

# THAILAND

## @Concerns about treatment of Burmese refugees

### Introduction

Burmese refugees in Thailand have no effective and durable protection against being forcibly returned to Myanmar (formerly Burma) where they fled from large-scale human rights violations. They are being forcibly returned to Myanmar despite the fact that they risk being subjected to serious human rights violations in that country, and in direct contravention of Thailand's international obligations. Also, they are being arrested and detained contrary to international human rights standards for the protection of refugees. International organizations such as the Office of the United Nations High Commissioner for Refugees (UNHCR) have been unable to prevent the Thai authorities flagrantly violating these international standards. In the absence of proper protection of their human rights, Burmese refugees are compelled to resort to bribery and cooperation with Thai military intelligence and security agencies to attempt to ensure their continued presence in Thailand.

Since 1989 or before the Thai authorities have been arresting and detaining Myanmar nationals for "illegal immigration". Those who cannot afford to pay off the police and who do not establish sufficiently good relations with the Thai military and security agencies are increasingly vulnerable to indefinite detention in Thailand. There have been several instances in which Burmese refugees have been severely ill-treated in Thai detention centres. They are also increasingly in danger of being forcibly returned to Myanmar, where they risk detention on political grounds without charge or trial, unfair political trial, and torture. Some may also risk being imprisoned for long periods for the peaceful exercise of their human rights, notably the right to freedom of assembly and expression.

Amnesty International opposes the forcible return of any person to a country where they risk being imprisoned as a prisoner of conscience<sup>1</sup>, or subjected to torture, "disappearance" or execution. Amnesty International believes that any Myanmar national who has been politically active and is forcibly returned to that country is at risk of such human rights violations there. Burmese refugees deported by the Thai authorities in the past have suffered such human rights violations after their forcible return to Myanmar. Many more are now threatened with forcible return. At least five Burmese who have been

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<sup>1</sup> A prisoner of conscience is a person detained or otherwise physically restricted by reason of his/her political, religious or other conscientiously held beliefs or by reason of his/her ethnic origin, sex, colour or language, provided that he/she has not used or advocated violence.

forcibly returned from Thailand to Myanmar are believed to remain in detention there because the Myanmar authorities suspect they may be political activists.

The forcible return of refugees to Myanmar is a direct contravention of the internationally-recognized principle of *non-refoulement*, which, as set out in Article 33 of the 1951 Convention relating to the Status of Refugees, states:

"No Contracting State shall expel or return ('*refouler*') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."

Although Thailand has not acceded to the 1951 Convention, this principle of *non-refoulement* is recognized by the international community as a norm of general international law, binding on all states, irrespective of whether they are party to the 1951 Convention itself.

An essential component of the *non-refoulement* principle is the obligation upon all states to undertake the task of identifying which persons are entitled to protection. In order to ensure that people at risk of serious human rights violations are protected against *refoulement*, states must establish and allow asylum-seekers access to a fair and impartial procedure for determining the merits of their asylum claim. The Thai Government has not established any procedure whereby asylum-seekers from Myanmar can present their reasons for fearing a forcible return to Myanmar.

Amnesty International is also concerned about the detention of Burmese refugees in Thailand. The Thai authorities routinely detain Burmese refugees as "illegal immigrants". However, under international standards for the protection of refugees, such as those set forth in Conclusion 44 of the Executive Committee of the Programme of the UNHCR, "illegal immigration" is not in itself a legitimate reason for the detention of refugees. Thailand was a member of this Executive Committee which passed Conclusion 44 by consensus. In addition, the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment states that in any case where a person is detained they must be given a prompt, fair, individual hearing before a judicial or similar authority whose status and tenure afford the strongest possible guarantees of competence, impartiality and independence. The procedure used by the Thai authorities to detain Burmese refugees as "illegal immigrants" falls short of these international standards.

