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# amnesty international

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## THAILAND

### Two Burmese asylum-seekers still detained

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Since 1991 Amnesty International has repeatedly called on the Thai authorities to refrain from its widespread practice of arresting Burmese political activists who are seeking asylum in Thailand. Nevertheless, arrests continue on a routine basis. Most recently at least 25 Burmese asylum seekers were arrested in late November 1995, almost all of whom have now been released. Amnesty International believes that the police detained the group in an effort to prevent public protests in opposition to the continued rule of Myanmar's (Burma) military authorities.

Amnesty International is particularly concerned about the prolonged detention of Tin Maung Htoo and Toe Kyi *alias* Tint Zaw Oo, two young Burmese men, who have been held for over two years after being sentenced to 40 days' imprisonment for "illegal immigration" by the Thai authorities. Their continued detention is in violation of international standards relating to the treatment of asylum-seekers. Amnesty International opposes their continued detention and calls on the Royal Thai Government to release them.

#### **Background**

Since 1988 thousands of young Burmese student activists have fled the Myanmar military's violent crackdown on the pro-democracy movement in order to seek asylum in neighbouring Thailand. They are not granted refugee status by the Thai authorities, who routinely arrest them, charge them with "illegal immigration" and fine and/or sentence them to a prison term. The Royal Thai Government does not acknowledge the term refugee, nor is it a party to the 1951 Convention Relating to the Status of Refugees nor to

its 1967 Protocol. Moreover the Thai authorities have not established any procedures to examine the claims of Burmese asylum-seekers or asylum-seekers from other countries<sup>1</sup>.

However the Royal Thai Government has opened a so-called safe area camp in Raatchaburii province near the Myanmar border for Myanmar nationals who are ethnic Burman and who participated in the 1988 pro-democracy movement. The Ministry of Interior administers the camp and grants permission to those who agree to go there. Until recently most young Burmese asylum-seekers have refused to go to the camp, because they evidently feared forcible repatriation to Myanmar or because they did not want to leave Bangkok. Amnesty International does not oppose the Thai authorities' requirement that eligible Burmese asylum-seekers reside in the camp, because it does not consider residence in the camp as detention *per se*. Camp members in the past have been able to obtain travel passes to Bangkok, and the camp grounds are not enclosed. In the last six months increasing numbers of Burmese asylum-seekers have agreed to go to the safe area, presumably in order to receive stipends or to be considered for third country resettlement by embassies in Bangkok.<sup>2</sup>

The United Nations High Commissioner for Refugees (UNHCR) has established screening procedures for Burmese asylum-seekers in Bangkok. UNHCR grants "person of concern" status to those whom it considers to be at risk of human rights violations if they were to be returned to Myanmar. "Persons of concern" also receive a monthly stipend for their support. However such status provides them with no protection from arrest by the Thai authorities. In addition UNHCR has changed its policy towards Burmese asylum-seekers in the last six months. Beginning in June 1995 Burmese "persons of concern" who did not agree to go to the safe area camp no longer received their monthly stipend. UNHCR also established more rigorous screening procedures at that time, making it more difficult for Burmese asylum-seekers to obtain "person of concern" status.

### **The cases of Tin Maung Htoo and Toe Kyi *alias* Tint Zaw Oo**

Tin Maung Htoo and Toe Kyi *alias* Tint Zaw Oo were arrested along with 11 other young Burmese activists at about 5 pm on 3 December 1993 while attending a seminar on non-violent action for change in Don Muang, a Bangkok suburb. On 6 December they were charged with "illegal immigration", sentenced to 40 days' imprisonment, and taken to the Suan Phlu Immigration Detention Centre (IDC) in Bangkok to serve their sentences. Both of them had reportedly received "person of concern" status from UNHCR.

The seminar was organized by three Thai groups, the Student Federation of Thailand (SFT); the Students Committee on Human Rights in Burma (SCHRB); and the

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<sup>1</sup> See *Thailand: Concerns about treatment of Burmese refugees*, August 1991, AI Index ASA 39/15/91 and *Thailand: Burmese and other asylum-seekers at risk*, September 1994, AI Index ASA 39/02/94.

<sup>2</sup> The Thai authorities have reportedly required that all Burmese refugees who wish to be resettled in third countries go to the safe area camp first before departure.

Action Committee for Democracy in Burma (ACDB). According to the SFT and the SCHRB, the 13 were gathered at the seminar to "*discuss closer cooperation among different Burmese student groups working to restore democracy and human rights in Burma when they were arrested.*"<sup>3</sup> An ACDB leader also commented in a letter to the Thai National Security Council that: "*the arrested students did not meet to stage any political violence...the seminar was held to train the students on how to campaign for democracy and human rights and to work out conflict resolution through peaceful means.*"<sup>4</sup> Subsequent to the arrests, Police Colonel Rithi Subsuebwongse was reported as saying that the arrest was a "*preventive measure*"<sup>5</sup>. It appears that Thai authorities arrested the young people partly as a punishment for involvement in peaceful Burmese pro-democracy activities in Bangkok

Nine of the young people were either released or sent to the safe area camp, while four were transferred to a Special Detention Centre (SDC) at Bangkhen in Bangkok, where the Police Training Academy is located. Two of the four at SDC were eventually transferred to the safe area camp and resettled in a third country. However Tin Maung Htoo and Toe Kyi *alias* Tint Zaw Oo are still held in SDC, now detained over 18 times the length of their original sentence of 40 days. It is unclear why the Thai authorities have not released these two asylum-seekers after over two years in detention.

Amnesty International opposes the detention of refugees and asylum-seekers unless they have been charged with a recognizably criminal offence, or unless the authorities can demonstrate in an individual case that detention is necessary, that it is on grounds prescribed by law, and that it is for one of the specified reasons which international standards recognize may be legitimate grounds for detaining asylum-seekers. International standards do not recognize "illegal immigration" as a reason for which asylum-seekers may legitimately be detained. International standards also state that the detention of asylum-seekers or refugees should normally be avoided. Amnesty International urges the Thai authorities to transfer Tin Maung Htoo and Toe Kyi *alias* Tint Zaw Oo to the safe area camp, or to release them immediately.

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<sup>3</sup> *The Nation*, an English language newspaper published in Thailand, 21 December 1993.

<sup>4</sup> *The Nation*, 5 December 1993.

<sup>5</sup> *The Nation*, 21 December 1993.

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