

BURMA/THAILAND

THE MON: PERSECUTED IN BURMA, FORCED BACK FROM THAILAND

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I. Summary

The coming year will be critical to the international community's efforts to bring about respect for human rights in Burma. As the U.N. General Assembly considers the 1994 resolution on Burma, and western governments embark on a new approach of "critical dialogue" to bring about human rights improvements by offering carrots as well as sticks, important decisions are being made as to how far international pressure will continue to be applied, or how far policy towards Burma may slip into "commercial diplomacy" or constructive engagement through trade.¹ Through 1994 commercial diplomacy has weakened the resolve of many governments on human rights issues. In addition, as Burma's neighbors continue their policy of increasing economic engagement with the State Law and Order Restoration Council (SLORC), the coming year will also be critical for the 76,000 refugees from Burma living in camps in Thailand, and the estimated 300,000 Burmese who are working illegally there.

Pressure from the international community has resulted in some signs of movement by the SLORC, the ruling military government of Burma, towards adhering to successive U.N. resolutions and improving its international image.² But the fundamental issue of widespread human rights abuses has not changed. This report documents the continued systematic violation of internationally recognized human rights committed by the Burmese army in 1993-1994 against one of Burma's main ethnic minorities, the Mon.³ It also catalogues the treatment of the Mon by Thai authorities, which falls far short of international standards relating to the status of refugees and fundamental human rights principles.

Throughout 1994, thousands of Mon continued to stream into Thailand, where a small proportion were able to take refuge in camps in Thailand established in 1990, but most became illegal workers. In Thailand, however, they found a government whose foreign policy, like so many others in the region, was driven by "commercial diplomacy." Thailand was as determined to send the Mon back as it was to strengthen economic relations with the SLORC.

The Mon, like the Karen and Karenni ethnic groups living along the border, have been fighting an armed insurgency against the central government in Burma for decades. The fighting intensified after the SLORC took power following the suppression of a pro-democracy movement in 1988. In 1992, however, the Burmese army, or Tatmadaw, declared a unilateral cease-fire in the southeastern command area where the Mon live and operate and began to push for cease-fire negotiations. One consequence was that the level of fighting died down, and in response the Thai government began claiming it was safe for the refugees to return.

But there has been no "peace dividend" for the villagers. Abuses by the Tatmadaw continued, as Human Rights Watch/Asia found during a mission to the Thai-Burmese border in May 1994. A vast program of military expansion that led to an increase in troop strength from 180,000 in 1988 to an estimated 340,000 by late 1993 meant that the army was able to move into virtually every small town and village in formerly rebel-held areas. In other areas entire villages were forcibly relocated into areas within the army's control. The Tatmadaw required barracks, and villagers were forced to build them. They embarked on a series of major infrastructural projects that involved more forced labor and taxation without due process on a scale that was prohibitive. Villagers who would not or could not pay could be arrested, forcibly conscripted to work as porters for the military, beaten, tortured, or sometimes shot. Many villagers, particularly young males, still faced the possibility of arrest and interrogation or even execution on suspicion of supporting the insurgents.

¹ At the end of the 1994, mid-level representatives from several governments visited Rangoon to present their policy in face-to-face discussions with SLORC Secretary -1, Lt. Gen. Khin Nyunt. German official Jurgen Strak visited in mid-October; U.S. official Thomas Hubbard went from October 30-November 2; U.K. official David Dain was there from November 7-10.

² These include military cease-fire agreements with some armed opposition groups, and two meetings between democratic opposition leader Aung San Suu Kyi and SLORC leaders. See Human Rights Watch/Asia, "Human Rights in the APEC region: 1994," Vol.6, No.13 (New York: Human Rights Watch, November 1994) p.7.

³ The report is based on interviews with refugees and relief workers in Kanchanburi District, Thailand, and in Bangkok in May 1994, conducted by Aung Myo Min. This has been supplemented and updated by press reports and additional information from the field.

On the Thai side, the Thai military razed two refugee camps in 1992 and in September 1993 moved 6,000 Mon to a camp on the Burmese side of the border, part of which was just one hour's walk from a Burmese military base. Refugees and migrant workers have been arrested and imprisoned in Thai immigration detention centers where they face additional abuse from police.

The Mon are not the only Burmese minority to be caught between the two governments, but their situation may be one of the most urgent because of two major development projects taking place in their territory, a natural gas pipeline and a 160-kilometer railroad. Both projects have led to an increased military presence in the region, and the latter, which began in late 1993, relies heavily on forced labor. The gas pipeline, a project that involved the state petroleum companies of both Thailand and Burma, as well as the U.S. company Unocal and Total from France, was planned to cross through the Mon State, passing through an area occupied by Mon rebel forces. The pipeline would emerge in Thailand in an area along the border close to where Mon refugee camps were located. Both Burmese and Thai actions against the refugees were almost certainly linked to economic and security concerns about the project.

Recommendations

Human Rights Watch/Asia calls on the SLORC to cease immediately the practices of arbitrary arrest and execution, forced relocations and forced labor and to allow access to ethnic minority areas by independent international monitors. In its October 28 response to questions from the U.N. special rapporteur to Burma, Prof. Yozo Yokota, the SLORC insisted that Burmese law prohibits the kinds of abuses of which it has been accused.⁴ Having laws does not guarantee that they are adhered to; moreover, the SLORC were unable to provide any examples where violations of the law by individual members of the armed forces had been punished. In the case of forced labor, the SLORC insisted that these practices took place in accordance with "Myanmar traditions," despite the fact that Burma agreed to the abolition of any form of forced labor (let alone the abuses which take place in the context of forced labor) when it ratified the International Labor Office Convention in 1930.

Human Rights Watch/Asia also calls on the Thai government to end the *refoulement* of refugees and migrant workers. While it is acknowledged that the numbers of migrants entering the country from Burma are a serious concern for Thailand, minimum international standards of treatment must be applied. Thailand should establish procedures for determining refugee status. Detention and deportation without an opportunity to seek asylum violate a minimal due process which all immigrants, including illegal immigrants, are entitled to. Once such procedures are established, Thailand could seek the help of the international community to resettle those at risk.

We call upon the international community to pass a firm resolution at the General Assembly later this month. Individual governments must continue to press for adherence to previous U.N. resolutions and the recommendations of the U.N. special rapporteur whenever opportunities for dialogue with SLORC representatives arise. Foreign companies operating in Burma, especially the oil companies Unocal and Total are urged to prevent any inadvertent use of forced labor on their projects, or on roads or railroads built to access their project sites. They are further called on to use their influence with the government to raise the concerns described in this report.

II. Human Rights Violations of the Mon by the Burmese Government

⁴ Prof. Yokota, "Addendum to the interim report on the situation of human rights in Myanmar," A/49/594/Add.1, (New York: United Nations General Assembly, October 28, 1994 [released on November 21, 1994]).

The Mon are one of the major ethnic groups of Burma, descending from the ancient Mon-Khmer civilization. There are some two million⁵ Mon in Burma, most of whom live in towns and villages along the southeastern coast, an economically and strategically important strip of land parallel to Thailand's Kanchanaburi District. In 1948, Mon people began an armed rebellion for self-determination, following the omission of a separate Mon State in the newly independent Burma. The rebel Mon are currently represented by the New Mon State Party (NMSP)⁶, though since 1988 they have lost control of much of their territory.

Arrests and Extrajudicial Executions of Suspected Rebels

The arrest and extrajudicial execution of villagers accused by the Tatmadaw of being sympathizers of the ethnic rebels has been well documented since 1988.⁷ These excesses of military power continued into 1994, in striking contrast to the SLORC's highly publicized peace making efforts to encourage "the remaining groups who still have not yet returned to the legal fold...to join hands in building a peaceful, democratic and modern union."⁸ One villager from Thanbyu Zayat township, Mon State, recounted one such case in an interview with Human Rights Watch/Asia in May 1994:

In December 1993, Aung Htein, a twenty-eight year-old farmer from my village, was caught in his fields near the village by soldiers from the 31st Light Infantry Brigade and brought back to the village. He was shot dead in front of all of us villagers for allegedly spying on the column...Farmers with fields outside the village had to report their schedule of working in the farm to the military. If he or she were found outside of their schedule, they were likely to be shot.

