

**SUBMISSION TO THE COMMITTEE ON THE RIGHTS OF THE CHILD
FROM THE BURMA PEACE FOUNDATION,
REGARDING THAILAND'S INITIAL REPORT TO THE CRC**

**THE RISK TO BURMESE REFUGEE CHILDREN IN THE EVENT THAT THE ROYAL
THAI GOVERNMENT FORCIBLY REPATRIATES THE BURMESE REFUGEES**

INTRODUCTION

These notes focus almost entirely on the Burmese refugee children living in camps in Thailand along the Burma border, while noting that between 30,000 and 40,000 live in camps in Thailand near the Cambodian border.

According to medical groups working in the camps, the health situation in the camps on the Western border is quite good. This is apparently less the case in the camps housing Cambodian refugees.

There are two major risks faced by Burmese refugee children in Thailand

- 1) Cross-border attacks on the camps by Karen groups aligned with the Rangoon government. These have decreased in recent months, and this question is not covered in any detail by this submission, though a Karen Human Rights Group report "Attacks on Karen Refugee Camps" of March 18, 1997, is attached.
- 2) The greatest risk to the refugee children in Thailand (counting 60,000 in camps along the Thai-Burmese border, in addition to the estimated 30,000-40,000 referred to above) and the much larger number of children of "illegal immigrants" is that they could be sent back to their countries of origin. In the case of Burma this would mean returning them to a country where, according to the Special Rapporteur on Myanmar and other authorities, the human rights situation remains extremely grave,

**THE DANGER FACING BURMESE REFUGEE CHILDREN SUBJECT TO
REFOULEMENT**

The Committee on the Rights of the Child is familiar with the human rights situation in Myanmar, having examined Myanmar's Initial Report to the CRC in January 1997. Much of the material submitted to the Committee in relation to Myanmar is directly relevant to an assessment of the dangers that would be faced by children subject to refolement from Thailand to Myanmar, and the Burma Peace Foundation recommends that the Committee review its Myanmar file, with special attention to the situation in ethnic minority areas adjoining the Thai-Burmese border.

Returnees to Burma are especially vulnerable, since in most cases those who have sought refuge in Thailand are assumed to be aligned with or sympathetic to the ethnic forces such as

the Karen National Union and the Karenni National Progressive Party which are still in a state of belligerency with the government in Rangoon (the State Peace and Development Council, or SPDC). There are reports that returnees have been subjected to serious human rights violations, including executions, torture and forced labour.

This submission does not describe the situation of children in Thailand, but argues that the danger of refoulement to Burma where a very serious human rights situation in Burma prevails is directly relevant to the question of the protection of Burmese refugee children in Thailand.

THAILAND'S RESERVATIONS ON ARTICLES 7, 22 AND 29(c) OF THE CRC

Thailand has made reservations on CRC Articles 7, 22 and 29(c) which refer to refugees. Although the Royal Thai Government has generally employed a humanitarian attitude towards the refugees, Thai policy is inconsistent, and certain army units are reported to have engaged in refoulement, including of children, and to have divided refugee families.

THAILAND'S POLICY

Paragraph 380 of Thailand's Initial Report to the CRC states that:

"Despite the fact that Thailand is not a signatory to the Convention relating to the Status of Refugees of 1951 and the Protocol relating to the Status of Refugees of 1967, Thailand's policy and practice abide by many of the principles enshrined in the Refugee Convention and Protocol. The present Government (Note: the report was issued during the life of a previous government - DA) does not, in practice, favour forced return of asylum seekers and displaced persons fleeing armed conflicts. Instead, to alleviate the plight of these persons, including children, the Government has taken a humanitarian approach and granted them temporary refuge pending durable solutions, which include their return to their countries of origin in safety and with dignity, and third-country resettlement if they are determined to be refugees in accordance with the refugee definition stipulated in the 1951 Convention...."

However, Thailand's official definition of Burmese asylum-seekers in Thailand is that they are "displaced persons fleeing fighting". This definition has been used to justify the forcible return of several hundred asylum-seekers and rejection at the frontier of further groups also numbering in the hundreds. The argument used by the Thai authorities is that since there is "no fighting", there is no reason for these people to take refuge in Thailand.

CONFLICTS WITH INTERNATIONAL STANDARDS

This definition of a refugee contrasts with international standards, which generally refer to the danger of persecution. The 1951 Convention on the Status of Refugees describes a refugee, inter alia, as someone who has a "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of

the protection of that country". This definition would certainly cover most of the Burmese refugees in Thailand.

Although Thailand is not a Party to this Convention, the principle of seeking asylum from persecution is contained in Article 14 the Universal Declaration of Human Rights, to which all countries, by their membership of the United Nations, have agreed:

"Everyone has the right to seek and to enjoy in other countries asylum from persecution."

The International Covenant on Civil and Political Rights, to which Thailand acceded on 26 November 1996, extends protection to all those on the State Party's territory. Article 2 (1) states that "Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".

RECOMMENDATIONS

The Committee on the Rights of the Child should do all within its capacity and authority to urge Thailand to:

- * withdraw its reservations to the Convention,
- * employ the internationally-accepted definitions of a refugee,
- * guarantee the safety of refugee children on its territory against cross-border attacks, and by no means to engage in refoulement, including rejection at the frontier, of refugee children
- * Accede to the 1951 Convention on the Status of Refugees and the 1964 Protocol.

Burma Peace Foundation,
19 January 1998

ATTACHED DOCUMENTS

The accompanying documents illustrate some of the dangers faced by Burmese refugees in Thailand and on their return to Burma.

- 1) Report of the Special Rapporteur on Myanmar to the General Assembly, (A/52/484 of 16 October 1997) with special reference to paragraphs 69-109 which deal with violations against ethnic minorities.
- 2) Report of the Special Rapporteur on Myanmar to the Commission on Human Rights, (E/CN.4/1997/64 of 6 February 1997) with special reference to Section III, "The Visit to Thailand")
- 3) "The Situation of Children in Burma" (Summary by Karen Human Rights Group, 1 May 1996). This report has already been submitted to the CRC in relation to the Myanmar report. The summary should be read alongside the 140 page annex, which is in the Committee's files.
- 4) "Clamp-down in Southern Dooplaya", Forced relocation and abuses in newly SLORC-occupied areas. Karen Human Rights Group, September 18, 1997
- 5) "Free-Fire Zones in Southern Tenasserim" Karen Human Rights Group, 20 August 1997
- 6) "Abuses and Relocations in Pa'an District" Karen Human Rights Group, August 1, 1997
- 7) "Destruction of All Hill Villages in Papun District" Karen Human Rights Group, June 25, 1997
- 8) "Attacks on Karen Refugee Camps", Karen Human Rights Group, 18 March 1997
- 9) "Kingdom of Thailand: Erosion of refugee rights" Amnesty International, September 1997
- 10) "Terror in the South" All Burma Student Democratic Front, November 1997
- 11) Recent press articles about Burmese refugees and migrant workers
- 12) "Burma: Human Rights Yearbook 1996" Human Rights Documentation Unit, National Coalition Government of the Union of Burma, July 1997.