

**HUMAN RIGHTS WATCH**  
33 Islington High Street  
London N1 9LH UK  
Telephone: 171 713 1995  
Facsimile: 171 713 1800  
E-mail: hrwatchuk@gn.apc.org



**A S I A**

**HUMAN RIGHTS WATCH/ASIA**

Sidney Jones  
*Executive Director*

Mike Jendrzeczyk  
*Washington Director*

Robin Munro  
*Hong Kong Director*

Patricia Gossman  
Zunetta Liddell  
*Research Associates*

Jeannine Guthrie  
*NGO Liaison*

Dinah PoKempner  
*Counsel*  
Mickey Spiegel  
*Consultant*

Diana Tai-Feng Cheng  
*Research Associate*

**ADVISORY COMMITTEE**

Andrew Nathan  
*Chair*

Orville Schell  
*Vice Chair*

Maureen Aung-Thwin  
Edward J. Baker  
Harry Barnes  
Robert L. Bernstein  
Julie Brill

Jerome Cohen  
Adrian W. DeWind  
Clarence Dias  
Dolores A. Donovan  
Adrienne Germain  
Merle Goldman  
James C. Goodale  
Deborah M. Greenberg  
Jack Greenberg  
Paul Hoffman  
Sharon Hom  
Rounaq Jahan  
Virginia Leary  
David Lev  
Bernard Levin  
Perry Link  
Rt. Rev. Paul Moore, Jr.  
Yuri Orlov  
Victoria Riskin  
Sheila Rothman  
Barnett Rubin  
James Scott  
Maya Wiley

**HUMAN RIGHTS WATCH**

Kenneth Roth  
*Executive Director*

Cynthia Brown  
*Program Director*

Holly J. Burkhalter  
*Advocacy Director*

Gara LaMarche  
*Associate Director*

Lotte Leicht  
*Brussels Office Director*

Juan E. Méndez  
*General Counsel*

Susan Osnos  
*Communications Director*

Joanna Weschler  
*United Nations Representative*

Robert L. Bernstein  
*Chair*

**THAILAND**

**CHILDREN FROM BURMA SEEKING ASYLUM IN THAILAND**

**A Report Prepared for the United Nations Committee on the Rights of the Child**

**By Human Rights Watch/Asia**

This report focuses on children in emergency situations and seeks to bring the Committee up to date in this regard. The Convention on the Rights of the Child came into force in Thailand on April 26, 1992. Thailand's first country report due for submission under Article 44 in April 1994 to the United Nations Committee on the Rights of the Child was in fact submitted in September 1996. Since then there have been significant changes in Thailand's manner of dealing with asylum seekers and refugees from Burma, including children.

The first major influx of refugees from Burma arrived in Thailand in 1984. Up until this time people displaced by fighting had stayed within Burma but as the Karen National Union (KNU), one of the major ethnic minority groups in Burma, lost territory, people started fleeing across the Thai/Burmese border. Refugee camps became established on Thailand's western border, the majority comprising people from Burma's ethnic minorities (primarily Karen, Mon and Karenni). Thailand allowed these refugees to remain on Thai soil and to receive support from various nongovernmental organizations. Until 1988 the refugees were often migratory, returning to Burma as the fighting diminished at the end of each rainy season. However, when the current military government in Burma, the State Law and Order Restoration Council, took power in 1988, after crushing nationwide pro-democracy demonstrations, the nature of human rights abuses changed and increased in intensity. This led the population in the camps along the border to become more permanent in nature.

In February 1997, the SLORC launched a new offensive against the KNU in Burma's Tenasserim Division and Karen State in the south of the country. This led to a new wave of people fleeing into Thailand. The population in the camps along the border has increased by some 16,000, but many refugees coming into Thailand have been unwilling to enter the camps, fearing repatriation or harsh conditions. Since June 1997, many have also been turned away at the border.

As refugees started arriving in Thailand in February 1997, Thailand abandoned its previous longstanding policy of granting temporary asylum to those fleeing Burma. Many were fleeing serious human rights abuses by Burma's armed forces or had a well-founded fear of such abuses. These civilians were specifically targeted by the SLORC as enemies of the state by reason of living in territory which had been controlled by the KNU for decades. By repatriating such individuals and rejecting others at the border, Thailand acted in breach of international strictures against non-refoulement.

