Sustainable Solutions to the Displaced Person Situation on the Thai-Myanmar Border

Asian Research Center for Migration
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ANALYSIS OF ROYAL THAI GOVERNMENT POLICY TOWARDS DISPLACED PERSONS FROM MYANMAR

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ACKNOWLEDGEMENTS

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The opinions expressed within this report are those of the research team alone and do not necessarily reflect the views of the Asian Research Centre for Migration or the United Nations Development Programme.

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Graham Bennett
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July 2011
EXECUTIVE SUMMARY

ANALYSIS OF ROYAL THAI GOVERNMENT POLICY TOWARDS DISPLACED PERSONS FROM MYANMAR

More than 100,000 displaced persons from Myanmar exist in nine temporary settlements on the Thai side of the border with Myanmar in a “protracted refugee situation” which has persisted for more than 25 years. The Royal Thai Government (RTG), which is not a signatory to the 1951 UN Convention on the Rights of Refugees, uses its own terminology to describe those who have fled persecution and conflict in Myanmar; hence “displaced persons” rather than refugees. There has always been some low-level flow of DPs into Thailand from Myanmar, and much of this was absorbed by local populations who often had familial and ethnic links to those arriving. However, the upsurge of fighting in Myanmar after 1984, and especially following the uprising in 1988 and the ignoring of the overwhelming electoral victory of Aung San Suu Kyi’s National League for Democracy in 1990, led to much larger numbers of DPs crossing the border. The RTG finally made the decision to consolidate the large number of small, informal settlements into the nine formal settlements that now exist, eventually giving permission for non-governmental organisations to take on the practical administration of the settlements, and to involve UNHCR in the screening of asylum seekers.

RTG policy has been largely responsive to the DPs issue, rather than proactive, and the RTG still has no formal asylum law. This has led to practical difficulties in dealing with the DPs, and has also enabled the RTG to maintain an apparent ambivalence to the situation in public. In particular, the RTG has maintained that the DPs are a national security issue, which has led to reluctance to consider certain solutions. In addition, the DPs issue has been made more complex by the 2 million migrant workers from Myanmar that work in Thailand, and by Thailand’s strategic relationship with the government of Myanmar. The lack of clear and open policy on the DPs has meant that they are usually considered first and foremost as potential illegal immigrants; the DPs have been given long-term sanctuary and protection from refoulement, but within closed settlements which
have created conditions of dependence and have severely limited self-reliance in contrast to international standards on treatment of refugees.

The internal factors influencing the RTG policy include concerns about the security of its sovereignty, local resistance, negative public attitude and other priorities that remains difficult to resolve; management of migrant workers. Thailand’s relationship with Myanmar and its commitments to various international conventions are the external factors that affect RTG policy towards displaced person from Myanmar.

The DPs express relative satisfaction with the treatment they have received in Thailand, and in areas such as healthcare they have done better than some communities in Thailand. In other areas, such as education, income generation and access to justice, the DPs have faced restrictions, though the RTG has improved practice in these areas as its policy response has developed and evolved through experience and external scrutiny. However, a permanent solution remains elusive, of the standard “durable” approaches, resettlement has been the most successful, with over 64,000 DPs being resettled to third party countries such as the USA and various countries in the EU. Resettlement was initially opposed by the RTG as representing a “pull factor” for new DPs, and the DPs themselves are divided in opinion; younger, better educated DPs are more positive, but others cite loss of family ties and the permanent exclusion from their homeland as being negative factors. It is also clear that resettlement has not reduced the settlement populations; resettled DPs have been replaced by new DPs. It is also for the reason of avoiding the creation of another pull factor that the RTG opposes local integration, pointing to the half million internally displaced people (IDPs) allegedly in the border areas of Myanmar that are potential DPs. However, Thai public opinion is rather negative, similar to the views of communities surrounding the shelters.

All stakeholders agree, however, that Myanmar is a long way from being safe for voluntary repatriation. Ethnic conflict continues, and the reasons for the original exodus remain. This study concludes that each of them could play some part, but none will provide a definitive solution. Instead, it is proposed that an approach, puts the emphasis on the DPs in the long term returning to Myanmar, and gives a framework for the shorter-term “self-reliance” strategies that then become clearly part of developing DPs for a life in Myanmar. Repatriation remains the hope amongst DPs themselves, but many have lost
hope that it is possible. The current study notes the potential for political change in Myanmar now, which has never been greater in the last 20 years: the release of Aung San Suu Kyi, the increased dialogue between the RTG and the government of Myanmar after the admittedly flawed 2010 election, the increasingly willingness of ASEAN countries to pursue careful engagement with Myanmar. All these and other factors point to Myanmar having to open up and change. However, this study notes that this will indeed be a long-term process and require active engagement of all international and regional actors to keep it on course. This will mean, for example, real momentum from ASEAN, and positive moves by the UN and others in development and trade with Myanmar, with the aim of making Myanmar, or at least significant parts of it, safe for return. It will mean, ultimately, change from those in power in Myanmar; but it could be that concessions will need to come first from the international community.

It also means, the study points out, that the RTG will need to continue to reduce the restrictions on the DPs, for instance on freedom of movement. Areas such as education and income generation will also need to develop; but within the “self reliance pending repatriation and resettlement” framework. The resettlement programme will need to continue; and some local integration offered to some segments of the DP population by the RTG will help.

Ultimately, the study concludes that making Myanmar a safe place for return, and effectively addressing the root causes of the flow of DPs, is the solution to this protracted problem that can succeed and is truly durable in nature. Life can be made more fulfilling and productive for the DPs in the interim; but their voluntary repatriation, when conditions are right, is the only way the problem will be definitively and satisfactorily solved.
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<td>AFPFL</td>
<td>Anti-Fascist Peoples League</td>
</tr>
<tr>
<td>ASEAN</td>
<td>Association of South East Asian Nations</td>
</tr>
<tr>
<td>BPP</td>
<td>Border Patrol Police Bureau</td>
</tr>
<tr>
<td>CBO</td>
<td>Community-Based Organisations</td>
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<tr>
<td>CCSDPT</td>
<td>Committee for Coordination of Services to Displaced Persons in Thailand</td>
</tr>
<tr>
<td>CPA</td>
<td>Comprehensive plan of action</td>
</tr>
<tr>
<td>CPA</td>
<td>The Comprehensive Plan of Action</td>
</tr>
<tr>
<td>CPB</td>
<td>Communist Party of Burma</td>
</tr>
<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child</td>
</tr>
<tr>
<td>DKBA</td>
<td>Democratic Karen Buddhist Army</td>
</tr>
<tr>
<td>DPs</td>
<td>Displaced Persons</td>
</tr>
<tr>
<td>DPA</td>
<td>Department of Provincial Administration</td>
</tr>
<tr>
<td>FSP</td>
<td>Further Study Program</td>
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<tr>
<td>IDP</td>
<td>Internally displaced people</td>
</tr>
<tr>
<td>IGOs</td>
<td>international governmental organizations</td>
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<tr>
<td>IRC</td>
<td>International Rescue Committee</td>
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<tr>
<td>KHRG</td>
<td>Karen Human Rights Group</td>
</tr>
<tr>
<td>KNPP</td>
<td>The Karenni National Progressive Party</td>
</tr>
<tr>
<td>KNU</td>
<td>Karen National Union</td>
</tr>
<tr>
<td>KWO</td>
<td>The Karen Women's Organization</td>
</tr>
<tr>
<td>LAC</td>
<td>Legal Aid Centre</td>
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<tr>
<td>LMTC</td>
<td>Leadership and Management Training College</td>
</tr>
<tr>
<td>MOE</td>
<td>Ministry of Education</td>
</tr>
<tr>
<td>MOD</td>
<td>Ministry of Defence</td>
</tr>
<tr>
<td>MOF</td>
<td>Ministry of Finance</td>
</tr>
<tr>
<td>Acronym</td>
<td>Full Form</td>
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<td>---------</td>
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<tr>
<td>MOFA</td>
<td>Ministry of Foreign Affairs</td>
</tr>
<tr>
<td>MOSHS</td>
<td>Ministry of Human Security and Social Development</td>
</tr>
<tr>
<td>MOI</td>
<td>Ministry Of Interior</td>
</tr>
<tr>
<td>MOPH</td>
<td>Ministry of Public Health</td>
</tr>
<tr>
<td>NLD</td>
<td>National League for Democracy</td>
</tr>
<tr>
<td>NSC</td>
<td>National Security Council</td>
</tr>
<tr>
<td>OCDP</td>
<td>Operation Centre for Displaced Person</td>
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<tr>
<td>PAB</td>
<td>Provincial Admissions Board</td>
</tr>
<tr>
<td>POC</td>
<td>Persons Of Concern</td>
</tr>
<tr>
<td>PRS</td>
<td>Protracted refugee situation</td>
</tr>
<tr>
<td>RTG</td>
<td>Royal Thai Government</td>
</tr>
<tr>
<td>SEP</td>
<td>Special English Program</td>
</tr>
<tr>
<td>SGBV</td>
<td>Sexual and gender-based violence</td>
</tr>
<tr>
<td>SSA</td>
<td>Shan State Army</td>
</tr>
<tr>
<td>TBBC</td>
<td>Thailand Burma Border Consortium</td>
</tr>
<tr>
<td>TDSC</td>
<td>Territorial Defence Security Corps</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>UNHCR</td>
<td>United Nations High Commissioner for Refugees</td>
</tr>
<tr>
<td>UNDP</td>
<td>United Nations Development Project</td>
</tr>
<tr>
<td>WHO</td>
<td>World Health organisation</td>
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CHAPTER 1 INTRODUCTION

1.1 STATEMENT OF THE PROBLEM

The situation of asylum seekers from Myanmar in Thailand, or “displaced persons” (DPs) as the Royal Thai Government (RTG) has termed them under its own policy, has become one of the most protracted in the world today. The reasons for the original flows of the groups largely remain, the Myanmar military continues to clash with the armed ethnic groups of the border regions, and continues to make life very difficult for the communities of Karen, Karenni, Mon, Shan and other ethnic communities, whether it be by enforcing slave labour, forced relocation or denying the conditions needed to pursue a viable economic existence. Real democracy and justice in Myanmar remain elusive.

The flow of those seeking refuge from fighting and oppression in Myanmar gathered pace in the early 1980s, and included those political activists who escaped the crackdown by the Myanmar authorities following the democracy uprising in 1988, and the result of which was ignored a widely-acknowledged Aung San Suu Kyi’s victory of 1990 general election. The upturn in fighting in 1995 onward on the Thai-Myanmar border again led to influx of new DPs, the population of the settlements reached somewhere between 100,000 with steady annual flows. In January 2011, the registered population in 9 shelters was 97,956, with addition of an approximate 50,000 unregistered people who are waiting for their status to be determined.

Since the beginning, the shelters have operated under a confinement policy, reflecting the Thai government’s concern with the security of its national sovereignty in relation to the flows of displacement from Myanmar. However, the last several years have seen a significant shift in many aspects of the policy by the RTG. The RTG and UNHCR have established more formalized engagement procedures for reception, status determination, and registering of displaced persons in the shelters as well as providing a legal aid centre and permitting the execution of a large-scale third country resettlement program. Additionally, access to education has been expanded beyond basic levels and there has been increased cooperation between governmental and humanitarian organizations to provide vocational training as well as expanded opportunities for income generating activities within the shelters (Adelman, 2008).
However, movement and employment for displaced persons outside of the shelters is still officially prohibited. The negative impacts of restricting the displaced persons to the shelter environment for the past two decades with limited social and livelihood opportunities have been well documented. The incidence of domestic and sexual violence (UNHCR, 2005), psychological problems, unplanned pregnancies, and a variety of other social problems have occurred in the shelters. Additionally, dependency on external assistance has begun to take a toll on the DPs’ capabilities for future self-sufficiency outside of the shelters. The attempt to increase DPs’ self-reliance as stated in the CCSDPT/UNHCR Comprehensive Plan (CCSDPT/UNHCR, 2007) has not yet seen any progress due to the policy that remains unchanged.

At the same time, the RTG has to balance the need of its own citizens for resource usage, land use, degradation of natural resources, and expenses associated with playing host to a large group of displaced persons including national security concerns, and the personnel commitments necessary to provide safe asylum in the shelters. The current policy was formulated in a reactive process and was never intended to be implemented on more than a temporary basis which points towards the need to reassess the current situation and reformulate the policy approach with the assistance of the relevant government authorities (Sciortino & Punpuing, 2009).

This study aims to analyze the current policies of the RTG towards displaced persons in order to provide empirical evidence of the factors that contribute to the formulation and development of the existing policy. The findings will serve as the groundwork for stakeholders including RTG, UNHCR, other UN agencies, humanitarian agencies and DPs themselves to work for the formulation of more solution-oriented policy and improvement of the current DPs situation.

1.2 RESEARCH OBJECTIVES, STUDY FRAMEWORK AND STUDY AREAS

- Research Objectives
  1. To analyze the historical development of RTG policies towards displaced persons from Myanmar
  2. To analyze the impact of current policies towards displaced persons from Myanmar and other stakeholders including gender-based differences in affect
3. To determine the internal and external factors that influence the existing RTG policies towards displaced persons from Myanmar

4. To analyze the interventions by donors, NGOs, and international organizations and the RTG’s policy response

5. To explore alternative policy options towards displaced persons from Myanmar which would provide a more sustainable and solutions-oriented approach including identifying obstacles to a shift in policy

- **Study Framework**

![Diagram of study framework]

1.3 **METHODOLOGY**

The research methodology uses several qualitative research techniques including desk review, key informant interview, focus groups interview, and quantitative technique for baseline survey.

The qualitative data has been collected at national and operational levels to achieve the understanding of the formulation of RTG asylum policy, constraints and its
impact.

- National level - Interviews with RTG Key informants have been conducted at national levels including officers from Ministry of Interior, Ministry of Foreign Affairs, Ministry of Defence, Ministry of Education, Ministry of Human Security and Social Affairs, Ministry of Public Health, Ministry of Justice, National Security Council, staff of UN agencies.

- Operational level - The interviews include district officers (including shelter commanders), territorial defence security corps, local administration officers, displaced persons, staff of humanitarian organizations (see List of Key Informants in Annex 3).

    Also, along with the quantitative interview for baseline survey, several focus group discussions (FGD) with DPs have been conducted to gather in-depth or sensitive and additional information to the baseline survey.

    The questionnaire for the baseline survey has been designed and consolidated with another two studies (Analysis of Donor, INGO, NGO, UN agencies and Analysis of Resettlement Programme) to reduce the fatigue and burden of respondents.

    In order to cover all possible variation, the selection criteria for sampling included 18 years and above, gender, ethnic, religions, registered status (three categories: register, non-register, PAB/Pre screening), applicant for resettlement and non applicant, to select the respondents. The sampling size is randomly selected according to the above criteria. To specify the samplings size, each team applied Taro Yamane formula as follows:

\[
n = \frac{N}{1 + e^2 N}
\]

    N= Element of population, in this study was 145,786.

    e = Error of sampling, in this study was 5% or 0.05 proportion.

    n = sample size

\[
n = \frac{145,786}{1 + 145,786 (0.05)^2}
\]

    Sample size = 400 DPs for each team
The total sampling has been distributed according to the population of selected study areas. The actual sampling comes up to 444 respondents to cover some missing responses but all can be used for analysis. The sampling sizes are broken down as follows:

<table>
<thead>
<tr>
<th>Temporary Shelters</th>
<th>Sampling size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tham Hin</td>
<td>113</td>
</tr>
<tr>
<td>Mae La</td>
<td>218</td>
</tr>
<tr>
<td>Ban Mai Nai Soi</td>
<td>113</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>444</strong></td>
</tr>
</tbody>
</table>

The survey was carried out using a structured questionnaire in 3 selected areas: Ban Mai Nai Soi shelter, Muang District, Mae Hong Son Province, Mae La shelter, Thasongyang District, Tak Province and Tham Hin shelter, Suan Pueng District, Rachaburi Province. These three areas were selected purposively to cover all major ethnicities, as well as the size of the shelters (see area profile in Annex 1).

