

14. The Situation of Refugees

“Everyone has the right to seek and to enjoy in other countries asylum from persecution.” –

Article 14, Paragraph 1, Universal Declaration of Human Rights

14.1 Background

Throughout 2005, villagers, political dissidents and others continued to flee across Burma's borders driven out by the military regime's policies and practices that suppress their freedoms and violate their human rights. According to the U.S. Committee for Refugees and Immigrants' (USCRI) *World Refugee Survey 2005*, more than 650,000 refugees and asylum seekers from Burma remained in Bangladesh, India, Malaysia and Thailand after fleeing from forced labor, forced portering, torture, rape and other human rights violations perpetrated by the SPDC military and junta-sponsored actors. As the SPDC has continued its efforts to eliminate all armed and unarmed resistance, the military's presence and involvement in every area of the country and in all aspects of life has also continued to grow. In turn, increased militarization has forced many civilians to leave their homes and flee to neighboring countries or to become displaced within Burma. There are an estimated one million IDPs in Burma with the potential of becoming cross border refugees.

According to the *World Refugee Survey 2005*, Thailand hosts a population of approximately 453,500 refugees from Burma, the majority of whom are from the Karen, Karenni, Mon and Shan ethnic groups. At the same time, there are more than one million migrant workers in Thailand who have left Burma for many of the same reasons as refugees yet who identify themselves by their immediate economic needs. In Bangladesh, over 20,000 Rohingya refugees reside in the two remaining official refugee camps while approximately 100,000 others live and work in the Bangladesh community. Rohingya have also fled to Malaysia where the USCRI reported a refugee population of approximately 10,000 Rohingya and 15,000 Chin. In India, the refugee population of approximately 60,000 consists of mostly ethnic Chin people. Although in smaller numbers, other ethnic groups have also fled to Bangladesh, India, Malaysia and Thailand. (Source: *World Refugee Survey 2005*, USCRI, 15 June 2005).

Under the 1951 Convention on the Status of Refugees (Refugee Convention), States are prohibited from returning a refugee to any area “where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.” The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) also prohibits the return of “a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.” By forcibly returning refugees and asylum seekers back to areas where they are vulnerable to severe human rights abuses, including persecution and torture, the governments of Bangladesh, India, Malaysia and Thailand continue to violate the principles delineated in both Conventions. Meanwhile, only India has signed onto the CAT. None of the governments hosting a majority of refugees from Burma have ratified either Convention.

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14.2 Situation of Refugees from Burma in Thailand

2005 Demographics of Refugees and Asylum Seekers in Thailand

At the end of 2005, the Thailand Burma Border Consortium (TBBC) reported a population of 142,917 persons inhabiting the nine refugee camps located along the Thai border with Burma

(source: TBBC, 2005). From the end of 2001 through the majority of 2005, a population of un-registered asylum seekers had grown in the camps because the Provincial Admissions Boards (PABs), the Thai Government body which grants permission for refugees to remain in the camps, did not function. As a result, there was a growing discrepancy between the official camp population as recorded by the Thai Ministry of the Interior (MOI) and the actual population. To gather more comprehensive information about the population in the camps, from October 2004 to November 2005 the UNHCR and the MOI conducted a new registration exercise to re-register previously registered refugees and to collect information about the unregistered population. While the registration results have not been officially approved, the UNHCR/MOI registered 101,992 persons from the original 1999 registration plus 35,867 others, a total of 137,859. By the end of 2005, the PABs were revived and commenced processing the unregistered cases. (Source: *Six-month Report*, TBBC, July-December 2005). Meanwhile, in June, the TBBC reported that approximately 300 new refugees arrived to the camps each month (source: *Six-month Report*, TBBC, January-June 2005).

The breakdown by age and sex reported by the Karen, Mon and Karenni Committees in December 2005 was as follows:

Group Families Adult* Children Under 5 years

Male Female Male Female Male Female

Total

Karenni 4,397 7,340 6,148 2,466 2,790 1,826 1,763 22,333

Karen 23,018 40,636 38,485 12,370 11,478 8,697 8,372 120,038

Mon 2,289 3,685 3,935 1,514 1,401 648 692 11,875

Total 29,704 51,661 48,568 16,350 15,669 11,171 10,827 154,246

* For Karen and Mon, this is over 12 years old, for Karenni over 14 years old. (Source: TBBC, January 2006)

A significant number of refugees and asylum seekers reside outside the camps. Due to a variety of factors, including ethnicity, political involvement or Thai policy, these groups are either not recognized as refugees, not accounted for in any official refugee population numbers or recognized as separate from the camp refugee population. According to the USCRI's *World Refugee Survey 2005*, Thailand hosted a population of more than 300,000 ethnic Shan refugees (source: *World Refugee Survey 2005*, USCRI, 15 June 2005). In addition, at the end of 2005, there were approximately 589 Persons of Concern (POC) recognized by the UNHCR while approximately 11,000 people in urban centers had registered with the UNHCR in order to be reviewed by the PABs for entrance into the border refugee camps (For more information see Section on the Provincial Admissions Boards).

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Thai Government Policy Towards Refugees and Asylum Seekers

Thailand is one of the main destinations for asylum seekers, political dissidents and others fleeing the oppressive policies and practices of the SPDC military regime. While Thailand directly borders Shan, Karenni, Karen and Mon States as well as Tenasserim Division, asylum seekers from all states and divisions of Burma flee to Thailand in search of security and protection. However, Thailand is not a signatory to the 1951 Refugee Convention and therefore is not obligated to follow any international norms or standards contained within the Convention regarding the treatment and protection of refugees. Thailand also lacks an adequate legal framework through which refugee status determination can be made. This creates a precarious environment for those who come to Thailand seeking refuge. Thailand's attitude towards refugees is based on the belief that any assistance provided by humanitarian NGOs or the UNHCR will serve as a "pull" factor encouraging immigrants to enter the

country and deterring those that are in Thailand from voluntary repatriation. According to Thai policy, the over 140,000 inhabitants of the camps are temporarily displaced persons fleeing the effects of fighting. Refugees living outside the camps, asylum seekers and migrant workers who are also asylum seekers are all considered illegal immigrants by Thai law and are vulnerable to arrest and deportation at any time.

Thailand's policies towards refugees and asylum seekers have grown increasingly intolerant over the past few years concurrent to improving Thai-Burma economic and political relations. Since elected to office in 2001, Thai Prime Minister Thaksin Shinawatra has endeavored to improve the historically tenuous relations between the two countries. Economic and commercial agreements have coincided with Thailand's public support of the SPDC as well as a tough stance towards refugees and asylum seekers from Burma. Since 2002, Thailand has expressed that foreign opposition groups would not be permitted to engage in activities against neighboring countries from Thai soil. As a result, pro-democracy activists from Burma seeking asylum and attempting to continue their activities in Thailand have been subject to pressure, harassment, arrest, detention and deportation. Moreover, in the beginning of 2004, the Thai Government ordered the UNHCR to halt the refugee status determination process for asylum seekers from Burma living outside the camps as part of a plan to limit options for protection to residing within the confines of the refugee camps. However, this plan was not fully implemented by the end of 2005. Thailand has been consistently criticized for compromising humanitarian protocol for the sake of economic interests.

With few avenues of protection available, refugees and asylum seekers from Burma are vulnerable to Thailand's tightening policies towards illegal migrants. Registered refugees living outside of the camp, asylum seekers waiting to be processed by the PABs and undocumented asylum seekers have been subject to arrest, detention and deportation on the charge of illegal entry as the Thai authorities have cracked down on illegal migrants. The vulnerability of refugees and asylum seekers to arrest and deportation has been of particular concern since June 2003 when Thailand and Burma signed a Memorandum of Understanding (MoU) agreeing to officially deport 400 undocumented migrants every month to Burma. In addition, Thailand also informally deports approximately 10,000 migrants each month at various checkpoints along the border and not necessarily into the hands of the SPDC authorities. As abuse, extortion and detention of deportees upon return to Burma have been reported, both methods of deportation have raised concerns for the fate of asylum seekers and refugees. Meanwhile, refugees and asylum seekers facing deportation are frequently unable to contact the UNHCR for assistance. Regardless, deportations are often carried out

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despite UNHCR intervention. (Source: HRDU, 2005; *World Refugee Survey 2005*, USCRI, 15 June 2005). (For more information see Chapter 15 Situation of Migrants Workers).

The UNHCR, the Refugee Status Determination Process and Persons of Concern

Until the end of 2003, individual asylum seekers living outside the refugee camps were able to apply to the UNHCR in urban areas for recognition as a refugee pursuant to the 1951 Refugee Convention. An asylum seeker determined to be a refugee, also known as a Person of Concern (POC), received a document certifying his/her status as a refugee which contained a photograph and biographical information. In the event that a POC encountered difficulty with Thai authorities, the document could be presented and the UNHCR could be contacted to advocate on behalf of the POC. Asylum seekers who had registered with the UNHCR but whose cases had yet to be determined were also provided with a certificate indicating that they were under the protection of the UNHCR. Yet, POC status and possession of UNHCR

documents never ensured greater protection under Thailand's Immigration Act. Due to their status as illegal immigrants under Thai immigration law, POCs and asylum seekers awaiting determination were subject to such abuses as confiscation of documents, extortion, arrest and deportation.

In mid-2003, the UNHCR's refugee status determination process came under fire as Prime Minister Thaksin accused the UNHCR of undermining the sovereignty and security of Thailand by failing to properly share information about the agency's activities with the Thai Government. Prime Minister Thaksin objected to POCs' ability to "roam freely around the country" and relegated all POCs wishing to access UNHCR protection to one of the border refugee camps. (Source: "Thai Border Camps to Take 1,500 Myanmar Refugees," AFP, 2 July 2005). Furthermore, the Thai Government announced that the only process available for all future asylum seekers from Burma would be limited to admission to the refugee camps through a process administered by the Thai government. The PABs were revived for this purpose (for more information see section on The Provincial Admissions Boards (PABs)). In accordance with these provisions, on 6 January 2004, the Thai Government officially ordered the UNHCR to halt the refugee status determination process. Aside from 100 emergency or urgent cases from 2004, all asylum seekers who approached the UNHCR after 1 February 2004 were registered only for the purpose of referral to the PABs. The UNHCR continued to register asylum seekers in urban areas for the PAB process until mid-October 2005 when the registration process was suspended in part to prevent a backlog of the over 11,000 asylum seekers who had already registered. Commencing in mid-October to the end of the year, the UNHCR in Mae Sot assigned registration numbers but did not issue any official documents. Instead, asylum seekers' names were recorded to be contacted in the future when the registration process resumes.

In January 2004, the U.S. announced their intention to expand their resettlement program for POCs from Burma. Australia, England, Finland, New Zealand, Norway, Sweden and Switzerland also agreed to resettle POCs in varying numbers. While the option for resettlement had been available to POCs before this time, it was a protracted process due to limited resettlement options and a backlog of cases within the UNHCR. By the end of 2004, approximately 1,500 POCs had departed Thailand for resettlement in a third country. The process continued throughout 2005.

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As the resettlement process advanced, the deadline for relocation to the border refugee camps was continually pushed back. However, the Thai Government held firm to its policy that all POCs should eventually be relocated to the camps. On 7 and 11 March 2005, the UNHCR issued formal notices that all POCs were required to relocate to one of three border refugee camps by 31 March in accordance with an order of the Thai Government. POCs in the Mae Sot area were required to register with the UNHCR to be assigned a relocation date. On the day of relocation, POCs reported the Immigration Detention Center where they were processed and photographed. They were then relocated to Nu Po camp in Tak Province. Bangkok area POCs similarly had to report to the Special Detention Center for processing. They were relocated to either Ban Don Yang camp in Kanchanaburi Province or Tham Hin camp in Ratchaburi Province. POCs with resettlement departure dates scheduled before the end of April were required to remain in the Special Detention until the date of their departure. Approximately, 100 POCs received official exemptions from entering the camps and were permitted to remain in urban areas, largely for medical reasons. Of the approximately 900 POCs in the Mae Sot area, 792 entered Nu Po refugee camp. Of the nearly 3,000 POCs in the Bangkok area, 830 entered the camps with 410 going to Tham Hin and 420 going to Ban Don

Yang. Meanwhile, 243 POCs remained in the SDC waiting for their April resettlement departure dates. A total of 752 POCs did not enter the camps in accordance with the deadline. POCs who failed to comply with the Thai Government's order forfeited their eligibility for third country resettlement as well as their POC status and the attenuated layer of protection against arrest and deportation.

POCs who failed to relocate to the camps without an official exemption did so for several reasons. Some POCs consciously decided to forgo opportunities for resettlement due to their involvement in the pro-democracy movement. In other cases, POCs did not wish to be separated from spouses, partners or other family members who had not received the same status and were therefore ineligible for entrance to the camps. Other POCs were wrongly advised by unofficial actors or misunderstood the process. Some later reregistered with the UNHCR to be reconsidered for admission into the refugee camps by the PABs.

POCs who complied with the relocation order have been provided housing and rations like all other camp refugees. Initially, only 50 houses were available in Nu Po camp to host the incoming POC population. As the 50 houses accommodated only 150 to 200 persons, POCs temporarily inhabited schools, churches, monasteries and any unused buildings. Adequate housing was available approximately one month after the relocation had transpired when the construction of 75 houses and three long houses was completed. The Bangkok population was relocated to existing structures that formally housed the residents of the Maneeloy Student Center in Tham Hin camp. Once these shelters were filled, POCs were transferred to Ban Don Yang camp.