The United Nations High Commissioner for Refugees (UNHCR) branch office in Bangkok has recognized 1,426 Myanmar nationals as "persons of concern" to the organization under its mandate (May 1991 figures). UNHCR's mandate, set out in its Statute, describes a refugee of concern to that organization as being one who:

"...owing to well-founded fear of being persecuted for reasons of race, religion, nationality or political opinion, is outside the country of his nationality and is unable, or, owing to such fear,...is unwilling to avail himself of the protection of that country..."

In the past UNHCR issued "letters of concern" to those asylum-seekers from Myanmar whom it recognized as refugees after an application and interview. However, in late 1989 the Thai authorities requested that UNHCR no longer issue the letters, and UNHCR ceased issuing them. The Thai authorities continue to arrest and detain Burmese asylum-seekers, whether or not they are recognized by UNHCR as "persons of concern". Moreover, Burmese "persons of concern" run a greater risk of being arrested and detained indefinitely by the Thai authorities than Burmese "illegal immigrants". "Persons of concern" are sometimes held back from deportation because UNHCR has requested that they not be returned. If immigration officials comply with this request, "persons of concern" remain indefinitely in Immigration Detention Centre (IDC) or other prisons, and they often prefer to risk being returned to Myanmar in the hope of escaping during their return.

## **Sources**

Amnesty International bases its findings on first-hand testimonies given during detailed interviews of Burmese refugees conducted in June and July 1991. All of those interviewed had been imprisoned for "illegal immigration" at least once by the Thai authorities, and all but two have been recognized by UNHCR as "persons of concern". (Of the two who were not yet recognized by UNHCR, one was appealing the decision to UNHCR and the other was waiting for an interview.) Those who gave testimonies to Amnesty International expressed fear that they would be rearrested and deported to Myanmar. In the material that follows Amnesty International has therefore omitted details that could identify its sources.

All of those who gave testimonies had been students or were young people who were politically active at the time of the 1988 mass demonstrations calling for an end to 26 years of one-party military rule in Myanmar. Several of them were arrested for political reasons during the military crackdown on opposition activities, some of whom were subjected to torture and ill-treatment. Most of the refugees left Myanmar shortly after the coup of 18 September 1988, although one left as late as early 1991. In their testimonies the refugees mentioned a total of 68 other asylum-seekers who had been arrested with them in Thailand.

Amnesty International also gathered information from people who had witnessed arrests, detention conditions, and deportations of Burmese refugees.

## **Background information**

Since 1988, when mass civil unrest erupted in Myanmar and was violently suppressed by the military government, thousands of Myanmar nationals have fled to Thailand to escape large-scale human rights violations. In Myanmar the ruling State Law and Order Restoration Council (SLORC) continues its large-scale arrests of anyone publicly criticizing or opposing military rule. Reports of torture and ill-treatment of prisoners continue. Although the National League for Democracy (NLD), Myanmar's largest opposition party, won over 80% of the seats in the May 1990 parliamentary elections, the SLORC has not announced a timetable for the transfer of power to a civilian government. Instead it has arrested at least 45 NLD elected members of parliament, mostly in connection with plans to establish a counter-government, and has subsequently sentenced many of them to long prison terms. As these mass arrests were taking place, several elected members of parliament fled to the Thai border because they believed they could no longer be politically active except in areas controlled by armed opponents of the SLORC. They formed an opposition National Coalition Government of the Union of Burma (NCGUB) on 18 December 1990 in insurgent-held territory within Myanmar.

In recent months, Thai immigration and other police authorities have arrested increasing numbers of Burmese refugees for "illegal immigration", and have formulated plans for detaining them in a special camp. They have not only forcibly returned refugees to Myanmar, but on at least three occasions in the first half of 1991 have done so by closely escorting refugees to the Myanmar border, where some of them were arrested by the Myanmar authorities. However, members of Burmese anti-government political organizations that operate in Thailand with the authorization of local or national Thai military authorities generally appear to be exempt from arrest, detention, and deportation. It is the members of other organizations and those Burmese who are not affiliated with a particular group who are at greatest risk.

