

## **Out of Sight, Out of Mind: Thai Policy toward Burmese Refugees**

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## I. Introduction

The policy of the Royal Thai Government towards Burmese refugees and migrants is in a state of flux. On the one hand, Prime Minister Thaksin Shinawatra's forging of closer economic and political ties with the Burmese government has resulted in an increasingly hardline stance by Thailand towards Burmese exiles, refugees, and migrants—especially those who are visibly and vocally opposed to the military government in Rangoon. This has included the arrests and intimidation of Burmese political activists living in Bangkok or along the border, harassment of Burmese human rights and humanitarian non-governmental organizations (NGOs), deportations of Burmese asylum seekers, migrants, and refugees to Burma, and the government's suspension of screening of new applicants for asylum from Burma by the United Nations High Commissioner for Refugees (UNHCR).

At the same time, Thailand has signaled a new receptivity to pressure by the United States and the United Nations to broaden resettlement opportunities for Burmese refugees now living in Bangkok and other urban centers in Thailand. While this should help to improve the situation, Human Rights Watch is concerned that Thailand may offset its agreement to resettle urban refugees by intensifying its crackdown on undocumented Burmese migrants and sealing the border to new asylum seekers from Burma. In addition, with the January 2004 ceasefire agreement between Rangoon and one of the main rebel factions, the Karen National Union (KNU), Thai authorities may begin to pressure increasing numbers of the 142,000 Burmese living in refugee camps along the Thai-Burma border to “voluntarily” repatriate to Burma.

During the last year, Burma has attempted to improve its international image by advancing largely cosmetic changes—such as the “roadmap” to political normalization.<sup>1</sup> It is far too early, however, for Thailand, the U.N., and the international community to conclude that the factors that have forced hundreds of thousands of Burmese to flee to Thailand over the last two decades have ceased. This is particularly evident in the government-backed violent attack and arrest of Daw Aung San Suu Kyi and hundreds of her supporters in northern Burma on May 30, 2003, and the fact that more than 1,000 political prisoners remain behind bars. There has been no let-up in the government's persecution of Burma's Muslim population, systematic rape by government soldiers of ethnic minority women and children, forced labor, arrest of dissidents for peaceful expression of their views, torture of detainees, and forced relocation of ethnic minority villages to clear areas of activists and rebels and make way for large infrastructure projects.

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<sup>1</sup> Rangoon's seven-step “road map to democracy” was proposed by Burma's new prime minister, Gen. Khin Nyunt, in August 2003. The first step would be to convene a national constitutional convention, a process that was suspended in 1996. Many countries regard the roadmap with skepticism because of the long history of Burma's military government using stalling tactics to thwart implementation of democratic reforms. In addition, to date, neither Aung San Suu Kyi's National League for Democracy (NLD) nor many of the ethnic minority opposition parties have participated in the process.

Under these circumstances, for Thailand to forcibly return asylum seekers, refugees and others with a genuine fear of persecution in Burma back to their military-ruled homeland is a violation of international law.

This briefing paper, based on research conducted in Thailand in November and December 2003, outlines recent developments in Thai policy towards Burmese refugees and migrants and offers recommendations to the Thai government, the United Nations High Commissioner for Refugees, and the international community.

## **II. New Thai Policies toward Burmese Refugees and Migrants**

Major policy shifts recently announced by the Thai government in regard to Burmese refugees, asylum seekers, and migrants will have important and often severe repercussions for hundreds of thousands of Burmese nationals living in Thailand, many of whom have fled from gross human rights violations, military conflict, and a concomitant lack of economic opportunity in Burma.<sup>2</sup>

Under intense pressure from the Thai government, on January 1, 2004, UNHCR suspended its screening of new asylum seekers (formally known as Refugee Status Determination, or RSD) from Burma, leaving tens of thousands of vulnerable people in a legal and practical limbo.<sup>3</sup> Refugee assistance agencies and human rights groups in Bangkok and on the border were immediately flooded with calls and visits by Burmese asylum seekers asking where to turn for protection. No advance notice was given to Burmese refugees or refugee relief agencies prior to the abrupt suspension. NGOs in Bangkok received written notification from UNHCR on January 8.<sup>4</sup>

While UNHCR was granted approval as of February 1, 2004, to “register” new asylum seekers, those who register will only be referred to refugee camps and will not be given any definitive resolution of their status, as explained in a note circulated by UNHCR:

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<sup>2</sup> In 1989 the English name of the country was changed from Burma to Myanmar by the ruling State Law and Order Restoration Council (SLORC, now called the State Peace and Development Council, or SPDC). English versions of place names were changed to Burmanized versions at the same time, e.g., Rangoon became Yangon. The National League for Democracy, which won elections in 1990 that were subsequently rejected by the military government, does not recognize these name changes, and ethnic groups that are not ethnic Burman regard them as part of an effort to Burmanize national culture.

<sup>3</sup> Until January 1, 2004, individual Burmese asylum seekers could apply to UNHCR at its offices in Bangkok and Mae Sot to make a determination as to whether he or she was a refugee under UNHCR’s mandate. In making such an assessment UNHCR applied the criteria set out in article 1(A) of the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol (the “Refugee Convention”), which defines a refugee as a person who “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear is unwilling, to avail himself of the protection of that country.” Burmese asylum seekers who were recognized as refugees by UNHCR were provided with a refugee certificate holding basic bio-data and the person’s photograph. It certified that the bearer was considered a refugee under the mandate of UNHCR and carried UNHCR’s address and phone numbers for Thai authorities or foreign embassies to contact should they need additional information about the refugee. Burmese asylum seekers who registered with UNHCR were provided with documentation providing similar basic information about the bearer, which stated that the person was under UNHCR’s protection while their asylum claim was being determined.

<sup>4</sup> UNHCR sent an announcement to NGOs entitled “Suspension of refugee status determination processing for new applications from Myanmar asylum-seekers as of 1 January 2004.” The notice was dated January 6, 2004 but issued to NGOs in Bangkok on January 8.

The registration process will be for the purpose of referring new applicants for admission to the camps located at the Thai-Myanmar border, in accordance with the Royal Thai Government's policy that [refugees and asylum seekers] from Myanmar may not remain in Bangkok or other urban centres. New applicants will not be eligible for financial assistance from UNHCR in urban areas. Admission to the border camps will be determined under screening procedures still to be decided by the Thai authorities. Following discussions with the Royal Thai Government, UNHCR understands that these new screening procedures will be established in the near future. Lists of those registered with UNHCR from 1 January 2004 will be shared with the Royal Thai Government and the screening body that is eventually established.<sup>5</sup>

### ***Broadening of Resettlement Opportunities***

In January 2004, the United States entered into discussions with the Thai government and UNHCR about expanding resettlement opportunities for Burmese refugees in Thailand. While many details have yet to be worked out, it appears that the United States has committed to resettling 4,000 UNHCR-recognized Burmese refugees and asylum seekers now living in Bangkok and other urban areas in Thailand. These include 2,000 individuals recognized by UNHCR under its mandate as refugees (called "Persons of Concern," or POCs in Thailand) and 2,000 asylum seekers who had cases pending with UNHCR as of December 31, 2003.<sup>6</sup>

This resettlement initiative is largely a welcome development, although there are several issues of concern. The first is the fact that it focuses on the 4,000 Burmese "urban refugees" who were registered with UNHCR as of December 31, 2003. The fate of urban refugees who are not yet registered with UNHCR, as well as asylum seekers who arrive from Burma in the future, is far less clear.<sup>7</sup> While U.S. government officials say that additional urban refugees can be considered for resettlement once they register with UNHCR, the position of the Thai government—which wants to avoid a "magnet effect"—is much less certain. The Thai government and UNHCR have also yet to work out the process for determining the asylum claims of new applicants.

"Obviously there are people who have not yet been registered who will have a strong claim to refugee status based on a legitimate fear of persecution," a senior U.S. official

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<sup>5</sup> "New UNHCR registration process for applications from Myanmar asylum-seekers as of 1 February 2004," UNHCR Regional Office for Thailand, Cambodia, Laos and Vietnam, January 31, 2004.

<sup>6</sup> UNHCR will have to approve the refugee status of the second group—the 2,000 asylum seekers who were in the system as of December 31, 2004—before their cases can be submitted to the U.S. for resettlement.

<sup>7</sup> Refugee relief agencies in Thailand estimate that the actual number of Burmese urban refugees and asylum seekers is actually 8,000 to 10,000 people, of whom approximately 4,000 are registered with UNHCR. The larger number includes many people who have been rejected for asylum, intimidated from applying because of pressure from Burmese political and military factions, or fearful of being deported if they make an asylum claim.

told Human Rights Watch. “Some mechanism will have to be found to address their circumstances.”<sup>8</sup>

In addition, at this point the resettlement does not include the 142,000 Burmese living in nine refugee camps along the Thai-Burma border, although U.S. government officials do not rule out that possibility later. “We are focused on the urban caseload initially but that doesn’t mean we won’t be looking at the camps along the border at a later date,” the U.S. official told Human Rights Watch.”<sup>9</sup>

Also not included for consideration for resettlement or even asylum at this time are members of groups such as the Shan, who have largely been barred by the Thai government from lawful residence in the refugee camps, as well as hundreds, if not thousands, of people with valid claims to asylum within the estimated one million Burmese migrants working in Thailand.

### ***Suspension of New Refugee Admissions***

With UNHCR suspending one of its core protection functions in Thailand—Refugee Status Determination (RSD)—there is now no impartial and effective system in place to screen and admit newly arriving asylum seekers from Burma, as well Burmese already in Thailand who did not meet the unpublicized December 31, 2003, deadline to register with UNHCR.

By failing to insist that an admissions system be in place for new asylum seekers from Burma prior to or as part of the resettlement agreement, both the United States and UNHCR could end up enabling Thailand to effectively cap the flow of asylum seekers from Burma.<sup>10</sup> As a UNHCR official told Human Rights Watch: “If UNHCR can’t continue its own RSD and the government doesn’t create an admission mechanism for the camps, there will be no formal admissions procedure for Burmese asylum seekers in Thailand. With no mechanism to distinguish between refugees and ‘illegal migrants’, it would be more possible for Burmese who are in need of international protection to be deported.”<sup>11</sup>

If screening of new Burmese asylum applications starts up again, the Thai government will likely take over this important task. Because Thailand narrowly restricts those to whom it provides protection and assistance to “people fleeing fighting,” the government is likely to start rejecting Burmese exiles and asylum seekers fleeing persecution for their

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<sup>8</sup> Human Rights Watch telephone interview with senior U.S. official, February 2, 2004.

<sup>9</sup> Human Rights Watch telephone interview with senior U.S. official, February 2, 2004.

<sup>10</sup> On June 30, 2003, Thai Foreign Minister Surakiart raised the possibility of limiting the number of refugees, saying that the situation had changed “because there is reconciliation now inside Myanmar.” Earlier in the year General Winai Phattiyakhul, secretary-general of the Thai National Security Council, said, “From now on, Thailand would force refugees to go back to where they came from... Thailand would not welcome refugees from Burma and other neighboring countries anymore.” Thai Government to Hold Talks with UNHCR over Refugee Dispute, Agence France-Presse, June 30, 2003. Forum Asia, “Thai Army Raided Karen Village in Sanghlaburi,” January 3, 2003.

<sup>11</sup> Human Rights Watch email correspondence with UNHCR official in Thailand, February 5, 2004.

pro-democracy activities in Burma. Those who are rejected will be classified as illegal immigrants and face the risk of being deported back to Burma.

Meanwhile, Thai authorities have launched a fresh campaign to round up and deport thousands of Burmese migrant workers back to Burma. Undoubtedly, asylum seekers and refugees—many of whom are forced to support themselves by working as migrant laborers in Thailand—are caught up in these sweeps and face human rights abuses upon return.

By sending people fleeing persecution back to a country where their lives or liberty would be threatened, Thailand is violating one of the fundamental principles of international law, the principle of non-refoulement.

### ***The “Urban” Refugees***

Up until the end of 2003, the Thai government had been pushing forward a plan to forcibly relocate all of the Burmese urban refugees to the border camps. This proposal was designed in part to accommodate concerns by Rangoon about Burmese refugees openly conducting pro-democracy activities in Bangkok and some of the border towns, such as Mae Sot and Mae Hong Son. Confining all refugees from Burma to camps along the border has been presented as a “harmonization” process, in which all Burmese refugees would be sheltered together and treated the same. At the same time the policy removes from public view Burmese refugees in Thailand who are openly campaigning for democracy and reform in Burma.

The resettlement offer by the United States could postpone or even obviate the plan to relocate the 4,000 registered urban refugees to the camps, say U.S. officials, although the Thai government has not offered a specific guarantee on that point. “We hope that the relocation will be held in abeyance while we do [resettlement] interviews,” a U.S. official told Human Rights Watch. “Our strong preference, rather than locating interview teams in the boondocks, would be to process the refugees where they are now.”<sup>12</sup>

As to the fate of the Burmese refugees in the border camps, UNHCR officials have said they support resettlement options to be considered for these groups. “Resettlement is an important protection response to protracted refugee situations—some people have been in the camps for twelve years, where they face a range of serious protection and social problems,” a UNHCR official said.<sup>13</sup>

In addition, UNHCR is updating its contingency plan for UNHCR-monitored “voluntary repatriation” of Burmese refugees. UNHCR officials say they have received “positive signals” from Rangoon that UNHCR may be able to establish a presence on the Burmese side of the border, which would enable monitoring of returnees.<sup>14</sup> Other indications that Burma has “opened up,” UNHCR officials say, is the fact that several

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<sup>12</sup> Human Rights Watch telephone interview with senior U.S. official, February 2, 2004.