Human Rights Watch/Asia is aware that a number of children were among those refouled by the Thai authorities. Some well-documented instances which involved children are contained in the Human Rights Watch/Asia report, "No Safety in Burma, No Sanctuary in Thailand" published in July 1997, but particular instances of concern follow:

On February 24, 1997 villagers who had been evacuated by the KNU in anticipation of the SLORC's imminent arrival in their villages were allowed by the Thai authorities to cross from Burma into Bong Ti village in Sai Yo District, Kanchanaburi Province, Thailand. The following day, the men from this group were separated from the women, children, sick and elderly by soldiers from the Ninth Division of Thailand's First Thai Army. From this group, 230 men were trucked to a point on the Thai border known as Pu Nam Rawn and repatriated. On February 25 and 26 the 900 remaining women, children, sick and elderly were taken in two batches in logging trucks to an area in Suan Phung District in Ratchaburi Province in Thailand. From this point they were forcibly repatriated to Burma.

By February 24, 1997 a group of 2,000 people had gathered at Pu Nam Rawn. At the border post, Thai Border Patrol Police screened the refugees as they attempted to cross into Thailand with the result that 500 males were refused entry to Thailand. They were forced back into an active conflict zone. Human Rights Watch/Asia, during a mission to Thailand in May and June 1997, gathered evidence from a number of those who were repatriated by the Thai authorities. Among those interviewed was one fourteen-year-old boy. He gave an account of his experiences at the hands of the Thai authorities:

*I and my brother both went to school in Htee Hta [in KNU 4th brigade area inside Burma], where we lived with my aunt. My brother is thirteen. The KNU told the whole village that we would have to leave, as the SLORC were attacking the area. I could hear the sound of mortar shells and heavy weapons. The whole village left together and we fled first to Htee Kee and from there to the Thai border. The walk to the border from Htee Kee took about two hours. I was with my aunt and brother. When we arrived at the border we saw that there were Thai officials waiting there. They pointed at some of the males trying to cross the border, including me, and said that we could not come across. My aunt and brother were allowed to cross the border. I cannot express what it felt like to be separated from my relatives, but I was very unhappy. I have suffered a lot. I then walked back to Htee Kee with a group of four or five other people who had also not been allowed by the Thai officials to cross into Thailand. The people in the group I was with ranged in age from thirteen to seventeen years old.*

He also described how he and the others had to leave Htee Kee as the Burmese army began to attack it. He heard the mortar shells landing in the village as they fled. They then started a perilous journey along the border on the Burma side, walking through the jungle for at least seven days until they reached Htaw Ma Mah, where they stayed for two weeks on the Burma side of the border. They then moved to Ke Ma Kee, again inside Burma. From this point, they were allowed to cross into Thailand to Huay Sut refugee camp. His brother and aunt, from whom he was separated at Pu Nam Rawn, were in Pu Muang, a different refugee camp in Thailand. At the time of the interview, three months later, they had still not been reunited.

In addition there have been other instances of refoulement which have certainly included children. Of concern in September 1997 was the rejection at the frontier of civilians who have sought to leave Thailand since the beginning of June 1997. The border has been closed to new refugees since this time with the result that thousands of people massed at certain points along the border. One group of over

2,000 at Htee Wah Doh opposite Sangkhlaburi in Thailand, contained a large number of children suffering from various illnesses, such as malaria and diarrhoea.

These instances of refoulement are contrary to Thailand's assertion that the "the present government does not, in practice, favor forced return of asylum seekers and displaced persons fleeing armed conflicts."

It is important to note that Thailand does not permit the office of the United Nations High Commissioner for Refugees, which considers those in the camps along the Thai/Burmese border to be prima facie refugees, to carry out its mandate in relation to the majority of those who have fled into Thailand from Burma. UNHCR is not allowed to have a presence anywhere along the Thai/Burmese border nor does it administer the refugee camps. Personnel from UNHCR Bangkok are allowed to visit the border subject to obtaining advance permission from the Thai authorities. Thus although UNHCR has been given access, as stated in Thailand's report, to some of the refugees, it is not permitted to carry out its protection mandate in relation to refugees from Burma.

It should also be noted that with respect to new camps established in 1997 in Ratchaburi and Kanchanaburi Provinces, which as of September 1997 included the Tham Hin and Don Yang camps, Thailand had not permitted the establishment of primary or secondary schools. In addition the spacing standards of structures in these camps were below the minimum standards laid out by the World Health Organization, with shelters placed very close together and latrines a long way from the shelters and too few in number.

Given that Article 2 provides that State Parties shall respect and ensure the rights set forth in the Convention "to each child within their jurisdiction without discrimination of any kind", it is submitted that at a minimum, Thailand's treatment of refugee children from Burma has violated the following provisions:

1. Article 9 "State parties shall ensure that a child shall not be separated from his or her parents against their will..." (In separating men from women, children and the infirm)
2. Article 19, "State Parties shall take all appropriate legislative administrative social and educational measure to protect the child from all forms of physical or mental violence, injury or abuse..." and Article 38 "State Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities." (In repatriating children back into active conflict zones)

October 1, 1997