

MYANMAR

UPDATE ON THE SHAN STATE

I. INTRODUCTION

It has now been over three years since the *tatmadaw*, or Burmese army, started a mass forcible relocation program of hundreds of thousands of Shan civilians. In March 1996 the army began to relocate over 300,000 members of the Shan ethnic minority in central Shan State in an effort to break up any links between civilians and members of the Shan State Army - South (SSA), an ethnic minority armed opposition group. After villagers were relocated, they were forbidden from returning to their homes and farms to work in their fields and collect belongings -- those who disobeyed were frequently shot on sight by Burmese troops. In addition relocated Shan civilians were used as a pool of labourers to do work without pay and against their will. In April 1998 Amnesty International published a major report on human rights violations in the context of these forcible relocations, including documentation of the killings of 42 people during a 13 month period.¹ This information was based almost entirely on first-hand interviews with Shan refugees in Thailand.

In February 1999 Amnesty International interviewed recently-arrived Shan refugees in Thailand in order to obtain an update on the human rights situation in the central Shan State. The pattern of violations has remained the same, including forced labour and portering, extrajudicial killings, and ill-treatment of villagers. Troops also routinely stole villagers' rice supplies, cattle, and gold, using them to sell or to feed themselves. According to reports *tatmadaw* officers do not provide their troops with adequate supplies, so troops in effect live off the villagers. One 33-year-old farmer from Murngnai township described the relationship between the Shan and the *tatmadaw*:

"Before, I learned that the armed forces are supposed to protect people, but they are repressing people. If you can't give them everything they want, they consider you as their enemy...It is illogical, the army is forcing people to protect them, instead of vice-versa."

¹Please see *Myanmar: Atrocities in the Shan State*, 16 April 1998, AI Index ASA 16/05/98.

The Shan have been fleeing from the counter-insurgency activities of the Burmese army to Thailand in large numbers since the early 1990's. However, unlike the Karen, the Karenni, and the Mon people, the Shan have never been permitted by the Thai authorities to establish camps as "*displaced persons*".² Instead, they have sought work in agriculture, construction, and other low-paying jobs in Thailand. In the first four months of 1999, over 5,000 Shan refugees arrived in Thailand at one border crossing alone, and since March 1996, over 100,000 Shan refugees have fled to Thailand. When asked if they were harassed by SPDC troops on their journey out to Thailand, some Shan refugees replied that in fact troops made no effort to prevent them from leaving. One 50-year-old farmer from Murngnai township reported that at a checkpoint a *tatmadaw* major said to his group "*If anyone is leaving for Thailand I would just like to say farewell.*"

Some of the Shan refugees who were interviewed said that they had encountered troops from the SSA-South, but none had reported any ill-treatment by them. However Shan armed groups have targeted ethnic Burman civilians for killing. In June 1997 reliable reports indicated that 25 Burman civilians were taken off a bus and deliberately and arbitrarily shot dead by a Shan armed opposition group. More recently 10 ethnic Burman civilians were reportedly killed in late October 1998 by an unknown Shan armed group. A veteran Shan leader Sao Hso Hten said about the incident: "*We are at war and such things as these cannot be avoided.*"³ Amnesty International condemns such killings and calls on all armed political groups to respect minimum standards of international humanitarian law and to put an end to abuses such as deliberate and arbitrary killings, torture and hostage-taking. Campaigning against these abuses implies neither recognition nor condemnation of the organizations as such.

Several of the Shan refugees interviewed by Amnesty International said that they were frightened to describe what had happened to them for fear of reprisals. One 55-year-old widowed farmer who had only been in Thailand for three days said that if she were in Myanmar she would be beaten by the army for speaking out. Therefore in the information which follows, the names and villages of refugees who were interviewed have been deleted.

Background

²The Thai authorities deem those refugees from Myanmar who are in camps as "*displaced persons*" and those outside of camps as "*illegal immigrants*". Thailand is not a state party to the 1951 Convention relating to the Status of Refugees nor to its 1967 Protocol.