<sup>13</sup> Human Rights Watch email correspondence with UNHCR official in Thailand, February 5, 2004.

<sup>14</sup> Human Rights Watch telephone interview with UNHCR official, January 30, 2004.

international organizations are now working in Karen State and a ceasefire has been negotiated between Burma's ruling State Peace and Development Council (SPDC) and the KNU. UNHCR officials stress, however, that it is still too early to launch a voluntary repatriation program because the necessary factors are not in place to ensure that the process fully complies with UNHCR's standards.<sup>15</sup> A UNHCR official told Human Rights Watch in February:

UNHCR currently does not facilitate or promote voluntary return for Burmese refugees from Thailand to Myanmar, given that the conditions in their areas of origin in Myanmar are not regarded as conducive to safe, dignified or sustainable return (for example, despite the "ceasefire" negotiations, the fighting has not even stopped in some areas). A key element in this equation is the fact that UNHCR does not have access to potential return areas on the Myanmar side of the Thai-Myanmar border to gain a first-hand view of the conditions and to establish a monitoring presence. In terms of recent discussions between the SPDC and the KNU, we are interpreting these as positive developments that may eventually lead to the conditions for return eventually being created, but like everyone else, we will have to wait to see the result. In the meantime, we are updating our "contingency" plan for voluntary repatriation in the event that the conditions are created. This is nothing new per se, as we have had a "contingency plan" on our books for some time. We are not yet engaged in any formal discussions with either government on a voluntary repatriation program.<sup>16</sup>

### ***Crackdown on Burmese Migrants***

Many of the estimated one million Burmese migrant workers in Thailand fled their homeland for a mixture of political and economic reasons and could face serious reprisals from the Burmese authorities if expelled from Thailand. Despite this fact, the Thai government regularly deports thousands of Burmese each month.<sup>17</sup>

The Thai government uses two different means of deportation, both of which bring the very real threat of violating the principle of non-refoulement. Under the first method, launched in May 2003, authorities expel as many as 10,000 Burmese people each month

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<sup>15</sup> According to UNHCR's *Handbook for Emergencies*, the necessary conditions for a voluntary repatriation must include safeguards as to the voluntary nature of the return; safeguards as to treatment upon return; and continued asylum for those who do not repatriate and remain refugees. Ensuring the voluntary nature of the return includes guaranteeing that the decision to repatriate is made freely; the refugees are making an informed decision based on an accurate country profile; and the decision is made expressly. UNHCR, *Handbook for Emergencies*, June 2000, and UNHCR, *Handbook, Voluntary Repatriation: International Protection*, 1996.

<sup>16</sup> Human Rights Watch email correspondence with UNHCR official in Bangkok, February 11, 2004.

<sup>17</sup> While deportations of migrants is not a new phenomenon in Thailand, the government launched a fresh campaign against illegal migrant workers after a high-level meeting in December 2002. The campaign was spurred in part by growing populist-nationalist sentiments that illegal migrant workers were taking Thai jobs and causing economic, security, and public health problems. It was decided that the police would work with the military at the border to stop illegal migrants from entering Thailand. The Foreign Ministry would work on deportations and the Labor Ministry would work to train Thai workers to replace illegal migrants caught in the crackdown, to prevent a labor shortage.

in “informal deportations” to Burma through an unofficial border point at Mae Sot, on the grounds that they are illegal migrant workers. While many are able to bribe their way back to Thailand, others have faced persecution or other ill-treatment by Burmese government soldiers or intelligence officials, or by some of the ethnic-based armed groups operating along the border.

Even more worrisome is the second method of deportation: “formal deportations” authorized under an agreement between the Thai government and the SPDC. Since August 2003, Thailand has been deporting 400 “illegal” Burmese nationals a month directly into a holding center in Burma operated by Burmese military intelligence. The names of those to be deported from the Immigration Detention Center (IDC) in Bangkok are shared with Rangoon. UNHCR also has access to the lists so that UNHCR staff posted at the IDC can check whether any recognized refugees or asylum seekers are slated for deportation. Detainees who are refugees or asylum seekers, or those who want to make a fresh asylum claim on the spot, can choose to have their names removed from the deportation list sent to the SPDC. Ironically, the detainee’s only option then is to elect to be “informally deported” through Mae Sot. While UNHCR staff in Mae Sot subsequently try to prevent the informal deportations of asylum seekers and recognized refugees to Burma, this is not always possible.

It is not clear what happens to the 400 people deported each month from the IDC directly into the hands of the SPDC. No official mechanisms are in place for impartial NGOs or any other entity to systematically follow up to ensure that the deportees are not mistreated upon return or that adequate provision has been made for their economic and social reintegration.<sup>18</sup> The SPDC and its predecessors have a long and well-documented history of mistreating returning Burmese, particularly members of ethnic minority groups with whom the government has been engaged in protracted armed conflicts.<sup>19</sup>

In November 2003, the Thai government stepped up the pressure when it announced that undocumented migrant workers had sixty days to register with the government or face arrest and deportation.<sup>20</sup> That same month the Thai National Security Council revealed plans to establish three holding centers for Burmese migrant workers who are not registered with the authorities.<sup>21</sup>

Compounding the problem, strict new labor regulations introduced in Thailand in 2003 may result in the deportation of even more individuals with genuine fears of persecution if returned. A bilateral agreement between Burma and Thailand in June 2003 aims to

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<sup>18</sup> While the International Committee for the Red Cross (ICRC) has visited the holding center in Burma, as of January 2003 they had never been present on “deportation days.”

<sup>19</sup> See “Burmese Refugees Forced Back,” Human Rights Watch press release, June 16, 2000; Human Rights Watch, “Unwanted and Unprotected: Burmese Refugees in Thailand,” *A Human Rights Watch Report*, vol. 10, no. 6, September 1998; Human Rights Watch, “No Safety in Burma, No Sanctuary in Thailand,” *A Human Rights Watch Report*, vol. 9, no. 6, July 1997.

<sup>20</sup> “Illegal foreign workers in Thailand required to register within 60 days,” Xinhua, November 11, 2003.

<sup>21</sup> “Illegal Workers: NSC to build 3 camps in border areas. Each to hold at least 5,000 immigrants,” *Bangkok Post*, November 11, 2003.

establish a labor import system requiring migrant workers in Thailand to have passports, visas, official contracts, and a limited term of stay.<sup>22</sup>

There is concern that the Thai government intends to use this “labor-order”<sup>23</sup> policy arranged with the SPDC, as well as stricter enforcement of labor laws and visa regulations, to flush out and deport non-SPDC approved migrants and exiled political activists who are among the Burmese migrant workforce in Thailand.<sup>24</sup> Those who fled Burma for both economic and political reasons will find it dangerous and difficult—if not impossible—to return to Burma to obtain the legal documentation required to work in Thailand.<sup>25</sup>

As part of this plan, starting in September 2004 the SPDC will begin to replace “illegal” workers from Burma with “legitimate” ones by exporting “legal labor” into Thailand.<sup>26</sup> In this way, the military government in Rangoon stands to profit—politically and financially—by facilitating and controlling the flow of migrants to Thailand.<sup>27</sup> Workers not approved by the SPDC, especially exiled political dissidents, are unlikely to receive authorization from either government to work in Thailand. Under this policy, they will be returned either directly to the SPDC, or simply deported across the border.

### ***Forging Friendship with Rangoon***

Since Prime Minister Thaksin came to office in 2001, Thailand has steadily warmed its relations with the Burmese military government and advanced an increasingly harsh policy towards Burmese refugees, migrants, and asylum seekers.

Thaksin’s stance has been out of step with many other countries that are pressuring the SPDC to hand over power to a democratically-elected civilian government. While other Association of Southeast Asian Nations (ASEAN) members such as Malaysia and Indonesia spoke out against the May 30 attack on Aung San Suu Kyi and emphasized the need for political change in Burma, Thailand has continually moved closer to Burma. Burmese refugees, asylum seekers, and migrants are now paying the price.

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<sup>22</sup> Sanitsuda Ekachai, “Why this abject toadying to Burma?” *Bangkok Post*, July 3, 2003.

<sup>23</sup> Thai Prime Minister Thaksin used the phrase “labor-order” in July 2003 to refer to the campaign to regulate migrant workers, alluding to the government’s “social-order” crackdown against nighttime entertainment. “Labour Controls—Curbs loom for migrant workers,” *The Nation*, July 22, 2003.

<sup>24</sup> Approximately 300,000 of the estimated one million Burmese migrants in Thailand have registered with the Thai government. “Thailand, Myanmar ink deal on curbing illegal workers,” *Kyodo*, June 24, 2003.

<sup>25</sup> National Security Council Secretary-General Prakit Phachonpatchanuek has said that he believes that none of the Burmese migrant workers who have fled to Thailand would want to return to Burma to obtain a passport and other documentation required to work legally in Thailand. Penchan Charoensuthipan, “Analysis/Foreign Labor: Seeking Solutions that work,” *Bangkok Post*, September 17, 2003.

<sup>26</sup> Penchan Charoensuthipan, “Analysis/Foreign Labor: Seeking Solutions that work,” *Bangkok Post*, September 17, 2003.

<sup>27</sup> Amy Kazmin and Panvadee Uraisin, “Burmese workers find life brutal in Thailand,” *Financial Times*, August 4, 2003.

In the past the Thai government took a fairly tolerant approach towards peaceful Burmese activist groups operating in Thailand. It is now adopting a more hardline stance. Thai authorities have begun to monitor, curtail, and shut down the activities of Burmese human rights defenders, opposition groups, and advocacy organizations. At the end of 2002, for example, Thai authorities closed Burmese opposition political offices in Sangklaburi and Mae Hong Son, near the Burma border. The government also introduced new visa regulations that make it much more difficult for Burmese activists to obtain visa extensions to remain in Thailand.

In 2003, Thaksin was clearly displeased when Burmese protestors—including some recognized refugees—demonstrated in front of the Burmese embassy in Bangkok after the May 30 attack on Aung San Suu Kyi.<sup>28</sup> Thai police arrested twenty-six Burmese demonstrators—including two children—after two separate rallies. As of February 2004, all but three of the protestors remained in custody at the Special Detention Center in Bangkok.

After the first arrests at the end of June, Thaksin said: “The Burmese are entitled to stage protests against their government in camps we provide. They can say what they want. But it is not right that they come to Bangkok and protest. We do not like any situation that we cannot control.”<sup>29</sup> It was only a few days later that the Thai government announced plans to move all of the urban Burmese refugees to the border camps.

Organizations that provide services to Burmese refugees have also come under increased scrutiny. In October 2003, several refugee relief organizations in Bangkok temporarily suspended their services and many Burmese asylum seekers and refugees kept off the streets, fearing police raids of NGO offices and sweeps of Burmese urban activists and migrants in advance of the meeting of Asia-Pacific Economic Cooperation (APEC) nations in Bangkok.

Human rights activists, both Burmese and Thai, have repeatedly been warned by police and intelligence officials not to speak out against the SPDC or the Thai government. Many newspapers have retreated from criticizing or even reporting on this subject for fear of official reprisals. These moves threaten the relatively open society that Thailand has gradually built since the end of military rule in 1992.

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<sup>28</sup> On June 26, 2003, police arrested eleven members of the Democratic Friends of Burma and charged them with illegal entry after they took part in a peaceful protest at the Burmese Embassy in Bangkok. On September 18, police arrested fifteen Burmese activists from several pro-democracy organizations, including two children, while attempting to protest in front of the Burmese Embassy. See Human Rights Watch, “Thailand: Burmese Protesters Should be Released,” September 25, 2003.

<sup>29</sup> “Gov’t Wants U.N. to alter label policy, Urges UNHCR to share information on registered exiles,” *The Nation* (Bangkok, Thailand), July 1, 2003.

## ***History of Burmese Refugees in Thailand***

Gross human rights abuses by Burma's military government, now called the State Peace and Development Council (SPDC), as well as decades of internal armed conflict, have caused hundreds of thousands of Burmese to flee to Thailand since the mid-1980s.

Thailand, which is not a party to the 1951 Convention Relating to the Status of Refugees (the "Refugee Convention") or its 1969 Protocol, has responded to this flow of people in different ways at different times. Some officials in the military, which has primary responsibility for dealing with the inflow of refugees, have protected Burmese, for both humanitarian and political reasons. Others have sought to push them back. As with Cambodian, Vietnamese, and Lao refugees, there has also been a long history of violence, abuse, and exploitation against those fleeing armed conflict from neighboring countries.

At its best, Thailand has pursued a humanitarian policy in which refugees fleeing conflict zones in Burma have been provided with temporary asylum in refugee camps along the Thai-Burma border. Others who make their way to Bangkok or Mae Sot have been able to make an asylum claim with UNHCR under its mandate. Those receiving protection in Thailand from Burma thus fall into two broad categories: approximately 142,000 refugees sheltered in ten border camps,<sup>30</sup> and approximately 4,000 urban refugees and asylum seekers in Bangkok and other urban centers. The urban refugee population consists principally of ethnic Karen who do not feel safe at the border, as well as Burmese political exiles, dissidents, and students who fled the Burmese government's violent crackdown on pro-democracy demonstrators in 1988 and subsequent repression.<sup>31</sup>

Though members of both groups are deserving of international protection, Thai policy toward each has differed. The refugee camp population consists primarily of ethnic minority Karen and Karenni who have fled to Thailand as a result of conflict between Burma's military, known as the Tatmadaw, and armed opposition groups. The Thai government has permitted many of these people to stay in camps and receive basic humanitarian assistance delivered by private relief agencies.