In his report of January 1994, the United Nations special rapporteur on torture noted the case of a Mon woman, Mi Taw, from Thanbyuzayat township who was raped in front of her husband when she went to visit him at the military base of Infantry Battalion No.31. Her husband was severely beaten, and his hand was broken.⁹

Abuses Associated With Taxation

Many Mon interviewed by Human Rights Watch/Asia said they were leaving Burma because of increasingly high taxes levied without due process. It turned out, however, that it was not only the level of taxation that was fuelling the exodus but the atrocities associated with failing to pay the required amount.

⁵ To estimate ethnic populations in Burma is very difficult, and the Mon have a large urban presence and a higher degree of intermarriage than other ethnic group, which makes accurate assessments impossible. The SLORC estimates that there are just over one million Mon; the NSMP on the other hand claims there are four million.

⁶ The NMSP was founded in 1958 and is a member of the ethnic alliance, the National Democratic Front.

⁷ Amnesty International, "Burma: Extrajudicial Execution and Torture of members of ethnic minorities," ASA 16/05/88, (London: Amnesty International, May 1988); Prof. Yokota, "Report on the situation of human rights in Myanmar," E/CN.4/1993/37 (Geneva: U.N. Commission on Human Rights, February 1993); Amnesty International, "Myanmar: The climate of fear continues," ASA 16/06/93 (London: Amnesty International, October 1993).

⁸ "Statement by Foreign Minister U Ohn Gyaw in the General Debate at the Forty-ninth Session of the United Nations General Assembly" (New York: Union of Myanmar Mission to the United Nations, October 11, 1994) p.12.

⁹ Nigel Rodley, "Report of the Special Rapporteur," E/CN.4/1994/31 (Geneva: U. N. Commission on Human Rights, January 6, 1994) p.85.

Even before the State Law and Order Restoration Council (SLORC) came to power in 1988, rice-cultivating farmers in the Mon State, like farmers elsewhere in Burma, were required to sell the government between four and ten Burmese-unit baskets (150-400 kilograms) per acre of cultivated land at the government fixed price of sixty Kyats (about US\$0.60¹⁰), compared to a market price of between around 300 Kyats (about US\$3.00). Then, as now, if a farmer's yield was insufficient to cover the government tax because of poor harvests or other reasons, he was forced to purchase rice at the market price and sell back to the government. Those who failed to pay this tax faced arrest by the military, as a Mon refugee from Mudon township, Mon State explained:

Last October [1993], twenty-two people from my village who could not sell the amount required were arrested by the Tatmadaw 62nd Light Infantry Division based in Mudon. An army unit of about twenty soldiers arrived in my village in the morning with a list of the people who could not sell the rice. The soldiers searched their houses and arrested them. All the people were put into an army truck and taken to Mudon. They were detained for fifteen to twenty days in the Mudon police station. Some of their families had to pay the rice tax by selling their cattle to bail them out. Daw Ein, a forty-seven-year-old woman who could not sell the rice to the government escaped arrest. While she was in hiding, the army came to her house and told her son to find her or he would be arrested instead of her.

Others interviewed complained of being taxed in lieu of working as a porter for the military or performing other forms of forced labor. These demands lacked due process, and both the amounts called for and the possibility of paying rather than having to perform forced labor differed radically among those interviewed. Frequently, villagers who had already paid some "porter fees" were still expected to undertake the work. Or, having paid one set of "taxes", were required to make further payments, as one villager from Thanbyu Zayat township reported. She described the different fees demanded:

In my village, all the household members have to pay a lot of fees to the Tatmadaw. Among them, porter fees are the most common. We have to pay 200 Kyats [the daily wage of a laborer is forty Kyats] a month for porter fees to the village headman, who gives it to the military. If you cannot afford to pay, you have to work as a porter for the Tatmadaw...They have to work at the military base at [X] village, or go along with the military column for one week or more. If you can pay a release fee of about 4,000 or 5,000 Kyats you are released immediately. We also have to pay "courier fees" of more than ten Kyats a month, and forced labor fees are twentyfive or fifty Kyats every day that you do not work at a military base or where they order you to work...As soon as one job finishes, they call us for another job the next day. The headman cannot plan in advance, so we have to gather every day and decide who has to go.

Forced Relocations

Residents and sometimes entire villages in the Mon State have been subjected to forced relocation, often accompanied by torture and other forms of cruel and inhuman treatment by the military.

¹⁰The official rate of exchange is 6K=\$1, however, the unofficial rate is as much as 120K=\$1. In this report the exchange rate used is that of the government's Foreign Exchange Certificates 100K=\$1.

Since 1988, Human Rights Watch/Asia and other international human rights organizations have monitored forced relocations across the country.¹¹ In 1988 and 1989, tens of thousands of poor slum dwellers in Rangoon were forcibly moved to "new towns." While the SLORC claimed that they were undertaken for the benefit of the people, diplomats said that it was a form of population control intended to clear out areas of the city which had been the center of pro-democracy demonstrations. The new towns were bare patches of land, with little or no sanitation, water and other amenities, and having only one access route, often across a bridge. The new residents had to construct their own houses.

With foreign diplomats, U.N. agencies and others able to witness these relocations, they received international attention and condemnation. However, across the country such relocations have also occurred in rural areas, particularly those inhabited by ethnic minorities, where access is severely restricted. In 1994, a journalist who was allowed unprecedented access to rural areas in the Kachin and Shan States estimated that the total number of internally displaced people in Burma could be as high as one million.¹²

In ethnic minority areas forced relocations were undertaken both as part of military strategies to deprive the ethnic rebels of their support, and to provide the military with free labor for their "development" projects. The relocations have often been accompanied by other forms of human rights abuses. Written orders addressed to village headman have been sent by the local Tatmadaw officers, giving a date by which the village must move to designated new sites. Usually the new sites are close to military camps. The orders contain threats against people who do not move within the timetable, saying that they will be considered rebels, and that the area will be a "free-fire zone." While access by international organizations has been almost impossible, cases have been documented by the U.N. special rapporteur to Burma and international human rights organizations from interviews with refugees in Thailand. The following is a list of some instances;

- On March 6, 1992, fifty-seven villages with a total population of 8,000 were relocated to Pruso, a small town with inadequate water supplies in northwest Karenni State, after being accused of supporting Karen and Karenni rebels.¹³ Press reports also said that those relocated were being forced to provide labor for the Loikaw-Aungban railroad and that by October at least ninety people had died at the work sites.¹⁴
- In April 1992, villagers from Azin and Butho in the Karen State were "extrajudicially executed for failing to vacate their villages" during the military offensive against the Karen headquarters at Manerplaw. The "whole area was declared a 'free-fire zone' and the civilian population forced to move."¹⁵
- In his 1994 interim report to the U.N. General Assembly Professor Yokota quoted non-governmental sources as saying that there had been forced relocations in connection with development projects in the Mergui/Tavoy area. He noted especially relocations from around the Shwetapi, Baw Law Gyi, and B'saw Law areas.¹⁶

During the fact-finding mission in May, Human Rights Watch/Asia was able to interview a nineteen-year-old Mon girl from Thanbyu Zayat township, Mon State who recounted her experiences of when she returned to her home

¹¹ See, for example, Asia Watch, "Human Rights in Burma in 1991" Vol.4 No.3, (New York: Human Rights Watch), January, 1992 and Amnesty International "Myanmar: 'No Law At All' Human Rights Violations under Military Rule," ASA 16/11/92, (London: Amnesty International), November 1992.

¹² Martin Smith, "Humanitarian and development aid to Burma?" *Burma Debate* Vol.1 No.1, (New York: The Burma Project, Soros Foundation/Open Society Institute), July/August 1994.

¹³ Amnesty International, "No Law At All," p.24.

¹⁴ David Brunnstrom, "Slaves of new Burma railway said dying one a day", *Reuter*, October 13, 1994.

¹⁵ Amnesty International, "No Law At All," p.25.

¹⁶ Prof. Yozo Yokota, "Interim report on the situation of human rights in Myanmar," p.12.

village in December 1993 for the birth of her first child. Unknown to her, the village had received an order to move to a nearby army camp a month before her arrival. At the time of the incident she was eight months pregnant:

On December 13, 1993, a group of soldiers from the 31st Light Infantry Battalion based in Kayoke Pi village arrived our village in the afternoon. Without any warning, they started to burn down the houses in our village. We did not expect them to do that. We had no time to collect our belongings. Since I was pregnant at the time, I could not take anything with me. The whole village was set alight, including the primary school and Buddhist monastery. I ran into the rice fields with other people. No one dared to come out because we feared being arrested or tortured by the military. The captain shouted, "This is the punishment for those who did not listen to our order!" and laughed.