While POCs were permitted to bring small personal belongings to the camp, they were prohibited from holding mobile phones, computers and other electronic communication devices. POCs also face restrictions on their freedom of movement, inability to seek employment, limited food rations and primary healthcare services. Unaccustomed to the camp conditions, many POCs voiced discontent. On 25 June 2005, nine POCs living in Ban Don Yang camp fled vowing never to return citing inadequate rations and inability to obtain employment and a supplementary income (source: "Nine 'POC' Refugees Escape from Camp," IMNA, 29 June 2005). Similarly, a POC fled from Tham Hin camp due to the conditions, lack of money, poor health and inability to communicate with her spouse who was outside the camp (source: HRDU, 2005).

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Several security-related incidents in Ban Don Yang camp exacerbated already existing fears of abuse at the hands of Thai authorities. On 27 April 2005, a group of drunken "awsaw" personnel, a Thai militia group partially responsible for monitoring camp security, entered the home of Khin Maung Win, a POC in Ban Don Yang camp, without reason. The awsaw personnel proceeded to point their guns at, shout at, beat and threaten him. According to one account, a group of approximately 100 refugees gathered outside of the house. The awsaw shot their guns three times without causing injuries. The awsaw personnel also pushed pregnant Ma San San Nwe, a refugee serving as a translator for Khin Maung Win. The following day, at least 30 POCs commenced a sit-in protest in a camp school calling for guarantees of their security and safety. Despite threats from a Thai official, the group continued the protest. Subsequent security related incidents however were also reported. (Source: "Open Letter to United Nations High Commissioner for Refugee," Camp Committee: Ban Don Yang Camp for POCs, 3 May 2005).

By the end of 2005, approximately 589 POCs remained in the three camps as the resettlement process continued. In addition, the approximately 11,000 asylum seekers who registered with the UNHCR to be processed by the PABs remained waiting for the procedure to commence

in urban areas.

The Provincial Admission Boards (PABs)

The Thai Government first established the PABs in 1999 to handle the admission process for new arrivals from Burma seeking entry into the refugee camps. While functioning, the PABs granted admission to those determined to be fleeing from internal armed conflict. From the middle of 2000 until 2001 when they ceased functioning, the PABs rejected the majority of cases on the basis that they did not fulfill the required condition. During the PAB process, the UNHCR's role was limited to observer status.

Concurrent to the Thai Government's mid-2003 decision to narrow the avenues of protection available to asylum seekers from Burma to admission to the border refugee camps, the PABs were resurrected. As the UNCHR refugee status determination process was eliminated in January 2004, the PABs assumed administration of the admission process to the refugee camps. Under this mandate, the PABs serve to evaluate the claims of both new arrivals to the camps and urban asylum seekers seeking entry to the camps.

The new PABs are generally comprised of 9 persons including the provincial governor, the deputy governor, the provincial defense officer, the deputy provincial defense officer, a representative from the border patrol police, a representative from the army, a National Intelligence Agent, a representative from the Immigration Bureau and a representative from the UNHCR. Unlike the former PABs, the UNHCR has been granted participant status. Occasionally, the PABs are attended by additional participants such as a refugee camp commander or a district officer. In addition, the criteria for admission to the camp have been expanded to include fleeing from the consequences of fighting.

The PABs resumed operations in October 2005 in Kanchanaburi Province. Mae Hong Son and Tak Province, PABs resumed in December 2005. The first priority for the PABs was to evaluate the approximately 18,500 unregistered refugees residing in the camps who arrived between the end of 2001 and July 2003. Unregistered refugees in the camps who arrived following July 2003 were scheduled to be processed in early 2006. Processing of asylum

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seekers residing in urban areas was anticipated to commence in 2006 following the completion of the first two groups. By the end of 2005, the exact procedure for urban-based refugees was unknown. According to Thai Government-approved UNHCR announcements, all asylum seekers must remain in holding centers in the border camps while their claims are being considered by the PAB. Those who are denied by the PAB will have an opportunity to appeal through a Bangkok-based "Appeal Board." If denied by the Appeal Board, the asylum seeker will be subject to Thai immigration law.

Situation in the Refugee Camps in Thailand

Fleeing from ongoing armed conflict and gross human rights violations, civilians from Karen, Karenni, Mon and other border ethnic areas, excluding Shan State, continued to seek entry into the nine refugee camps throughout 2005. While refugees attempt to live in the camps in search of greater security, they continue to face many risks including abuses perpetrated by members of their own community, by Thai citizens or by Thai security personnel. The camps are situated in close proximity to the borderline, presenting the constant potential of threats from across the border. In addition, refugees are faced with heavy restrictions on movement that prevent them from exiting the camp. If refugees do go outside the camp, they are considered illegal migrants and vulnerable to arrest, detention, deportation and harassment at the hands of Thai authorities or the Thai population. (Source: "Overview of the Situation of Burmese Refugees in Thailand," Burmese Border Consortium, 6 November 2003).

In the past, refugees only received partial assistance from humanitarian aid organizations and

remained self-reliant in many ways. When different ethnic resistance groups controlled a greater area of land near the border, refugees were able to engage in black market trade and maintain small farms to provide for their needs. Others found employment in seasonal labor or raised small gardens to maintain a simple but poor lifestyle. As the Tatmadaw began to increasingly dominate the border areas, the Thai Government tightened control of the refugees' movement making self-sufficiency difficult. In 1997, refugees in some camps were restricted from exiting, making foraging and gathering vegetables outside the camp impossible. Relief organizations have gone from providing 50 percent of staple diet needs in 1984 to 100 percent by the mid-1990s. In addition, refugees have become increasingly dependent on relief organizations for other basic living necessities such as cooking materials, clothing, housing materials and cooking fuel.

Due to the inability of refugees to supplement their diet, the nutritional health of refugees has suffered. Refugees receive a basic food basket of rice, salt, yellow beans, oil, blended food and fish paste from relief agencies. In 2001, the then Burmese Border Consortium (BBC), since renamed the Thailand Burma Border Consortium (TBBC), conducted a food consumption/nutritional status survey in Mae La and Karenni Camp 2. Again in May 2002, a rapid nutrition survey was conducted in Ban Don Yang, Tham Hin and Umpiem Mai refugee camps. The surveys revealed that refugee diets were lacking in micro-nutrients while excessive in carbohydrates. The BBC survey indicated that the average monthly expenditure for food was about 55 to 70 baht (approximately US\$1.40 to US\$1.75) per family. In addition, registered refugees often share their rations with those who are unregistered and do not receive any. As a result of poor living conditions, frequent infection and a diet lacking in animal protein and micro-nutrients, the BBC survey indicated that most refugees, including children, suffer from chronic malnutrition. Meanwhile the acute malnutrition rate for refugee children is averaged at 4.9 percent, which is on the verge of being considered unacceptable

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according to the World Health Organization (WHO) guidelines that consider anything above 5 percent to be unacceptable. (Source: *Six-Month Report*, TBBC, July–December 2004). Thailand does not permit refugees to build permanent structures in accordance with the policy that they are only temporarily displaced people. As a result, most homes and buildings are assembled with materials that are obtained locally, such as bamboo and wood. Most homes are not durable and suffer from damage each rainy season. Deforestation of areas surrounding the camps has become an increasing source of tension for the Thai authorities and forestry services. Despite reports that indicated that illegal logging activities in the areas had caused greater environmental detriment, Thailand has heightened restrictions on the refugees' ability to cut bamboo in 1997. These restrictions have increased through the years and in 2002 it was reported that the sale of bamboo to refugees was barred in some areas. Consequently, refugees rely on humanitarian organizations, such as the TBBC, to supply building materials. (Source: *Six-Month Report*, BBC, July–December 2003). To further prevent refugees from participating in illegal logging operations, the Forestry Service erected barbed wire and concrete fences around the perimeters of the border camps during 2004 (source: "Tighter Conditions at Thai Camp," *Far Eastern Economic Review*, 23 September 2004).

In late 2003 and early 2004, Thai authorities relocated Mae Khong Kha refugee camp from Mae Sariang District of Mae Hong Son Province to Mae La Oon, a new site near the Salween River and approximately four kilometers from the Thai-Burma border. Shortly after the relocation was complete, the dangers of floods became apparent giving rise to fears of erosion, landslides and lack of access to the camps. By the end of 2004, 96 houses

determined to be in areas of high risk were relocated to Pwe Ber Lu. The Pwe Ber Lu site had been under consideration as a viable site during the initial camp relocation but was rejected on the grounds that it was too close to the border. In 2005, a survey conducted by the Asian Institute of Technology from 2 to 5 April found several additional houses were located in vulnerable areas. Following the survey, 360 additional houses were relocated to Pwe Ber Lu, drainage ditches were dug and an emergency evacuation plan was designed. (Source: *Six-Month Report*, TBBC, January–June 2005).

Plans for the relocation of residents of Tham Hin refugee camp in Ratchaburi Province were also developed during 2005. Since the camp was constructed in 1997, the amount of designated space has been below international standards. Approximately 9,000 refugees, comprised of ethnic Karen, former residents of the Maneeloy Student Center and POCs relocated from the Bangkok area reside in a 16-acre campsite with each family inhabiting a five square foot space. Insufficient space and overcrowded homes, as the average family is seven to 10 persons, have consistently provoked concern for health and sanitation conditions within the camp. At the end of 2004, the poor conditions of sanitation were punctuated when Medecins Sans Frontieres (MSF), an international health NGO, reported that the toilets built beneath the refugees' houses were full and could not be drained or replaced. In late April 2005, Thai Senator Kraissak Choonhaven likened the conditions of Tham Hin to a concentration camp after conducting a visit with four other senators. While Thai authorities had long denied requests for additional land for the camp, by mid-2005, Thai authorities finally conceded to the relocation of 71 houses from Zone 2 and expansion of the area. In addition, the Thai Government consented to the resettlement of the Tham Hin population to third countries. While the U.S. offered to resettle the approximately 9,000 residents of Tham Hin, there are concerns that new security legislation in the U.S. may prevent most Tham Hin refugees from being accepted. (Sources: "Thai Senators Blast Myanmar Refugee

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Relocations," AP, 24 April 2005; *Six-Month Report*, TBBC, January-June 2005; *Thailand: Complications in the Resettlement of Burmese Refugees*, RI, 12 December 2005).

In May 2005, refugees in Mae Ra Ma Luang camp protested the quality of healthcare services provided by Malteser Hilfdienst Deutschland (MHD), a German health NGO. According to some sources, the protest was a culmination of years of discontent with MHD that had reached a breaking point. Refugees reportedly protested and posted signboards around the camp with slogans such as "Stop MHD." To address the concerns of the community, the Health Action Improvement Group (HAIG) was established, and on 20 May MHD closed all its Out Patient Departments (OPDs), except for those in section 7 and 7B, and largely withdrew from the camp. According to one Mae Ra Ma Luang resident, the In-Patient Departments remained open. The UNHCR, the Committee for the Coordination of Services for Displaced Persons in Thailand (CCSDPT) and others contributed to mediation efforts and a compromise was eventually reached through a meeting on 12 and 13 July. MHD returned to the camp under the new name of Maltezer International (MI) with modifications to its staff and services. The situation has reportedly improved since the organization's return as MI. (Sources: HRDU, 2005; *Six-Month Report*, TBBC, January-June 2005).

Situation of Women in Refugee Camps

Most refugees in camps live in family units, either arriving as such or reuniting after separate arrivals. The ratio of males to females is 51 to 49 and there are relatively few single mothers. The average family size is 5.6 people. Single women head nearly 6 percent of households in refugee camps. Women tend to be under-represented in the committees that organize the day-to-day administration of the camps, but are active in areas such as teaching, healthcare work

and home visits to gather information about the daily routine of refugees. Obstacles to increased participation of women in camp administration are lack of education and basic knowledge about their rights. There are various women's groups in all of the camps, some focusing on the daily needs and welfare of women and some addressing women's rights issues. (Source: *Six-Month Report*, TBBC, January-June 2005).

Most refugee women are from the ethnic minority community and have suffered a wide range of human rights violations prior to their arrival in the camps. Ethnic minority women living in conflict areas are frequently conscripted by the SPDC for use as forced laborers on infrastructure projects and as porters for the military. They are also subject to the constant threat of rape with virtually no personal security. (For more information see Chapter 7 Rights of Women). Within the camps, refugee women continue to be vulnerable to abuse. Domestic violence is a particular problem for refugee women. Due to the strict regulations on the ability of refugees to freely go outside the camp, traditional ideas of gender roles are challenged as households are forced to depend on humanitarian agencies for their livelihoods. According to EarthRights International, a human rights organization, such dependency prevents refugees from being able to fulfill cultural gender roles leading to a sense of frustration and powerlessness, particularly by male heads of households who are unable to provide for their families. In turn, this sense of frustration frequently results in domestic violence as refugees struggle to exert control over some aspect in their lives. (Source: "Facing Violence Amongst Ourselves: Domestic Violence in Refugee Communities," ERI, 2003).