Thailand has historically restricted admission to the camps to "persons fleeing fighting." Up until 2001, such a determination was made by governmental Provincial Admission Boards (PABs).<sup>32</sup> However, since 2001, there has been no formal procedure for

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<sup>30</sup> These include approximately 112,000 registered refugees as well as 30,000 "unofficial" refugees residing in the camps. UNHCR and the Thai authorities have discussed the idea of registering all refugees living unofficially in the camps but the government is reportedly hesitant to do so out fear that it might act as a "pull factor" for more refugees to enter the camps illegally. Population figures are from the Population and Geographic Data Section, UNHCR, June 2003, and Burma Border Consortium, "Overview of the Situation of Burmese Refugees in Thailand," November 6, 2003.

<sup>31</sup> Not all urban refugees are political dissidents. Following a series of splits within the Karen National Union (KNU) and the 1994 defection of the Democratic Karen Buddhist Army (DKBA) from the KNU, Karen refugees who feel unsafe in the camps or fear the insecurity caused by armed attacks on the refugee camps and the border region have made their way to Bangkok to seek protection.

<sup>32</sup> The PABs determined who could reside in the camps. These boards had a high rejection rate of asylum seekers because they accepted only those persons who were considered to be "people fleeing fighting." This

admission into the camps, with the result that as many as 30,000 refugees in the camps are not registered.<sup>33</sup> In addition, Burmese fleeing human rights abuses such as forced labor, extrajudicial executions, rape, forced relocation, demolition of villages, destruction of food crops, and conscription of child soldiers—but not deemed to be fleeing fighting by the Thai authorities—are not allowed to enter Thailand and are often pushed back at the border.

Of particular concern is the lack of protection available for ethnic groups from Burma such as the Shan, Akha, Lahu, Wa, Kachin, Mon, and Burman. Many of these ethnic minority people who seek refuge in Thailand must try to survive as migrant workers or enter the camps illegally. Among the most visible victims of these discriminatory policies are the more than 200,000 ethnic Shan refugees in the border region who do not have access to international protection or the camps.<sup>34</sup>

The number of Shan people arriving in Thailand increased dramatically in 1996 as the SPDC's three-year forced relocation campaign affected thirteen townships in Shan State. Despite diligent attempts to crack down on new arrivals by both the Thai and SPDC authorities, the number of Shans fleeing to Thailand increased in April and May 2003 due to landlessness, forced recruitment for the SPDC Army, and new forced relocations of villages.<sup>35</sup>

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ruled out eligibility according to the criteria set out in the Refugee Convention (see footnote 3, above) as well as some persons who may be considered refugees within the meaning of UNHCR's extended mandate, which has not been precisely defined but at least includes persons who are fleeing not only conflict but events that have seriously disturbed the public order. According to UNHCR, in the past when PABs rejected people who UNHCR had recognized, UNHCR was able to successfully win appeals challenging the rejections. Human Rights Watch interview with UNHCR official in Thailand, November 12, 2003.

<sup>33</sup> Burma Border Consortium, "Overview of the Situation of Burmese Refugees in Thailand," November 6, 2003.

<sup>34</sup> Thailand has refused to recognize several ethnic groups from Burma as even "temporarily displaced" persons in part because of their perceived association with the production and trafficking of drugs in Shan state. These include not only the Shan, but Wa and Lahu as well.

<sup>35</sup> "Refugees Not Job Seekers," *Independence Weekly*, Shan-EU, June 15-22, 2003; and "Charting the Exodus from Shan State: Patterns of Shan Refugee Flow into Northern Chiang Mai Province of Thailand (1997-2002)," Shan Human Rights Foundation, 2003.

### III. Expulsion to Burma

Migrants in Thailand lacking proper documentation are routinely rounded up by Thai police. After extracting bribes from them, police release some of the migrants on the spot or after holding them for a couple hours in a police station. Those who are sent to the Immigration Detention Center (IDC) in Bangkok face much more serious difficulties. For Burmese in Thailand, the only way out of the IDC is deportation to Burma (either formal or informal), or detention in the Special Detention Center (SDC), a facility from which it is much more difficult to gain release.

#### ***Informal Deportees Dropped at the Border***

Thai authorities currently expel as many as 10,000 Burmese migrants a month in “informal deportations” to Burma.<sup>36</sup> The Burmese are often dropped off at an unofficial border crossing point on the Thai side of the border in Mae Sot. Many are able to turn right around and return to the place they have been staying in Thailand if they pay stiff bribes to Thai police. Others are loaded on boats and forced to cross the river to a border crossing point controlled by the Democratic Buddhist Karen Army (DKBA), one of the military factions that has signed a ceasefire agreement with the SPDC. It is possible for some of those deported across the river to also bribe their way back to Thailand. Others, however, may be at risk of persecution or other ill-treatment by DKBA soldiers or Burma’s military, the Tatmadaw. UNHCR officials have admitted that recognized Burmese refugees holding valid protection letters from UNHCR have been among those expelled in these “informal deportations.”

In theory, detainees at the IDC who are refugees or asylum seekers can identify themselves to UNHCR staff posted at the detention center. However some detainees are reluctant to identify themselves as refugees. Some fear that given the increasingly close relationship between the Burmese and Thai governments and their intelligence agencies, they may put themselves at risk by publicly asking to make an asylum claim directly in front of Thai authorities at the IDC, with dozens of other detainees from unknown factions and political groups looking on. Some detainees wager that rather than being identified as a political activist and possibly sent to the SDC, which is used exclusively for political cases, it may be safer to quietly go along with informal deportation to Mae Sot. This gets them out of the IDC, but they take a big risk, gambling that at Mae Sot they will not be shipped back to Burma but will be able to bribe their way safely back to Bangkok.<sup>37</sup>

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<sup>36</sup> While distinctions are made between “formal” and “informal deportations,” in fact there is little difference between the two processes. Both types of deportations would be better characterized as expulsions, which are deportations without due process. In addition, both bring the very real threat of refoulement.

<sup>37</sup> The SDC, used exclusively for political cases, is a facility from which release by deportation is not an option for Burmese. Once a Burmese is sent to the SDC, they cannot then “volunteer” for informal deportation and instead face prolonged incarceration. According to UNHCR, during 2003 there were two instances in which Burmese refugees and asylum seekers were sent to the SDC: the arrests in June and in September after the protests at the Burmese Embassy in Bangkok. See footnote 28, above. Human Rights Watch email communication with UNHCR official in Thailand, February 5, 2004.

## ***The Holding Center at Myawaddy***

The SPDC now plays a greater role in the deportation process. A June 2003 Memorandum of Understanding (MoU) between Burma and Thailand provides for 400 Burmese to be deported each month, directly into a SPDC holding center in Myawaddy, Burma. The Myawaddy holding center, established by the SPDC in 2002 to process returned migrant workers, is operated by the Directorate of the Defense Service Intelligence of the Ministry of Defense, specifically by Military Intelligence Unit 25. Other than ICRC, no international organizations regularly monitor conditions at the holding center, which is known to perform involuntary HIV/AIDS testing and political screening.<sup>38</sup> In addition to health examinations, deportees have reported that military intelligence and immigration officials question them about past and current political affiliations and their future plans.

This screening poses a great risk to asylum seekers perceived as having been involved in political activities in Thailand, or in Burma prior to flight. In one case in 2002, three Burmese political activists were arrested by Thai authorities while traveling by boat to Ranong, in southern Thailand. The activists were handed over directly to SPDC authorities, who arrested them and sent them to Kawthaung Prison. On September 17, 2002, the activists were removed from the prison. Their current whereabouts remain unknown.

Even deportees who are not asylum seekers or subject to political persecution face punishment under Burma's strict anti-emigration policies. According to NGOs in Mae Sot, Burmese who have been able to return to Thailand after being deported report that officials at the SPDC holding center photograph all returned migrants and tell them if they pass through the center three times, they will be imprisoned. People also report that when they return to their villages they are forced to sign pledges that they will not try to leave Burma again, and are threatened with prison sentences and heavy fines. Under SPDC Regulation 367/120-(b) (1), illegal emigration carries a sentence of up to seven years' imprisonment.

According to SPDC statistics, 9,554 undocumented Burmese workers were officially deported from Thailand directly to the SPDC holding center in Myawaddy in Burma between February 2002 and April 26, 2003.<sup>39</sup>

## ***Into the Hands of the SPDC***

The 2003 MoU streamlines and structures the deportation process to Myawaddy. Although the Thai government has assured UNHCR that recognized refugees ("Persons of Concern," or POCs) will be withdrawn from the list of people to be deported, Thai immigration officials make no effort to determine if any deportees are refugees or have reasonable fear of persecution in Burma. However Thai officials allow UNHCR staff at the IDC to inspect the lists of names of people to be deported and to identify and call

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<sup>38</sup> "Immigrant Workers: facts and figures," *Bangkok Post*, July 8, 2003.

<sup>39</sup> "Myanmar-Thai Meeting on Illegal Workers Ends in Myanmar," Xinhua, May 15, 2003.

out the names of Burmese who have registered with UNHCR. If those detainees identify themselves to UNHCR, they can avoid formal deportation. Detainees may also make an asylum claim with UNHCR staff at the IDC, whether registered with UNHCR or not. However, the only option then is for the refugee or asylum seeker to be placed into the pool of people to be “voluntarily” and “informally” expelled.

“We are monitoring the process closely,” a UNHCR official told Human Rights Watch. “We interview those slated for official deportation under the MoU in order to identify people who have valid protection reasons not to return. They are then removed from the official deportation process and transferred to the voluntary informal deportation system.”<sup>40</sup>

UNHCR staff in Bangkok attempt to alert UNHCR protection officers in Mae Sot, in cases where a recognized refugee or asylum seeker registered with UNHCR is among a particular group of people to be expelled, either officially or unofficially. If notified, UNHCR staff in Mae Sot then go to the IDC in Mae Sot, or even directly to the unofficial border crossing point on the banks of the river that marks the boundary. Sometimes the alerts from Bangkok come just in time, with UNHCR protection officers getting to recognized refugees as they are about to board the boats to cross the river. UNHCR pulls out about thirty asylum seekers or refugees a month from the informal deportations.<sup>41</sup> UNHCR officials admit that some people undoubtedly slip through the cracks—but not many. “With the informal deportations, we frequently see some of them again,” a UNHCR official said. “Pulling people out of informal deportation can be fairly reliable—as long as we know about them.”<sup>42</sup>

As for the safety net for people who are formally deported, UNHCR says that to date no Burmese who has been registered with UNHCR has been expelled directly to Myawaddy. Since the formal deportations began at the end of August 2003, UNHCR has been able to identify approximately twenty detainees at the IDC who wanted to make an asylum claim. Many of these were already registered with UNHCR or had previously been in refugee camps, while others were not.<sup>43</sup>

UNHCR is not able to conduct private and confidential counseling with the detainees in the IDC.<sup>44</sup> “We go and see people in groups in the IDC,” a UNHCR official told Human Rights Watch. “We call out their names in the large cells and counsel them [there]. If someone wants to speak to us privately, we take them aside in the cells from the rest of

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<sup>40</sup> Human Rights Watch email correspondence with UNHCR official in Thailand, February 5, 2004.

<sup>41</sup> Human Rights Watch email correspondence with UNHCR official in Thailand, February 5, 2004.

<sup>42</sup> Human Rights Watch interview with UNHCR official in Thailand, January 26, 2004.

<sup>43</sup> Human Rights Watch email correspondence with UNHCR official in Thailand, February 5, 2004.

<sup>44</sup> While there are rooms at the IDC where UNHCR staff can conduct private interviews on request, these are usually reserved for non-Burmese cases. In the Burmese deportations, UNHCR says that it does not have the capacity to conduct private interviews within the timeframe of the deportations. Human Rights Watch email communication with a UNHCR official in Thailand, February 5, 2004.

the group.”<sup>45</sup> Those who want to get their names off the list for official deportation are supposed to identify themselves.

Now that UNHCR no longer conducts refugee status determination, it will be much more difficult to ensure protection of Burmese in detention with valid asylum claims, especially new asylum seekers who have not yet registered with UNHCR. In addition, those who are rescued from formal deportation face the threat of being arrested again after being “informally” deported to Mae Sot because the Thai government defines Burmese as illegal immigrants whether they have UNHCR protection documents or not. For many Burmese, it is an endless, costly, and frightening cycle: arrest, detention, deportation, payment of bribes, release, and re-arrest.

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<sup>45</sup> Human Rights Watch interview with UNHCR official in Thailand, January 15, 2004.

***Profile: One of the Unlucky Ones—Former Child Soldier Deported to Burma***

*The DKBA were there on the other side of the border. They were searching for KNU soldiers. ... My whole body was shaking with fear.*

—Former child soldier, describing being deported in August 2003.<sup>a</sup>

“S” is one of many refugees who knows that Burmese who are “informally deported” may face a dangerous and harrowing experience. A former child soldier with the KNU, S was terrified when he was forced to meet his former enemies—soldiers from the Democratic Karen Buddhist Army (DKBA)—upon being dropped off in Burma, on the other side of the river from Mae Sot.

For those who come to Thailand just to find a job, who have no security problems in Burma, it’s no problem. But for me, it was a problem. There are SPDC agents in Mae Sot and DKBA soldiers across the border. There were money and security problems for me—I had to borrow money to get back.

S had left his village in Burma when he was fourteen years old and joined the KNU, along with his younger brother. “We left because the government army mistreated us,” he said. “Forced labor, portering, taxes—plus they asked for food and shot our pigs and cows. They treated the women badly.”

