

Invisible In Thailand:
Documenting the Need for International Protection for Burmese

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(this is a more detailed version of the *Forced Migration Review* article that appeared in April 2008)

The International Rescue Committee (IRC) is concerned that there are significant numbers of Burmese living in Thailand who qualify for and deserve international protection and assistance even though they do not have access to proper registration processes. Without a transparent, humane and lawful asylum policy for Burmese people entering Thailand, it is impossible to estimate the percentage of *bona fide* refugees that are mixed into the group of migrants who have left Burma solely for other reasons. The lack of systematic data to document the reasons people flee Burma provides the Thai authorities with the excuse to treat the Burmese living outside the refugee camps as mere economic migrants, subject to deportation. It also weakens the leverage that agencies working with the Burmese living in Thailand have to advocate on their behalf.

With this in mind, IRC conducted a survey with the goals of documenting the experiences of Burmese people living in border areas of Thailand, and assessing the degree to which they merit international protection as refugees. The data reveals significant differences in the demographic and socioeconomic makeup of the three sites, as well as differences in the reasons the respondents left Burma. Our findings suggest that a great number of currently unprotected Burmese in Thailand, possibly as many as fifty percent, merit further investigation as to their refugee status; and that only a small number of Burmese who warrant refugee status and attendant services actually receive any aid or protection either from the Thai government or from international aid agencies.

I. BACKGROUND

Burma has one of the worst human rights records in the world. The military junta, known as the State Peace and Development Council (SPDC), does not tolerate dissent of any kind and its conduct is defined by capricious and violent behavior. It prohibits political expression, discriminates against and punishes ethnic groups, forces citizens to engage in long days of unpaid, dangerous labor. The Burmese economy is in shambles and the junta steals or destroys vast tracts of agricultural land, displacing hundreds of thousands of its own citizens who have nowhere else to go.¹ The Saffron Revolution of September 2007, when thousands of monks and students peacefully protested for an end to military rule and were ruthlessly suppressed, has renewed the world's attention to the plight of Burma and its lack of internationally recognized human rights standards.

Since 1988, over one million Burmese citizens have left the country without permission, although Burma considers it a crime to do so.² The United States, Canada, Australia,

¹ Therese M. Caouette and Mary E. Pack, *Pushing Past Definitions: Migration from Burma to Thailand*, (Refugees International and Open Society Institute, 2002), http://www.refugeesinternational.org/files/3074_file_burma.pdf.

² Refugees International. *Threats to Burmese Refugees in Thailand Increasing*. June 16, 2004. <http://www.refugeesinternational.org/content/article/detail/970/>.

Sweden, Norway and others have determined that many Burmese have credible, well-founded fears of persecution, pursuant to the international refugee definition,³ and have offered them asylum, or an opportunity to resettle.⁴ The Thai government, however, steadfastly refuses to acknowledge international legal standards governing the identification and treatment of refugees, instead viewing the application of external standards or norms as an encroachment on Thai sovereignty and contradictory to national interests.⁵ Thailand has not ratified the 1951 Convention Relating to the Status of Refugees, nor has it created domestic legislation that would provide the framework for the determination of refugee status and the corresponding body of rights that accrue to *bona fide* refugees. Although the government permitted the establishment of rudimentary camps along its border for Burmese “fleeing fighting,” less than one-tenth of the Burmese in Thailand have been able to access the camps. The camps exclude certain minority groups altogether, and lack a fair and fully functioning admissions board to screen and admit newly arriving Burmese who qualify.⁶ UNHCR is no longer permitted to conduct individual status determination interviews in Bangkok as it once did on a limited basis.

Even though they have fled one of the most repressive countries on earth, the overwhelming majority of Burmese in Thailand, estimated between 1.5 and 2 million people, have either no legal status recognized by the Thai government, or only temporary migrant worker status.⁷ They live on the peripheries of Thai society, often working in unsafe conditions, underpaid and at risk of trafficking and exploitation. Recent laws severely restrict the mobility of migrant workers, imposed curfews and forbid migrants from gathering in groups of five or more. These provincial decrees also forbid migrants from participating in cultural activities and limit their use of mobile phones, thereby leaving them more vulnerable to the whims of employers and local authorities. They are subject to the Thailand’s 1979 Immigration Act, which considers all undocumented aliens (including those in need of asylum) to be “illegal immigrants” subject to deportation.

