

14. The Situation of Refugees and Internally Displaced Persons

14.1 Background

There have been remarkable increases in the Burmese populations along the Thai-Burma border over the past several years, which appear to have accelerated since 1995. Widespread human rights violations in Burma's ethnic minority areas have had a significant impact on neighboring countries, particularly Thailand, Bangladesh, and India. Refugee populations in the established camps have remained relatively stable, at roughly 120,000 persons, largely Karen and Karenni. In addition, however, there are approximately 1.2 million migrant workers from Burma in Thailand, newly arrived refugees without formal refugee status, and an estimated one million internally displaced persons (IDPs) still inside Burma. The continuing economic downturn throughout Asia has affected Thailand's abilities to cope with the new refugees, as it is faced with widespread unemployment and other problems.

While the numbers of both internally displaced persons in Burma and migrants to Thailand has grown, the demographic shifts have been perhaps more marked than the absolute numbers. Populations crossing to Thailand now include many more whole families, including the elderly and children, than in the past. Also, more of the migrants are not from areas of ethnic armed forces (such as Karen or Shan areas); they are urban and rural Burmese from areas including Moulmein and Thaton in Mon State, the Irrawaddy Divisions, Bassein, and from as far as Arakan. These groups have been forced to flee largely due to the additive effects of demands for forced labor, heavy corruption, taxation, impoverishment, and theft or confiscation of property, livestock and land.

Rampant systematic human rights abuses have driven at least a million people away from the security of their homes in Burma. Their flight, however, does not guarantee their safety. Many refugees risk terrible dangers on their journey towards the border, or when crossing the border itself, and they later face further human rights violations, such as the forcible return from the country in which they have sought asylum. Refugees from Burma are in double jeopardy: at home, and as refugees abroad.

Refugees from Burma are still today living in camps strung along the Burma's border areas with other countries. Some Mon asylum seekers have been "repatriated" across the border, but continue to live in camps in areas protected by a cease-fire agreement with the SPDC and the New Mon State Party. They fear returning to their original homes because of the continuing human rights abuses by the SPDC troops, including forced relocation and forced labor, both of which make a sustainable livelihood for subsistence farmers nearly impossible.

For the first time since the first refugees crossed Burma into Thailand sixteen years ago, Thailand's Prime Minister Chuan Leekpai announced in March 1999 that the United Nations High Commissioner for Refugee (UNHCR) would be allowed to play a role in managing aid for refugees and administrating the camps. In August 1999, the Thai National

Security Council announced that Thailand would repatriate 90,000 Burmese displaced persons within three year.

14.2 Internally Displaced Persons (IDPs)

The SPDC policies toward ethnic peoples, most notably the forced relocation and forced resettlement of many populations in the ethnic Shan, Karen and Karenni areas, have led to large numbers of internally displaced persons within Burma. The majority of the IDPs is in the areas close to Thai-Burma border and an unknown number in widely dispersed areas including Naga Hills, the Chin States, Arakan, and central Burma. What little is known concerning IDPs is best understood in the Shan and Karen areas, and this is due, at least in part, to the information and organizational capability provided by non-cease-fire groups. Many of the IDPs in the Thai-Burma border area are villagers who have fled or been driven out of their home communities and survive in hiding, living in the forest or hill tracts to avoid detection. They live without security, regular food, or access to medical services, and many are in heavily land-mined area. They are in the most severe health situations, with widespread malnutrition and under-nutrition, chronic insecurity, and high exposure to forest illnesses, including malaria and other infectious diseases. Most survive on bamboo shoots and other forest foods markedly lacking in protein. These groups are generally villagers who have been targeted for forced relocation programs but do not want to leave their land. They move into hiding in forest tracks, generally near their home villages and attempt to evade SPDC patrols.

The health and humanitarian challenges for these populations are staggering, and the unmet health needs diverse and changing. The constraints under which such services must currently be provided are also many and varied. Morbidity and mortality are extremely high. The displaced villagers are always fleeing from one place to another to avoid the patrols. Some villagers say they won't build a proper shelter with a raised floor until rainy season, because in dry season the SPDC patrols are almost certain to find and burn it. They have no change of clothing and few or no blankets, and have to sleep around fires in temperatures, which can drop to ten degrees Celsius or lower at this time of year. They have no medicines and speak of treating gunshot wounds by applying sesame oil after saying incantations.

These villagers don't dare go down into the plains for fear of arrest as 'insurgents', and it is difficult or impossible for most of them to get to Thailand because they would have to pass through all of northern Papun district, where SPDC troops have destroyed even more villages and are patrolling to shoot villagers on sight.

14.3 Thai Policy towards refugees from Burma

Thailand allowed waves of Karen refugees fleeing Burma to stay in camps along Thailand's western border, from 1984 to mid-1990s. Despite the fact that Thailand is not a party to the 1951 Convention relating to the Status of Refugee or its 1967 Protocol, it is a member of the inter-governmental Executive Committee of the Program of the United Nations High Commission for Refugees (UNHCR Excom). This body, which meets once a

year in Geneva, oversees the work of the UNHCR and adopts conclusions regarding issues of refugee protection and assistance. It is the only international forum where refugee issues are discussed in a comprehensive manner, and its conclusions represent an authoritative international consensus regarding standards of refugee protection. Ironically, all refugees who are present in Thailand without authorization are branded as “illegal immigrants” and risk being of forcibly repatriated to their country of origin at any time. In fact, Thailand also has obligations based on customary international law (including the 1966 International Covenant on Civil and Political Rights and various other human rights treaties to which it is a signatory) not to send the refugees back to Burma where they are likely to face persecution (the principle of non-refoulement).

In 1997, Thai authorities declared that Thailand could provide asylum only to those “fleeing fighting”. This was clearly interpreted as those “fleeing immediate armed combat,” and since the ethnic armies were deemed to have been defeated, almost no new arrivals were considered to fit the asylum criteria. The Thai National Security Council formally defined its policy as “providing temporary asylum to displaced persons fleeing fighting”, which resulted in a de facto “no new refugees policy” in many camps. This policy was despite the fact that new refugees continued to cross the border and enter the camps near northern Karen State and Karenni camps, the vast majority of whom were fleeing from numerous human rights abuses such as extra-judicial killing, forced labor and forced relocation. Thus, at any time the Thai army can refuse access to the camps; however, new arrivals continue to enter the camps, keeping a low profile.

