

# KINGDOM OF THAILAND

## EROSION OF REFUGEE RIGHTS

### INTRODUCTION

The first half of 1997 saw unprecedented numbers of members of ethnic minorities fleeing armed conflict in Myanmar to the western border of Thailand.<sup>1</sup> At the same time thousands of these refugees were forcibly returned by the Royal Thai Army to face widespread human rights violations back in the villages they had so recently fled. Amnesty International is concerned by the Thai authorities' violation of international obligations to protect refugees, and fears that it sets an ominous precedent for the future of refugee protection in Thailand. This fear is heightened by reports that the Thai authorities may have plans to return refugees from Myanmar during the upcoming dry season, which begins in November.<sup>2</sup>

Though Thailand has for many years sheltered hundreds of thousands of refugees from neighbouring countries, the country is still not party to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol. The Thai Government regards members of ethnic minorities from Myanmar who seek protection in camps inside its borders as "displaced persons". Other Burmese refugees outside of camps are considered "illegal immigrants" and are liable to arrest, fines, and deportation to the Thai/Myanmar border.

In recent weeks Thailand has provided refuge to tens of thousands of Cambodians fleeing from violence and political persecution since 5 July 1997. While also regarding these people as "displaced persons" rather than refugees, Thailand has done more than any other country to help them.

This report focuses on three representative cases of *refoulement* involving refugees from the Mon, Karen, and Shan States in Myanmar. Amnesty International has written to the Royal Thai Government about two of these incidents, but has yet to receive any response.

### BACKGROUND

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<sup>1</sup>The Thai-Myanmar frontier is hundreds of kilometres long; it is adjacent to several states and one division in Myanmar.

<sup>2</sup>During the rainy season it is very difficult to move around the remote hilly jungle of the Thai-Myanmar border but in the dry season it is easier to move large groups of people.

The fundamental basis of Amnesty International's refugee work is the principle of non *refoulement*, which forbids the returning of any person to a country where he or she would be at risk of serious human rights violations. As part of its human rights mandate, it opposes the *refoulement* of any person to a country where he or she would be at risk of falling victim to imprisonment as a prisoner of conscience,<sup>3</sup> torture, "disappearance", extrajudicial execution or the death penalty. It should be noted that the principle of non *refoulement* is widely recognized as a principle of customary international law, binding on all states. The Kingdom of Thailand has yet to become a party to the 1951 Convention relating to the Status of Refugees (Refugee Convention) or its 1967 Protocol. However, Thailand, like all other countries, is still bound by this principle of international law, and should afford effective and durable protection from *refoulement* to all those who would be at risk of serious human rights violations. Thailand is also a member of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees (UNHCR Excom), which is the only international forum where refugee issues are discussed in a comprehensive manner. The Excom meets every year and reaches Conclusions regarding important issues of refugee protection and assistance, and has on numerous occasions reaffirmed the importance of the principle of non *refoulement*. Amnesty International is concerned that Thailand, which sits on the Excom and therefore plays a crucial role in setting standards of refugee protection, is contravening the very standards Excom has upheld.

The long-term human rights crisis in Myanmar has meant that tens of thousands of refugees from various ethnic minorities have fled to neighbouring countries, primarily Bangladesh and Thailand. Such massive outflows have created an enormous burden for these two countries, who are under pressure to provide refuge for these people with very limited resources themselves. Thailand needs international support to ensure that these refugees are given protection and an appropriate level of treatment, including the provision by third countries of an adequate number of resettlement places. Mass flights of refugees are an international responsibility; countries that happen to be the nearest point of safety should not be left alone to bear that responsibility. The refugee burdens Bangladesh and Thailand face make it even more imperative for the international community to increase pressure on the State Law and Order Restoration Council (SLORC) to improve its human rights record. In view of the negative impact the human rights situation in Myanmar is having on stability and security in the region, Myanmar's new partners in ASEAN should show positive leadership in this respect.

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<sup>3</sup> Amnesty International considers people to be prisoners of conscience if they have been detained for their beliefs or because of their ethnic origin, sex, colour, language, national or social origin, economic status, birth or other status, and if they have not used or advocated violence.

