

MYANMAR

Lack of Security in Counter-Insurgency Areas

“In an official announcement the Government of the Union of Myanmar celebrates the ‘Security and Unity’ of the nation and recommits itself to ‘allowing all of our citizens to participate freely in the life of our political process’ under conditions of peace and stability.”

News Release, Issue No 3/2002, May 2002, Myanmar Embassy, London

“Everyone wants to see change in Myanmar. But they are so busy surviving...and they have to keep their mouths shut.”

A 26 year-old Po Karen nurse working as a housemaid in Thailand

I. INTRODUCTION

In February and March 2002 Amnesty International interviewed some 100 migrants from Myanmar at seven different locations in Thailand. They were from a variety of ethnic groups, including the Shan; Lahu; Palaung; Akha; Mon; Po and Sgaw Karen; Rakhine; and Tavoyan ethnic minorities, and the majority *Bamar* (Burman) group. They originally came from the Mon, Kayin, Shan, and Rakhine States, and Bago, Yangon and Tanintharyi Divisions.¹ What follows below is a summary of human rights violations in some parts of eastern Myanmar during the last 18 months which migrants reported to Amnesty International. One section of the report also examines several cases of abuses of civilians by armed opposition groups fighting against the Myanmar military. Finally, this document describes various aspects of a Burmese migrant worker’s life in Thailand.

¹ Approximately two thirds of Myanmar’s population are *Bamar*; some 135 ethnic minorities comprise the remaining one third.

Many of the migrants who were interviewed had a well-founded fear of persecution in Myanmar for reasons relating to the definition of a refugee as provided in the 1951 Convention relating to the Status of Refugees (on the basis of race, religion, nationality, membership of a particular social group or political opinion).² The fact that these people were not living in official refugee camps in Thailand does not in any way indicate that they would not face human rights abuses if they were deported with other migrant workers. Some of those who spoke to Amnesty International had registered with the Ministry of Labor and Social Welfare of the Royal Thai Government, and so were in the country legally. Others had either missed the October 2001 registration deadline; could not afford the registration; or were not able to travel to a local government office. Nevertheless the Thai Government should provide all migrant workers with protection from human rights abuses in Thailand, irrespective of their legal status.³

All of those interviewed said that they had left their homes because they could no longer survive, given the harsh political and economic conditions which confronted them there. Reasons given for migration to Thailand included lack of work; continuous demands for money from the local military; forced labour, forcible relocation and land confiscation by the *tatmadaw*, or Myanmar military. The vast majority of people interviewed by Amnesty International were from ethnic minorities, many of whom have suffered from human rights violations at the hands of the Myanmar army in the context of counter-insurgency activities against various ethnically-based armed opposition groups. Almost all of those interviewed by Amnesty International lived in rural areas and made their living by subsistence farming or fishing. Most lived in villages in the Kayin, Mon and Shan States, and the Tanintharyi Division in eastern Myanmar.

The Myanmar Government states that since 1989 they have agreed cease-fires with 17 armed opposition groups, most of whom were ethnically-based. These agreements have not yet led to more permanent political arrangements and most cease-fire groups still maintain their armies and weapons as well as their own territories which vary in size. Three main groups continue to fight in eastern Myanmar against the central government: the Karen National Union (KNU) in the Kayin State; the Karenni National Progressive Party (KNPP) in the Kayah State; and the Shan State Army-South (SSA-South) in the southern Shan State. The KNU is also present in the Tanintharyi Division along with small armed groups from the Mon ethnic minority. In addition there are smaller armed groups operating in some other parts of the country. Myanmar's various ethnic-based armed groups no longer control any

² As refugee status is a declaratory, as opposed to a constitutive status a person does not become a refugee upon the grant of refugee status, but is recognized as such.

³ Thailand is not a State Party to the 1951 Convention relating to the Status of Refugees nor to its 1967 protocol.

significant territory, but operate in mobile units around the countryside, occasionally visiting a village and asking for rice.

Migrants interviewed by Amnesty International who had lived in areas of Myanmar which were not highly militarized suffered less at the hands of the army, but those who lived near army bases were at a higher risk of being detained by the army and used for forced labour. In addition those living in areas with a large concentration of troops were subjected to constant demands for money and goods from the army. After a reported self-sufficiency drive beginning in 1997, the army increased its demands for material support from the local rural population. Those living in areas where ethnically-based armed groups operated were most likely to be subjected to forced labour, forcible relocation, torture, and extrajudicial killings by the *tatmadaw*. Some of them also suffered from abuses committed by these armed opposition groups.

Security in the eastern part of Myanmar is further compromised by both a proliferation and fragmentation of various armed groups besides the *tatmadaw* and the KNU, KNPP, and SSA-South. Some of these groups are informally allied with the *tatmadaw*, such as the Democratic Kayin Buddhist Army (DKBA), a Karen armed group who broke away from the KNU in late 1994. Some Mon groups have split off from the New Mon State Party (NMSP), who agreed a 1995 cease-fire with the then State Law and Order Restoration Council (SLORC⁴). These Mon armed opposition groups are fighting against the *tatmadaw* in parts of the Mon State and Tanintharyi Division. As a result of their activities, some local villagers have been caught between them, the *tatmadaw*, and the NMSP; for example all of these groups demand money from villages. Finally the presence of the "People's Militia", or *Pyi Thu Set*, consisting of local villagers trained and armed by the *tatmadaw*, puts further pressure on an already tense region. The People's Militias are tasked by the Myanmar army to ensure security for their villages and are sometimes exempt from forced labour and demands for money from them.

This report summarizes Amnesty International's findings about human rights violations committed by the Myanmar army against civilians, including extrajudicial executions; torture; forced labour; land confiscation made in the context of violent threats; and threatening demands for money and food. In addition the document contains two cases of forced conscription of children as soldiers, in one case by the *tatmadaw* and in the other by the SSA-South. It covers violations which occurred from early 2001 to early 2002.

The victims are members of the following ethnic minorities: the Shan, Akha, Palaung and Lahu in the southern Shan State; the Mon and Tavoyans in the Mon State

⁴ The SLORC changed its name to the State Peace and Development Council in November 1997.

and Tanintharyi Division; and the Karen and Mon in the Kayin State. The report reflects Amnesty International's concern that, in spite of some human rights improvements, there appears to have been no significant decrease during the last year in violations by the army against ethnic minorities in eastern Myanmar.

II. BACKGROUND

Several positive developments in the human rights situation in Myanmar have taken place during the period covered by this report. In January 2001 Ambassador Tan Sri Razali Ismael, the UN Secretary General's Special Envoy to Myanmar, announced that confidential discussions had been taking place since October 2000 between the State Peace and Development Council (SPDC, Myanmar's military government) and Daw Aung San Suu Kyi, leader of the political party the National League for Democracy (NLD). These talks were believed to have taken place intermittently before Daw Aung San Suu Kyi's release from *de facto* house arrest on 6 May 2002.

At the time of writing, the status of the confidential discussions between the SPDC and Daw Aung San Suu Kyi is not known. It is also unclear whether the discussions have advanced beyond confidence-building to more substantial issues about the future of Myanmar. One seemingly unresolved question is at what stage representatives of Myanmar's ethnic minorities will be included in these talks. Various ethnic minority leaders both inside and outside the country have periodically requested to be included in discussions between the SPDC and Daw Aung San Suu Kyi. These ethnic minority-based organizations include cease-fire groups, legal political parties⁵, and armed opposition groups still fighting the SPDC.

Another positive development is the release of over 300 political prisoners since December 2000. However, an estimated 1400 political prisoners remain behind bars. Those released include U Pa Pa Lay and U Lu Zaw, two comedians and prisoners of conscience arrested in January 1996 for their performance at an NLD celebration. Most notably, Daw Aung San Suu Kyi was freed on 6 May 2002 from 19 months of *de facto* house arrest. At the time she stated that her release was unconditional and she immediately stepped up her activities as the NLD's General Secretary. She has subsequently travelled to areas around Yangon and in early July completed a trip to Mandalay, where she was able to meet NLD members. Amnesty International has publicly welcomed these releases, but urges the SPDC to significantly increase the pace of releases of all prisoners of conscience.

⁵ In the run-up to the 1990 General Elections when the NLD won over 80% of the parliamentary seats, dozens of political parties registered with the government. However there are now only 10 legal political parties in Myanmar, including the NLD.

The SPDC has also permitted Paulo Sergio Pinheiro, the UN Special Rapporteur on Myanmar, to visit the country in April and October 2001 and again in February 2002.

Ambassador Razali has visited the country seven times in an effort to facilitate political dialogue between the NLD and the SPDC. To further that end, both UN officials have publicly called on the SPDC to find modalities to release all political prisoners. Ambassador Razali and Professor Pinheiro have been able to meet privately with Daw Aung San Suu Kyi and SPDC members during their visits to the country. Professor Pinheiro reported that he received a high level of cooperation from the SPDC during his two visits, when he interviewed political prisoners in various locations.

The International Committee for the Red Cross (ICRC) is able to visit all prisons and labour camps in Myanmar; it began prison visits there in May 1999. In addition several intergovernmental bodies, including the UN and the European Union (EU) have been able to send delegations to Myanmar in the last 18 months. However independent and impartial human rights organizations have not yet been able to visit the country. Since 1987 Amnesty International has on several occasions sought permission from the Myanmar Government to visit the country, but has never been allowed to do so. At this time the organization renews its calls to the SPDC to permit a visit to Myanmar in order for Amnesty International to meet with government officials about mutual human rights concerns.

Forced labour

Amnesty International research over the last 14 years has shown that ethnic minorities living in rural areas are much more likely to be taken by the military for forced labour duties than the majority *Bamar* group in more urban areas. There are two broad types of forced labour: the first is portering, which entails carrying heavy loads for the military over rough terrain for days or weeks at a time. Portering is generally more arduous, as civilians must work for days or even weeks at a time and are kept as virtual prisoners. The second type involves work on construction projects such as military barracks and roads, or agricultural work on military farms. Men are more likely to be taken, although women also perform forced labour duties. They are almost never paid for their work. Of the scores of people asked by Amnesty International if they had ever been paid, every one of them replied in the negative.

Prior to the early 1990s, forced labour primarily took the form of portering for the army, who used porters in their counter-insurgency activities as they patrolled the countryside and villages or engaged in battles with armed opposition groups. In spite of cease-fires between the SPDC and some armed opposition groups, the practice of forced portering still occurs, primarily in areas of continuing internal armed struggle.

Beginning in the early 1990s the *tatmadaw* began to vastly increase its size and range throughout the country. One of the features of this militarization was the construction of infrastructure projects throughout the country, including roads, dams, railway lines, and military barracks. Hundreds of thousands of civilians have been forced to work on these projects without pay. In 1997 a military program of self-sufficiency reportedly included issuing orders to local military commands who instructed troops to feed themselves. Subsequently troops began confiscating land farmed for generations by members of ethnic minorities, and forcing these farmers to cultivate their confiscated land to provide food for the military.

The use of forced labour by the military has declined in central Myanmar since the late 1990s. The Myanmar Government has made initial attempts to eradicate the practice by distributing orders prohibiting forced labour in some areas of the country. However it is not known if the central authorities monitor the activities of the local military commanders with regard to forced labour of civilians. It is also not known to what degree decrees forbidding forced labour are enforced in areas of counter-insurgency where the practice is most likely to occur.