In 2002, the Thai government agreed with Burma’s SPDC on a plan that resulted in the arrest and deportation of over 19,000 Burmese over a four month period. A worrying number were sent directly to the SPDC reception center in Myawaddy on the Burma side of the border. The Burmese Directorate of the Defense Service Intelligence (DSI) of the Ministry of Defense operates the center, where it conducts interrogations, or facilitates interrogations by other ministries and departments. International oversight is not allowed

³ Article 1, Sec. A, Para. 2 of the UN Convention Relating to the Status of Refugees defines a refugee, in part, as one who has been displaced due to a “well-founded fear of being persecuted” for specific reasons.

⁴ The United States has a long history of providing asylum and resettlement to Burmese asylum seekers. In 2006, the US launched a large-scale resettlement program from Thailand for Burmese individuals determined to meet the refugee definition. A variety of European and Scandinavian countries, as well as Australia and New Zealand also conduct refugee status and resettlement interviews for Burmese claimants in Thailand.

⁵ “Thaksin Lashes Out at UNHCR,” *The Nation* (Bangkok, Thailand), June 28, 2003. <http://www.nationmultimedia.com/search/page.arcview.php?clid=2&id=81108>.

⁶ Some Shan groups estimate that there are 200,000 ethnic Shan asylum seekers from Burma in Thailand. RTG policy prohibits their access to camps. See Refugees International, *The Shan in Thailand: A Case of Protection and Assistance Failure*, June 22, 2004. <http://www.refugeesinternational.org/content/article/detail/972/>

⁷ Caouette and Pack, 2002; also see USCRI’s *World Refugee Survey 2007* at <http://www.refugees.org/countryreports.aspx?id=2024>. Even though the worker registration program provides some protection for some Burmese, it is a dangerously inadequate and inappropriate substitute for internationally recognized refugee protection standards.

and it is feared that SPDC treatment is extremely harsh.⁸ Deportations are still continuing today. Thailand's aggressive deportation policies contravene not just the 1951 Convention but also the customary legal principle of *nonrefoulement*, which applies to all countries and forbids them from returning an asylum seeker to a country or territory where s/he has a well-founded fear of persecution.⁹

In an effort to underpin its advocacy efforts with accurate data, the International Rescue Committee collaborated with Dr. Karen Jacobsen of Tufts University to conduct a survey of Burmese living outside the camps in the Thai-Burma border area.

II. SURVEY DESIGN

In three phases of data collection in 2006, survey teams interviewed 1704 Burmese in the border provinces of Tak, Mae Hong Son and Chiang Mai.¹⁰ In order to select a fairly representative sample of Burmese living outside camps in the key provinces, we used a two-stage, randomized sampling technique. In the first stage, villages were randomly selected from an existing list of villages and households developed by IRC for a health program. In the second stage, a small number of households were selected from each village, based on consultation with the village head, to ensure a representative range of households. The final samples were 501 respondents in the Mae Sot, 649 in the Mae Hong Son and 554 in the Chiang Mai survey.

Burmese-speaking local community health workers and community-based organizations conducted the interviews. In addition to demographic, household composition and employment questions, the questionnaire focused on two areas:

(1) Experience in Burma – why people left their homes, whether they had experienced violence related to the conflict, and whether they had been internally displaced in Burma before coming to Thailand.

(2) Experience in Thailand – including return movements to Burma, humanitarian assistance they had received and treatment by Thai authorities.

We divided reasons for leaving Burma into four categories: *conflict-related reasons* were those in which respondents mentioned any direct or indirect experience of violence, torture, forced labor or armed conflict; *economic reasons* were those where respondents *only* mentioned economic factors, such as looking for employment; *education or family reasons* were those in which respondents said they left Burma to follow a relative or in search of educational opportunities for their children; and all *other* reasons were those not coded as one of these

⁸ See Caouette and Pack, 2002. According to USCRI's *World Refugee Survey 2007*, in 2006, an estimated 10,000 Burmese people per month were rounded up in Thailand and informally deported to Burma across unofficial border posts.

⁹ Article 33 of the UN Convention Relating to the Status of Refugees. See also Guy Goodwin-Gill, *The Refugee in International Law* (Oxford: Clarendon Press, 1996), p. 167-170.