The interviews were announced publicly, respondent DPs participated in the survey voluntary with informed consent, and identities were concealed. The sampling for baseline survey was balanced between male and female respondents. Focus group discussions were separated for each gender group. Data from baseline survey and qualitative interviews have been analyzed and integrated to reflect the needs of displaced persons regarding the impact of RTG policy implementation.

The 444 respondents comprised of 55.4% female and 44.6%. The majority 68% were between 25-59 years, 28.38% between 18-24 years and the rest 3.38% over 60 years. Half of the sample was collected from Mae La, the largest shelter, the other half divided between Tham Hin and Ban Mai Nai Soi shelters. The respondents comprised 68.47% married, 27.48% single and 4.05 % separated or widowed; 56.76% were registered, 33.3% non registered and 9.9% waiting to confirm their status; 48% were Karen (S’gaw), 18.92% Karenni, 22.30% Karen (Po), 4.5% Burmese, the rest a mix of other ethnicities. The majority has stayed in the shelters between 10-20 years, 56% were Christian, 31% Buddhist, 9.01% Muslim, 3.15% animist and 0.68% had another faith.
Majority 75% were literate, 25% illiterate. Half of the respondents were living with 5-8 family members. Almost half 47.3% were born in Karen state, 11.26% from Kayah state, the rest from Kachin, Mon, Shan states born in the settlements in Thailand. Slightly over half engage in employment, income of 48.1% are between Baht 501-1000(See demographic details in Annex 4).
CHAPTER 2 LITERATURE REVIEW

2.1 INTRODUCTION

The political conflict within Myanmar has forced large scale displacement of a broad mix of ethnic groups across the border into Thailand over two decades. Since their establishment in 1984, documented and undocumented displaced persons residing in nine temporary shelters along the Thai-Myanmar border have become one of the largest protracted refugee situations in East Asia (Adelman, 2008). The registered shelters population in December 2010, as documented by the UNHCR, was approximately 109,000 and there are estimated to be at least an additional 50,000 unregistered inhabitants in the shelters who may or may not meet the criteria established for displaced person status (TBBC, 2010).

Thailand possesses a long and vital history of providing shelter to thousands of asylum seekers fleeing from conflict in their home countries. Despite the threats to national security and the challenges faced in hosting hundreds of thousands of foreign citizens, Thai policy has, for the most part, tended to follow the spirit of international humanitarian agreements on the treatment of refugees. While the Royal Thai Government (RTG) has placed concerns for the safety and security of its own citizens at the forefront of its policy, it has allowed displaced persons from Myanmar to reside in Thailand for over 25 years, with organized and effective aid services provided in cooperation with various international NGOs and donors, including UNHCR (TBBC, 2004)

2.2 THE IMPLICATION OF THE STATUS OF DISPLACED PERSONS

Under international law, the conferring of “refugee” status carries with it important obligations for any state that is providing sanctuary. The RTG’s insistence on not assigning this status to those fleeing form Myanmar is therefore critical in understanding the current situation.

The context of the broader discourse on refugees is critical to a comprehensive understanding of the RTG’s policy towards displaced persons from Myanmar, since Thailand has generally viewed its national policies towards refugees as being something of a special case in the spectrum of humanitarian approaches. The definition of refugee status can be seen to be time-specific, both in terms of describing new situations, and in
reflecting the perspective and mandate of the body that is defining the term. Alternative
definitions used for the people fleeing from fighting and political instability from Myanmar
are “Displaced Persons fleeing fighting from Myanmar” and “Person of Concern” (POC)
(Ministry of Interior).

Thailand has not ratified the UN convention related to refugee status. In principle,
therefore, policy towards displaced persons from Myanmar is governed by national
legislation. In practice, Thai policy does, in many ways, reflect and abide by the spirit of
the UN convention (Muntarphorn, 2004). It is also true that in a number of cases, where
countries have ratified the Convention, it hasn’t then been enacted in national law. Also,
other countries that have not acceded to the refugee instruments continue to provide
refuge for those fleeing persecution and respect the principle of non-refoulement, an
international norm for refugee protection.

With a history of more than 30 years of receiving displaced persons onto Thai soil
from armed conflicts in Indochina, the response of the RTG to the outflow of people from
Myanmar has been shaped by lessons learned from past experiences. One view put
forward is that, overwhelmed by refugee inflows from its politically unstable neighbouring
countries for decades, reaching a peak of over one million Indochinese refugees within
Thailand’s borders, the RTG has preferred to maintain a large margin of policy discretion
in managing refugee flows (Loescher & Milner, 2005).

As well as persons who are given refugee status according to the definition given
in The 1951 UN Convention, there are other groups of people not in the convention’s
definition who the United Nations General Assembly and the Secretariat gave the
mandate to UNHCR to assist. These are “Persons Of Concern” (POC), and include
internally displaced persons (IDP) who are not exiled from their home country, but live
effectively as refugees in their own land (Kanyabarn, 1998).

In the Thai context, Caouette and Pack identified POCs such as students and
other political activists who fled Myanmar following the 1988 crackdown by the
government on the pro-democracy movement and who register with the UNHCR and are
provided with a degree of financial support and asylum status. Most of this group consists
of the approximately 10,000 who fled to the jungle after the government reprisals and who
eventually found their way to Bangkok. Due to the continued resistance to the use of the
terminology of “refugee” on the part of the RTG, those who are accepted through the standard refugee status determination procedures of the UNHCR are officially termed ‘Persons of Concern’. Only those who are able to provide proof that they participated in the 1988 demonstrations and who are able to make it to Bangkok to apply in person at the UNHCR offices are eligible for POC status. However, the process can sometimes take several months during which time the applicants must generally support themselves as illegal migrant workers (and sometimes even afterwards) in order to cover daily living expenses. (Caouette & Pack, 2002)

The National Security Council (NSC) has its own definition, UNHCR-POC, to describe POCs who are assisted by UNHCR according to the UN Convention and any other document or decision of UNHCR and/or the UN.

However, from the POC’s point of view, even those who are officially recognized as having POC status are forced to live in a tenuous position of personal insecurity in Bangkok, due to the fact that they are still illegal immigrants under Thai law (Colm, 2004). The Maneeloi shelter in Rajthburi is provided as a “safe area” to these POC from Myanmar but some are refused the right to reside in the shelters in Rajthburi or eventually continue their political activities outside the shelter. After the seizing of hostages at the Myanmar Embassy in Bangkok on October 1, 1999, and the chaotic incident in Maneeloi to show their disapproval of the shelter living conditions, their movement has been strictly restricted (Trichot, 2003).

Displaced Persons in Thailand have been defined as “persons who are not counted as refugees, but due to any reasons, have fled from their habitual residence but have not yet lost their nationality. Their migration into another country is considered illegal under the immigration law of that country” (Chumak & Nualsuwan, 1982).

The expanded mandate UNHCR received from the United Nations General Assembly and Economic & Social Council extends assistance to include not only refugees but also displaced persons who fled from their country of nationality or habitual residence for fear of persecution from the same causes as for refugees. These include war, fighting, flooding, earthquake, drought, epidemic or any situation that results in people disorder, external aggression or occupation, foreign domination (Chatsuwan, 1983).
As a sovereign state, Thailand has the right not to accede to the UN Convention on the Status of Refugees since the rights of refugees would consume considerable resources from Thailand as a host country. However, since the country has been the first asylum for displaced persons from Myanmar for almost three decades, Thailand has collaborated with humanitarian organizations and UNHCR to provide assistance and protection to these groups for many years, not on the grounds of “refugee” status, but as displaced persons.

The Thai Ministry of Interior has given the definition of “displaced persons” as those “who, according to the Immigration Law, illegally immigrate to the national territory due to chaos, fighting or war” (MOI).

The term “displaced persons” also covers various groups of people who have fled from the politically difficult situation in Myanmar as follows:

1. The group of 47,735 displaced persons who fled from Myanmar before March 19, 1976 who have been registered and permitted to work in restricted areas in Thailand (Cabinet Resolution, March 1992).

2. The group of 55,787 displaced persons, who fled to Thailand from fighting and political instability in Myanmar during 1984-1992. This group is registered with permanent residence in 9 border provinces and permission to work.

3. Students and opposition groups of the Myanmar Government, who fled from Myanmar after the 1988 demonstration protest. This group has been granted UNHCR POC status (Suntarachoon, 1994).

Research done by The Senate Committee on Foreign Affairs in 2004 pointed out that the response of the RTG policy toward the Myanmar displaced persons is mainly a result of economic concerns. The evidence presented showed that, after the Myanmar Government closed the border, the RTG allowed ethnic insurgent forces encamped close to the border to benefit from the resources and hospital services provided for Thai people. As a consequence, the policy of the National Security Council emphasizes resettlement to a third country and repatriation as the preferred options, forbidding local integration because of national security and economic concerns such as the problem of housing ethnic forces in Thai territory, criminal cases, epidemics, and contamination and degradation of natural resources such as water and forests.
The policy of the Thai Ministry of the Interior (MOI) has been intercepting and pushing back the displaced persons immediately to Myanmar. Where this is not possible, then the next best option is retaining the displaced persons in the temporary shelters along the border. In addition, the MOI also has drawn up a framework for the registration of displaced persons and humanitarian aid in cooperation with UNHCR.

Displaced persons who are not eligible to access the shelters in Thailand but who are also unable to return to their home villages in Myanmar have no other option than to try to integrate into local communities and work as illegal labourers (Caouette & Pack, 2002). The status of displaced persons compared to refugees is therefore crucial in the treatment of new comers from Myanmar. Displaced persons are deemed to have fled from their habitual residence on a temporary basis; their displacement is not only from ‘fleeing fighting’ or ‘political turmoil’, but it can be from any disaster (e.g., natural disasters such as floods, which is beyond the scope of this paper); nationality has not changed as a result of displacement from their habitual residence; and when the circumstances that caused them to flee from their country of origin have ceased to exist, they have to return to the country of their former habitual residence (Kanyabarn, 1998).

It is well documented that the RTG takes the view that displaced persons who are under the humanitarian aegis in Thailand are not determined as refugees. But the RTG allows them temporary stay in the country with the assistance from international organizations and NGOs, with the following restricted terms:

1. They are allowed to stay only on a temporary basis. The RTG will facilitate and assist them to a safe temporary shelter on humanitarian basis.
2. They have to stay only in the provided area, which is termed a “temporary shelter”, not a refugee camp.
3. When the circumstances that caused them to flee have changed or ceased, then they must return to the country of their former habitual residence. The RTG will facilitate and assist them to their home country with safety and dignity (ibid, 1998).

The largest portion of the forced migration flows into Thailand is made up of those classified as economic migrants rather than displaced persons, but differentiating between the two groups is an intrinsically problematic task. In practical fact rather than legislative definition, the push factors of political persecution and economic hardship are
quite often entwined. The theoretical literature on this concept shows that what has been termed the Migration/Asylum Nexus is actually closer to a continuum rather than a dichotomy (Adelman, 2008).

In a survey conducted in 2006 of 1,704 nationals from Myanmar in the border provinces of Tak, Mae Hong Son and Chiang Mai, it was concluded that it was very difficult to distinguish between forced migrants and genuine labour migration, and that as many as 50% of illegal migrant labourers in Thailand may actually deserve protection status as refugees (Sciortino & Punpuing, 2009). While it is estimated that between one and two million people from Myanmar have entered Thailand searching for work, the underlying political concerns have exerted significant influence over the scale of these flows as well. Conversely, while they may have fled Myanmar for political reasons, forced migrants may choose to remain undocumented out of fear that they will apply and be denied displaced person status (Adelman, ibid, 2008).

In interviews by the Karen Human Rights Group (KHRG) with forced migrants in Thailand, while a large portion explained their motivation as seeking protection for their physical security, such as those fleeing generalized conflict, direct attacks on their home villages or persecution as possible supporters of insurgent groups, a significant subset also described their motivation as fleeing from economic hardship. There is a sizable group living displaced within Myanmar or across the border in Thailand who left their homes because exploitative SPDC policies made the pursuit of a basic livelihood in their home villages untenable. For these displaced persons, remaining in their SPDC-controlled villages in Myanmar would mean a loss of access to income generating activities, basic freedoms and other fundamental human rights. It had become nearly impossible to earn a basic livelihood in Myanmar.

While the push factors of political oppression, exploitation, armed conflict and livelihood deprivations have already been discussed, it is also true that Thailand experienced a massive economic boom starting in the late 1980s until the period of the Asian Financial Crisis in 1997. This rapid economic growth created a massive need for cheap labour in Thailand and a financial pull factor for many people from Myanmar. Following pressure from the business community, a series of temporary worker
registration acts were passed to allow utilization of the migrants as a source of low-cost labour (Caouette & Pack, 2002).

Many of the forced migrants travel by the same routes as economic migrants, most would fit comfortably within the conventional definition of a refugee, and in many countries have been afforded UNHCR-acknowledged refugee status. Therefore, in the case of Myanmar’s migrants, it can be said that the distinction between push and pull factors has become blurred to the point of being indeterminable in many cases (Karen Human Rights Group, 2009).

2.3 HISTORICAL DEVELOPMENT OF ROYAL THAI GOVERNMENT POLICY TOWARDS DISPLACED PERSONS

Thailand has a long history of providing shelter and asylum to the victims of political conflict in neighbouring countries, in some cases graciously offered and in others more reluctantly meted out.

The experience of hosting Indochinese displaced persons has proved to be a difficult and protracted situation to solve for Thailand. As a result, the policy towards displaced persons from Myanmar is based primarily on providing help on a temporary basis and discouraging long term stay.

There are huge numbers of displaced persons from Myanmar residing in the temporary shelters along the Thailand-Myanmar border. Most of these have been granted permission to stay as displaced persons fleeing from fighting by the RTG, while a smaller portion have yet to have a status determination made (Regional Thematic Working Group, 2008).

As has been stated, Thailand is not a signatory country to the 1951 Convention on the Status of Refugees or other related international agreements and has no domestic legislation which directly defines the standards of treatment for refugees. Therefore, they are de facto illegal migrants in Thailand, residing in contradiction of the regulations of the Immigration Act B.E. 2522, and as a result can be subjected to capricious arrest, detention, prosecution and deportation.
However, for political and humanitarian reasons, the RTG has repeatedly made exceptions to its official policies and allowed continued temporary shelter for asylum seekers in Thailand. Vacillating between highly restrictive policies implemented based upon national security concerns and more pragmatic displays of tolerance driven by an understanding of the intractability of the different geo-political crises faced by displaced persons, Thailand has in actual fact provided asylum to approximately 1.2 million displaced persons during the last four decades (Sciortino & Punpuing, 2009).

As stated, the policy responses to flows of displaced persons by the RTG have been very specific to the individual situations and actors involved. A notable example of this is exhibited by the contrast between the policy response to the displacement situation on the border with Myanmar and that of the Indochinese displaced persons. The displaced persons from Indochina were incontrovertibly ensnared within the complicated dynamics of cold war politics in the region as well as the service provision of a heavily politicized humanitarian aid program, resulting in a highly internationalized situation in terms of decision making, staffing and objectives.