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Situation of Refugee Children

Although the decision to flee one's home impacts all members of the household, children are particularly affected by the consequences of flight. The physical dangers for children during flight are immense. Not only are children threatened by landmines and sudden attacks but also their health is put at severe risk due to long days of walking without adequate food and water. In this situation, children are at risk of malnourishment, which lowers resistance to diseases such as malaria. Unaccompanied children, in particular, are vulnerable to neglect, military recruitment, sexual assault and other types of abuse. Children also suffer greatly from the emotional affects of fleeing their homes. They leave behind friends, relatives, possessions and established social structures. They also witness the fear and uncertainty of adult authority figures. Furthermore, refugee children often have been exposed to a range of human rights violations including killings, torture, rapes, forced labor, etc. These factors, along with shortages of basic resources, detrimentally impact the physical, psychological and social development of refugee children.

Once in Thailand, refugee children living within the border camps not only face the daily hardships of camp life but also uncertain futures, particularly since they have limited educational opportunities to prepare them for future vocations. Children residing in the refugee camps have access to education up to grade 10. Higher educational opportunities, however, are unavailable to refugee children. Instead, there are limited opportunities for vocational training. In mid-December 2005, the Thai Ministry of Education announced plans to provide Thai language programs as well as educational resources for refugee children residing in the camps. The Thai Office of the Non-Formal Education Commission will be responsible for providing instructors not only for Thai language, but English and occupational skills as well. The Commission will also afford the camps with education materials including computers, satellite receivers, solar power generators, textbooks and televisions. The program is anticipated to commence in April 2006 and is to be primarily

directed toward secondary level students. The program will also provide educational certificates upon the completion of the studies. (Source: "New Program Will Enhance Burmese Refugee Education," *Irrawaddy*, 15 December 2005).

Children of refugees and asylum seekers living outside the refugee camps in Thailand face even greater difficulties obtaining access to an education. These difficulties have existed despite the fact that under the provisions set forth in the CRC and the Thai Ministry of Education's 1992 Regulation on Evidence of a Child's Birth for School Admission Thailand is obligated to allow non-Thai children to attend Thai schools. In addition, according to Thai law, admission to a school cannot be contingent upon possession of civil registration documents. However, most children from Burma have been unable to access Thai schools. The few that have attended Thai schools reportedly have been "unable to attain an official degree or certificate permitting the young person to pursue further education or to find a job." On 5 July 2005, however, the prospects for children from Burma obtaining an education in Thailand outside of the refugee camps ostensibly improved when the Thai Cabinet passed a resolution granting non-Thai and undocumented children access to the Thai education system from kindergarten through university. According to the resolution, children under this category are entitled to receive a 13-digit registration number that would allow them to attend school. Moreover, undocumented children would be permitted to travel within Thailand for approved education-related purposes. However, by the end of 2005, the resolution had yet to be implemented, the procedures for accessing educational institutions remained unknown and the situation of children remained largely unchanged. (Sources: "Stolen Future: The Stateless Human Rights Documentation Unit of the National Coalition Government of the Union of Burma

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Children of Burmese Asylum Seekers," RI, 25 June 2004; *World Refugee Survey 2005*, USCRI, 15 June 2005).

An issue of increasing concern is the growing population of stateless children born to refugees and asylum seekers from Burma in Thailand. Under Thai law, they are not eligible for Thai citizenship due to their status as illegal immigrants. At the same time, they are not eligible for citizenship in Burma under the Citizenship Act because they were born outside of the country to parents who left illegally. The SPDC also denies citizenship to such children on the basis that they do not have birth certificates. As a result, a growing population of stateless children is emerging in Thailand. Although Thailand has signed the UN Convention on the Rights of the Child (CRC), it maintains reservations concerning Articles 7 and 22, which address birth registration and citizenship for refugee children. (Source: "Stolen Future: The Stateless Children of Burmese Asylum Seekers," RI, 25 June 2004). Beginning on 1 July 2003, the Thai Government has allowed delivery certificates to be issued to babies born in the camps to registered camp refugees. Refugees and asylum seekers are also allowed to obtain a delivery certificate in public hospitals. However, a delivery certificate is not the same as a birth certificate and does not grant citizenship to refugees. Without legal recognition in Burma or Thailand, refugee children born in Thailand are considered stateless, which renders them ineligible for even basic privileges. (Sources: *World Refugee Survey 2005*, USCRI, 15 June 2005; *Six-Month Report*, BBC, July–December 2003).

Situation of Specific Ethnic Groups of the Refugee Population

Situation of Karen Refugees

The Karen, like other ethnic minority groups, have settlements on both sides of the Thai-Burma border. With an estimated population of between 3 and 4 million, they are one of the largest ethnic minority groups in Burma. The majority of Karen support and consider themselves represented by the KNU and its army, the Karen National Liberation Army (KNLA). Large numbers of Karen refugees began crossing from Burma in 1984, and since

that time they have received assistance from the KNU-linked Karen Relief Committee (KRC). At the end of 1994, 400 former KNLA soldiers left to form the breakaway Democratic Karen Buddhist Army (DKBA). They claimed that KNLA Christian commanders discriminated against Buddhist KNLA soldiers. The split was partly engineered by the SPDC as part of their “divide and rule” strategy. Since 1994 the DKBA troops have attacked Karen villages inside Burma as well as Karen camps located along the Thai border, sometimes in cooperation with the SPDC armed forces.

After more than 50 years of armed struggle, the KNU and SPDC came to a verbal ceasefire agreement, also known as the gentlemen’s agreement, at the end of 2003. Despite attempts by the KNU to solidify a formal ceasefire agreement with the SPDC, by the end of 2005 the KNU and SPDC continued to operate under the tenuous, informal agreement. Yet, even with this agreement, SPDC forces continued to perpetrate gross human rights violations in Karen areas. In October, the SPDC reportedly intensified efforts to suppress and eliminate civilian support of the KNU through economic blockades, which included bans on food transport, trade and travel in the Mawchi, Thandaung and Toungoo areas of northern Karen State. The economic blockades created increased obstacles for Karen villagers to sustain their livelihoods (source: “Burma Army Intensifying Cuts on KNU Supporters,” DVB, 2 October 2005). Other abuses perpetrated included arbitrary killing, torture, forced relocation, looting, extortion and forced labor. At the same time, hostilities between KNU and SPDC forces

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broke out throughout the year. (For more information, see Chapter 8 Rights of Ethnic Minorities). As a result of the ongoing suppression and violation of their rights, Karen villagers continued to flee from their homes across the border to Thailand in search of refuge during 2005.

Situation of Karenni Refugees

In 1989, Karenni State, with a relatively low population, had four separate armed groups. In the early 1990s, two of these groups signed ceasefire agreements with the ruling military regime, which left the two larger groups, the Karenni Nationalities People’s Liberation Front (KNPLF) and the Karenni National Progressive Party (KNPP), continuing their armed struggle against the military regime. The enduring conflict contributed to the flow of Karenni refugees into Thailand. In 1992, as a result of mass forced relocations carried out by the regime and increasing pressure, the KNPLF submitted to a ceasefire agreement. The KNPP also signed a ceasefire with the military regime in March 1995, but it remained intact only three months. It was discarded after the terms were violated in June by the regime. In 1996, the military began a large-scale forced relocation program in areas perceived to be sympathetic to the KNPP. As a result of the continuing armed conflict and mounting human rights violations, by the end of March 1998, there were approximately 12,500 Karenni refugees in Thailand. (Source: HRW, 2001)

While the KNPP continued to express the desire to negotiate a lasting peace agreement with the SPDC, throughout 2005, the regime increased intense pressure on the KNPP to submit to a full surrender under the terms of the failed 1995 ceasefire agreement. (For more information, see Chapter 8 Rights of Ethnic Minorities). As a result of such pressure, Karenni villagers continued to endure violations of their human rights perpetrated by the SPDC military, the pro-junta KNPLF and other junta-supported actors. Seeking safety from the armed conflict and abusive tactics employed by the SPDC against Karenni villagers, the flow of refugees from Karenni State into Thailand continued throughout 2005. At the end of 2005, there were approximately 22,333 Karenni refugees in refugee camps in Thailand (source: *Six-Month Report*, TBBC, July-December 2005).

Situation of Mon Refugees

With a population of nearly two million people, Mon State has struggled for autonomy since 1948, led by the NMSP and its armed wing, the Mon National Liberation Army (MNLA). When Mon refugees began to flee to Thailand in growing numbers, the NMSP, like the KNU, formed their own organization, the Mon National Relief Committee (MNRC), to coordinate assistance to the refugees. In June 1995, the NMSP signed a ceasefire treaty with the regime, which enabled them to retain their arms within a few areas in Mon State. The agreement also required the repatriation of Mon refugees from Thailand. The following year, the refugees were repatriated but they remained afraid to return to their homes and instead established new camps or resettlement sites in NMSP-controlled territories. Due to the lack of infrastructure, constant new arrivals, lack of access to agricultural lands outside of the ceasefire areas and a variety of other factors, the resettlement sites within Mon State have remained dependent upon humanitarian assistance. (Sources: *Six-Month Report*, TBBC, July-December 2004; HRW, 2001).

During 2005, new checkpoints and restrictions on movement in both Thailand and Burma adversely affected residents of the Mon resettlement sites. In early May, Thai authorities

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closed the road from Halockhanee to Ban Don Yang refugee camp in Sangkhlaburi Province, Thailand, effectively restricting communication between Mon refugees in the camps and those living in Mon State. Only tourists able to supply the Thai authorities with a 1,500 baht fee as opposed to the normal 1,000 baht fee were permitted to cross the border to Thailand. The road closure followed accusations by Mon refugees that drunken NMSP soldiers beat and robbed them in Holockhanee. (Source: "Refugee Road Shut Down," *Kaowao*, 7 May 2005). The TBBC also reported that a new Thai checkpoint and travel restrictions in Sangkhlaburi created problems for humanitarian agencies providing necessary assistance to the resettlement sites in Mon State. Similarly, a new SPDC military checkpoint in Yebyu Township, Tenasserim Division has inhibited those in the resettlement sites from accessing rice provisions and markets for cash crops. (Source: *Six-Month Report*, TBBC, January-June 2005).

Situation of Pa-O Refugees

The Pa-O live primarily in the Taunggyi area of southwestern Shan State. A smaller number live in the Thaton area of Mon State in Lower Burma. The Pa-O in the Thaton area have largely become "Burmanized", and like their neighbors, the Mon and Karen they have adopted Burmese language, dress and customs. The Pa-O in southwestern Shan State have learned to speak Shan, but have maintained their own distinct language and customs. Forced relocation programs carried out by the SPDC have been particularly sweeping in Mon, Karen and Shan States, the states where most of the Pa-O live. The Pa-O Nationalist Army signed a ceasefire with the SLORC in 1991. Yet, because the Pa-O live in many of the areas where other rebel groups are still active, they have been swept up in the forced relocations and human rights abuses for which the ruling junta has become infamous. (Source: Pa-O Human Rights Watch).

Situation of Shan Refugees

Shan State is the largest and most ethnically diverse state in Burma. When independence from the British was won in 1948, the Shan were promised the right to secede from the Union of Burma after 10 years. Yet, following independence and the subsequent military take-over of the country, the agreement has not been honored and conflicts between the regime and armed resistance fighters have reigned over Shan State. For decades, Khun Sa, the notorious drug warlord, ran in his drug production operations in Shan State and along the Thai border

with the support of various Shan armed groups. In January 1996, Khun Sa officially surrendered to the military regime. At the same time, the military regime implemented a large-scale relocation program to both eliminate support for armed resistance groups and to gain control of the region's natural resources. From March to September 1996, more than 450 villages in the area between Namsan-Kurng and Heng-Mong Nai were moved to relocation sites. By 1998, an estimated 300,000 Shan villagers in central Shan State were affected by the relocation programs. In connection with sustained military presence in Shan State, Shan villagers have been consistently subject to human rights abuses at the hands of SPDC troops throughout the years resulting in a steady flow of asylum seekers from Shan State into Thailand. (Source: Caouette, Therese M, and Mary E. Pack, *Pushing Past the Definitions, Migration from Burma to Thailand*, OSI & RI, December 2002)

According to the USCRI's *World Refugee Survey 2005*, over 300,000 refugees from Shan State remained in Thailand (source: *World Refugee Survey 2005*, USCRI, 15 June 2005).

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According to the TBBC, the arrival rate to the Fang District of Thailand alone ranged from 700 to 1000 persons per month in the first half of 2005 (source: *Six-Month Report*, TBBC, January-June 2005). Thailand, however, has consistently refused to recognize any Shan persons as refugees, primarily due to the prevalence of Shan migrant laborers in Thailand. Because Shan language and culture is closely related to Thailand's, the Shan have been able to secure employment without facing the same obstacles as other ethnic groups from Burma. As a result, the Thai Government categorically classifies Shan asylum seekers as "economic migrants." Thailand is also hesitant to recognize the Shan as asylum seekers due to the extensive drug trade between Shan State and Thailand. Consequently NGOs in Thailand are largely prohibited from providing any assistance to the Shan people. Access to healthcare is minimal and children have little opportunity for education.