The soldiers returned in the evening. All the houses had been burnt to ashes. We had to sleep in the field for one week without shelter and enough food... Then, about ten soldiers from the same unit came back and told us to move near their base. Anyone found in the area would be shot dead without any questions, these areas were designated as free-fire zones and they would not allow any people to live there. After that some people moved to other villages far away, or to the Thai border. We did not want to move to their base because we had heard that there was a lot of forced labor and maltreatment there. I decided to go back to my husband's village, but I heard that his village had also been burnt down. So I finally decided to go to the Thai-Burma border. I am afraid to go back.

Forced Labor

Since 1988, forced labor in development and other projects, called "voluntary labor" by the SLORC, has been systematically used across Burma on a huge scale. Articles in the military-controlled daily newspaper, *The New Light of Myanmar* (called *The Working People's Daily* until June 1993) list all development projects across the country and the numbers of "volunteers" who contributed their labor. The numbers of people involved are staggering. A few examples:

- "The 18.14-mile railroad from Nahtogyi-Myangyan was built...with the voluntary labor of 364,224 people." (December 9, 1992)
- [In the building of the Loikaw-Aungban railroad] over 300,000 people had contributed voluntary labor by December 8, 1992." (May 8, 1993)
- "Volunteers from the Tatmadaw, the public and Myanmar Railways totalled 921,753 in the building of the Pakokku-Monywa section of the Chaung Oo-Pakokku railroad." (December 13, 1993)
- "350,000 volunteers contributed labor to extend the [Bassein airport]." (January 31, 1994)
- "Over 85,000 volunteers [built] the new 30-mile Yenangyaung-Natmauk road." (February 3, 1994)

Lt. Gen. Khin Nyunt, secretary-1 of the SLORC, in a speech to members of Burma's foreign service in April 1994, claimed that "voluntary labor" is done willingly by the Burmese people as a "noble act of charity" and that the Burmese attitude was different from that in the West, where "labor without wage is looked upon as an act involving loss of human rights." The "willingness" of the Burmese to submit to such labor, however, is belied by the testimony of refugees.¹⁷ Not only are the workers forced to put in long hours for no pay, but many either experience or witness physical punishment from the soldiers overseeing the projects.

¹⁷ "Junta leader defends forced labor," *United Press International*, April 28, 1994.

One of the most notorious forced labor projects is the 160-kilometer railroad between Ye in Mon State and Tavoy in Tenasserim Division. Interviews conducted by Human Rights Watch/Asia with people who had worked on the railroad suggested that it is being constructed almost solely by means of forced labor. Most of those working on this project are ethnic Mon, Karen and Tavoyan, with some Burmese. Because access to the area is very restricted, the total number of people working on this project is hard to estimate, but in late 1993 some 10,000 civilians were thought to have been conscripted to build one section alone.¹⁸

Of the twenty people interviewed by Human Rights Watch/Asia, most came from villages close to the railroad, but some were from villages as far as seven miles from the working site. In each case they explained that Tatmadaw soldiers had come to the village and ordered the village headman to provide them with household lists.¹⁹ Using this information, the officers determined how many people they could demand. Usually, each household was required to contribute one laborer, but in more than one instance a married couple had to go, leaving their children behind. In another case, an eighty-six-year-old man was forced to work at the site because he had no relatives. The only way to avoid doing the labor was to pay between 1,500 and 2,000 Kyats (about US\$150 to \$200).

The villagers described being forced to leave their homes and take food, blankets, cooking pots and other provisions necessary for their stay in one of five "work camps" (Chaung Dong, Kalaw Gyi, Pauk Pin Gwa, Nat Kyi Zin and Min Tha, all named after the nearest villages) close to the railroad site. One woman, whose husband was forced to work at a site twelve miles from where she was sent, said, "We were ordered at gunpoint and received no food or pay. Everywhere we were ordered to dig holes, and dig them very nicely." While most worked every day from 8 A.M. to 6 P.M. for two weeks, one man had been there for two months (see below).

The work included cutting down trees, breaking rocks, digging ditches, building embankments twelve feet wide and up to eight feet high, and clearing foliage one hundred to 150 feet from either side of the railroad track. Farms and fields along the railroad route were confiscated, without any compensation to the farmers.²⁰ Two of those interviewed also reported having to build an army barracks and a helicopter landing area for a new military base near the work site.

Physical abuse and fines for people who could not execute their allotted tasks fast or proficiently enough for the Tatmadaw were reported to be common. One of the interviewees, twenty-eight-year-old man from Pauk Pin Kwin village, Ye Byu township, Tavoy said he had worked at the railroad conscription camp for two months and five days because he was the only male in his family. He described life at the work site to Human Rights Watch/Asia:

At the beginning of the railroad project, each quarter from our village [about thirty households] had to send five workers to the work site. But later, the local military ordered the people to assign one person from each family to always be at the work site until the task is finally completed. We do not know what the target date for completion of the railroad is.

It was very difficult for families like mine which have only one man. When I was at the work site, the rest of my family found it difficult to work the farm and grow food. When a man returns, women are expected to replace him at the work site...I saw some elderly people working there, and some children aged about twelve years. I also saw some pregnant women working there.

Three people were killed near me when the earth collapsed as we were cutting through a hill for the railroad construction on March 3, 1994. They were all from Nat Karen village in Mon State. One girl from Moe Gyi village who was four and a half months pregnant died from malnutrition and diarrhea in

¹⁸ "Press ganged villagers flee to the border," *The Nation*, (Bangkok: Nation Publishing Group Co. Ltd.), February 19, 1994.

¹⁹ Village headmen and local council officials in Burma are required by law to maintain up-to-date lists of households in their areas.

²⁰ Land ownership is a murky area of Burmese law. As in many socialist states, Burma's land is owned by the government and leased to farmers and others for periods of up to three years at a time, but there are no clear provisions on the rights of farmers evicted from their land by the government.

mid-March 1994. She did not get any medical help. People were beaten by soldiers for trying to escape or for people not working hard enough. Some people attempted to flee from the work site, but were caught. They were beaten and tortured in front of everyone.

As well as the railroad project, villagers reported that they and their neighbors were forced to work on a multitude of different projects during 1993 and 1994. One twenty-eight-year-old Mon from Mudon township, Mon State said:

The army ordered us villagers to do a lot of different work without pay. They ordered us to provide food for them and bring it to them our own bullock-carts. If you do not own a cart, you have to carry the food on your back to the military base before the deadline. Sometimes we are summoned to work at their bases for days or weeks. When we arrived there, they ordered us to cut bamboo, cut down trees, dig trenches and build their barracks. They also ordered us to build fences for their camps, which took over one month. We were not allowed to go back home until the work was done. When we had to do long periods of work, the military told us to bring our own food. They did not provide any food for us. They also ordered women and children to guard the road near the village from attacks by rebels. They had to take note of everyone who used the road and report back to military. They had to go and guard the road for three days and nights each time.

The SLORC insists that these projects are undertaken by "volunteers" under a traditional system of *corvée* labor (a form of unpaid labor owed by peasants and serfs to feudal rulers). In the government's response to the 1993 U.N. Commission on Human Rights special rapporteur's report on Burma, the regime contended that:

voluntary contributions of labor to build shrines and religious temples, roads, bridges and clearing of obstructions on pathways is a tradition which goes back thousands of years...In the villages and in the border areas, Tatmadaw men and the local people in the region have been contributing their voluntary labor for the past four years or so. There is no coercion involved...those who accuse the Myanmar authorities of using forced labor potentially reveal their ignorance of the Myanmar tradition and culture.²¹

More recently, however, members of the SLORC, including Lt. Gen. Khin Nyunt and local military commanders, have also claimed that the workers are paid, but that sometimes local corruption subverts the system.²² During the inspection of the railroad in March 1994, Gen. Maung Aye, the deputy commander-in-chief of the Tatmadaw, "expressed his satisfaction at seeing local people willingly and competitively participate in the project in order to bring about development in their respective areas. He said the state is providing vast sums of money, both in local and foreign currencies for the people to participate actively and cooperate in the project."²³ Of the people interviewed by Human Rights Watch/Asia, not one had ever received any payment from the Burmese authorities.