³*Burma's Shan Rebels Wrestle With the Trappings of Peace*, Thomas Crampton, International Herald Tribune, Paris, 15 December 1998.

Myanmar, formerly Burma, has been in a state of civil war since it gained independence from the United Kingdom in 1948. For the last 50 years armed opposition groups representing various ethnic minorities have engaged in insurgency activities against the central government in an effort to gain greater autonomy or complete independence. According to the government, there are 135 “national races” in Myanmar, including the dominant ethnic Burman group. Ethnic minority groups comprise approximately one third of the population, who live mostly in the seven ethnic minority states surrounding the central Myanmar plain.

The population of the Shan State, the largest of the seven ethnic minority states in Myanmar, is approximately eight million people. Of these, some four million are ethnic Shan. Other groups in the state include the majority Burmans, and the Pa’O, Akha, Lahu, Palaung, and Wa ethnic minorities. The Shan people are ethnically related to the Thai, have a similar language, and live in southern China and northern Thailand as well as in Myanmar. Most of them are Theravada Buddhist rice farmers. In pre-colonial times, the area that is now the Shan State was ruled by Shan princes who sometimes owed allegiance to Burman or Thai overlords and were sometimes independent. Under British colonial rule, the Shan areas were administered separately from the rest of Burma.

During negotiations between Britain and Burma 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 State Peace and Development Council (SPDC, the ruling military government), but the Shan States Army - South, or SSA, numbering some 3,500 troops, has continued in its armed struggle against the *tatmadaw* in central and southern Shan State.

When the military reasserted power in September 1988 after suppressing a nation-wide pro-democracy movement, they adopted a policy of negotiating cease-fires individually with ethnic minority armed opposition groups rather than engaging with umbrella organizations which grouped them together. Since 1989 they have agreed 17 cease-fires with various ethnic minority armed opposition groups, including the Mong Tai Army (MTA, led by Khun Sa) in January 1996. Although Khun Sa surrendered to the State Law and Order Restoration Council (SLORC, Myanmar’s military authorities⁴),

⁴On 15 November 1997 the SLORC changed its name to the State Peace and Development

thousands of Shan troops have continued to fight for greater autonomy against the central Burman authorities. After Khun Sa's surrender, troops from the newly-formed Shan State Army-South⁵ began to move north from former MTA areas along the Thai-Myanmar border to the central Shan State.

Once the SSA-South moved into new areas, the *tatmadaw* began major counter-insurgency activities against them. However as is generally the case in guerrilla warfare, most of their victims were Shan civilians, not SSA troops. Forcible relocation was the main tactic which the SPDC has employed in its counter-insurgency strategy against the SSA -South. It has also used mass forcible relocation of civilians in its fight against ethnic minority armed opposition groups based in the Karen and Karenni States, where tens of thousands of Karen and Karenni farmers have been forced off their land since early 1996. As a result large areas of the Karen, Karenni, and Shan States have been cleared of civilians whom the SPDC believes are supporting various armed ethnic minority groups.

Over three quarters of refugees interviewed by Amnesty International had been forcibly relocated from their home villages in Murngnai, Kunhing, Laikha, Kaesee, Murngton townships. Most of these people had initially gone to designated relocation sites near towns or military bases, but had eventually found it impossible to survive there. Of the 300,000 relocated civilians in the Shan State, there are approximately 100,000 people in relocation sites, about 50,000 people hiding in the forest, some 50,000 people who have fled to other areas, and over 100,000 who have escaped to Thailand.⁶ Most of these people have been deprived of the right to earn a livelihood, after they were pushed off land where they cultivated rice and raised livestock.

Widespread human rights violations in Myanmar's ethnic minority states have had a significant negative impact on neighbouring countries, particularly Thailand, Bangladesh, and India, which have all been affected by large refugee flows. But other countries have also been faced with large numbers of refugees -- some 10,000 Rohingyas, or Muslims from the Rakhine State, remain in Malaysia and until very recently 10,000 Kachin refugees were in China's Yunnan Province. Presently there are over 100,000 refugees in Thai camps alone, and at least that number outside of these camps in Thailand, where refugee numbers from Myanmar are at an all-time high. The continuing

Council (SPDC) and reshuffled the cabinet. Several SLORC members who were alleged to be involved in large-scale corruption were sidelined but otherwise the SLORC's policies have remained unchanged.