Refugees from Myanmar began to enter Thailand in 1984, where camps were set up for them along its western frontier. Non-governmental organizations (NGO's) were permitted by the authorities to provide assistance to the camps, but the United Nations High Commissioner for Refugees (UNHCR) has never been permitted to establish a presence on the border in order to exercise its protection mandate. At the time of writing there are well over 100,000 refugees in camps from the Mon, Karen, and Karenni ethnic minorities. However ethnic minorities fleeing from the Shan State have never been allowed to establish camps. Estimates indicate that from March to July 1997 some 34,000 refugees from the Shan State fled into Thailand, due to massive forcible relocation projects which were accompanied by killings and other grave human rights violations.<sup>4</sup>

Refugees from the Karen, Karenni, Shan and Mon ethnic minorities have fled counterinsurgency activities by the Burmese army against armed ethnic minority groups fighting for independence or greater autonomy from the central Burman authorities. Although the State Law and Order Restoration Council (SLORC, Myanmar's military government) has agreed cease-fires with 15 armed groups, others continue in their armed struggle. Civilians living in these areas are caught in the middle of such conflicts and flee fighting and attendant human rights violations. These include massive forcible relocations of civilians, forced labour and portering, and extrajudicial executions at the hands of the Burmese army. In February 1997 the SLORC launched a large offensive against the Karen National Union (KNU), which resulted in the flight of up to 20,000 Karen civilians to Thailand.<sup>5</sup>

During February and March the Thai military, specifically the 9th Infantry Division of the First Army, sent back over 4,000 refugees in Thailand's western provinces of Kanchanaburi and Raatchaburi.<sup>6</sup> Further incidents of *refoulement* occurred in May and June, while at the same time thousands of refugees seeking to cross the border were barred from doing so by Thai security forces. The 9th Division also reportedly designated the end of June as the final date when refugees from Myanmar could cross the border.<sup>7</sup> They asserted that by then the fighting had stopped and it was

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<sup>4</sup> *Shan Refugee Update --July 1997*, Shan Human Rights Foundation, as published in the 6 August 1997 electronic edition of BURMANET.

<sup>5</sup> For a discussion of recent human rights violations of the Karen, Karenni and Shan minorities please refer to *MYANMAR: Ethnic minority rights under attack*, July 1997, (AI Index ASA 16/20/97).

<sup>6</sup> Please refer to *KINGDOM OF THAILAND: Human Rights in Transition*, May 1997, (AI Index ASA 39/02/97).

<sup>7</sup> The Thai 9th Division is present in Kanchanaburi, Raatchaburi, Prachuap Kiri Khan, and Chumpon provinces, all in southwest Thailand.

therefore safe for the refugees to remain in Myanmar. However the mere fact that the armed conflict has subsided does not in any way guarantee that the Burmese army will stop ill-treating or killing members of ethnic minorities. In cease-fire areas in Myanmar the army continues to seize civilians for forced portering and other labour duties and to forcibly relocate them under threat of death.

Amnesty International is gravely concerned that the Thai military is involved in large scale *refoulement* of refugees. It is not clear to Amnesty International whether the military is doing so of its own accord and acting with impunity, or whether it is implementing orders handed down from civilian authorities in Bangkok. Either way, the Thai Government is not living up to its duties, for it is the responsibility of that government to ensure compliance with Thailand's international obligations. The Thai Government should ensure that military troops receive clear and unequivocal instructions regarding appropriate treatment of refugees, and that those individuals who fail to abide by these instructions face disciplinary proceedings, or, if necessary, prosecution.

#### **THE SITUATION OF KAREN REFUGEES AT HTEE WAH DO**

A group of some 2,000 Karen refugees has been stranded at Htee Wah Do village, which is on the Myanmar side of the border, since February 1997. This area is adjacent to Halockanee, a Mon refugee camp also entirely inside Myanmar, but located in a permanent cease-fire area of the New Mon State Party (NMSP).<sup>8</sup> Halockanee camp is opposite Kanchanaburi Province in western Thailand. In between Halockanee and Htee Wah Do is a SLORC route where soldiers frequently pass by. Many of the refugees at Htee Wah Do have been reported to be in poor health and 15 children died in mid 1997 during a measles epidemic. In addition to concerns about health and sanitation, a group of several hundred SLORC soldiers entered Halockanee camp on 10 or 11 May 1997 for five days, causing some refugees there to flee to other areas. In July 1994 there was a major attack by SLORC troops on part of the camp, raising concerns that such attacks could occur again.