S was schooled by the KNU, but spent the “summer holidays” on the front lines carrying a gun with the other soldiers. When he finished high school he joined the KNU army fulltime. In 1998 his captain sent him back to his village for his own safety after S was named in a personal conflict with members of an allied resistance faction. His family helped S hide near the village for a year, fearing that he would be arrested or killed by the SPDC. After SPDC troops interrogated and tortured people in his village to get information about the whereabouts of S and other KNU soldiers, he fled.

S walked for eight days—mostly at night—to the Thai border, which he crossed at the end of June 1999. He stayed in a Thai-Karen village where he had a relative, but soon had to leave because of the danger of arrest by Thai authorities or reprisals from KNU soldiers. “The KNU leaders were searching for soldiers who had deserted, to catch them and take them back, or punish them,” he said.

A friend helped him get to Bangkok. On July 23, 1999, he applied for an interview with UNHCR. The next morning he went to one of the refugee camps, where he stayed unofficially for almost a year. Finding it difficult to survive as an unregistered refugee in the camp, he returned to Bangkok, where he volunteered with a church. In November 2001, when UNHCR finally recognized S as a refugee, his situation did not get much better:

It is hard—there is no security, no protection. I only have the UNHCR paper. Police can arrest me at any time. Plus I can’t find a job because the Thai employers want only people with work permits. It’s difficult to make it on 2,000 baht (U.S. \$50) a month.<sup>b</sup>

S, who married a Karen refugee in June 2003, was detained several times in Bangkok by Thai police, who shook him down for bribes after demanding to see his papers. On August 5, 2003, both S and his wife were arrested by Thai police when they were returning from UNHCR. They were sent to a police station, and then on to the Immigration Detention Center (IDC) in Bangkok. S identified himself as a refugee to UNHCR staff at the IDC and asked for help.

They said they couldn't help—I should go to Mae Sot [and be “informally” deported]. I said I wouldn't go to Mae Sot. The U.N. staff said it was my decision. I hadn't made any decision when two days later my wife and I were sent to Mae Sot.

Upon arrival in Mae Sot with sixty other deportees, Thai military intelligence officers processed them at an immigration detention center. The group was then driven to the river marking the border, where they were sent across to the Burma side by boat. There, S faced his worst enemy: soldiers from the DKBA, the renegade faction of the KNU, who were searching for KNU soldiers:

When I saw the DKBA soldiers I threw all my documents in the water. My whole body was shaking with fear. The DKBA soldier asked me my name. They asked in Burmese, not Karen. I felt unconscious with fear and couldn't answer. One of the soldiers hit me from behind and said, “Did you hear the question?” I gave them a false name.

My biggest fear was to say I was KNU. The DKBA knows that KNU refugees say bad things about DKBA. It's a big problem. If you can't answer, they ask again. Then they hit you, and ask again. After that, they put you in prison, and ask again. Then they kill you. Killing is the last question for you.

After telling their names to the soldiers, the group of deportees were able to circle back around to the bank of the river. They got into the very same boat that had taken them to the Burmese side, and returned to Thailand—at a cost of 500 baht (U.S.\$12.50) per person.

As soon as S and his wife arrived back in Mae Sot, they were arrested—again. “The police said they were going to send us back across the very same day,” he said. “If we paid 2,000 baht (U.S.\$50) each, they said they would release us.”

S paid the bribe, and made his way to a friend's house in Mae Sot, where he and his wife hid for a month. Then they arranged for an agent to take the couple by foot to Tak, avoiding police checkpoints along the way, and then continued by bus to Bangkok. That set the couple back another 10,000 baht (U.S.\$250), a sum they are still struggling to repay.

<sup>a</sup> Human Rights Watch interview with former KNU child soldier, Bangkok, November 12, 2003. He was recognized as a refugee by UNHCR in 2001.

<sup>b</sup> Recognized Burmese urban refugees (POCs) generally receive monthly stipends of 2,000 baht (U.S.\$50) per person.

## ***Increasing Pressure on Migrants***

In August 2003 the Thai cabinet passed a resolution prohibiting the renewal of permits for some 12,000 registered migrant workers—mostly Burmese—who fall into certain categories, such as those working in gas stations, hotels, restaurants, car repair shops, laundries, and beauty parlors. Along with the nationwide campaign to crack down on illegal migrants, many of those workers were arrested and deported after their work permits expired on September 25, 2003.<sup>46</sup> NGO workers in Mae Sot say that some industries, such as restaurants and hotels, appear to have been largely unaffected by the cabinet resolution, often because the business owners are well connected and can pay off the local authorities. In other cases, Burmese migrants have been clearly targeted for deportation, for example, Burmese known to be involved in activist organizations or those working at garment factories with labor disputes.

On December 17, 2003, for example, Thai security forces arrested and deported 269 Burmese garment workers who had gone on strike against Nasawas Apparel Company in Mae Sot. They were protesting the dismissal of twenty-five workers for demanding raises in pay.<sup>47</sup> On September 29, 2003, local labor and immigration officials in Mae Sot informed Dr. Cynthia Maung that Burmese staff at Mae Tao Clinic would not be able to renew their work permits, putting into limbo the legal status of the clinic, which is the main provider of healthcare services to asylum seekers and migrants on the Thai-Burma border.<sup>48</sup>

Refugee relief workers on the border report that Burmese asylum seekers in Mae Sot have become much more desperate to obtain any sort of documentation from UNHCR since the August cabinet decree. The level of desperation sharply increased after UNHCR suspended RSD in January 2004.

In November 2003 the Thai National Security Council announced plans to establish three holding centers—two in the northern provinces of Tak and Chiang Rai and one in the southern province of Ranong—for illegal Burmese migrant workers who are not registered with the authorities. Undocumented migrant workers were given sixty days to register with the government or face arrest and deportation.<sup>49</sup>

Legal aid lawyers in Thailand fear that the holding centers will serve to fast track the deportation of even more migrants directly into the hands of the SPDC, without access to lawyers, a court process, or independent screening for asylum claims. Large numbers

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<sup>46</sup> Penchan Charoensuthipan, "Analysis/Foreign Labor: Seeking Solutions that work," *Bangkok Post*, September 17, 2003.

<sup>47</sup> Supamart Kasem, "Striking Burmese deported," *Bangkok Post*, December 2003. "Thai Authorities Deport 200 Myanmarers After Strike," Associated Press, December 18, 2003.

<sup>48</sup> See "Thailand: Do Not Close Burmese Refugee Clinic," Human Rights Watch press release, October 3, 2003.

<sup>49</sup> "Illegal foreign workers in Thailand required to register within 60 days," Xinhua, November 11, 2003.

of undocumented migrants can be “dumped” into the holding centers while awaiting official deportation, lawyers say.

“The problem is Thailand can’t afford to keep them in police stations—there’s no room,” said one Thai lawyer.<sup>50</sup> “Right now with the official deportations of 400 a month, the processing takes time. If they want to deport more people, they’ll need these types of centers.”<sup>51</sup>

Official figures released by the Immigration Department in January 2004 put the number of Burmese nationals arrested as illegal migrants in Thailand during 2003 at 115,633 people, out of a the total of 189,486 migrant workers of all nationalities arrested during the year.

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<sup>50</sup> Human Rights Watch interview with Thai refugee lawyer, Bangkok, Thailand, November 12, 2003.

<sup>51</sup> Formerly, Thai authorities were required to send an advance list to the Burmese government of names of illegal workers being deported to the SPDC, which approved the names before taking the workers back. In one case, Thai officials had to wait for more than six months for the SPDC to verify the citizenship of sixty workers before they could be sent back. Two workers died in Thai detention centers while they were waiting, and in the end the Burmese authorities agreed to accept back only twenty. In May 2003, the Thai Foreign Minister reported that Burma had agreed that Thai authorities would no longer have to give the migrants’ names to the SPDC in advance. “Talks This Month on Labor Repatriation,” *Bangkok Post*, May 4, 2003; Sanitsuda Ekachai, “Why this abject toadying to Burma?” *Bangkok Post*, July 3, 2003.

#### IV. Protection Issues for Urban Refugees

In July 2003 the Thai government announced plans to move the Burmese refugees recognized by UNHCR currently living in Bangkok and other urban areas to refugee camps at the border. The government's tightening of restrictions on urban refugees was portrayed as a "harmonization policy," in which all asylum seekers in Thailand would be sheltered together and treated the same. While it is now less certain that the current caseload of urban refugees will be relocated to border camps pending resettlement processing, both UNHCR and the Thai government have made it clear that any new asylum seekers from Burma will not be allowed to live outside of the refugee camps.<sup>52</sup>

In addition, Thai officials have clearly indicated that the proposal to confine all Burmese to refugee camps aims not only to remove refugees from the cities, but also to curtail some refugees' political activities and their criticism of the Burmese government. Foreign Ministry spokesman Sihasak Phuangkitkeow said in July 2003: "They are not supposed to be able to engage in political activities that would affect relations with other countries. They are here as guests."<sup>53</sup>

Explaining the decision to contain or deport Burmese migrants and urban refugees, Prime Minister Thaksin said: "They must stay in their places. They must be controlled. ... They live here and give birth to a lot of children. They shot our students. They bring diseases long gone from our country back to us, including tuberculosis and elephantiasis. They sell drugs and rob and kill our people."<sup>54</sup>

#### ***Impacts of the Move to the Camps***

Refugee relief organizations, human rights groups, as well as many Burmese refugees themselves have expressed strong concerns about the proposed move of the urban refugees to the border camps. Forced relocation of the urban refugees to the camps could raise protection and security issues for both the existing camp population as well as newly transferred refugees because of inter-ethnic tensions and longstanding conflicts between various opposition and pro-government ethnic groups and factions, who are affiliated with different political and military groups in Burma.

Burmese urban refugees interviewed by Human Rights Watch expressed anxiety about rumors of the pending relocation to the camps but lacked clear information about what is planned. Their primary concern was personal security from violent attacks from other factions on the border or from cross-border raids and abductions. The refugees also

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<sup>52</sup> "New UNHCR registration process for applications from Myanmar asylum-seekers as of 1 February 2004," UNHCR Regional Office for Thailand, Cambodia, Laos and Vietnam, January 31, 2004.

<sup>53</sup> Amy Kazmin, "Exiles from Burma face clampdown in Thailand," *Financial Times*, July 3, 2003.

<sup>54</sup> Yuwadee Tunyasiri, "PM takes a whack at UNHCR," *Bangkok Post*, June 28, 2003. "Thaksin Lashes Out at UNHCR," *The Nation* (Bangkok, Thailand), June 28, 2003. Traditionally negative attitudes towards Burmese in Thailand were exacerbated by the siege of the Burmese Embassy in Bangkok in October 1999 and that of the Ratchaburi Provincial hospital in January 2000. The embassy and hospital sieges were the work of small, radical organizations, but the Thai government has used the incidents to justify wider crackdowns that affect the entire population of urban Burmese.

were worried about their futures, should they be moved to the camps. Would they have access to resettlement opportunities abroad? Would reunification with family members in Burma or elsewhere in Thailand be possible once in the camp? Would there be pressure on them to repatriate to Burma?

The refugees also expressed concerns about being cut off from contact with the outside world in closed camps that are under the control of different political and military organizations. “The camps are not directly protected by UNHCR,” said a Burmese refugee in Bangkok. “If we have no communication, and if the Thai military treat us very brutally, for example raping someone, how can we communicate with the outside world and get help? If the camp is near areas controlled by the military factions, it can be very dangerous. For most of the refugees—if we live near armed groups—we don’t have guns, what can we do?”<sup>55</sup>

Many of the refugees worried that the move would trap them in a detention-like environment, disqualify them for resettlement abroad, or end educational opportunities and medical care available to them in Bangkok. Some fear that it will be difficult to exercise their fundamental rights to freedom of expression and association in the camps, where it will be hard to publicly continue their campaign for democracy and reform in Burma. In addition, refugees in the camps have severely restricted access to information and the international press corps. The Thaksin administration has restricted access for foreign journalists to the refugee camps, concerned that “negative” media reports damage relations with Rangoon.<sup>56</sup> The situation in Tham Hin refugee camp is a case in point, a Thai refugee lawyer said:

One person got in trouble because he had a mobile phone. It’s difficult to send out letters. They keep a close eye on all activity. Right now if you visit Tham Hin camp you need special permission to go to Section 4 [where many of the activists are]. Media aren’t allowed in.<sup>57</sup>

At the same time, living as a “displaced person” in Thailand, which does not officially recognize refugees, is an extremely perilous situation, whether in Bangkok or the refugee camps. UNHCR has stated that it believes that “protection against refoulement provided in the camps is more substantial than the precarious protection situation in urban areas, where ... all Burmese are considered to be illegal migrants under Thai immigration law and therefore face the threat of arrest and deportation, irrespective of whether or not they have been recognized as refugees/ POCs by UNHCR.”<sup>58</sup>

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<sup>55</sup> Human Rights Watch interview with Burman former student activist, 49, Bangkok, November 12, 2003.

<sup>56</sup> In July 2002, the National Security Council declared: “From now on, foreign journalists will be banned from visiting camps or controlled areas as they are likely to report only on negative aspects of official work or inaccurate and unconfirmed reports. “Thailand Bans Foreign Journalists from Myanmar Refugee Camps,” Agence France-Presse, July 15, 2003.

<sup>57</sup> Human Rights Watch interview with a Thai refugee lawyer, Bangkok, November 12, 2003.

<sup>58</sup> Letter to Human Rights Watch from Jean-Marie Fakhouri, Director, Bureau for Asia and the Pacific, UNHCR, Geneva, January 15, 2004.