These increasing arrests followed an incident in November 1990 in which two Myanmar nationals who had fled to Thailand hijacked a Thai airliner to India. Myanmar nationals also seized a Thai fishing boat near Ranong Province in December 1990 and destroyed the vessel when they were not paid ransom. No one was injured in either of these incidents. The hijackers were arrested in India, and those who destroyed the Thai fishing boat are believed to be living along the Thai-Myanmar border, where they are understood to reside with the knowledge of local Thai military agencies.

A site was chosen for a temporary holding centre for Burmese students after the hijacking of the Thai Airways airplane to India. Recent reports indicate that plans for a temporary holding centre (or "safe area") for Burmese refugees are going ahead in Raatchaburii province. A Thai National Security Council spokesperson recently stated that the camp was not intended as "confinement", and that the students would receive education and vocational training there. However, Amnesty International is concerned that the detention of Burmese refugees in such a holding centre might be contrary to international

human rights norms, if they are held only on account of their "illegal immigration" and if there is not opportunity for the refugees to have their detention reviewed in accordance with international standards.

While recognizing Thailand's right to detain and try people accused of recognizably criminal acts, Amnesty International has sought and continues to seek assurances from the Thai Government that no asylum-seeker from Myanmar will be detained in a manner contrary to international standards relating to the protection of his or her human rights. Moreover, since January 1989 Amnesty International has repeatedly urged the Thai Government not to forcibly return refugees to Myanmar. The organization remains gravely concerned that Burmese refugees are being deported to Myanmar against their will, and with no consideration given to the risks of serious human rights violations they face in Myanmar.

## **Arrest and detention**

Most arrests of Burmese refugees documented by Amnesty International took place in Bangkok and surrounding areas from February 1990 until July 1991. However the Thai authorities arrest Burmese refugees in border areas as well. Arrests are made by both local police officers and immigration police officers. Refugees are arrested in their homes or on the streets and are often arrested in groups.

Burmese refugees are sometimes arrested near the office of the Foundation In Support of Refugee Assistance Programs in Thailand (FISRAPT), the agency which provides social services to "persons of concern" to UNHCR. One refugee interviewed by Amnesty International described such an arrest:

"I was arrested on the road on 7 February 1991 on the corner of Sutthiinsaen Road with seven other students, not far from the FISRAPT office at about 2.30. Three plain clothes immigration police came and arrested us. The police asked for our passports, but we didn't have them so we showed the UNHCR letter of concern. They said, 'Please come and meet our boss for a while'. We were taken directly to IDC [Immigration Detention Centre]. We were just walking down the street when we were arrested. The police watch the students near the FISRAPT office on their way back from attendance registration day."

The treatment of one Burmese refugee who was arrested in February 1991 with a friend on the street in the Lard Prao area of Bangkok is also typical of the testimonies obtained by Amnesty International.

"Four policemen came and asked 'Are you Burmese?' They were regular police from Lard Prao. We replied yes and [my friend] showed his UNHCR letter of concern to the police but it didn't do any good. The policeman said that he couldn't read it and threw the letter away."

The reason usually given by the arresting authorities for their arrest is "illegal entry into Thailand". However, sometimes the police simply tell Burmese that they are "no good".

One woman interviewed by Amnesty International described her arrest in late November 1990:

"I asked the police, 'Why are you arresting us?' and they said, 'You are Burmese students, and two Burmese students hijacked the Thai Airways plane'. I said, 'That had nothing to do with us', but they said 'You are Burmese students and they are no good'."

In most cases Burmese arrested in the Bangkok area are taken to the Suan Phlu Immigration Detention Centre (IDC) after having spent a brief period in a local police station lock-up. Shortly after arrival at IDC, prisoners are usually taken to a local court and sentenced to terms of imprisonment for "illegal immigration" ranging from 21 to 70 days. However, most of them have remained in detention for longer periods -- up to 6 months. Prisoners were not provided with legal counsel, and they were often not allowed to contact the local UNHCR office, as is required by international standards on the detention of refugees and asylum-seekers. In all of the cases documented by Amnesty International, none of the prisoners were provided with translation services either at the time of their arrest or during their sentencing. In one case the prisoner did not understand anything that was said to him during his hearing. He did not learn that he was sentenced to two months' imprisonment until he was told by another inmate on his return to prison.