⁵SSA-South was originally called the Shan United Revolutionary Army (SURA).

⁶A report on the conditions of internally displaced persons in Shan State of Burma, Shan Human Rights Foundation, 29 March 1999.

economic downturn throughout Asia makes it even more difficult for these countries to cope with more refugees, as they are faced with widespread unemployment and other problems. In addition incursions by SPDC troops and various armed opposition groups into Thai territory are a security threat, and several Thai nationals have been killed as a result during the last four years.

II. FORCED LABOUR AND PORTERING

The widespread use of unpaid forced labour by the military in Myanmar is a longstanding concern for Amnesty International, which has documented the practice since 1988. Although forced labour has decreased in central Burma, it is still being reported on a large scale in the seven ethnic minority states which surround the central Burman plain. Members of ethnic minorities are much more likely than ethnic Burmans to be forced to perform unpaid forced labour and are in effect targeted for such duties. The SPDC has asserted that it is attempting to improve the infrastructure of areas which had formerly been affected by fighting between the *tatmadaw* and various ethnic minority-based armed groups. As a result of this policy thousands of ethnic minority civilians are forced to work on infrastructure projects on a routine basis.

In answer to reports of forced labour from the UN, other governments, and non-governmental organizations, the SPDC claims that the work is voluntary and for the benefit of the people. On 14 May 1999 SPDC Secretary I General Khin Nyunt made the following statement in address to the ASEAN⁷ Labour Ministers' Meeting in Yangon:

*“There have been allegations of the use of forced labour in Myanmar...a sustained effort to improve the infrastructure of our economy...has been undertaken. Realizing the benefits to the communities from these projects, people have voluntarily contributed labour so that they can be completed sooner...On our part, to dispel these wrong impressions, the government has issued instructions that only remunerated labour must be used in infrastructure projects. At the same time, with the return of peace, we are now mainly using our military personnel to undertake these public works. Therefore the allegations of forced labour are groundless.”*⁸

⁷ Association of Southeast Asian Nations, whose members are: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam.

⁸ Text of speech quoted by the British Broadcasting Corporation, 18 May 1999.

Unpaid forced labour is in contravention of the International Labour Organization's (ILO) Convention No 29, which the government of Myanmar signed in 1955. The ILO has repeatedly raised the issue with the government and in June 1996 took the rare step of appointing a Commission of Inquiry. In August 1998 the Commission published a comprehensive report, which found the Government of Myanmar "...guilty of an international crime that is also, if committed in a widespread or systematic manner, a crime against humanity." According to the provisions of Convention 29, labourers must *inter alia* receive a wage, be a healthy male between the ages of 18 and 45 years, and be provided with a safe working environment. These conditions are almost never met by the military in Myanmar when they use forced labour.

The practice of forced labour goes hand in hand with the policy of forcible relocations of ethnic minority civilians by the *tatmadaw*. Once the Shan were relocated from their villages into larger sites near towns or army bases, they became sitting targets for forced labour duties by the military, as they now lived under total military control. Most of the refugees interviewed by Amnesty International said that the forced labour demands were so high that they could not devote enough time to earning a living, and so decided to flee to Thailand.

Three quarters of the Shan refugees interviewed by Amnesty International were forced by the Burmese military to act as porters for troops or work on roads and other infrastructure projects. Forced labour duties in the central Shan State included cutting and transporting teak logs, building shelters for the military, digging trenches, ferrying troops across rivers, cultivating crops, road construction and even building a Buddhist temple. Some villagers also had to guard roads during the night and report any SSA troop movements to the *tatmadaw*. One 26-year-old farmer from Laikha township was forced to guard the road from Laikha town to Panglong on three occasions for two nights each time. He also had to help build a new military camp from 6am to 5pm. When asked if he was ever paid, he replied that on the contrary he even had to give troops money, cigarettes, and food. This was echoed by many other refugees who described widespread extortion and looting by the *tatmadaw*.