***Profile: Burman Former Political Prisoner***

*Even if you have a UNHCR card you can be deported. They would put me back in jail. We always live in fear.*

—Burman woman who fled to Thailand after years of imprisonment in Burma for her political activities<sup>a</sup>

“K”, a Burman woman in her late forties, was a student activist with the pro-democracy movement in Rangoon in 1988. She helped organize a rally at Shwedagon Pagoda, where she gave a speech criticizing the military government.

Afterwards, members of her group, the All-Burma Students Democratic Front (ABSDF), sent her to Ranong, Thailand. When she returned to Burma, her colleagues worried that if she were arrested and tortured, she would be forced to reveal information about the movement. They sent her to the Kachin area in the north, where she joined a battalion and attended military training.

In 1989 there was a split within the ABSDF. Concerned for her safety, a member of the Kachin Independent Army helped her reach a remote outpost on the Burma-China border.

“I was pregnant and all alone there,” she said. “There was no one to help me.” She returned to Rangoon by train, where she was arrested at the train station and sent to MI-7 detention center in Rangoon. Military intelligence officers interrogated her every day for twelve days, from 4 am to 11 pm, slapping and hitting her at times. She was five months pregnant. She was then transferred to the notorious Insein Prison because of her connection to the rebels:

In the big prison I spent three months in a dark cell that was six by eight feet. The only food was rice with salt, sometimes fermented fish. When I gave birth to my baby, there was no doctor, just an inexperienced medic. She made me push too hard and I’ve had problems with my uterus until today. After six months, a relative took the child.

After three months in the dark cell, K was sentenced to five years in prison. “The court was in the prison—a military court. All they did was read out the order [sentence], and that was it.”

When she was released from prison in 1993, she rejoined the National League for Democracy (NLD). She worked as a campaigner and organizer for them for five years, until she was arrested again. This time she was detained in a barracks for six months.

<sup>a</sup> Human Rights Watch interview with Burman woman, 48, Bangkok, November 8, 2003. She was recognized as a Person of Concern by UNHCR in 2001.

After her release in 1998, she continued to recruit for the NLD. When she learned that the government was getting ready to arrest some high-level members of the NLD, she went into hiding again, and then fled to the NLD liberated area on the Thai-Burma border, where she was in charge of information for two years.

Eventually because of conflicts within the NLD—and her intense fears of being arrested again—she crossed the border to Thailand, where she was recognized as a refugee by UNHCR in Mae Sot in 2001. She had hoped she would be eligible for resettlement because of the imprisonment and persecution in Burma she suffered for her involvement in the student opposition movement, but that didn't happen.

After a member of her group “disappeared” from Mae Sot, K became fearful for her own security on the border. “We think our colleague was killed. I was afraid and went to Bangkok, where I got a room with friends.”

Like others, she doesn't feel that she and her family are safe in Bangkok. She fears not only the Thai police, but Thai Intelligence officers as well, who have established informants within the Burmese exile community in Bangkok. During the APEC meetings in October, two police officers were posted in front of her building, even though only two refugee families live there.

We lock ourselves in our room. We talk very quietly—our neighbors are Thai. We don't want them to know we are Burmese—they would tell the police....Even if you have a UNHCR card you can be deported. They would put me back in jail. We always live in fear.

At the same time she is quick to dismiss the possibility of living in the refugee camp. For those who want to be politically active, camp life will have a deadening effect, she said.

“When you're put in the camp you can't form any organization or say anything because you're under the Thai authority.” That's increasingly becoming the case in Bangkok as well. “Thai policy restricts the movement and speech of refugees,” she said. “As long as we stay in Thailand no one can organize or speak—it's the same whether you're in Bangkok or the camps.”

As for the possibility that she and her family might have to go to the refugee camp, she states bluntly: “I feel miserable about the news. What about security? I've heard about the Thai security personnel in the camps—people being beaten for carrying hand phones.”

Also, the different ethnic and religious groups don't get along well, she said. In addition, she worries about basic livelihood issues for her family—they'll have to drink water from streams, medical care will be poor, and her grown son—who had started a law degree before fleeing Rangoon to join her in Bangkok—will have no access to education, no future. Finally, she's anxious about two other sons, who have not yet been recognized by UNHCR: “Can they enter the camp with me and be eligible for resettlement if I am?”

## ***Suspension of Refugee Status Determination***

The proposed move of urban refugees to camps is taking place in the context of Thailand's departure from its longstanding humanitarian stance towards Burmese refugees. Over the years there has been a push and pull between the government, UNHCR, and human rights organizations over Thai policy towards Burmese refugees, in particular over who is a refugee, where persons in need of protection should be sheltered, and who provides services. The Thai government and its factionalized security services have periodically launched efforts to confine the increasingly vocal and visible Burmese refugee population in Bangkok to designated camps and "safe areas," often engaging in high publicity "push-backs" and then quietly allowing Burmese refugees and migrants to return.<sup>59</sup>

The Thai government did not allow UNHCR to have an official role in registering Burmese exiles living outside of the refugee camps until 1989, when the forced return of hundreds of Burmese students caused an international outcry. But it wasn't until 1998 that the government authorized UNHCR to establish three permanent field offices along the border at Mae Sot, Mae Hong Son, and Kanchanaburi to provide international protection to the refugees. UNHCR has no role in determining admission to the camps or administering or providing humanitarian assistance.

UNHCR initially responded to the charges by the government by saying that it was mandated to screen asylum seekers and grant refugee status because Thailand was not a signatory to the 1951 Convention. In the absence of national legislation or a state procedure in Thailand, UNHCR asserted that it had been empowered by the international community for decades to carry out Refugee Status Determinations in Thailand.<sup>60</sup> But under pressure from the Thai government, which at least implicitly threatened to cease all cooperation with UNHCR, UNHCR changed its position, pledging its full cooperation with the new policy to move the urban refugees to the camps, except for exceptional cases of individuals with special protection needs.<sup>61</sup>

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<sup>59</sup> In 1992, for example, the government ordered all Burmese students and dissidents to relocate to a "safe area" outside of Bangkok or face deportation. See Human Rights Watch, "Unwanted and Unprotected: Burmese Refugees in Thailand," *A Human Rights Watch Report*, vol. 10, no. 6, September 1998.

<sup>60</sup> "Thai PM lashes U.N. refugee agency," *Agence France-Presse*.

<sup>61</sup> Achara Ashayagachat, "U.N. agency pledges full cooperation: Assadi commits to relocation policy," *Bangkok Post*, July 3, 2003.

### ***Profile: Karen Former Combatant***

*Most of the camps are controlled by different factions of the KNU. Since I had a conflict with a KNU faction, if I enter the camp I will be killed.*

—Former KNU soldier living as a refugee in Bangkok with his wife and five children <sup>a</sup>

“M”—a heavyset man with a prosthetic leg—was a former combatant with the KNU. He fears running into former enemies from both the KNU and its splinter group, the DKBA, if forced to return to a camp in the border region. One person he fears is a former commander, who beat M severely when he resisted orders for teachers to become ammunition porters. The commander is still a high profile figure. “He’s still on the border, crossing back and forth into the camps,” said M.

In 2001 M—who lost his leg to a landmine in 1997 and suffers from diabetes and high blood pressure—was sent directly from the jungle in Burma to Bangkok by friends, after surviving a foiled assassination attempt. “A high official of the KNU was killed by a landmine planted by a DKBA guy, who had actually planned to kill me,” he said.

While he is concerned about his safety in the camps, like most urban refugees he is also very anxious living in Bangkok, where he worries about being picked up by police on the street and immediately deported.

I live in constant fear in Bangkok. We always worry about arrest and lock ourselves in the room. When the children go out I don’t let them talk to other people. Once two police came to our room and checked our documents—they left after they saw our documents. Our neighbors, local Thais, often threaten to turn us in.

M is adamant, however, that his life would be put in danger if sent to the camps. “I’m handicapped—I can’t go to the border. I’ll run into conflict with the DKBA faction’s troops.” In addition, he says that KNU soldiers are scornful of former combatants who have applied for asylum as “political refugees.” He is part of an association in Bangkok of Karen refugees working to convince other groups that Karen who have become refugees have not abandoned the political struggle, and also to advocate for third-country resettlement. “KNU members think if you become a refugee you are a ‘deserter refugee,’” he said. “I want to convince people we are political refugees.”

Asked about his thoughts about going to the camps, he said:

We couldn’t stay in Burma or along the border so we came to Bangkok. If we are sent to the camp, we have many questions. What kind of security will they provide; what provisions will be made for my family. My children were born in the jungle. Is there any plan for our future, especially education, and for our security? We are unwilling to go unless we know exactly where we’re going, and how security is going to be provided.

Aside from general concerns about his family’s safety and livelihood, M feels he will be personally targeted again for assassination if he returns to the border.

Most of the camps are controlled by different factions of the KNU. Since I had a conflict with a KNU faction, if I enter the camp I will be killed. I had personal and ideological conflicts with the KNU.... I have a different opinion about what a “refugee” is than the KNU group. So I’ll have a problem with KNU if go to the camp. When the Karen revolution started the main leaders were from the Delta region [south of Rangoon]. When we got to the border, there was a split: those who wanted to struggle to the end and never surrender, and the present KNU, which wants negotiations with the SPDC government. The two groups can’t live together—we will be in danger.

<sup>a</sup> Human Rights Watch interview with disabled Karen man, 44, Bangkok, November 8, 2003. A former KNU combatant, he and his family have lived in Bangkok since 2001, where they have been recognized as refugees by UNHCR.

In July 2003, UNHCR entered into negotiations with Thai government to facilitate the relocation of the urban refugees and the handover of refugee admissions procedures to the Thai government once the move was completed. UNHCR agreed to financially support the government in moving the refugees to the border and provided the government with the names, addresses, and copies of the protection certificates of the urban refugees.<sup>62</sup> As of July 2003, this consisted of approximately 1,500 recognized refugees and 1,600 asylum seekers with protection letters from UNHCR. By December, UNHCR had registered roughly 2,000 refugees and 2,000 asylum seekers.

As the numbers continued to rise, at the end of 2003 the Thai government insisted that UNHCR stop accepting new claims for asylum by Burmese. On January 6, 2004, UNHCR announced that it had suspended its RSD activities for new asylum seekers from Burma, effective January 1. While the Thai government authorized UNHCR in February 2004 to begin to “register” new applicants for asylum, there continues to be no impartial and proper screening and admission mechanisms in place to determine the claims of new asylum seekers.

With the closure of the Provincial Admissions Boards, there is also no procedure for admission into the camps. As a result, there is currently no way in which a Burmese asylum seeker can have his or her claim determined in Thailand and receive international protection.

Moreover, in light of the new migration policies and increased deportations, there is a real risk that Burmese asylum seekers, as well as recognized refugees, will be forcibly returned to Burma and face arrest, interrogation, imprisonment, and other forms of persecution for their political activities or former affiliation with opposition factions.

### ***Security Issues for Refugees in Bangkok***

There are compelling reasons for refugees and asylum seekers to choose to live in Bangkok or other urban centers. Some gravitate towards Bangkok because there are more jobs in the city. Others come for access to education, medical care, and the anonymity that a city can provide to those with protection concerns. Still others, including some ethnic minority people, are drawn to Bangkok because of security threats from across the border or human rights abuses in the camps from within their own communities or Thai security officials.

Yet life is usually difficult for Burmese refugees in Bangkok and other urban areas. Most find it difficult to make ends meet on monthly stipends of 2,000 baht (\$50) per adult. A disabled former Karen National Union (KNU) combatant living in Bangkok with his wife and five young children said:

I can't think about the future because in the present we have many problems—the security of my family; plus I have health problems—diabetes. We receive 5,000 baht (U.S.\$125) a month for all seven of us.

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<sup>62</sup> “Burma Refugees—UNHCR says it discloses all exiles,” *The Nation* (Bangkok, Thailand), July 2, 2003.

3,000 goes to rent. My family feels depression. They never say they are happy. I can't see anything for the future.<sup>63</sup>

Many urban refugees say they fear not only the police, but even their Thai neighbors, as expressed by a former student activist from Rangoon:

My Thai neighbors look down on us and we worry they will turn us in. I don't know who is the police. I feel depression. I don't dare to speak [Burmese]. I don't want to talk with my friends. I don't dare to look people in the eye on the bus. I'm afraid all the time.<sup>64</sup>

In November 2003, Human Rights Watch interviewed a cross section of urban refugees in Bangkok. Particularly after the Thai government's crackdown in 2003, none felt safe in Bangkok, and in fact Thai police arrested five recognized refugees the very day of some of the interviews. An elderly Karen refugee living in Bangkok with his wife and children told Human Rights Watch:

Today the police arrested people. I called my wife when I heard about the arrests and told her to put all the shoes inside the house, lock the door, don't go out. It is not safe for me to stay in Bangkok. We have to be careful all the time. We are very afraid of the police.<sup>65</sup>

A Burman refugee described the difficulties in Bangkok:

I was recognized as a refugee by UNHCR, but I'm still an illegal immigrant under Thai law. I carry a UNHCR protection document but the police don't honor it. When I'm arrested I have to pay 1,000 baht—half my monthly stipend—to get out of jail. As an illegal immigrant, even after I got U.N. refugee status, I cannot work freely. My refugee status does not guarantee my safety. The government has no clear policy for us.<sup>66</sup>

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<sup>63</sup> Human Rights Watch interview with Karen man, 44, who was recognized as a refugee by UNHCR in 2001, Bangkok, November 8, 2003.

<sup>64</sup> Human Rights Watch interview with Burman former student activist, 49, recognized as a refugee by UNHCR in 2001, Bangkok, November 12, 2003.