During their hearings, refugees are not allowed to cite the fact that they are seeking asylum as a defence against the charge of "illegal immigration". They are not provided with the services of a lawyer. Moreover, because there is no provision under Thai law for seeking asylum there, it is impossible for them to apply for refugee status, either before, during or after their detention.

One detained refugee told Amnesty International about his hearing:

"[The judge] read out the charge and it was 2,800 baht - there was no chance to respond or defend ourselves. It was just like watching a movie. We were sentenced to 40 days. No lawyer or UNHCR officer was present. It only took five minutes and we were handcuffed and taken back to IDC."

Prisoners who can afford to pay a 2,800 baht (25 Thai baht is approximately equivalent to \$1.00 US) fine do not always have to complete their sentences, and they may be deported if they can pay the transportation costs. However, it is reportedly routinely necessary to pay a bribe if a prisoner is to ensure release and that upon release he or she is not handed over to the Myanmar authorities. Over half of those interviewed by Amnesty International paid money to Thai officials to facilitate their release from IDC and/or to prevent forcible return to Myanmar.

### **Ill-treatment while in Thai detention**

Burmese refugees who had been imprisoned in Thailand told Amnesty International of beatings, lack of medical care, crowded conditions, and poor sanitation. The organization was told of the case of one former prisoner who, after his release, died of malaria for which he did not receive proper medical treatment while detained.

On two occasions prisoners were beaten during or immediately after arrest. One refugee was slapped on the back of the head three times by a police officer at the Bangkok police station in June 1991. The officer struck him after he accused the prisoner of attempting to make a phone call to UNHCR, which the refugee said he in fact had not tried to do. In another incident two refugees were arrested late at night in December 1990, and were beaten severely at the time of their arrest.

"Two policemen came up on a motorcycle and asked us for passports - they were drunk - we could smell it. We showed them our letters of concern. The policemen in the meantime started beating [my friend] with the butt of a pistol. The police said, 'You are Burmese'...[my friend] was cut on the elbow and left eye. The police called more policemen, and 16 more arrived. They all beat both of us. They beat me all over the body - I lost consciousness - I don't know how I got to the police station. They kicked us with boots and punched us with their fists. We tried to run from the police and that is one reason they may have beaten us...According to a newspaper report, we tried to grab their weapons...also because of the two Burmese who hijacked the plane. In fact we did not try to grab their weapons, there were too many."

Two women refugees who were interviewed expressed fears about treatment in detention because they had witnessed beatings of other Burmese held for "illegal immigration", and one said she had been beaten herself when she tried to intervene. The

victims of such beatings included Burmese sold into prostitution through deals between Myanmar authorities and Thai brothel operators. In March 1991 police at IDC tried to force three female Burmese detainees to return to a brothel where they had been made to work as prostitutes. The brothel owner had come to pay fines for their release, but the women refused to go with him. They appealed to one of the other women detainees, interviewed by Amnesty International, who then asked the police not to take them. She told Amnesty International the police kicked her in the abdomen so forcefully that she fell over backwards. She said that they beat the three women as well. One was repeatedly slapped in the face until it became swollen, and was also dragged across the floor. None of the women was given any medical treatment.

Another woman interviewed by Amnesty International had been detained in a women's prison before she was moved to IDC in Bangkok. She reported that women prisoners were both hit by the guards and beaten with batons. When one of them complained about discrimination against Burmese women, she was struck very hard three times on the back of her head. The police officer then told the Burmese prisoners that if they complained again all of them would be beaten.

On another occasion several Burmese refugees detained at IDC were severely and repeatedly beaten. On 29 January 1991, some 30 Burmese prisoners began hitting the iron bars of IDC Room Four to protest their continued detention and lack of water in that cell. Police officers approached the cell, and the prisoners asked to speak to the Commander of IDC. The guards returned with 20 Burmese trustees of "Indian"<sup>2</sup> origin armed with batons, who refused to beat the prisoners once they realized that they were Burmese. The trustees were taken back to their cell, and 20 police guards, some in plain clothes, returned. The police then dragged about 20 Burmese prisoners downstairs after having handcuffed them.