In the past few years, several of the camps along the border have been attacked by SPDC troops and the Democratic Karen Buddhist Army, a breakaway group that split from the Karen National Union (KNU) in 1994 and allied itself with the SPDC. The proximity of the camps to the border makes them especially vulnerable, and as part of their mandate of protection, the UNHCR is also involved in relocating those camps a safe distance away from the border. Royal Thai Army has faced increasing criticism for its inability to protect the ethnic refugees in camps from cross-border attack by the SPDC troops. Army Chief Gen. Surayud Chulanont, since he took over this powerful position in 1998, has adopted a no-nonsense policy on the Thai-Burmese border. Any border incursions by the Burmese forces are responded with the strongest measures possible. The security forces have been instructed to be professional and to avoid shady transactions. Transparency along border areas has since increased tremendously.

In March 1998, Thailand’s Prime Minister Chuan Leekpai announced that the UNHCR would be allowed to play a role in managing aid for refugees and administering the camps. The Thai government made the following comment about UNHCR role; “Thailand will also facilitate their return to their homeland with safety and dignity The UNHCR’s role will cover four important areas of work, namely, to witness the process of admission, to assist the Thai authorities in registration, to assist the Thai authorities and give suggestion (if any) on the relocation of temporary shelter areas, and to assist the Myanmar displaced persons for their safe return.” In June 1998, the Thai government formally requested UNHCR’s assistance in caring for some over 100,000 refugees from Burma accommodated in 13 camps scattered along the Thai-Burma border. UNHCR acceded to this request and decided that the agency’s role should focus primarily on protection monitoring. Since then, the UNHCR has established offices and staff in Mae Sod, Mae Hong Son and Kanchanaburi,

gained access to the camps, and begun implementing its programs to fulfill its mandate of protection.

In January 1999, before the full details of UNHCR's role had been decided upon and before permanent staff were in their field office, the agency faced two situations where the Thai authorities were threatening to repatriate new arrivals from Burma. In Karenni camp 2 and Hway Kaloke Karen refugee camp, the Thai authorities rounded up new arrivals and announced that they would be sent back to Burma. In both situations, NGO and UNHCR staff intervened and prevented the threatened repatriation. Though they excluded UNHCR from the process in the Karenni camp, the Thai authorities agreed to jointly interview the new arrivals with UNHCR staff in the Karen camp to determine if they were legitimate refugees.

In July 1999, Thailand invited the UN High Commissioner for Refugees to play a bigger role in taking care of the Burmese refugees living in settlements along the Thai-Burmese border. UNHCR and other international relief organizations have assisted Thailand to cope with its refugee problems on humanitarian grounds. These border refugees have from time to time been resettled in new camps deep inside the Thai territory to ensure that they would be safe from possible attacks and incursions from the Burmese military. In August 1999, the Thai National Security Council announced that Thailand would repatriate 90,000 Burmese displaced persons within three years.

14.4 Reception of new arrivals in 1999

In 1999, the Thai authorities initiated a new official process for refugee reception, status determination, and camp registration for new refugee arrivals. The process is intended to proceed through three main steps. At the reception center, local Ministry of Interior (MOI) officials are to interview the refugees. The material collected in the interviews is then to be submitted to a provincial admission board consisting of representatives of various local government offices. The board is empowered to review the cases on a group basis and to determine if the applicants are refugees or economic migrants. If the applicants are rejected, they have the right to appeal the decision. Following the final decision, refugees are to be registered and admitted to a camp and economic migrants are to be deported. The Thai government's willingness to take greater responsibility for the status determination of refugees is commendable, but significant obstacles remain to hinder the full operational ability of the provincial admission boards.

Refugees are required to report to reception centers, but at many points along the long border, no such centers exist. Though they are not figured into the relief calculus, the new refugees do receive assistance from private humanitarian relief organizations. In other places, reception centers are located at insecure sites. On April 21, the Thai army moved 757 Karenni refugees who were living on the edge of a camp in Mae Hong Son province to a site closer to the border overlooked by SPDC military bunkers. Reception centers must be accessible to newly arriving refugees, but locating a reception center close to a SPDC military position poses grave risks to the refugees, especially given the history of SPDC attacks on camps.

After reporting to reception centers, refugees are interviewed by local MOI officials. UNHCR also conducts its own informal interviews. The MOI data is submitted to the

provincial admission board and the board then makes a determination on whether the applicants will receive temporary asylum. The board is mandated to rule on thousands of refugees as one group. If the group is denied entry into the camps, they may appeal the decision as a group. This system of group screening violates international standards. Although refugees can be admitted on a group basis where a receiving country is facing a mass influx of people and individual determinations are logistically impossible, rejection of applicants on a group basis is not acceptable. Screening of refugees must be conducted on a case by case basis.

Because of the inconsistent application of criteria in status determination, the boards have already rejected some refugees while accepting other who have fled under similar circumstances. In September 1999, the Tak admission board rejected a portion of 1,800 new arrivals. The majority of those rejected were persons not fleeing immediate fighting but the forced relocation and destruction of their home villages. It was reported that 152 refugees were rejected by the same board in December. The Ratchaburi admission board, did, however, decide to admit 1,000 refugees who fled a mid-January SPDC offensive. The official role of UNHCR in the admission procedures is as an observer only. The Thai government has not formally invited UNHCR to intervene in cases

On January 28 1999, Thai authorities entered Huay Kaloke (also known as Wangka) refugee camp near Mae Sot and announced that they would start the process of counting the refugees in the camp. They started by asking the camp authorities to gather the non-registered newly arrived refugees in the church. When the group of 808 new arrivals was gathered, the soldiers began asking many questions, and were especially antagonistic toward the Burman refugees.

The next month, Thai authorities threatened repatriation to the newly arrived refugees from Burma. On February 29, 1999, the new arrivals were once again asked to gather in the church by the Thai area chief, army, and the border task force No. 34. As the refugees came together, six 10-wheel army trucks converged on the site and it became clear that the Thai authorities intended to repatriate these newly arrived refugees, despite the dry-season offensive by the SPDC that forced many of them to flee in the first place. With the Thai trucks ready to go, Non-Governmental Organizations and representatives of the United Nations High Commissioner for Refugees (UNHCR) arrived at the camp and appealed to the Thai authorities not to send the refugees back to Burma. The advocates for the refugees urged the Thais to at least wait to allow UNHCR to interview the new arrivals and determine if they are legitimate refugees, stating they would need at least a week to complete the process. The discussion ended with the Thai authorities leaving the camp but not committing to calling off the forced repatriation. The situation remained in limbo, and the NGO's and UNHCR monitored the situation over that weekend.