<sup>65</sup> Human Rights Watch interview with Karen church elder, 73, who was recognized by UNHCR in 2001, Bangkok, November 12, 2003.

<sup>66</sup> Human Rights Watch interview with Burman former student activist, 49, Bangkok November 12, 2003.

***Profile: Po Karen Widow Who Had to Flee Burma without Her Four Children***

*I'm a widow—I have no family or relatives here. I'm alone—what about my security as a single woman in the camp?*

—Po-Karen woman whose husband died after being tortured in detention in Burma <sup>a</sup>

“L’s” problems began in October 2001 when SPDC troops accused her of supporting the KNU and arrested her. She and her husband ran the village store, which was frequented by KNU members. Also, her cousin was a member of the KNU.

SPDC troops came into my village and accused me of supporting the KNU because we sold to the KNU. I was taken to the military base and detained one night. My husband had gone to Moulmein to buy things for the shop. The next day when my husband found out I'd been arrested, he negotiated with the commander and paid money for my release.

After she was released, the authorities made her sign a promissory note swearing loyalty to the SPDC. She feared she would soon lose her job as assistant teacher in the village school. Several days later the family was warned that SPDC troops had been asking around about her by name. “My husband urged me to flee, so I ran to another village quite far away,” she said. She left him and her four children behind.

When the soldiers came to my village and didn't find me they took my husband to the station and tortured him to get him to get me to come back. When I heard that, I wanted to go back, but my relatives advised me not to.

Her husband died shortly afterwards as a result of injuries sustained during his detention. In 2002 relatives arranged for an agent to take L to Mae Sot, where she stayed for a while before continuing on to Bangkok.

I didn't know much about the camp. In Mae Sot friends from church advised me to go to Bangkok and helped arrange an agent for me. They said for security reasons I should go to Bangkok and apply for refugee status.

As a woman living on her own in Bangkok, L said she feels unsafe all the time and seldom leaves her room. She fears the Thai police as well as plainclothes SPDC agents.

Her biggest concern is whether her four children, who she had to leave behind in Burma, will be able to join her in Thailand—especially if she becomes eligible for resettlement.

<sup>a</sup> The Karen minority group includes the Sgaw Karen and the Po Karen subgroups. Human Rights Watch interview with a Po-Karen woman, 36, Bangkok, November 8, 2003. She was recognized as a refugee by UNHCR in 2002.

## V. Attempts to Silence Activist Refugees

The political space for activists from Burma to organize or express themselves in Thailand has tightened considerably over the last year and a half. Incremental restrictions on movement under new visa policies and strict enforcement of existing policies, along with decreased tolerance towards pro-democracy activists, has curtailed Burmese advocacy work in Thailand.<sup>67</sup> Burmese human rights defenders are increasingly worried not only about their personal security, but also about the longevity and security of their organizations and projects.

During a visit to Thailand in May 2003, Hina Jilani, the U.N. Special Representative on Human Rights Defenders, said that human rights defenders face a “climate of fear” in Thailand. “This climate of fear is created by statements publicly made at the highest level of government attacking the credibility of NGOs . . . [and] the use of state security apparatus to intimidate—and the judicial process to harass—human rights defenders, through false or unjust prosecution,” she said. “Many of the Burmese human rights defenders feel very insecure with regard to their freedom of movement inside Thailand.”<sup>68</sup>

Refugees are entitled to fundamental human rights set forth in international law. As a party to the International Covenant on Civil and Political Rights, Thailand has an obligation to respect the right to freedom of movement, expression, and assembly of all refugees, whether they are living in camps or urban centers.<sup>69</sup>

Despite Jilani’s intervention, many Burmese pro-democracy organizations and opposition groups have been forced out from towns along the Thai-Burma border, usually under threat of arrest. In early 2003, Thai police and military closed down the offices of ten Burmese activist organizations in Kanchanaburi.<sup>70</sup> At the end of July 2003, the provincial governor of Mae Sariang district of Mae Hong Son issued an order to arrest all anti-SPDC activists there. Burmese pro-democracy organizations in places such as Sangkhlaburi, Mae Sariang, and Mae Hong Song had already been closed down earlier, at the end of 2002.<sup>71</sup> The closure of advocacy organizations in the border towns has made it increasingly difficult for activists to collect information about events occurring inside Burma.

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<sup>67</sup> “Thai Government Struggles with Myanmar Policy after Suu Kyi Detention,” Agence France-Presse, July 9, 2003.

<sup>68</sup> Amy Kazmin, “Rebuke for Bangkok over Human Rights,” *Financial Times*, May 27, 2003.

<sup>69</sup> Refugees are not exempt from protections afforded by international human rights law, as provided for by the Universal Declaration of Human Rights and articles 12, 19, and 21 of the International Covenant on Civil and Political Rights, to which Thailand is a state party.

<sup>70</sup> Achara Ashayagachat, “NGOs urge humane handling of exiles,” *Bangkok Post*, January 24, 2003. “Seven Myanmar nationals arrested in Thai crackdown on illegal immigrants,” Agence France-Presse, January 20, 2003. “Police monitoring Burmese dissident groups active in Thailand,” *The Nation* (Bangkok, Thailand), July 4, 2003. Naw Seng, “For Burmese exiles in Thailand, home is both near and far,” Inter Press Service, July 29, 2003.

<sup>71</sup> “Police monitoring Burmese dissident groups active in Thailand,” *The Nation* (Bangkok, Thailand), July 4, 2003.

While the focus on crackdowns and harassment has been on dissident groups, humanitarian organizations have not been immune either. “Special Branch” (*Santiban*) police officers have raided the offices of refugee relief organizations in Bangkok on numerous occasions over the years, questioning employees and removing or photocopying confidential files about personnel as well as clients. In September 2003 immigration officials visited the Mae Tao Clinic in Mae Sot, the main medical clinic for Burmese migrants and refugees on the border, to question the legal standing of Burmese staff working there.

In Bangkok, the security climate for Burmese activists as well as Burmese residents in general worsened during the second half of 2003, after the arrests of refugee protesters at the Burmese Embassy in June and September. In July 2003 several refugee agencies temporarily closed their Bangkok offices so that refugees seeking services would not be at risk of arrest at their offices. Some only closed for a couple of days but one agency closed for two weeks and suspended home visits to refugees. In August two Special Branch police officers visited the offices of another major provider of services to Burmese refugees to inform staff that when refugees “violate Thai laws” they can be deported, even if they have protection letters from UNHCR.

Tensions increased as the government undertook massive security measures for the APEC meeting in Bangkok in October 2003. At the end of August, Thai security officials announced that thousands of refugees and political exiles would be rounded up and confined in different detention centers during the APEC meeting.<sup>72</sup> In September, police officers visited at least one refugee service agency in Bangkok to query staff about whether they planned to participate in any protest events or activities during APEC. In October, fearing police sweeps of Burmese activists and migrants and raids of NGO offices, many Burmese in Bangkok kept off the streets and some NGOs again suspended services for refugees.

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<sup>72</sup> “Thailand to Confine Refugees to Camps during APEC,” Agence France-Presse, August 27, 2003.

## VI. New Visa Rules: Screening Out the “Troublemakers”

In July 2002, the Thai National Security Council adopted a new strategy to use immigration laws as the “principal measure” to hinder and control the activities of organizations doing advocacy for Burma.<sup>73</sup> The initial implementation of this new strategy was slow but incremental. However it is now nearly impossible for Burmese human rights defenders, including those who are fortunate enough to possess Burmese passports, to obtain a Thai visa without making a risky trip back to Burma.

Under a new regulation that came into effect on December 29, 2002, Burmese passport holders are now required to possess a visa to enter Thailand. Previously, Burmese nationals, like other ASEAN citizens, were allowed to obtain visas for up to four weeks upon arrival in Thailand. Longer-term visas were generally easily obtained at Thai embassies in the region. Under the new system, various nationalities, including Burmese, must obtain a visa before traveling to Thailand. The problem is that most Burmese passport holders who apply for Thai visas at embassies in ASEAN capitals are now routinely rejected and instructed to return to Burma and apply for a visa there. Thai embassies in Cambodia and Laos have reportedly been instructed not to issue any visas to Burmese passport holders.<sup>74</sup> It appears that such instructions have also been given to Thai embassies in other ASEAN countries, and elsewhere.

The new visa and immigration regulations have had a profound effect. Obtaining a Thai visa has become extremely difficult for Burmese, especially for activists and human rights defenders. There have been several cases of Thai-based activists being stranded overseas when their visa applications were rejected. Some have applied for asylum in the places where they have been stranded while others have sought alternative means of reaching Thailand. Many were human rights defenders who left Thailand to attend courses, conferences, and trainings and to do speaking tours and other meetings. As a result, many Burmese activists are now very reluctant to leave Thailand for whatever reason.

In June 2003, the commander of Thailand’s Immigration Police announced that anyone arrested for immigration violations in Mae Sot would have their fingerprints taken, with the prints catalogued on a computer. “Apprehended workers whose prints have previously been recorded will face harsher penalties,” he said. Employers would also be reprimanded, he said.<sup>75</sup> This message was reaffirmed and the fingerprint scanning was demonstrated in Bangkok at the year’s end announcement of arrest statistics by the Immigration Department on January 3, 2004.

Increasing numbers of Burmese are being arrested on immigration charges following peaceful actions such as labor strikes, protests, hunger fasts, overseas speaking tours, and

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<sup>73</sup> “Border Update: Fears of Crack Down on Pro-Democracy and Human Rights Groups Still Prevail,” *Forum-Asia*, September 10, 2002.

<sup>74</sup> “New Visa Regulations for Burmese,” *Irrawaddy*, January 16, 2003.

<sup>75</sup> “Burmese Migrants and Their Employers Warned,” *Irrawaddy*, May 29, 2003.

other political activities. The fear of being arrested or fined for immigration violations has caused many Burmese activists to restrict their movements and decrease their public activities.

The strict new visa policies may push Burmese refugees and exiles to seek help from criminal groups to provide them with fake passports, visa stamps, a Thai I.D., or work permits. Changing the visa requirement for Burmese nationals and allowing for the lawful presence of some refugees in urban areas could help, rather than hinder, the Thai government's ability to combat some forms of crime.

## VII. Conclusion

The proposed resettlement of the urban refugees—many of whom have lived for years in fear for their security and uncertainty about their futures—should help to improve the situation for Burmese refugees. However, resettlement should not be used as a means to silence the main voice of Burmese dissidents, since those who dare to speak out in Burma itself are routinely persecuted, arrested, and imprisoned. As one skeptical NGO worker put it: “This might be just what the Thai government and the SPDC have wanted to see for years: removing activists from Thailand so they can no longer conduct information sharing across the border and conduct lobbying and advocacy.” The Government of Thailand must respect its obligation to respect the rights of freedom of movement, expression, and assembly of all refugees, wherever they live.

Moreover, the fate of the 142,000 refugees living in the border camps must not be forgotten. “There’s total social control [in the camps] by military groups and problems of sexual and gender-based violence, which women’s groups are afraid to report to the male camp leadership,” one relief worker said. Refugees in the camps, some of whom have lived there for more than a decade, are concerned they will be left out of the resettlement process and increasingly pressured to “voluntarily” repatriate.

Resettlement opportunities must not only be offered to the visible and vocal urban refugees, but refugees in the camps as well. U.N.-monitored voluntary repatriation should be considered as an option for those who decide to return, but not until all factors are in place to ensure that refugees are not pressured to repatriate against their will, and that the process fully complies with international legal standards. UNHCR needs to gain unfettered access to Burma to monitor conditions before, during, and after repatriation, to ensure that safeguards are in place for refugees’ treatment upon return.

Thailand has a longstanding reputation for its humanitarian stance towards refugees from other parts of Southeast Asia, and the government’s agreement to open up resettlement opportunities for Burmese refugees is a positive step. The security of thousands of Burmese will be placed at serious risk, however, if Thailand continues to officially bar newly arriving asylum seekers from status determination procedures, impose increasingly hard-line immigration and labor policies, and reduce its tolerance towards the activities of Burmese political exiles and activists. These policies are being put into place despite the fact that the circumstances causing people to flee from Burma

have not abated. In particular, by violating the internationally-recognized principle of non-refoulement, the Royal Thai Government is placing refugees and undocumented asylum seekers in danger of persecution, arrest, economic sanctions, or other reprisals from government authorities upon return to Burma.

## VIII. Recommendations

### ***To the Royal Thai Government***

#### *In regard to both refugees and migrants:*

- Ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.
- Abandon the current policy of the Royal Thai Government that only those fleeing armed conflict are entitled to protection and temporary stay in Thailand, and apply the internationally accepted definition of a refugee.<sup>76</sup> Those fleeing Burma should be treated as refugees where there is a well-founded fear of persecution for one of the reasons stated in the Refugee Convention, regardless of whether or not this is experienced in the context of armed conflict. An end to fighting in Burma does not in itself mean an end to political, ethnic, and other persecution.
- In the absence of a state procedure for assessing the claims of Burmese asylum seekers, allow UNHCR to resume Refugee Status Determination activities for all asylum seekers from Burma in accordance with its mandate to provide international protection to refugees.
- If the Provincial Admission Boards are reactivated in order to determine the claims of asylum seekers from Burma, such boards must operate under a transparent and consistent procedure and employ unambiguous criteria in status determination that comply with standards set out in international refugee law. All asylum seekers from Burma, regardless of their background or ethnicity, should be entitled to make an asylum claim to such Boards. Status determination should take place on a case-by-case basis, with the right to appeal to an independent body, such as UNHCR.
- Respect its obligation, under customary international law, not to refoule (forcibly return) any asylum seeker or refugee to Burma. Specifically, the Royal Thai Government should:
  - Guarantee access to proper screening and status determination procedures for any Burmese asylum seeker or migrant who wishes to make an asylum claim, prior to deportation or forced return. Ensure that all migrants wishing

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<sup>76</sup> See footnote 3, above, for the definition of a refugee as defined under international law and the Refugee Convention. In addition, UNHCR stated in its 1994 Note on International Protection, that it has always been understood that “the basic definition of refugee was meant to have an inclusive meaning, rather than a restrictive one, in accordance with the fundamental objective of providing international protection to all who need it.” See Paragraph 25, Note on International Protection submitted to 45th session of the Executive Committee of the High Commissioner’s Program, September 7, 1994.

