.

Over several decades, and on multiple occasions during the term of Thailand's current government, Thai authorities have forcibly returned asylum-seekers and UNHCR-registered refugees based on the request of a foreign government, violating the principle of *non-refoulement*. Thai authorities have also "pushed-back" to sea Rohingya refugees arriving by boat. Other refugees and asylum-seekers facing dire living conditions or indefinite detention in Thailand's immigration detention centres, have been left with little choice but to return home where they face the same human rights threats that forced them to seek international protection in the first place. Under international law, states are also prohibited from "constructive" *refoulement* which occurs when states use indirect means to coerce the return of individuals to situations where they are likely to face human rights violations.

Underlying these challenges is refugees' lack of official legal recognition under Thai law. Without formal legal status in Thailand, refugees and asylum-seekers are perpetually vulnerable to arrest, detention and deportation.

At the United Nations Leaders' Summit on Refugees in September 2016 and in various UN human rights fora, Thailand has pledged to enact anti-torture legislation containing protections against *refoulement*. Amnesty International recommends the draft law – the passage of which has been repeatedly delayed – be amended to ensure compliance with Thailand's international obligations, including by incorporating a strong *non-refoulement* provision, and adopted as quickly as possible.

Authorities should also ensure that anyone at risk of deportation has access to legal counsel, and that everyone has the opportunity to appeal any decision to deport them from the country.

Amnesty International also urges Thai authorities to act on their recent commitments to improve the protection of refugees and asylum-seekers in the country. Thailand should implement laws and policies that provide formal legal status and rights protections to refugees and take steps to ratify the 1951 Refugee Convention, an action which Thailand has repeatedly said that it would consider.