14.5 Partial list of the Instances of Border Incursions

◆ On May 2, 1999, early in the morning, around 20 troops of SPDC and DKBA troops stormed Ban Nam Piang Din police station located about two kilometers from the Thai-Burmese border, with grenades and automatic gunfire. After the attack, which badly damaged the police station, the intruders pulled back into Burma with three Thai hostages who were later released unharmed.

◆ On July 23, 1999, a 60-man company of Burmese troops intruded into Mai Sa Peh

village of Mae Hong Son, three kilometers inside Thailand to snatch four refugees. The Burmese intruders beat a Thai villager with rifle butts when he tried to intervene in the kidnapping. The arrested people included three Karenni and a Burmese, one of them a 16-year-old boy. They all were released on August 2, 1999 after several rounds of talks between border police and Burmese troops and a plea from a missionary in Rangoon. Burma presumably wanted them for information about the anti-Rangoon resistance, and torture was most likely involved.

◆ On August 28, 1999, about 20 armed men from the pro-Rangoon DKBA (Democratic Karen Buddhist Army) crossed the border to Ban Rain Don Chai in Tambon Mae Dao of Mae Sot district at about 4am. They fired on shops and a border observation post with rifles and M79 grenade launchers for nearly an hour. Malik Nakacharn, 44, a shop owner, received a shrapnel wound in the leg and was later admitted to Mae Sot Hospital.

14.6 Relocation of refugee camps

14,000 people from Huay Kaloke camp and Mawker camps near Mae Sod were moved to Um Phaing of Tak district in October and November 1999. Both of these camps had been burned by SPDC troops in 1997 and 1998. Due to these instances, and the security problems that arise from being so close to the Burmese border, Thai authorities planned to relocate both camps further from the border after the last invasion in February, 1998. These camps were supposed to have moved during the dry season of 1999, but due to various delays, relocation did not start until the rains had already begun.

14.7 New arrival of Karen refugees into Thailand in 1999

A small group of just over 100 refugees managed to make this difficult journey and arrived in Ban Zala refugee camp in Thailand on January 10, 1999. Many of these were from Ler Wah and Tee Mu Hta villages of Ler Doh Township, both of which were shelled and burned by SPDC troops in November 1998. The troops also shot at the villagers and burned the entire rice supplies of many families in these villages, giving them little option but to flee for Thailand.

Since mid-August 1999, new flows of refugees have begun arriving at the Thai border from Karen villages in southeastern Pa-an District, central Karen State. Over 100 families, totalling well over 500 people, have arrived thus far and they say that many more will follow. Those who have arrived so far come from the villages of Pah Klu, Taw Oak, Tee Hsah Ra, Kyaw Ko, Tee Wah Thay, Tee Khoh Taw, Tee Wah Klay, B'Naw Kleh Kee and Ker Ghaw, most of which are within 2-3 days' walk of the border. They have fled through heavy rains along washed-out and treacherous pathways which can best be compared to mud-holes, making it almost impossible to make it over the hills which are on the way. The rains also make it impossible to find shelter along the route or to find materials to build shelter once they arrive anywhere. Because of these factors, villagers usually avoid fleeing at this time of year at all costs, so their flight in itself indicates the desperate situation they must be facing in their villages.

Some villagers said that they were told the SPDC has already issued an order that all villages in the Meh Pleh Hta area are to be cleared out and that all villagers remaining

there will be shot on sight. Other villagers said that they have been informed by the DKBA units in their area that two SPDC Light Infantry Divisions are coming to the area to clear all villages; that all villagers will be forced to move into the center of their villages and will be guarded there by SPDC troops, and that SPDC patrols will take the villagers and march them in front of the soldiers to set off any landmines. The DKBA reportedly told village elders in Pah Klu that the SPDC troops are coming to kill all of the villagers.

Villagers who arrived to Thailand in 1999 from Pa-an district said that increasing numbers of SPDC troops have been arriving in their villages, looting their belongings and taking all of their rice and livestock. SPDC troops have already destroyed all of the villagers' farmfield huts in the area of B'Naw Kleh Kee village, and this is the middle of the rice-growing season when villagers need to live in their farmfield huts. SPDC LIB 310 and 102 have occupied the area of Pah Klu and Taw Oak villages, and the SPDC LIB 9 and 2 have occupied the area of Ker Ghaw and Kyaw Ko villages. Villagers complain that though they have already paid heavy fees to avoid forced labor as porters, these troops are still rounding them up as porters, and it is usually the porters who are used as human minesweepers. The situation is particularly bad in Pah Klu village, where another group of unidentified SPDC soldiers has also arrived. This group wears short pants and other civilian clothing, and spends most of their time trying to rape the women of the village. Women who have fled the village say that this group is always trying to call women to come to their camp, and they come into the village at night looking for women. As a result, the women of the village began gathering to sleep in groups at night, and if the soldiers came they would shout and sometimes wave knives at them to scare them away. However, the women say they could no longer dare stay in Pah Klu village under these conditions so they fled with their families.

Refugees continue to arrive at the Thai border fleeing these abuses once they can no longer survive in their villages or home areas. Many of those who have arrived most recently have come from southeastern Pa-an District, near the Thai border in central Karen State. In the past, very few new refugees have arrived in Thailand in monsoon season because SPDC troops tend to be less active and flight with children and belongings along the washed-out muddy and steep paths in the heavy rain is almost impossible. However, these people have been showing up at the Thai border during one of the wettest rainy seasons in recent times, an indication that SPDC troops are now very active in the monsoon season and also of how desperate the situation of these villagers must have become. The new refugee said they are fleeing because the SPDC military has announced that it will clear out all villages in their region by December and shoot anyone who remains. They say that already more troops are arriving, looting their villages and raping women in some villages. They also fear being taken as porters by the SPDC troops, particularly because this region is heavily landmined by the SPDC, the DKBA and the KNLA and the SPDC marches villagers in front of their columns as human minesweepers.

New Karen refugees into Ratchaburi

On May 7, 1999, some 300 Karen refugees have fled into Suan Pueng district of Ratchaburi following a clash between the Karen rebels and Burmese troops.