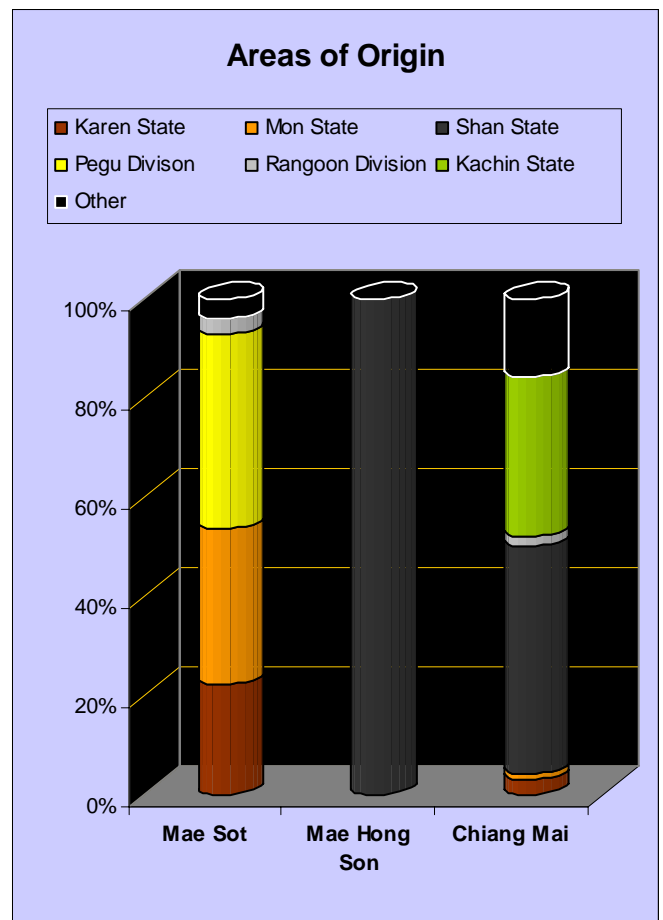
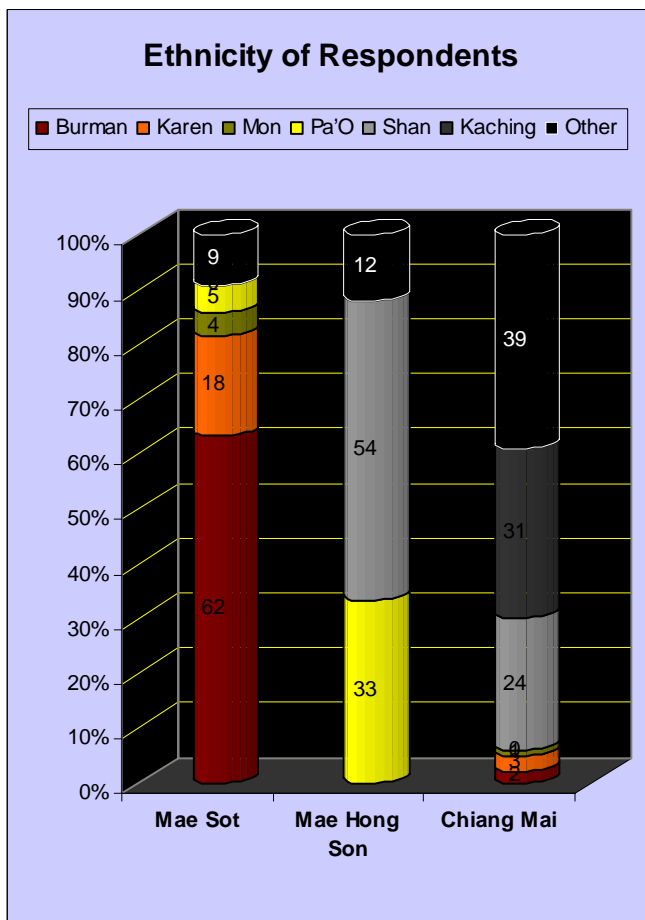
¹⁰ Thailand is divided into 76 provinces, each divided into districts, divisions, and villages. The provinces for the survey were chosen based on several criteria: number of Burmese migrants, IRC's program presence, and partnerships with community-based organizations and community health volunteers for collaboration with data collection.

three sub-categories. Most respondents provided multiple reasons, but some cited conflict as well as other impetuses for migration. When people mentioned conflict-related reasons, the team inferred a correlating subjective fear on the part of respondent, which is an essential component of satisfying the refugee definition. During the survey testing phase it became clear that respondents would not answer questions about their political views or specific activities in Burma because they worried that their families would get into trouble if the SPDC found out. While additional data on this topic would have enriched the findings, we deemed it unethical to probe too deeply in this area. Given this reluctance, it is likely that our results are skewed, and that far more respondents experienced violence and conflict than were willing to say so.

