

# FAHAMU

= Refugee Legal Aid =  
NEWSLETTER

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*Welcome to the  
Fahamu Refugee  
Legal Aid Newsletter*

*a monthly forum for relevant  
news and wider reflection on the  
provision of refugee legal aid.*

Africa	Americas	Asia	Middle East
<i>Rwandan refugees in Uganda fear forced repatriation as threat of Cessation Clause looms; Ethiopians repatriated from Puntland; urgent action needed to save lives of Saharawi activists; Kakuma Refugee Free Press threatened</i>	<i>Eritrean refugee commits suicide after losing case as Canada considers tightening refugee procedures; Colombian refugee project could serve as model</i>	<i>75 Tamil asylum seekers stranded off Malaysian coast since 19th April 2010; Malaysian Bar Council proposes legislative framework for refugees</i>	<i>Refugees struggle to survive in Syria; NGO works to provide health care [or rights to health?] to refugees in Yemen</i>

**South Korea has granted citizenship** to a refugee from Ethiopia, making it the second country in Asia to grant citizenship to a refugee. Internationally, very few states ‘facilitate the assimilation and naturalisation of refugees,’ and fewer still ‘make every effort to expedite naturalisation proceedings and to reduce as far as possible the charges and costs of such proceedings’ despite these notes on naturalisation set out in Article 34 of the [1951 Convention](#).

**Undocumented refugees in Kenya** prefer to go without life-prolonging antiretroviral drugs rather than risk visiting a doctor. This is particularly disturbing news following an ODI report that suggests refugee girls are [paying their passage into the country with their bodies](#). It raises a number of questions, including why so many refugees are unprocessed, given the focus on documentation in the new [UNHCR Policy on Refugee Protection and Solutions in Urban Areas](#). Indeed, [IRIN news has recently reported](#) that more than 46,000 refugees live in Nairobi without legal status, protection and material assistance. The Humanitarian Policy Group, International Rescue Committee and Refugee Consortium of Kenya have released a [recent report on Nairobi’s refugees](#) that emphasises their precarious situation despite the 2006 Refugee Act passed by the Kenyan government.

**Refugee protection is set to be codified into Indian law** following fifteen years of efforts by legal and civil society groups. The draft [Refugees and Asylum Seekers Bill](#) provides a legal framework for refugee rights and obligations previously lacking in India, which never ratified the 1951 Geneva Convention on Refugees. The bill adds ethnic identity and sex to the refugee definition grounds, and includes the provisions of article 2 of the Organisation of African Unity convention. The bill requires a refugee to apply for asylum within fifteen days of arrival in India, denying the possibility of a *sur place* claim. [AA 2007 Institute for Peace and Conflict Studies report](#) outlines the benefits and roadblock to the law.

**Recent cases of resettlement that respect mixed-marriage refugee families** in Egypt and Indonesia demonstrate conflicting outcomes and provoke questions about the consistency of practice around the world. Do you have experience dealing with resettlement of mixed marriage families? **Please email us.**

## **Australia suspends processing of asylum seekers from Sri Lanka and Afghanistan**

A five week standoff over Tamil asylum seekers at Merak, Indonesia, exposes the [difficulty facing Tamil refugees](#) at a time when a United Nations review of its [Sri Lanka and Afghanistan guidelines](#) could see the Australian Government [deny protection claims](#) for the majority of asylum seekers heading to Australia. The incident has been the subject of [blogs](#) and the [Australian media](#), which quotes one refugee as stating that ‘If the authorities in Sri Lanka know this is me on this boat, they will hunt down my wife and children in Jaffna and kill them.’ Yet [Australia has announced](#) a decision to suspend its processing of all applications for asylum from individuals from Sri Lanka and Afghanistan, for three and six months respectively. Australia has moved ahead with the asylum ban despite the need for Tamil protection and the increasingly poor state of Afghanistan. Commenting on the suspension, [Australian Immigration Minister Chris Evans stated](#), problematically, that ‘people aren’t being denied their right to seek asylum but it’s been suspended.’ Australia will also re-open a detention centre where Afghans and Sri Lankans arriving by boat will be held. [See page 3 for responses to Australia’s announcement.](#)

The Fahamu Refugee Legal Aid Newsletter seeks your input, feedback and submissions.  
Contact editors Themba Lewis & Nora Danielson by email: [refugeenewseditor\[at\]fahamu.org](mailto:refugeenewseditor[at]fahamu.org).