Many Shan and humanitarian organizations contest the Thai Government's notion that all Shan are economic migrants. In a report entitled *Charting the Exodus from Shan State*, the SHRF presented evidence illustrating that most new arrivals to Fang District, Thailand originate from one of the twelve townships that were subject to the forced relocation programs which commenced in 1996. Prior to 1996, the number of Shan arriving in Fang district was reported to be around 4,000 per year, primarily during the dry season from January to May. In addition, most were men ranging in age from 20 to 40 years old. However, after 1996 the number of arrivals has increased to 8,000 to 15,000 each year. Unlike those who arrived prior to 1996, there has been no seasonal correlation to their arrival time. In addition, 32 percent are under 18 years old and 15 percent are 45 years or above. Only half are working age adults. SHRF argues that the difference in age groups indicates that full families are arriving in search of safety and not in search of work. (Source: *Charting the Exodus from Shan State*, SHRF, 2003).

The majority of Shan who have fled Burma live in the fields and orchards of Chiang Mai, Chiang Rai and Mae Hong Son Provinces, Thailand. Most are able to survive on the meager wages of seasonal work. Without any official status, Shan people in Thailand are subject to abuse by their employers and frequent arrest and detention. Furthermore, prolonged unprotected exposure to pesticides in the orange orchards where they live and work has contributed to health problems for the Shan population in Thailand. Meanwhile, they have limited if any access to proper healthcare. (Source: *Six-Month Report*, BBC, July-December 2003). Other Shan asylum seekers settle in one of the three unofficial refugee camps located along the border in close proximity to Shan State Army-South (SSA-S) bases. In addition, approximately 600 Shan refugees reside in an official refugee camp in Wieng Heng district,

Chiang Mai Province, which was established in 2002 and permitted to receive humanitarian assistance. (Source: *Six-Month Report*, TBBC, January-June 2005)

In early April 2005, approximately 100,000 troops from the SPDC military with the assistance of the UWSA commenced a heavy offensive against the SSA-S base in Doi Taleng in the Mong Ton area of southern Shan State. As a result of the increased hostilities, 1,800 villagers were displaced from their villages. The SSA-S requested official permission for Shan villagers to take refuge in Mae Hong Son Province, Thailand. The Thai authorities consented on the condition that all Shan must return to Burma when the fighting ceased.

(Source: "Thailand Allows Shan Temporary Refuge," *Irrawaddy*, 22 April 2005). Although security and stability in Shan State remained uncertain, on 18 May, Maj. Gen. Manas Paorik, deputy commander of the Thai Third Army, indicated that the refugees were required to return to Burma by the end of May. On 28 May, six local Shan organizations appealed to the Thai Government to reconsider the deadline, which was rescheduled to 7 June. To expedite

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the repatriation process, the Thai authorities cut off food supplies for Shan refugees by prohibiting supply trucks from reaching the border area. (Source: "Shan Refugees Face Difficulties," *Irrawaddy*, 7 June 2005). TBBC reported that approximately 400 refugees returned to Burma (source: *Six-month Report*, TBBC, January-June 2005).

Shan refugee outflow was also exacerbated by the formation of the Interim Shan Government (ISG) by a little known Shan group in exile on 17 April 2005. Laikha, Kehsi, Mongkerng and Mongnawng Townships demonstrated the primary base of support for the ISG. Consequently, these four townships were subject to ongoing crackdowns by the regime. In mid-May 2005, approximately 250 Shan refugees arrived in Thailand after SPDC IB 64 and LIB 515 launched attacks after a pro-ISG rally. (Source: "Hundreds Fleeing from Hot Spot Township," SHAN, 20 May 2005). More Shan refugees were expected following forced relocation orders issued in several townships in southern Shan State in retaliation to ISG support. On 4 October, the 60 households of Wanzan village and 40 households of Koonkleng village, Laikha Township were ordered to relocate the Wanpong village tract in the same township. Comparable orders were reported in Kehsi, Mongkerng and Mongnawng Townships. (Source: "Junta Launches New Scorched Earth Campaign," SHAN, 16 October 2005).

Resettlement Process

Third country resettlement was initially approved for the formerly urban-based population of POCs in early 2004. Following the onset of the resettlement process, the Thai Government granted permission for the camp-based refugee populations to be taken into account for possible resettlement. Yet, concerns have emerged regarding the selection process for resettlement of the camp populations. These concerns specifically relate to the broad definitions of terrorism under the USA Patriot Act and the Real ID Act, which would preclude resettlement to the USA of anyone who provided any form of "material support" to terrorists or insurgents. Armed resistance groups operating in the ethnic minority areas have been expansively interpreted as "terrorists or insurgents." Furthermore, "material support" may include minimal provisions such as food and water. As most refugees in the camps have provided some form of minimal support such as food to opposition forces, there is increasing concern that many refugees will be rejected from resettlement to the U.S. While the U.S. is not the only country with a resettlement program for refugees from Burma, it operates the largest program. Another concern has been the lack of consideration for the resettlement of former child soldiers, a particularly vulnerable population. As of the end of 2005, only New Zealand accepted child soldiers for resettlement. (Source: *Thailand: Complications in the*

Resettlement of Burmese Refugees, RI, 12 December 2005).

Refugee advocates have also indicated a lack of substantive information regarding the resettlement process resulting in refugees making uninformed decisions to accept resettlement opportunities. As third country resettlement presents many hardships alongside advantages, refugee advocates such as Refugees International have argued that it is not a durable solution for all members of the refugee population. (Source: *Thailand: Complications in the Resettlement of Burmese Refugees*, RI, 12 December 2005).

The resettlement process also has an impact on the refugee population remaining behind. Community leaders and educated persons among the refugee population generally have more opportunities for resettlement. However, departure of skilled and educated members of the community has adverse consequences for those who depend on their leadership and expertise

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in the camps. (Source: *Thailand: Complications in the Resettlement of Burmese Refugees*, RI, 12 December 2005).

Timeline of Major Refugee Related Events on the Thai-Burma Border in 2005

January

In early January, the E.U. announced a 9.5 million euro contribution to five different projects supporting populations both inside Burma as well as those residing in Thailand. The projects supported in Thailand included an IOM-run health program targeting Shan IDPs and migrants from Burma, a UNHCR program for Karen refugee education and TBBC efforts to alleviate malnutrition in Mae La Oon and Ma Ra Mu Luang refugee camps as well as to provide supplies to all border camps. (Source: "European Union Supports Vulnerable Populations In and From Burma/Myanmar," *Financial Times*, 7 January 2005).

On 10 January, NGO workers were advised against entering the two Karenni refugee camps after SPDC forces attacked a KNPP military base across the border from Mae Hong Son Province, Thailand. According to the KNPP, the Burma Army discharged 50 artillery shells at the camp and a further 10 shells landed in Thailand. Thai authorities also issued a security warning in the area. (Source: "Thai Security Alert after Border Shelling," *Irrawaddy*, 11 January 2005).

On 11 January, 370 Karen villagers crossed into Umpang District, Tak Province, Thailand after SPDC attacks on KNU's Battalion 201 in Kalaw Waw camp in Dooplaya District, Karen State during Karen New Year celebrations. The villagers remained in a temple in Wah Khie Kho village and received humanitarian assistance. (Source: "Hundreds Flee Burma Border Fighting," *Irrawaddy*, 12 January 2005).

March

On 11 March, the UNHCR announced that all POCs residing in urban areas were required to relocate to a border refugee camp by 31 March or risk loss of UNHCR protection, arrest and deportation. (Source: "Notice to All Myanmar POCs," UNHCR Regional Office for Thailand, Cambodia, Laos and Vietnam, 11 March 2005).

April

On 5 April, a UNHCR survey group assessed the safety of houses in Mae La Oon refugee camp. The group determined that houses situated on either side of the riverbank and at the base of the mountains were vulnerable to the effects of possible landslides. As a result, in late May, plans were initiated to relocate the residents of sections 6-A, 10, 11-A, 12 and 13 to Pway Baw Lu before the rainy season. (Source: "Sections from Mae La Oon Refugee Camp Were Forced to Relocate Due to Their Location," *Kantarawaddy Times*, 21 May 2005).

On 22 April, eight families or 32 people from Daw Tahe and Konna villages, Loikaw

Township arrived in Karenni Refugee Camp 1, fleeing from SPDC forced relocations. Each family could carry only two baskets of rice and ran out of food during the journey. As a result, the families went without food for three days. (Source: "New Arrivals Reach at a Karenni Border Camp," *Kantarawaddy Times*, 22 April 2005).

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On 22 April, Thai Army chief Gen. Pravit Wongsuwan agreed to allow a group of Shan refugees to temporarily remain in Thailand until conditions were conducive to return. The Shan villagers were fleeing ongoing fighting between the UWSA and the SSA-S in Mong Ton, Shan State. (Source: "Thailand Allows Shan Temporary Refuge," *Irrawaddy*, 22 April 2005).

On 27 April, a group of drunken Awsaw personnel, a Thai militia group responsible for security in Ban Don Yang camp, beat, threatened and pointed their guns at POC Khin Maung Win. In response, the next day, 30 POCs commenced a sit-in demonstration in a school in Ban Don Yang camp calling for guarantees for their safety in the camp. (Source: "Open Letter to United Nations High Commissioner for Refugee," Camp Committee: Ban Don Yang Camp for POCs, 3 May 2005)

May

On 14 May, Karenni refugee Ko Reh (age 38) was killed by an SPDC soldier 7 km. from Karenni refugee camp 2, Mae Hong Son District after he and two friends left the camp to collect vegetables in the forest. Maung Kaw also sustained injuries as a bullet grazed his forehead. On 15 May, Ko Reh's decapitated body was found with a bullet wound in his waist and hands cut off. (Source: "A Karenni Refugee Found Dead Without His Head," *Kantarawaddy Times*, 25 May 2005).

In mid-May, approximately 250 Shan villagers from Laikha Township fled to Thailand as a result of crackdowns on ISG supporters. (Source: "Thailand Allows Shan Temporary Refuge," *Irrawaddy*, 22 April 2005).

On 18 May, Maj. Gen. Manas Paorik, deputy commander of the Thai Third Army, ordered approximately 500 Shan refugees, including 200 orphans, who had been granted permission to remain on the Mae Hong Son side of the border in April to return to Burma by the end of the month. Ten days later six local Shan organizations appealed to the Thai authorities to reconsider deadline. (Source: "Shan Refugees Face Difficulties," *Irrawaddy*, 7 June 2005).

On 20 May, MHD withdrew from Mae Ra Ma Luang camp in Mae Sariang District following increased tensions with the refugee community who protested against MHD, calling their services inadequate. (Source: *Six-Month Report*, TBBC, January-June 2005).

In late May 2005, residents of Karenni Camp 1 were still enduring a water shortage that had commenced in April. Dry season and limited rainfall led to shortages and ensuing restrictions on water usage in sections 1, 17 and 18 of the camp. As several sections of the camp do not have a well, they must obtain water from a tank in section 11 between 6:00 to 12:00 am and 1:00 to 8:00 pm. (Source: "Karenni Refugee Camp Facing Insufficient Water Problem," *Kanatarrawaddy Times*, 30 May 2005).

June

On 7 June, it was reported that Thai authorities in Mae Hong Son Province had prevented supply trucks from reaching Shan refugees near the border in an attempt to motivate the refugees to comply with the 7 June deadline to relocate back to Burma. (Source: "Shan Refugees Face Difficulties," *Irrawaddy*, 7 June 2005).

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On 22 June, more than 50 Karenni people arrived in Karenni Camp 1 in Mae Hong Son

Province. The groups fled from their homes after SPDC authorities accused them of maintaining communication with the KNPP. The SPDC authorities also ordered the villages to sign an avowal that there should be no hostilities between SPDC and KNPP forces, which the villagers refused to sign. (Source: "More Karenni Refugees Advanced to the Thai Border," *Kantarawaddy Times*, 24 June 2005).

On 25 June, nine POCs left Ban Don Yang refugee camp in Ratchaburi Province citing intolerable living conditions and movement restrictions. The POCs reported that the supplied rations were insufficient and restrictions on exiting the camp prevented them from earning money to supplement the rations. (Source: "Nine Persons of Concern Escape from Thai Camp," IMNA, 29 June 2005).

July

As of the week of 4 July, it was reported that vegetable and meat sellers were not permitted to enter Umpium Mai refugee camp in conjunction with tighter security measures. As a result, refugees were forced to subsist on their rations alone. (Source: HRDU, 2005)

On 5 July, the Thai Cabinet passed a resolution that granted non-Thai and undocumented children access to the Thai education system until university. (Source: World Education, 2005).

On 11 July, it was reported that approximately 1,000 Shan villagers arrived in Fang District, Thailand from January to June 2005 following increased rice shortages and incidents of forcible conscription in Kunhing Township, Shan State. (Source: "Rice Shortages Forcing More People to Leave," SHAN, 11 July 2005).

On 16 July, the body of Karenni refugee Saw Khu Paw (age 21) was found floating in the river following flooding after he had fallen into the swollen river attempting to retrieve logs for his bible school. A boy discovered his body nearly 2 km. from the camp. (Source: "A Karenni Refugee Found Drowned due to Flooding," *Kantarawaddy Times*, 18 July 2005).

August

In mid-August, it was reported that two new buildings would be constructed in Karenni Camp 1 in anticipation of an influx of new arrivals. Building supplies would be provided by TBBC while wages for workers would be provided by IRC. (Source: "Buildings Preparation for the New Refugees," *Kantarawaddy Times*, 12 August 2005).