III. SURVEY RESULTS

The surveys revealed significant differences in the demographic and socioeconomic makeup of the three sites, as well as differences in the reasons the respondents left Burma. Our findings suggest that a great number of currently unprotected Burmese in Thailand merit further investigation as to their refugee status; and that only a small number of Burmese who warrant refugee status and attendant services actually receive any aid or protection either from the Thai government or from international aid agencies.

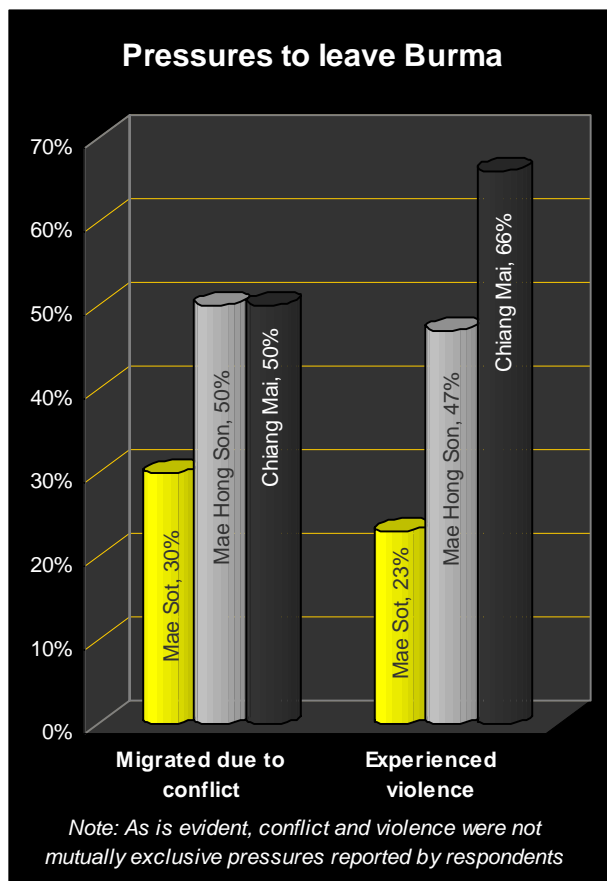
Experiences in Burma



The findings indicate that significant numbers of traditionally persecuted ethnicities and faiths are present in Thailand. In Mae Sot, 62% of respondents were Burman, 17% were Karen, and 5% Pa'o. In Mae Hong Son, respondents were predominantly Shan (54%) and Pa'o (33%). In Chiang Mai, respondents were mainly Kachin (31%), Shan (24%), and Lahu (14%), and 64% of respondents in Chiang Mai reported Christianity as their faith.

Regarding their provinces of origin, it is clear that many unprotected Burmese once lived in areas overrun by conflict, especially Shan State (83% of respondents in Mae Hong Son and 46% in Chiang Mai). In Mae Sot, almost 40% of the sample came from Pegu Division, with 31% from Mon state, and 22% from Karen state. In Chiang Mai, 31% came from Kachin State.

A key indicator of whether people qualify for refugee status relates to their reasons for fleeing their home country. In all three sites, most respondents gave multiple reasons for



leaving Burma, but in both Mae Hong Son and Chiang Mai, more than 50% of respondents mentioned flight from violent abuse, forced labor or the destruction or forced appropriation of their livelihoods or property as a reason for their flight.

Reasons for coming to Thailand were significantly related to ethnicity. In Mae Sot, Burmans were more likely to cross the border to Thailand for economic reasons only, with only 15% citing reasons related to the conflict in Burma. Other ethnic groups cited conflict more frequently, for an overall response rate of 30%. In Mae Hong Son, 45% of Shan and 53% of Pa'o mentioned conflict as a factor in their decision to leave Burma.

In each site, significant if varying numbers of people reported experiencing violence, either to themselves or they had witnessed it being perpetrated on others—another