In comparison, the relief programs provided to displaced persons on the Thai-Myanmar border have been a relatively little publicized, politicized or internationalized response, mostly managed and provided by local committees representing the displaced and NGO service providers, with only minor engagement of international organizations until the advent of resettlement operations (Lang, 2002).

The differences in living conditions are also an outcome of the RTG’s policy objective that the relief services and shelter provided on the Myanmar border are to be temporary and based on a sufficiency approach so as not to create a pull factor for additional displaced persons. MOI regulations for working in the shelters require a minimum of international staff, that rations and other provisions are equivalent to the basic living standards in the area, that self-sufficiency be encouraged among the displaced and that a minimum of publicity be allowed for the shelters. The RTG has required this quieter and smaller scale administrative structure for humanitarian relief by a consortium of NGOs partly with the intention of avoiding diplomatic conflict and misunderstandings with the government of Myanmar (Lang, 2002).
In conclusion, it could be summarized that RTG policies delivered humanitarian need, with priority given to national security concerns, specific to the individual situation and actors involved. The progression of policies can be determined into three phrases as follows:

Period 1: Origins of the Temporary Shelters

Previous to the success of the Tatmadaw’s (Myanmar’s armed forces) military campaigns in Eastern Myanmar during the 1980s, the border region of Myanmar was made up of a patchwork of territories controlled by ethnic insurgent groups fighting against the military government in Rangoon. The significant changes in the geo-political landscape of the region since that time have caused a major shift in Thailand’s diplomatic relations with the government of Myanmar. While previously the RTG had attempted a delicate balancing act in its policies towards Myanmar, dealing with both the insurgent groups on a practical level and the government in bureaucratic relations, more recently Thailand has reoriented its political relationship in favour of the government of Myanmar, as reflected by the reestablishment of official diplomatic relations between the two countries in 1988 (Lang, 2002)

In 1984, changes from the previous patterns of forced migration began to occur on the Thai-Myanmar border. Whereas previously the border region of Thailand often played host to seasonal flows of displaced persons fleeing from fighting in Myanmar, they generally returned to their homes soon after the hostilities subsided.

However, this model of seasonal migration was permanently disrupted during the dry season of 1983-84 when the Tatmadaw launched a more aggressive and coordinated action against the ethnic insurgent groups with the goal of driving out combatants and civilians, disrupting the insurgent controlled black market economy and establishing a control point right on the Thai border itself. The RTG’s policy response was to allow displaced persons from Myanmar who entered Thailand before March 19, 1976 to stay in Thailand (Cabinet Resolution, 2005). Temporary asylum was generally in the form of informal hospitality on the part of the local community, with the displaced persons able to create a reasonably comfortable existence through utilizing the surrounding natural resources and some assistance from humanitarian organizations.
Then in February of 1984 approximately 9,000 displaced Karen crossed the border into Thailand at Tak Province and established what was to be the first of the longer term temporary shelters for displaced persons on the Western border of Thailand.

The early policy response by the RTG was simply to grant temporary asylum in the hope that the displaced would soon return home after the conflict settled down as had occurred previously. The local community was also generally sympathetic due to their past involvement in trade with the Karen and the already existing social links between Thais and Karen living in the area.

To handle the immediate humanitarian needs, the Ministry of Interior invited the CCSDPT, the committee coordinating services provided to the Indochinese displaced persons, to also provide emergency assistance to the displaced Karens. A small consortium of NGOs called the Burma Border Consortium (BBC) was formed under the umbrella of the CCSDPT to provide the actual aid services in the shelters. A Karen subcommittee of the CCSDPT was then established in April of 1984 to coordinate the BBC's work with the RTG. The BBC took a small footprint approach to providing services to the displaced persons, utilizing the administrative structure of the Karen Refugee Committee in the shelters. Similar administrative structures were set up for subsequently established shelters, in 1989 in the form of The Karenni Refugee Committee, and in 1990 in the form of The Mon National Relief Committee. The administration in the shelters was an effort to mirror the traditional leadership structures that existed in the home villages of the displaced (Lang, 2002).

The Karen Refugee Committee negotiated with the Governor of Tak Province and gained approval for the establishment of a basic shelters facility with the understanding that the Karen would return home as soon as safely possible. However, there was disagreement with this decision at the national level and at a meeting between the MOI, the military, and the Ministry of Foreign Affairs the decision was revoked and the Karen were ordered to return to Myanmar within 30 days. This decision was heavily influenced by concerns about the financial costs of providing humanitarian aid as well as the security related concern that the Karen might establish permanent insurgency military bases in Thailand for cross-border operations. However, the decision was not strictly implemented
on a practical level, and after negotiations were conducted, concessions were made to allow the Karen to remain in Thailand temporarily (Lang, 2002).

In 1991, increases in displacement flows across the Thai-Myanmar border led to NGO service providers seeking permission to establish relief services in all four border provinces. The MOI agreed to this request to extend basic services including food, medicine and clothing to all of the border provinces, granting permission to the main NGOs working in the shelters to expand the scale of their services which included the BBC (replacing the original Consortium of Christian Agencies), COERR and MSF-France. The MOI subsequently gave authorization in 1994 to add sanitation and educational services to the bundle of services allowed in the shelters (Cardno Agrisystems, 2009). The MOI has slowly allowed the scope of the educational mandate to expand since that time to include some vocational training and agricultural projects for the shelters inhabitants. After 1997, the CCSDPT began to work exclusively with displaced persons from Myanmar, with 19 member organizations (TBBC, 2004).

**Period 2: The Fall of the Buffer Zone**

Despite the intentionally basic level of services provided, the number of displaced persons seeking shelter in Thailand continued to rise due to intensification of Tatmadaw military operations along the border, and soon even the shelters themselves were no longer places of safe refuge for the displaced communities. Between 1995 and 1998, shelling of the shelters by the Tatmadaw and the renegade Democratic Buddhist Karen Army caused a new crisis in the shelters for the displaced as well as their supporters. (TBBC, 2004)

The ground level situation in the shelters changed dramatically when the border areas finally fell to the Myanmar military during this period. With the end of the previous buffer area between Thailand and the Tatmadaw, and the clear and present danger created by the cross-border attacks, the Thai government began a series of shelters consolidations to help control the security situation. This meant the merging of the smaller and more village-like shelters into a greatly reduced number of larger resettlements facilities with an increased Thai security force surrounding their perimeters. The situation became worse in 1999 when two incidents happened: firstly, students from Myanmar
raided the Embassy of Myanmar in Bangkok, and then there was the hostage incident at a hospital in Ratchaburi Province. As a consequence, the RTG decided to review its current policy towards the displaced persons and foreign policy towards Myanmar (The Nation Newspaper, 2000). At the border, the shelters were closed off from inside and out to restrict any movement from these areas (Viajar, 2000). The change of the policy led to increasing of aid-dependency on services provided by the BBC and other NGOs working in the shelters. (TBBC, 2004)

These larger resettlements began to have a significant detrimental impact on the surrounding environment, the cooking fuels, bamboo and thatch for constructing shelters have been provided to DPs in order to prevent damage to the surrounding forests (ibid). Nutrition also became a more significant concern the restrictions on movement and livelihood opportunities (ibid.).

The RTG also increasingly insisted that it would only accept those displaced who met the Thai criteria for asylum, meaning only those “fleeing from fighting”. During this same period, the ethnic minorities within Myanmar were faced with increasingly dangerous and untenable conditions as the Tatmadaw continued its large-scale forced relocation plans which were designed to consolidate military control over the border regions and eliminate the remaining ethnic resistance forces. By 2004, 3,000 ethnic villages had been destroyed or relocated, affecting close to a million people (ibid).

Following this heightened concern with security in the shelters, in 1998 the Thai government granted UNHCR permission to play a role in the border shelters for the first time, which brought with it full recognition from the international community of the refugee status of the shelter inhabitants. Although the mandate established for UNHCR in the shelters was strictly for protection rather than service provision or administration, the UN’s presence brought with it international consultants which allowed the management and practices in the shelters to be evaluated against international standards for the first time (ibid.).

By 1999, the UNHCR had begun official operations on the Thai-Myanmar border, with field offices located in Kanchanaburi, Mae Sot, and Mae Hong Son. Its first major activity was to undertake a registration process for the displaced persons in the shelters, working collaboratively with the MOI. UNHCR also worked with the relevant Thai
authorities to clarify and formalize shelters admissions procedures which included establishing Provincial Admissions Boards for status determination and construction of reception facilities within the shelters themselves (Lang, 2001).

**Period 3: The Search for Solutions**

The latter part of the last decade has seen a significant shift in policy by the RTG away from the previous “care and maintenance” model that defined the first two decades of policy responses, to the displaced person situation on the border, and towards a more “solutions-oriented” approach. Officially recognizing the displaced communities as being a part of a protracted refugee situation (although not as actual ‘refugees’ themselves) has led to a liberalization of many of the more stringent restrictions placed on the shelter inhabitants. The most significant of these changes include:

- Establishment of official procedures and assuming greater responsibility for receiving, determination of status and registration of shelter inhabitants.
- The acceptance of resettlement as a viable durable solution to the situation
- The formal approval of increased opportunities for vocational training, education, and livelihood activities inside and outside of the shelters. However, progress has been very slow in practice on most of these fronts.

According to Adelman (2008), it should be noted that even approval of the resettlement program, which would seem a very desirable solution from the perspective of the RTG, was not a foregone conclusion and was held up for a period due to a reluctance to issue exit visas without which the displaced persons would not have been allowed to leave Thailand. This was likely a part of concerns by the Thai government over creating a pull factor for additional ‘resettlement seekers’ to come to the shelters. More recently, however, the RTG has become more actively involved in the resettlement process, rarely denying permits and once again conducting registration and verification of the shelter residents to allow for their consideration for resettlement.

In February of 2006, the Thai Prime Minister, together with diplomatic personnel from the international community, visited the shelter in Tak Province to assess the living conditions of the displaced persons living in the shelters. During this visit, the Prime Minister reaffirmed the RTG’s commitment to implementing innovative and practical policy measures that would lead to progress towards attaining durable solutions for the situation.
Emphasis was placed on the need to work in close collaboration with the international community and within the framework of international standards and practices (Duffy, 2007).

The international community for the last several years has been increasingly focused on skills training and educational opportunities as well as income generation projects and employment; so called “self-reliance”, to supplement the resettlement solution. Though there has been an attempt to integrate services to displaced persons with the health and educational institutions of the Thai system, as evidenced by the CCSDPT/UNHCR Comprehensive Plan (CCSDPT/UNHCR, 2007), it has proved difficult to make real progress towards self-reliance of displaced persons on the ground. This is at least partly related to the discontinuity in the RTG policy process caused by multiple regime changes since the 2006 (CCSDPT/UNHCR, 2009).

According to Meyer, the international refugee regime has been considerably challenged in recent years by the increasing ubiquity of protracted refugee situations in the world, to the point where additional and more integrated strategy approaches became a necessity (2006). These approaches were designed with the recognition of the frequently prolonged condition of asylum for refugees due to the obstacles to durable solutions, and therefore the need for adopting a developmental approach for aid and policy towards such refugee situations. The objective of this new approach is to encourage refugee self-reliance while simultaneously relieving a portion of the burden associated with hosting of refugee populations (Meyer, 2006).

Several major UNHCR initiatives have attempted to formalize this approach to refugee situations in Thailand including Convention Plus and the Framework for Durable Solutions. Convention Plus provides an organizing structure for the creation of a ‘comprehensive plan of action’ (CPA) which utilizes a combination of durable solutions to resolve refugee situations. The Framework for Durable Solutions also addresses the strategy for engagement with protracted refugee situations and attempts to remove some of the barriers to effective action that have arisen in the past. The Framework draws upon a combination of three new approaches to refugee interventions that have emerged in recent years: DAR (Development Assistance for Refugees), DLI (Development through Local Integration) which focuses on refugee self-reliance, and the 4R Approach
(Repatriation, Reintegration, Rehabilitation and Reconstruction) which is to provide an overall framework that links the different phases of the UN’s support to displaced populations (Loescher & Milner, 2005).

While the initial response to these proposals from the RTG was encouraging, progress since that time has been very slow primarily due to reluctance to allow greater freedom of movement in and out of the shelters. As a result, everyday life for most of the displaced persons living in the shelters has not changed significantly and donors have begun to express their frustration and fatigue with the situation by exerting financial pressures on NGOs working in the shelters in hopes of encouraging progress. Perhaps more constructively, the donor working group also suggested that a way forward would be to hold an all-stakeholder workshop with representatives of the RTG in order to achieve consensus which took place in Chiang Mai on November 4th, 2009. (TBBC, 2010)

Unfortunately, so far the increased level of deliberation has not resulted in policy changes allowing for a plurality of durable solutions or an improved quality of life in the shelters. While the RTG remains sympathetic to these objectives, they have so far still been overridden by concerns for Thailand’s national security, the impact on the local Thai community and the creation of a pull factor for additional asylum seekers. Consequently, until the encampment policies are altered in a significant way, there is little possibility that in the short term dependency on humanitarian aid can be reduced (TBBC, 2010).

On the other hand, over three decades of hosting displaced persons from neighbouring countries, the RTG’s awareness that outflow of displaced persons from Myanmar is unlikely to decrease. Kanyabarn has concluded that the unchanging RTG policy may be based on its own prioritized the interest and benefit of its own people and its relationship with the Government of Myanmar, and has kept the situation of displaced persons on the edge of acceptability (ibid.).

2.4 RTG POLICY CHARACTERISTIC AND POLICY STAKEHOLDERS

RTG policy towards displaced persons from Myanmar has been shaped by relevant internal and external factors within the principle paradigm of traditional national security. The internal factors include: concern of national security, economics, the impact
on Thai citizens’ benefits, and the fear of creating pull factors drawing more displaced persons, are considered internal factors. The state relationship with Myanmar Government, and RTG positioning on the international panel, are seen as the external factors. The different RTG sectors have contributed to formulate the development of the policy.

The responsibility for policy decision-making and implementation is spread across several institutions within the RTG. The main section of the RTG to oversee the day to day issue of displaced persons is the Foreign Affairs Division of the Ministry of Interior (MOI). Additionally, the ministries and government departments taking part in policy making are the Ministry of Interior (MOI), the Ministry of Foreign Affairs (MOFA), the Ministry of Defence and the National Security Council.

- **The Ministry of Interior** is the primary civilian institution within the government responsible for the policy implementation process for displaced persons. The cabinet has established the Operation Center for Displaced Persons (OCDP) in giving the authority to MOI as the prime actor in dealing with the displaced persons fleeing from fighting from Myanmar. The centre is part of the Foreign Affairs Division, Office of The Permanent Secretary for Interior, MOI. The centre has the responsibility to carry out the RTG policy on security and administration responsibilities over all the routine shelter activities relating to displaced persons and migrants. The OCDP is responsible for coordinating with international organizations, for managing the humanitarian aid providing system for displaced persons, and for providing information to assist in the formation of policy at the Ministry Of Interior.

- **The Ministry of Foreign Affairs** (MOFA) involvement with displaced persons is coordinating and connecting with international organizations and other interested parties outside of the RTG, facilitating visits to the displaced persons. However, the MOFA is seen to play only a minor operational and policy role in daily activities and issues involving the displaced persons (Lang, 2002).

- **The Ministry of Defence** - The issue of displaced persons is under the responsibility of the Department of Border Affairs (DBA) which oversees the security and situation of the border area, as well as coordinating with neighbouring countries on security issues along the border. The DBA is the secretary of the Joint Thai-Myanmar
Boundary Committee, the body which two countries have set up to resolve the conflict and border issue.