## Using civil society networks to engage with intergovernmental processes: The Asia Pacific Refugee Rights Network

Refugee rights advocacy groups in Southeast Asia have found power in regional networks that can access intergovernmental processes and influence the creation of regional solutions in refugee protection. The Asia Pacific Refugee Rights Network (APRRN) was established in 2008, following two years of research and consultation by regional civil society and refugee groups, with the aim of connecting refugees and activists committed to promoting refugee rights at the national, regional and international levels. It has since grown to a network of some 100 members from the Asia Pacific region, including NGOs, refugee community-based organisations, academic institutions, researchers, lawyers and activists. The Solidarity for Asian People's Advocacy (SAPA) is a network of more than 100 regional and national Asia Pacific organisations, including APRRN, that has proven efficacy in advocacy in intergovernmental processes with both the Association of Southeast Asian Nations and the South Asian Association for Regional Cooperation.

SAPA has recently helped the Asia Pacific Refugee Rights Network bring refugee rights to the forefront of regional focus by inviting the Network to be the thematic focal point in SAPA's task force on the Association of Southeast Asian Nations and human rights. Participation in the task force will aid APRRN's goal of bringing refugee rights to the forefront of debate on human rights and migration at a regional level, highlighting issues of critical importance while advocating for regional solutions. Progress in this goal has already been evidenced by the APRRN's efforts to hold accountable a new regional intergovernmental body on human rights.

This body, the Association of Southeast Asian Nations Intergovernmental Commission on Human Rights (AICHR), represents an important commitment by regional states to move from words to action in implementing their human rights. The record of many ASEAN states with regard to human rights and refugee rights in particular is far from exemplary, and only two, Cambodia and the Philippines, have signed the 1951 convention. Yet it is hoped that the formation of the Intergovernmental Commission, civil society and member states might work constructively to build into the region standards, legal frameworks and commitments that uphold and promote the Universal Declaration on Human Rights and other relevant international instruments – especially the 1951 Convention relating to the Status of Refugees and the United Nations Convention against Torture. As such, civil society groups in the region have reacted positively to the commission's formation, as it seems uniquely placed to promote solutions to human rights problems in the region, particularly in the case of refugees and victims of forced displacement. It was with such hope that the civil society groups presented the Intergovernmental Commission, at its first meeting, with a civil society draft of Rules of Procedure, cases of flagrant human rights violations in the region and [recommendations on refugee protection](#), as reported in the [Bangkok Post](#). So far, however, the commission has refused to meet or engage with civil society groups. In a widely criticised reaction, the commission's spokesman cited lack of mechanism for engagement with outside parties as the reason for their refusal to engage with civil society groups at its first meeting. This development underlines the tensions that exist within member states in constructively engaging with civil society, particular on matters of human rights.

**Critics argue**, however, that if the commission seeks credibility and efficacy in the mandate it has been entrusted with, it must from the start conduct consultation and meaningful dialogue with civil society groups – to begin with a refusal to engage with this sector is a particularly unhealthy way to begin the commission's work.

Nonetheless, the work of APRRN and SAPA shows the positive potential of collective efforts and network organisation to engage with regional intergovernmental processes in the ongoing mission to advocate for stronger rights protection. Through such cooperation and coordination, APRRN members will continue to respond, through a rights-based approach that recognises refugee agency and participation, to the complexities of the migrations and life experiences of refugees in the region.

*Contents contributed by Anoop Sukumaran, APRRN Officer*

*UNHCR has released a new guidance note on **refugee claims by gang victims** in response to the rise of asylum claims related to organised gangs.*

*A complete archive of **full-text copies of the Refugee Participation Network**, the predecessor to the Forced Migration Review, have been posted online in the Forced Migration Online digital library. Published between 1987 and 1997, the Refugee Participation Network provided a forum for the exchange of information and ideas within the forced migration field. Issues focus on topics such as: communities, protection, the role of the military, children, the elderly, and international organisations.*

*A **new refugee law degree** will be offered starting October 2010. The Centre for Applied Human Rights at the University of York (UK) will offer a new Masters of Laws (LL.M.) degree in International Human Rights Law and Practice with the possibility of specialising in refugee law. The one year programme will combine an applied focus and international breadth, situating refugee law within the broader field of human rights law and advocacy. The programme hopes to host human rights defenders and lawyers from South and South East Asia working with displaced populations.*

