

Invisible in Thailand: documenting the need for protection

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The International Rescue Committee (IRC) has conducted a survey to document the experiences of Burmese people living in border areas of Thailand and assess the degree to which they merit international protection as refugees.

IRC is concerned that there are significant numbers of Burmese living in Thailand who qualify for and deserve international protection and assistance but who 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 within the group of migrants who have left Burma for other reasons. The lack of systematic data to document the reasons people flee Burma provides the Thai authorities with the excuse to treat those 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.

Since 1988, over one million Burmese citizens have left the country without permission, although it is a crime to do so. Even though they have fled one of the most repressive countries on earth, the overwhelming majority of Burmese in Thailand have either no legal status or only temporary migrant worker status. They live on the peripheries of Thai society, often working in unsafe conditions, underpaid and at risk of trafficking and exploitation. They are subject to Thailand's 1979 Immigration Act, which considers all undocumented aliens (including those in need of asylum) to be 'illegal immigrants' subject to deportation. Thailand's aggressive deportation policies contravene not just the 1951 Convention but also the principle of *non-refoulement*, 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.

The US, Canada, Australia, Sweden, Norway and others have determined that many Burmese do have credible, well-founded fears of persecution according to the international refugee definition and have offered them asylum, or an opportunity to re-settle. 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.

Thailand has not ratified the 1951 Convention, 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", fewer than one-tenth of 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. UNHCR is no longer permitted to conduct individual status determination interviews in Bangkok as it once did on a limited basis.

In an effort to underpin its advocacy efforts with accurate data, IRC collaborated with Karen Jacobsen of Tufts University to conduct a survey of Burmese people living outside the camps in three sites in the Thai-Burma border area: Chiang Mai, Mae Hong Son and Mae Sot. The surveys reveal significant

differences in the demographic and socio-economic make-up of the three sites. Respondents were selected through a randomised sampling technique and interviewed about a) their experience in Burma – why they left home, whether they had experienced violence related to the conflict, and whether they had been internally displaced in Burma before coming to Thailand – and b) their experience in Thailand, including return movements to Burma, humanitarian assistance received and treatment by Thai authorities.

We divided reasons for leaving Burma into four categories:

- conflict-related reasons: where respondents mentioned any direct or indirect experience of violence, torture, forced labour or armed conflict.
- economic reasons: where respondents only mentioned economic factors, such as seeking employment.
- education or family reasons: where respondents said they left Burma to follow a relative or in search of educational opportunities for their children.
- other reasons (ie not included in above).

Experiences in Burma

Most respondents provided multiple reasons for flight. When people mentioned conflict-related reasons, we inferred 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



Burmese migrant worker in Thailand.

it unethical to probe too deeply in this area. Given this reluctance, it is likely that our results are skewed and that more respondents experienced violence and conflict than were willing to say so.

Our findings suggest that a great number of Burmese people currently living in Thailand without legal protection 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.

The findings indicate that significant numbers of people from ethnicities and faiths that have long endured

persecution are present in Thailand. For example, 64% of respondents in Chiang Mai reported Christianity as their faith. It is clear that many unprotected Burmese once lived in areas significantly affected by conflict. 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 labour 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, Burmese 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. In each site, significant if varying numbers of people reported experiencing violence, either towards themselves or witnessed perpetrated on others – another strong indication that they deserve refugee protection. 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 had lived in a refugee camp and around 80% in each site had received no assistance at all. The frequency of return trips to Burma could be another telling factor of migrants' fear of their homelands; most respondents in Mae Hong Son and Chiang Mai and 52% in Mae

Sot had never made a return trip. In Chiang Mai, 38% of respondents said it would not be possible to return to Burma even if they wished to do so.

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.

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 unrecognised) refugees. Thailand should not have to shoulder the responsibility of hosting the Burmese refugee population on its own.
- Thailand must take steps to ensure that (unrecognised) refugees can access essential services without fear of harassment, arrest or deportation.
- Thailand must cease its deportation practices unless or until the individuals at risk are first given an opportunity to state their claim for asylum, in a fair and informed process.
- Thailand must create a fair and accessible refugee status determination procedure, either for individual or large group prima facie determinations.
- Thailand must confer legal status on recognised refugees and provide proof of that status.
- Thailand should, within a prescribed time frame, regularise

refugees' status in Thailand so that they may eventually become permanent residents or citizens.

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The full results of the survey are online at <http://fic.tufts.edu/?pid=76>. The survey data, on which this report was

based, are available for researchers who wish to conduct further analysis. To obtain the Excel data base, contact Karen Jacobsen at karen.jacobsen@tufts.edu.

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