Unpaid forced labour is in contravention of International Labour Organization (ILO) Convention No 29, to which Myanmar became a party in 1955. The ILO has been raising the problem of forced labour with the Myanmar government for several years, and has adopted a series of measures in order to urge the government to comply with Convention No 29. In June 2000 the International Labour Conference adopted a resolution under Article 33 of its constitution which recommended that ILO members⁶ review their relations with the SPDC and ensure that the SPDC cannot take advantage of such relations to continue the practice of forced labour. The resolution also called on international organizations to review any cooperation they may have with the SPDC and to cease any activity which could directly or indirectly abet the practice of forced labour.

On 27 October 2000 during an ILO visit to the country the SPDC issued "Order Supplementing Order No 1/99"⁷ which expressly forbids all civilian and military authorities from employing forced labour and provides for punishments should they be convicted of doing so. Some of those interviewed by Amnesty International in early 2002 reported that their village headman or a local military officer had explained these Orders to them, but that forced labour continued to the same degree as in the past. Many others who experienced recent forced labour had never heard of these decrees, and

⁶The ILO comprises 175 member states and is the only tripartite UN body which includes representatives from governments, trade unions, and employers of all member states.

⁷ *Order No. 1/99*, which outlaws the practice of forced labour, was promulgated on 14 May 1999; however, its provisions do not allow for any action to be taken against those found guilty of using forced labour and it did not mention the military, the main perpetrators.

expressed incredulity when Amnesty International told them about their existence. Still others said that forced labour had decreased in their areas, particularly in some parts of the Tanintharyi Division and the Kayin State where there was very little armed opposition activity. However many were forced to pay large amounts of money on demand to the authorities.

The ILO was permitted by the SPDC to send a High Level Team to Myanmar in September/October 2001, in order to assess the effectiveness of the SPDC attempts to eradicate the practice. They made their findings public in November 2001 to the ILO Governing Body. In their report they stated that the SPDC had given them complete access to areas where they wanted to go and permission to interview whomever they wished. The report concluded that forced labour of civilians was continuing in some areas, particularly in highly militarized parts of the country. It also expressed concern that no criminal prosecution of people allegedly responsible for the practice had been initiated. At the same time the HLT acknowledged the SPDC's real willingness to eliminate forced labour, while stating that much more needs to be done to enforce Order Supplementing Order 1/99 with those local military commanders in militarized areas.⁸

In March 2002 the SPDC and ILO agreed a Memorandum of Understanding, the provisions of which allowed for an ILO Liaison Officer to be appointed in Yangon, the capital, in June 2002.⁹ An interim Liaison Officer was appointed on 6 May 2002 by the ILO Director General, who reported to the International Labour Conference in June 2002. The report stated that the Liaison Officer had met *inter alia* with various government officials, including the SPDC's Convention No. 29 Implementation Committee; the National League for Democracy; and representatives of ethnic minority groups. He also reported progress with regard to setting up an office in Yangon.¹⁰

⁸ International Labour Office, Governing Body, Fourth Item On the Agenda, *Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29), Report of the High-Level Team*, GB.282/4, 282nd Session, Geneva, November 2001.

⁹ International Labour Office, Governing Body, GB.283/5/3, 383rd Session, Geneva, March 2002, Fifth Item on the Agenda, *Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29), Further developments following the return of the ILO technical cooperation mission, Appendix, Understanding between the Government of the Union of Myanmar and the International Labour Office concerning the appointment of an ILO Liaison Officer in Myanmar*.

¹⁰ International Labour Conference, 90th Session, Geneva, June 2002, Committee on the Application of Standards, *Special Sitting to examine developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29), C. App./D.6(Corr.)*.

Amnesty International welcomes the SPDC's recent cooperation with the ILO, and hopes that such cooperation will lead to the elimination of forced labour in Myanmar.

However, when Amnesty International interviewed scores of migrants in February and March 2002, forced labour was still frequently mentioned as a problem, particularly near military installations. Amnesty International has repeatedly expressed concerns that the practice of forced labour facilitates human rights violations such as torture; cruel, inhuman or degrading treatment; and extrajudicial executions. Moreover forced labour in Myanmar is a form of arbitrary detention, as civilians are forcibly taken by the military to work as unpaid labourers, and effectively detained until the army releases them from their duties.

Other human rights violations against civilians by the *tatmadaw*

In addition to forced labour duties, most of those interviewed by Amnesty International in early 2002 were subject to arbitrary fees, sometimes amounting to extortion, including "porter fees" and "security fees". In many cases migrants cited these excessive and continuous demands for money as one of the main reasons they left their country. ILO jurisprudence established by the Committee of Experts states under Convention No. 29, taxation must be in a form that is within the means of those taxed to pay it. If such a tax is levied in a subsistence economy, the demand for fees, when there is no means of raising this cash, amounts to forcing people to work in order to secure these funds.

Demands for money from the *tatmadaw* were sometimes for "portering", so that the army could theoretically hire someone to carry goods; "security", in order to support the army or militia; and even "sports" or "festival" fees. The army also "taxed" the rice crop in kind, which often meant that subsistence farmers were required to give or sell at well below market rate a fixed amount of their rice harvest, regardless of yields. The result was that often farmers did not have enough rice left over for them and their families to survive. Forced labour, rice "taxes", and demands for money from the Myanmar army meant that these members of ethnic minorities could not make a living.

Ethnic minority civilians in counter-insurgency areas of eastern Myanmar were sometimes at risk of extrajudicial executions at the hands of the *tatmadaw*. Unlawful killings by the army were most prevalent in the southern Shan State, where SSA-South troops fight against the *tatmadaw*. Civilians in those areas were also subjected to torture, and sometimes died as a result. *The tatmadaw appeared to be killing civilians in order to frighten the local population or because they suspected civilians of supporting armed opposition groups.*

Some of these violations took place in the context of land confiscation by groups allied to the *tatmadaw* and the *tatmadaw* itself. The United Wa State Army, (UWSA), an ethnic minority cease-fire group, have confiscated land belonging to the original inhabitants of areas in southeastern Shan State. They appear to have done so with the knowledge of and permission from the SPDC. Some farms belonging to Mon villagers in the Mon State have also been confiscated by the *tatmadaw* for their own use. Those interviewed by Amnesty International who lost their land in this way did not receive any form of compensation, and were threatened with physical violence if they did not vacate their land.

*No attempt appears to have been made by the SPDC to hold members of the *tatmadaw* accountable for violations which they committed, and villagers did not have recourse to any complaint mechanism or other means of redress. The prevailing lawlessness and violence in these areas demonstrates the failure of the SPDC to protect civilians from these abuses.*

III. SOUTHERN SHAN STATE

Introduction

In the last six years Shan civilians living in the southern Shan State have suffered from a wide variety of human rights violations in the context of the Myanmar army's counter-insurgency activities. These include forcible relocation; confiscation of food and money under threat of violence; forced labour; torture; and extrajudicial killings at the hands of the *tatmadaw*. Fighting between the *tatmadaw* and the Shan State Army-South¹¹ (SSA-South) is still occurring, and still generates refugee flows into neighbouring Thailand. Skirmishes near the Thai-Myanmar border between the two groups continued into June 2002 when the rainy season had begun; normally fighting decreases after the onset of the monsoon.

Fighting during May and June 2002 between the SSA-South and the Myanmar Army in the eastern Shan State has forced hundreds of Thai and Burmese civilians to flee from their homes on both sides of the border. Confidential sources also indicate that prisoners convicted of common law crimes were taken from Insein Prison in Yangon, the capital, and used as porters by the Myanmar army in this offensive against the

¹¹SSA-South was originally called the Shan United Revolutionary Army (SURA).

SSA-South. Amnesty International is gravely concerned by such reports, as forced portering of anyone constitutes cruel, inhuman or degrading treatment.

The situation is further complicated by the presence in parts of the eastern Shan State near the Thai border of the United Wa State Army (UWSA), an armed group of soldiers belonging mostly to the Wa ethnic minority group. The UWSA had agreed a cease-fire with the Myanmar Government in 1989, but like most cease-fire groups, have been allowed to maintain their army and control territory. The Wa traditionally lived in the northern Shan State near the Chinese border but since 1999 both Wa soldiers and civilians have moved to Murng Hsat, Murng Ton and Tachilek townships, near the Thai border. These Wa settlers, numbering between an estimated 75,000 and 125,000, forcibly displaced thousands of Shan, Lahu, and Akha civilians, some of whom have subsequently fled to Thailand after losing their land and homes.

The UWSA has been repeatedly accused by numerous governments, including the Royal Thai Government, of smuggling methamphetamines from factories in the Shan State into Thailand. The SPDC states that the UWSA have made progress in the eradication of drug production and trafficking, and claims that the Thai Government supports the SSA-South by allowing them to operate in Thai territory. Tensions between Myanmar and Thailand have increased in 2002 as both governments accuse each other's armed forces of crossing into their territory.

Background

During negotiations between the United Kingdom and Burma¹² about independence, Shan and other ethnic minority leaders demanded guarantees of minority rights in return for an agreement to join in a Union of Burma. These were conceded in an agreement between the Burmese Government and the Shan, Kachin, and Chin representatives in 1947 in Panglong, a Shan town. After Burmese independence in 1948, however, disputes arose between some Shan political figures and the central administration in Rangoon over the handling of Shan affairs. In 1958 the first Shan armed opposition group was organized, and since then various other groups took up arms. Since 1989 some of these groups have agreed cease-fires with the SPDC. The Mong Tai Army (MTA, led by Khun Sa) surrendered to the government in January 1996. Although Khun Sa surrendered, troops formerly under his command who formed the Shan State Army-South (SSA-South) began to move north from former MTA bases along the Thai-Myanmar border to the central Shan State, where they conducted guerrilla operations against the *tatmadaw*.

¹² The then SLORC changed the name of the country from the Burma to Myanmar in June 1989.

In retaliation during March 1996 the SPDC initiated a campaign of forcible relocations on a massive scale in the central Shan State, as the army evicted civilians from their villages in an apparent effort to break up any alleged links with the SSA-South. Well over 1,400 villages were forced to relocate. Although some Shan civilians have managed to return to their original villages, others have hidden in the forest for months or even years from *tatmadaw* patrols, and tens of thousands of others have fled to Thailand in the last six years. Those in Thailand are not permitted by the Royal Thai Government to live in camps and usually seek work as migrant labourers. It is not known why the Thai Government has not allowed them to form camps, although some observers have suggested the government fears it would increase the flow of refugees from the Shan State. In addition the Shan people are closely related to the northern Thai and are believed to assimilate more readily than other migrants from Myanmar.

The consequences of 1996 displacement are still acutely felt by villagers who have lost their land and most of their possessions. In addition, the army has not provided them with farmland, food, paid employment, or any other form of compensation. Moreover, once the army has cleared villages of any inhabitants, it generally forbids villagers from returning to harvest their crops or to collect their belongings. Some deserted villages and forests in these counter-insurgency areas appear to be considered as “free-fire” zones by the Myanmar military; as a result, hundreds of Shan civilians have been shot dead when they tried to return to their homes.¹³ At the time of writing the *tatmadaw* are not known to be forcibly relocating Shan civilians on a large scale. However the aftermath of the 1996-97 relocations is still evident as many villagers are landless and either living in a relocation site designated by the army; hiding in the jungle; or have fled to Thailand. Those living in the forest are at risk of extrajudicial executions or of dying from preventable illnesses due to lack of food and medical care.