The refugees, mostly women, elders and children, crossed over via Pong Haeng border pass and Ban Purakam. A rapid deployment unit of Rangoon troops which has been

on the offensive against the Karen National Union guerrillas, clashed some five kilometers from the border opposite Tambon Tanaosri, sending local Burmese fleeing for their lives.

Thai authorities later moved them to a makeshift camp deeper inside Thai territory to avoid possible attack by SPDC soldiers. On May 12, provincial authorities transported them to a temporary shelter in Suan Phung district. The refugees and Thai security officers said they were confused as to why the SPDC troops had launched such a heavy attack against their village. There were no Karen rebel soldiers in the area to provoke the SPDC army. Aid workers, including the UN High Commissioner for Refugees and doctors from Medicins Sans Frontiers, were on standby at the makeshift camp to assist the refugees, most of whom are women and children. They all were sent back to Burma in July by the Thai authorities.

New arrivals of Karenni refugees into Thailand in 1999

Since January of 1999 over 1,500 villagers from the Karenni areas have arrived in Thailand seeking refuge. The majority of new arrivals are coming from the Shadaw area but some people are coming from other areas, such as the Mawchi and Loikaw areas. Thus far all of the arriving refugees have been allowed into the refugee camps by the Thai officials but there is often a delay before the Thai officials will permit aid to be taken into the camps for the new arrivals. There are still serious concerns over camp security, especially after the refugee camp known as Karenni Camp 2, which was attacked by the Karenni National Democratic Army (KNDA), a 'splinter' organization aligned with the SPDC, in January 1997. On May 2, 1999 Burmese soldiers attacked a Thai police post in Mae Hong Son province and left evidence that would point to the Karenni group (KNDA) as the perpetrators. Mae Hong Son has a total of six refugee camps along the Thai-Burmese border. In light of this most recent event and attempted deception, security in and around the camps is of high concern.

For people in northern and central Karenni State, the flight to the Thai border is extremely difficult and dangerous; it takes several weeks travelling with the entire family, there is little or no prospect of food being available along the way, and there is always the possibility of encountering an SPDC patrol. However, many have been making the trip. Immediately following the first wave of relocations in mid-1996, about 3,000 people arrived at existing Karenni refugee camps in Thailand. A few months later another 1,300 arrived, and then the flow decreased to a trickle as most people settled in to live in hiding in the forest or were effectively blocked from escape by SPDC troops. However, since January 1999 approximately 1,500 people have arrived in the refugee camps, most of them fleeing the Shadaw area of north-central Karenni. Some have been living in hiding in the forest for one to three years and fled because they could no longer produce or obtain any food. Others recently fled relocation sites back to the forests around their villages, but quickly found that there was no food to be had there and that SPDC patrols posed a constant danger. Most of the new arrivals are in very bad physical shape when they reach the border, sick, weak from the journey and emaciated from lack of food. There have also been handfuls of new arrivals from the Mawchi area; many more from this area would like to flee, but it is twice the distance of the trip from northern Karenni and twice as difficult and dangerous to travel, and there are few or no people available who can guide them along the way.

One of the major problems in getting from the jungle to the Thai border is that people simply don't know which way to go. In particular, the people in the southwest corner of Karenni, around Mawchi, have a very long way to go to get to the Thai border and the threat of being seen and killed is all too real. The fear and distrust that the Army patrols have engendered in the villagers living in the forest also poses a problem for those wishing to find refuge in Thailand. The villagers are afraid to confront or join with one another for fear of informers or detection and this reduces their options when looking for people to help lead them towards the Thai border. KNPP soldiers often help the villagers to find their way, but there are a lot of areas which the KNPP soldiers can't reach. Often villagers will follow merchants who have been previously to the Thai border. Some of the villagers in the north of Karenni State head into Shan State to find their way to Thailand, but that route is no easier to travel. The trip offers many obstacles which pose a particular problem for the sick and elderly. There are many hills on the way to the border, rivers have no bridges, and the boats that were once available to ferry people across are gone. When the villagers are fleeing to the Thai border, they have to travel at night and away from roads to avoid detection by the Army. One common meeting point for villagers who are fleeing seems to be along the banks of the Salween River. Many villagers have reported joining larger groups of people by the river and then continuing to Thailand together.

Most of the new arrivals have been accepted into the refugee camps by Thai authorities, most of them in a site called Karenni Camp 2. There are serious concerns over the safety of this site. The camp is just a twenty minutes' walk from an SPDC Army post across the border, and has been attacked before by SPDC-backed forces. The attack occurred on January 3 1997; three refugees were killed and nine others were wounded, and there was no attempt by Thai forces to defend the camp.

14.8 Situation of Shan Refugees

In March 1996, SPDC delineated a huge area of central Shan State and ordered the forced relocation and destruction of every village in the region, whether or not these villages had had any contact with Shan armed groups. Over 700 villages were relocated and destroyed, with well over 100,000 people displaced. Throughout 1997 and 1998 the SPDC expanded the target area and also forced people who had already been moved to relocate again into larger sites under more direct military control. By mid-1998, over 1,400 villages in eight Townships had been forcibly relocated and destroyed, displacing a population of at least 300,000 people. Tens of thousands of people were struggling to survive in relocation sites throughout the region, foraging for food and begging from cars passing on the roads. The SPDC provided them nothing. Those who tried to hide in the forests around their villages were shot on sight by SPDC patrols.

Due to the difficulty of survival, many villagers are fleeing relocation sites or deciding not to go there at all when their villages are relocated. People often return to the jungle near their former villages, where they are able to forage for food in deserted villages or farm small plots of land in remote locations where they are unlikely to be discovered by SPDC troops. While fighting off the threat of starvation, the daily life of these villagers rotates on the axis of fear. They must constantly evade SPDC troops on patrol, and those who are discovered are most often executed on sight. In the past few villagers have opted to brave

a life in the jungle, as SPDC columns regularly patrol the areas looking for ‘rebels’ and shoot all villagers that they see. Now, however, the dwindling population in the relocation sites indicates that people are exhausted by the struggle to survive the desperate conditions inside them and would rather brave the dangers of living in hiding in the forest than live under such abuses.