- to apply for asylum have the practical means to do so and are not barred from making such application by Thai local authorities.
- Continue to permit UNHCR to have access to detention and immigration centers in order that asylum seekers and refugees may identify themselves to UNHCR, which should be authorized to meet privately with potential asylum seekers upon request.
  - Ensure that no Burmese who has been recognized as a refugee by UNHCR is deported to Burma on the grounds that he or she is an illegal migrant, or for any other reason.
  - Permit all Burmese who have been recognized as refugees by UNHCR and wish to reside in refugee camps to do so, without having to be submitted to re-screening by the Thai government.
  - Support international efforts to resettle Burmese refugees in accordance with the criteria set out in UNHCR's Resettlement Handbook,<sup>77</sup> and extend resettlement options to the refugee camp population.
  - Ensure that all Burmese refugees in the camps are provided with protection and assistance, including adequate health care, shelter, and educational opportunities. Remedy concerns about the absence of outside communication by providing access to telephones and opening the refugee camps and immigration holding centers to personal visits.
  - Remove all restrictions on the media and allow journalists unhindered access to all Burmese refugee camps, in the interest of promoting press freedom, government accountability, and the fair and humane treatment of Burmese refugees. Permit members of the press to speak to and interview Burmese refugees.

*Specifically in regard to Burmese urban refugees:*

- Recognize that some Burmese refugees living in urban areas will not be able to move to the refugee camps on the border because of security, medical, or educational reasons.
- Prior to any proposed move to the camp, authorize UNHCR to make an assessment, in accordance with agreed criteria, as to those refugees who should not be required to be relocated to the camp.
- While urban refugees are being processed for resettlement, allow them to remain in their current location if they so desire.
- For those persons whose safety cannot be guaranteed at the border, the government must either provide a safe place of refuge in urban areas or elsewhere in Thailand, providing adequate protection and assistance, or make resettlement an available option.

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<sup>77</sup> UNHCR's resettlement criteria include immediate or long-term threat of refoulement to the country of origin, threat of arbitrary arrest, detention, or imprisonment, and threat to physical safety or human rights in the country of refuge analogous to that considered under the refugee definition and rendering asylum untenable. Survivors of torture, persons with special medical needs, and women at particular risk may also be eligible for resettlement. See Chapter 4 of *UNHCR's Resettlement Handbook*, July 1997 (revised in July 2002).

- Change the visa requirement for Burmese nationals and allow for the lawful presence of refugees in urban areas, thereby reducing incentives for corruption, harassment, fraud, or other criminality.
- Respect the right to freedom of movement, expression, and assembly of all refugees, whether living in camps or urban centers, consistent with the Universal Declaration of Human Rights and articles 12, 19, and 21 of the International Covenant on Civil and Political Rights, to which Thailand is a state party.
- Immediately release the twenty-three Burmese refugees and asylum seekers remaining in the Special Detention Center in Bangkok, who were arrested in June and September 2003 while conducting peaceful rallies at the Burmese embassy in Bangkok. Those among this group of refugees who are unable to relocate to the camps for security or protection reasons should be placed in safe housing in Bangkok while UNHCR prepares their case for resettlement submission.

***Specifically in regard to migrants:***

- Permit representatives of migrants' groups, humanitarian agencies, legal services agencies, intergovernmental bodies, UNHCR, and nongovernmental organizations to visit migrants in holding centers and detention facilities to provide basic humanitarian and legal support and to monitor conditions of detention.
- Provide undocumented migrants prompt and effective opportunity to challenge the lawfulness of both their detention and deportation order in a judicial proceeding or before another competent authority. Continued detention should be subject to periodic review.
- Provide detainees with access to legal counsel, including information about how to contact their government-appointed lawyer, a private lawyer, or non-governmental organizations providing free legal assistance, and the means to contact such advocates. Lawyers should have unhindered access to their clients in detention facilities.

***To the United Nations High Commissioner for Refugees (UNHCR)***

- Advocate at the highest level with the government of Thailand to ensure that the government establishes procedures, in accordance with international refugee law, to determine the claims of asylum seekers from Burma.
- In the absence of any state procedure for assessing the claims of Burmese asylum seekers, advocate with the Thai government at the highest level for permission for UNHCR to resume Refugee Status Determination activities for Burmese asylum seekers, in accordance with UNHCR's mandate to provide international protection.
- Advocate for the highest standards of protection for all Burmese refugees, whether they are fleeing a conflict zone or political persecution in their home country. In particular, advocate that protection and assistance to be provided to

Shan and other minority groups from Burma who have been denied entry into the camps.

- Take steps to ensure that the Thai government does not forcibly return Burmese asylum seekers or refugees, in particular by:
  - Enhancing UNHCR's protection presence in border areas.
  - Monitoring immigration detention centers and holding camps for migrants in Bangkok and in provinces with large communities of Burmese workers (Chiang Mai, Chiang Rai, Tak, and Ranong), so that asylum seekers and recognized refugees have the opportunity to identify themselves. Insist that the Thai government provides authorization for UNHCR to meet privately with asylum seekers and refugees.
- Enhance UNHCR's protection capacity in the refugee camps in order to help ensure that refugees in the camp receive adequate protection and assistance, and access to UNHCR.

*In regard to voluntary repatriation:*

- Insist that any voluntary repatriation programs be conducted under U.N. auspices and fully comply with international standards.
- Reject proposals for non-U.N. sponsored repatriation programs, especially repatriation to "safe zones" in Burma negotiated between rebel factions and the SPDC.
- Ensure that refugees are not pressured to repatriate against their will by governments, international institutions, armed groups, or refugee factions, and that Thailand continues to provide protection and asylum to refugees who do not wish to repatriate or resettle.
- Obtain guarantees that UNHCR will have unfettered access to Burma to monitor conditions before, during, and after repatriation so that safeguards are in place for refugees' treatment upon return.

*In regard to urban refugees:*

- Recognize that some Burmese refugees living in urban areas will not be able to move to the camps, for protection, security, medical, or educational reasons. Advocate with the Thai government that these refugees be provided with alternative solutions, including being permitted to remain in urban areas and provided with adequate protection and assistance, or resettlement abroad. Press the Thai government to allow greater opportunities for resettlement of Burmese refugees.
- Press the Thai government to allow urban refugees who are being processed for resettlement to remain in their current location if they so desire.
- Advocate with the Thai government for UNHCR to be able to make an assessment, in accordance with agreed criteria, as to those refugees who should not be required to be relocated to the camps.
- Insist that any screening of urban asylum seekers for camp placement take place *prior* to entry into a camp.

- Assess the ethnic, religious, and political divisions within both the urban refugee population and the refugees in the camps, in order to effectively evaluate potential protection problems in the camps arising from power struggles and social dynamics. Conduct an in-depth assessment of military activities and the security situation in and around all of the camps, particularly the new sites for Mae Khong Kha camp.
- Follow through on UNHCR's Evaluation and Policy Analysis Unit's recommendation to revise 1997 *Policy on Refugee in Urban Areas*, focusing in more detail on methods for providing adequate protection and assistance to refugees living in urban areas.<sup>78</sup>

### **To Donor Governments**

- Insist that the Thai government immediately authorize UNHCR to conduct Refugee Status Determination activities for Burmese with new or pending asylum claims in Thailand, in accordance with UNHCR's mandate.
- Support UNHCR's effort to resettle Burmese asylum seekers in accordance with the criteria set out in UNHCR's Resettlement Handbook.<sup>79</sup>
- Press the Thai government to abandon its current policy that only those fleeing armed conflict are entitled to protection and temporary stay in Thailand.
- Fund protection and assistance programs in the Burmese border camps and for urban refugees in Bangkok and other urban centers.
- Increase support for UNHCR and NGOs to provide protection, housing, food, education, and medical assistance to asylum seekers and refugees living in urban areas. In particular, increase funding to UNHCR so that it can enhance its protection capacity in the refugee camps and at the border and increase the number of protection officers based not only at the Bangkok Immigration Detention Center but also at immigration detention centers and holding camps on the Thai-Burma border.
- Actively intervene with the Thai government in support of UNHCR in its protection role in Thailand and make more frequent visits to the border to directly assess conditions there.

### **To the Burmese Authorities**

- End the abuses that have forced Burmese to flee to Thailand and seek asylum by establishing the rule of law and respect for human rights for all the people of Burma.
- Release all political prisoners, including members of the opposition National League for Democracy, who have been sentenced to long prison terms for the peaceful expression of their views, and end the widespread torture and ill-

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<sup>78</sup> For Human Rights Watch's critique of UNHCR's 1997 *Policy on Refugee in Urban Areas*, see Human Rights Watch, Annex C, "UNHCR's Posting on the Prima Facie Policy" in *Hidden in Plain View: Refugees Living Without Protection in Nairobi and Kampala* (New York: Human Rights Watch, November 2002).

<sup>79</sup> See footnote 82, above.

treatment of detainees. Re-engage in dialogue with Aung San Suu Kyi and the National League for Democracy.

- Cease the widespread use of forced labor by the military, where villagers are compelled to work without pay on infrastructure and agricultural projects, as porters in army camps, and on the construction of temples.
- Cease the conscription of children under the age of eighteen for the armed forces.
- Cease the forcible relocation of minority villages in areas where ethnic minority activists and rebels are active, and in areas targeted for economic development and tourism. End abuses by Burmese government troops in which villages, hospitals, and schools in ethnic areas are burned or otherwise destroyed, villagers are conscripted to perform forced labor, and suspected opponents of the regime are executed.
- End the systematic rape of women and girls in Shan State and other regions by the Burmese military.
- Lift restrictions on free expression, assembly, and association in order to allow space for legitimate peaceful political activities.

## Appendix A: Timeline of Arrests and Intimidation of Burmese Activists in 2003

*Since mid-2002, the Thai government has taken a tougher stance against Burmese activist groups in Bangkok and in towns along the Thai-Burma border. Many groups have now scaled down their activities or gone underground. In August 2003, several opposition offices along the Thai-Burma border were closed after staff members were threatened with deportation by Thai authorities.<sup>80</sup> Other incidents against Burmese activists in Thailand include:*

September 24, 2003: Office of a Burmese pro-democracy group in Bangkok was searched for illegal migrant workers. This incident forced the organization to cease its English language classes for migrant workers and postpone the admission of new students indefinitely.

September 18: Fifteen Burmese activists from several pro-democracy organizations were arrested while attempting to protest in front of the Burmese Embassy in Bangkok. They were sent to the Thai Immigration Detention Center (IDC) and transferred to the Special Detention Center (SDC) on September 25, where they remained as of February 2004.<sup>81</sup>

September 7: Burmese activists were arrested soon after participating in a fast organized by Forum-Asia at a public park to call for the release of Daw Aung San Suu Kyi. They were charged with immigration violations and released on September 24 after paying 200,000 baht each (U.S.\$5,000).

August 19: An organization in Bangkok that provides assistance to Burmese migrants was raided and a Burmese woman who was seeking assistance from the organization was arrested and deported to Myawaddy, Burma. The raid followed accusations by the SPDC that the organization was supporting activists demonstrating outside the Burmese embassy in Bangkok.<sup>82</sup>

July 31: Thai authorities issued orders not to allow any visitor from Burma to stay overnight at Mae Sarmlep (Thaw Lae Hta) in Mae Sariang District, following the order for advocacy groups to move out from the town.<sup>83</sup>

July 29: Border police arrested six members of the Karen Women's Organization (KWO) in Mae Sariang. They were released after eight hours' detention.<sup>84</sup>

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<sup>80</sup> "Opposition Rations Slashed," *Irawaddy*, August 15, 2003.

<sup>81</sup> "Attempted Demonstration failed, 15 Activists Arrested," Network Media Group, September 18, 2003; and "Arrested Burmese Activists Sent to Special Detention Center," Network Media Group, September 26, 2003.

<sup>82</sup> "Thai Police Raid NGOs," Mizzima News, August 21, 2003.

<sup>83</sup> "Thai Says No More Burmese Visitors at Border Village," Network Media Group, July 31, 2003.

<sup>84</sup> "Dissidents Targeted in Mae Sariang," *Irawaddy*, July 29, 2003.

July 18: Thai officials gave Burmese opposition groups, including the All Burma Students' Democratic Front (ABSDF), the Karen National Union (KNU), and Network for Democracy and Development (NDD), until the end of July to leave Mae Sariang or face arrest.<sup>85</sup> Many organizations and human rights defenders were forced to go underground or move to the refugee camps.<sup>86</sup>

June 30: Nearly 100 uniformed and plain-clothes police guarded the fenced-in Burmese Embassy in Bangkok to prevent any demonstrations. Their official orders were to arrest any Burmese who showed up to protest, but not Thai NGO workers or Thai university students.