Two prisoners were taken first into a room: one of them describes their treatment:

"They pushed both of us on the floor; four policemen and two trustees...they handcuffed us with our arms above our head face down on the floor and they started beating our backs. We could not remember how many times they hit us - three batons were broken in the process. They then took us outside and we saw [two others], and [one] had a head injury, his head was bleeding...all of the four of us were sent to room 2, and they continued the beating on the way...we received no medical care."

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<sup>2</sup>The term "Indian" is used by Burmese to refer generally to people from or descendants of people from South Asia, including Indians, Bangladeshis, Pakistanis, Sri Lankans and others.



One prisoner reportedly had his nose broken, and several were beaten all over their bodies. Another prisoner was hit so forcefully with a baton that he lost consciousness for five minutes until the guards threw water on his face. Prisoners were beaten on the back with batons, punched in the face, and kicked with boots in the chest. A total of nine prisoners were beaten over a period of two days. None of those beaten received any medical attention for their injuries, which included swelling, cuts, and bruises. The prisoners were later separated into three different rooms. Although the UNHCR branch office in Bangkok made strong representations protesting the beatings to the Thai authorities, to Amnesty International's knowledge, there has been no official investigation into the incident.

Conditions for refugees held in police station lock-ups and at IDC were consistently reported to be crowded, with rooms often holding double their capacity. Prisoners suffered from a lack of proper medical care, and in several instances detainees seriously ill with malaria did not receive any treatment. One imprisoned Burmese refugee described conditions in a local police station lock-up:

"We couldn't sleep well because the room was so crowded. We got a skin infection but the police didn't give us any medicine. We were allowed no visitors, and the visitors couldn't leave anything for us. One was seriously ill so we called the police so they admitted him into the hospital - he was nearly unconscious and couldn't walk. The patient was handcuffed and I was handcuffed - I carried him on my back...They took the patient to the hospital by car. They tied the prisoner's legs to the bed and his hands to the bed with an iron ring."

### **Forcible return of Burmese refugees**

Thai immigration authorities routinely deport Myanmar nationals who have been detained in Thailand. Among these are refugees at risk of a wide range of human rights violations in Myanmar. On several occasions refugees and other Burmese deportees have been able to give money to Thai officials or to boatmen to facilitate their return to Thailand before they are taken into the custody of the SLORC. However, at least five Burmese who have been forcibly returned are thought to remain in prison in Myanmar because SLORC officials suspect they are political dissidents. Amnesty International considers them to be at grave risk of torture and ill-treatment, and imprisonment for political reasons without charge or trial, or after unfair trials. In one case Amnesty International believes that the prisoner has already been subjected to ill-treatment.

Amnesty International has gathered first-hand testimonies of six deportations occurring between July 1990 and June 1991, from Raatchaburii, Ranong and Kanchanaburi provinces. With one exception, all of the Burmese interviewed by Amnesty International were forcibly returned by the Thai authorities after having been detained for "illegal immigration". One, who was taken into Burmese Special Branch Intelligence custody, managed to escape. One paid a fine to the Myanmar authorities for his release, after misleading military intelligence officers into believing that he was a migrant worker, when in fact he was a political activist. Most avoided the worst consequences of deportation by bribing Thai officials or boatmen not to turn them directly over to the custody of the Myanmar authorities, or had such bribes paid on their behalf.

In the case of deportations occurring in 1990, the asylum-seekers were able to bribe Thai border police to allow them to re-enter Thailand, or pay the boat owner to turn the boat around before reaching the Myanmar coast. In July 1990, 37 refugees recognized by UNHCR were sent from Raatchaburii province in Thailand to Myanmar, where they bribed Thai border police to re-enter Thailand. In November 1990, after a hunger strike demanding their immediate release from IDC, 25 UNHCR "persons of concern" were able to prevent their forcible return to Myanmar by paying the boat owner to return them to Ranong unhindered by the Thai authorities.