- **The National Security Council** (NSC) is the central institution coordinating security policy and development in the border areas. The NSC acts in an advisory capacity to the prime minister and the cabinet on security issues and coordinates at policy level between different ministries and the military on security concerns. Two committees within the NSC are assigned to provide policy guidance on illegal laborers and displaced persons. The NSC is chaired by the Prime Minister in formal sessions. The other council members of the committee include the Deputy Prime Minister, Minister of Defense, Minister of Interior, Minister of Foreign Affairs, Minister of Finance, Minister of Transport, the Supreme Commander of the Armed Forces, and the Secretary General of the NSC. For special issues or particular situations to be considered, the NSC has set up subcommittees in response to which other relevant government agencies and academic are invited to join. The NSC

The different government sectors have their own and different mandates that contribute to the formulation or implementation the policy toward displaced persons differently but the principles of the policy will have to be complied by all sectors.

### 2.4 THE IMPACT OF THE POLICIES

Having examined some of the key policy characteristics and institutions related to displaced persons in Thailand is quite difficult to describe the policy and practices definitively. Whereas the official asylum policies have often been characterized by their stringency, they are often implemented in a much more flexible and nuanced manner by local authorities as evidenced by the thousands of displaced persons who have entered Thailand and been granted temporary asylum. In sum, the words contained in the policies have frequently not been matched by the practices, as well as vice versa. Some of the significant practices contained within the policy implementation process including those related to registrations, basic services, freedom of movement, etc.

- **Impact to DP registration**

  Registration of the displaced persons in the shelters has been conducted for various purposes by different organizations at different times. The first formal registration
process for displaced persons in the border shelters was conducted by the MOI and UNHCR in 1999. The initial intention was that identification cards would be issued for those over 12 years old, both for recognition of status and to allow for possible future permission pass to enter and leave the shelter (CCSDPT-UNHCR, 2009).

At the same time, Provincial Admissions Boards (PABs) were established to handle status determination for new arrivals. However, the PABs were largely ineffective and by 2004 a large backlog of unprocessed new arrivals as well those whose claims had been assessed and rejected were living in the shelters (Cardno Agrisystems, 2009).

Since the 2004-2005 registration process, there have been major flows of new arrivals into the shelters who have not had a status determination made as of yet. This is particularly significant because resettlement opportunities are restricted to the registered population of the shelter. The PABs began screening again in late 2005 based on an expanded set of criteria established with the assistance of UNHCR. However, the halting pace of registrations in the shelters has created problems for humanitarian aid organizations both in terms of operations and reporting on services provided to donor organizations.

In order to maintain accurate figures for service provision, TBBC began their own annual registration process for both registered and unregistered displaced persons staying in the shelters at the end of 2007. In 2009, it was estimated that approximately 42,000 displaced persons were living in the shelters that had not been registered by UNHCR. In March of that year, the MOI began a pre-screening exercise to help expedite the process, monitored by UNHCR staff. Those determined to have legitimate claims to asylum are handle to PAB for final determination. None of the results will be announced until the process has been completed in all of the shelters in order to prevent rejected applicants from reapplying in other shelter locations (Cardno Agrisystems, 2009, pp. 6-7). It is hoped that the whole process will be completed in early 2010 (TBBC, 2010).

The other critical issue is the registration of children born in the shelters. New born babies are only registered with UNHCR, and there are no birth or official certificates provided for them. After the new laws on Personal Status Registration was launched in 2009, followed the Cabinet Resolution on January 18, 2005 and NSC strategy to solve the persons who have no registration status (National Security Council), all children
regardless to their legal status are eligible to birth registration including the children in the shelters. To support this strategy, on September 21, 2010, the Cabinet has lifted the reservation of Article 7 of CRC regarding to birth registration of all children. Thus, the DP children are now registered with Thai registration system and birth certificates have been provided which ensure their rights and identity, at least to proof as the new member of their origin family.

• **Impact on freedom of movement**

According to the existing RTG policy, the residents of the shelters are not allowed to move freely in and out of the shelters without written permission from the Thai authorities. The written permission to leave the shelters can be obtained from the shelter commander in the case of seeking healthcare in Thai local hospitals, to attend committee meetings, for students’ access to education in other shelters, and for sports competition in local community (Mae La Shelter description document). The policy has restricted freedom of movement and many of the displaced people who do leave the shelters to work in their local Thai communities face possible extortion, arrest, detention and deportation (USCRI, 2008).

• **Impact on livelihood and basic services**

With no freedom of movement, displaced persons are restricted from pursuing their choice of livelihood and effectively prevented from seeking employment outside the shelter to the risk of being caught and arrested by Thai authorities and the possibility of deportation. However, the limited quantity and variety of rations often drives those who are of working age to pursue employment outside of the shelters on a daily basis despite the risks involved. Another basic motivating factor is that regular and productive employment is critically important to the self-esteem and social acceptance of the residents of the shelter just as it is for people everywhere (Duffy, 2007). A livelihood study carried out in four of the temporary shelters by Cardno Agrisystems supported that the fact that DPs has been provided sufficient nutrition but not satisfy other of their need. Thus, instances of leaving the shelters to seek employment were found among male DPs, in order to send remittances back to their families (Brees, 2008). This is a coping strategy that helps to minimize risk by leaving the most vulnerable family members in relative safety inside the shelters while supplementing the food rations provided as well as covering other needed
items with the additional income. This practice it is often tolerated at the local level, which often benefits both the host community and the displaced persons, although to differing degrees. According to research conducted by Pongsawat (2007), the presence of the shelter near Mae Sot created a large pool of illegal workers in the border area. The displaced persons were illegally hired to work in every industrial sector of the border economy, especially in Mae Sot.

What needs to be emphasized is that the creation and formalisation of the displaced person category and the establishment of the temporary shelters did in fact institutionalize and expand the pool of illegal migrant workers ready to be employed and take the jobs in the area (ibid. 434).

With permission and oversight from the RTG, NGOs provide settlement residents with food rations, primary care medical services, compulsory level education and housing assistance. However, some permanent infrastructure such as concrete floors and public power supplies are officially forbidden in the shelters (USCRI, 2008).

A system of community-based health care has been established in the shelters, relying heavily upon involvement of the shelter population for service provision and management. For secondary and tertiary medical care, residents receive referral to local public hospitals outside the shelters (Sciortino & Punpuing, 2009).

However, though malnutrition rates for children have been lowered within the shelter community, they are still at higher levels than in the rest of Thailand (CCSDPT, 2006, pp.112). The crude mortality rate for the shelters as a whole is actually lower than those in Thailand or Myanmar (ibid, pp.40-42). A study by Khin on reproductive health among adolescents in Karenni shelters shows that there are problems with Karenni youths suffering from reproductive tract infection and unwanted pregnancies (2002, pp.67). There are cases of displaced persons suffering from accumulated stress caused by past abuse, trauma, and confinement, which has led to significant incidence of mental illness within the shelters (Sciortino, ibid). In the highly restrictive environment of the border shelters, increased levels of violence and human rights abuses have been documented. Significantly higher than normal levels of domestic violence, serious psychological disorders and sexual assaults have all been reported within the shelters.
female displaced persons have few legal protections against such violence and
the Thai legal system generally discourages DPs women from seeking legal recourse
against perpetrators both among Thai authorities and their community. For example, in
cases of statutory rape, the offender can choose to marry his victim rather than face
punishment, financial compensation for rape of a married woman is given to the husband
rather than the victim, and marital rape and domestic violence were only formally
recognized as crimes under the Thai legal system in 2007 and are often only sporadically
enforced by police (Immigration and Refugee Board of Canada, 2007; Ward, 2002).

Another obstacle to fair adjudication of GBV offenses is that the internal
mechanism within the shelters themselves for handling of severe cases is to send them
before the shelter committees which are always male dominated decision-making bodies.
It should be noted that the traditional response to GBV within Myanmar society is
generally enacted between families rather than publicly in order to avoid the social stigma
surrounding the issue. In Khin’s study, young children are shown to be victims of sexual
violence and in some rape cases the perpetrators are their close relatives (ibid. pp.55).
The shame for victims and their families associated with incidents of rape is so strong that
Karen women’s groups have documented several occurrences of adolescent displaced
persons choosing to commit suicide rather than reveal that they had been raped by Thai
authorities (Ward, 2002).

Since 1998, the RTG has pursued the policy of providing education for displaced
persons in the temporary shelters with support from NGOs. The education policy has
been adjusted as appropriate and aligned with the National Education Plan used for Thai
children, and the National Economic and Social Development Plan, and in accordance
with the Convention on the Rights of the Child to establish and enforce nine years’ basic
education for every student (MOI-CCSDPT, 2008).

Besides the primary level education, RTG policy also supports part time
education for any students who have been absent from school for some reason, as well as
continuity specialty study program for High School graduate students. The programs
provided in the graduate schools are Further Study, Special English, Agriculture School,
Leadership and Management, Engineering, Economic Development, Teacher
Preparation. However, these are not available in all shelters (ibid.).
The educational services in the shelter are primarily staffed and managed by the shelter residents with assistance from the NGOs. Although the enrolment rates are quite high at 97.5% of the school age children in the shelter, the actual attendance is much lower due to financial and language barriers to studying. The quality of education provided is also a significant problem because of poor facilities and equipment, inadequate curriculum and limited staff teaching capabilities. Native English speakers from outside the shelters are restricted from teaching in the schools, which is an additional drain on already limited teaching capacities. A final critical concern with the educational system in the shelters is that it remains completely unaccredited by Thailand, Myanmar or any other country. As a result, graduates of the system may not be eligible for higher education opportunities and their job prospects in the future may be very limited (Sciortino & Punpuing, 2009).

A resolution of the Thai Cabinet in 2005 increased opportunity for migrant children to have equal right of access to education as local children regardless of their legal status, with budget allocated to support the policy. This policy should benefit children in the shelters but educational activity has since the beginning not been under the supervision of the Ministry of Education. All activities needed to be submitted for approval from the Ministry of Interior, teaching are provided by DPs themselves. Educational opportunities which have been broadened by the Thai cabinet’s resolution in 2005 do not permit displaced children to leave the shelters (Vungsiriphisal, P., 2010).

As well as academic education, vocational training has been permitted in the shelters since 2003 (Thai Education Foundation, 2006, pp.12). The objectives of the training are to provide and improve skill for displaced persons based on their interest, aiming to prepare them to be more self reliant.

2.5 POLICY RESPONSES TO CHANGING CIRCUMSTANCES AND DURABLE SOLUTION

Historically, the three possible durable solutions that have been proposed and utilized to resolve refugee situations have been repatriation, resettlement, and local integration. Utilizing these three strategies in a comprehensive and integrated approach to address protracted refugee situations is not a new paradigm. This approach was a
critical part of the strategy that helped to resolve the refugee situations in Europe following WWII, and in Indochina and Central America during the 1980s (Loescher & Milner, 2007b). Past successes in resolving refugee situations can be said to be based upon three general principles:

- **Comprehensive**: utilizing the full range of durable solutions to the situation
- **Cooperative**: approached with a spirit of burden sharing that recognizes countries of first asylum cannot resolve refugee situations on their own and need the assistance of third party countries
- **Collaborative**: involving the joint efforts of a variety of UN agencies and NGOs.

The UNHCR and humanitarian agencies focused on relief efforts are not capable of resolving refugee situations by themselves. A combination of peace, security and development agencies must commit to significant and sustained efforts to make truly durable solutions possible (Loescher & Milner, 2007b).

Several years of hosting asylum seekers from neighbouring countries, Thailand has contributed to the three durable solutions directly or indirectly at different levels.

- **Local integration**

The protracted situation of the displaced persons from Myanmar has more or less pressure on the RTG. The expanding of education from primary education to secondary level, the teaching of Thai language in the shelters which was permitted from 2006 and carried out by the Ministry of Education to enable communication skill between the displaced persons and the Thai authorities (Non Formal Education Department, MOE, 2006). The ability to communicate in Thai is essential to bridge the communication gap between DPs, authorities and local community which may contribute to more integration with local community in the future, though the policy has not aimed to that purpose. As Jacobsen has remarked, the limited success of repatriation and resettlement strategies in global refugee situations, often the host countries have often been pushed integration approach without close investigation of the possible implications, with no public scrutiny from the national citizens, and, importantly, no strategic experience in dealing with national security issues that may emerge (Jacobsen, 2001).
Local integration that leads towards a durable solution for refugees is regarded as a set of processes - legal process, economic process and social process. The term ‘local integration’ has been embodied the concept that refugees should not be required to abandon their own culture; in fact, refugees can “maintain their own identity, yet become part of the host society to the extent that host population and refugees can live together in an acceptable way”. Through legal process, refugees are granted a progressively wider range of rights and entitlements by the host state. Economic process should deliver a growing degree of self-reliance. Social process should lead to refugees living without fear of systematic discrimination, intimidation or exploitation by the authorities or people of the asylum country (Kuhlman, 1994).

Local integration was recognized as the potential solution for refugee problems but the practice has been very limited, while resettlement and repatriation have been becoming the norm. This is due to perception within the refugees’ host country from the negative impacts such as economic and environmental impact of struggling to meet the needs of their own citizens, the more prosperous members of the international community are not sufficiently committed to burden sharing, the fear of losing the ability to control the movement of people across international borders and the belief that exiled populations represent a threat to local, national and regional security, especially in the situations where bona fide refugees are mixed with armed elements.

The argument of the debate regarding hosting of refugee populations into a burden or benefit according to Meyer (2006), a number of studies have shown that “the impact on differing sectors of the host population and spheres of government, as well as differing elements of this impact – for example, on security, the environment or infrastructure – precludes any generalization regarding the ‘burden’ or ‘benefit’ of refugee-hosting on local communities and host states. In fact, in some spheres, refugee influx can create opportunities and broader social, political and economic development in the area. Contrary to popular readings of refugee situations, the potential for refugees to present a burden is often due to host government restrictions on livelihood opportunities” (ibid., pp.12).

Jacobson concludes in her paper “The forgotten solution: local integration for refugees in developing countries” that local integration will only work if it is acceptable to
host governments, to the local community and to refugees. Local integration can be encouraged through assistance programs that benefit both refugees and local communities. Jacobson also proposes an approach which embraces refugees and views them as a potential asset, assisting them to become integrated in the community. Local integration can be pursued, also, if host governments are supported and on the agendas of development organizations such as the World Bank and UNDP as well as bilateral donors.

In the case of Thailand, the acceptance by local people of displaced persons is a doubt, as reflected in a research paper on the attitude of Thais to the displaced persons from Myanmar. It was found that the majority of the respondents had a negative perception of the displaced persons: over 88% prefer the displaced persons to repatriate when situation in their homeland improves, the other major perceptions were fearful of the social chaos and danger to the society if permission has given to displaced persons to work outside the shelters, consider displaced persons to be carriers of disease, a burden to the nation, a threat to national security, competitor to job opportunities with Thais worker.

Nevertheless, there is also positive perception of the displaced persons on some points: consider the displaced persons should value themselves by working to take care their families, contribute to the country’s economic growth, capable displaced youth should have access to Thai education institutes, should have access to insurance system, etc. (Assumption University, 2007).

However, there are situations in which the promotion of local integration has particular potential to succeed if the refugees share a language, a culture or ethnic background with the host community, or bring particular skills, or can attract resources and investment to their country of asylum (Crips, J. 2004). Refugees who have particular skills and knowledge that can contribute to local communities of asylum countries are more accepted (UNHCR, 2002).