*The **Cairo Refugee Film Festival seeks films** to be screened in June 2010 in Cairo, Egypt. The festival aims at providing the Cairene audience with a critical yet hopeful look at the lives of refugees. Specifically, the festival seeks documentaries and feature movies made after January 2008, viewable in English, about the resilience, struggle and coping mechanisms of refugees around the world. Please e-mail festival organisers before 20<sup>th</sup> May 2010.*

## Australia's partial suspension of asylum processing prompts protest

In response to Australia's announcement to suspend processing of Sri Lankan and Afghanistani asylum claimants, [UNHCR has expressed disappointment](#) and civil society groups are taking collective action to urge the Australian government to realign its practices with its international obligations. The edited text of their joint statement follows.

**Joint statement on Australian asylum processing suspension:** *Violations of Australia's international human rights obligations that undermine civil society efforts to strengthen refugee protections throughout the Asia Pacific region*

We, the undersigned, condemn the Australian government's decision to suspend its processing of all applications for asylum from individuals from Sri Lanka and Afghanistan, for three and six months respectively. The Suspension Policy is predicated on a profound misreading of the current situations in Sri Lanka and in Afghanistan. It plainly violates Australia's human rights obligations, and may inflict irreparable psychological harm upon Afghan and Sri Lankan asylum seekers—many of whom are likely to be refugees and survivors of torture and trauma. The Suspension Policy undermines the efforts of our organisations and other civil society organisations in the Asia Pacific region who strive to convince our governments of the importance of ratifying the Refugee Convention and protecting the human rights of asylum seekers and refugees in our countries – as a matter of good international policy, and as a matter of law.

Despite formidable obstacles, we are making progress. We are deeply disappointed that instead of supporting our efforts – which would allow our countries, which host the vast majority of refugees in the region, to share with Australia the ultimate responsibility for protecting refugees – the Australian government is sending a clear message to our governments that it does not respect the binding nature of its international human rights obligations towards asylum seekers and refugees. With this message coming from one of the few countries in our region that has ratified the Refugee Convention, we question the basis on which the Australia government expects its regional counterparts to take upon themselves increased obligations towards refugees.

We note that, to date, the vast majority of Afghan and Sri Lankan asylum seekers who have arrived to Australia by boat have been found to be refugees. We deplore the tenor of the political debate in Australia regarding asylum and consider it uncondusive to regional collaboration on refugee protection. We urge the Australian Government to distinguish itself from the policies of the former government by taking a stand which upholds their international human rights obligations and respects principles of international solidarity and responsibility sharing.

### The Suspension Policy

On 9 April, 2010 the Australian government suspended processing of new asylum applications from Sri Lanka (for three months) and Afghanistan (for six months). During the suspension periods Afghan and Sri Lankan asylum seekers arriving by boat will be mandatorily detained.

*CONTINUED on page 5*

*The Forced Migration Studies Programme at Wits University has released a new report on **administrative failure in South African refugee status determination procedures**. The review of negative status determination decisions from all of the country's Refugee Reception Offices shows that these offices are unable to perform their primary function, and as a result individuals with valid asylum claims are being returned to life threatening situations, in violation of South African and international law. According to the report's author, 'The problems are leading to significant human rights violations. Individuals are being denied refugee status without having their asylum claims properly considered, which is what the system is set up to do, and what it is required to do by law.'*

***A course on witchcraft allegations & refugee protection** will take place this fall. The persecution of those accused of witchcraft occurs in communities around the globe. The UNHCR and the Fahamu Refugee Programme are organising a course for lawyers and legal advisers on how to best represent those whose claims for asylum are based upon such accusations. The course will run 4-5 September 2010 at Kellogg College in Oxford, UK.*

***A Winter Course on Forced Migration** is offered by the Calcutta Research group and supported by UNHCR, the Government of Finland and the Brookings Institution. The course comprises three months of distance education followed by a 1<sup>st</sup>-15<sup>th</sup> December programme in Kolkata, India. The curriculum covers themes of nationalism, ethnicity, partition and partition-refugees, national regimes and the international regime of protection, issues relating to regional patterns of forced migration in South Asia, internal displacement, the gendered nature of forced migration and the protection framework, resource politics, climate change and environmental degradation, and several other themes related to the forced displacement of people. The course is intended for younger academics, refugee activists and others working in the field of human rights and humanitarian assistance for victims of forced displacement. Further details and application forms (deadline 31<sup>st</sup> May) are [online](#).*