III. Abuses of the Mon by the Thai Government

Among the refugee populations, the Mon have suffered more than any other group from harassment by Thai military authorities. Thousands of Mon fled to Thailand following the fall of Three Pagodas Pass, center of the main

²¹ Union of Myanmar, "Rebuttals of the Allegations made in the Report on the Situation of Human Rights in Myanmar by Professor Yozo Yokota," (New York: Union of Myanmar Mission to the United Nations, February 26, 1993).

²² In its response to questions from the U.N. special rapporteur to Burma, Prof. Yokota, the SLORC said that laborers are paid the daily wage of twenty Kyats (two cents) and received twenty-eight ounces of rice, some other food stuffs and medical cover from the Tatmadaw who "looked after" the civilians. Prof. Yozo Yokota, "Addendum to the Interim Report on the Situation of Human Rights in Myanmar," p. 7.

²³ *Radio Burma*, quoted in the BBC *Summary of World Broadcasts*, (London: British Broadcasting Corporation), March 10, 1994.

trade route between Thailand and Burma, to the Burmese army in 1990, and thousands more have arrived in subsequent years to escape the abuses described above. Some have settled in refugee camps, but their safety is not guaranteed. Since 1991, the Mon refugee camps have been forced to move four times by Thai authorities, each time nearer the Burma border. In early 1994, over 6,000 Mon were forced to move to Halockani camp inside Burma. After an attack by the Tatmadaw on this new camp in July, the Mon fled back to Thailand but were refused asylum there.

When the first 12,000 Mon fled the fighting at Three Pagodas Pass, they were housed in five camps in Thailand's Sangkhlaburi District under an agreement negotiated by the Burma Border Consortium (BBC)²⁴ and the Mon National Relief Committee (MNRC)²⁵ on one side, and Thai authorities (the district governor, the commander of the Ninth Infantry Division and the Ministry of the Interior) on the other. In March 1991, Day Bung camp, the largest of these camps with 2,462 refugees, was ordered to move by the Ninth Infantry Division. Despite repeated calls by the MNRC and BBC for a reprieve until after the rainy season, the refugees had to move to Hla Brad and set up the new camp during heavy rains. Refugee organizations claimed that the army's action was taken in retaliation for an attack by Mon rebels in February 1991 on a Thai logging company's truck bringing out logs from inside the Mon State. The Ninth Infantry Division cut off all supplies of food and medicine to the camps and arrested three Mon leaders until they agreed to pay a fine of Bt 800,000 (about US\$32,000) in logging concessions.²⁶

In early 1992, three more camps, Baleh Hnook, Krone Krung and Panang Htaw, with a combined population of 5,066 people, were also ordered to close, and all residents were forced to move to Hla Brad. Hla Brad camp, renamed Loh Loe, became the largest refugee camp on the Thai/Burmese border, with over 8,000 residents. At that time there were two other Mon refugee camps in Sanghklaburi area, Pa Yaw (population 1,194), Pa Mark (population 501) and one further south in Kiri Khan District, Pra Chaub (population 1,015). Throughout the year new refugees continued to arrive in the camps, notably 300 people who had fled attacks on key commercial centers in Yebyu and Kya In Set Kyi townships in May.

By the beginning of 1993, there was pressure from Thailand for the refugees to move again, this time to Halockani on a disputed part of the border. While the MNRC and BBC insisted that the camp was inside Burma and therefore dangerous for the refugees, Thai authorities persuaded the U.N. High Commissioner for Refugees (UNHCR) that the camp would straddle the border and that NGOs would be permitted access to all parts of the camp. The MNRC negotiated an agreement with the Thai National Security Council that no one would be moved during the rainy season or until a road could be built to the proposed new location.

²⁴ The BBC is a member of the Committee for the Coordination of Services to Displaced Persons in Thailand (CCSPDT) a coalition of nongovernmental organizations (NGO) formed in 1984 primarily to deliver aid to refugees from Burma's Karen State.

²⁵ The MNRC is a committee of Mon, initially allied to the NMSP but increasingly attempting to distance itself from them, which administers all aid from the BBC and other NGOs.

²⁶ See "Refugees and the Environment," *Refugee Participation Network* 12, (Oxford: Refugee Studies Programme), March 1992.

In the middle of these negotiations however, in April 1993, members of the Ninth Infantry Division who had been on "maneuvers" near the Mon refugee camps for over a month, entered two small adjacent camps, Aung Tha Pye, containing some 500 Burmans and students who fled after the 1988 uprising, and the predominantly Tavoyan Democracy Village. The soldiers gave the residents three minutes to collect what belongings they could carry and leave the area. They then set fire to all the houses with flame throwers. The 545 residents from the camps were forced to move to the hilltops on the border with Burma.²⁷ The incident occurred at the start of the festivities for the Thai and Burmese New Year when all public offices were closed for five days. The BBC and the UNHCR protested to the Thai Interior Ministry, but there was little international condemnation of the Thai action.

In early September 1993, the MNRC was given until January 6, 1994 to move all the refugees to Halockhani, parts of which were only one hour's walk from the nearest Tatmadaw camp at Three Pagodas Pass. With no international protection, the MNRC were forced to agree to Thai demands and the 8,000 residents of Loh Loe were given three choices: Halockhani, Pa Yaw and Bee Ree camps. The latter two camps were established the year before and had poor fresh water supplies, making it impossible for many refugees to relocate there. By April 1994, all remaining refugees in Loh Loe had been moved under Thai military escort to the new site inside Burma. Halockhani camp had a population of 6,072.

The Attack on Halockhani Camp and the Thai Response

At 8:00 A.M. on July 21, over one hundred troops from the Tatmadaw 62nd Battalion marched into a section of Halockhani camp, known as Kwan Saya, which housed 500 refugees.²⁸ The soldiers arrested the camp leader and a teacher and rounded up all the men of the camp, forcing them to walk ahead as they set off on the three hour march to the main part of Halockhani. On the way, they were ambushed by a group of Mon and Karen rebels and forced to return to Kwan Saya. The Tatmadaw soldiers then looted and razed most of the houses in Kwan Saya before leaving, taking sixteen men with them, including the camp leader and teacher, who were hand-cuffed. Speaking at a press conference on August 27, the commander of the Ninth Infantry Division explained that the incident occurred because of an attack by Mon rebels on the Tatmadaw in which one soldier was killed. The sixteen men were taken away because "They also needed some porters."²⁹ Four of the sixteen men were later released, one of whom told journalists that he had "been beaten, burnt with cigarettes and nearly drowned before being released."³⁰ It is not known where the remaining twelve are.

As the fires started in Kwan Saya, all the refugees from Halockhani fled back into Thailand. The Thai authorities allowed the refugees to take temporary shelter at a Border Patrol Police checkpoint. As it was the middle of the monsoon season, conditions in this "New Halockhani" were extremely poor, but the refugees were too terrified to return to Burma. The following day, however, officers of the Ninth Infantry Division ordered all refugees to return to the old Halockhani camp by August 10. After the deadline passed and the refugees had not returned, the Border Patrol Police blockaded the only road to the Mon refugee camp and allowed no visitors, preventing delivery of basic supplies such as rice and medicines. The army said this blockade would only be lifted when the 6,000 Mon refugees had returned to the old refugee camp inside Burma. International condemnation of the Thai action was swift, and the UNHCR representative in Thailand, who was refused permission to visit the area, made a press statement saying, "We are very worried about the safety of these refugees."³¹

²⁷ "Pushed to the Edge", *The Nation*, March 22, 1994.

²⁸ In their response to questions from the U.N. special rapporteur to Burma, published by the U.N. on November 2 (A/49/594/Addendum 1), the SLORC claimed that Kwan Saya was not part of Halockhani camp, but a base for Mon rebels and their families.

²⁹ Maj. Gen. Chalong Chotikakham, quoted in "Army denies Mon fleeing rights abuse," *The Nation*, August 27, 1994.

³⁰ "Troops order Mon refugees to return to camp," *The Nation*, August 9, 1994.

³¹ "UNHCR seeks halt to planned expulsion of Mon refugees," *The Nation*, August 10, 1994.