In order to survive, well over 100,000 Shan villagers have fled into Thailand in the past four years. During January and February of 1999, at least 1,100-1,200 people per month from Murng-Kerng, Lai-Kha, Paang Long (in Loi-Lem), Murng Nawng (in Kae-See), Kun-Hing, Nam-Zarng, Murng Pawn (in Loi-Lem), Murng-Nai, Murng-Pan and Larng-Khur of central Shan State moved to the eastern side of the river Salween, to the border areas and to Thailand. They fled because of the unfair rice procurement policy by the SPDC, increasing demands of conscription of forced labor and excessive restrictions of movement against them. People are not allowed to go beyond three miles from towns to cultivate crops, making it very difficult for those who have been forcibly relocated over the past 2-3 years because there is usually no land available for them to cultivate within three miles of the towns. Those who go beyond the set limit are severely punished and sometimes shot dead.

The SPDC troops they encounter along the way usually allow them to go, happy to see the Shan population leaving Burma. At some border camps the soldiers even confiscate the National Identity Cards of refugees heading for the border, so that the SPDC can claim in future that they never lived in Burma. The Shan call themselves Tai Yai and are related to the Thais, with similarities in language and culture. There are no refugee camps for them so they cross the border in silent droves, slipping into the illegal Thai labor market on rural farms and in big cities. With nothing to protect them, many are sold into bonded labor or slavery in brothels, sweatshops, or the households of the rich and influential in Thailand. Even so, most of them say they would rather face these risks than attempt to survive the forced relocations. At one monitored border crossing alone in Fang district of northern Thailand, approximately 1,000-1,200 new refugees are now crossing each month. Their swelling numbers have flooded the job market near the border, making it harder to find illegal work to survive and forcing many to head further into Thailand, which exponentially increases their risk of arrest or entrapment into slavery. At the same time, the Thai authorities have been cracking down on illegal labor, making it even more difficult for the Shan refugees to avoid arrest, abuse and possible deportation. Many have called for refugee camps to be established for them, but the Thai authorities refuse to consider creating any new refugee camps on the grounds that it would create a ‘pull factor’. Very few foreign governments or agencies are willing to stand up for the Shan villagers, viewing them as though they are all ‘narcotics producers’ simply because most of Burma’s heroin and methamphetamines come from Shan State. In reality, virtually all of the refugees are rice and fruit farmers and have no connection whatsoever to opium, heroin or methamphetamine production.

Since the beginning of the forced relocations in 1996 there has been an unending stream of Shan villagers fleeing across the border into Thailand, as villagers try, and fail, to survive in relocation sites or fear the hazards of hiding in the jungle. Although they have heard of both the advantages and hardships of migrant work in Thailand, in the final analysis they believe they are safer there than inside Burma. People attempt the journey in various ways, from walking to floating in rafts down the Salween River, to paying exorbitant bribes

to passenger truck drivers. A journey to Thailand will commonly wipe out a family's savings; one recent arrival said he had to pay 10,000 *Kyat* for each member of the family to get to the border. The main crossing points for Shan, Pa-O, Palaung, and Lahu refugees from Shan State are on the border of Fang Province, where over 1,000 refugees continue to cross each month. In 1997 the SPDC started confiscating the National Identity Cards of all Shans and other minority groups heading for Thailand at the final checkpoints on the Burmese side, issuing receipts and saying that they could reclaim them when they crossed the border again. This is a disturbing tactic, which the SPDC also used in the case of the Muslim Rohingyas when they fled from Arakan State to Bangladesh in 1992. Should the refugees later decide to return home, the SPDC can deny that they have never lived in Burma. The lenient treatment that Shans encounter when crossing the border with all their possessions, quite obviously intending not to return, reveals the SPDC's willingness to expel the Shan from the area.

14.9 Situation of Mon Refugees

From November 1999 to January 2000, about 200 villagers arrived near a Mon returned refugees resettlement area, Halockhani, and took refuge there, as they were not allowed to cross the border and take refuge in Ban Ton Yang refugee camp. Ban Ton Yang was established about 2 years ago and is situated in Sangkhlaburi district of Kanchanaburi province in Thailand.

14.10 The Situation of dissident activists from Burma in Thailand

After the Burmese Embassy in Bangkok was seized by five armed Burmese members of the Vigorous Burmese Student Warriors (VBSW) in October 1999, Thai authorities cracked down on Burmese activists in Thailand, tightening control and trying to speed up the resettlement process for those wanting to go to third countries. Thai authorities apparently have made a decision to reduce the number of Burmese asylum seekers in Bangkok and other urban centers and to regulate more closely the movements of Burmese asylum seekers in the country.

This direction in Thai policy is in part a response to the sieges of the Burmese Embassy and the Ratchaburi Hospital in January 2000. These events led to pressure from within the government for Thailand's security agencies to consolidate and improve their intelligence collection capacity and reduce future threats. Measures employed toward the achievement of greater security have had serious implications for Burmese urban refugees in Thailand.

Burmese activists who had received 'Persons of Concern' status from the UNHCR were given until November 21 to register to enter the Maneelay Special Holding Center in Ratchaburi province to be later resettled in a third country. Those who did not register by the deadline would be treated as illegal immigrants and subject to deportation. Australia, Canada, the United States and number of European Union countries responded positively and have since resettled hundreds of the activists. In November 1999, the Thai authorities announced that it was closing Maneelay and has allowed only a handful of refugees to enter the center since then. Even persons UNCHR determined to be refugees, or those who had been in

immigration detention were denied access when the deadline passed. UNHCR said it could provide neither protection nor assistance in Bangkok because the Thai authorities considers anyone living outside of the camp to be illegal immigrants.

Dissatisfaction and tensions rose among the camp residents with the tightening of restrictions. There were two incidents where students were shot; one by a nearby shop owner who accused the student of attempting theft and another one was shot by a Thai official during a riot where there was clash between camp residents and camp security guard on November 16, 1999. The residents started the hour-long riot after guards at the camp refused to let them out to get a colleague who had been arrested over the weekend for stealing. One resident named Nwe Aung was also shot in the left leg and hospitalized.

In one highly publicized incident, seven UNHCR staff including one French, two Thai and four Burmese were held captive by students inside the center on October 18, 1999. The incident was sparked when the UNHCR officials refused to pay the students their monthly allowance, as the students had not been at the center when the monthly allowance was handed out. Students who missed out on the payment were among the ones who had traveled to Bangkok to protest in front of the Burmese Embassy on September 9. After intervention by the Thai Provincial Governor, the staff agreed to pay the rest of the residents.