Testimonies of Shan civilians

During February 2002 Amnesty International interviewed dozens of Shan, Palaung, Lahu and Akha civilians whose homes were in southern Shan State.¹⁴ All of them were hill rice or paddy rice subsistence farmers who also farmed other crops and had some livestock. Some of them were either working as agricultural labourers in Thailand or

¹³ Please see *Myanmar: Atrocities in the Shan State*, (Amnesty International Index ASA 16/05/98) 15 April 1998, *Myanmar: Update on the Shan State*, (Amnesty International Index ASA 16/13/99) 30 June 1999, *Myanmar: Exodus from the Shan State*, (Amnesty International Index ASA 16/11/00) July 2000, and *Myanmar: Ethnic minorities: Targets of Repression* (Amnesty International Index ASA 16/014/2001), June 2001.

¹⁴ For security reasons Amnesty International has not included any names of the interviewees.

looking for work, whereas others were living in a settlement for displaced people. What follows below is a summary of Amnesty International's findings of these interviews.

The interviewees had all recently arrived in Thailand from the following townships: Kunhing, Narmzarng, Murng Hsat, Murnyawng, Kengtung, Murnton, and Tachilek. Most interviewees had been relocated during the *tatmadaw's* 1996-1997 massive forced relocation campaign, although some had lost their land in the last year to Wa settlers in Murng Hsat township. Some of those relocated in the 1996-97 campaign had been in hiding in the jungle for considerable lengths of time and lived in fear of discovery by SPDC troops. Several described killings of their fellow villagers by the *tatmadaw*. Others had been living in relocation sites where they were at risk of forced labour and excessive demands for money from the military.

Some of the Shan villagers had encountered SSA-South troops as they patrolled in rural areas in Murngnai, Murng Hsat and Kunhing townships. A 42-year-old woman from Kiengkham village tract, Kunhing township, said that two of her sons were in the SSA-South. One had been conscripted in 1979 when he was 12 years old by the Mong Tai Army, but he did not surrender with Khun Sa in January 1996 and continued fighting with the newly-formed SSA-South. She had not seen her son since he was taken. Her other son had recently volunteered to join the SSA-South at age 15. She said, "...if they want to help our nation I'm happy. I had no choice about the 12-year-old...".

One 65-year old Shan man from Kiengtawng area, Murngnai township said: "*We give rice to the SSA - we can't refuse - they all have guns on both sides. We are afraid of all of them. Usually SSA just asks for a packet of cooked rice, not much. Even so the SPDC is afraid the SSA would hide in a village, but they didn't stay there.*" A Shan man from Namzarng township said that on 3 December 2001 some Burmese troops came to his field where he and his wife were threshing rice. They asked if he had seen any SSA-troops and when he said no, they beat him with his threshing stick and took him to the village headman, who guaranteed his innocence. Such testimonies are typical of the plight of ethnic minority civilians in areas where armed opposition groups operate.

Shan civilians are also at risk of torture and even killing if they are suspected of supporting the resistance. Civilians can be killed if they return secretly to work on their old farms after having been forcibly removed from them by the military; if they are found in "free fire" areas; or if they are discovered outside of their villages or relocation areas without a pass. Some interviewees reported

incidents of torture by the military, which resulted in death. Extrajudicial executions are defined by Amnesty International as having been carried out deliberately by order of a government official or with the government's complicity or acquiescence. Extrajudicial executions are distinguished from justifiable killings by the security forces in self-defence; deaths resulting from the use of reasonable force in law enforcement when firearms are used in accordance with international instruments;¹⁵ and the judicial imposition of the death penalty.

Life in hiding after forcible relocation

Several Shan interviewees had been in hiding for months or even years after having been forcibly relocated by the *tatmadaw* to relocation sites away from their home villages, fields and food supplies. At the relocation sites they generally had no means to make a living, as they could not farm their land, and there was little or no employment for them. When they could no longer survive in the relocation sites, they often went into hiding. While they were not at risk of being taken for forced labour in hiding, they did face other dangers which eventually caused them to flee to Thailand. They lived in small settlements in the jungle and tried to grow some food, but often had little to eat. Shan civilians also risked being shot on sight by *tatmadaw* troops on patrol as they searched for SSA-South soldiers.

A 35-year-old widow from Keng Kham village tract, Kunhing township, had been in hiding for four years before fleeing in early February 2002 to Thailand. She and her family could not make a living in Ka Li relocation site so they hid near their original village, but *tatmadaw* troops burned their hiding places several times, forcing them to move yet again. Her husband became weak and died, apparently from lack of food, in late 1999. Aged 32 at the time of his death, he was very healthy before they went into hiding.

¹⁵ See UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officers and the Code of Conduct for Law Enforcement Officials.

Another widow from Keng Kham village tract, Kunhing township, had also been in hiding with 15 other families for several years until 30 November 2001, when troops from Murngnai burned their rice stores and other personal belongings. She was ill when the soldiers discovered her hiding place and could not leave her hut. Although they did not harm her, they took all her money and even destroyed the blankets which were covering her.

Forced labour

Almost 90% of those civilians from the Shan State who were interviewed by Amnesty International had been subjected to unpaid forced labour by the *tatmadaw* in the last 18 months. Most were men, but women were also taken. One 66-year-old man from Kiengkham village tract, Kunhing township, reported that he had been subjected to unpaid forced labour for the last 50 years. He said that demands for labour were not heavy when he was young, but had markedly increased since 1996. He reported before he left his home, he had to perform labour for the military once every five days, the last time on 15 February 2002.

A few of those interviewed had heard of SPDC Order No 1/99 and Order Supplementing Order No 1/99. Those who did know about these orders stated that they had no impact on the level of forced labour. One 29-year-old Shan widow from Kenglom village tract, Kunhing township, said she had heard about the laws in February 2002; however, she subsequently had to build a fence around a military camp. She was unable to read, and the leaflet about these decrees was only available in the Burmese language. A 45-year-old Shan man from Nong Pa village tract, Kengtung township, reported that in early 2001 the village chairman called a meeting and told the villagers about the new law. He said, *"I heard about 1/99 from the village chair but nothing changed. Because we are just simple villagers we only heard once. No one asked anything - no one dared to say anything. I didn't believe it..."*

Another Shan man from Murng Hsat township near Murngyawn, headquarters of the United Wa State Army, told Amnesty International that in September 2001 a military officer from Loilam came to his village and told them about the law forbidding forced labour. He said that before they had learned of the decree, he and other villagers complained several times about Battalion 43 from Murnpaeng using forced labour to the local military commander. This unit was then transferred, but afterwards new troops from Kengtung came to their village and started taking people for forced labour again.

Amnesty International welcomes the promulgation of Order No 1/99 and Order Supplementing Order No 1/99 by the SPDC, but urges them to ensure that these laws are much more widely distributed. They should also be made available in the relevant ethnic minority language of the region. In addition the military should ensure that there is a

complaint mechanism for villagers and that there are no reprisals against anyone reporting forced labour. The government should initiate effective, independent, impartial, and prompt investigations into all reports of forced labour. Those found responsible should be brought to justice under the provisions of Order Supplementing Order No 1/99.

Forced portering

Only two of the women interviewed had to perform portering duties. However a partially-sighted Lahu woman from Murngtawm tract, Murn Hsat township was beaten because she could not act as a guide for the *tatmadaw*. The *tatmadaw* attempted to force her to guide them to the SSA-South troops in December 2001. She said that when she told them she could not comply with their request because of her sight, they kicked and beat her, and threatened to shoot her in the back. The woman, who had to be led to the interview site, reported that the Myanmar army had taken her money, chickens, pigs, and other valuables. She said, *I don't know where my husband is - I don't know where to go - I just want to stay here until the situation becomes better in my village....I have nothing left.*"

Several men reported having to porter for the Myanmar army. A Palaung man from Pak Tu, Tachilek township, was seized on his farm by Myanmar army Unit 526 and forced to carry ammunition for six days in December 2001. He was kicked in the lower back when he slowed down. He was then detained in a military camp in Murng Turn, Mong Hsat township, and forced to cut wood until he escaped. He said that he often had to perform other forced labour duties, mostly digging trenches, building barracks, and making fences, about five times per month on rotation. His Palaung village was near an outpost of Unit 526. He said further that he had performed forced labour duties for the last five years, in the context of fighting between the *tatmadaw* and the SSA-South.

A Shan man from Namzarng township reported to Amnesty International that there was an increase in forced labour in his area during the last four years. In February 2002 he was forced to porter for the army. He had to carry dried meat from the villagers' cattle which the Myanmar army had shot for their own consumption. In general he paid porter fees about twice a month in order to avoid being taken for forced portering duties. He said however that he still had to perform other duties one day per week for the military, digging trenches at military bases or working on military farms. The last time he had to perform forced labour was 10 February 2002.

A 31-year-old Akha man from Murngtum village tract, Murng Hsat township, was forced to carry rice and cooking utensils for the military near Murng Hsat in November 2001 for several days until he escaped. He was kicked because he could not understand Burmese. He explained why he left his home:

“Sometimes we are taken as porters...The situation is very bad - both the Wa and Burmese come and take whatever they like....We felt unsafe. The Wa haven't reached our area - they just come occasionally - but they will eventually get to us...SPDC would kill some cattle but didn't stay in the village.”

A Shan woman from the outskirts of Kunhing town said that **Sai Mon**, her 41-year-old husband never returned from portering duties. He was seized on 12 April 2001 while he was on his way to go fishing, and a month later his fellow porters told his wife that he had died. She said that she didn't dare complain to the SPDC about his death. She also was forced to clear the roadside or military compounds about 10 times per month by Unit 246.

Amnesty International remains concerned by the continuing practice of the *tatmadaw* of taking civilians as porters. It is further concerned by the reported ill-treatment which porters have received if they cannot keep up with the military column on patrol. The organization urges the SPDC to ensure that members of the *tatmadaw* stop seizing civilians as porters.

Other types of forced labour and demands for money and goods

The vast majority of those who were interviewed by Amnesty International had to perform recent unpaid forced labour duties for the military. Types of labour included construction work on roads and in military camps; working on military farms; and performing odd jobs such as fetching water or acting as messengers. Most of those who had to perform forced labour had been forcibly relocated in 1996-97. However some from Murng Hsat township were subjected to forced labour before they were expelled from their land by Wa settlers in 2001-2002.

A 28-year-old Shan man from Khun Poo tract, Kunhing township told Amnesty International that he and his family had been relocated in 1997 to Kengtawng relocation site, Murngnai township. He then worked as a farm labourer, but said that *“If I worked one day for myself, I had to work two-three days for the SPDC.”* He said that there was a military camp nearby called Yeh Moo, where troops with the nickname “sunflower” lived. They also shot villagers' cattle for their own use. The interviewee said he had to cut bamboo and dig a trench in Yeh Moo camp for three days in mid December 2001. He went on to explain that not only did the *tatmadaw* often take forced labour, they also *“would take whatever they wanted from the village - chilies or vegetables...”*. In

October 2001 these troops stole 30,000 kyat¹⁶ from the local monastery and took many of the monk's possessions.