Despite these appeals, on August 23, Lt. Gen. Sanan Khachonklam, the officer-in-charge of border affairs for the Thai Supreme Commander's Joint Operations Center, declared it was Thai policy for all illegal immigrants to be sent back home, whether they came for economic or political reasons. He held a joint press conference at Three Pagodas Pass with Col. Tin Kyi, commander of the Tatmadaw battalion No.61, now stationed there, to announce that the refugees would be safe from attack if they returned to Halockhani. The press conference was televised on the military-run television channel 7 in Thailand.³²

During this period, all access to the New Halockhani camp by the UNHCR and the MNRC was delayed for so long that it was impossible for them to conduct an assessment of the situation. Two U.S. Congressional staffers were also denied access. Many of the refugees suffered diarrhea, respiratory diseases and malaria. Moreover, with no international presence in the camp, the refugees had no protection or complaints procedure for human rights abuses by Thai authorities.

On August 13, two drunken Thai Border Patrol police attempted to rape two Karen girls. A Mon man was shot in the chest as he tried to defend the girls. It was later reported that the two policemen had been arrested.³³ This was not an isolated incident. Human Rights Watch/Asia interviewed a young Mon girl at Halockhani camp in May who said she had been similarly threatened by drunken Thai policemen only two months earlier. She said that on May 11, 1994, two policemen went to her hut in Halockhani camp while her husband was away. One of them insisted on staying despite her protests, but she was able to escape.

At eight in the evening I went to camp committee's house and explained what had happened. The committee chairman said he was also afraid to talk to the policeman. He did not want any problem with the Thai police, so he asked me to stay in another house. My neighbors said the policeman was drinking whiskey all day and got really drunk. At night, he looked for me from house to house and pointed his gun at people threatening them to make them find me...The next day, at seven in the morning, I returned home with my friends thinking he had already left. But he was still sleeping in my bedroom when we got there. Two hours later his friend, the same policeman who came the other day with him, came and woke him up. Then they left. That incident really frightened me. I feel unsafe here.

While the refugees were camped out at New Halockhani, the Thai authorities continued to repatriate migrant workers through the camp (see below). Some 400 people were sent to the camp in the first week, and a further 500 people arrived in four army trucks on August 17. With their supplies being shared among so many new arrivals, and health problems mounting, all the refugees had returned to their former camp inside Burma by September 9. On that day, the supreme command of the Thai military issued a statement saying that the July 21 incident "had prompted the ethnic minority Mon who wanted to migrate to Thai territory to burn down their own houses and move to Thailand, reasoning that Thailand was a safer area. In repatriating the Mon, the Thai armed forces did not use force but sent them back after having given them humanitarian aid and also providing them with transportation for their return to their motherland."³⁴

³² "Army insists Mon refugees must return to Burma," *The Nation*, August 25, 1994.

³³ "Thai cops held for trying to rape refugees," *Bangkok Post*, August 25, 1994.

³⁴ "Thai military defends repatriation of Mons," *Agence France Press (AFP)*, September 9, 1994.

Significantly, the return of the refugees coincided with the signing of an agreement between the state petroleum companies of Burma and Thailand and Total (France) and Unocal (U.S.) to build a 240-mile natural gas pipeline to transport gas from offshore oil fields in Burma's Yadana area to Kanchanaburi district in Thailand. Under the terms of the agreement, the pipeline will cross through Mon territory and enter Thailand at Nat Ei Daung (see map). The Petroleum Authority of Thailand will pay US\$400 million a year for the delivery of 15.8 million cubic liters of natural gas a day. If gas is not delivered for any reason, including attacks on the line by Mon or Karen rebel forces, the producers (Total, Unocal and Myanmar Oil and Gas Enterprise) will have to pay compensation to Thailand.³⁵

The two refugee camps razed to the ground by Thai troops in April 1992 (Aung Tha Bwe and Democracy village) were close to the route of the pipeline, and the Mon refugee camp at Loh Loe was only a few miles from Nat Ei Daung. It is hard to escape the conclusion that both the burning of the camps in 1992 and the relocation from Loh Loe to Halockhani were connected to negotiations on the pipeline deal.³⁶ The relocation to Halockhani meant that the refugees, some of whom are suspected by the SLORC of having contacts with Mon rebels (as evidenced by the arrest of the sixteen men from Halockhani), were brought under the control of the nearby Tatmadaw base at Three Pagodas Pass. In this sense the relocation was not unlike the forced relocations that are taking place inside Burma (see above).

Furthermore, it is likely that this pipeline will be built by the local people in conditions of forced labor described in this report. This is a view shared by the UNHCR representative in Thailand, who in September said, "There seems to be a general pattern of making use of the local labor force without paying them...I know slave labor has been used for other purposes, and once the gas pipeline is to start, it is most likely that it will be done the same way."³⁷

The Treatment of Mon Migrant Workers by Thai Authorities

Estimates of the number of Burmese migrant workers in Thailand range from 200,000 to one million. The numbers increased dramatically during 1993 and 1994, as human rights abuses forced young men and women to leave Burma. Many of them are Mon, with over 15,000 Mon and Burmans working in the fishing industry Ranong in 1991.³⁸ There are also hundreds of young Mon girls and women trafficked into Thailand to work in the sex industry.³⁹ Several thousand Mon also work in the Khmer Rouge-controlled ruby mines in Cambodia; from Burma they have to cross through Thailand to get there. Thai authorities have, since 1993, begun to deport increasing numbers of these immigrants. Human Rights Watch/Asia does not in principle oppose the deportation of illegal immigrants, a normal practice in the law of many countries. In the case of the treatment of Mon and other ethnic minority Burmese in Thailand. However, for as long as there are no screening procedures, which would allow prevent genuine refugees from being returned, Thailand is in violation of the international norm prohibiting refoulement.

Moreover, while in Thailand these migrant workers are not afforded the minimum standards of treatment described in international conventions. Mon workers interviewed by Human Rights Watch/Asia described the many kinds of abuses they suffer. A twenty-three-year-old Mon who had left Burma in 1988 having been involved in the pro-democracy demonstrations, and who had been working in Thailand since 1992, recounted the role of the Thai police:

³⁵ Paul Sherer, "Pact is signed for \$1 billion Burma pipeline," *The Wall Street Journal*, September 12, 1994.

³⁶ See James Fahn, "Thai-Burma pipeline raises concern," *The Nation*, March 11, 1994.

³⁷ Paul Sherer, "Pact is signed..."

³⁸ Tunya Sukpanich, "Illegal alien workers swarming into Thailand to seek better future," *The Sunday Post*, August 15, 1993.

³⁹ See Asia Watch and Women's Rights Project, *A Modern form of Slavery: Trafficking of Burmese Women and Girls into Brothels in Thailand* (New York: Human Rights Watch), December 1993.

In December 1993, a Thai persuaded me to work at a place called Walat. He said that I could get a better job there, and that there were many Mon and Burmese working there already. Four friends and I decided to go. When we arrived there, the Thai guy took all the money we had. We stayed one night in his house and the next day he took us to the local police station. We were forced to stay in the police compound and do all their cleaning, cooking and other work without any pay. There was a saw-mill near to the station, and sometimes we also had to go and work there. It was very hard work, and we were never given enough food or clothes or enough rest.

In March we tried to escape...but were arrested nearby and sentenced to one month in another police cell. A friend who worked nearby heard of our arrest and came and paid Bt 3,000 [about US\$120] to get us all released...Today, when I came here with my friend a plain clothes policemen stopped us. He asked for Bt 2,000 [about US\$ 80] to avoid arrest. He let my friend go and get the money...I am so scared, but living here is less dangerous than in Burma.

In response to the increase in migrant workers, Thai authorities took a pragmatic approach, legalizing some workers and cracking down hard on others. In January the Ministry of the Interior allocated 54.6 million Baht (\$2.1 million) to increase police manpower, set up checkpoints, arrange mobile patrol units to prevent illegal crossings, and establish detention centers for Burmese arrested for illegal entry in six provinces, Ranong, Kanchanaburi, Songkhla, Chiang Mai, Nong Khai and Prachin Buri.⁴⁰ In stark contrast, in August the Labor and Social Welfare Minister announced, "The Interior Ministry has now issued an 11-point decree giving illegal Burmese immigrants opportunities to work lawfully in Thailand."⁴¹ It is likely that only those immigrants working in industries which are currently suffering from labor shortages will be given permits. This particularly applies to the fishing industry located in Ranong, where the deputy governor was quoted as saying, "About 100 per cent of our unskilled workforce are Burmese."⁴²

In much the same way that prostitutes have been jailed while their pimps go free, it was the migrant workers who were penalized, not their employers. Thai firms now had the flexibility to use foreign workers for as long as labor shortages in Thailand continue, and the authorities would then be able to repatriate them to Burma. Following their arrest, illegal immigrants had to pay a Bt 2,000 fine (about US\$80) before they would be released from jail to be deported from Thailand. While in detention, they faced appalling overcrowding, sexual harassment and inadequate food rations.⁴³

⁴⁰ "Rising Burmese influx causes alarm," *Bangkok Post*, January 9, 1994.