However, in 1991, opportunities to return to Thailand after or during deportation were reduced. On 25 April 1991, the Thai immigration authorities at IDC sent a group of about 141 Myanmar nationals, 41 of whom were UNHCR "persons of concern", by bus from Bangkok to Ranong. Ranong is a town on the southwest coast of Thailand which is across a small strait from the coast of Myanmar. They were then taken by boat from a private pier to Kawthaung, Myanmar. The boats were escorted by a Thai navy boat with immigration and navy personnel. Although the refugees tried to pay the boat owner to return, he did not do so, apparently because of the official Thai escort. When the boat was less than 100 yards from the Myanmar coast, one of the refugees attempted to wound himself so severely as to either prevent his deportation from proceeding or bring about his death. He later told Amnesty International:

"...if I were deported it was sure I would be arrested by the SLORC. They know me because there is evidence - some people who supported me were questioned and detained...I already had a homemade short knife made from a spoon...I stabbed myself on the left side of my chest in the heart. If I stabbed myself there would be a chance for me to escape. I stabbed myself very secretly -I hammered the knife in with a handle. In fact it is better to die - it's just enough, I don't want to go back."

One of the refugees who witnessed the suicide attempt describes the incident:

"[He] stabbed himself in the left chest with a sharp handmade knife. He showed his wound to the Thai immigration boat but they did not give any help. The boat was almost to the Burmese pier so we all jumped into the water...[He] was saved by a nearby boat who also took him back to Ranong to the hospital, where he was admitted."

The Thai immigration boat then turned back to Thailand. Other boats picked up the refugees and took them back to Ranong. However, two Burmese among those whom the Thai authorities were attempting to return ended up in Kawthaung and at last report remained in detention there because the Myanmar authorities suspect they may be political activists. 21 of the group who were able to return to Thailand were rearrested in Ranong but were released after 15 days. They were sent to the banks of the estuary again, and paid 200 baht each in order not to be subject to a second attempt to return them to Myanmar. They also had to pay 1,000 baht each to the Thai military officers to purchase passes that would make it possible for them to return to Bangkok.

Another deportation from IDC of about 300 people took place on 23 May 1991. It was difficult for those who were interviewed to determine how many of them were UNHCR "persons of concern" because "persons of concern" do not always identify themselves for fear of being detained at IDC longer than their actual sentence.

After being taken by bus to a private pier in Ranong, the group was met by about 30 immigration police, local police and military personnel. A Thai official read out the names of about 12 UNHCR "persons of concern"; two of them who were later interviewed by Amnesty International were able to return to Bangkok. It appears that the 12 were saved from forcible return because over 5,000 baht had been paid for their release to Thai officials. However, one UNHCR "person of concern" who was not among the twelve was sent to Kawthaung. According to his testimony,

"They took us to the Tala hotel pier and they forced all the people to get out and beat the people and forced us to get into the boat. I was on the first boat. I was beaten on the back with a hard plastic pipe. They asked, 'Are there any Burmese students?', but I was already on the boat so I did not give my name and I couldn't come back. About 12 Burmese students were pulled back by the immigration police."

The boat crossed the channel, escorted by two Thai immigration boats, so no one was able to pay the boat owner to return to Ranong. About 15 Myanmar military and police personnel were waiting at the Kawthaung pier, including two police from the Special Branch.

The refugee who testified to Amnesty International was then forced on to the Kawthaung pier, when he was kicked in the ribs twice for "pretending to be a boatman" instead of admitting that he was a student. He was taken alone in the back of a truck to prison where he spent the night. The next day, he was escorted by two plain clothes Special Branch officers to an empty room in the Special Branch family quarters. He asked them what they planned to do with him, and they told him they were going to ask him some questions. They told him that if they suspected that he was a student, he would be sent to Magwe prison for six months and then be transferred to Insein Prison (the largest prison in Myanmar, where hundreds of political prisoners are currently held).