*RSDwatch, a website created to promote reform of the way the UN High Commissioner for Refugees conducts refugee status determination (RSD), has been re-designed and re-launched to be easily accessed from mobile devices. The **new RSDwatch website** also includes new search and index functions, as well as a *Quick Guide to UNHCR's RSD policies and other resources for advocates and researchers*. RSDwatch aims to promote fairness, transparency and accountability in refugee status determination, to provide a forum in which to discuss the protection challenges associated with UNHCR-RSD and to act as a resource for advocates trying to assist asylum-seekers in the dozens of UNHCR-RSD countries have difficulty finding basic reference documents and statistics on UNHCR's RSD procedures.*

## Dadaab refugees release open letter of grievances

*A blogger has posted a message he received from the Dadaab 'Refugee Silent Welfare Committees' that documents grievances and life in the camp and demanding basic rights. 'We only want our chance to thrive, to live our lives, to visit our family members, to attend school, to receive medical treatment, to help support our families, and to have control over the economic and policy making decisions affecting our lives,' they write. 'We only want the chance to live as other human beings live, with a hope for the future.'*

*Stavros, the author of Journeys and Star Gazing blog, states, 'I received the following message from some African refugee workers I am in contact with in my day job. This is stuff you won't see on ABC, BBC, PBS or written about in UN Reports. It is a Call from those whose voice has been voiceless in Dadaab, Kenya. I have not corrected any grammar, syntax or spelling. I am posting this as I received it.'*

*The following is an unedited excerpt.*

### Dear All the concerned Members,

With humble respect, on behalf of the refugees living in the camps of Dadaab, we would like to share our grievances with the world and ask for you to help us find our way to freedom.

Our lives in the camps are far worse than you can imagine. We live in an open prison, far away from justice and humanity. We talk, but our voices are never heard. We move, but only inside a cage. We have many skills and talents, but we are denied our chance to maximize our potential. We are chained to a life full of stress and despair; a life for which many would prefer death. We are denied opportunities for education and employment. We live in a condition without adequate water, food, or health facilities. We are arbitrarily beaten or detained by police within the confines of the camp. We lack the ability to freely express ourselves or have control over the decisions affecting our lives.

For those of us lucky enough to obtain employment with the agencies, we are exploited through the payment of mere 'incentive' wages, while national and international staff receive much greater payment and benefits. How can you force us to live in a certain place that denies us our human rights and our basic needs?

This note wishes to express some of the challenges we face here in the refugee camps of Dadaab in the hopes that we will be given a chance to have greater

control over our lives, and have our fundamental human rights fulfilled.

Although the challenges and abuses we face are numerous, we will only briefly mention some of our main grievances, including restricted movement, exploitative working conditions, poor service delivery, and false information and abuse by UNHCR and other agencies operating in the camps. For many of us, the restrictions on movement and the conditions in our forced confinement have caused more psychological, economical, and health problems than diseases and wars have caused.

We ask the Kenyan government, the other governments of Africa, and the people of the world to hear our voices, see our condition, and look further into our situation. We only want our chance to thrive, to live our lives, to visit our family members, to attend school, to receive medical treatment, to help support our families, and to have control over the economic and policy making decisions affecting our lives. We only want the chance to live as other human beings live, with a hope for the future.

Please hear our cries, allow us to move freely from this open prison, and provide us the opportunity to live our lives, support ourselves, and pursue our dreams!

### Restricted Movement

Some of us have faced the imprisonment of the refugee camps of Dadaab since 1991, while others of us are newly arriving. Although there have been changes and developments over the past nineteen years, our restricted movement has caused and continues to cause our underdevelopment and deterioration. Many people have died from simple diseases because they could not move to get treatment in Garissa (a town only 90 km from Dadaab). Many parents have remained separated from their children who disappeared from the camps because they could not move to search for them or inquire of their whereabouts.

Many students have missed their chances for educational opportunities, have failed to take their final examinations, or have been unable to obtain education certificates earned because they could not receive the permission to move. Many people have been forced into greater poverty by being denied the chance to work and by having to pay three times the price of goods in other regions because

### Pambazuka News

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they can not move to get cheaper goods for consumption or business. Perhaps worse still, many who have tried to move have been beaten, arrested, detained, and/or forced to pay heavy bribes or fines of large amounts of money they never imagined.