In the first half of 1997 the 9th Division established two new camps in Kanchanaburi Province, Tam Hin and Ban Don Yang, to house newly-arrived refugees. There are approximately 1300 refugees in Don Yang and some 7500 refugees in Tam Hin. However conditions in the camps are poor. Refugees were not allowed to build durable housing; instead, they were forced to remain under temporary plastic sheeting, which was wholly inadequate in the face of the Thai rainy season. In addition, the

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<sup>8</sup> A cease-fire agreement between the SLORC and the NMSP was agreed in June 1995. As part of the agreement, the NMSP was granted both permanent and temporary "cease-fire" areas which it could control and where civilians could also live.

shelters are very close together. According to local NGO's the spaces between shelters in both these camps are well below World Health Organization (WHO) standards. Sanitation facilities are also inadequate.

The 2,000 Karen refugees at Htee Wah Doh have asked the Thai authorities to enter Ban Don Yang refugee camp in Kanchanaburi Province on the Thai side because of their vulnerability to SLORC attack at Htee Wah Do. However they have been refused permission by the Thai 9th Division. They originally fled from their homes in February 1997 because the SLORC had forcibly relocated them in the wake of their offensive against the Karen National Union (KNU). Amnesty International has also received reports of these refugees being tortured by SLORC soldiers when they occupied these villages. The organization is concerned for the safety of these refugees, and calls on the Thai authorities to immediately allow them to cross into Thai territory. Non-rejection at the frontier is an integral part of the fundamental principle of non *refoulement*.

#### **THE RETURN OF PA'O REFUGEES TO SHAN STATE**

Some 430 refugees belonging to the Pa'O ethnic minority were forcibly returned to the Shan State by a combined force of 150 armed Border Patrol Police and Thai Rangers on 29 May 1997. According to reports, Mae Hong Song provincial officials sent them back because they claimed there was no longer any fighting in their home villages near Ho Mong, the former headquarters of the Muang Tai Army (MTA) in the Shan State, Myanmar. After the MTA surrendered to the SLORC in January 1996, SLORC troops occupied the Ho Mong area. Reliable sources indicate that this group of refugees had fled in March 1997 after having been beaten and forcibly seized by Burmese troops for porter duties. They said that SLORC troops had entered their villages, accused them of harbouring ex-MTA soldiers, beaten several of them, taken others to be porters, and then stolen the village livestock.

The group, which consisted of mainly elderly women and children, settled in four areas near existing Pa'O villages in Pang Met Pha District, Mae Hong Son province, northwest Thailand. They lived for two months in this area until provincial authorities decided to send them back across the border. Amnesty International fears that in such cases individuals are at risk of human rights violations if they return to their home villages. In the last year tens of thousands of people from the Shan State have fled to Thailand to escape extrajudicial killings, ill-treatment, forcible relocation and labour in the context of fighting between the troops of the Shan United Revolutionary Army (SURA, a Shan armed opposition group) and the SLORC. The most egregious example occurred after an unidentified Shan armed opposition group shot dead 25 Burman

civilians. In retaliation SLORC troops reportedly killed at least 400 ethnic minority people in Kunhing township, Shan State from mid-June to mid-July.<sup>9</sup>

## **THE RETURN OF MON REFUGEES**

On 6 June 1997 four hundred Mon refugees were sent back from Ban Sa Pan District, Prachuap Kiri Khan Province to Chaung Kyi, Myanmar. They were transported in trucks by the 9th Division and handed over directly to Burmese army officers. This group consisted of civilians who were attached to an armed Mon group, the Mon Army Mergui District, who had broken away from the New Mon State Party in late 1996 and begun fighting against SLORC troops. In April 1997 SLORC troops defeated them and overran their base opposite Prachuap Kiri Khan, which sent some 800 people fleeing into Thailand. A cease-fire between the SLORC and the Mon Army Mergui District was reportedly agreed in May.