There is a long history of problems in the Manooly holding Center which have not been adequately addressed by neither UNHCR not the Ministry of Interior, and this is largely responsible for the current state of confusion in the center today.

14.11 Thai policy on migrant workers from Burma

The disproportionately high numbers of undocumented migrant workers in Thailand results largely from its geographical location. Thailand's shared borders with neighbors Burma, Cambodia and Laos are long and accessible. For example, Thailand shares a border with Burma that is approximately 2,532 kilometers long. A further 1,750 kilometers of Thailand's border is shared with Laos and an additional 789 kilometers with Cambodia. Despite the existence of six official border crossings between Burma and Thailand, there are countless unofficial ones. Government controls are difficult to maintain on both sides of the Thai-Burma border largely due to the presence of mountains and thick jungle terrain along a large part of the border that is only accessible by foot.

Anecdotal evidence suggests the overall number of Burmese migrants in Thailand to be somewhere in between 800,000 and one million. Within this number are numerous distinct ethnic groupings. The most highly represented Burmese ethnic groups in Thailand are the Shan, Karen, Burman, Mon, Arakan (Rakhine) Tavoyan and Karenni (Kayah). The differing ethnic populations pursue different occupations and lifestyles, and engage in different social and cultural worlds both in Burma, and while in Thailand. However, as the majority of Burmese migrants in Thailand are undocumented or illegal, it is difficult to determine the exact population of Burmese migrants in Thailand, and their ethnic composition. Inadequate enforcement of Thailand's immigration and labor laws, while at times due to lack of resources, is very often the result of the collusion between elements within the Thai bureaucracy with labor recruiters and traffickers. Such practices are widespread and well-documented and further complicate the task of building a more precise population profile.

Cross border migration into Thailand has steadily increased in recent years.

Increasing political and economic differences between Burma and Thailand, particularly Thailand's economic boom of the 1980's and Burma's worsening political and economic crisis culminating in the 1988 uprising, attracted large numbers of not only Burmese refugees and migrants, but large numbers of Cambodian and Laotians. Many argue that workers from Burma, Laos and Cambodia filled a widely felt labor shortage left by 300,000 - 400,000 Thais who went to work abroad.

Undocumented, illegal workers constitute the most vulnerable section of the work force because as illegal non-citizens, they are least protected by a national legal system. These workers have no job security, little access to social services, health protection or accident insurance. They are housed in substandard conditions and exposed to many health risks as result of the dangerous labor they perform, and the conditions in which they are forced to live. They are not compensated for injury, illness or death even when it is caused by employer negligence. They are usually treated as faceless laborers - economic tools - and not as human beings. Because they are foreigners, they are subjected to dehumanizing conditions and various forms of discrimination. Their human and labor rights are usually not recognized, protected or respected. A large number of undocumented workers, particularly Burmese women, who are rendered more vulnerable to certain kinds of exploitation, depend on the protection of Thai employers in order not to be arrested and deported from Thailand. Such dependence on employers often leaves undocumented workers, particularly women, at risk of abuse, exploitation, humiliation, and violence from employers and corrupt police.

In a cabinet resolution of September 1996, Thailand announced a new policy for the registration of undocumented migrant workers from Burma, Laos and Cambodia. The resolution approved a directive to permit Burmese, Laotian and Cambodian workers to remain in Thailand as laborers in the authorized sectors namely, agriculture, fishery, fishery related activities (pier work, selection and classification of seafood, cleaning seafood, shrimp farms), construction, mining, porter of goods from water to land, domestic work, salt fields, jar making and brick making, production (shrimp paste, fish cause, squid drying, filleting fish, tobacco, sweet and salty fish production, drying tapioca, storage of agricultural goods in silos, storage of goods in warehouses, timber mills) and other production activities as approved by the Ministry. The drafters of the resolution aimed to consider and systematize the influx of immigrant populations in new ways, at the same time prohibiting new entries. Employers were required to register their undocumented migrant employees between September 1 and November 1996, but due to the bulky caseload of the final weeks of registration, an extension of an additional 90 days for processing was permitted. No new applicants were accepted during this period and registration was also only available to those migrants who has entered Thailand before June 25, 1996.

In order to register, employers had to follow a three-step process. First, all migrants were required to pass a health check at specified local hospitals and health centers. Physicians checked for tuberculosis, filariasis, leprosy, syphilis, narcotics addiction, alcoholism and mental health problems. Workers were either classified as 'pass', 'requiring treatment', and 'fail'. Those falling within the final category of migrant workers would not be permitted to work, and under the new legislative measures introduced, would be required to leave the country.

The second step involved preparing documentation and paying of a bond to the Immigration Office. Immigration officers recorded a detailed personal history of each migrant and collected a 1,000 *Baht* guarantee per person from each employer. The workers then

received a Temporary Residence Permit for Immigrations Awaiting Deportation (commonly known as '*Taw Maw 69*'). Immigrant workers and the guarantor were required to report to the Immigration Office every three months, forfeiting their bond payment in failure to do so. If the worker decided to leave his employer and return to his/her home country during this period, both worker and employer reported this to the Immigration Office to report travel details and the deposit would be refunded.

In the third and final step the resolution required employers to take was to request a work permit from the Department of Employment. An additional 1,000 *baht* was paid for the work permit after which the registration would be complete. Workers and employers needed to extend this permit after a period of one year. Under official directives, workers would be permitted to change employers within the same province if all parties were in agreement to the transfer. Both employers would then report to the Immigration Office where the outgoing employer could be refunded his bond and a new bond could be paid by the incoming employer. As of the end of registration process, 293,652 undocumented migrants had received their work permits. Another 20,290 qualified for a work permit but failed to pick it up from the Thai authorities. Most employers preferred to pay a bribe to the police rather than undergo the cumbersome registration procedure to make their employment legal.

Thai government policy on undocumented migrant workers changed dramatically in response to Thailand's currency and resulting economic crisis. Thailand was the first Southeast Asian economy to collapse in mid-1997. By January 1998, Thailand's unemployment rate stood at around 1.8 million at the time, and official statistics estimated this figure would reach two million by the end of the year. In January, 1998, in an effort to address the issue of rising local unemployment, the Thai government announced their plan to deport at least 300,000 undocumented migrant workers within a six month period and their strategy to simultaneously fill the vacancies with unskilled Thai workers. According to Chidchai Wannasathit, Immigration Police Bureau Commissioner, between January 1 and March 11, 1998, a reported 60,000 -70,000 undocumented workers had voluntarily returned home, predominantly Burmese.