### Exploitative Working Conditions

Ever since the creation of the refugee camps of Dadaab in 1991 and 1992 and thereafter, UNHCR and the agencies operating in the refugee camps of Dadaab have relied for their operations on the exploited labor of the refugee communities. Whether skilled or unskilled labor, refugee staff members have worked in conditions and received wages that are in violation of national and international labor laws.

While many of the refugee staff in the agencies work tirelessly for the agencies and their fellow refugees, they still merely receive 'incentives' for their hard work and dedication. Even highly experienced individuals, some of whom have graduated from Universities, colleges, and secondary schools in Kenya, Somalia, Ethiopia, Congo, Sudan, etc., receive unlivable wages, let alone wages commensurate with their experience. In addition to the dreadfully low, unlivable wage, refugee staff members are discriminated against in their payment.

*The full statement continues and can be read [online](#).*

## NEWS &amp; INFORMATION LINKS

southern refugee legal aid [website](#) & [email list](#)

[toolkit](#) for legal providers working with refugees and asylum seekers in detention

forced migration current awareness [blog](#)

kanere: kakuma refugee [free press](#)

unhcr country of origin [reports](#)

international immigration detention [news and resources](#)

international human rights [e-brief](#)

[migration news](#)

euromediterranean migration and asylum [blog](#)

[march issue](#) of the fahamu refugee legal aid newsletter

## Australia's partial suspension of asylum processing prompts protest

*CONTINUED from page 3* The Australian government announced on April 18 that up to 300 asylum seekers will be detained at an immigration facility at the Curtin Air Base, a remote desert facility in the far north of Western Australia. The facility is far from capital cities where psychosocial services for survivors of torture and trauma are unavailable. At the end of the three and six month suspension periods the government will 'review' the situation, but will not commit to resuming processing at that time. Thus the suspension (and mandatory detention) may continue indefinitely.

The government has justified the Suspension Policy on the basis that it ensures that only those in 'genuine need' would be granted protection, in light of 'evolving circumstances' in Sri Lanka and Afghanistan and 'hopes for further improvement and stabilisation in conditions.' The effect of the suspension and 'evolving' conditions 2 is, according to the Australian government, that 'in the future, more asylum claims from Sri Lanka and Afghanistan will be refused.'

### Violations of Australia's International Human Rights Obligations

The Suspension Policy plainly violates Australia's obligations under the Refugee Convention and other key human rights treaties in the following respects:

1. Non-discrimination.
2. Arbitrary detention.
3. Assessment of refugee claims on an individualised basis.
4. A lack of good faith.

The Suspension Policy is intended to serve as a deterrent against other Afghan and Sri Lankan asylum seekers coming to Australia seeking to engage Australia's protection obligations under the Refugee Convention. Using the policy to circumvent Convention responsibilities in this manner undermines Australia's obligation to implement the Refugee Convention and other human rights treaties in good faith.

We urge the Australian government to swiftly realign its practices with its voluntarily assumed obligations, so as to demonstrate unequivocally that it is committed to upholding international human rights standards rather than undermining them.

*To endorse this statement please [enter your organisation's name online](#).*

## The Fahamu Refugee Programme website

seeks input. Do you know of resources that would be useful to others involved in the provision of refugee legal aid or to refugees themselves? Do you have a special area of legal experience or expertise in Refugee Status Determination? Do you know of films that would be useful for teaching and awareness? If so, please contribute to the [Fahamu Refugee Programme website](#), which aims to be a one-stop, low-bandwidth collection of resources for all concerned with protecting the rights of refugees, enabling organisations in the north and south to work collaboratively to strengthen and expand rights-based refugee advocacy and legal aid. This website identifies several areas with which legal aid providers often need assistance. Each of these Special Issues in Refugee Status Determination has a Resource Person responsible for the page to help with individual cases and/or refer to other specialists. We are still looking for several persons to serve in this role. The website is also meant to be useful to refugees, particularly the vast majority in the global South who do not have access to legal aid tailored for them. The [Refugee Voices](#) page includes information about newspapers developed by refugees and websites of refugee and diaspora organisations, often a useful way to find missing relatives. Your suggestions for content for this page or for additions to the website are most welcome, via the [Contact Us link](#) on the [Fahamu Refugee Programme website](#).

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