September

On 19 September, it was reported that ongoing rainfall caused the Mae Sariang River to overflow and flood Karenni Camp 2, Mae Hong Son Province. The floods caused chickens, ducks, pigs and a few houses to be swept away. Other houses were damaged. Several refugee families prepared to relocate to safer areas in the camp. (Source: "Karenni Refugees Prepare to Escape Deluge," SHAN, 20 September 2005).

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October

In mid-October, it was reported that SPDC forces were leading forced relocation campaigns in Laikha, Kehsi, Mong Kerng and Mong Nawng Townships in Shan State in retaliation for support in those townships for the ISG. As a result of the relocations, Shan villagers were reportedly fleeing across the border to Thailand. (Source: "Junta Launches New Scorched Earth Campaign," SHAN, 16 October 2005).

In mid-October, at the request of the Thai Government, the Mae Sot UNHCR stopped issuing documents to asylum seekers who registered to be processed by the PABs for entrance to the border refugee camps. Asylum seekers who approached the UNHCR after this time were provided with a registration number on a small slip of paper instead. Bangkok UNHCR stopped issuing documents later in the year. As of the end of 2005, both offices were no

longer permitted to issue any type of document as per the orders of the Thai Government. (Source: HRDU, 2005).

On 24 October, representatives from Finland, New Zealand and the U.S. were interviewing approximately 475 Karenni refugees in Ban Tractor refugee camp in Mae Hong Son Province for resettlement. In addition, representatives from Norway conducted resettlement interviews with approximately 200 refugees from Mae Ra Ma Luang. (Source: "Burmese Refugees Interview with UNHCR for Resettlement," *Irrawaddy*, 24 October 2005).

December

In mid-December 2005, the Thai Ministry of Education announced a plan to provide Thai language programs as well as educational resources for refugee children from Burma residing in the camps. (Source: "New Program Will Enhance Burmese Refugee Education," *Irrawaddy*, 15 December 2005).

14.3 Situation of Refugees from Burma in Bangladesh

The refugee population from Burma in Bangladesh can be divided into three categories: (1) Rohingya refugees residing in the two official refugee camps; (2) Rohingya refugees classified as illegal immigrants living outside the camps; and (3) Rakhine Buddhist refugees recognized as POCs by the UNHCR residing mostly in Dhaka, the Chittagong Hill Tracts, and in Cox's Bazaar District. Bangladesh has not signed the 1951 Refugee Convention and does not have a legal framework through which refugees can find protection. The Bangladesh Government restricts UNHCR protection and assistance to those residing in the two official refugee camps and to individual Rakhine in Dhaka who have received POC status. While new Rohingya asylum seekers have continued to flee to Bangladesh in search of refuge, they have been denied access to the camps. As a result, new arrivals have no choice but to remain outside the camps as illegal migrants without protection or assistance. Regardless of their status in Bangladesh, refugees from Burma live in appalling conditions, whether it is in the camps, the slums or the jungles.

Bangladesh has been burdened by two major exoduses of Rohingya refugees with steady trickles of new comers at all other times. The first occurred in 1978 following operation *Naga Min* or Dragon King, when Gen. Ne Win ordered a crackdown to drive out all "foreigners" from the country. The campaign led to extra-judicial killings, rape, and other acts of violence

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causing approximately 200,000 Rohingya to flee across the border to Bangladesh. Following the repatriation, often involuntary, of these refugees, the regime enacted a new Citizenship Law in 1982, which has rendered the Rohingya de facto stateless. The Rohingya are not considered one of the 135 national races according to the regime. Without citizenship, Rohingya are particularly vulnerable to abuses and extensive restrictions. In 1990, the increased military presence in Arakan State escalated human rights abuses perpetrated against the Rohingya, such as forced labor, forced relocation, execution, torture, and rape. As a result, from 1991 to 1992, approximately 250,000 Rohingya fled to Bangladesh. From 1992 to 1994, Bangladesh forcibly repatriated over 50,000 refugees from this group. However, the UNHCR did not gain access to oversee the mass repatriation program until April 1994. The voluntary nature of the exercise was highly questioned by humanitarian agencies working in the camps. There were reports that officials withheld food from and beat refugees to coerce them into returning. In 1997, the repatriations halted and commenced again the following year but only in very limited numbers.

Since the mass repatriations in the mid-1990's, access to the refugee camps has been denied to new arrivals. Despite the fact that extensive violations of human rights and increasingly intolerable conditions in Burma have forced new asylum seekers and refugees who were

previously repatriated from Bangladesh to cross the border, the Government of Bangladesh labels them economic migrants. Therefore, all new comers from Burma are considered illegal in Bangladesh. As they are denied access to the refugee camps, they are not eligible for humanitarian assistance. Therefore, they are relegated to hide in the jungle or in slums of Cox's Bazaar. (Source: *Myanmar: The Rohingya Minority: Fundamental Rights Denied*, Amnesty International, 16 May 2004).

Over the years, repatriation has continued in smaller numbers. By 2005, approximately 236,000 Rohingya were repatriated while approximately 20,500 remained in the two refugee camps at Kutupalong and Nayapara in the Cox's Bazaar area. The Government of Bangladesh has consistently maintained the perspective that all the Rohingya refugees must return to Burma and has worked to continue the process of repatriation. The government's position was highlighted in a 17 February 2005 discussion in Parliament when the issue of Rohingya refugees was raised. Minister of Home Affairs Lutfozzaman Babar reported both the size of the remaining camp population and the fact that the Bangladesh Rifles (BDR), Bangladesh border security forces, were ordered to turn away new refugees. In the same discussion, Minister of Foreign Affairs M. Morshed Khan noted that 95 percent of the Rohingya refugee population had already returned to Burma and the government was actively working to complete the repatriation of the remaining 5 percent. (Source: "Rohingya Refugee Issue in Bangladesh Parliament," *Narinjara News*, 18 February 2005).

Previously the repatriation process imposed by the Bangladeshi Government was impeded by the fact that the SPDC had not fully cleared the remaining refugees in the camps for return. In addition the SPDC had created extensive bureaucratic procedures that complicated the repatriation process. Marking improved diplomatic and economic relations between the two countries in 2003, the SPDC lifted conditions obstructing repatriation and agreed to accept the remaining refugees in the camps who opt for voluntary repatriation. The SPDC's willingness to receive the refugees was reiterated when SPDC Foreign Minister Nyan Win visited and met with Prime Minister of Bangladesh Begum Khaleda Zia on 24 February 2005. Concurrent to discussions of bilateral trade and implementation of various economic development agreements, Prime Minister Zia broached the topic of the remaining refugee population in the two camps. In response, Foreign Minister Nyan Win reportedly guaranteed

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that the SPDC would receive the residual Rohingya refugee population. (Source: "Rohingya Refugees to Be Taken Home," *Xinhua*, 24 February 2005).

Situation of Rohingya Refugees in Nayapara and Kutupalong Camps

"This is a difficult protection environment for UNHCR to work in. In the camps we are doing our best to curb arbitrary punishment, such as beatings and the confiscation of family books, both of which are totally unacceptable...Many of these people have been here for 14 years, and it's time to have a really realistic assessment of their future and make an attempt to reach a pragmatic solution." Christopher Lee, UNHCR representative in Bangladesh (source: "Rohingya Refugees Living in Tough Conditions in Bangladesh Camps," UNHCR, 21 September 2005).

Of the 14 original camps that were erected to accommodate the mass of refugees in 1991, only Nayapara camp near Teknaf and Kutupalong camp near Ukhia remain. As of the end of 2005, the total population of the two camps stood at approximately 20,500 persons. On 24 November 2005, the UNHCR commenced a registration exercise in the two camps to ascertain the correct number of refugees as well as their profile information (source: "Bangladesh: Registration Starts in Camps," UNHCR, 25 November 2005). According to a UNHCR/World Food Program (WFP) joint assessment mission conducted in September 2004,

the average family was comprised of 6.8 persons. Moreover, 40 percent of the families registered were comprised of a minimum of 10 persons. Families and extended family members tend to share the same houses due to a lack of access to new living space. Overpopulation and overcrowded living conditions contribute to poor sanitation and a “high level disease environment.” The Government of Bangladesh prohibits any construction of permanent structures or improvements to old ones as the refugees’ stay is viewed as temporary. As a result, refugee homes, constructed from bamboo and thatch, are easily damaged during harsh weather. In September 2005, the UNHCR reported that camp housing was “badly in need of repair or renewal.” The UNHCR has sought permission from the government to remedy the situation for the past two years. Yet, as of September 2005, the government had yet to consent to the repairs. (Sources: *Joint Assessment Mission Report*, UNHCR and WFP Bangladesh, October 2004; “Rohingya Refugees Living in Tough Conditions in Bangladesh Camps,” UNHCR, 21 September 2005).

Rohingya refugees are not permitted to access local education or health institutions. Moreover, prior to 1997, the government prohibited education in the refugee camps as well. While education has become available to children up to 12 years old, the level is reported to be low as most teachers are volunteer refugees who have received the same poor level of education and minimal teacher training. Teachers are also subject to intimidation by camp officials as they are often accused of assisting refugees in contacting the UNHCR, engaging in political activities or organizing the refugees. Educational instruction is conducted in Burmese presenting further challenges for Rohingya children whose primary language is a dialect of Chittagong, which is similar to the language of the local Bangladeshi community. Children, who comprise 65 percent of the camp population, are taught for only two hours each day. Overall camp literacy rates stand at 12 percent. Higher education or vocational training is not available. (Sources: “Bangladesh: Burmese Rohingya Refugees Virtual Hostages,” RI, 9 May 2005; “Rohingya Refugees Living in Tough Conditions in Bangladesh Camps,” UNHCR, 21 September 2005).

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Rohingya refugees live with heavy restrictions on the freedom of movement. Officially, they are prohibited from exiting the camp or seeking external employment. Those who are caught doing so may be subject to punishment from camp authorities. Despite this risk, the UNHCR and WFP reported that 40 percent of refugee families have secured outside sources of income in low level jobs such as rickshaw drivers and brick-makers. Refugees who work outside the camp are vulnerable to arrest by local police and harassment from the local community.

While some refugees have managed to procure employment illegally outside of the camps, most refugees are completely dependent upon humanitarian assistance for their survival. As a result of the inability to supplement their dietary needs, a 2003 UNHCR nutrition survey showed that more than 65 percent of refugee children were chronically malnourished.

(Source: *Joint Assessment Mission Report*, UNHCR and WFP Bangladesh, October 2004).

Both Nayapara and Kutupalong camps are organized and managed by the Bangladeshi authorities. Corruption and violence within the camps has long been reported. Majees, volunteer refugees who are selected by and work alongside the Bangladeshi camp officials as leaders of sections of the camps, also intimidate and oppress members of the camp population. There are no camp committees of refugee representatives to facilitate the participation of refugees in the decision making or administration process of camp policies. Camp residents are prohibited from organizing meetings, and are threatened if they speak out against the conditions and treatment to either camp officials or foreigners who visit the camps. Some refugees have reported being subject to jail time or other forms of punishment for vocalizing

opposition of their situation. (Source: “Bangladesh: Burmese Rohingya Refugees Virtual Hostages,” RI, 9 May 2005).

The camp organization and harsh treatment of refugees resulted in several conflicts between refugees and camp officials during 2004, including a hunger strike in June and an altercation in November that resulted in the death of three refugees and detention of approximately 42. In 2005, the situation in the camps remained relatively quiet in comparison, albeit appalling. Dissatisfied with the situation of human rights in the camps, the UNHCR had yet to sign its annual agreement with the Bangladesh Ministry of Disaster Management as of late May 2005. As a result, the future of both the UNHCR’s involvement and the repatriation process were at question. (Source: “UNHCR Threatens to Win Up Bangladesh Operations,” BDNews, 21 May 2005). Shortly after the UNHCR expressed disapproval of the situation of human rights in the camps, the Officer-in-Charge of the Refugee Relief and Repatriation Commission (RRRC) reportedly ordered the Camp-in-Charge to organize refugee families in both Kutupalong and Nayapara to deny the UNHCR’s statements and to exhibit positive sentiments towards repatriation (source: “Bangladeshi Camp Officials Step Up Propaganda against Rohingya Refugees,” *Kaladan News*, 19 June 2005).

UNHCR Disengagement and Forced Repatriation

In early 2003, the UNHCR announced a plan to phase out their presence along with their partner NGOs through promotion of “self-sufficiency pending voluntary repatriation.” Responsibility for administering assistance programs in the two camps would be transferred to the Bangladesh authorities. In response, the Government of Bangladesh expressed concern both over its lack of capacity and resources to manage assistance programs. There were also fears that the self-sufficiency program would create an incentive for refugees to remain in Bangladesh rather than repatriate. In September 2004, the Government of Bangladesh formally rejected the UNHCR’s proposal highlighting repatriation as the only durable solution. In 2005, Refugees International reported that the UNHCR remained committed to

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developing a strategy for phasing out their presence and establishing a modified self-sufficiency plan which would include freedom of movement and permission for temporary stay in Bangladesh. To encourage repatriation, the UNHCR also introduced an incentive program granting 15,000 taka for housing assistance for refugees choosing to repatriate. (Source: *Bangladesh: Burmese Rohingya Refugees Virtual Hostages*, RI, 9 May 2005).

