

# Post-deportation risks for failed asylum seekers

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**What happens to people who are deported after their asylum applications have failed? Many who are deported are at risk of harm when they return to their country of origin but there is little monitoring done of deportation outcomes.**

People whose application for asylum has been refused are vulnerable when they are subsequently deported to their country of origin. In some places, simply claiming asylum in another country is viewed as an act of treason and exposes the applicant to serious risks. Former non-accompanied minors are vulnerable because of their lack of familiarity with the countries to which they are returned. Furthermore, cooperation mechanisms between immigration, police and intelligence services of deporting countries and countries of origin to facilitate emergency travel documents risk undermining the confidentiality of asylum applications.<sup>1</sup>

The principle of *non-refoulement* prohibits sending asylum seekers or deportees back

to a country where their life and liberties are deemed to be under threat, yet several EU countries continue to send people whose applications have been refused back to countries where former asylum seekers have already been persecuted. A group of students at Sciences Po have developed a methodology to review existing evidence of the risks that rejected asylum seekers face following deportation and have found evidence of extortion, persecution and imprisonment in, among others, the Democratic Republic of Congo (DRC), Sri Lanka and Eritrea.<sup>2</sup>

## **On return to DRC, Sri Lanka and Eritrea**

In the seven years to 2015,<sup>3</sup> France deported 590 Congolese citizens whose application

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for asylum had failed. Claiming asylum in another country, however, may be treated by the Congolese authorities as an act of treason, and almost every returned asylum seeker monitored in 2011 by the organisation Justice First was imprisoned, tortured, forced to pay a ransom, raped or subjected to sexual harassment.<sup>4</sup>

A study by the British Home Office found that people who were repatriated to DRC were systematically summoned to the Congolese Bureau of Migration on their arrival at the airport and sometimes questioned by the National Intelligence Agency in Kinshasa. These people face multiple risks, from extortion involving sums from \$6,000 to \$25,000 to imprisonment without access to a lawyer and being held in poor conditions of detention. Some people had been forced to sign a document stating that they had left the airport without any difficulty but were then arrested at home a few hours later; when the UN mission MONUSCO tried – unusually so – to intervene, the Congolese authorities denied that there was any possibility of people having been detained.<sup>5</sup>

Sri Lanka ranks fifth for rejected asylum claims in France. In spite of reports published in 2012 by organisations such as Human Rights Watch, Action chrétienne pour l'abolition de la torture (ACAT) and Freedom from Torture which include accounts of extortion, arbitrary imprisonment and torture,<sup>6</sup> France has sent 750 people back to Sri Lanka in the last seven years. The reports show that these people are often arrested, either at the airport or at home a few days after their return, and remain in prison for between a week and six months. ACAT has shown how deported Sri Lankan Tamils were tortured on their return with the aim of forcing them to confess to alleged links with the Liberation Tigers of Tamil Eelam; and the organisation Tamils Against Genocide confirms that the very fact of having spent time in a Western country in itself constitutes a risk in respect of the local authorities.

Although the situation for Eritreans changed in 2016 with an increase in the rate of acceptance of asylum claims in France and their inclusion in relocation schemes at

the European level, France has nonetheless rejected 2,250 asylum claims and deported 350 Eritreans over the last seven years. Studies by UNHCR and Human Rights Watch in 2009 and 2014 found that simply having left Eritrea exposes the migrant and their family to investigations, reprisals and mistreatment. The Eritrean authorities suspect that people who have sought asylum elsewhere will have cited persecution in Eritrea as grounds for seeking asylum, or suspect them of having encouraged opposition groups from abroad. At the same time, British sources maintained in 2011 that people who have sought asylum are also suspected by the authorities of having left Eritrea illegally, which provides a further reason for carrying out investigations and subjecting them to reprisals and persecution.

On their arrival, repatriated Eritreans are often held in overcrowded cells in poor conditions. Amnesty and UNHCR have reported arbitrary arrests, unjustified imprisonment and cases of mistreatment, torture and death. Cases of detention are numerous; people sent back from Malta in 2002 and Libya in 2004 were arrested on arrival and tortured, and some were very probably killed. According to the UN Special Rapporteur on Human Rights in Eritrea, asylum seekers whose claims are rejected “generally disappear on their return.”<sup>7</sup> Knowledge of such human rights violations do not seem to prevent the European Union from cooperating with the regime under the terms of the Khartoum Process, which aims to make returns easier.

Return for migrants whose asylum claims are rejected is problematic in other countries as well. The French non-governmental organisation Anafé has recorded cases of arbitrary detention in Guinea Conakry and Chad; an Irish organisation and several British newspapers have confirmed that Sudanese deportees have been killed on their return to Khartoum; and other organisations have mentioned similar risks in Iran.

### The need for monitoring

In some countries failed asylum seekers risk serious human rights violations upon return. The decision to deport can thus

constitute *refoulement*. Nonetheless, states and international organisations do not systematically collect information about the human rights situation of forcibly returned failed asylum seekers. Post-deportation monitoring can help improve refugee policy in at least three ways: firstly, by enabling the provision of support to asylum seekers who are deported; secondly, by helping to identify and document where the fears of forcibly returned asylum seekers are well-founded; and, thirdly, by providing valuable insights for Country of Origin Information reports.

An effective migration policy needs to be based on evidence. Today, policymakers do not know what happens with deportees after return to countries of origin. Even when post-deportation risks do not amount to the level of *refoulement*, deporting states have a political responsibility to avoid exposing people to extortion, confiscation of their belongings, interrogation, intimidation and arbitrary detention.

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1. See also Alpes M J and Sørensen N N (2016) *Post-deportation risks: People face insecurity and threats after forced returns*, Danish Institute for International Studies Policy Brief <http://bit.ly/DIIS-alpes-sorensen>
2. We acknowledge with thanks the involvement of Marie Conciatori, Suzanne Seiller and Janine Uhlmannsieck in the research project 'Airport casualties: migration control and human rights in countries of origin' (October 2014 to May 2015). For data, see (2015) 'Post-deportation risks: Criminalized departure and risks for returnees in countries of origin' under 'Resources' at <http://bit.ly/PDMnetwork>
3. EUROSTAT (2015) *Third country nationals returned following an order to leave – annual data (rounded) and First instance decisions on applications by citizenship, age and sex: Annual aggregated data (rounded)* <http://ec.europa.eu/eurostat/web/products-datasets/>
4. Ramos C (2011) *Unsafe Return: Refoulement of Congolese Asylum Seekers*, Justice First <http://bit.ly/Ramos2011>
5. United Kingdom: Home Office (2012) *Democratic Republic of the Congo: Report of a Fact Finding Mission to Kinshasa Conducted between 18 June 28 June 2012*, p33 [www.refworld.org/docid/538871264.html](http://www.refworld.org/docid/538871264.html)
6. Freedom from Torture (2012) *Sri Lankan Tamils tortured on return from the UK* [www.refworld.org/docid/505321402.html](http://www.refworld.org/docid/505321402.html); Human Rights Watch (2012) *UK: Halt Deportations of Tamils to Sri Lanka* [www.refworld.org/docid/50ebe8352.html](http://www.refworld.org/docid/50ebe8352.html)
7. (28 May 2013) *Report of the Special Rapporteur on the situation of human rights in Eritrea*, Sheila B Keetharuth (A/HRC/23/53) <http://bit.ly/HRC2013-Eritrea>