Though the RTG has never publicize its asylum policy, but it is clear that the principles of the policy are based on “temporary acceptance basis, repatriate on the first occasion, limit the number of new arrival and remaining DP to the minimum ().
In another aspect of protection, the RTG has supported the DPs to access the Thai judicial system since 2007 in order to control the violation of the laws inside the shelters. The permission has given to set up Legal Assistance Centres parallel with the shelters’ traditional govern legal systems to ensure the standard protection of the displaced persons from increasing domestic violence, sexual violence and other criminal cases occurring in the shelters which the old system seemed not to be dealing with appropriately.

In 2009, CCSDPT and UNHCR coordinated in the creation of a new five-year Strategic Plan for coordination of all service sectors aimed at increasing displaced person self-reliance and, where possible, integrating services for displaced persons within the Thai system. Despite this plan, however, the RTG has given little indication that its policy direction will change any time soon (TBBC, 2009), but it will provide a good basis for dialogue with the RTG on finding sustainable solutions for the displaced persons (European Commission, Humanitarian Aid & Civil Protection, 2010). In 2009, the Commission started scaling down the EU contribution to the Temporary shelters in Thailand, a total of €8.75 million, slightly lower than the 2008 figure of €9.5 million. The Commission’s strategy has been co-ordinated with other EU instruments and donors, and is searching for the most effective way to accompany early implementation of the five-year Strategic plan of the CCSDPT and UNHCR (European Commission, Humanitarian Aid & Civil Protection, 2010).

- **Voluntary Repatriation**

In relation to the other options for durable solutions, “voluntary repatriation” has come to be seen by many academics, international organizations and governments as the favourable choice both in terms of practicality and preference. This phenomenon in refugee policy response has been termed the "hierarchy of durable solutions", where the demotion of local integration as a feasible policy option has led to an increased focus on the use of repatriation to resolve refugee situations (Meyer, 2008). While the U.S. and other donor countries have attempted to utilize resettlement to encourage increased consideration of local integration as a share of the solution to refugee situations, there is still significant reluctance on the part of many host countries to change encampment
The ideal international standard for repatriation is a ‘voluntary repatriation in safety and dignity’ to an environment in which “the causes of flight have been definitively and permanently removed” (UNHCR, 1993). A broad theoretical discourse that has been applied to refugee repatriation over the last decade has been the concept of human security. Despite the significant political and practical obstacles, the human security approach attempts to engage with the situation in a holistic manner, addressing the problems and concerns faced by hosting nations, the needs and quality of life concerns of refugees and their communities, and the requirements for repatriation, reconstruction, and reconciliation in countries of origin. Human security is conceived as resting upon three conditions that must be met for a safe and lasting repatriation to be completed (Lang, 2002). Further issue that will need to be addressed if a future repatriation is to take place is that the Myanmar authorities have already indicated that they will require Thailand to submit names, home addresses in Myanmar, photographs, and identity cards in order to verify citizenship before return. Significant problems with registration records and proof of citizenship are sure to arise among the mostly ethnic minority displaced population. In Thailand, a large number of the displaced have never completed the registration process to establish their citizenship and are becoming stateless as a result of their migration to Thailand where their children are also born without birth registration or other documentation of citizenship (Caouette & Pack, 2002).

To respond the above concern, the RTG by the Cabinet has launched the resolution on September 21, 2010 that leads to register birth and provide birth certificate to all children regardless their legal status. This practice will ensure DPs children their rights to identity to proof their citizenship when returning to Myanmar or elsewhere in the future.

The RTG permission for humanitarian agencies to provide vocational training in the shelters are the responses to DPs needs in obtaining necessary skills for their future income (Thai Education Foundation, 2006 pp.12). The skill obtain from training will either support their repatriation, resettlement or possible employment in Thailand.

• Resettlement
At the time of this study, resettlement is the only one of the three durable solutions currently available in the border shelters, RTG policy has also had significant impacts on how the resettlement program has been conducted or contributed to the success in depopulating the shelters. Despite the over 64,000 DPs resettled (IOM, 2010), actual shelter populations, if not the registered populations, have not decreased since resettlement began in 2005. This indicates that DPs continue to seek asylum in Thailand from Myanmar (Sciortino & Punpuing, S. 2009). The ideal result for the resettlement program would be for the population of the shelters to gradually draw down until they are no longer needed. However, the combination of high birth-rates and new arrivals has made this appear to be a distant outcome for the program at present.

Perhaps the ideal result for the resettlement program would be for the population of the shelters to gradually draw down until they are no longer needed. However, the combination of high birth rates and new arrivals has made this appear to be a distant outcome for the program at present, even if it is possible at all (ibid.). While Jacobsen presents the resettlement option as the policy pursued most often by the third countries, the desire of displaced persons and support from the first asylum country also play key roles in driving the program. Asylum seekers might have the desire to settle abroad but their desire is limited by the fear of self adaptation into a country with a distinct and potentially very different culture, and by an unwillingness to be separated from family (Jacobsen, K., 2001). Additionally, without the status of DP, displaced persons like ones from Shan State cannot participate in the resettlement program (ibid.).

The current resettlement program has only include registered population arrived the shelters up to 2005 as eligible applicants. The vacuum of registration process after that has left many non-registered asylum seekers not eligible for the resettlement program. In addition to the pre-screening program, aiming to fill the registration gap has prolonged the result for over a year now. The potential of residents leaving to resettle has had an impact on the remainder and there are no clear improvements to the living conditions for those displaced persons who have decided not to apply for resettlement (Garcia and Lynch, 2009).
CHAPTER 3  RTG POLICY TOWARDS DISPLACED PERSONS FROM MYANMAR: DEVELOPMENT AND CURRENT STATUS

INTRODUCTION

Historically, Thailand has hosted millions of DPs seeking asylum. The policy towards different groups has varied according to their particular situation but, certainly, Thailand has accommodated many DPs over time, including those who came from Myanmar in earlier periods. Until now, Thailand has no particular laws or solutions for asylum seekers but other forms of legislative provision have been adapted to address the situation and these solutions are subject to change according to circumstances.

In addition to the DPs from Myanmar, Thailand has already faced the situation of hosting great numbers of stateless persons including hill-tribe groups, non-Thai population and various DPs groups from Indochina. The situation was first addressed by different government sectors authorized or responsible to each particular group. Later, the RTG issued cabinet resolutions as a mechanism to establish the legal status of each group.

The various groups of DPs included Shang Kai Chek ex-militants and families, Vietnam Dien Bien Phu, Nepalese, etc. To focus only on DPs from Myanmar, an MOI announcement was used to categorize the groups who entered at different periods. The RTG adopted the timeframe that Thailand used to solve the status of many hill tribes in the country to define status for Myanmar DPs.

In the case of DPs from Myanmar, the RTG has maintained the line that those coming from Myanmar are not “refugees” but are “displaced persons fleeing fighting (DPs)” or “DPs fleeing from persecution”. Its non-membership of the 1951 Convention has enabled the RTG to avoid some of the responsibilities it would have to those crossing the border from Myanmar if they were to have full status as refugees.

However, the RTG’s policy does embrace many of the principles of the 1951 Convention; and its practice does, in many cases, extend beyond its own policy as it has sought to respond and manage an often difficult situation which has become widely acknowledged as one of the most protracted of refugee situations in the world.
In examining why the RTG’s policy has evolved as it has, this study looks at a number of far-reaching and intertwined factors to move closer to a long-term solution. Its aim is to identify real, practical steps that would contribute to that solution and would be both acceptable and beneficial towards all the various stakeholders. These stakeholders include the RTG, the DPs themselves, international agencies and NGOs, and other countries that have offered resettlement, such as the USA and the UK. But they must also include local Thai communities directly affected by the shelters, wider Thai public opinion, and, crucially, the government of Myanmar and the ethnic communities in Myanmar that have been and continue to be the source of the DPs.

Critical to both understanding the problem and finding practical solutions is that the RTG is a uniform body; it has various parts, with their own perspectives and priorities.

3.1 FORMULATION OF RTG POLICY AND RESPONSIBLE BODIES

With the absence of formal law, RTG policy is governed by a variety of legislative provisions, including cabinet resolutions, announcement of authorized sectors, etc. The irregular migration experienced by Thailand, including displacement from Myanmar, has been treated as a “security issue” because of the illegality of entry (National Security Policy, 1997-2001, 2007-2011). Various government actors addressed the issue of DPs from their own mandate and regulations. The National Security Council (NSC), the Ministry of the Interior (MOI), the Ministry of Foreign Affairs (MOFA) and the military have responsibilities on the security issue, for instance. The DPs, especially those with links to armed groups in Myanmar, might pose a threat to national security. They need to take account of Thailand’s foreign and economic relations with Myanmar and how these have shifted over the last 20 years, and the current geopolitical situation involving regional organization like ASEAN and the wider international community.

The responsible bodies for the policy of displaced persons from neighbouring countries includes the National Security Council (NSC), the Ministry of Interior, the Ministry of Foreign Affairs, the Ministry of Defence, The Ministry of Education, etc.

The NSC as the consultative body to the government has been assigned by its mandate to be the leading organization on the policy towards irregular displacement from neighbouring countries and other relevant matters, apart from other security issue. The
NSC has carried this role from Indochina period. NSC is responsible to provide a policy framework, guidelines and suggestions to the Cabinet and other government sectors. The NSC has several permanent committees including the Screening Committee, headed by the NSC Secretary General. In March 2004, a Sub-Committee was set up by the NSC Screening Committee to oversee the issue of DPs from Myanmar (Order No.13/2546 dated 4/8/2003). The Sub-committee comprised of members from the Ministry of Foreign Affairs (MOFA), the Ministry of the Interior (MOI), Ministry of Defence (MOD), Ministry of Justice (MOJ), Royal Police Office, Ministry of Public Health, Immigration Office, etc. The Sub-Committee meetings have served as the platform for relevant RTG actors to contribute to policy formulation. The policy recommendations from the Sub-Committee meeting are submitted to the NSC Board or the Cabinet for approval and apply to implementation by relevant sectors (Interview NSC officer, 24/9/10). The assignment of responsibility to the NSC gave the policy and administration of DPs a clearer direction.

The MOI carried on from the Indochinese displaced persons and assumed responsibility to administer DPs from Myanmar (Cabinet Resolution June 3, 1975). In the case of DPs from Myanmar, the MOI, as the authorized body, administered displaced persons from Myanmar who entered Thailand at different period with different approaches. The Foreign Division of the Permanent Secretary of MOI, through its Operation Centre for Displaced Person (OCDP), has continued to administer the day to day activities of the shelters. In 2002 the MOI restructured, and the administration of DPs was divided between two departments: the Foreign Affairs Division Office of the Permanent Secretary for Interior, and Department of Provincial Administration (DPA). The OCDP responsibility includes the coordination of external resources to the shelters. The DPA is responsible mainly for the administration of the shelters. The OCDP has set up its committee to responsible for policy implementation and administration of DP. The OCDP committee members are from various government sectors including the NSC, Ministry of Social Development and Human Security, Immigration Office, Ministry of Public Health, Ministry of Education, Ministry of Labour, Red Cross, Border Police, etc.

MOFA and the MOD deal with Myanmar from different perspectives. MOFA’s Department of International Organization and Department of East Asian Affairs represent as members of the NSC Sub-committee whenever relevant issues are on the agenda. The
Sub-committee meeting is the channel to propose policy as well as information sharing among relevant government sectors with (Interview MOFA Officers 26/11/10, 9/12/10). In 2001, to use the foreign policy strategy, proposed by MOFA as part of solution of the problem of forced displacement from Myanmar was accepted in NSC Sub-committee meeting. MOFA also engages in regional cooperation and international bodies such as ASEAN. The problem of Rohingya DPs has been brought to the ASEAN Foreign Ministers meeting, unlike the issue of DPs in Thailand which is addressed at bilateral level and never be brought up to regional platform.

The MOD, through Department of Border Affairs, is responsible for the cooperation between Thailand and Myanmar on border affairs. The MOD role is about implementing rather than formulating RTG policy on DPs but information from the MOD has played an important role in contribution to policy making, especially regarding the conflict situation in Myanmar (Interview Department of Border Affairs Officer, 20/12/10).

The Internal Security Operations Command (ISOC), another unit under the Office of the Prime Minister, is working at both policy and implementation levels. At a practical level, its role is observed as to promote voluntary repatriation for DP population and searching for information (Interview shelter committee, 7/7/10).

Policy can be proposed at NSC Sub-Committee meetings, to cabinet through Ministers, and through Sub-committees of the parliament. As an example, the coordination with UNHCR for repatriation of DPs was proposed to cabinet meeting (Cabinet resolution, March 23, 2004). The NSC Board and Sub-committee overseeing Displaced Persons will be consulted for particular issues; for example, proposal for DPs to work outside the shelters (Interviewed NSC officers, 23/9/10). The consultation with the NSC by relevant sectors has been made on particular issues that need more consideration, for example, education for children in local schools, training programs, etc. (Interview MOI officer 19/10/10). NSC Sub-committee is authorized to set up working committee or consulting board to study or consider specific issues. Each proposal may not always be approved by the committee or additional information may be required to support the decision. In some cases, the proposal approved by the NSC board or Sub-committee will be submitted to the cabinet for acknowledgment or final decision.
It can be concluded that various government sectors have contributed to policy formulation, from different mandate of each organizations. The policy has been formulated through the structure and mechanism set by RTG through NSC board, Subcommittee, working committee, or OCDA Committee. These platforms can serve as the policy formulation and amendment, information sharing and consultation. Some policies can be finalized or rejected at the meetings or will be passed to government or cabinet for final decision.

3.2 DEVELOPMENT OF RTG POLICY TOWARDS DISPLACED PERSONS FROM MYANMAR

- Flexibility at the beginning

The displacement from Myanmar has taken place from time to time, but the number of DPs that arrived Thailand in earlier periods was small and resided with Thai community.

At the beginning, the displacement from Myanmar was considered temporary and seasonal. The issue was treated locally because at that time, the Indochinese displaced person issue was a huge problem. Later, when the situation got worse, the RTG took issue of displacement from Myanmar more seriously. From 1984, MOI as the authorized body agreed to set up small settlements along the border for remaining DPs and called upon humanitarian organizations helping Indochinese displaced persons at that time to provide assistance.

After the nationwide protest in Myanmar in 1988 and mass suppression by the government, the students, activists and opposition group leaders fled to Thailand. Some managed to go to UNHCR in Bangkok and were granted Person of Concern (POC) status; some were reported to Thai authorities. The RTG set up Maneeloy shelter in Rajburi province to host this group in 1992 (Cabinet resolution, August 31, 2010). The student activists were permitted to stay with the exemption of Immigration Act, 1979. They got permission to move rather freely in the province and other area for certain period and were eligible to study in Bangkok. This group continued their political activities until the two incidents in 1999 in which members of the group were involved; the hostage siege of
the Myanmar embassy, and the invasion of Rajburi hospital. The POCs were transferred to
Maneeloy in 2000 and their movements were controlled after that.

In addition, the Democratic Karen Buddhist Army (DKBA) and Myanmar military
made several attacks to the DPs settlements along the border. Thus, in 1995 the small
settlements were consolidated into fewer, larger safe shelters (NSC meeting, 16/3/1995-

It should be noted that Thailand was always accused by Myanmar government in
hosting ethnic groups and gained support to their ethnicities armed groups. The
enforcement of the confinement policy has been tightened up may be because the
relationship between Thailand and Myanmar has been changed from confronting to
trading and cooperating.