As the UNHCR is the only international organization with a protection mandate, the announcement of the disengagement plan in 2003 raised concerns that without the agency’s presence abuses would ensue. These concerns proved to be valid as evidence of forcible repatriation emerged in May 2003. Camp police, Camp-in-Charges, camp staff and majees have been responsible for coercing refugees to repatriate through harassment, intimidation, confiscation of ration books, arbitrary detention and enforced separation from family members. Through advocacy and increased UNHCR protection staff presence in the camps, the reports of physical threats and numbers of refugees repatriated have decreased. In 2004, the number of repatriated refugees significantly decreased to 210 as opposed to the approximately 3,000 in 2003. In 2005, approximately 92 refugees were repatriated none of whom were reported to be forced. Yet, reports of harassment and intimidation of refugees as a means to coerce repatriation continued. For example, in mid-January 2005, five refugees were reportedly arrested and detained in the Cox’s Bazaar jail following their refusal to repatriate. (Sources: “We Are Like A Soccer Ball, Kicked by Burma, Kicked by Bangladesh,” *Forum-Asia*, June 2003; “Thousands of Refugees Harassed to Return to Myanmar,” MSF, 17 September 2003; *Overview of the Bangladesh-Burma Border*, *Forum-*

Asia, 10 November 2004; “Five Refugees Jailed for Refusal of Forced Repatriation,” *Kaladan News*, 28 January 2005).

The Unofficial Rohingya Refugees

Outside of the two official refugee camps, the unofficial Rohingya refugee population has been estimated to be anywhere from 100,000 to 300,000 persons. Access to the camps has been denied to those who arrived after the mass repatriation started in 1994. Those categorized as new arrivals are both Rohingya fleeing from Burma for the first time as well as those who were repatriated and fled to Bangladesh again after finding the conditions in Burma intolerable. Despite the fact that both categories have fled Burma to escape increasingly abusive conditions and a range of human rights abuses targeted specifically against the Rohingya population, the Government of Bangladesh continues to consider Rohingya from Burma as “economic migrants” and therefore illegal immigrants in Bangladesh. Denied access to the camps, most have settled in the Cox’s Bazaar and Teknaf areas of southern Bangladesh.

Because they are considered economic migrants, the unofficial Rohingya refugee population does not have access to humanitarian support. They are vulnerable to harassment from both the authorities as well as the local population. In particular, the Rohingya community is often targeted as the source of social problems and environmental degradation by the media, which results in heightened tension and poor relations with the local community. In order to survive, most Rohingya refugees find employment in low paying jobs as rickshaw drivers, porters, factory workers, and domestic servants while some resort to begging on the streets for money. (Source: “The Situation of Burmese Refugees in Bangladesh,” Forum-Asia, 6 November 2003).

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Prior to November 2002, many members of the unofficial Rohingya refugee population resided in the Teknaf area. At that time, the Bangladeshi authorities forcibly evicted the Rohingya from their homes. With nowhere to relocate to, an unofficial makeshift camp in Teknaf near the Naf River was established to house a population of approximately 4,000 refugees. In 2004, the camp population increased to nearly 10,000 persons despite the poor living conditions, lack of sanitation and minimal access to water. Moreover, relations with the local community remained precarious and the camp residents experienced several attacks perpetrated by local residents.

Due to increased hostility between the local population and the camp residents in Teknaf, on 19 October 2004, the camp was relocated to Dumdumia near Ukhiya, approximately 6 km north of Teknaf and the former site of another refugee camp (source: “Overview of the Bangladesh-Burma Border,” Forum-Asia, 10 November 2004). The conditions of the makeshift camp at Dumdumia remain deplorably comparable to those of the former camp in Teknaf. Shelters are constructed from pieces of plastic, thatch and foraged wood. With no access to humanitarian aid, some refugees subsist on scavenged food. In addition, the camp has no water supply, sanitation system or access to social services, rendering refugees vulnerable to disease and sickness, particularly diarrhea. Situated on the tidal flats between the Naf River and the road, the site is also vulnerable to floods. This became particularly evident on 24 May 2005, when the camp was hit by a flash flood causing refugee shelters and possessions to be washed away. (Sources: “Rohingyas from Myanmar Living in Risky Conditions in Bangladesh,” UNHCR News, 19 July 2005; “About 10-Thousan Refugees Inundated in Teknaf Flash-Floods,” *Kaladan News*, 25 May 2005).

The need for access to humanitarian assistance was highlighted again on 15 July when a delegation comprised of diplomats from Australia, the European Commission, Italy, Norway

and the USA as well as representatives from the UNHCR visited the makeshift camp at Dumdumia. Observing the lack of sanitation, lack access to social services and unsuitable housing, the diplomats expressed willingness to provide assistance for the refugees pending the Bangladeshi government's approval. (Source: "Western Diplomats Visit 'Unlisted' Burmese Refugee Camp," *Narinjara News*, 17 July 2005). Moreover, in its *2006 Country Operations Plan for Bangladesh* published in October 2005, the UNHCR indicated an intention to expand assistance and services to the unofficial refugee population (source: *2006 Country Operations Plan for Bangladesh*, UNHCR, October 2005).

Situation of Rakhine Refugees in Bangladesh

At the end of 2005, there were approximately 110 Rakhine, mostly from Arakan State in Dhaka, Bandarban and Cox's Bazaar areas who were recognized as POCs by the UNHCR. The Rakhine POC population mostly consists of activists who left Burma following 1988 and the pro-democracy uprising. Those who are recognized by the UNHCR as refugees or POCs are allowed to remain in Bangladesh but are not provided work permits that would allow them to legally obtain employment. The UNHCR provided monthly financial support to the POCs until 1998 when the assistance was cut and a refugee self-reliance program was promoted instead. The UNHCR has offered a lump-sum small business grant to refugees. Recognizing the obstacles facing refugees attempting to make a living in Bangladesh, including cultural differences and language barriers, the UNHCR also provides some skill and language training (source: *The Situation of Burmese Refugees in Bangladesh*, Forum-Asia, 6 November 2003). Many refugees however have reported feeling that they need further support from the UNHCR in terms of assistance with job placement and more skill

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and language training (source: *Caught Between A Crocodile and A Snake*, Burma Centrum Nederland, April/May 2003).

Despite the difficulties endured by refugees in contending with the self-reliance program and loss of the monthly subsistence allowance, the Rakhine POC population was presented with increased challenges in 2005. On 1 November, the UNHCR announced the discontinuation of the monthly subsistence allowance for dependent children of Rakhine POCs. As approximately 30 of the nearly 150 Rakhine POCs are children, the policy change greatly impacts Rakhine families. Orphan children, however, remain unaffected by the policy change. Furthermore, the UNHCR will continue to cover the costs of education. (Source:

"Bangladesh: UNHCR to Cut Financial Support to Refugees' Children from Burma," *Narinjara News*, 15 December 2005). Partially as a means to seek a solution to the cut in subsistence allowance for children, a group of five Rakhine POCs created the Arakanese [Rakhine] Refugees Affairs Committee (ARAC) to address the issues and concerns of both UNHCR recognized POCs and newly arrived asylum seekers. While collaborating with the UNHCR to seek a solution to the discontinuation of the monthly subsistence allowance for dependent children, the committee was also advocating for other issues such as third country resettlement. (Source: "Committee for Arakanese Refugees In Bangladesh," *Narinjara News*, 28 November 2005).

Aside from POCs, a significant number of Rakhine seeking UNHCR recognition also reside outside of Dhaka in the jungles of the Chittagong Hills and in Cox's Bazaar District. Unable to sustain themselves in Dhaka for the duration of the UNHCR's determination process, some Rakhine asylum seekers inhabit the jungles of the Chittagong Hills instead. Conversely, many asylum seekers are unable to meet the costs of multiple journeys from the jungle to Dhaka, which may be necessary for their application process. (Source: "Burmese Refugees' Hunger Strike in Dhaka: Respite after Talks with High Officials," *Narinjara News*, 8 February 2003).

Both Rakhine POCs and Rakhine asylum seekers faced increased difficulties following a series of bomb blasts by extremist Islamic groups in Bangladesh in mid-August, which led to tightened security, especially in the border areas. In conjunction with the heightened security measures, 2,000 personnel from both the Bangladesh Rifles (BDR) and the Bangladesh army conducted a special operation in the hill areas of Bandarban in search of terrorists hiding there. Prior to the special operation, Bangladeshi authorities arrested approximately 30 foreigners in the area, the majority of whom were from Burma and one was a UNHCR-recognized POC. Man Wa, the POC, was arrested on 25 July reportedly without reason while eating dinner with his family. He was held in police custody under Section 19(A) of the Arms Act. On 1 September, he was brought before the Bandarban District Court without legal representation. On 8 September, the UNHCR indicated that they would provide Man Wa with legal representation. However, by the end of the year, Man Wa remained in detention in Bandarban jail. (Source: "Who Can Help Them?" *Narinjara News*, 26 August 2005). Again on 3 December, Bangladesh police arrested San Won, a newly arrived Rakhine asylum seeker, in Lama town, Bandarban District. Police apprehended San Won as he distributed newspapers written by exiled Burma opposition groups, such as *Mizzima* and the "Shwe Gas Bulletin." in the market. San Won had submitted an application for recognition as a refugee with the UNHCR in Dhaka on 30 November and came to Bandardan to wait for his interview. Following his arrest, San Won was detained in the Bandarban jail. As of the latter part of December, the UNHCR had yet to take any action on behalf of San Won. (Source: "Arakanese Asylum Seeker Arrested in Bangladesh," *Narinjara News*, 21 December 2005).

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Refugees from Burma in Bangladeshi Prisons

More than 500 Burmese remained in detention in Bangladeshi prisons during 2005. These detainees are mostly "released prisoners" who have completed their prison sentences but because the SPDC does not recognize them as citizens, they cannot be returned to Burma. Some have been detained for over 10 years after the completion of their sentence. Half of these detainees are Rohingya and half are fishermen from areas such as Mon State and Tenasserim Division, who were employed by Thai fishing boats and arrested for fishing in Bangladeshi waters. (Source: Forum-Asia, 2004).

Following agreements between the SPDC and Bangladeshi authorities, some prisoners from Burma were repatriated in 2005. On 12 March, approximately 115 prisoners were scheduled to return to Burma. Some sources however indicated that 172 prisoners were repatriated on 27 April. In return the SPDC released and returned 75 Bangladeshis from prisons in Burma. As the agreement to exchange prisoners came following SPDC Foreign Minister Nyan Win's visit in late February, some observers believed it to be a sign of strong relations between the two countries. (Source: "Burma and Bangladesh to Exchange 200 Prisoners," *Kaladan News*, 8 March 2005). Conversely, in early June, it was reported that SPDC authorities refused to accept a group of 151 prisoners from Burma for unspecified reasons. Furthermore, the SPDC authorities reportedly denied four subsequent requests from the Bangladeshi authorities to transfer prisoners. (Source: "Burmese Authorities Refuse to Accept 151 Prisoners from Bangladesh," *Narinjara News*, 2 June 2005). Despite return of prisoners in both 2004 and 2005, one report indicated that more than 600 prisoners from Burma languished in Bangladeshi jails as of the end of November 2005 including refugees and approximately 200 prisoners who had already completed their sentences (source: "Over 600 Burmese Prisoners Languish in Bangladesh," *Narinjara News*, 23 November 2005).

14.4 Situation of Refugees from Burma in India

The population of approximately 60,000 refugees and asylum seekers from Burma residing in India is largely comprised of ethnic Chin with smaller numbers of Kachin, Burman and a few other ethnic groups. The Chin Human Rights Organization (CHRO) has indicated that the arrival of refugees from Burma can be divided into two groups. The first group is activists, university students and others who escaped from Burma following the 1988 pro-democracy uprising. As a result of this outflow, the Indian government established refugee camps in Champai, Mizoram State. In 1992, these camps were closed and all humanitarian assistance was halted. The second group is asylum seekers who have fled ongoing human rights abuses perpetrated by the military regime and other junta-endorsed actors. Abuses include ethnic discrimination, forced labor, rape, extortion and torture. Religious persecution has also been a particularly significant cause of flight for the Chin who are largely Christian. The occurrence of human rights abuses in Chin State has only increased as SPDC military presence has increased over the years causing a consistent flow of refugees to countries such as India. Yet, India is not a signatory to the 1951 Refugee Convention and does not have a legal framework through which refugee status determination can be made. Therefore, refugees from Burma who flee to India face continued insecurity and instability. (Sources: *World Refugee Survey 2005*, USCRI, 15 June 2005; CHRO, 2003).