June 26: Eleven members of the Democratic Friends of Burma were arrested and charged with illegal entry after taking part in a peaceful protest at the Burmese embassy in Bangkok. Most were carrying cards issued by the UNHCR identifying them as POCs.<sup>87</sup> The commander of Bangkok's Metropolitan Police Division Nine, Maj. Gen. Chirakit Mahinratet said: "[POCs] are not allowed to engage in political activities in Thailand. The UNHCR certificates are not the same as passports."<sup>88</sup> Police Lt. Col. Santi Siriwattananornkul claimed that the U.N. agency said their identification cards were no longer valid.<sup>89</sup> The UNHCR did not publicly comment on these arrests.

June 25: The Thai government changed the rule from "no violent protests" to strictly banning any further peaceful protests at the Burmese Embassy by people from Burma. National Police Chief Gen. Sant Sarutanont, reflecting views expressed by the Prime Minister, Defense Minister and Interior Minister, stated: "We will definitely not allow any group of people to use Thai soil to conduct political activities against a neighboring country." Burmese carrying UNHCR protection documents who demonstrated could be arrested and deported to Burma, he added.<sup>90</sup>

June 3-17: Burmese from the Campaign for Community Voice of Burma staged a hunger strike and hung the NLD flag on their house in the Thai border town of Mae Sot. Thai authorities instructed them to remove the flag but reportedly said they would not arrest them. However, later that night they were arrested on charges of illegal immigration and deported to Myawaddy in Burma.<sup>91</sup>

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<sup>85</sup> "Opposition Offices Close, Road Map Pitch Continues," *Irrawaddy*, August 1, 2003; and "Burmese Opposition Checked," *Irrawaddy*, July 22, 2003.

<sup>86</sup> "Refugee Camp under Tight Securities," Network Media Group, August 11, 2003. Dissidents Targeted in Mae Sariang," *Irrawaddy*, July 29, 2003.

<sup>87</sup> "Police Chief Warns Burmese Dissidents," *Bangkok Post*, June 30, 2003.

<sup>88</sup> "Thailand Jails 11 Supporters of Myanmar Democracy Campaigner," Deutsche Presse-Agentur, June 27, 2003.

<sup>89</sup> "Thai PM Lashes UN Refugee Agency over Myanmar Exiles," Agence France-Presse, June 27, 2003.

<sup>90</sup> "Myanmar Junta Warns Thailand of Possible Dissident Hostage Plan," Agence France-Presse, June 25, 2003.

<sup>91</sup> "More Hunger Strikes for Suu Kyi's Release," *Irrawaddy*, June 18 2003.

January 20: At least nine Burmese dissidents, including a child, were arrested by Thai police for “security concerns” in Sangkhlaburi while in hiding. Those arrested included members of the National League for Democracy-Liberated Area (NLD-LA), Democratic Party for a New Society (DPNS), All Burma Student Democratic Front (ABSDF), Dawei Women’s Union, and the Myeik-Dawei United Front.<sup>92</sup> Seven were deported on January 22 and one person was sentenced to forty-eight days in Thai prison for harboring illegal migrants. The “illegals” were fined 4,000 Baht (U.S.\$95) each.<sup>93</sup> Police confiscated around 349,000 Baht (U.S.\$8,310) from the DPNS office, two computers from the ABSDF office and documents from the other groups.

January 13: Thai officials handed over fifteen Burmese to SPDC officials. They were part of the fifty-eight arrested in Thailand in May 2002 as part of the Thai government’s crackdown on Burma activists. Thirty-nine had been sent back in December 2002 and four were to be returned once the SPDC located their addresses in Burma.<sup>94</sup>

January 1: Pro-democracy and dissident groups as well as the News Media Group and the Burmese Women’s Union received a warning from Thai intelligence agencies to close their offices for ten days during the visit of Deputy Prime Minister General Chavalit Yongchaiyudh to Mae Hong Son. Around the same time, intelligence officers from the Naresuan Taskforce of the Third Army started to collect information from all pro-democracy and dissident groups in Mae Hong Son in the same pattern as security officials’ behavior in the crackdown in Sangkhlaburi district.

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<sup>92</sup> “Fresh Raid in Sangkhlaburi,” *Irrawaddy*, January 20, 2003.

<sup>93</sup> “Dissidents to Be Forced Out Ahead of Burma Talks,” *The Nation*, January 22 2003.

<sup>94</sup> “Rapprochement Continues,” *Irrawaddy*, January 14, 2003.

## Appendix B: Timeline of Harassment of NGOs in 2003

*Thai policies have made movement, security and political organizing difficult for Burmese pro-democracy activists. Many have been quietly told to “lay low” both for their personal security as well as that of their organization. The level of fear has been raised by publicly reported crackdowns on activists and threatening statements by Thai authorities reported in the media.*

September 16, 2003: Thai Prime Minister Thaksin Shinawatra told Thailand’s National Security Council and the Immigration Police Bureau to blacklist foreign organizations that conduct activities in opposition to their home countries from Thai soil. Kyaw Ko, the general secretary of ABSDF, said, “The APEC Summit is a good excuse for Thailand to blacklist rebel groups.”<sup>95</sup>

August 27: Deputy Director for International Security Operations Command Gen. Panlop Pinmanee said that thousands of refugees and political exiles would be rounded up and confined in a variety of detention centers during the APEC meeting.<sup>96</sup>

July 22: In the Thai border town of Mae Sot, the Secretary-General of the Assistance Association for Political Prisoners Burma (AAPPB) reported that Thai officials said opposition members could live in town but they could not travel. Thai authorities reportedly visited the offices to photograph and record personal information about the workers and take stock of their office equipment.<sup>97</sup>

July 4: NLD members and Black Friday witnesses, Wunna Maung and Khin Zaw, submitted an affidavit to the U.S. Senate Foreign Affairs Committee, detailing their accounts of what happened on May 30 in Burma. However they were denied an opportunity to speak at the Foreign Correspondent Club in Bangkok and threatened with deportation if they spoke out publicly against the SPDC.<sup>98</sup>

June 26: The Thai Government used the SPDC’s claim of a plot to kidnap the SPDC Ambassador in Thailand by various opposition groups to justify another crackdown on Burmese political dissidents. Thai Defense Minister Gen. Thammarak Issangkura na Ayuddhya said Thai officials had a list of all Burmese students living in Thailand and it was doubtful any of them would try to mount a violent attack. “But we can’t be careless,” he said. “We must make preparations before anything happens.”<sup>99</sup> Than Khe, Chairman of the All Burma Students’ Democratic Front, denied that students in

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<sup>95</sup> “Burmese Rebels Under Watch,” *Irrawaddy*, September 17, 2003.

<sup>96</sup> “Thailand to Confine Refugees to Camps during APEC,” Agence France-Presse, August 27, 2003.

<sup>97</sup> “Burmese Opposition Checked,” *Irrawaddy*, July 22, 2003.

<sup>98</sup> “Two Witnesses to Myanmar Violence Seek UN Protection in Bangkok,” Agence France-Presse, July 4, 2003.

<sup>99</sup> “Thai PM Calls for Release of Suu Kyi, But Warns Myanmar Dissidents,” Deutsche Presse-Agentur, June 26, 2003.

Thailand were planning any action against Burmese embassy staff, and western diplomats in Bangkok privately denounced the SPDC's claims as spurious.<sup>100</sup>

June 9-17: Burmese began a fifty-eight-hour hunger strike in front of the Burmese embassy. Thai authorities forced them to relocate to the UNHCR building to hold their protest.<sup>101</sup>

May 27: After meetings with Thai officials and Burmese and Thai human rights defenders, Hina Jilani, the U.N. Special Representative on Human Rights Defenders said that human rights defenders face a "climate of fear" in Thailand caused by threatening statements made by high level government officials and the use of the state security apparatus and the courts to harass and intimidate human rights defenders, through false and unjust prosecution.<sup>102</sup>

February: Prime Minister Thaksin said support from NGOs for Burmese ethnic groups was interfering with the government's effort to mediate peace talks between Rangoon and the rebels. A senior military source said the NGOs would be closely watched as authorities tried to bring the parties to the negotiation table.<sup>103</sup>

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<sup>100</sup> "Plans to Raid Embassy Denied," *Irrawaddy*, June 26, 2003.

<sup>101</sup> "More Hunger Strikes for Suu Kyi's Release," *Irrawaddy*, June 18, 2003.

<sup>102</sup> "Rebuke for Bangkok over Human Rights," *Financial Times*, May 27, 2003.

<sup>103</sup> "NGOs Hampering Burmese Peace Effort," *Bangkok Post*, February 24, 2003.

## Appendix C: Timeline of Arrests and Harassment of Burmese Migrant Workers in 2003

December 17, 2003: Thai security forces arrested and deported 269 Burmese garment workers who had gone on strike against Nasawas Apparel Company in Mae Sot. They were protesting the dismissal of twenty-five workers for demanding raises in pay from 55-90 baht a day up to 133 baht.<sup>104</sup>

September 29: Local labor and immigration officials in Mae Sot informed Dr. Cynthia Maung that Burmese staff at Mae Tao Clinic would not be able to renew their work permits, putting into limbo the legal status of the clinic and more than 100 medics and school teachers who work there. The warning came after the August 2003 cabinet resolution prohibiting 12,161 registered migrant workers from renewing their work permits. The clinic is the main provider of healthcare services to asylum seekers and migrants on the Thai-Burma border.<sup>105</sup>

September 23: The manager of the Siriwat Garment Factory in Mae Sot fired seventy-eight Burmese migrant workers after they organized to demand better working conditions. The workers, who often had to work fifteen-hour days, were paid far less than the legal minimum wage and denied access to medical care. Local police threatened to arrest and deport the workers if they did not comply with the managers' demands.<sup>106</sup>

September 11: The owner of the JP Knitting Factory in Mae Sot, Somchai Thongdi, refused to pay two months of overdue wages to 131 Burmese migrant workers, after the factory closed on August 15. The Labor Ministry's Welfare Department responded only to the appeal of the five Thai workers affected.<sup>107</sup>

September 11: The San Papao Temple in Chiang Mai was raided and police detained Burmese monks and novices without proper documents. These individuals were later released through the intercession of a respected abbot.<sup>108</sup>

August 29: The Thai Labor Ministry reportedly ordered the arrest and deportation of monks from Burma "who had come to work in Thailand in disguise." Police announced plans to target 189 temples in nine provinces.<sup>109</sup>

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<sup>104</sup> Supamart Kasem, "Striking Burmese deported," *Bangkok Post*, December 2003. "Thai Authorities Deport 200 Myanmar After Strike," Associated Press, December 18, 2003.

<sup>105</sup> Dr. Cynthia Maung is a recipient of the Ramon Magsaysay Award for Community Leadership. See "Thailand: Do Not Close Burmese Refugee Clinic," Human Rights Watch press release, October 3, 2003.

<sup>106</sup> "Siriwat Garment Factory: Another Case of Slave Labor in Mae Sot," Young Chi Oo Workers Association, September 23, 2003.

<sup>107</sup> "Thai Boss Cheats Workers," *The Irrawaddy*, September 11, 2003.

<sup>108</sup> Shan-EU, "Weekly Digest No. 60," quoting a report from Shan Herald Agency for News, September 7-13, 2003.

<sup>109</sup> Penchan Charoensuthipan, "Abbots told to crack down or face action," *Bangkok Post*, August 15, 2003. "Buddhist Monks Disrobed and Deported," Kao Wao, September 1, 2003.

August 28: Thai authorities arrested, disrobed, and deported fifty-seven ethnic Shan and Mon monks and novices at Wat Nongkham in Bangkok.<sup>110</sup>

August 4: Fourteen members of the Community Addiction Recovery and Education Project (CARE) were arrested at their office in Mae Hong Son. The raid was conducted as a joint operation by Border Patrol Police, local police, the Third Army, and the Immigration Department. They were fined and returned to the refugee camp.<sup>111</sup>

June 23: At the King Body Concept Factory in Tak Province, more than 300 Burmese migrants with work permits were fired and deported on June 23 after attempting to negotiate for a wage increase.<sup>112</sup> While under the law, the workers had seven days to find another job, police instead immediately deported them. The factory owner reportedly gave the SPDC officials in Myawaddy the names of some or all of the deported workers.<sup>113</sup>

May 28: The *Bangkok Post* reported that the burnt remains of six Burmese construction workers who disappeared on May 14 were found in a forest close to Huay Kalok village, Tak Province. The six were last seen handcuffed and in the custody of uniformed Thai officials.<sup>114</sup>

April 23: Twenty-six Burmese workers who were in the process of suing their employer, were arrested and deported to Myawaddy holding center in Burma just days before their court hearing in Thailand. The workers were suing the owner of the Nut Knitting factory for a total of 4.6 million baht (U.S. \$107,000) in unpaid wages and compensation.<sup>115</sup>

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<sup>110</sup> Shan-EU, "Weekly Digest No. 60," quoting a report from [www.shan-tai.org](http://www.shan-tai.org), September 7-13, 2003.

<sup>111</sup> Report from NGOs in Mae Hong Son, August 2003.

<sup>112</sup> Amy Kazmin and Panvadee Uraisin, "Burmese workers find life brutal in Thailand," *Financial Times*, August 4, 2003.

<sup>113</sup> "Over 300 Myanmar Workers Deported from Thailand after Wage Dispute," Xinhua, June 24, 2003.

<sup>114</sup> "Inquest Delay Threat to Ties with Burma," *Bangkok Post*, May 28, 2003.

<sup>115</sup> Amy Kazmin and Panvadee Uraisin, "Burmese workers find life brutal in Thailand," *Financial Times*, August 4, 2003; "Burmese Workers Sue for Unpaid Wages," *Irrawaddy*, April 28, 2003.

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