- **Movement tightened up**

After the shelters were consolidated, the DP’s movements became restricted, the
shelter populations were registered and the shelters were regularly raided to prevent any
hoarding of arms (Kanyaban, ibid.). Currently, three principles exist: uphold the
encampment, minimizing or relieving burden on Thailand, and solving the root cause of
the problem (Source: MOI).

The problems of DPs from Myanmar became a challenge and threaten to country
security and the burden become greater. In 1998, the RTG invited UNHCR, which was
operating in Thailand for Indochinese displaced persons at that time, to provide
protection for the DPs from Myanmar (Agreement between UNHCR and MOI, 2nd meeting,
15/5/2008). The encampment was stated in the agreement including the roles of UNHCR,
example: to support the registration system, assist voluntary repatriation when the
situation allow, support the RTG decision to relocate or consolidate the shelters, and
UNHCR would negotiate with Myanmar government to increase its role in Myanmar to
facilitate the repatriation and support the reintegration, etc.

- **Internationalize the issue**

The admission to the shelters was first decided by local authorities. The
registration was done with MOI. In order to support the formal registration system, the
RTG set up the Provincial Admission Board (PAB), a formal body for status determination
in 1998. When the PAB was set up, the local investigation team would submit the
application to PAB to consider and determine “displaced person” status. The PAB has 8
members from provincial government sectors, with a UNHCR representative. The UNHCR
role is to support data and defend for DP applications.

The approved cases are granted DP status, with the registration based on family
unit. Until 2007, the individual identity card was issued to each DP (retrieved from
http://www.unhcr.org/461e3ab34.html). The ID card is issued by MOI with support from
UNHCR. The presence of UNHCR and formal screening procedure has changed the
status determination from localized to internationalized level.

The rejected applicants can appeal to the Appeal Board within 7 days with the
assistance of UNHCR to submit additional documents. The Appeal Board has 12
members, headed by an Inspector of the MOI, and it considers PAB reports and UNHCR
filed documents. The board’s decision is final. According to circumstances, most of
rejected applicants are not likely to appeal unless they have additional data to support
their appeal.

In order to provide more precise information on applicants and improve the
screening procedure, the Pre-screening program has been initiated to standardize the
interview and screening process in 2009. The authorized interviewers are fully trained and
provided with guidelines, UNHCR was one of the trainers; and interviews were done at the
same time in 4 pilot shelters to prevent duplicated applicants from moving from one
shelter to another. The results of the pre-screening are confidential and pass to the PAB.

● Resettlement permitted

The status determination became an important issue when the RTG agreed to
mass resettlement program for DPs in 2005. Earlier, permission was given to POCs or
Myanmar students on a case by case basis. The lack of a PAB to prove the DP status not
only hindered the DP identity but also eligibility for protection and resettlement
opportunity. The non-registered may also cause tension in the shelters. As the funding is
declining, the NGOs restricted food items and rations only to registered DPs, though
negotiating for the vulnerable cases are permitted (Interview NGO, 6/8/10).

Prior to the consolidation of the shelters, the encampment policy was not strictly
enforced, and the DPs movement were allowed to seek for surplus food from surrounding
forest and work in agriculture farms nearby. The consolidation and encampment policy
have made the DPs working outside more difficult. Some DPs were arrested and deported, to the areas not controlled by the Myanmar authorities, but most managed to go back to the shelters (Interview Border Police, 6/9/10).

- Displaced persons, not a recognized refugee

As noted earlier in this chapter, the RTG has adopted its own definition for “displaced persons” (DPs), those who are “fleeing fighting”. In principle, then, the RTG puts a higher threshold of threat for those it considers are in need of the protection it affords. The RTG does not use the term “refugees” at all; and the shelters, it has set up to house the DPs are “temporary settlements” rather than refugee camps.

Though not granting refugee recognition to asylum seekers from Myanmar, Thailand has adopted certain protection measures for DPs whose status has been determined, one of which is non-refoulement. The Cardno Agrisystems report (2009) showed the DPs who failed the screening process are still living in the shelters.

Despite hosting millions of asylum seekers over decades, Thailand has never made public any formal asylum policy. In the period of the Indochinese displaced persons, there were discussions of possible solutions, including the issue of an Asylum Act, proposed by some parliament members, but the act was not taken forward (Report of Ad Hoc Committee to Member of Parliament dated July 13, 1979). The RTG has issued other legislative provisions to deal with certain circumstances of displacement from Myanmar.

In conclusion, the major RTG policy toward DPs can be concluded as: temporary asylum, confinement and status of Displaced persons are granted, not recognized as refugee status. The character of RTG policy towards DPs from Myanmar can be considered as a purposive policy, has clear principles, but formulated with ad hoc mechanism, flexible at first, and tightened up at some key turning points.

The rationale for this situation is that Thailand was faced with finding a solution for Indochinese displaced persons at that time and considered the displacement from Myanmar as temporary. The RTG wanted to keep good image in dealing with displaced persons. The more rigid policy was enforced after the political activities of activists from Myanmar against their government that took place in Bangkok became too frequent and
too serious with the embassy and hospital hostages. Also, the RTG has wanted to keep constructive engagement with Myanmar government, and to strengthen it.

Chronology of the RTG policy towards DPs from Myanmar

- 1984: RTG permitted the first shelter for DP from Myanmar to establish
- 1992: RTG set up Maneeloy shelter to host students and activists from Myanmar
- 1995-1998: consolidated small shelters and moved after several cross border attacks from the Myanmar military and DKBA
- 1998: RTG invited UNHCR to provide protection for DPs from Myanmar
- 1998-1999: Provincial Admission Board (PAB) was set up, official screening and status determination has started. PAB determined only those “fleeing fighting” at the beginning. Later the definition was expanded to “displaced persons from persecution”
- 2000: MOI and UNHCR agreed to transfer Person Of Concern (POC) from urban areas to Maneeloy shelter
- 2002: Vocational training was provided as a pilot project in Suan Pueng shelter
- 2002: RTG planed to repatriate DPs in border areas and resettle students from Myanmar
- 2003: Closed Maneeloy shelter, transferred POC to Tham Hin shelter
- 2003: Appeal Board was set up for DPs to appeal for their status determination
- 2005: MOI signed MOU with UNHCR to set up the registration system
- 2005: MOI and UNHCR transferred the remaining POC to border shelters. RTG permitted for mass resettlement program
- 2006: MOI gave permission to start vocational training in some shelters
- 2006: More government agencies started involvement in DP issue. Ministry of Education started its teaching Thai project in the shelters
- 2007: MOI issued DP individual identity card
- 2009: Pre-screening program starts in four shelters: Nupo, Tham Hin, Ban Mai Nai, Soi (Site 1) and Ban Don Yang

3.3 POLICY AND PRACTICE, REALITIES ON THE GROUND
The policy of the RTG towards DPs Myanmar, though it has some ambiguities, is fairly clear in the settlements, where DPs have faced various restrictions on their freedom of movement, access to law, education and healthcare, and earning a living. In particular, if they leave the settlement they will be considered an illegal immigrant, and be subject to deportation back to Myanmar. The protection and rights afforded to the DPs are therefore less than would be guaranteed if Thailand had signed the 1951 Refugee Convention.

In practice, however, the actions of the RTG towards the DPs have always been more positive than the stated policy on particular issues, and have varied according to local administrations and circumstances (e.g., variations in the approach of different settlement administrators). Practice over time has also evolved, partly to cope with new problems, partly in response to international opinion, and partly as a result of different national governments in Thailand. The RTG has learned lessons from dealing practically with the issue for so long hosting Indochinese displaced persons.

### 3.3.1 Confinement

Practice on confinement has varied over time, and has become tighter as the DPs issue became more politicised. The RTG has made clear from the start that the acceptance of DPs is temporary and asylum seekers need to be confined to the temporary shelters (Source: MOI). This regulation was not strictly enforced in the first 10 years and many of the DPs enjoyed freedom of movement to some extent. After a higher risk was placed on the DPs’ security, confinement became real and put into practice.

But practically, current reports stated that many of the DPs have managed to leave the shelters for work (IRC, 2008). The number of Thai security to guard or control the movement of DPs is small when compared to the DP population; in Mae La shelter, there are only 62 territory voluntary guards, only half of the required number, and they work in shifts, while the DP population is 46,673. The number is insufficient to patrol the shelter strictly, and reflects the flexibility of the shelter control in practice (Interview RTG officer, 20/12/10). The movement in and out of the shelters is unofficial but the confinement policy is not effective, and can lead to abuse and corruption. Normally, the movement between shelters for the purpose of shelter administration, education and training are permitted.
Consequently, the legal status of DPs remains “illegal” because Thailand has no other applicable law than its Immigration Act to address immigrant entry including DPs from Myanmar seeking asylum. In practice, this means DPs are confined to “settlements” as a condition of the protection offered. Those who leave the shelters are subject to arrest and deportation. Arguably, the repatriation of Karen DPs that took place, “informal deportation” as it has been termed, did not place DPs into danger as they were not handed to Myanmar authorities but rather through informal channels along the border (Interview MOD officer, 20/12/10). But in most cases the RTG has broadly kept to the principle of non-refoulement.

3.3.2 Status determination and registration

The official screening procedure started in 1998, with UNHCR’s participation, and has stopped functioning from time to time. The screening is based on interview information which varies according to each shelter and interview team. The pre-screening programme has been introduced with the aims to increase the capacity of interviewer and standardize the procedure.

Admission to the shelters was restricted initially to people fleeing from the fighting between ethnic insurgents and the Myanmar military but later the criteria broadened to two categories:

1. “Displaced persons fleeing fighting” defined as those fleeing from fighting area

2. “Displaced persons fleeing from political persecution” defined as those fleeing political conflict and persecution in Myanmar (Source: MOI).

PAB was regularly meeting on monthly basis during 1999-2001 but less frequently after 2002 and resumed full function again in 2004, only to re-register and transfer the cases to new database system, only small number of new cases. The PAB status determination was considered on group basis during the first period but after 2005, the meetings were rare, 1-2 meetings a year but the consideration was made on case basis; the last meeting was held on August 16, 2010 (PAB meeting report, 16/8/10). The PAB rare meeting was observed so as to reduce the number of DPs entering the shelters.
Though the newcomers still arrive at the shelters, they are a mixture of vulnerable groups, seekers for resettlement, job seekers for better life opportunity, etc. without the status determined, there are no other mechanism to screen out those not eligible to DP status (Interview NGO staff, 8/9/10). The reasons why the PAB often fails to function are various; in a view of MOI officer, the status determination has become meaningless with the failure to deport the “screened out” cases, and UNHCR is not able to guarantee safe return (Interview MOI field officer, 4/11/10). The ineffective screening process is reported in an earlier study of Cardno Agrisystem (2009). The difficulty, on the other hand, can come from an MOI attitude of not wanting to force any deportation, so that a stronger operation may be necessary (Interview MOD officer 11/12/10).

The Pre-screening program that aims to fill the PAB gap is becoming a doubt. Training was provided before the programme started but over a year the result of the pilot programme has not yet been finalized. The absence of a process such as the PAB to prove the DP status will not only hinder the DP identity but also eligibility for protection and resettlement opportunity.

Registration of the DPs in the shelters has been conducted for various purposes by different organizations at different times. The first formal registration process for DPs in the border shelters was conducted by the MOI and UNHCR in 1999. Only in 2007 that each DP was issue an individual ID card, not as family registration form. The ID cards which come with a photo and a magnetic strip issued by Department of Provincial Administration, to all displaced persons over the age of 12. The card contains the name and age of the displaced person, as well as the settlement where he or she is registered, together with the left and right thumbprints encoded on the magnetic strip. Holding the card, the displaced person will be able to return to the settlement safely if he or she is arrested outside.

The initial intention was that identification cards would be issued for those over 12 years old, both for recognition of status and to allow for possible future permission to enter and leave the shelter. The latest registration process, from 2009, applied to new born children in the shelters. It was the first time that the official birth registration for DPs fitted with the Thai registration system.
The providing of birth certificates in the settlements is perhaps the most significant practical change. As has been noted, the CRC, to which Thailand is a signatory, requires this as a right for all children; and arguably the Thai constitution also guarantees this basic right. Before, the new born was registered on the family registration form. The RTG’s reluctance to include the “new born” within the official Thai system is often seen as due to the risk of being forced later to grant them Thai citizenship. However, the absence of clear documentation of identity for those in the shelters also ran the risk, for instance, of making any subsequent resettlement more difficult. It would potentially even complicate voluntary repatriation, giving Myanmar an easy excuse for not accepting any DPs who lacked formal identification. In 2009, the RTG began formally to issue birth certificates to those children born in the shelters. The reservation of CRC, article 7, was lifted in a cabinet meeting in September, 2010. The issue of a formal system for registering births has been one of the most controversial in relation to the DPs from Myanmar.

3.3.3 Education

Education has been another area where practice has evolved. All children and young people in the settlements have been guaranteed primary and secondary education, though attendance has sometimes been patchy. The education system, though, was geared towards voluntary repatriation as the only solution, and it was therefore not linked to the Thai education system and curriculum, but rather to that in Myanmar. The fact that, increasingly, many of the young people in the settlements had never lived in Myanmar was an unfortunate truth. Again, for the RTG, harmonising education in the settlements with the Thai system, including teaching Thai language, could be seen as another step to making the granting of mass right to remain in Thailand, perhaps partly as a result of international pressure for a solution from donor countries, to the DPs from Myanmar more likely.

Access to tertiary level education is very restricted for the DPs from Myanmar because of the policy of confinement to the settlements. However, the 2006 visit to the settlements by the ex-Thai Prime Minister led to an idea that Thai tertiary education universities and colleges might sponsor selected DPs from Myanmar and bring them to Bangkok; however, this has not been put into practice. Tertiary level education is still
restricted, but many courses under the term “post 10” or “training course” have taken place in some shelters.

In 2005, the NSC together with the Ministry of Education (MOE), Provincial Governors of the border provinces and other relevant organizations planned to work jointly on the “Education for DPs” programme (Source: MOE). The agreed strategy was firstly to prioritise education for communication, both in reading and writing, and not giving the focus to academic matters. Secondly, it was agreed to encourage the understanding of tradition between two countries, Thailand and Myanmar. Later, the MOE was able to set up Thai Language Study Centres in the settlements, teaching Thai language to DP adult and children.

The Thai language courses are arranged into three grades; basic, intermediate and advanced; and there is 96 hours learning for each grade. Besides those, there are supplementary activities on Thai culture and language organized. Classes are conducted by territorial security corps, volunteers, and teachers from office of the Non-Formal and Informal Education. Thai language study is a supplementary subject in secondary level at schools (MOI-CCSDPT Annual Workshop, 2008).

The Special Study programme accepts grade 10 graduated students. It is categorized into 7 special programs. But due to the lack of human resources, the programme is open in some shelters only.

However, the graduation in the settlements is not recognized by the Thai education bureau yet. The attempt to adapt the shelter curriculum to Thai curriculum is on going. An interview with the MOE suggested a possible approach is to arrange a placement test (Interview with Office of The Basic Education Commission, MOE, 2010).