A 42-year-old Shan man from Wan Nong village tract, Murng Hsat township, said that he had to do forced labour at least 10 times per month. He explained a relatively new system whereby villagers had to provide seven pack horses to work for the military and go with the horses on patrol. He said that other livestock was often taken by local troops, from Unit 553. In addition in January 2002 he had to collect stones for the military for six days, which were then sold. He said, *"I have been doing forced labour since I was 15 but now it's worse than ever."*

A 50-year-old Shan man from Murngkok tract, Murng Hsat township, told Amnesty International that he had breathing difficulties because the Burmese troops had beaten him during forced labour in January 2002. Every day for five months he had been working preparing the ground for housing for *tatmadaw* Unit 527. Two members of each household were forced to work on this construction site, including the women who made thatched roofs for their houses. Because he could not carry heavy logs he was hit with a stick five times on the back of the neck, until he collapsed. At that point the soldiers stopped beating him.

Demands for rice, money, and other goods by the *tatmadaw* drove many of those interviewed to leave their homes in the Shan State. A Shan man from Namzarg township said that he left in mid February 2002 because for the last four years he had to give half his rice crop to the military and did not have enough for himself and his family. A Shan man from Nong Pa village tract, Kengtung township also told Amnesty International that he left his home because the military asked for 30 out of every 50 baskets of rice he produced. When he could not provide sufficient rice to the military, they confiscated his rice field in January 2002. He said that over the last few years the military confiscated much of the villagers' land to grow food, but did not give them any compensation. A woman from Murng Poo Ann village tract, Murng Hsat township, said that she had to pay a variety of fees, including for teachers' salaries and road repair, about 10 times per month. She also had to give the local military half of her rice crop.

Amnesty International is concerned by the above reports of continuing demands for forced labour, money and goods by the *tatmadaw*. These demands prevent villagers from making a living, often causing them to flee to Thailand.

Land confiscation and house destruction by Wa settlers and the *tatmadaw*

¹⁶ The official SPDC exchange rate is six kyat to one US dollar; however the market rate is over 600 kyat to one US dollar.

Beginning in late 1999 the UWSA began to move segments of the civilian population under its control from northern Shan State to southeastern Shan State. This displacement was undertaken allegedly to prevent Wa farmers from growing opium poppies. The Wa civilians reportedly did not have a choice about moving, and thousands are believed to have died from preventable diseases during and after the move. The SPDC reportedly sold tracts of land in the southeastern Shan State to the UWSA to distribute to the settlers; however no compensation was known to have been paid to the Shan, Lahu, and Akha farmers who were displaced by the new arrivals. In addition Shan civilians living in parts of Murng Hsat township where the UWSA are present are subjected to threats if they do not comply with UWSA demands. In February 2002 Amnesty International interviewed several of these people who had fled to Thailand because they had lost their homes, their livelihood, and their possessions.

A Shan farmer from Wan Nong village tract, Murng Hsat township, reported that he took his wife and four children to Thailand because the *tatmadaw* confiscated all his land. He said that Unit 553 took his tea plantation and woodland in 2001, and Unit 554 confiscated his rice field in January 2002. He received no compensation. The soldiers told him that his woodland was in strategic high ground so the military would use it for a camp. He said he heard that since he left in late January his house had been dismantled and used in the camp.

A 75-year-old Shan man from Murngkarn village, Murngkarn village tract, Murng Hsat township, said that he and his family fled to Thailand after the *tatmadaw* and UWSA troops confiscated all their land and drove them out of their village in January 2002. Seventy five percent of his village was forced to flee and the fourth quarter was surrounded by UWSA troops, making escape impossible. The army troops from Tachilek told them, “*You have to leave in three days and if you are still here, don’t say we are cruel.*” He reported that 500-600 Wa troops occupied Talang, Nai Ya, and his own village nearby. He said that he had received no compensation for the loss of his woodlands, orchards, and fields. Another man from Murngkarn village told Amnesty International that before he was pushed off his land, the *tatmadaw* and UWSA forced the Shan farmers to sell their rice at half the price which the Wa received for theirs from the *tatmadaw*.

Another Shan man had his land seized by Battalion 527 from Murng Hsat in January 2002. He was from Murng Kok, Murng Hsat township. He described what happened:

“We received no compensation. When they seized my rice fields, they also took all my rice. They didn’t even let me harvest it...I couldn’t bring anything with me, just came with the clothes on my back...They also took a lot of livestock - chickens, pigs, buffalos, cows in October 2001.”

A Shan farmer from Murngkeng tract, Murng Hsat township, said that when he was relocated by the Wa they told him, “*This is our territory sold to us by the Burmese -- you are not our people - this land is ours.*” He said that the Wa took their land little by little and told them to move to a village on a hill where there was no water. He reported that about 1,000 Wa and Kokang households came to his area in 2001. Another man from the same village told Amnesty International that when the Wa began working his land in August 2001 he told them it belonged to him. He said, “*They threatened to beat me with a hoe and they said that Khin Nyunt has already sold it to us. We can take all of this and drive you away if we want to.*”

Land confiscation under threat of physical violence is often the context in which human rights violations take place in the Shan State.

Extrajudicial executions and death as a result of torture

Several Shan villagers told Amnesty International about the deaths of their friends and relatives at the hands of the *tatmadaw*. The circumstances of their deaths are similar to killings of civilians previously reported over the last six years in the southern Shan State during counter-insurgency activities. This pattern is typical of contemporary internal conflicts around the world where the vast majority of casualties are civilians rather than combatants.

It is not known if orders were given by army officers to kill these civilians or whether soldiers killed them with the tacit permission of their commanding officers. It is also unclear whether any investigations were carried out by the SPDC into the civilians' deaths. Extrajudicial executions by the *tatmadaw* of Shan civilians in southern Shan State continue to be reported on a regular basis since the forced relocation campaign began in 1996. There appears to be a lack of accountability and failure on the part of the SPDC to bring those responsible for such killings to justice. As a result, a climate of fear for civilians and impunity for the *tatmadaw* prevails in these counter-insurgency areas of the Shan State.

The most recent incident reported to Amnesty International took place on 30 January 2002, when six Shan civilians were killed near the border with Thailand. The six were originally from Loi Saan village, Ham Ngaai tract, Murgkerng township, but were relocated in the 1996-97 campaign to the outskirts of Murgkerng town. They were travelling in a group to Thailand and had spent the night in an empty building at Border Point 1, Murgngton township. They were reportedly told by a local trader that they should change their Myanmar currency into Thai baht, which they did.

The next day they reportedly hired an off-duty soldier in plainclothes to guide them just across the border to Nong Ook village in Chiang Mai Province, Thailand. The guide took them on a different route to avoid two checkpoints, but on the way the group encountered troops from Infantry Battalion 281. The troops reportedly stole all their Thai money and possessions and shot the six dead, after which time the local military reportedly closed the border crossing. The six victims are: **Lun Kon**, (m), age 56; **Sai Ohn Ta**, (m), age 38; **Sai Nyunt**, (m), age 34; **Pa Pan**, (f), age 43; **Nang Leng**, (f), age 27; and **Naing Naing**, (f), age four months. It appears that this group of civilians was not killed in the context of counter-insurgency activities, as there are no SSA-South troops in the area. The motivation for the killings is not clear, nor is it known whether

soldiers from Infantry Battalion 281 were acting on orders from their commanding officers.

Other civilians who were killed during *tatmadaw* counter-insurgency operations include **Lung Kham**, age 57. A fellow-villager from Khun Poo tract, Kunhing township, described his death on 30 October 2001. Lung Kham had not moved to the relocation site in Kengtawng area, Murngnai township when the *tatmadaw* forcibly relocated the village in 1996, but had gone into hiding. The interviewee said:

“He was a little slow...when he was arrested many people tried to guarantee his innocence [to the tatmadaw] - I myself went - but they didn’t listen. They accused him of collecting information for the SSA...they said they would release him but they kept torturing him till he died...After a while he was taken away and never seen again...I think the tatmadaw...didn’t really think he was SSA. They did it to terrorize and intimidate other villagers.”

His 53-year-old widow corroborated this information in a separate interview. She said that Lung Kham had gone to visit their daughter in Kientawng, Murngnai township. Her daughter reported his presence in her household to the secretary of the headman, who apparently did not relay this information to his superior.¹⁷ Subsequently Lung Kham was arrested with a group of 22 others and taken to a military camp in Kientawng. The others were all eventually released. They later told his widow that he had been interrogated and severely beaten along with the others, and was taken away by the authorities after he had stopped breathing.

Another Shan villager from Kunhing township told Amnesty International about the death of her friend **Aye Seng** in December 2001 a year after he had been severely tortured by the *tatmadaw*. Aye Seng had been living in the same hiding place after their relocation. The witness described what happened:

“He told me he was beaten for five nights. He was virtually dead, he just managed to get back to our hiding place....Since that time he was always weak and in pain...When he came back his nose and eyes were dripping with blood from head injuries. They submerged him in water. They accused him of giving rice to the SSA...but he didn’t even have enough rice for himself. He had no treatment - he dared not go into town.”

¹⁷ Under Myanmar law all visitors from another township must be registered with the local authorities.

His wife **Naing Seng** died one month later, reportedly from grief, leaving their only child an orphan.

A farmer from Nong Hi tract, Namzang township, said that his 35-year-old uncle **Pi Wi** was shot dead by Burmese troops from Kunhing in November 2001. Villagers were required to obtain a pass from the military before leaving the village. Pi Wi had left the village and climbed a jackfruit tree to gather leaves in Si Kong, a deserted village, when soldiers arrived and ordered him to come down. When he did not come down he was shot dead. His wife was nearby and witnessed the incident. His nephew described subsequent events:

“We complained to the village headman and asked the tatmadaw to pay for the funeral but they didn’t pay and threatened to kill us because we were relatives of a Shan soldier. Pi Wi is just a simple and ordinary farmer - a bit mentally slow - he didn’t even know about politics.”

Armed groups allied to the SPDC have also reportedly been responsible for unlawfully killing civilians. A Lahu woman from Murngtawm village tract, Murng Hsat township reported that the Lahu People’s Militia killed three fellow-villagers in October 2001. Their names are: **Weh Li, Chau Ka, Cha Oo**, all male. They were killed during the rice harvest in Pu Pa camp. The Lahu People’s Militia from Murng Phyak stopped the three men and a woman, who was not subsequently killed, and demanded that they tell them where the SSA-South were. When they did not comply, the soldiers slit their throats, dug a hole, and dumped their bodies into it. Their families subsequently went into hiding.

Amnesty International is gravely concerned by these accounts of extrajudicial executions and deaths as a result of torture by the *tatmadaw* and allied armed groups. It urges the SPDC to take steps to ensure that such killings of civilians by any member of the security forces do not take place.

IV. THE MON STATE AND TANINTHARYI DIVISION

Introduction

During March 2002 Amnesty International interviewed dozens of people from the Mon, Tavoyan, and *Bamar* ethnic groups who had been living in the Mon State and the Tanintharyi Division.¹⁸ They were all either working or looking for employment in Thailand. Some of them had registered in the September-October 2001 Thai registration

¹⁸ Interviewees were from the following townships in the Mon State: Ye, Thanbyuzayat, Thaton, Kyeikhto; and Yebyu, Launglon, Thayatchaung, and Tanintharyi townships in Tanintharyi Division.

process and were planning to re-register in March 2002. Others could not afford to register because they did not have a current job. All of those interviewed said that they had left their homes because it was too difficult to earn a living in Myanmar. Many of them cited excessive fees demanded of them by the Myanmar authorities as the reason for this difficulty, but some also described forced labour and other human rights violations which they had been subjected to as a reason for leaving.