When he was first brought into the room, he noticed a back window which was open. He jumped the six foot drop from the window, and was able to hide among a crowd of people as he escaped. The two Special Branch men attempted to follow him but could not use their guns because of the crowd. He returned to Ranong and eventually made his way to Bangkok.

The most recent deportation documented by Amnesty International occurred on 20 June 1991. A UNHCR "person of concern" who had been arrested with 14 others on 8 June reported that when he and another prisoner heard there would be a deportation that day, they paid 2,000 baht each for release papers from other "illegal immigrants" who had completed their sentences and were due to be deported. The police recognized the second prisoner as a "person of concern" and kept him in detention at IDC. The first detainee was able to assume another identity in order to be sent to Ranong, where he hoped to escape from police custody. However, he was sent by the Thai military across the channel to Kawthaung.

Three hundred and twenty-four Myanmar nationals were deported to Ranong on this occasion, of whom approximately 12 were UNHCR "persons of concern". The deportees were put into three boats which were escorted on one side by a Thai immigration boat with eight armed soldiers, and a Thai navy boat on the other side. When they reached Kawthaung, Myanmar police personnel were waiting on the pier. Thirty people at a time were taken in trucks to the centre of town, and the refugee interviewed by Amnesty International was in the last group. When they arrived they were told by Myanmar immigration police that if they could pay 1,500 kyats<sup>3</sup> they would be released. If they could not pay the fine, they were told they would serve six months hard labour for "illegal departure".

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<sup>3</sup> Seventy-five kyat is the equivalent to approximately one USD.

The refugee was able to pay the fine, but was still interrogated by Military Intelligence. He gave false information and stated that he had been working in Thailand for many years. While he was waiting, he saw one person in one group and four others in another group handcuffed and taken away. Four eventually returned, but one remained in the custody of Myanmar Military Intelligence. Those who were with him heard him being kicked and beaten while being questioned by Military Intelligence personnel. He denied the interrogators' suspicion that the others were student activists. They showed him a photograph of himself and told him, "We know everything and don't lie".

The five "persons of concern" were eventually able to return to Thailand. They were released along with 177 other deportees after paying the 1,500 kyat fine. Three others whom the Myanmar authorities suspect are political activists reportedly remain in detention in Myanmar. Amnesty International is concerned that they are at grave risk of torture and ill-treatment and that they are also at risk of being unfairly tried by either military tribunals or civilian courts in Myanmar.

An official Radio Rangoon report of 3 July 1991 corroborates the statements made by those interviewed by Amnesty International about interrogation and detention of deportees:

"A total of 440 persons who have entered Thailand illegally have been sent back to Kawthaung in Myanmar via Ranong in Thailand during the last week of June. Among those who were deported, 324 were sent back on 21 June, 34 on 23 June, and 82 on 28 June. It has been learned that the township-level border committee concerned in Thailand contacted the law and order restoration council in Kawthaung and deported the returnees...Based on interrogations, arrangements were made to take legal action against the returnees in accordance with the Immigration and Manpower Act of the Union of Myanmar...It was learned that 185 persons were fined Kyat 1,500 each and 84 persons, who were unable to pay the fine, were each handed a six-months prison term."

## **Recent developments**

On 2 July 1991, 38 Burmese refugees were arrested in front of IDC during a peaceful sit-in demonstration protesting the Thai authorities' detention and deportation of Burmese refugees. They also requested official refugee status in Thailand. The 38, among other Burmese "persons of concern" to UNHCR, remain in detention at IDC and other prisons in Bangkok.

On 4 July between 300-400 Burmese refugees gathered in front of the United Nations Building in Bangkok to protest the continuing arrests by the Thai authorities and to request official refugee status from Thailand. Although no arrests were made at the demonstration, Burmese "persons of concern" to UNHCR continue to be arrested in their homes and on the streets of Bangkok.

On 6 July 1991 seven UNHCR "persons of concern" were arrested in the Din Daeng area of Bangkok, when their apartment was raided by the police. All of these people remain in detention. More arrests reportedly took place on 10 July during another demonstration at the United Nations Building in Bangkok. Nine Burmese refugees were arrested when they attempted to stage a protest there against their treatment by the Thai authorities.