One young woman who was also forced to carry equipment for the army described her work in a military camp, during late 1998:

"I had to clear brush around military camps. I also had to plant flowers, clear the compound, make fences. I received no pay...Usually the military sent a letter to the headman for us to work in rotation. This was about three times a month since forcible relocation, sometimes three days at a time between 8am to 5pm. Sometimes I even had to water flowers. I got lunch break but I had to bring my own food. They would beat the men

with sticks, if they didn't work properly. Women were threatened with a stick but not beaten - I was threatened."

A 45-year-old farmer from Murngnai township who also had to perform portering duties described his experience of forced labour in January 1999:

"I had to carry teak logs for them every few days. I also had to grow soya beans for them. I was never paid, not even once. If we don't finish our quota, we had to pay money. The military gave orders to village headman, who would be arrested and fined - money and food. This happened to our headman - so every time he was arrested we had to give chickens or pigs."

Several refugees who had been forcibly relocated to Kunhing town were routinely forced to work by *tatmadaw* Unit 246 on a large Buddhist temple under construction in the northern part of Kunhing. During the last eight years the ruling military authorities have sought to associate themselves closely with Theravada Buddhism, which is practiced by 95% of the Myanmar population. After the SLORC cracked down on the Buddhist *sangha* in late 1990 and arrested scores of monks,⁹ leading SLORC members were often photographed giving large donations at monasteries and praying with monks. These efforts were largely viewed as an attempt by the military to gain merit by performing good deeds.

Construction of the temple in Kunhing began in late 1997 and refugees said that they were forced to work on it up to the time they left for Thailand in February 1999. A specified number of civilians from each quarter in Kunhing were assigned a quota of bricks that they must move before they could leave for the day. All of those interviewed said that they were forced to climb high up to the top of the pagoda with their load of bricks, which frightened most of them. One woman commented on their treatment at the hands of the military: *"They treated the people like chickens."*

Refugees reported that children from eight to 15 years of age were often used for this project, making up approximately 10% of the workforce at any one time. A 35-year-old worker on the pagoda said that children often worked in place of their parents, who were busy earning money to support the family. The use of children for forced labour duties is in clear contravention of the UN Convention on the Rights of the

⁹After the military killed two monks during an August 1990 demonstration in Mandalay, the *sangha* organized a boycott of the military and their families. The SLORC retaliated by repressing politically-active monks and asserting control over *sangha*.

Child, which the government of Myanmar acceded to in 1991. Article 32 of the Convention states:

“1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.”

Both men and women interviewed by Amnesty International were also forced to act as porters for the military, which is a particularly harsh form of forced labour. Porters are usually held for days, or sometimes weeks at a time, and are often beaten if they cannot keep up with the military column. They are forced to carry heavy loads of equipment and food through difficult terrain by troops who never pay them, and provide them with almost no food or medical care. One 33-year-old farmer from Murngnai township gave a typical account of his portering duties in early February 1999:

“At least once a month I had to go as a porter. The last time was less than one month ago. I was seized by Unit 514 from Murngtong to carry chickens and dried meat because on the way they shot many villagers’ cattle...I went for 15 days. We slept on the ground, tied up with a yoke. There were about 40-50 porters all together, about five to seven women. And about 10 children from 12-15 years. They kept women separately. Sometimes they might have done something to women because they screamed. All [the porters] were Shan. They didn’t even feed us, let alone pay us. When soldiers got to villages they asked the headman to feed us. I was beaten because I was very tired and couldn’t keep up. I was hit with rifle butt four or five times on my upper arm, shoulders, neck and stabbed by them but I dodged it. I was not able to carry any more...”