⁴¹ *The Nation*, January 19 and August 10, 1994. Under the terms of the decree, employers will have to pay Bt 5,000 in surety and Bt 1,000 for a work permit and must pay the statutory minimum wage. The new law appears to be a formalization of the system which already exists in Ranong and other areas where high numbers of Burmese or other illegal immigrants work. It has yet to be seen how effectively the law will be enforced.

⁴² See among others, "Dilemma over Burmese labor," *The Nation*, February 24, 1994; "Foreigners are not the answer to labor woes," *The Nation*, Editorial, March 1, 1994; "Leniency pleaded for illegal Burmese working in Ranong," *The Nation*, February 21, 1994.

⁴³ See Amnesty International, "Thailand: Burmese and other asylum seekers at risk," ASA 39/02/94, September 8, 1994.

Abuses also accompanied deportation procedures. Thai officials regularly deported between 250 and 500 migrant workers through Mon refugee camps, originally Loh Loe and then after Loh Loe was moved, through Halockhani. Having spent up to three months at the Immigration Detention Center in Bangkok, the "illegals"⁴⁴ were sent to Kanchanaburi police station, where they had to stay for between a week and a month, in over crowded and unsanitary conditions. From there they were taken by an army truck, with armed guards, to Halockhani camp. The refugee support organizations use their supplies to help the deportees, many of whom were reported to be extremely malnourished and weak after up to four months in Thai detention. Humanitarian NGOs working with the Mon reported that on one occasion, a deportee carried off the truck was dead.⁴⁵ Some of the deportees returned to Burma, but many preferred to deal with the Thai labor recruiters who haunt the border and pay vast sums to secure a return to Bangkok. One worker interviewed by Human Rights Watch/Asia in May 1994 explained:

When we got to Kanchanaburi there were about 900 illegal Burmese in the jail. The room was so crowded, we could not bear it. After six days I was sent back to Burma with 300 others. All of us were put into a cattle truck with no roof, covered with barbed wire. It took five hours to get to Halockhani camp. The truck did not stop on the way, and no food was given to us. We arrived at the border check point at 1pm and were forced to get down from the truck and sit in the hot sun for 45 minutes while the Thai Border Patrol Police checked the numbers of deportees. They then ordered us to go back to Burma, and said that if we returned we'd be arrested again. Twelve police escorted us until we got to the border check point...When they left I headed for Three Pagodas Pass...I got a broker to take me to Sankhlaburi for Bt100 [about US\$84] and from there I paid another broker Bt 800 [about US\$32] to get back to Bangkok.

Thai Policy Towards Mon and Other Burmese Refugees

Abuse of the Mon refugees and migrant workers is exacerbated by the fact that Thailand does not recognize anyone from Burma as a refugee.⁴⁶ The first large influx of refugees from Burma came in 1984 when some 9,000 ethnic Burmese Karen refugees fled fighting. At that time a vast international effort was providing support for some 500,000 Cambodian refugees on Thailand's western border, and the Thai government was reluctant to see a similar situation on its eastern border. Believing that without an international aid effort they would soon return to Burma, it gave those in the border camps de facto refugee status, allowing them to remain on Thai soil. Thus, while the UNHCR and the International Committee of the Red Cross did not get involved, NGOs who worked through the Committee for the Coordination of Services to Displaced Persons in Thailand were permitted to give food, medical and other support. The refugees were often migratory, returning to Burma as the fighting died down each rainy season. From 1988, however, as the nature of human rights abuses in Burma changed, and the size of the Burmese army increased, refugees became a permanent fixture on the Thai side. By July 1994 there were 76,447 ethnic minority Burmese in camps in Thailand, mostly Karen, Karenni and Mon, with a lesser number of Shan and Tavoyan.

While there is still no official recognition of Burmese as "refugees", the Thai government does make distinctions between categories of immigrants which it defines as:

- 1) those who crossed into Thailand before 1976 for political reasons (47,735);
- 2) those who arrived for economic reasons after 1976 (33,000);
- 3) those who have fled border fighting since 1984 (60,000);

⁴⁴ "Illegal workers" arrested in Bangkok often include students and others who have been recognized by the UNHCR as "Persons of Concern," a status which seemingly offers them no protection from Thai officials. See *Amnesty International*, "Thailand: Burmese and other asylum seekers at risk," September 8, 1994.

⁴⁵ This incident took place in May 1994. The NGO requested anonymity.

⁴⁶ Thailand only recognizes as "refugees" persons from Indo-China. There are also large populations of South Indians, Bangladeshis, Chinese and others who are not recognized.

- 4) 300,000 illegal workers; and
- 5) 2,500 "students" seeking political sanctuary.⁴⁷

Thai policy towards the third and fifth categories of immigrants has always been to allow them to stay on the understanding that they would be sent back to Burma "the right time." But it has never been clear what conditions on the Burma side will need to be in place for the time to be "right" for repatriation, or whether the Thai government will allow international agencies, especially the UNHCR, to help both in determining that time and in the implementation of any repatriations.

Thailand's decision to allow the refugees to stay on Thai soil has always been subject to the vagaries of political and economic circumstances, both within the Thai government and between that government and the SLORC. When refugees first appeared in large numbers in Thailand, relationships between Thai intelligence officers and ministries and the ethnic rebels, built up over the course of forty years of fighting the Rangoon government, was such that they were tolerated as people in need of support. These relationships included turning a blind eye to illegal cross-border trade, from which the rebels profited, and logging deals between the rebels and Thai companies.

⁴⁷ Rodney Tasker, "Last Refuge," *Far Eastern Economic Review*, December 16, 1993 quoting a report by the Thai Internal Security Operations Command, released that month. The report also dealt with the 70,000 Indochinese immigrants in Thailand, though made no comment on immigrants from South Asia and China.

After the SLORC took power in 1988, it began to open up the economy and offered Thai companies direct access to logging and fishing contracts, and the attitudes of some sectors of the Thai administration towards the rebels began to change.⁴⁸ Throughout 1993, the economic relationship between the SLORC and the Royal Thai Government continued to improve, and pressure by Thai authorities on the political wings of the ethnic minority rebel groups steadily increased: their economic base, taxes on the illegal trade between Thailand and Burma, was eroded as Thailand facilitated the capture of key routes by the Tatmadaw; their offices in Bangkok and other cities were closed; their ability to travel both within Thailand and to countries abroad was stopped.⁴⁹

The refugees were caught up in these developments. On January 8, 1994, Khachatphai Burutphat, Deputy Secretary General of the Thai National Security Council said, "Under the original plan these people [Burmese refugees] will be sent back to Burma once the situation has improved and there is no fighting...In order to promptly control these refugees, concerned authorities would form an apparatus in order to oversee these people. At the beginning, strict action will be taken against them."⁵⁰ Behind Khachatphai's statement was the prospect of cease-fire negotiations between the SLORC and the Karen, Karenni and Mon rebels. The SLORC has signed cease-fire agreements with twelve ethnic groups since 1989, most notably with the Kachin Independence Organization in February 1994. Since then, Thailand has pressed rebels based along its border to negotiate with SLORC.⁵¹ The Thai National Security Council, which appears to be directing Thailand's Burma policy, considers that an end to the civil war in Burma will favor Thai commercial and security interests and help stem the increasing flow of Burmese refugees into Thailand.

⁴⁸ See Asia Watch, "Abuses against Burmese Refugees in Thailand" Vol.4 No.7 (New York: Human Rights Watch), March, 1992.

⁴⁹ There were similar crack-downs on Burmese students in Bangkok, though these are not the subject of this report. See Amnesty International, "Thailand: Burmese and other asylum-seekers at risk" ASA 39/02/94 (London: Amnesty International), September 1994.

⁵⁰ *Radio Thailand Network*, quoted in BBC Summary of World Broadcasts, January 8, 1994.

⁵¹ U.S. Committee for Refugees, *1994 World Refugee Survey* (Washington: Immigration and Refugee Services of America), 1994.