3.3.4 Employment

Employment, a key part of “self-reliance”, has been the biggest stumbling block for the DPs. The right to earn a livelihood has effectively been denied to the DPs, resulting in all sorts of problems, not least one of dependency on supplies from the various NGOs that operate in the settlements. Again, arguably, the resistance to the DPs being able to legally work can be viewed as consistent with the RTG’s attempts to limit the move towards “local integration”. Under the current Thai national legislation, any DPs that leave
the settlements to seek work or for any other reason become illegal immigrants and can be deported. In practice, many of the DPs do have jobs, and are able to leave the settlements to work for local employers, usually in agriculture and manufacturing. This practice is widespread and if not officially. Practice also varies locally, reflecting the relative autonomy that the RTG gives to different local officials. Attempts to create work opportunities in the settlements, other than for tasks related directly to settlement functions (e.g., administrators, nurses, and teachers) have been relatively unsuccessful, partly because of the logistical challenges of, for example, bringing raw materials into the settlements in order to run manufacturing operations using the DPs as labour. The tolerance of DPs going outside to work can be partly seen as a way of reducing unhealthy and potentially disruptive tensions in the settlements, with so many confined DPs. DPs can work legally; but only inside the settlements, e.g., working with NGOs, trading, agriculture. Inevitably, numbers are limited; not all DPs can find work in the settlements. So far, there is not so much real change viewed from the UN and NGO perspective; the CCSDPT/UNHCR 5 year strategy plan emphasizes more employment, but there has been little real progress.

3.3.5 Vocational education and training

The issue of vocational education has also been one where policy has changed. Again, this area has been one where the RTG has seemingly been reluctant to sanction an activity that might seem to support the idea of local integration. Nevertheless, the teaching of practical skills such as weaving and carpentry has been introduced. Skills acquired could equally be applied back in Myanmar, of course, should voluntary repatriation become an option. There are income generating programs in many shelters, with DPs given training on sewing, electronics, and agriculture. Handicraft shops are open in shelters to sell products produced by DPs. The MOI has permitted renting of land for training agricultural skills and generating income. These all are part of the self-reliance initiative, being an investment in resettlement as well as eventual repatriation, as viewed by the RTG.

The lack of progress in conflict resolution in Myanmar has led to a change in the position of the previous Thai government regarding burden sharing through resettlement
programs and capacity building of the displaced persons while in Thailand. Vocational training is a way of working towards sustainable livelihoods by fostering economic self-reliance. This major shift in thinking requires a different focus for the Vocational Training (VT) courses. VT needs to be balanced between training for independence within the displacement situation and training for repatriation and resettlement. As of now, vocational training is provided by both NGOs and Community-Based Organisations (CBOs), and programs vary from income generation to improving the food basket to merely teaching new skills, e.g., auto mechanics, baking and cooking, carpentry, computers, etc. Some training courses such as agriculture, animal husbandry and fish breeding require access to land leased from the Thai Forestry Department near the settlements, and also support from local citizens in the villages around the settlements. Arguably, some of this training may need to be revised to better meet DPs’ needs and create opportunity for income. Micro-finance has been initiated in some settlements in the form of ‘Village Saving and Loan Associations’ (VSLAs) for those who are more interested in setting up their own small businesses than looking for waged employment.

3.3.6 Internationalisation and the role of UNHCR

The invitation to UNHCR to oversee the temporary settlements in 1998 was in itself a change in policy, and the UN body now plays an active role in monitoring the settlements, and in seeking durable solutions. Its initial role in “screening in” DPs from Myanmar who reached its offices in Bangkok – so called “persons of concern” (POCs) – became less important, however, in 1996, when the Maneeloy Shelter was closed and all remaining POCs were transferred to the border settlements. The status of POCs was a problem because it provided protection that should not be binding in Thai law, and it tended to be assigned to political activists who could be embarrassing to the RTG, especially as POCs did not have to be confined to settlements. In practice, the case of POCs has been flexible treated. Currently, the POC status is used not only for asylum from Myanmar, but asylum from other parts of the world such as North Korea, the Middle East and Africa. Local criticism maintained that the POC status was easier to obtain in Thailand than in most other places (Interview RTG officer 10/11/10). Since the RTG accepted resettlement as one of the solutions to the DPs issue, international agencies have played a
major role, and over 64,000 DPs have settled in many countries. However, case load has not reduced, and resettlement has been considered as a pull factor, making it unsatisfactory to the RTG. As a result, though the policy was not changed, the resettlement process has slowed down, with numbers expected to be around 10,000 in 2010 (interview with TBBC, 2010).

3.4 FACTORS INFLUENCING RTG POLICY

The RTG’s formal policy stance on the DPs from Myanmar has been shaped by a number of historical factors, notably its experience with the Indochinese displaced persons in the 1970s. At the same time, the difference in treatment of the Indochinese and ethnic DPs from Myanmar by the RTG may have contributed in some measure to the protracted nature of the current DP issue. The apparent reluctance, as some commentators have seen it, in “internationalising” the current situation (e.g., the initial reluctance to involve UNHCR, the resistance to resettlement), may have made the situation more complex, and solutions harder to find.

There are particular circumstances, from the national perspective, that the RTG feels justifies its decision in the face of such international criticism. Of these, the most crucial is the concern that the exercise of full refugee rights will cause more political chaos; the protest of the anti-government movement and the seizure of the Myanmar embassy in Bangkok support this concern.

3.4.1 Internal factors

Since the Indochinese displacement experience, Thailand had a clear “preventing policy” for asylum seekers, though permission for humanitarian assistance has not been denied. The long period of struggling with local protest, the difficulties dealing with different humanitarian agencies, conflict between displaced groups, the assumed autonomy of UN agencies which led to violence among refugees against local Thai authorities, the pressure from the international community to open up more local integration, are all pressures that Thailand has had to face for a long time. This historical experience has shaped the policy toward DPs from Myanmar who entered at later period.
The local resistance during the Indochinese period came from the poor standard of living among local communities that were themselves struggling to survive. The assistance offered to the displaced persons was seen as a free gift. There was also a fear of political ideology at that period. Villagers also had to move to make way for shelters to be established. All these factors increased Thai community unwillingness to accept the Indochinese displaced persons.

Thailand’s experience of dealing with the huge numbers of Indochinese displaced persons from the 1970s has had some impact on how the RTG deals with the protracted displacement situation from Myanmar. For example, the aggressive attitude of Vietnamese displaced persons against Thai authority was considered to result from UN protection and autonomy. The RTG has shown a reluctance to involve UN and international organizations too soon because the RTG resists external pressure that will override its own interests.

The fear of politics may not be a problem with DPs from Myanmar nowadays, but modernization has made the way of living more costly. Though the economy in Thailand has improved, income inequality still remains a problem between rural people and urban. The increasing population has made land and natural resources a crucial problem for every Thai government. The use of land among locals becomes competitive, not only for daily consumption but also for living and business. When the DPs are included in the competition, either as labourers or users of natural resources, negative feelings towards DPs among local community are increased (Interview local administration officer 12/7/10).

Thai public and local opinions have remained a critical factor for the RTG, and surveys have consistently showed that strategies of local integration are a challenge (Assumption University, SIMBARC, 2007, Pettra, 2008). This is especially true of the Thai communities in the border areas, who have experienced competition for agricultural land and pollution as a result of the settlements, and who believe in many cases that the DPs have better access to local resources. The resistance and reaction to DP settlement can happen long after the local settlement has taken place, as in the case of Vietnam displaced persons settled in Thailand (retrieved from http://www.ubonnews.com) as long as the effect remains. They also considered the existence of DP settlements had caused the spread of disease and crime (Khanchai, 2003, Pettra, ibid).
The attempt to increase DP access to social services, as stated in UNHCR/CCSDPT 5 year strategy, is another challenge to Thailand. Rural health services are planned for a certain amount of people, not only the materials and equipment but number of health personnel to serve local communities. Basic health problems are better addressed in the shelters but the prevention and report system may need to be coordinated more with Thai health systems for better collaboration (Interview MOPH officer 25/11/10). Therefore, the RTG is reluctant to include DPs to local public services.

Access to higher education is beyond the basic education that RTG has provided to local children, in addition to the different education system and language of instructions. The adjustment of existing education curriculum to Thai education system will be helpful for accreditation only if the language barrier is overcome, and access to local or Thai schools will be a challenge for cultural identity and assimilation to Karen, Karenni or other ethnic DPs. The RTG budget for education does not cover tertiary education, thus financial matters will be another constraint for DPs access to higher education.

The difficulty in management of migrant workers from Myanmar is undeniably a factor connected to policy on DPs. As earlier mentioned, Thailand has struggled with problematic administration over the migrant issue for a long time. The control approach used to administer migrant workers has proved unsuccessful and another approach is needed. The addition of the DPs, with its political dimension, makes the migrant situation more complicated. Combining migrant and DPs issues, in some RTG officers view, will provide double protection to DPs and make them difficult to administer, because migrants have limited term of services and can be deported but DPs have international protection that makes deportation more difficult (Interview NSC Officer, 13/11/10). The same view is cited about the economic uncertainty, whether DPs are willing not to receive support in the shelter or to survive by themselves if the economic downturns? (Interview MOFA Officer). This question remain for all stakeholders to consider, not only DPs.

The RTG has most often cited national security as a critical issue in defining its policy towards the DPs. However, their have been instances, notably the “Myanmar Embassy incident” when Myanmar political activists occupied the Myanmar Embassy in Bangkok in 1999, that have both embarrassed and unnerved the Thai authorities. The regular search to prevent some opposition groups who were active in the armed
movement in Myanmar from using the shelters to support their activities reflects the RTG concern, and this has legitimately helped shape its policy.

3.4.2 External factors

The RTG’s resistance to signing the 1951 Refugee Convention has provided a means to refuse protection to some. The reason for not signing has been the source of speculation: by being a non-signatory, for example, the RTG avoids being subject to the rulings of the International Court of Justice on refugee issues, and the RTG has had some experience of rulings from that court going against it. Another possibility, raised in interviews with RTG representatives, is that Thailand can’t cope with the freedom of movement of “refugees”, e.g., political movement against Myanmar (Interview), land providing, etc. There is also a feeling that signing the Convention, and therefore treating DPs from Myanmar formally as refugees, might be seen as an “unfriendly act” by Myanmar, something to be avoided as Thailand continues to manage its complex relationship with its neighbour. Or maybe the RTG merely wishes to maintain its “large margin of discretion” to deal with the flows of DPs.

Thailand has signed other international declaration and conventions, some of which do have relevance for the DPs. The Universal Declaration of Human Rights (HRD), the Convention on the Rights of the Child (CRC), International Covenant on Civil and Political Rights (ICCPR), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), part of CRC which the RTG has highlighted and refers to displaced children. However, the RTG posted “reservations” to the relevant Articles 7 and 22; the former confers rights of birth registration and nationality for all children and the latter deals directly with refugee children. The Cabinet has now lifted the reservation of Article 7 to register birth of all children on Thai soil, including displaced children which does not biding to grant them nationality. The issue of a formal system for registering births has been one of the most controversial in relation to the DPs from Myanmar.

In the absence of the framework that the UN Refugee Convention would provide, the DPs have in essence been subject to Thai national laws, notably the Immigration Act 1979 which clarifies the classification of “illegal immigrant”. Section 17 of the Act does allow for decisions by the RTG Cabinet to overrule the Act in special cases, and this was
used in some cases in the 1970s and 1980s for some Indochinese displaced persons, but it has been little used more recently and do not apply to the DPs residing in the shelters. The Constitution of Thailand, in principle covering all who reside in the country, Thai and non-Thai, ought to offer some protection to the DPs from Myanmar, since it mentions human rights and human dignity; in practice, though, it applies to citizens, and DPs are classified as “illegal”. It has not been tested in the Courts.

The relationship with Myanmar is certainly an influence factor to the RTG policy, and RTG foreign policy towards Myanmar has been altered from time to time. During 1980-1988 the policy emphasized partnership to protect the country from the Socialist Vietnam influence in the region. From 1988 onwards, Thailand gave priority to economic growth, and Thailand adjusted its national development policy from producing for internal use to producing for export. Thailand foreign policy during 1988-1991, was to build a “trading market instead of war zone” with neighbouring countries. In 1996, Thailand signed an agreement with Myanmar to build the first friendship bridge in Mae Sod district, Tak, and signed Memorandum of Understanding (MOU) with Myanmar in 2004 to collaborate in solving the migrant worker issue. Thailand’s intention to strengthen relationship with Myanmar was stated in its Security Policy towards Myanmar (2003-2005) as well as to prevent any operation against Myanmar government to take place in Thailand.

Thailand had to search for more resources and markets, which led to more constructive engagement with Myanmar. Myanmar’s fertile land, minerals, oil and gas were attractive to Thai business investors. Most of the huge projects between Thai and Myanmar focused on the land of ethnic minority groups. Economic factors have been criticized as becoming overly important in Thailand’s relationship with Myanmar, leading Thai policy makers to go along with the Myanmar government rather than confront it, for example on human rights issues.

Thailand was in a uniquely difficult position with regard to the conflicts in Indochina, their geopolitical context – stopping the “march of communism” – and the resulting influx of displaced persons from Vietnam, Cambodia and elsewhere. The RTG did afford protection to those seeking it on a large scale and in a way that mainly accorded with international humanitarian law and the spirit and letter of the 1951 UN
Refugee Convention. The Comprehensive Plan of Action (CPA) that ultimately was put in place to deal with the situation involved huge international cooperation, including a significant resettlement programme, and arguably only came about with the media focus on boatloads of Vietnamese displaced persons being turned away from ports or interred, as well as a desire by all countries to end the problem and move on. Partly for its own reasons, relating perhaps to its relationship with Myanmar, the RTG has deliberately sought not to draw attention to the DPs from that country, to the extent of not calling UNHCR access to the border settlements until 1998. From interviews with RTG representatives, it seems clear also that the RTG did not expect the situation would last so long and become protracted (interview, MOFA officer, 10/11/10).

The engagement in regional cooperation and international bodies such as ASEAN can contribute to RTG policies both positively and negatively. With the success of Thailand in supporting Myanmar to be a member of ASEAN, the recent meeting of the Foreign Ministers of ASEAN has stressed the importance of having a dialogue of all parties concerned in Myanmar's further development. The strengthening of the economy could promote reconciliation and democracy in Myanmar; which in turn may create, eventually, conditions for voluntary repatriation of the DPs.

The role of ASEAN in positively engaging with Myanmar is significantly increasing. During the ASEAN Summit which was held in Thailand in 2009, all the countries agreed that in order to gain a durable solution for the Rohingyas problem in Bangladesh, discussion and agreement at the regional level was critical to ultimate success. The regional mechanism has been set up to monitor respect for human rights, the results remain to be seen. One outcome was that the prime minister of Myanmar accepted the approach of setting up a contact group and bringing the issue on to the region panel. The practice that follows this promise needs to be seen. Another attempt can be seen from the recent meeting among the ASEAN’s Minister of Foreign Affairs in Indonesia in January 2011(Source: MOFA). ASEAN will seek international cooperation to remove sanctions that have been applied on Myanmar by some countries, and push forward compromises between Myanmar Military Government and Aung San Suu Kyi, the pro-democracy leader. The latest visit to Aung San Suu Kyi and high ranking officers in the Myanmar government by the Thai Foreign Minister in mid January 2011 is a sign that
Thailand also prefers Myanmar to solve its internal conflict peacefully. There is a possibility that in the near future, Myanmar will take turn to become the president of ASEAN, so there is a need for Myanmar to gain credit from the international community. All this may lead, ultimately, to safer conditions for repatriation for the DPs.

The ratification by the RTG of international conventions such as Human Rights and Rights of the Child is another influence on RTG Policy. Since 1998, in accordance with the Convention on the Rights of the Child, National Education Plan and the National Economic and Social Development Plan, RTG establish and enforce twelve years’ basic education for every student including DPs, the permission has given to education expansion in the shelters.

