



HUMAN RIGHTS FIRST STATEMENT TO TWELFTH SESSION OF THE HUMAN RIGHTS COUNCIL

Panel on Human Rights of Migrants in Detention Centres

Delivered by Andrew Hudson

September 17, 2009

Mr President

We thank the Human Rights Council for convening this important panel to focus on the detention of migrants, a frequently neglected topic. We urge the Council and all member states to pay greater attention to this problem and to ensure that migration detention policies comply with human rights laws and commitments. Human Rights First is deeply concerned about the escalation in migration detention and the failure by many states to create safeguards that ensure asylum seekers, refugees and migrants are not subjected to arbitrary detention.

As a U.S.-based NGO, we also call on the United States to reform immigration detention procedures that are inconsistent with international human rights standards.

For example, under current U.S. regulations, asylum seekers who are detained by U.S. immigration authorities after arrival in the United States are denied access to immigration court to assess the need for their continued detention. There is no process for appealing the initial decision to detain, nor the subsequent decision to deny parole, to a court or to another independent judicial or administrative authority. The detaining authority is allowed to act in essence as both judge and jailor with respect to the detention of this population.

In a report issued earlier this year, Human Rights First found that many asylum seekers have been detained for months, and in some cases years, in prison-like facilities before being granted asylum in the United States. For example:

- A woman who sought asylum from Burma due to fears of political and religious persecution was detained for two years in a Texas immigration jail.
- A Tibetan man who fled torture and religious persecution was detained for 11 months in a U.S. immigration jail.
- Human rights defenders from Colombia, Guinea and Zimbabwe were detained for months in immigration jails before being granted asylum.

The U.S. system for detaining asylum seekers lacks the kinds of safeguards that prevent detention from being arbitrary within the meaning of Article 9 of the International Covenant on Civil and Political Rights. The UNHCR guidelines on the detention of asylum seekers call for procedural safeguards including “automatic review before a judicial or administrative body independent of the detaining authorities.”



In his March 2008 report after a mission to the United States, the Special Rapporteur on the Human Rights of Migrants concluded that the U.S. detention system lacks safeguards that prevent detention from being arbitrary within the meaning of the ICCPR. The Special Rapporteur recommended, among other reforms, that the United States change its regulations “to make clear that asylum-seekers can request ... custody determinations from immigration judges.”

Last month, the U.S. Department of Homeland Security announced plans to overhaul the immigration detention system. Human Rights First has praised the U.S. government’s recognition that immigration detention should be approached in a “civil” rather than a “penal” manner, and welcome its intention to develop a nationwide alternatives-to-detention program.

Mr President, we also call on all states, including the U.S. government, to reform detention procedures to provide all asylum seekers with the basic safeguard of a court hearing to assess the need for each individual’s continued detention.

Thank you.