On March 2, 1998, Thai Labor Minister Trairong Suwankhiri, announced that undocumented foreign workers in nine specific sectors would be repatriated by May 1, 1998 or face eight years imprisonment and a fines of up to 110,000 *baht*. It said those arrested on charges of illegally entering the country or violating the Immigration Act were liable to five years imprisonment and a 500,000 fine, while those transgressing the Foreign Workers Work Act will be subjected to a three years imprisonment and 60,000 *baht* fine. However, the labor department directive allowed migrants to continue working in the fishing industry in 13 border province including Chiang Rai, Mae Hong Son, Tak, Kanchanaburi, Ranong, Chathaburi, Trad, Sa Kaew, Mukdahan, Nakhon Phanom, Nong Khai and Surin. The nine sectors include the service sector, transport, commerce, textile, garment, food, chemical, wood and wood by products, paper and publishing. The Labor Minister also detailed plans to force the total one million Burmese migrant workers to return home by the end of 1999, as the labor and Social Welfare Ministry would not renew work permits for registered workers at this time. These knee-jerk and somewhat conflicting measures forced migrant workers even further underground, making them even more vulnerable to abuses and exploitation at the hands of brokers, employers and Thai authorities. To date, Thailand has consistently failed to fully implement any of these policies, and policy remain unclear and confusing.

14.12 Mass Deportations of undocumented workers and people from Burma

In November 1999 the Thai government made a landmark decision to restrict the number of legal migrant workers in Thailand to a mere 106,684 workers in 18 industrial sectors across 37 provinces and embarked on a swift campaign of deportation and repatriation. The terms “deportation” and “repatriation” are used interchangeably in this section, as both “persons of concern” to UNHCR, and migrant workers fell victim to the immigration crackdown. The principle of “non-refoulement”, should apply to persons of identified concern to the UNHCR, who has a general policy of encouraging only voluntary repatriations. Thailand’s non-compliance with this international standard has been an ongoing problem in relation to Burmese refugees over the past 10 years.

On November 3, 1999, Thai authorities commenced implementation of this policy. Border Police forces were increased and mass arrests began to take place. Combined forces of border police, soldiers, immigration and labour officials made several raids on factories employing undocumented workers from Burma, as well as raids on homes, apartment complexes, and markets. They used large trucks that could accommodate up to 300 people, and usually crammed more people in, to transport the arrested people to immigration detention centers (IDC’s) where they would await for deportation. Eyewitnesses reported severe overcrowding and poor conditions at the IDC’s, including the main center at Suan Phlu in Bangkok where arrested people are held before they are sent to the border for deportation. Over the past 8 years, Amnesty International has documented such poor conditions of the IDC’s in Thailand, such as the severe overcrowding, lack of proper food, medical care or sanitation.

From the outset of this mass repatriation, armed Burmese soldiers were waiting for the deportees at the Moei River border crossing at the Mae Sot, Thailand and Myawaddy, Burma border point. On November 3, they threatened to shoot a group of 200 migrants if they stepped out of the boats onto Burmese soil, preventing Thailand from repatriating this group. However, the mass deportations continued. Immigration officials in Mae Hong Son, Chiang Rai and Ranong provinces also reported that Burmese workers were being refused entry by the SPDC troops on a large scale.

Denied deeper access into Burma, many were being forced to spend the nights in the jungle along the border, without food or shelter. Many others were forced onto a territorially disputed islet in the Moie River. Due to late rains, the Moie River was still dangerously deep with a swift current, and at least 8 people drowned trying to swim back to Thailand. On November 8 1999, 15 girls were raped by SPDC soldiers on the Burmese side of the Moie River near Myawaddy. That day, 2,000 Burmese had been forcefully deported from Mae Sot, Tak, Thailand and left stranded on the islet in the middle of the Moie River. They had planned to spend the night on the isle, but armed Burmese troops followed them. They selected 15 good-looking girls and made them accompany them to the Burmese bank of the river, where they were raped.

Others who managed to return to Thailand, or who had not been deported yet were forced into hiding in the fields and forests of Thailand near the border. Therefore, thousands of Burmese were left to languish on both sides of the border, as well as in between, with nowhere to go and without access to food or proper shelter. An emergency relief committee

from the Mae Sot area, who was quietly distributing some aid to those in hiding, reported that those in hiding were subjected to violent reprisals from officials and members from the local community, including muggings, rape, and beatings. Two migrant workers from Burma were allegedly killed by Thai farmers who mistook them for thieves.

Most of the people rounded up for deportation were migrant workers with neither legal protection nor organizational support from sending or receiving governments, NGO's or INGO's. However, UNHCR refugees and political activists were also detained, and in some cases forced across the border.

Despite Thai Foreign Minister Surin Pitsuwan's pledge that all repatriation would be handled in an orderly manner and in accordance with basic Thai laws, Thai NGOs made repeated claims about authorities attempting to pressure male workers by arresting and repatriating their wives and children. The groups stated that Thailand's repatriation policy in regard to Burmese workers is a clear violation of the right of children not to be separated from their parents, particularly when there can be no guarantees made for families wishing to be reunited.

The deportations were further complicated by the Burmese response. Many workers were unable to bribe their way past Burmese troops enforcing a border closure, which had been ordered by the SPDC in early October response to Thailand's handling of the hostage crisis at the Burmese embassy in Bangkok. After the October 1-2 hostage drama in downtown Bangkok, relations between the two countries had sunk to their lowest point. The SPDC had shut the border in clear retaliation against the Thai government's release of the five exiled Burmese students who had occupied the embassy, stating that the border would not be opened until the five allegedly hostage takers had been arrested. Thai fishing vessels normally permitted to fish in Burmese waters were forced into port, and two dozen Thai gamblers who had attempted to try their luck at a border casino, spent a week a jail. Burmese policy on the deportation and repatriation was consistently clear. On November 12, 1999, Amnesty International expressed its concern about reports that Burmese national being deported had been refused entry, or had been arrested and detained for illegal entry into their own country by the Burmese authorities. In an open letter dated November 20, 1999, a consortium of Thai NGO's and human rights organization accused Burmese troops of raping female deportees, and threatening to shoot others.