It must be remembered, however, that while thirteen groups have signed cease-fires, a further six ethnic groups and the Burman students who took up arms after 1988 remain at war with the SLORC.⁵² On the Thai border, the largest of these groups is the Karen National Union. They have refused to enter into talks without international monitors in a neutral zone, while talks with the Mon have been stalled since July 1994, when it became clear that the SLORC would not allow for discussion of anything other than military issues.⁵³ One of the issues which the Mon wished to address was the access to repatriated refugees by international humanitarian NGOs.

In addition, abuses not related to military conflict continue to play a major part in pushing the refugees into Thailand. In such circumstances, it cannot be assumed that a cease-fire negotiation will ensure the safe return of refugees.

To facilitate the repatriation of Burmese, a Thai/Burmese Regional Border Committee was formed in 1993.⁵⁴ The committee was also to assist in other border problems: fishing rights, illegal logging (in Burma), tourism, narcotics and "prevention of disputes over unclear borderlines and promotion of good mutual understanding".⁵⁵ At an April 29, 1994 meeting, Thailand agreed to "arrest 'terrorists' traveling on false passports through Bangkok" and in return it agreed to "open a check point to take back" the 300,000 Burmese illegal immigrants in Thailand, "if it could be proven that they were Burmese citizens," according to Thai Defense Minister Vajit Sookmark.⁵⁶ At an August 7 meeting of the committee the Burmese "asked the Thais to provide an advance list of names of the returnees."⁵⁷ This was a particularly disturbing development since name lists given to the Burmese government in the absence of other safeguards could lead to increased persecution of the refugees and their families.

While it is believed that the "students"⁵⁸ would not be among those returned in this way, Human Rights Watch remains concerned about many individuals in the refugee camps who could be identified by the SLORC as dissidents or supporters of the armed opposition. These people would almost certainly be arrested in Burma. In effect, under the terms of these agreements, the Thai authorities would be in danger of repeating the gross abuses of the Tak repatriation in 1989 in which some 350 students were sent back to Burma under guarantees by Thailand and Burma that they would not face persecution if they returned. An unknown number were arrested when they returned to Burma, including at least eleven young men who received eighteen- and twenty-year prison sentences.⁵⁹

A new and disturbing addition to the Thai policy has been to prevent new arrivals from entering the country. In April, over 3,000 refugees from the Karen State were denied entry into Thailand, forcing the KRC to establish Klay Mu

⁵² These are: The Karen National Union (some 3,500 men under arms); the New Mon State Army (some 800-1,000 men); Khun Sa's Mong Tai Army (18,000 men) in the Shan State; the Rohingya Solidarity Organization and Arakan Rohingya Islamic Front (some 500 men between them) on the Bangladesh border; and the National Socialist Council of Nagaland on the Indian border (some 1,000 men); and the All Burma Students' Democratic Front on the Thai border and in the Kachin State (some 2,000 men).

⁵³ The SLORC has offered the Mon twelve small, disconnected "rings" of territory. It has refused to discuss issues such as Mon participation in the political process and cultural rights. It has also refused to discuss international NGO access to the Mon State, either from Rangoon or from Thailand, an issue of central importance to the repatriation of refugees.

⁵⁴ Delegates to the Regional Committee are mainly military. The head of the SLORC delegation is Southeastern Commander Colonel Khet Sein (whose area of command includes Mon State). The Thai delegation is headed by First Army Commander Lt-Gen, Chetha Thanajaro.

⁵⁵ Lt. Gen. Chetha Thanacharo, *Radio Thailand*, (BBC Summary of World Broadcasts), April 24, 1994.

⁵⁶ "Talks Planned on Repatriation," *Bangkok Post*, April 27, 1994.

⁵⁷ "Burma seeks official action on illegal logging," *The Sunday Post*, August 7, 1994.

⁵⁸ "Student" is used to describe all political dissidents who left Burma after 1988 and refers particularly to those who have been granted Person of Concern status by the UNHCR. See Asia Watch, "Abuses against Burmese refugees in Thailand," Vol.4, No.7.

⁵⁹ See Human Rights Watch Asia, *Growing Worse and Worse* US Committee for Refugees, (Washington: USCR, May 1990), 6. No. 14

Hta camp on the Burmese side of the Salween river. All the new arrivals at Klay Mu Hta had left their homes and farms for the same reasons described by Mon refugees above. In May 1994, an estimated 500 Shan refugees from Burma, fleeing fighting between the Tatmadaw and drug warlord Khun Sa, were forcibly sent back by Thai authorities in Mae Sai, Chiang Rai Province.

IV. Conclusions

This report has documented systematic violations of internationally recognized human rights committed by both the Burmese and Thai governments against the Mon. In Burma, arbitrary arrests, torture and in some cases extrajudicial executions of persons suspected of being rebel sympathizers continued in 1994, in contravention of the basic right to life, and Articles 5 and 7 of the Universal Declaration of Human Rights concerning torture and arbitrary arrest. The violations also contravene Common Article 3 of the Geneva Conventions which bans under any circumstance in a situation of armed conflict the use of torture or extrajudicial killing. The SLORC became a signatory, with no reservations, to the Geneva Conventions on August 22, 1992. At a signing ceremony in Rangoon, Foreign Minister U Ohn Gyaw said, "Myanmar has long observed these Conventions in practice...and was therefore happy to reaffirm its commitment to these values." ⁶⁰

The arrest of villagers in the Mon State who were unable to pay the high rates of taxation demanded by the army was in violation of Article 11 of the International Convention on Civil and Political Rights which states that, "No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation."

Whole villages were also forced to move to new sites near army bases, in violation of international customary law and the basic human rights standards of the United Nations. The SLORC claim that some of the relocations are undertaken for military reasons, but the practice clearly violates minimum standards for the treatment of civilian populations contained in the Geneva Conventions and accompanying Protocols. Article 17 of Protocol II (1977)⁶¹ states that, "The displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand." The International Committee of the Red Cross, in their Commentary on the Additional Protocols, clarified this statement to the effect that, "Clearly, imperative military reasons cannot be justified by political motives. For example, it would be prohibited to move a civilian population in order to exercise more effective control over a dissident ethnic group."⁶²

The practice of forced relocations for economic reasons, as practiced by the Burmese military, also contravenes international standards. The Universal Declaration of Human Rights Article 12, for example, states, "No one shall be subjected to arbitrary interference with his privacy, family, home..." and Article 17 (2) states, "No one shall be arbitrarily deprived of his property." More recently, the UN Commission on Human Rights resolution 1993/77, entitled "Forced Evictions" states, "The Commission on Human Rights...affirms that the practice of forced evictions constitutes a gross violation of human rights; ...urges governments to undertake immediate measures, at all levels, aimed at eliminating the practice of forced evictions...; recommends that all governments provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land...to persons or communities that have been forcibly evicted."⁶³

The practice of forced labor violates several International Labor Office Conventions which Burma ratified in 1930, including Convention No.29 "Concerning Forced Labor." Under the terms of this convention, Burma is obliged "to suppress the use of forced or compulsory labor in all its forms within the shortest possible period." Article 10 of the convention states, "Forced or compulsory labor exacted as a tax and forced or compulsory labor to which recourse is had

⁶⁰ "Myanmar signs 1949 Geneva Conventions," *Working People's Daily*, August 24, 1994.

⁶¹ While Burma has not yet ratified these to this protocol, it provides authoritative guidance on the conduct of warring parties.

⁶² ICRC, *Commentary on Additional Protocols of 1977* (Geneva: Martinus Nijhoff, 1987), p.1472.

⁶³ U.N. Commission on Human Rights, resolution E/1993/77, (Geneva: UNCHR, March 10, 1993).

for the execution of public works by chiefs who exercise administrative functions *shall be progressively abolished.*" (our emphasis). In the case of such work, until its abolition (and Burma has had over sixty years to abolish it) the administrators must ensure;

- (a) That the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work..
- (b) That the work or service is of present imminent necessity
- (c) That the work or service will not lay too heavy a burden upon the present population
- (d) That the work or service will not entail the removal of the workers from their place of habitual residence
- (e) That the execution of the work or the rendering of the service will be directed in accordance with the exigencies of religion, social life and agriculture.