The population of the Mon State and Tanintharyi Division, in the southeast of Myanmar, is a mixture of Mon, Karen, Tavoyan, and Merguians as well as smaller ethnic minority groups. The Mon, who along with the Khmer were among the first settlers of mainland Southeast Asia, established major kingdoms in the pre-colonial era. They live in villages north of Dawei. The Merguians, living primarily in the Mergui area, and Tavoyans, living mostly in the area of Dawei town, are ethnically similar to the Bamar group, but have developed their own dialects and local culture.

*Although the New Mon State Party (NMSP) agreed a cease-fire with the then State Law and Order Restoration Council in June 1995, a few smaller groups have broken away from the NMSP and continue to fight against the *tatmadaw*. The NMSP still maintains four cease-fire areas in the Mon State, and is also present in townships outside their cease-fire areas. In addition a small number of Karen National Union (KNU) troops engage in skirmishes with the Myanmar army in the Tanintharyi Division and the Mon State. As a result, civilians in the areas where these groups operate are at risk of being taken as porters for the *tatmadaw* when they are on patrol in the countryside, and also of interrogation about the armed groups' whereabouts.*

The most recent among the Mon breakaway groups is the Hongsawatoi Restoration Party, and its armed wing the Monland Restoration Army. These were founded in November 2001 by former NMSP Colonel Nai Pan Nyunt, who is believed to have 100 - 150 troops. In May 2002 the Monland Restoration Army and the NMSP began fighting in the Mon State, just across from Sangklaburi District of Kanchanaburi Province of Thailand.¹⁹ As a result the security situation in Halockanee, one of the four NMSP cease-fire areas which houses thousands of internally displaced people, has deteriorated. In late November 2001 Htee Wah Doh, a settlement of Karen internally displaced people adjacent to Halockanee, was burned by the *tatmadaw* because of the presence of the Mon Restoration Army, causing hundreds of Karen civilians to flee to Halockanee.²⁰ In addition other Mon armed groups are fighting against the *tatmadaw* in different areas of the Mon State and Tanintharyi Division.

Several interviewees from the Tanintharyi Division told Amnesty International about the "People's Militia", or *Pyi Thu Sit*, who are local villagers trained and armed by the *tatmadaw*. One day labourer said that militia members in his village in Launglon Township, are exempt from fees and forced labour. Another man from Yebyu township, said that their duties included patrolling the village and guarding the nearby railway, and that they were trained for six months by the *tatmadaw*. The militia also fought against a breakaway Mon armed group. Each household was required to pay 500 kyat per month for their expenses.

Testimonies of villagers

Forced labour and demands for money and goods

As is the case in other areas, those interviewees who lived near armed opposition groups suffered from the counter-insurgency tactics of the *tatmadaw*, including forced portering, short term arrests, and ill-treatment. Several of them from Ye township, Mon State, mentioned that they were told by the local authorities that they would no longer be taken for forced labour, but that the practice continued just as it had in the past. As was the case in the Shan State, some civilians had been told about the existence of Order 1/99 and

¹⁹ *Precarious Peace in Monland*, Tony Broadmoor, in February - March 2002 edition of *the Irrawaddy*, a periodical covering issues in Myanmar and Southeast Asia in general.

²⁰ These included 63 Karen refugees who had been forcibly returned from Kanchanaburi Province to the Mon State in October 2001 by the Thai Government. At the time Amnesty International issued *Myanmar/Thailand: Nowhere to run*, (Amnesty International Index ASA 16/024/2001) a statement protesting the Thai Government's *refoulement* of the 63.

Order Supplementing Order 1/99, but also reported that there had been no decrease in the practice of forced labour.

Some of those interviewed had been forced to porter for the military. One Mon man from Yebyu township, *Tanintharyi* Division, said that his father died after being taken as a porter in July 2001. **U Saw**, a 67-year-old villager, was beaten because he could not carry his heavy load fast enough. When he returned home after one week, he was vomiting blood. He later died after receiving no medical care, but had been in good health before being seized. His son reported that the local *tatmadaw* suspected the villagers of supporting a Mon armed group who had broken away from the NMSP. This armed group had demanded money from the villagers to buy weapons once a month and also asked for rice; the interviewee said they had “no choice”. The amount villagers had to raise was at least 10,000 kyat each time, which was a further hardship for a small village of landless day labourers.

A 27 year old Mon betelnut farmer who had arrived in Thailand in late February 2002, said that one of the reasons he left his village in Ye Township, Mon State, was because of forced labour. He often had to work repairing the road between Ye town and Kawza for Light Infantry Battalion 299, based at “13 mile” from Ye town. He reported that he had never been paid for this forced labour, and that he was 17 the first time he had to work for the army. The last time he did this was in February 2002 for 15 days. He also said that Division 61 took them sometimes to do road renovation.

He said that in May 2001 his village headman had called all of the villagers together in order to inform them that there would no longer be any forced labour under SPDC Order 1/99. However he said that there was no change in the rate of forced labour after this meeting, and said that Order 1/99 is “a big joke in this region”. He also had to work on military rubber and betelnut plantations, and perform forced portering duties for the army. He reported that his parents had to pay half of what they earn on their betelnut farm to the military. He said they had to pay 500 kyat per month, but in the dry season it increases to 3,000 per month because the military need more porters then.

The other reason he cited for leaving home was the *tatmadaw*'s suspicions about his membership in a Mon youth group involved in religious and social activities. He said that the group provided a place for people to meditate and served them refreshments. The local authorities suspected them of having links with one of the Mon armed groups which had broken away about five years previously from the NMSP and began fighting against the *tatmadaw*.²¹ This group was reportedly attempting to join the Hongsawatoi Restoration

²¹ The witness said the name of the group was “poetic” and difficult to translate, but was called “We can’t stand it anymore.”

Party. The interviewee said that he knew some of its members but that his social group had no links with them.

He told Amnesty International that he and two other members of his organization were arrested by the local *tatmadaw* for three days in November 2001. They were taken to the base of Battalion 299 and accused of supporting the breakaway Mon group, but they told the soldiers they had no communication with them. He explained further:

“We were detained and forced to work on a betel nut and rubber plantation. The military pointed a gun and knife at us and asked for contacts and friends. I was kicked two or three times in the chest. The NMSP guaranteed our innocence which is why we got released. We had to pay 5,000 kyat each to the military. After our release we had to report daily to the military for two weeks.”

A 30-year-old Mon woman from Thanbuyzat township, Mon State, said that she left her home because as a landless day labourer she was very poor. She said that she had to perform forced labour in January 2002 when the military ordered the renovation of a small motor road between Tin Yu and Karopee villages. She was made to carry and crush stones and tar the road for 10 days. She said she normally had to perform forced labour duties at least once per month, for between five and 10 days. She also reported that there was no fighting in her area, and that the local *tatmadaw* did not ill-treat them. Like several others who were interviewed by Amnesty International, she mentioned having to pay fees to support the local militia.

Another young Mon woman who left her home in Ye township because of unemployment and excessive taxation reported having to do forced labour in September 2001. At that time she had to repair a motor road from Taung Bone village to A Yu Daung village for three days for a new military unit based in A Yu Daung. She generally had to perform forced labour duties once per month for three to five days at a time, but said the military did not mistreat her. She said that her family had to pay militia fees monthly and fees to the NMSP once per year. The NMSP taxation system varied from 1500 to 10,000 kyat per year, depending on the family's wealth.

A 22-year-old Tavoyan day labourer from *Tanintharyi Division* said that forced labour had increased in his area since September 2001. He had been working in Thailand from October 2000 and returned home in September 2001, but left again because of demands for forced labour and money. The last time he performed forced labour was just before he returned to Thailand in September 2001, when he had to carry wood and bamboo to rebuild the military base of Battalion 101. During his stay in his home village he had to go five times per month, which he said was less frequent than the demands on other villagers. He described the work: “*We didn't have a chance to take a*

break from one week to another - like an animal. Sometimes they asked us to do very heavy work...two people carrying a three person load."

Some farmers told Amnesty International about being forced by the *tatmadaw* to grow "summer paddy", which meant that they had to grow a second crop of rice during the hot dry season months. A 23-year-old Mon man from Ye township, Mon State, said that Infantry Battalion 61 threatened to confiscate their land if they did not grow summer paddy. He said that the yield from summer paddy is very small, but that all the rice goes to the military, so farmers make no profit. In addition his village was forced to give 10,000 kyat for road renovation between Ta Ya Na village and Kawbein. He said that restrictions by the military in his area became more severe because 300 fellow villagers joined the Hongsawatoi Restoration Party in late 2001.

Amnesty International is concerned by this ongoing pattern of violations against villagers in some parts of the Mon State and Tanintharyi Division, and calls on the SPDC to ensure that the *tatmadaw* do not take villagers for forced labour and do not subject them to other human rights violations.

Land confiscation

Two villagers from Ye township had their family farms confiscated by the military, leaving the families with no means to earn a living. Neither of the families received any form of compensation. A 23-year-old Mon woman said that her parent's farm was taken in July 2001. The family had 10 acres of 2,000 mature rubber trees which the military took, along with the land of some 30 other Mon families. She reported that the military had declared the land as theirs in early 2000, but did not actually claim it until mid 2001. The *tatmadaw* cut down the mature rubber and betel nut trees on the confiscated land. Her family was forced to move into town and also had to work for the military building barracks after they lost their land. Their fees to the military increased at that time. She told Amnesty International, "*I wish you could see this -- how the people are suffering.*"

A 20-year-old Mon man from Hla Min village tract, Ye township, said that his family rubber plantation of 25 acres was confiscated in July 2001 along with about 500 acres of other people's land. The *tatmadaw* asked the village headman to inform landowners that their land would be taken, which he then did. The interviewee said that while the *tatmadaw* did not tax the rubber plantation before confiscating it, the Karen National Union (KNU) asked for 100 kyat per acre once a year. His family's plantation was near an area controlled by the KNU.

He also was forced to clear trees along a railway line for Infantry Battalion 106 in December 2001 for two days. He said that he had to perform labour at least once per month, on a rotation basis. He also had to maintain the railway between Ye town and

Moulmein town, in the Mon State and had to do forced labour on the Ye-Dawei railway when he was 12 years old. The interviewee said that his father and five of his siblings were all in Thailand with him because they had lost their livelihood. He said, “*In my life the military took everything, my land, and all the animals we raised...*”.

Land confiscation under threat of physical violence is often the context in which human rights violations take place in the Shan State.

The testimony of a former child soldier

In March 2002 Amnesty International interviewed an 18-year-old *Bamar* fisherman from Kyunsuu Island off the coast of *Tanintharyi* Division, who was working on a farm in Thailand. He had left his home because of “*mistreatment by the tatmadaw and the militia in my village*”. The interviewee described in detail several grave human rights violations by the *tatmadaw* which he had witnessed, including torture, ill-treatment, and extrajudicial killings. He himself was subjected to torture after he was forcibly conscripted as a soldier.