Amnesty International is concerned that the Thai Government policy of detaining refugees merely for "illegal immigration" has now resulted in the death of one detained refugee, Min Thein, during an escape attempt. Amnesty International is also concerned about allegations suggesting that the Thai police officer who shot him to death may have acted unlawfully. Min Thein was a student political activist from Myanmar who fled his country in 1988 because of human rights violations. He was one of four refugees from Myanmar recognized by UNHCR who were arrested on 29 July 1991 for "illegal immigration". The arrest came as part of the recent intensified crack-down by the Thai authorities on refugees from Myanmar. This crackdown was announced on 8 July after the two peaceful demonstrations in Bangkok (see above). In announcing the crackdown on refugees from Myanmar, Bangkok Deputy Police Commissioner Major General Chaisit Karnvanakit declared: "Their being here in the first place is not a right thing, yet they create disturbances". He reportedly instructed police to "take stringent action" against them.

Following Min Thein's arrest on 29 July, he was held for two days at the Immigration Detention Centre in downtown Bangkok. On 31 July he and a number of other Burmese accused of "illegal immigration" were reportedly put in a police pick-up truck and taken to a court in Minburii, on the northern outskirts of Bangkok. Min Thein and two other prisoners tried to escape when the pick-up truck reached the court, reportedly because they feared Thai authorities might eventually forcibly return them to Myanmar. One was recaptured almost immediately, but Min Thein and a second prisoner, a woman named Ma Thet, managed to climb a wall and run away. Two local policemen on a motorcycle chased them down at a construction site, and it was there that Min Thein was shot and suffered wounds from which he subsequently died. According to a statement issued by a police spokesman on 2 August, the policeman who shot Min Thein was acting in self-defence. The spokesman said that the policemen's motorcycle had overturned, pinning one policeman under it. Min Thein had allegedly tried to assault the trapped policeman, and was therefore shot. Ma Thet, however, reportedly denies that Min Thein threatened the police, and alleges that Min Thein was shot in the back while still attempting to flee.

After the incident, Ma Thet and the other person who had attempted to flee were reportedly sentenced to four months imprisonment for "illegal immigration".

Amnesty International believes that the tragic death of Min Thein demonstrates the urgent need for the Thai Government to act according to international human rights standards in its treatment of refugees.

## Recommendations

Amnesty International calls on the Government of Thailand to:

1. make every effort to accede to the 1951 Convention relating to the Status of Refugees, and 1967 Protocol thereto, as an important step towards ensuring the protection of refugees and asylum-seekers in Thailand.
2. ensure that it acts in conformity with the principle of *non-refoulement* by halting all forcible returns of Burmese refugees to Myanmar. Burmese refugees who have been recognized by UNHCR as "persons of concern", and all Burmese refugees who risk imprisonment as prisoners of conscience, torture, "disappearance" or execution in Myanmar should not be forcibly returned to Myanmar.
3. establish a fair and adequate procedure by which asylum-seekers, including the Burmese, can present their reasons for fearing a return to a particular country, and ensure that all asylum-seekers who seek protection in Thailand have effective access to that procedure.
4. provide all detained refugees with an opportunity to have the legality of their detention reviewed by means of a fair, prompt individual hearing before a judicial or similar authority whose status and tenure afford the strongest possible guarantees of impartiality and independence, and ensure that such judicial procedures meet international standards, including access to legal counsel and the services of a competent translator.
5. recognize that, under international standards, "illegal immigration" is not a legitimate ground for the detention of refugees.
6. initiate an inquiry by an independent and impartial body into the circumstances of Min Thein's death to establish whether he may have been killed unlawfully, and if he was unlawfully killed, ensure that any person(s) responsible for his death will be brought to justice.
7. establish an inquiry by an independent and impartial body into the allegations of ill-treatment of Burmese refugees at the IDC. The results of the inquiry should be made

public and any police or other authorities implicated in ill-treatment should be brought to justice.