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Situation of Refugees and Asylum Seekers in New Delhi

Approximately 1,500 mostly ethnic Burman, Chin and Kachin refugees were living in New Delhi in 2005. While New Delhi supports the largest population of UNHCR-recognized POCs in the world, only approximately 1,400 are refugees from Burma. As POCs, Burmese refugees receive residence permits but not work permits. As a result, obtaining employment is difficult and risky. The informal sector remains one of the few possible areas that refugees from Burma may secure employment with the attenuated risks of dangerous working conditions, unfair wages and exploitation. Until 2003, the UNHCR provided all POCs with a monthly subsistence allowance of 1,400 rupees (about US\$30) per month. The monthly allowance was intended to provide for food and housing costs. An education allowance was also provided for each child to cover school costs, ranging from 2,500 to 3,100 rupees (US\$55-68). Many refugees reported that the subsistence allowance was not sufficient as the costs of housing and education expenses far exceeded the amount allotted resulting in some children being forced to drop out of school. In addition, children often face difficulties enrolling in public schools. Those who are enrolled face a high level of discrimination. As the medium of instruction is usually Hindi, the lessons are inaccessible to the refugee population. Many children therefore attend private schools that require higher course fees. (Source: "India: The Situation of Burmese Refugees in New Delhi," RI, 24 November 2003). In 2003, the UNHCR announced the phase-out of monthly subsistence allowance and institution of a self-reliance program. The UNHCR argued that the monthly subsistence allowance created a culture of dependency among refugees, preventing refugees from integrating into the community, learning the local language and obtaining new skills. In an attempt to prepare the refugee population for integration, the UNHCR has been providing Hindi, English, computer, and vocational training. Despite such training, refugees have indicated that the trainings fail to equip them with a skill level sufficient enough to compete with the high number of unemployed Indians. Furthermore, the lack of proper work permits and severe discrimination continue to impede refugees from Burma from obtaining jobs. (Source: "India: The Situation of Burmese Refugees in New Delhi," RI, 24 November 2003). By the end of June 2005, the subsistence allowance of most POCs was fully phased out, rendering many POCs unable to meet their daily survival needs. Refugees were evicted from

their homes due to the inability to pay rent forcing many refugees to live in slums such as in the Vikas Puri suburb area of New Delhi where rents ranging from 500 to 2,000 rupees per month. Rented rooms are often shared with extended family members. Many refugees fear abuse or harassment from their neighbors as well as arbitrary eviction. Potable water is not readily available to refugees in several areas. As a result, the same water which is pumped from the ground for the toilet is often utilized for cooking and drinking purposes. Local residents often prevent refugees from accessing potable water brought to the areas by trucks, forcing some to travel to neighboring areas to obtain water from leaking pipes. Daily nutrition has also been impacted and many are only able to afford one meal per day. Some refugees have resorted to procuring spoiled vegetables from night markets after closing either for discounted rates or for free. (Source: *CHRO's Presentation at the US State Department Bureau for Population, Migration and Refugees*, CHRO, 12 October 2004). Children have also been forced to drop out of school as their parents are unable to meet the costs. During 2005, students were not permitted to sit end of the year exams without paying school fees. However, possession of the certificates from these exams is necessary to be eligible for financial support from the UNHCR for school fees. As a result, refugees were forced to negotiate with the schools to allow children sit examinations for a 25,000 rupee fee but not to

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attend classes. Yet, to enroll for the next school year, students were required pay all outstanding fees.

Since the time of its announcement in 2003, the subsistence allowance phase out has been consistently criticized by both refugees and refugee advocates. Discontent with the new policies coupled with increased difficulties in maintaining livelihoods has frequently led to demonstrations and protests. On 29 March 2005, 35 refugees from Burma commenced a sit-in protest in front of the Young Men's Christian Association (YMCA), which is a UNHCR partner organization responsible for distributing subsistence allowance to refugees. The protestors called for the YMCA to provide them with employment in order to sustain a livelihood. The person in-charge of the YMCA indicated that while the refugees were permitted to conduct their sit-in, the YMCA would not be held responsible if the police arrested the refugees. (Source: "Homeless Burmese Refugees Stage Sit-in," *Mizzima*, 30 March 2005). The protest ended on 1 April after the YMCA organized provisional shelter and food for the protestors. When the YMCA arrangements fell through, however, 44 refugees commenced a new sit-in in front of the UNHCR on 7 April calling for reinstatement of subsistence allowance. In response, the UNHCR reportedly agreed to assist refugees in securing jobs through Don Bosco, a Christian NGO, supply rations until jobs were found, and reinstate the monthly subsistence allowance for refugees suffering from health conditions that prevented employment. Refugees were also asked to temporarily lodge in the All Burma Refugees Committee (ABRC) office, a New Delhi based NGO. At the same time, the UNHCR warned that continued demonstration would result in arrest, leading the refugees to cease the second sit-in on 11 April 2005. (Source: "Burmese Refugees Withdraw Protest against UNHCR," *Mizzima*, 12 April 2005).

In an attempt to promote the self-reliance scheme, the UNHCR implemented a plan to assure minimum wage in accordance with the Indian Minimum Wages Act. For six months starting in May 2005, Don Bosco provided refugees who received less than the minimum wage of 2,864 rupees per month the difference. Only one person from each family was eligible for the compensation and the support was limited to employment secured through Don Bosco Ashalayam. Approximately 80 refugees with dependents reportedly obtained support by the program. However, the agency has not been able to place all refugees in positions of

employment, leaving many without a stable source of income. (Source: "UNHCR Launches Basic Minimum Salary Scheme for Burmese Refugees," *Mizzima*, 22 April 2005).

Despite the UNHCR's attempts to address the issues resulting from the elimination of the subsistence allowance, in mid-May 2005, an Indian refugee advocacy NGO called Other Media criticized the UNHCR in an open letter to Lennart Kotsalainen, the UNHCR Chief of Mission in New Delhi. The Other Media indicated that the UNHCR was insufficiently addressing the needs of the refugee community and the UNHCR's policies and actions denied the refugees "their rights to live with dignity and honor" (source: "Burmese Refugees Are Under Threat from the UNHCR," *Mizzima*, 18 May 2005). The letter argued that the Self Reliance program did not properly prepare refugees to become self-reliant. The UNHCR failed to assess the existing skills of the community and therefore provided skill training for jobs that already enjoyed a vast pool of labor. The Other Media further argued that the new salary scheme was not a solution but instead an attempt to lead refugees to falsely believe that obtaining employment was possible. As Indian policy does not allow for refugees from Burma to legally procure employment, the Other Media argued that the UNHCR was promoting unregulated employment. (Source: "Letter to UNHCR Chief of Mission, New Delhi," The Other Media, 17 May 2005).

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In response to the ongoing concerns expressed both by advocacy groups and the refugee community from Burma, the UNHCR conducted a survey from May to July 2005 to assess the current situation of refugees and measure the consequences of the elimination of the monthly subsistence allowance (source: "Great Expectations for Burmese Refugees in New Delhi," *Mizzima*, 16 June 2005). As a result of the survey, the UNHCR continued to refer some cases for resettlement to third countries such as Australia, Canada and New Zealand (source: "High Hopes for Burmese Refugee Resettlements," *Mizzima*, 15 September 2005). Furthermore the UNHCR increased the monthly subsistence allowance for newly recognized individuals or heads of families from 1,400 to 2,245 rupees in October. The newly recognized POCs however will continue to be subject to the phase out program. Support at the newly increased level will continue for six months. Thereafter support will be reduced for another six months and after a year it will cease. (Source: "UNHCR Increases Benefits before Total Cuts in A Year," *Mizzima*, 17 October 2005).

In August 2005, the government of Japan contributed US\$500,000 to the operations of the UNHCR in New Delhi, which in part would serve to support the refugee population from Burma. According to Carol Batchelor, the UNHCR Deputy Chief of Mission, the funds are allotted to address the education of children of refugees as well as high rates of joblessness within the community. (Source: "Japan's Support Will Be Beneficial to Burmese Refugees: UNHCR," *Mizzima*, 5 August 2005).

Situation of Chin Refugees and Asylum Seekers in the Northeastern States of India

Approximately 50,000 Chin asylum seekers reside in the northeastern states of India, with the majority living in Mizoram State and a small number living in southern Manipur State. The Indian Government does not allow foreigners or the UNHCR access to these areas. Only approximately 50 persons from the 88 student generation residing in the Leikhun Camp, under the control of the Chandel District authorities in Manipur State, receive assistance from the Manipur authorities. Aside from this, there is no humanitarian aid available to asylum seekers living in this area and they remain classified by the government as illegal migrants. As a result, most Chin find employment in low-paying jobs, such as weaving or road construction, and attempt to integrate into the local community in order to survive. Although

the Mizo, the local ethnic group of Mizoram State, and the Chin are ethnically and linguistically related, in recent years, the Chin have met increasing intolerance from the local population. They are often blamed for social problems such as crime and drug trafficking. Asylum seekers are often targets for local political organizations like the Young Mizo Association (YMA) that threaten the Chin population with eviction, arrest and deportation. In July 2003, the alleged rape of a nine-year-old Mizo girl by a man from Burma led the YMA to launch the “Quit Mizoram Campaign” to evict all of the Chin from Mizoram. As a result, an estimated 6,000 Chin were forced back to Burma while approximately 10,000 were rendered homeless.

While there were no mass evictions reported during 2005, Chin asylum seekers in Mizoram remained vulnerable to arrest as the authorities cracked down on undocumented migrants. For example, local authorities in Saiha town arrested 10 to 15 asylum seekers each day from 7 to 9 July in an attempt to clear the area of undocumented immigrants. Those arrested were also subject to fines of 100 to 200 rupees. On 7 July, the Mizoram authorities attempted to deport at least 20 asylum seekers back to Burma but were unable to because the border was closed at the time of the deportation. (Source: “Tomorrow Deadline for Expulsion of Seven Burmese

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Refugees,” *Khonumthung*, 14 July 2005). On 13 July, authorities in Aizawl arrested people from Burma who had been living and working in the area as market sellers or as goldsmiths, including two NLD-LA members who had residence permits from the District Council of Aizawl. Despite possession of these permits, the police charged them with working illegally. (Source: “Burmese Nationals Driven Out of Mizoram,” *Mizzima*, 15 July 2005). Again in mid-October 2005, the Mizoram authorities commenced a crackdown on undocumented migrants from Burma. While some were able to provide payment of 500 rupees for their release, others were detained. (Source: “Mizoram Officials Arrest Illegal Burmese Migrant Workers,” *Mizzima*, 21 October 2005).

Crackdown on Chin Opposition Groups

In October 2004, marking strong relations between the two nations, the Government of India and the SPDC signed a MoU by which the two countries agreed to prevent armed resistance groups from functioning on each other's soil. The MoU also affirmed the two countries' intentions to maintain peace along the border and to engage in economic development of the border areas. In implementing the terms of the MoU, SPDC armed forces led a crackdown on Indian rebel groups operating in northwestern Burma during the following winter. Meanwhile, the Government of India charged the Government of Mizoram State and the Assam Rifles, the border security forces, with the task of removing resistance fighters from Burma from Indian territory. In early June 2005, the police superintendent of Saiha Township ordered all persons to vacate Camp Victoria, the Chin National Army's (CNA) largest base located in the jungle of Mizoram State, by 8 June. The CNA is the armed wing of the Chin National Front (CNF). From 17 to 21 June, the Mizoram Armed Police engaged in “Operation Hailstorm,” overrunning Camp Victoria. Over 200 CNA soldiers and supporters fled the area and approximately 40 were arrested. Members of the YMA reportedly appealed to local authorities to prevent the deportation of those arrested. (Sources: “India to Crack Down Burma's Chin Rebels,” *Mizzima*, 3 June 2005; “Mizoram Police Storm Myanmar Rebels' Camp,” NEPS, 23 June 2005; “Deported Myanmar Rebels Face Death, Says India NGO,” Reuters, 29 June 2005).

In conjunction with the crackdown on Chin oppositionists, on 8 June 2005, the Mizoram Police raided the home of a Chin National Confederation (CNC) member in Bawngkawn, Aizawl where 12 CNC members were hiding. They were arrested and detained in the Central

Jail for “foreigner violations and forcibly collecting donations from the Burmese residing in Mizoram.” Those arrested included CNC Vice-President Fung Kung and Treasurer Van Lin. (Source: “Mizoram Government Started to Arrest Burma Rebels,” *Khonumthung*, 10 June 2005). In addition, Cinluaia, Lalbiakthawma and Teiliankhin, three CNC members residing in the border town of Champhai, were also arrested and later deported into the hands of the SPDC on 13 June (source: “Mizoram Opposition Blames MNF for Harboring Rebels,” *Khonumthung*, 18 June 2005). Following the deportation, the CNC members were detained and interrogated by SPDC LIB 268 at the Rih military camp in Falam Township facing possible prison sentences of at least 20 years (source: “The Repatriated CNC Are under Interrogation in Chin State,” *Khonumthung*, 20 June 2005).

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14.5 Situation of Refugees from Burma in Malaysia

Asylum seekers and refugees from Burma make up the second largest group of refugees in Malaysia. In the *World Refugee Survey 2005*, the USCRI reported a population of 25,000 asylum seekers and refugees from Burma residing in Malaysia. According to the UNHCR approximately 10,000 are Rohingya asylum seekers while the Chin Refugee Committee (CRC) reported a population of nearly 12,000 Chin. The CHRO reported that flight to Malaysia provides a layer of security to asylum seekers from Burma because in the event of arrest and deportation they will be sent to Thailand and not back into the hands of the SPDC military authorities. However, this is a false sense of security since Thailand has returned deportees to Burma after they are sent from Malaysia. Regardless, Malaysia is not a signatory to the 1951 Convention on the Status of Refugees resulting in a lack of security for those seeking protection. According to Malaysian law, refugees and asylum seekers are considered illegal immigrants and are subject to severe penalties under the Immigration Act. Like all illegal immigrants, refugees and asylum seekers from Burma are similarly vulnerable to extortion, theft, sexual abuse, arrest, deportation, and many other difficulties in Malaysia. (Sources: *World Refugee Survey 2005*, USCRI, 15 June 2005; *Nowhere to Go: Chin Refugees in Malaysia*, CHRO, July 2005; “23 Rohingya Refugees Detained,” *New Straits Times*, 8 March 2005)

In August 2002, the Malaysian Parliament implemented new laws for immigrants including jail time and caning for people caught without proper entry documents. Those found to have entered the country illegally or overstayed their visas are liable to a maximum fine of 10,000 RM (US\$2,600), a jail term of up to 5 years and up to 6 strokes of a cane. Those arrested under the 2002 provisions have been detained in detention camps for unspecified lengths of time awaiting mass deportations. Some migrants from Burma have been held for up to a year or longer in these overcrowded prisons. While in detention, they are often subject to “assault, sexual abuse, inadequate living conditions, lack of medical treatment and even death.”