In May 2001 his family paid 70,000 kyat to the military so that he would not be forced to join the local militia. In addition they had to pay porter fees, forced labour fees, and other fees on a regular basis. His area was relatively prosperous because of local income derived from the fishing industry. In spite of his family’s payment, in June 2001 the militia came to his house at 9pm and told his parents that he would only be taken for a short time for questioning. They then took him and some 30 other boys and young men in a boat to the *tatmadaw* base of Kamaya Unit Light Infantry Battalion 17, which is on the coast of mainland *Tanintharyi* Division. He said that he was 17 at the time and the other boys with him were between the ages of 15 and 17. He explained that the military preferred boys as soldiers because “*they are active and don’t dare say no*”.

The group spent one day at the base, were given military uniforms and M16 automatic weapons, and a brief explanation of how to use the guns. They received no other military training. The interviewee said that he did not want to fight and refused to take tablets which the soldiers were insisting that they take. After he refused he was kicked in the chest and back about seven times until he collapsed. He was then forced to stand and was punched and kicked again until he agreed to swallow the pill. He said it made him “*very active and aggressive, and brave*”. He took the tablets about five times.

The soldiers then took the 30 boys to the Yoma mountain range, where KNU troops were located. They were forced to march in front of the troops during a battle with KNU troops. **Aung Myo**, a 19-year-old *Bamar* man from Kyunsuu town, refused to swallow the pills or take up arms. He was then blindfolded by a sergeant, stabbed in

the chest and shot dead in the head. The witness said that the order to kill Aung Myo was given to the sergeant by the captain and lieutenant. The witness and the other young conscripts were forced to watch this killing, which took place on a villager's plantation in the Yoma range. Aung Myo's body was left behind in the paddy field.

The interviewee also witnessed the killing of two Karen civilians from Pa Wa village, Yoma mountain range, by the *tatmadaw* unit who had abducted him. He said that they slit the throat of a Karen man who was working on his farm and bayoneted his five year old child. The mother was taken away and the witness did not see her again, but was later told by a sergeant that he had raped and killed her. The soldiers also took all the livestock and personal belongings from the Karen villager's house. The witness did not know the names of the victims but he said the killings made him very angry.

Six days after his abduction he and three other boys decided to escape, because they had heard the soldiers would force them to fight in another battle. They managed to escape when the soldier guarding them at night fell asleep. The interviewee did not return to his home village because he was frightened, and he eventually made his way to Thailand, where he was currently working.

The *tatmadaw* and armed opposition groups have used child soldiers for many years. In this instance Amnesty International is concerned that the *tatmadaw* forcibly conscripted someone under the age of 18 and forced him to take part in a battle. The organization takes no position on the recruitment of adults into the armed forces of governments or armed political groups. It does, however, oppose the recruitment of children as combatants by governments and armed opposition groups alike, regardless of whether they have been conscripted by force or joined on a voluntary basis. It also opposes any form of recruitment, training or deployment of children under the age of 18, including for support roles such as messengers or porters. Amnesty International urges the SPDC to ratify the Optional Protocol to the Convention on the Rights of the Child, which prohibits the military recruitment and deployment in hostilities of any person younger than 18 years of age.

V. THE KAYIN STATE

Background

In March 2002 Amnesty International interviewed dozens of migrant workers from Hpa'an, Kawkaik, and Hlaingbwe townships in the Kayin State, some of whom had arrived recently from Myanmar. Tens of thousands of Karen migrants are working as housemaids, garment workers, and in other sectors of the Thai economy. Most of the Karen workers to whom Amnesty International spoke did not live in areas of counter-insurgency activity, and so reported fewer human rights violations at the hands of

the *tatmadaw*. However they had not been able to survive at home because of the excessive fees levied on them, rice "taxes" in kind and other economic hardships. Many lived in Hpa'an township, where there is less KNU presence than in other parts of the Kayin State, although the Democratic Kayin Buddhist Army (DKBA, who split from the KNU in late 1994 and allied themselves with the SPDC) are active in that area. Some of those interviewed did report the use of unpaid forced labour. However none had been informed about SPDC Order 1/99 and Order Supplementing Order 1/99, which forbids the use of forced labour in Myanmar.

Currently some 128,000 Karen and Karenni people are living in Thai refugee camps along the Myanmar border; however Amnesty International did not interview the camp population in this reporting period. Many of the camp residents have fled from the Papun District in northern Kayin State, and Kya-in-seik-gyi and Kya-in townships in the south. For the last several years the *tatmadaw* have increased their counter-insurgency campaign in Papun District, where there remains a KNU presence in the forested remote mountains. As a result thousands of Karen civilians, mostly hill rice farmers, have been forcibly relocated after their villages and rice barns were destroyed by the Myanmar army. The situation in the Papun District has been made worse by the planting of mines by both the *tatmadaw* and the KNU. In addition villagers are cut off from their food sources and risk being shot dead by the *tatmadaw* if their hiding places in the jungle are discovered.²²

In 2002 the situation in Kya-in-seik-gyi and Kya-in townships in the southern Kayin State deteriorated because of the *tatmadaw*'s counter-insurgency activities against the KNU in the area. These two townships are at the southern tip of the Dawna mountain range and comprise fertile plains where villagers grow paddy rice and other crops. As is typical with contemporary warfare everywhere, it is the civilians, not the combatants, who suffer the highest casualties and other human rights violations. Amnesty International has recently received credible and detailed reports that during the second quarter of 2002 the Myanmar army forcibly relocated several villages in the area, and extrajudicially executed Karen civilians. As a result, hundreds of people have fled to Thai refugee camps, and hundreds more are believed to be attempting to escape.

Some of those who were interviewed by Amnesty International in March 2002 lived in areas with a DKBA presence and described the behaviour of the DKBA. The DKBA is an armed group with an informal alliance with the SPDC and appears to have a certain amount of *de facto* control over some areas in the Kayin State. Some interviewees did not report abuses by the DKBA, although they said the DKBA had special privileges from the SPDC. However others had direct experience of abuses by the DKBA. A Po

²²See, for example, *MYANMAR: Ethnic minorities: Targets of Repression*, June 2001, (AI Index ASA 16/014/2001).

Karen man from Kawkareik township said that the DKBA were “*a big problem*” with the local people because they could ask civilians to do errands for them for no payment.

One Po Karen farmer from Kawkareik township reported that the DKBA had killed his 55-year-old father **U Kya Win** and his 75-year-old grandfather **U Hla Po** in October 1999. The interviewee said another farmer envied his father’s higher standard of living and hired the DKBA to kill him, which he said was not uncommon. DKBA soldiers came to his farm and took U Kya Win and U Hla Po away for “questioning”. Later both bodies were found beheaded. The family was too frightened of the DKBA to complain. Amnesty International is gravely concerned by this report of an unlawful killing by the DKBA, and calls on the SPDC to conduct an investigation into this incident. The organization is further concerned that in this case, the DKBA were “hired” to kill two civilians. Because the DKBA is an armed political group recognized by the SPDC in Myanmar territory, the SPDC has a duty to protect civilians against any abuses committed by them.

A Po Karen student from Hpa’an town said that his family had to pay 5,000 kyat per month each to DKBA Unit 555 and SPDC Infantry Battalion 228, amounting to 60,000 kyat per year. He described the situation for civilians in the Kayin State:

“People were caught in the crossfire between the three armed groups [KNU, SPDC, DKBA]. Each group asks for money...if one group found out another group is being given money by civilians, they will also demand money. So many forms of taxation - they just name it and you have to pay.. There is an annual fee for ‘security’, which you have to pay or you will be harassed...”

Other interviewees mentioned forced labour and demands for money by the *tatmadaw*. A Mon farmer who lived a Mon village in Hpa’an township, Kayin State, near the border with Mon State, had to porter once or twice a month for the *tatmadaw*. His village is near the “Thamanya peace village” which is where a revered Buddhist monk Thamanya Sayadaw lives with his followers. However the interviewee explained that there was fighting between the KNU and *tatmadaw* nearby. In late December 2001 he was taken to Thingan Nyi Naung military base and forced to carry ammunition and food in a group of 30 fellow Mon villagers. Because he walked too slowly, he was kicked in the chest four times until he fell down. He also had to work for the military on a rubber plantation in the Thamanya area for five days in December 2001. He generally had to perform forced labour duties on an average of twice a month, clearing local motor roads and building a new military base.

A 35-year-old Po Karen woman from Kaw Kyaik village tract, Hpa'an township, told Amnesty International that she had to give over half of her rice harvest to the local SPDC authorities. This "tax" had to be paid in spite of flooding in 2001 which severely damaged their crops. Her family also had to pay cash to the military. She said she had been taken in December 2001 to work on farms which the military had confiscated from farmers who had gone to Thailand. She and her husband took turns, as each household had to contribute one person for forced labour three times per month for one day each. Every village in Kaw Kyaik tract had to provide people for this agricultural labour.

A Po Karen farmer said that he left his home in Hpa'an township because of forced labour and taxation. He said his family had to pay a rice "tax" in kind to the SPDC and 300 kyat per month to the DKBA. If people could not pay the "paddy "tax"" in kind, they were forced to buy rice in the market to give to the authorities. He reported that he had to do forced labour two to three times per month; the last time was just before he came to Thailand in April 2001 when he had to work constructing a road between Don Law and Hpa'an town for three days.

Amnesty International is concerned by these instances of forced labour and other violations by the *tatmadaw* and the DKBA in some parts of the Kayin State, and calls on the SPDC to ensure that such violations no longer occur.

VI. ABUSES BY ARMED OPPOSITION GROUPS

Amnesty International has received detailed and credible reports about recent human rights abuses committed by the Karen National Union (KNU), the Karenni National Progressive Party (KNPP), and an unnamed Mon armed group. The organization has documented abuses by armed opposition groups in Myanmar since 1991, and remains concerned that such abuses continue to occur in highly militarized parts of the Mon, Kayin, Kayah, and Shan States in the eastern part of the country. These abuses also sometimes occur in Thailand, where the KNU and the KNPP have *de facto* control over refugee camps of Karen and Karenni civilians on the border. Amnesty International condemns these abuses as a matter of principle and urges armed groups to cease these practices against civilians. The organization further calls on the Royal Thai Government to conduct effective and prompt investigations of any abuses reported to have occurred on Thai territory. It also urges the Thai Government to preserve the civilian and humanitarian character of refugee camps.

Amnesty International promotes minimum international standards of humane behaviour, such as the fundamental provisions contained in humanitarian law, by which any armed group should abide, and it urges them to endorse and uphold these standards. Non-international armed conflicts, such as those in Myanmar, are governed by Common

Article 3 of all four Geneva Conventions, which applies to all parties to a non-international conflict. Common Article 3 specifically states:

“1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall be in all circumstances treated humanely...”

Unlawful killing by a Mon armed opposition group

In March 2002 a man from a mixed Mon and Tavoyan village in *Yebyu township, Tanintharyi Division*, described the activities of an unnamed local Mon armed group. He was not sure what the Mon group was called, but said that they had been active in the area for several years. He said that the group asked the villagers to pay a fee, but the *tatmadaw* told them that they did not have to do so. The fees demanded of the villagers by the Mon group were on an annual basis and as long as they paid there was no problem. However if the Mon group were not paid, the interviewee said they threatened to attack the *tatmadaw* and that in February 2002 a train was ambushed one mile from his village by the Mon group. He also said that there had been fighting between the Myanmar army and this group in December 2001.