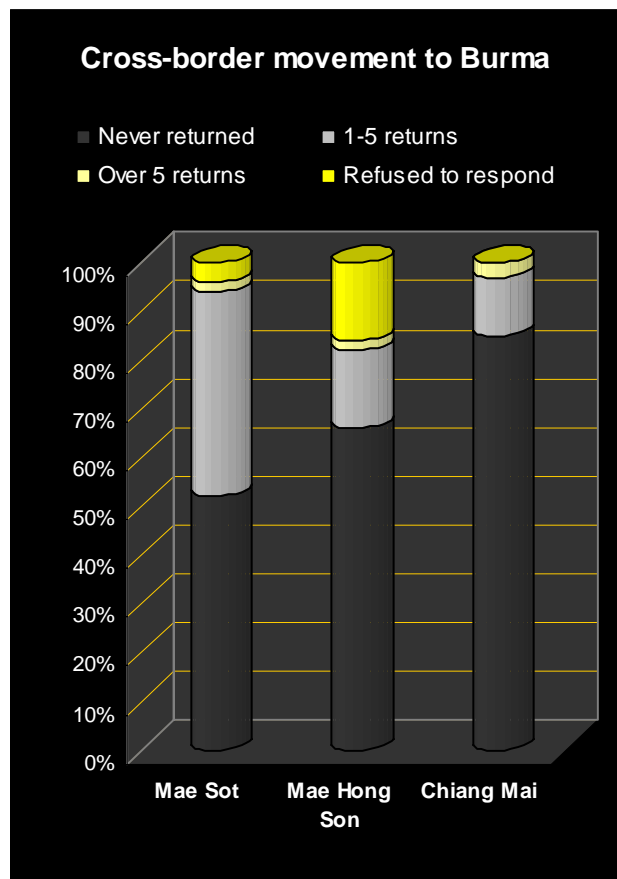
strong indication they deserve refugee protection. In Chiang Mai, 41% of respondents mentioned they had been subject to forced labour or portering, and 6.5% mentioned flight from sexual abuse. When asked who the perpetrators of the violence were, 45% of respondents refused to answer, but 53% cited government agencies as the most frequent perpetrators. Anti-government agencies were mentioned by 4%. Of those targeted by violence, 22% in Mae Sot and 62% in Mae Hong Son attributed it to their political activities.

Experiences in Thailand

Respondents in all sites had most of their immediate family members with them in Thailand. Very few—5% in Mae Sot, <1% in Mae Hong Son, and 2.5% in Chiang Mai—had lived in a refugee camp; in fact, in Chiang Mai 43% said they did not know there were camps in Thailand, and another 20% said they didn't know the location of the camps or how to get there. Interestingly, 2 percent had tried to access the camps but had not been admitted. Around 80% in each site had received no assistance at all. For the 20% that received assistance, the type of aid varied broadly between sites.

The frequency of return trips to Burma could be another telling factor of migrants' fear of their homelands; the adjoining chart shows that most respondents in Mae Hong Son and Chiang Mai never made a return trip and 52% in Mae Sot. In a special question for Chiang Mai, 38% of respondents said it would not be possible to return to Burma even if they wished.

In an effort to gauge interest in durable solution options, participants in Mae Hong Son and Chiang Mai were asked about resettlement elsewhere. In Mae Hong Son, only 10% said they would prefer to resettle in a third country. In Chiang Mai, when asked where they would like to be living in three years' time, 44% said they would like to be in a third country, 27% would like to stay in Thailand, and 26% would like to return to Burma.



A brief summary of demographical differences uncovered in the course of the survey follows.

Chiang Mai respondents are more educated, mostly from urban areas, and have lived in Thailand the shortest time. Only about 10% do agricultural work, and on average make significantly more money than the other two groups. However, as mentioned above, the same percentage of respondents in Chiang Mai and Mae Hong Son left due to conflict, and higher than for those in Mae Sot. They also have experienced a higher percentage of violence.

Mae Hong Son respondents worked mainly in agriculture, have been in Thailand longer, and are the poorest group. Most are registered as a migrant holding a color card, and have experienced the least trouble from the Thai police.

Mae Sot residents predominantly Burman, the least educated, and less likely to have come due to conflict. They work mainly in agriculture and often return back to Burma.

IV. CONCLUSION AND RECOMMENDATIONS

Clearly, each Burmese citizen's story is different, but many stories share similar threads of violence, displacement due to conflict, and fear of return. These potential refugees lack adequate access to assistance or protection in accordance with international refugee standards. Therefore, the IRC has the following recommendations:

- The international community must increase support for essential services to *bona fide* (albeit currently unrecognized) refugees. The Thais should not have to shoulder the responsibility of hosting the Burmese refugee population on its own.
- Thailand must create a fair and accessible refugee status determination procedure, either for individual or large group *prima facie* determinations.
- Thailand must take steps to ensure that (unrecognized) refugees can access essential services without fear of harassment, arrest or deportation.
- Thailand must cease its deportation practices unless/until the individuals at risk are first given an opportunity to state their claim for asylum, in a fair and informed process
- Thailand must confer legal status to recognized refugees and provide proof of that status.
- Thailand should extend refugee status and all attendant rights to nuclear family members residing in Thailand.
- Thailand and the international community should work together to increase access to third-country resettlement.
- Thailand should permit all refugees to travel outside of the camps and to work legally for fair compensation.