(Source: “Overview of the Situation of Refugees and Asylum Seekers in Malaysia,”

SUARAM, 6 November 2003).

In an effort to secure some level of protection, a few asylum seekers have attempted to apply to the UNHCR in Kuala Lumpur for recognition as refugees despite the fact that Malaysian police frequently block access to and arrest asylum seekers outside of the UNHCR compound. In 2005, approximately 6,000 Chin asylum seekers were registered with the Chin Refugee Committee, the first step in the UNHCR refugee recognition application process. However, the CHRO reported that unless considered vulnerable or urgent, applicants must wait for up to two years for an interview. As of July 2005, the UNHCR was only interviewing 18 Chin applicants per week. (Source: *Nowhere to Go: Chin Refugees in Malaysia*, CHRO, July 2005). However, the UNHCR has attempted to provide Rohingya asylum seekers with a more

immediate solution by issuing temporary protection letters because the UNHCR recognizes that the Rohingya are stateless in Burma (source: Yap Mun Ching, "Rohingya Discontent Troubles Malaysia," *Malaysiakini*, 27 April 2004). During 2005, the UNHCR commenced issuing refugee cards to all temporary protection letter holders and refugees. Yet, possession of all UNHCR documents has not ensured refugees and asylum seekers protection against arrest, harassment, detention and deportation at the hands of the Malaysian authorities. Both refugees and asylum seekers do not have access to social services such as health and education. In addition, they face considerable difficulties maintaining their livelihoods and often live in precarious living arrangements. The CHRO reported that Chin asylum seekers

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who are able to afford housing in urban areas usually live in overcrowded conditions of 20 to 40 people in a two-bedroom apartment. Others live in the Cameron Highlands in sheds or warehouses as well as in the Putrajaya jungles in tents, which are intermittently raided and burned down by the police. (Source: *Nowhere to Go*, CHRO, July 2005). Meanwhile, Rohingya asylum seekers also endure deplorable conditions. In protest of these conditions and the inability to sustain a living, a group of 24 Rohingya asylum seekers engaged in a hunger strike in the UNHCR compound on 8 March 2005. Calling for resettlement to a third country, the protest was halted after only eight hours when immigration police arrested and detained the group in the Semenyih Detention Camp. (Source: "23 Rohingya Refugees Detained," *New Straits Times*, 8 March 2005)

Arrests of Pro-Democracy Activists from Burma

On 16 June 2005, 64 pro-democracy activists from Burma engaged in a demonstration in front of the Embassy of Burma in Kuala Lumpur, calling for the release of Daw Aung San Suu Kyi. The group was arrested and detained. An additional four persons were arrested for not possessing valid immigration documents when they went to visit the 64 in detention. Facing charges of unlawful assembly and immigration violations, the 68 detainees pled innocent at their initial trial on 10 August 2005. A group of Malaysian lawyers advocated for the case to be dismissed and planned to file a formal request pending confirmation from the UNHCR that all 68 people were either POCs or asylum seekers. The trial date was set for 12 December. Meanwhile, reports of abusive treatment of the detainees emerged. (Source: "Trial Date Set for Burmese 68," *Irrawaddy*, 11 August 2005; "A Cautious Suu Kyi Celebration in Malaysia," *Irrawaddy*, 20 June 2005).

Crackdown on Undocumented Immigrants

In July 2004, Malaysian Home Minister Azmi Khalid announced a crackdown to clear the country of illegal immigrants and to gain greater control of its workforce. Prior to the crackdown, the government granted migrants an amnesty to leave the country. Initially, the amnesty was scheduled for 29 October until 4 November 2004. However, a disappointing response led the government to extend the amnesty to the end of 2004. (Source: "Illegal Immigrants Seek UN Protection Ahead of Crackdown in Malaysia," AFP, 28 February 2005). The amnesty was extended again to February 2005 following the 26 December 2004 tsunami and a request from Indonesian President Susilo Bambang Yudhoyono (source: "Malaysia Extends Migrant Amnesty," BBC, 2 February 2005). Migrants arrested during the crackdown were to be subject to punishment under the Immigration Act prior to deportation. (Source: *Malaysia: Human Rights at Risk in Mass Deportation of Undocumented Migrants*, Amnesty International, 2 December 2004)

Government officers were expected to inspect building sites, plantations, factories, restaurants and even private homes with domestic servants to pursue arrests. To enforce the crackdown, Malaysian officials recruited about 500,000 members of the People's Volunteer

Corp. (*Ikatan Relawa Rakyat* (RELA)) who were given policing powers and monetary incentives to find undocumented migrants. Human rights groups expressed concern over the minimal training of these groups and the cash rewards for capture of undocumented migrants, suggesting these factors were likely to encourage indiscriminate arrest of refugees and asylum seekers. Government statements indicated that the operation would be carried out humanely and that UNHCR document holders would not be arrested, although doubts were cast over the ability of the government to control the volunteer groups entrusted with the

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power to arrest. Concern was also expressed that refugees and asylum seekers arrested during the crackdown would not be able to contact the UNHCR for assistance because of inadequate reporting mechanisms. Furthermore, it was feared that the poor conditions of detention centers coupled with overcrowding during the crackdown would lead asylum seekers to choose to voluntarily repatriate to an environment of persecution in their countries of origin rather than remain in detention. (Sources: "Malaysia's Massive Crackdown on Migrants Sparks Rights Fears," AFP, 30 January 2005; *Malaysia: Human Rights at Risk in Mass Deportation of Undocumented Migrants*, Amnesty International, 2 December 2004). In October 2004, the Malaysian Government announced that the Rohingya population of approximately 10,000 people would be granted official identification cards allowing them to live and work legally and protecting them from the crackdown (source: "U.N. Refugee Agency Worried Over Looming Malaysian Clampdown," AP, 3 December 2004). However, by the end of the amnesty, this plan was not implemented rendering Rohingya asylum seekers as equally susceptible to the consequences of the crackdown as the Chin and other refugees and asylum seekers from Burma.

In light of the high potential for human rights abuses and vulnerability of refugees and asylum seekers, UNHCR, human rights groups, and the governments of Indonesia and Philippines pressured Malaysia to extend the amnesty period (source: "Government Delays Crackdown on Illegal Immigrants," AFP, 1 February 2005). The pressure worked and on 2 February 2005 the Home Ministry announced an indefinite extension of conditional amnesty (source: "Malaysia Extends Amnesty for Illegal Immigrants," AFP, 2 February 2005). Leniency, however, was short-lived. On 14 February Prime Minister Abdullah Ahmad Badawi set the new deadline for 1 March. In an attempt to provide some level of protection, the UNHCR sent mobile teams into the jungles and outskirts of cities to register asylum seekers before the onset of the crackdown (source: "UN Combs Malaysian Jungles for Refugees Ahead of Crackdown," AFP, 1 December 2004). On 28 February, one day before the crackdown was scheduled to begin, it was reported that at least 300 people queued in front of the UNHCR in an attempt to obtain provisional refugee status (source: "Illegal Immigrants Seek UN Protection Ahead of Crackdown in Malaysia," AFP, 28 February 2005). At the onset of the crackdown, UNHCR personnel were reportedly put on 24-hour alert and established three hotlines for refugees to obtain assistance and for Malaysian law enforcement personnel to verify a refugee or asylum seeker's claim. In addition, the UNHCR reported that RELA, the volunteer corps assisting with the crackdown, invited UNHCR personnel to join them during raids to verify valid refugees and asylum seekers on location. Nonetheless, the UNHCR reported the arrest and detention of at least 29 persons with UNHCR documents. UNHCR personnel were sent to the detention centers to ensure deportations would not follow. (Source: "Malaysia: Crackdown against Illegal Migrants Begins," UNHCR Briefing Notes, 1 March 2005).

On 3 March, concern for UNHCR recognized refugees was raised again when the Deputy Prime Minister reportedly stated that those who held UNHCR documents would be treated

the same as illegal migrants. Moreover, the UNHCR was accused of arbitrarily giving out refugee protection letters prior to the crackdown. The UNHCR firmly denied these accusations. On 4 March, it was reported that at least 12 UNHCR document holders, including two Rohingya, were being held in immigration detention centers. (Source: "UNHCR Urges Malaysia to Protect Refugees During Crackdown," UNHCR, 4 March 2005). In June, Volker Turk, the head of the UNHCR in Malaysia, reported that approximately 900

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persons under the protection of the UNHCR were in detention awaiting trial and sentencing as a result of the crackdown (source: "Refugees to Be Absorbed," *New Straits Times*, 1 August 2005).

Subsequent to the crackdown, Malaysia suffered a severe labor shortage. According to the Human Resources Minister Fong Chan Onn, the construction sector was in need of nearly 200,000 workers while the plantation sector was in need of 300,000 laborers. In an effort to alleviate the shortage, the Malaysian Government began recruiting labor from countries including Burma. Concurrently, the UNHCR advocated for UNHCR recognized POCs to be granted permission to work addressing both Malaysia's labor shortage as well as the economic needs of the refugee community. On 5 July 2005, Home Affairs Minister Azmi Khalid announced that the population of approximately 60,000 UNHCR recognized refugees would be granted temporary work permits to fill the labor shortage. A committee was scheduled to meet in August to organize a strategy for implementing the decision. Yet, by the end of 2005, little information about this plan was known. (Sources: "Malaysia to Allow Thousands of Refugees to Work to Solve Labour Crunch," AFP, 5 July 2005; "UN Urges Malaysia to Allow Refugees to Work Amid Labor Shortages," AFP, 13 June 2005; "Refugees to Be Absorbed," *New Straits Times*, 1 August 2005).

14.6 Refugees from Burma in Other Locations

Japan

On 16 March 2005, refugees from Burma participated in a demonstration in front of the immigration office in Tokyo, calling for a reduction of restrictions on foreigners and asylum seekers in detention. One regulation cited was that detainees are unable to receive food provided by outsiders. The protestors were joined by human rights activists who hope to promote greater acceptance of foreigners in Japanese society. (Source: "Rally Held to Protest Plight of Thousands of Foreign Detainees," Japan Economic Newswire, 16 March 2005).

On 8 April 2005, a 41-year-old NLD Youth member and former aid to Daw Aung San Suu Kyi filed suit against the Japanese government seeking 11 million yen in compensation for being unfairly held in prolonged detention after providing sufficient and compelling evidence for his asylum claim. The man had arrived in Japan with a false passport and a short term visa in May 1999. He was arrested in April 2003 and initially charged with overstaying his visa, which was later modified to illegal entry. In June 2003, he applied for political asylum in Japan. His claim was initially rejected in September 2003. Following the rejection of his claim, he remained in detention until he was granted an interim release in November 2004. Yet, in March 2005, without providing a reason, the Immigration Bureau altered its decision and accorded the man a special residence permit. (Source: "Suu Kyi's Aide Sues Japanese Gov't for Damages Over Detention," Japan Economic Newswire, 8 April 2005).

On 15 June 2005, the Osaka High Court overturned the Osaka District Court's rejection of an asylum seekers claim from Burma. In overturning the decision, the high court prevented Maung Maung (male, age 37) from being deported. Unlike the district court, the high court determined that Maung Maung faced legitimate fear of physical and mental harm if forced to

return to Burma. This was the first instance of the high court preventing a deportation.
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(Source: "In first, Japanese High Court Blocks Deportation of Asylum-Seeker," AFP, 15 June 2005).

South Korea

On 20 April 2005, the Government of South Korea rejected the appeals of nine NLD members seeking asylum in the country. The nine activists filed for asylum in May 2000, however, they claimed their interviews with immigration officials were conducted unfairly. They lacked an adequate translator throughout the process. Furthermore, both the asylum seekers and Korean civil society organizations requested copies of the interviews and the standards on which the decision would be based. These requests were denied providing the asylum seekers without an explanation for their rejection. Despite the asylum seekers' active participation in the pro-democracy movement both in Burma and in South Korea, on 11 March 2005, they were found not to fit the criteria necessary for obtaining asylum. They were then ordered to exit the country within five days. The applicants filed an appeal and a request for a three month extension to stay in the country on 17 and 18 March, respectively. On 20 April, the final rejection was issued with concurrent orders for the asylum seekers to depart from the country in five days. Their deportation, however, was scheduled for 18 July. In the latter part of May, the asylum seekers with the assistance of some Korean NGOs indicated that the case would be brought to a higher court. (Source: "Forwarded Appeal (South Korea): Denial of Refugee Status for Burmese Nine," AHRC, 26 May 2005).