The interviewee gave the following account of an unlawful killing of someone he knew by the Mon armed opposition group in July 2001. **U Khin Maung**, a 40-year-old farmer and headman of Pa Ba Win village, was taken away by troops who accused him of mistreating local Mon people. The interviewee also speculated that they suspected him of giving information to another armed group. As the village headman U Khin Maung's role was to resolve problems between the local SPDC authorities and the Mon villagers. The Mon group believed that because U Khin Maung was Mon, he should work only with them. He was taken away at night from his house, and later his body was found with gunshot wounds.

The killing was reported to the local SPDC authorities, but it was not known what action was taken. U Khin Maung's widow and four children did not receive any compensation. The interviewee commented: *“Death is death - don't expect compensation in Myanmar. The death of humans is like the death of animals - no one cares.”*

Abuses by the Karen National Union (KNU)

Over the last 11 years Amnesty International has documented abuses by the KNU, including unlawful killings and torture.²³ The organization has recently learned from confidential sources of an alleged unlawful killing by the KNU of a member of an exile opposition group. **Ko Sunny**, an ethnic *Bamar* member of the National League for Democracy-Liberated Area (NLD-LA), which is a group of exile NLD members, was believed to have been killed by members of the KNU Military Intelligence in July 2001. The NLD-LA, which is distinct from the NLD in Myanmar, and the KNU sometimes cooperate in fighting against the *tatmadaw*. It should be noted here that the NLD in Myanmar, led by Daw Aung San Suu Kyi has since its founding in September 1988 consistently and firmly advocated a path of non-violence.

²³ See MYANMAR, *The Kayin (Karen) State: Militarization and human rights*, Amnesty International, June 1999, (AI Index ASA 16/12/99) and MYANMAR: *'No law at all'*, Amnesty International, November 1992, (AI Index ASA 16/11/92).

Ko Sunny, age 36 at the time of his death, had left Myanmar with a group of NLD leaders after the May 1990 election results were not recognized by the then SLORC.²⁴ This group fled to Thailand in late 1990 and formed the NLD-LA. Ko Sunny was a founding member of the NLD-LA Youth Group and had also been an NLD-LA Central Executive Committee member. He belonged to one faction of the NLD-LA which had lost party elections in 2000. He was believed to have been suspected by the NLD-LA in Thailand, where he lived, of passing information to the SPDC Military Intelligence. According to confidential and credible sources, some members of the NLD-LA asked the KNU to have him killed. He went missing in Mae Sot, on the border with Myanmar in Tak Province, Thailand, on 23 July 2001, and is believed to have been abducted and killed.

Seven other dissidents in Mae Sot were reported missing at the same time, including Aung Myat Tun, a refugee recognized by the United Nations High Commissioner for Refugees.²⁵ Amnesty International is concerned about the fate of these people and *calls on the KNU not to kill civilians or troops who have laid down their arms or are otherwise hors de combat and to strictly abide by international humanitarian law governing internal armed conflicts.*

*Amnesty International has also received reports in December 2001 about the KNU's use of forced labour at Camp 201 in the KNU 7th Brigade area inside Myanmar. Seven Muslim male refugees were allegedly found guilty of selling methamphetamines in Umpiang Mai refugee camp across the border in Thailand. They were then sent to this camp, held in leg chains, and forced to build a road for the KNU. It is not known how long they were to be detained.*²⁶ Amnesty

²⁴The NLD won over 80% of the parliamentary seats in the 1990 election, but the SLORC never convened parliament.

²⁵ *The Irrawaddy*, Vol 9. No. 17, August-September 2001.

²⁶*Ya Baa, Menace sur les Karens?*, in French, Gavroche monthly magazine, December 2001, by Eric Albert.

International calls on the KNU not to unlawfully detain civilians in conditions which amount to cruel, inhuman or degrading treatment, including by holding them in chains while being forced to work.

Abuses by the Karenni National Progressive Party (KNPP)

The Karenni National Progressive Party (KNPP) has been fighting against the *tatmadaw* since independence from the United Kingdom in 1948. The Kayah State, in eastern Myanmar, has a population of 250,000 people and is predominantly mountainous terrain where the Karenni people, who are closely related to the Karen, cultivate rice and other crops. After the KNPP lost their headquarters to the *tatmadaw* in 1978, refugees began to flee to Thailand. Karenni refugees currently live in three camps which are effectively controlled by the KNPP in Mae Hong Son province in northern Thailand.

On 12 March 2002 **Zayar Min**, a 20-year-old ethnic *Bamar* teacher, was reported to have been killed by KNPP soldiers in Karenni Camp 5. In the evening when a group of refugees were watching a video in the camp, Zayar Min was reportedly dragged in front of the crowd by soldiers who beat him until he was unconscious. He was then taken to the cemetery where his throat was slit and he was buried. According to reports KNPP soldiers killed him because he hit a student and because he was verbally abusive to the camp leadership when intoxicated.

The KNPP leadership subsequently conducted their own investigations, and found the following men guilty of Zayar Min's murder: Saw Khae Ro, sentenced to one year imprisonment with hard labour and a 2,000 baht fine; Saw Chit Doh, sentenced to one year imprisonment with hard labour and 2,000 baht; Saw Noh Noh, sentenced to one year imprisonment with hard labour and 2,000 baht; and Saw Kyaw Myint, sentenced to two years' imprisonment with hard labour and 2,500 baht. All four men are believed to be held in detention in Camp 5, although no further information is available about their status or conditions of detention. At the time of writing no investigation is known to have taken place by the Thai authorities into these incidents.

Amnesty International is concerned that Zayar Min was killed unlawfully by KNPP soldiers, and urges the KNPP not to commit human rights abuses against civilians, whether in Kayah State or in refugee camps in Thailand. Amnesty International also urges the Royal Thai Government to conduct an prompt, effective, impartial, and independent investigation into this incident and to ensure that the civilian and humanitarian character of all refugee camps is preserved.

VII. RECOMMENDATIONS TO THE MYANMAR GOVERNMENT

Amnesty International welcomes recent improvements made by the SPDC in their human rights record over the last 18 months, particularly the release of over 300 political prisoners. It also regards as a positive development the SPDC's cooperation with the ILO in its establishment of an ILO Liaison Office in Yangon. The SPDC is making progress in recognizing that change is necessary. It is Amnesty International's hope that they will feel further encouraged to accelerate the pace of change. This can occur by ensuring that forced labour is eradicated not only in law but in practice, and that extrajudicial executions and torture by the military is not permitted under any circumstances. Because members of the security forces are generally not brought to justice for human rights violations they have committed, a climate of impunity prevails in Myanmar.

In addition Amnesty International urges the Myanmar Government to accede to several major international human rights instruments. The Government has only acceded to the Declaration on the Elimination of Discrimination against Women and the Convention on the Rights of the Child.

Amnesty International makes the following recommendations to the SPDC, which if implemented, can further improve the human rights situation in Myanmar.

- ◆ *In areas of armed conflict, Amnesty International urges the SPDC to abide by the basic principles of international human rights and humanitarian law concerning the treatment of civilians. Common Article 3 of the four Geneva Conventions²⁷, which applies to all conflicts of a non-international character, occurring within territories of a party to the Convention, sets forth minimum standards of humane conduct, applicable to all parties to the conflict, for the treatment of people taking no active part in the hostilities, including members of the armed forces who have laid down their arms and those hors de combat*

²⁷Myanmar has ratified the Geneva Conventions.

for any reason. Among other things, paragraph 1 of this article prohibits “murder of all kinds”.

- ◆ Amnesty International recommends that the SPDC issue clear orders to halt extrajudicial executions, to enforce a strict chain of command, and to investigate all extrajudicial executions and bring to justice those found responsible.
- ◆ Amnesty International recommends that the SPDC investigate all reports of torture and ill-treatment, and issue clear orders to the military to stop these practices immediately. Those alleged to be responsible should be suspended from duty, pending an independent inquiry, and those found responsible should be brought to justice.
- ◆ Amnesty International urges the SPDC to ratify the United Nations International Convention on the Elimination of All Forms of Racial Discrimination of 1969.
- ◆ Amnesty International calls on the SPDC to ratify the United Nations International Covenant on Economic, Social and Cultural Rights.
- ◆ Amnesty International urges the SPDC to implement the recommendations made by the ILO Commission Of Inquiry regarding the abolition in practice of forced labour. It further urges the SPDC to allow the ILO Liaison Office complete access to all regions and people of Myanmar.

- ◆ Amnesty International urges the SPDC to ensure that Order No 1/99 and Order Supplementing Order No 1/99, which prohibit the practice of forced labour, are much more widely distributed. They should also be made available in the relevant ethnic minority language of the region. In addition the military should ensure that there is a complaint mechanism for villagers and that there are no reprisals against anyone reporting forced labour. The government should initiate effective, independent, impartial, and prompt investigations into all reports of forced labour. Those found responsible should be brought to justice under the provisions of Order Supplementing Order No 1/99.

- ◆ Amnesty International urges the SPDC to ratify the Optional Protocol to the Convention on the Rights of the Child, which prohibits the military recruitment and deployment in hostilities of any person younger than 18 years of age.

- ◆ Amnesty International urges the SPDC to ratify the International Covenant on Civil and Political Rights (ICCPR).

- ◆ Amnesty International urges the SPDC to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

- ◆ Amnesty International urges the SPDC to provide those migrant workers who have been sent back to Myanmar after having been diagnosed with serious communicable diseases with adequate treatment and not to discriminate against them because of their illnesses.

VIII. BURMESE MIGRANT WORKERS IN THAILAND

An estimated one million people from Myanmar are currently living in Thailand. Some 128,000 of them are staying in refugee camps along the border, but the vast majority are working in low-paying jobs, or looking for work. In August 2001 the Royal Thai Government established a new registration system for migrant workers from neighbouring countries; some 560,000 workers subsequently registered,²⁸ some of whom renewed their registration in March 2002. Registered workers are theoretically exempt from arrest and deportation by the Thai authorities but those found without a registration card are at risk of arrest and deportation to Myanmar.

Migrant workers in Thailand lead a precarious existence on several fronts. They are at risk of physical abuse at the hands of smugglers who make their living transporting migrants from Myanmar to Thailand. Migrants who cannot afford to register with the government or who missed the registration process are at risk of arrest and deportation. Much of migrant work is seasonal and workers can spend long periods of time unemployed. When they are working, they usually make less than Thailand's minimum daily wage and most report working extremely long hours. One migrant who worked in a rice mill carrying 100 kilogram rice bags told Amnesty International, "*The Burmese do all the three 'D's' -- dirty, dangerous, and difficult.*"

The journey from Myanmar to Thailand

Migrants run several risks as they make their way from their home village or town and enter Thai territory, including arrest on both sides of the border, and death at the hands of smugglers. The over 2,000 kilometre Thai-Myanmar border is extremely porous and migrants often enter clandestinely through jungle routes. Migrants told Amnesty International that they paid agents from 4,500 to 10,000 Thai baht²⁹ in order to be transported from Myanmar to Thailand, who then cleared them through the SPDC and Thai checkpoints along the way. Agents appear to have prior agreements with local officials in order to bring migrant workers into Thailand. However most interviewees reported that agents do not find their migrant clients jobs in Thailand, but merely smuggle them to an area where migrant labour is in demand.