One 42-year-old Shan farmer told Amnesty International that he had been taken as a porter more times than he could remember. The last time occurred in October 1998 when he was seized by SPDC troops from Laikha for 10 days and forced to carry ammunition. Because he was given so little food, he became weak and could no longer walk. A soldier slapped him across the face several times, catching his finger in the porter’s left eye. He managed to escape by rolling down the mountainside and hiding in the forest nearby. Eventually he made his way back home but was too frightened to seek medical treatment. As a result of his injury he permanently lost the sight in his left eye.

A 23-year-old woman from Murngnai township who was still nursing her baby said that she fled to Thailand because she was beaten during porter duty in January 1999.

She had returned to work at her original farm in Kunhing village tract and was taken by soldiers from Murngpaeng and forced to carry oil and condensed milk. When she was tired and slowed down a bit, she was pushed and kicked from behind by the troops. She was never paid during the four times she had to perform porter duties; in fact troops took money from her.

Amnesty International is opposed to the practice of forced portering, and considers it to be arbitrary detention. It calls on the SPDC to abolish forced portering completely.

III. EXTRAJUDICIAL EXECUTIONS

Amnesty International defines extrajudicial executions as unlawful and deliberate killings, carried out 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; and the imposition of the death penalty. Extrajudicial executions often result when security forces use force which is disproportionate to any threat posed, although the authorities may claim that this use of force was legitimate.

Hundreds of Shan civilians were killed by SLORC troops during and after the massive forcible relocation which began in March 1996, displacing some 300,000 villagers in the central Shan State. In most cases SLORC troops shot civilians dead after they had returned from relocation sites to their deserted villages in order to gather food which had been left behind. From mid June to mid July 1997 some 300 Shan civilians were reportedly killed in a series of massacres by the Burmese military in Kunhing township, central Shan State. Observers speculated that these attacks were triggered by a massacre of 25 ethnic Burman civilians by a Shan armed opposition group on 13 June 1997 at Pha Larng, Kunhing township. According to reports, ethnic Burman civilians were separated from other groups, forced off trucks and deliberately and arbitrarily killed.

Shan refugees interviewed by Amnesty International in February 1999 reported more recent extrajudicial executions of fellow villagers and relatives by the *tatmadaw*. The pattern of killings was the same as those recorded in 1997; villagers who returned to their fields and former homes for food and other belongings were shot on sight. A series of massacres reportedly occurred in May and June 1998 when a total of 103 civilians were killed in Nam Zarng, Murng Paeng, Murng Kerng, and Murng Nai townships in four separate incidents.¹⁰ Amnesty International also recorded the deaths

¹⁰Shan Human Rights Foundation, 3 July 1998.

of 20 named civilians in the last 13 months; what follows are some representative cases. The vast majority of these people were shot dead by SPDC troops while they were working in their former fields. Eyewitnesses to these killings claimed that in some cases villagers had permission from local units of the *tatmadaw* to return to their farms, but were nevertheless killed when they did so.

A 25-year-old farmer from Murngnai township described the killing of his cousin **Saw Sing** from Kengkham village, Kunhing township. He had been forcibly relocated to Kunhing town in March 1996, leaving his cattle behind. In January 1999 he received permission from the local authorities to return to his village to collect his cattle. He spent the night in Kengkham and was caught the next day and shot dead by troops from Unit 513 based in Loilem. He left a wife and three children.

A group of 13 people were shot dead on 27 June 1998 in Kaengtong tract, Murngnai township. They were all staying in a farm hut in fields which were four miles from their village of Nawng Tao. They apparently had permission from the military to work on this farm but were shot dead by troops from another unit. Amnesty International obtained the names of seven of those killed, who were all part of an extended family: **Lung Ta**, the 45-year-old group leader; **Nai Tong**, his wife; **Aye Mon**, 35-year-old brother of Lung Ta, **Ei Pi**, Lung Ta's 16-year-old son; **Ei Pong**, Lung Ta's 25-year-old daughter-in-law; **Ei Chung**, Lung Ta's second daughter-in-law; and **Aye Chai**, the 11-year-old son of Aye Mon. A 45-year-old rice farmer also from Kaengtong tract, Murngnai township, was working in fields nearby and heard the gunshots. He told Amnesty International that none of the villagers dared bury the bodies for fear of SPDC troops.