For those who were deported and were able to make their way deeper into Burma, they faced great difficulties. For the whole month of November, under the order of Karen State PDC Chairman, Saw Khin Soe, a group of authorities including immigrants officers, police, army and DKBA troops opened a check-point on Myawaddy-Paan motor road, near Paan town. They stopped every passenger truck and checked for and took out all returned immigrants. The authorities forced the returned immigrants to give 5,000 *kyat* per head as a fine. If they could not give payment for the fine, they were kept at the check-point or in the Paan police station, and had to inform their families to come and pay the fine. After they received payment for fine, the immigrants were released. If a returned immigrant was not able to contact their families, they were used as unpaid labourers in military outposts and in farms owned by army or police. This type of situation existed at other border crossing areas in Burma as well in November, which posed incredible predicaments for many returned people, as their money had already been taken by Thai police, Thai immigration, or Burmese police or immigration during their time of deportation. In addition, some Thai employers took

the opportunity created by the mass deportations to cheat the workers by refusing the pay wages from the commencement of the crackdown. Workers in many factories around Mae Sot were dumped near the border without receiving their wages. In one incident, 94 Burmese deportees confronted two Thai employees from Fupo Knitting Thailand near the border, demanding the payment of outstanding wages from the company. The two had been sent by the firm with a mere 90,000 *baht* to pay to the 94 deportees. However, the workers said they were owed in excess of 200,000 *baht*. The demanded the company pay all the money outstanding, but were unable to secure payment.

On October 30, 1999, before the major crackdown began, 7 Mon immigrants, who had been deported back to Burma via a place near Myawaddy, were arrested in the middle of Attaran bridge, the border bridge between Karen State and Mon State. They were taken by the Burmese authorities. The 7 Mon immigrants were: (1) Aung Tun -30 year, (2) Kyaw Htun-25 years, (3) Soe Win -25 years, (4) Min Win-18 year, (5) Min Oo Lay-16 years, (6) Halae -18 years, and (7) Ma Hla Yee- 28 years. The authorities brought these civilians to Moulmein and the police put them on trial for illegally leaving the country. According to the court and existing laws, they were detained for 6 months in the Moulmein jail.

In a separate case, on November 6 1999, Thai officials deported 101 Shans from Thailand's Mae Hong Son province to the Ho Muang area in Shan State, which is Khun Sa's former stronghold. Burmese Soldiers from Battalion 249, stationed at Na Moon village immediately arrested about 30 people, most of whom were elderly people and young children, as they could not run away after the Thai Immigration Police dropped them at the Border. A Burmese border control official stated that the group was being held in a military camp at Ban Namonluang and would probably be charged with illegal entry into Burma, a "crime" which carries a sentence of 9 years imprisonment by Burmese law. The arrested are believed to be working involuntarily to rebuild the road in Ho Mong, which was damaged by the last heavy rain.

Some returned workers were interrogated and asked to pay bribes to SPDC officials upon returning to their villages. During November in Yebyu Township, Tenasserim Division, returnees were told to report to the Township Peace and Development Council. Between 1,000-2,000 *kyat* were demanded upon reporting to the authorities and some questions were asked. They were told to report again at the Military Intelligence No. 19 offices based in Kanbauk. Another 5,000-10,000 *kyat* were demanded from returnees. Those who were not able to pay were arrested and detained. Approximately 400 returnees from Thailand were arrested in this period because they were not able to pay the required amount of money that was demanded by the authorities.

The deportations continued throughout December, with factories on the border undergoing weekly raids. Many people deported were able to return to Thailand, but the chances for finding work were severely reduced. As a result, the end of 1999 saw an alarming rise in the number of women and girls from Burma working in the sex industry.

On December 31,1999 over 1,000 Burmese people living in Thailand were arrested on their way to a religious ceremony hosted by the Dhammakaya Temple, where a religious ceremony to welcome the new millenium was to be held.

Abuses against Migrant Workers

In February 1999, a riot broke out at Champion Knitting Factory in Mae Sot, Tak province, Thailand after a worker was grabbed by 15 guards, beaten severely for complaining about a guard's order, and then taken away. There had been instances in the past where Burmese workers had been beaten to death, so the workers were concerned and demanded that the worker be returned. The next day they were told that he had fled back to Burma.

On October 7, 1999, Min Chit Thu, 24, a male migrant worker from Burma was murdered by a Thai man and two Karen men in Mae Sod. These three men raped his wife, San San Naing and two other women while they were spending the night at a hut after they were fired from Hyatt Knitting Company. The four Burmese victims spent the night at a hut belonging to Somrak Chantha, 36, after they left the factory. Somrak, the Thai man, came to see them during the night and asked to sleep with San San Naing who politely refused, saying she was already married. He left but returned with two Karen. They started beating up Min Chit Thu, then took him outside. Later, the three men came back to the hut and raped the women. In the morning, people found the dead body of Min Chit Thu with signs of having been beaten.

The Case of Ko Phyo

Ko Phyo was arrested on November 1, 1999 along with another Burmese worker. He had been recently terminated by the Champion Factory of Mae Sot for his activities in organizing other workers to demand basic rights for the thousands of Burmese workers at this factory. In 1988, as a Burmese student, he had been active in the 1988 Student Demonstrations within Burma. He was forced to flee Burma immediately following the Demonstrations, and settled in Mae Sot, Thailand, after several years of living underground within Burma.

During the arrest, the Thai Police Officers beat them with hard rubber batons, smacking their ears with great force. Later, at the Mae Sot Police Station, the Policemen in charge further beat them, banging their heads together and kicking them, before he ordered the criminals in the same cell to 'kill them' (in Thai). After this beating, Ko Phyo lost consciousness, and was dragged to the toilet area to wait for the morning deportation. He was then carried from his cell, and taken - along with 50 other 'illegal' Burmese - to an illegal crossing gate at the Moei River where they were instructed by Thai Police to cross. Due to his involvement in the '88 revolution and pro-democracy forces, he knew he would face arrest, torture, and possible execution, if sent back to Burmese soil, so he began pleading with one of the Thai Police Officers, who took pity on him for his pathetic appearance, and temporarily hid him. He was treated at a border clinic, and finally, on December 7, 1999, after a month of being unable to eat or sleep, and having lost feeling in much of the left side of his face, as well as sight in his left eye, he secured passage to Chaing Mai, where he will undergo extensive surgery to repair his broken left mandible. (*Source: Young Chi Oo Workers Association*)