²⁸Reuters, Bangkok, Thailand, 26 October 2001. This figure also includes migrants from Cambodia and Laos. However the majority of migrant workers are from Myanmar.

²⁹ Approximately 42 Thai baht is equal to one US dollar.

The pattern of migration of Shan civilians from the Shan State to Thailand is slightly different. They generally do not involve agents in their trip, but come on their own or with fellow villagers. They take bush taxis, buses, boats, and also may walk part of the way. They usually have fewer problems leaving Myanmar, although they too must go through government checkpoints. However if they are able to pay the required fee demanded of them, they are allowed to proceed with their journey. They enter Thailand at Mae Hong Son, Chiang Mai, and Chiang Rai provinces, where there is a local population of Thai Yai, who are closely related to the Shan people. The Shan frequently work in agriculture in these three provinces, but also may find their way to other parts of Thailand.

Sometimes aspiring migrant workers from other parts of Myanmar besides the Shan State also travel individually or in small groups from their homes to Thailand and run the risk of arrest along the way. Women from Myanmar in general are vulnerable to being trafficked as sex workers. Women under the age of 25 are reportedly not allowed to leave Myanmar, as local SPDC officials fear that they will be trafficked as sex workers. One 26-year-old *Bamar* woman from Bago town told Amnesty International that she and her two friends were stopped in Hpa'an, Kayin State in February 2002, and taken to city hall with some 80 others and told by immigration officials about the dangers faced by young Burmese women in Thailand. They were then released and she eventually crossed the border by obtaining a one day pass from Thai officials. Migrant workers frequently obtain a one day pass and then stay on illegally afterwards.

This young woman first came to Thailand to work in early 1999, but returned back to visit twice to Bago town. She had originally been employed there making cheroots, a Burmese cigarette, but she could not survive on her salary so decided to go to Thailand. Migrant workers sometimes go home to visit family, sneaking back and forth across the remote and largely undemarcated Thai-Myanmar border. In addition they attempt to send money back to their families when they can afford it. Often one or more sibling is designated by the family to work in Thailand in order to help support the family.

Agents who smuggle migrant workers into Thailand frequently hide them in vehicles where they run the risk of suffocation. On 5 March 2002 the bodies of 13 Myanmar nationals, including three children, were found in a deserted dump site in Prachin Buri Province, eastern Thailand. Police investigations revealed that they had suffocated after being hidden underneath a load of vegetables in a truck taking them from Mae Sot on the border to Nakhom Pathom province. Two members of a smuggling gang were arrested on 6 March after allegedly confessing to hiring a truck to smuggle 30 Myanmar nationals to a factory. When the truck driver opened the storage area, he found that 13 of them had died.³⁰ The Myanmar authorities called on the Thai

³⁰ *Bangkok Post*, an English language daily newspaper, 8 March 2002.

Government to launch an investigation into the incident.³¹ Amnesty International has no further information about the progress of the investigation, but calls on the Royal Thai Government to ensure that it is effective, impartial and independent. The government should also make the results of the investigation public when it is completed.

On 5 February 2002 Thai police announced that they found 20 bodies of members of the Karen ethnic minority at various locations near the Thai-Myanmar border in Tak province.³² These discoveries provoked speculation that they were murdered by human traffickers, drug smugglers, or various armed groups. The dead bodies were found blindfolded with their wrists tied and their throats cut, with marks of beatings and stab wounds.³³ The bodies were located on what is reportedly a drug and human trafficking route between the two countries. It is believed by some observers that the migrants were killed because agents had not received their payments from them. Local villagers in the vicinity said that they often found the dead bodies of Karen migrant workers in their area. However the large number of corpses and the particularly brutal manner of their killing was reported to be unusual.

A police investigation was launched, but to Amnesty International's knowledge, no progress has been made in finding those responsible for the murders. In addition there is confusion as to the actual numbers of bodies found. Seventeen bodies were initially found and then either three or four bodies subsequently discovered. Furthermore, it is not known if the authorities have been able to identify the bodies, nor is it known where the bodies are located, or if in fact they have already been cremated.

Amnesty International is concerned that the Royal Thai Government may not have effectively investigated these incidents and calls on them to step up their efforts to conduct an effective, impartial, and independent investigation. In addition local law enforcement officials should increase their vigilance with regard to migrants, who are vulnerable to human rights abuses at the hands of smugglers and others involved in human trafficking. Traffickers and smugglers who commit such human rights abuses should be brought to justice. All sectors of the Thai security forces and law enforcement agencies should also receive training in international human rights standards in order to properly protect the rights of migrants and other vulnerable groups.

³¹ *British Broadcasting Corporation*, 6 March 2002.

³² *Reuters*, Mae Sot, Thailand, 5 February 2002.

³³ *The Nation*, an English language daily newspaper, 4 February 2002.

Migrants sometimes face abuse by the Thai authorities themselves. A young Karen woman from Hpa'an town, capital of Kayin State, told Amnesty International that she had been raped by a Thai police officer in July 2000, in Tak town, Tak Province. She paid a Karen agent 5,500 baht, who sent her to a Thai policeman to be taken into Thailand. The Karen agent told her she would be "safe" with him but when they arrived in Tak, the policeman raped her before another group of migrant workers arrived. The Karen woman never reported the rape but she was still visibly traumatized by the assault when she was interviewed by Amnesty International.

Sectors of employment, working conditions, and rate of pay

Migrants usually work in the following sectors of the Thai economy: agriculture; general factory work, particularly in the garment and fishery sectors; the construction industry; and domestic service. Much of this work is seasonal; agricultural workers only work at certain times of the year and garment factory workers only work when the factory receives orders. The method of payment varies; some factories pay piece rates, some a daily wage, and some a monthly wage. Domestic servants are generally paid by the month and receive free room and board. Factory workers often live in insalubrious conditions in their factory compound. Agricultural workers normally stay in field huts which the owners allow them to occupy. Those working on larger farms, such as big fruit orchards, live in cramped compounds at the site.

Almost every one of the scores of migrant workers Amnesty International interviewed reported extremely long working hours, depending on the season. During prawn fishing season in April, one Mon worker reported 20 hour days shelling and cleaning prawns in a factory, and made 300 baht per day during that period. However during the low season he only worked seven hours per day, receiving 100 baht per day. Most workers also reported working at least six days per week. Garment factory workers reported earning from 70 - 110 baht per day, and sometimes got paid small amounts for overtime. Agricultural workers told Amnesty International they only made about 50 - 70 baht per day for their field work. The vast majority of those interviewed made significantly less than the national minimum wage, which varies from province to province, but ranges from 133 baht to 168 baht per day.³⁴

³⁴ *Bangkok Post*, 14 December 2001.

The registration process

The Royal Thai Government initiated new procedures to cope with the ongoing issue of migrant labour by a Cabinet Resolution on 28 August 2001.³⁵ In the past 10 years the government has attempted to deal with the inflow of migrant labour from neighbouring countries by various means, one of which was arrest and deportation. However after pressure from sectors in the economy which depend on cheap migrant labour, the government established a registration process between 24 September and 18 October 2001. Some 568,000 migrant workers registered with the Ministry of Labor and Social Welfare,³⁶ of whom 417,447 were from Myanmar.³⁷ An unknown number of migrant workers did not register, and are therefore considered to be in Thailand illegally.

Migrants paid 3,250 baht in total for health insurance, “repatriation” costs, a six month work permit, and an identification (ID) card, which when produced to the authorities would in theory prevent them from being arrested. Many of the people Amnesty International spoke to explained that their employer paid the registration fee, and then deducted 300 baht per month from their paycheck as reimbursement. Some migrants told Amnesty International that their employers retained their cards as kind of “bargaining chip”, as one interviewee described it, so that the migrant could not change jobs. The ID card also in principle gave them access to the Thai public health system.

The registration was only valid for six months, after which time migrants who had initially registered needed to re-register and receive health screening. Re-registration took place from 25 February to 24 March 2002³⁸, at a fee of 1200 baht for medical screening. However almost 100,000 workers failed to re-register.³⁹ The government announced that 737 among 40,000 workers from Myanmar who tested positive for the Human Immune Deficiency Virus (HIV), tuberculosis and other communicable diseases would be deported.⁴⁰ At the time of writing, it is not known if these people have been deported and what their fate is in Myanmar.

³⁵ *Burmese Migrant Workers in Thailand: Policy and Protection*, Darunee Paisanpanichkul, *Legal Issues on Burma Journal*, No. 10 - December 2001.

³⁶ *Bangkok Post*, 10 May 2002.

³⁷ *Bangkok Post*, 23 October 2001.

³⁸ *Bangkok Post*, 1 February 2002.

³⁹ *Bangkok Post*, 10 May 2002.

⁴⁰ *Bangkok Post*, 5 May 2002.

The Royal Thai Government and the SPDC reportedly reached an agreement in November 2001 about the repatriation of illegal migrant workers.⁴¹ The SPDC stipulated that before repatriation could take place, the Thai authorities must submit the names, home addresses in Myanmar, and photos and identity cards of the individuals for verification by the Myanmar authorities.⁴² The SPDC subsequently reported on 10 May 2002 that in February a reception camp in Myawaddy, Kayin State, was opened to receive repatriated workers. In the same announcement 2,772 workers were reported to have been sent across the border to the reception centre, where “...arrangements have been made to send them home; medical check-up [sic] have been conducted; food and care have been provided.”⁴³ Another official report stated that the International Committee for the Red Cross (ICRC, who have been visiting prisons in Myanmar since 1999), visited the centre.⁴⁴

Recommendations to the Royal Thai Government with regard to migrant workers

- ◆ Local law enforcement officials should increase their vigilance with regard to migrants, who are vulnerable to abuse and exploitation at the hands of smugglers and others involved in human trafficking.
- ◆ The government should initiate prompt and effective investigations into all incidents of abuse against migrants. In this regard the government should renew its efforts to investigate the killings of some 20 Karen migrants in January 2002 and make the results public.
- ◆ Traffickers and smugglers who commit such human rights abuses should be brought to justice, with due regard to the rights of trafficked and smuggled people.
- ◆ All sectors of the Thai security forces and law enforcement agencies should receive training in international human rights standards in order to properly protect the rights of migrants and other vulnerable groups.

⁴¹ *Bangkok Post*, 10 November 2001.

⁴² *Bangkok Post*, 9 February 2002.

⁴³ *New Light of Myanmar*, official SPDC newspaper, in English, 10 May 2002.

⁴⁴ *Radio Myanmar*, Rangoon, in Burmese 1330 gmt 20 April 2002, as reported in the British Broadcasting Corporation (BBC).

- ◆ The Royal Thai Government should ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

- ◆ Amnesty International is further concerned about the potential for some refugees to be forcibly returned to Myanmar after having been arrested by the Thai authorities for “illegal immigration”. Some migrant workers have a well-founded fear of persecution if they were to be returned, and in that regard, they should have the opportunity to protest their return if they are arrested by the Thai authorities.

- ◆ With regard to migrant workers who tested positive for serious communicable diseases, the Royal Thai Government should ensure that adequate safeguards are in place to protect against the discriminatory deportation of people on the basis of health or other status.