A 23-year-old farmer also from Murngnai township told Amnesty International about the killing in May 1998 of her 25-year-old brother **Way Pong La**, who was married with two children. He had been fishing in the Namteng River in Murngnai township with a friend when troops on the river bank ordered them to come out of the river. Way Pong La tried to wade to the bank but was shot dead in the heart four or five times. His friend reached the bank unharmed and was then taken for porter duty. Way Pong La's sister said that he was further away from shore than his friend and that he became entangled in his fishing net, so was unable to move quickly to the river bank.

Shan civilians were also killed in the context of forced portering when they were too tired to keep up with the military column. A 40-year-old farmer from Murngton township near the Thai frontier told Amnesty International that when he was forced to serve as a porter in mid-1998 he witnessed the killing of **Lung Kyaw**, a 45-year-old fellow villager. He described the death:

“He was very tired and couldn’t go - they were pushing him and he got away and shouted back. Some soldiers beat him on the head with a stick and he fell down. It was a thick heavy stick - they picked up a branch in the forest. They just hit him once very hard on the back of the head, then they just left him and walked on. The troops said he was dead. He never came back.”

Extrajudicial executions in the Shan State fits a well-documented, long-standing pattern of human rights violations, and this most recent information confirms the need for the SPDC to issue firm orders to all its troops not to kill unarmed civilians.

IV. CONCLUSION AND RECOMMENDATIONS

The human rights situation has deteriorated in Myanmar since it was admitted to the Association of Southeast Asian Nations (ASEAN). In July 1997 when Myanmar became a full ASEAN member, ASEAN countries claimed that such a move would encourage the SPDC to improve its human rights record. In fact the opposite has been true. The SPDC has stepped up its repression of the opposition party the National League for Democracy and increased forcible relocation programs in the Kayin (Karen), Karenni, and Shan States, and the Tenasserim Division. The use of forced labour in all seven ethnic minority states continues at a high level, and forced portering occurs wherever there are counter-insurgency activities. Myanmar’s membership in ASEAN has caused ongoing complications for other ASEAN members in their relations with foreign governments. It is in ASEAN’s interests to ensure that Myanmar improves its human rights record.

As ASEAN member countries gather in Singapore at the end of July 1999 for their annual Ministerial Meeting it behoves these countries to come up with a new strategy for dealing with the SPDC’s intransigence regarding human rights. The ASEAN Regional Forum (ARF), which deals with Asian security issues, will meet at the same time and should address this security problem. China in particular, which has sold US\$ one billion worth of arms to Myanmar, should end the practice of arms transfers to the SPDC. Western nations who will also be present at ARF should work closely with all concerned countries to encourage the SPDC to improve its human rights record.

In addition to the above recommendations to the international community, Amnesty International makes the following recommendations to the SPDC:

- ◆ Amnesty International urges the SPDC to abide by the basic principles of international human rights and humanitarian law concerning the treatment of Shan civilians. Common Article 3 of the four Geneva Conventions, which

applies to all conflicts of a non-international character, occurring within territories of a party to the Convention, sets forth minimum standards of human 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* for any reason. Among other things, paragraph 1 of this article prohibits “murder of all kinds”.

- ◆ Amnesty International recommends that the SPDC abide by ILO Convention No 29 concerning forced labour, which Myanmar has ratified. Immediate measures should be taken to end ill-treatment and torture in the context of forced labour and portering. Forced portering should be abolished.
- ◆ ◆ Amnesty International recommends that the SPDC investigate all reports of torture and ill-treatment, bring those found responsible to justice, and issue clear orders to the *tatmadaw* to stop these practices immediately
- ◆ Amnesty International recommends that the SPDC issue clear orders to the *tatmadaw* to halt extrajudicial executions, to use force and firearms only when strictly necessary to protect life, and to investigate all extrajudicial executions and bring to justice those found responsible.
- ◆ Amnesty International recommends that the SPDC abide by Article 32 of the Convention on the Rights of the Child, which prohibits the economic exploitation of children.