The 800 people were settled in a very small site one kilometre from the border for two months. They were not permitted to build platforms off the ground and their only shelter was plastic sheeting. By the time of the repatriation, only 400 of the original group remained. The group's leaders allegedly applied to the Thai National Security Council (NSC) to return to Myanmar. However, there were no systematic interviews of individuals in private about whether they in fact wished to return. UNHCR was invited to observe the return, and did interview a few families the day before, who said that they did want to return. On the day of the repatriation the 9th Division asked if there were any people who did not want to return, and five families stepped forward. When questioned by the Thai army, they said that they had employment opportunities in Thailand and so wished to remain there. They were then told that this was not a sufficient reason to stay, and that they could only do so if they were willing to go to a refugee camp. The group declined this offer and was returned to Myanmar with the others.

Amnesty International is concerned about numerous aspects of this operation. Despite the fact that the human rights situation in Myanmar remains disastrous, the Thai authorities decided to push forward with repatriation, reportedly on the sole basis that they had received a letter from alleged refugee community leaders requesting return. While refugees of course have the right to return to their country even in the absence of an improvement in the human rights situation there, such a repatriation must be truly voluntary, free of any type of coercion or pressure, and should be based on accurate and impartial information on the country of origin. Amnesty International is concerned that the situation surrounding this reported communication from community leaders remains

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<sup>9</sup>Shan Human Rights Foundation, *Monthly Report*, July 1997

unclear, and that it is unclear what sort of information the decision to return was based upon. In addition, Amnesty International is gravely concerned that although UNHCR and NGOs were allowed to be present at the actual return, there were no systematic interviews undertaken to ensure that all refugees were indeed returning voluntarily. Amnesty International also notes that there was no monitoring of the refugees' situation after their return to Myanmar by an international body.

Amnesty International's fears that the refugees risked human rights violations in Myanmar were confirmed when it learned that by July all 400 of them had subsequently fled to Thailand again. Reliable reports indicate that on their return to Myanmar, they were forced to build SLORC army bases and could not build their own houses or plant crops until they completed this task. Some of them had also been taken as porters; one porter stepped on a landmine and had to have his leg amputated. The returned refugees only received one week's worth of rice when they had allegedly been promised a six month supply.

On 19 July the 9th Division pushed 200 of the refugees back to the border, although they remained on the Thai side. However the site at the border is very near a Burmese army outpost. The other 200 refugees have dispersed and their status and whereabouts are unknown. Amnesty International urges the Thai authorities to permit these refugees to remain in Thailand, and, in conformity with international standards, to allow them to move further into Thailand for their own protection.

## **CONCLUSION AND RECOMMENDATIONS**

These incidents involving three different ethnic groups at three different points on the Thai-Myanmar border indicate the precariousness of the situation of refugees in Thailand.

It is imperative that the Thai government comply with its international obligations and afford refugees effective and durable protection against refoulement. No refugee from Myanmar should be returned to that country until it can be independently verified that there has been a fundamental improvement in the human rights situation there.

**Amnesty International urges the Royal Thai Government to take the following steps:**

- 1. Take immediate measures towards ratifying the 1951 United Nations Convention relating to the Status of Refugees and its 1967 Protocol.**
- 2. Abide scrupulously by the principle of non *refoulement*, including the principle of non-rejection at the frontier, and ensure that no person is sent back to a country where he or she would be at risk of serious human rights violations.**

**3. Conduct adequate training for military officers regarding international standards on the treatment of refugees and asylum-seekers, including clear instructions to these officers to abide by the principle of non *refoulement*. Ensure that these instructions are followed and initiate appropriate disciplinary sanctions or judicial proceedings against those who fail to comply.**

**4. As host to tens of thousands of refugees, work with other members of ASEAN and the international community to promote respect for human rights in neighbouring countries, particularly Myanmar, as human rights violations there are closely connected to the outflow of refugees.**