

## **SOUTH ASIA HUMAN RIGHTS DOCUMENTATION CENTRE**

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### **PRESS RELEASE**

#### **India scores low on refugee protection**

India's record on refugee protection continues to be only marginally better than that of the worst countries on this issue, according to the *World Refugee Survey 2007*, a report by the U.S. Committee for Refugees (USCR), an international non-governmental organisation working on refugee and immigration issues.

The USCRI report evaluates a country's performance in the field of refugee protection by assigning grades in four categories of rights that refugees enjoy under international law: physical protection, freedom from illegal detention, freedom of movement and the right to earn a livelihood. India consistently scores a D in three of these four categories, denoting a level of treatment that is marginally above the worst. Only in the category of freedom from detention was it awarded a C grade, signifying that refugees still enjoy reasonable levels of access to the country's judicial system.

In its chapter on India, the *World Refugee Survey 2007* highlights several systemic concerns vis-à-vis its treatment of refugees whose numbers are officially recorded as 435,900. The bulk of these are said to have fled from neighbouring countries like China, Nepal and Sri Lanka, with smaller proportions from Myanmar, Bangladesh, Afghanistan and Bhutan. Despite these high levels, refugee concerns remain ignored by the legal system.

India has neither acceded to international conventions that regulate the treatment of refugees nor enacted a comprehensive national legislation in this field. Instead, a 2003 amendment to the Citizenship Act defined all non-citizens who entered without visas as illegal migrants, with no exception for refugees or asylum seekers. The treatment of refugees remains in the hands of ad-hoc executive bodies, leaving considerable room for arbitrariness and discrimination among refugees based on their country of origin.

New Delhi recently witnessed the death of an Iranian refugee, Jehangir Eslah, on 20 June 2007, ironically celebrated as World Refugee Day to commemorate the plight of those displaced from their homelands by conflict and civil strife. Eslah died of heart complications after the United Nations High Commissioner for Refugees (UNHCR)

consistently denied his requests for funds for treatment, despite his entitlement to support for basic health care as a registered political refugee.

Eslah's case remains the norm rather than the exception.

UNHCR in India provides little or no relief despite its mandate of promoting refugee welfare, as it lacks access to remote border regions where several refugees make their home and fails to take into account refugees who do not fall within its mandate of protection. Neither is it reported to be fair or prompt in its determination of refugee status. The only sources of legal protection that refugees may avail of are Supreme Court rulings that apply constitutional guarantees of life and liberty to refugees on Indian soil, preventing their removal to a territory where these are endangered. This is only a minimal level of protection, since restrictions on other fundamental freedoms continue to operate.

India's neighbours have varying records in their treatment of refugees. Bangladesh scored straight Fs in the areas of detention, freedom of movement and livelihood and employment opportunities, with a highly restrictive regime diluting even the minimal legal protection allowed to its 178,000 Myanmarese refugees. In contrast, Pakistan, who faced one of the highest refugee influxes this year, recorded higher levels of tolerance towards the 2,160,000 Afghan refugees within its borders, especially in the areas of freedom of movement allowed to refugees and the provision of livelihood opportunities. However, there were still numerous instances of deportation and detention. Like India, both countries have not yet acceded to international conventions or enacted their own laws regulating refugee protection. The selective enforcement of laws among different groups of refugees in contravention of the international commitment to equal and non-discriminatory refugee protection is a common problem across the region.

The USCR report has availed of research assistance on its India section from the New-Delhi based South Asia Human Rights Documentation Centre (SAHRDC). An electronic copy of the chapter is available at:

<http://www.refugees.org/countryreports.aspx?subm=&ssm=&cid=1588>.

Hard copies of the India chapter can be obtained from SAHRDC upon request.

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