In a speech to the U.N. Commission on Human Rights in January 1994, the International Confederation of Free Trade Unions said the conditions of forced labor in Burma were "in flagrant violation of ILO Conventions 29 and 105 concerning forced labor."⁶⁴

Those who escaped these abuses by fleeing to Thailand faced further persecution and human rights violations there. In violation of the common international standards set out in the U.N. Convention Relating to the Status of Refugees, to which Thailand is not a party, no persons entering Thailand illegally from Burma are permitted to apply for asylum. As a result there is no permanent international presence within the camps, leaving the residents, especially women, exposed to abuses by Thai Border Patrol Police and pressure to force them to return to Burma.

Other Mon who have been unable to apply for asylum and unable to live with the prevailing human rights abuses in Burma have sought work in Thailand. They are subject to human rights violations by Thai authorities. While Mon and other Burmese work openly on construction sites and in the fishing industry, often in appalling conditions and in situations of debt bondage, there have been no reported prosecutions of the employers. Moreover, police are known to be involved as either agents or protectors of such employers, either explicitly, as in the case reported above, or implicitly. At the same time, the workers face extortion from police, or arrest. These practices contravene the U.N. International Convention on the Protection of the Rights of Migrant Workers and Members of their Families,⁶⁵ which in Article 16 (2) states, "Migrant workers...shall be entitled to effective protection by the state against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions."

Following arrest, the workers are held in inhuman conditions in immigration detention centers and regular police cells for periods of one month or more. During detention, women are subject to sexual abuse by Thai officials.⁶⁶ These practices violate international standards concerning cruel, inhuman and degrading treatment during detention.

Finally, the practice of mass deportation through Halockhani camp was in violation both of standards of treatment of persons in detention and of Article 22 of the UN International Convention on the Rights of Migrant Workers and Members of their Families which states, "Migrant workers and members of their families shall not be subject to collective expulsion. Each case of expulsion shall be examined and decided individually."

⁶⁴ ICFTU, "Speech by the representative of the ICFTU", (Brussels: Conference of the ICFTU, January 31, 1994).

⁶⁵ This convention was adopted on December 18, 1990 under U.N. General Assembly resolution 45/158.

⁶⁶ See Human Rights Watch/Asia, *A Modern Form of Slavery* and Amnesty International, "Thailand: Burmese and other asylum seekers at risk."

In June 1994, following a UNHCR official fact-finding tour to the Thai/Burmese border, the Bangkok representative of UNHCR, Ruprecht von Arnim, said, "[T]his Office has determined that a durable solution for the Myanmar refugee in Thailand could only be envisaged as a result of agreements between the Myanmar authorities and the various groups concerned, which would ensure the voluntary repatriation of the refugee in conditions of safety and dignity to their country of origin....The Office recognized that the process could be lengthy and require both effort and patience on the part of all those concerned. UNHCR also informed of its willingness [sic] to both monitor and assist in any voluntary repatriation operation that could eventually take place, once all elements are in place to allow for such an operation."⁶⁷

The situation for Mon seeking asylum or work in Thailand may be more hopeful. Recently, the Secretary General of Thailand's National Security Council, speaking at the UNHCR headquarters in Geneva, said "The Thai government is exploring methods by which the status of each group of people entering Thailand illegally can be determined so that those who are truly in need of protection and assistance would receive the appropriate treatment".⁶⁸ Human Rights Watch/Asia welcomes the prospect of a process for screening and protecting asylum seekers. Without free access to both sides of the border by the UNHCR and NGOs, however, the safety of refugees in Thailand and deportees in Burma will remain an issue of concern.

V. Recommendations

To the State Law and Order Restoration Council

- Burma must apply without exception its obligations under common Article 3 of the Geneva Conventions, in which it is stated that in the case of armed conflict not of an international character, "persons taking no active part in the hostilities...shall in all circumstances be treated humanely." Article 3 explicitly prohibits violence to life and person, the taking of hostages, and outrages upon personal dignity, in particular humiliating and degrading treatment. The SLORC has a duty not only to protect civilians from violations of the Convention, but also to give them redress and to investigate, prosecute and punish government agents responsible for violations;
- In accordance with the International Labor Office conventions, the practice of forced labor should be stopped immediately, and those found engaging in the practice or deliberately tolerating it should be persecuted and punished;
- Burma should allow free and unrestricted access by international human rights monitors to ethnic areas including the Mon and Arakan States, to monitor compliance with Burma's commitments to end forced labor and other abuses;
- Agreements with the ethnic nationalities should include guarantees of their civil, political, economic, social and cultural rights.

To the Government of Thailand

- Thailand should accede to the 1951 Convention Relating to the Status of Refugees and its protocols;
- Procedures under which Burmese and ethnic minorities from Burma can seek asylum and have access to refugee status determination procedures should be established immediately in consultation with the UNHCR and non-governmental organizations;

⁶⁷ UNHCR, Bangkok, "Press Release," June 21, 1994.

⁶⁸ Gen. Charan Kullavanich, "Statement at 45th Session of the Executive Committee of the Programme of the UNHCR Regional Office for Asia," *UNHCR Regional Office for Asia*, 1994. See also "UNHCR lauds Thai move on status of illegals," *The Nation*, October 27, 1994, 6. No. 14

- Refugees must not be repatriated against their will. If and when conditions in Burma would allow them to return safely, Thailand should permit the UNHCR and non-governmental organizations unrestricted access to refugees to assist in the repatriation process;
- Anyone detained for breach of immigration laws must be treated in accordance with the U.N. Body of Principles for Anyone under in Detention of Under Any Form of Imprisonment and other international standards of imprisonment. No one should be held indefinitely for failure to pay fines for illegal immigration.

To the International Community

- The forthcoming U.N. General Assembly resolution on Burma should welcome the dialogue which has started with Aung San Suu Kyi and the access to Burma by the Secretary General's political department. However, it should also note that no substantial progress has been made toward the implementation of previous years' resolutions, and call on the SLORC to promote and protect human rights. It should also urge to Secretary General to use his good offices to continue dialogue with the SLORC for a negotiated settlement of the ethnic and civil strife in Burma. He should also be urged to oversee the implementation of this year's resolution, and coordinate international efforts in this regard;
- Several governments, including Australia, Germany, the U.K. and the U.S., have recently begun a new policy of "critical dialogue" and sent envoys to Burma to press for improvements in human rights and a return to democratic, civilian rule, holding out the possibility of improved relations if these recommendations are implemented. Specific actions by the SLORC to comply with the recommendations made by the U.N. special rapporteur on Burma and the U.N. Human Rights Commission should be fundamental to any dialogue. In order to monitor compliance with U.N. resolutions, greater access to Burma should be a priority requirement;
- Under no circumstances should the World Bank and Burma's key donors resume bilateral or multilateral economic assistance, suspended since 1988, until and unless basic human rights can be monitored and are restored, Aung San Suu Kyi and all other political prisoners are unconditionally released, and steps are taken toward implementing the results of 1990 elections;
- Prospective investors should be discouraged from doing business in Burma in light of the continuing pattern of gross human rights violations. Foreign companies approached by SLORC and urged to invest should point to the widespread use of forced labor and other abuses, and make it clear they cannot risk the perception that they might directly or indirectly benefit from or help to subsidize such violations by their investments in Burma.⁶⁹ Those companies already investing in Burma, especially Unocal, Total and Premier Oil who are involved in the gas pipeline, should take steps to prevent the inadvertent use of forced labor in connection with their projects and use their influence with the government to press for human rights improvements;
- Thailand has been host to over 70,000 refugees from Burma since 1988. The international community should relieve Thailand of some of this burden by offering third country resettlement where appropriate.

Human Rights Watch/Asia (formerly Asia Watch)

Human Rights Watch is a nongovernmental organization established in 1978 to monitor and promote the observance of internationally recognized human rights in Africa, the Americas, Asia, the Middle East and among the signatories of the Helsinki accords. Kenneth Roth is the executive director; Cynthia Brown is the program director; Holly J. Burkhalter is the advocacy director; Gara LaMarche is the associate director; Juan E. Mendez is general counsel; and Susan Osnos is the communications director. Robert L. Bernstein is the chair of the executive committee and Adrian W. DeWind is vice chair. Its Asia division was established in 1985 to monitor and promote the observance of internationally recognized human rights in Asia. Sidney Jones is the executive director; Mike Jendrzeyczyk is the Washington director;

⁶⁹ Liz Claiborne Inc., recently announced that they would no longer be using factories in Burma, saying, "we cannot support the rights of this country's government."

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