UNHCR's involvement has had an impact on the DPs situation since 1998, and has had some influence on the policy of RTG. The formal registration and establish of PAB was the RTG response to UNHCR proposal with key objectives are to provide protection to DPs. Involvement of UNHCR to solve DPs from Myanmar is also to support plan for repatriation as a durable solution (UNHCR-RTG 2nd meeting, 15/5/1998). However, to implement any of the durable solutions, certain conditions have to be met, in some condition, UNHCR will support RTG operation, for voluntary repatriation as an example, the situation in the country of origin is a crucial factor(Interview with UNHCR, 17/6/2010).

The contribution of UNHCR as well as other UN agencies and NGOs has resulted in the shifting of some RTG policy. But the relationship between Thailand and UN agencies is not always positive, and there were times that the RTG expressed its unwillingness to receive any support which accompanied some conditions, considered that was not equal rights as working partners (Cabinet Resolution, 23/12/2003).

It is not yet clear what impact the election of November 2010 and its aftermath may have, both on political processes in Myanmar and, ultimately, on the 150,000 or so Myanmar DPs living in the temporary settlements across the Thai border. In particular, the release from house arrest of Aung San Suu Kyi, the symbolic leader of Myanmar’s opposition and the daughter of its greatest national hero and anti-imperialist liberation fighter, may have the potential of being a “game changer” for the political impasse. Many analysts are speculating that the regime cannot easily reverse its decision; re-imposing
restrictions on Suu Kyi might lead to a new level of civil unrest. At the same time, it has been remarked that Aung San Suu Kyi has been taking a noticeably more conciliatory tone towards the regime since her release, and that there is more potential for positive action and democratisation than there has been in the last 20 years. Whether this means, for example, that the opportunity for voluntary repatriation for those Myanmar DPs in Thailand is closer, remains to be seen. However, initial signs that the Myanmar army, post November 2010 election, is stepping up action against armed groups from the Karen, Wa and Kachin ethnic groupings is not encouraging. Against this, the ASEAN regional group, of which Myanmar is a member, is showing a willingness to engage as it has not done before.
CHAPTER 4
RTG POLICY AND THE NEEDS OF THE DISPLACED PERSONS

INTRODUCTION

The earlier chapter explained the formulation of the RTG policy towards displaced persons, the rationale and factors that have influenced the policy development. This chapter will explore how the existing policy has responded to the needs of the DPs, how it has contributed or affected the living conditions and wellbeing of the DPs, and what is the gap that needs to consider for improvement.

4.1 Needs of Displaced Persons

4.1.1 Protection

Considering the situation that drives displaced persons out of Myanmar, the first need of those fleeing from perceived danger is a safe sanctuary that they seek in Thailand as their refuge country. The RTG has consolidated the various earlier small shelters close to the Thai-Myanmar border after several attacks from the DKBA. Though has been criticised for placing more restrictions on DPs, the consolidated settlements have proved easier to defend as well as to providing more safety. The survey indicates that the main reason for most (61.5%) of the respondents to remain in the shelter is safety, and other reasons are family reunion 8.8%, for children's education 3.83%, for food rations 2.03% and 7.66% having no choice. The findings show that the protection has been put into practice enough to ensure most of the respondents who express that they feel physically safe, and only a small number feel unsafe (Figure 1). The registered and non-registered DPs share the same secure feeling (Figure 2).

Figure 1: DPs’ feeling safe residing in the shelter

The majority of the respondents, 86.71%, state that they actually feel physically safe, 7.43% feel normal, but 4.5% feel unsafe.
In order to ensure the shelters' safety, the regulations to control security have been put into practice: such as placing security guard, etc. Arguably, the regulations to control the shelters are acceptable to most of the DPs in this survey as shown in Figure 3.

Figure 3: DPs opinion toward security control policy

Most of the respondents 64.6% consider security control policy a good one, only small number 4.1% considered it rather bad and 28.8% though it is just normal

Another factor that can contribute to secure feeling of DPs is the relationship with Thai authorities who are responsible for shelter control. The surveys find that two thirds of the respondents consider having good relationship with Thai authorities but a much smaller group of 4%, who feel their relationship is rather poor (Figure 4).
It should be noted that the good relationship between DPs and authorities does not necessarily represent the condition of personal contact but it may be only normal or good cooperation between them. The shelter administration system does not require DPs to contact the authorities directly.

Compared to the earlier period, the more restricted regulation has been applied to DPs movement. Although the confinement policy has been criticized negatively by different stakeholders, the restriction may be perceived as the means to achieve the shelter security. The findings show that almost two thirds of DPs who participate in this study agree to the policy and only a small number disagree (Figure 5).

The policy of restricted movement is agreeable to 70.3% of the respondents (which include 4.3% totally agree and 61.7% agree), compared to 29.7% who disagree, 2.5% do not know about the policy.

Though the majority of respondents seem to accept the confinement policy, some of them still want it to change. Asking them to prioritize the policy element they want to change, some 20.27% of the respondents want the confinement policy to change, more respondents as 25.9% want change in education policy and 17.6% want policy of employment to change (Figure 6).
The above answers, it could be argued, indicate acceptance by the DPs of the policy that restricts their movement. It is likely that they accept the policy because, in reality, they are not completely confined to the shelters, there is some flexibility on the ground; or the worst cases they accept it as having no other alternative.

Information from focus group interviews can support or explain the reasons for policies that respondents want to see some changes. The long waiting time for resettlement application and the fact that non registered DP are not eligible to apply are reasons they want to see change in resettlement policy as well as to be informed the reason for rejected cases. Some look for more opportunities to study outside the shelter and study in higher level in Thai institute, while some want permission to be employed outside the shelter and not be arrested.

4.1.2 Administration in the settlements

From the beginning, the MOI has tried to give the DPs a high degree of self-management in the settlements, especially as the settlements have become formally established. Attempts have been made to involve the DPs directly in the committee structures that govern the settlements, while maintaining overall RTG control. Also, probably as a consequence of the natural flow of DPs, the settlements tend to be dominated by one ethnic group or another, whether it is Karen, Karenni, or other. In fact, the Karen is the most numerous group of DPs. In most cases, the committees have been shaped to reflect the traditional structures of the ethnic groups themselves. One particular issue that needs more attention is the diversity of population. The other ethnic populations other than Karen and Karenni are increasing, Burman 2.1% (in 2006) increased to 4.1%
(2010), Mon 0.3% to 1.0%, Chin and Kachin from very small numbers increased to 0.4% and 0.3%, while Karen and Karenni has decreased (TBBC, 2010b pp:64). Christian Karen was the majority population but currently, the proportion of other religious groups such as Buddhism and Islam has increased (TBBC, July 2010: pp.9). These changes and diversity need more awareness and careful consideration to cover the need of this diversity. In term of gender balance in internal administration, women for example did not hold much decision-making authority in the past. In many shelters, the proportion of female members in shelter committee was small, for example 3 female among 15 members (MOI document, 2009), and only 23% female participants had taken part in shelter management trainings (TBBC, 2009: pp. 50). This practice may lead to the downplaying of the seriousness of a sensitive issue like gender-based violence. The situation has been improved in most shelters and women now have more share in the shelters administration level (TBBC. 2010:pp 61).

While the RTG, collaboration with the military, is able to ensure external security, the internal security is a challenge that needs to be considered, especially in the area of crime which leads to DPs feeling insecurity. The shelters experience similar crimes to any population, but there are indications that crimes such as domestic violence and sexual harassment may be more acute because of the DP’s psychosocial difficulties. Gender-based violence is seen as a particular problem in the closed communities of the confined shelters. Ninety-three cases of abuse and violence incidents occurred during 2002-2004 including 18 cases of domestic violence and 11 child rape cases (Premjai Vungsiriphisal, et al, 2010: pp.120). In 2006 the incidents increased to 199 cases and domestic violence came up to 122 (UNHCR, 2006). The concern over this matter is reflected in the interviews below:

“….. Domestic violence came from drinking alcohol, quarrel and violence in the families….” (Focus Group Interview, Nai Soi 11/8/10)

“….Scolding, sometimes fighting between husband and wife become more frequent, mostly from drinking…” (Focus Group Interview, Mae La, 4/9/2010)
The other area of protection that is linked to actual and perception of security and safety for the DPs is the access to justice. Earlier, law and order systems in the settlements operated largely on tradition justice system but the increasing incidents and sensitive cases require more formal legal mechanisms to deal with them. In late 2002 UNHCR Gender Bases Violence Programme was launched in the shelters to address the problem. The program organized several awareness raising activities which are positively accepted by many DPs (64.6% of the respondents in the survey). In 2006, the RTG gave permission to establish the Legal Assistance Centre (LAC), which is run by an NGO, International Rescue Committee. The centre is intended to provide a systematic justice system to respond to the need of DPs to access to the Thai legal and ensure their rights for fair and equal treatment across diverse ethnic groups. Having access to formal system has been perceived by DPs positively (Figure 7).

Figure 7: DPs opinion toward formal legal assistance

70.7% of respondents consider the operation of legal assistance good, 9.5% but 6.5% ill not enough, 9.5% refer to just normal, 6.5% consider the activities is not sufficient, 13% give no answer.

But the access of increasing numbers of client may also emphasises the need for more prevention and tackling the root causes of the problems; either from the protracted nature of the confinement, the unawareness of the gender sensitivity, etc. The MOI has facilitated the establishment of legal assistance and access to Thai justice system and the collaboration of UNHCR, IRC and MOJ in order to assure DPs better protection when the perpetrators are local people or authorities whom the traditional justice system will have little chance of charging the perpetrators (Interview MOI officer, 8/11/10). MOI supports the access to Thai justice system include the collaboration to raise awareness among the voluntary security corps.
Though the DP community has a strong administered structure, but this may be changing and growing weaker as the young generation, by exposure to external influences, tend to lose their respect for their seniors and have less discipline. The prevalence of youth gang inside the shelters has increased (TBBC 2010b:pp.8). The young DPs behavior has raised concern to DPs adults and their leaders but the external factor has been perceived as influencing to this problem.

“…..Young ones mixing with outsiders, there were disputes sometimes and caused trouble…..” (Focus group interview, Maela, 3/9/10)

The mixing of DPs youth with outsiders can reflect the flexibility of administration system to allow visits of local people to the shelters but also can be perceived as the loose security control of the shelters.

4.1.3 Well being

(1) Basic needs

The well-being of DPs is a critical issue in terms of their feelings of security and safety, and focuses on basic needs provided to them. In this aspect, the RTG has permitted humanitarian to provide food, cloths and material for shelters to DPs. The main provider for basic needs is Thailand Burma Border Consortium with funding majority from various government donors: Australia, Canada, Czech Republic, the European Union, Denmark, Great Britain, Ireland, Netherlands, New Zealand, Norway, Poland, Spain, Sweden, Switzerland, Taiwan, and United State of America. (TBBC, 2009).

Though the assistance is at a basic level, most DPs consider the policy regarding to their well-being is good, and only a very small number disagree and regard it as bad policy (Figure 8).
There are several humanitarian agencies which are responsible for healthcare in the shelters: Aide Médicale Internationale, ARC International, Catholic Office for Emergency, Relief and Refugees, Handicap International, International Rescue Committee, Malteser International, Solidarités, Ruammit Foundation for Youth and Children – Drug & Alcohol Recovery & Education, Solidarités (Source: CCSDPT). Statistics have shown that the general health of the DPs is in equivalent to international standard. Example: the Crude Mortality Rate in all shelters from year 2003-2006 is between 3.6-4.9 per 1000 population, lower than UNHCR standard (5 per 1000) Infant mortality rate has decreased from 28.7 to 20.2 per 1000, but still higher than Thailand rate which is 18 per 1000 and much lower than Myanmar which is 75 per 1000(CCSDPT, 2006: pp.39-41). The coverage of vaccination of all types is over 95.5%, close to UNHCR standard (100%) and Thailand rate (96%) but better than Myanmar.

The above statistic reflects that for certain categories of physical health the DPs are actually close to or perhaps better than the surrounding Thai communities. The reasons for the relatively good state of general health are related to reliable food supplies being provided and the fact that primary healthcare clinics are permitted in the settlements themselves. This assumption is supported by the survey findings that two thirds of the respondents consider healthcare policy is good and only very small number who do not think it is good (Figure 9).
The challenge of DPs health condition is the high Crude Birth Rate in the shelters which is 30-34 per 1000, double that for Thailand with a rate of 16 per 1000, which contribute to the increasing population. The outbreak of infectious diseases such as cholera, diarrhoea, upper respiratory infection, etc. may be caused from the problem of waste disposal and other environmental factors, especially given the length of time these temporary settlements have existed and the need for improvement. Many of the DPs have experienced traumatic events, including as victims of armed conflict. In addition, the long periods of confinement to the settlements endured by many of the DPs have eroded their self-esteem and abilities to be self-reliant, and can cause high levels of anxiety and stress. Another concern is about the shortage of health staff; many join the resettlement program. The training and replacing of skilled health staff is a constant problem for NGOs. Secondary and tertiary healthcare is not readily available in the settlements and serious and complicated cases that need to be referred outside the settlements include obstetric complications and complex surgeries. Referrals outside the settlements are expensive and are covered by humanitarian organizations. In some cases, referrals may be delayed, or not happen at all, because of cost constraints.

Anyhow, the recommendations to integrate DPs health services within Thai system (TBBC, 2009 pp.17) will need many resources to increase the system capacity, regardless of the willingness of health personnel, as the services for local and migrant population are already overwhelmed. Mae Sod Hospital, where DPs from Mae La shelter have been referred, employs 44 medical doctors, to serve 122,059 local Thai and approximately 115,744 migrants, not including referred cases of the same number from nearby districts (Mae Sod Hospital Annual Report 2009). The limitation of local capacity is
not only the budget for expanding services but the existing infrastructure and health personnel that need years of training; systems have not been designed to serve the huge increasing number of clients, if the DPs population is included (Interview MOPH Officer, 25/11/2010).

The RTG policy has responded to the DP basic needs for food, shelter and primary healthcare and the need to sustain good health. But there are some areas regarding the living environment that need to improve. Data and information sharing in prompt manner are needed to cooperate with local health authorities for better prevention and control the outbreak of infectious diseases.

4.1.4 Education

Education is considered important to DPs and schools have been set up since the establishment of shelters. The RTG gave permission to NGOs to support education in the shelters since 1997. Currently, major agencies providing education in the shelters include Adventist Development and Relief Agency, Catholic Office for Emergency Relief and Refugees, Jesuit Refugee Service (Asia Pacific), Right to Play, Shanti Volunteer Association, Taipei Overseas Peace Service, Women’s Education for Advancement and Empowerment, World Education, ZOA Refugee Care Netherlands. The policy at first allowed education to primary level and expanded to secondary alongside education for Thai children. The education services gradually included other areas: nursery, vocational training, special education, adult literacy, libraries and recreational services. The education services available are for all DPs children, at least in 7 shelters (Z0A, 2010 pp.2). In this survey, the result shows that the DPs highly value the education services provided to them, as two thirds of respondents consider education is good, and only small number rate it poor. The positive opinion is shared by DPs of different registration status. But the number of non-registered DPs who have a negative opinion towards education policy is slightly higher than registered DPs, as shown in Figure 4-10. The group of respondents aged 25-59 years want to see change in education most strongly (Figure 10).
Also, more than half of respondents acknowledge the changes in education are significant during their living period in the shelters, some see changes in vocational training, policy of employment and protection.
But there are nevertheless large numbers of children not continuing their studies and numbers of drop-outs. According to an education survey by ZOA, the number of DP children enrolling in secondary level in year 2008 was just slightly over half or 54% of children enrolling in primary level, though the number of secondary students increased to 68% of primary student in year 2010 (ZOA, 2010: pp.52). The same study indicates various major causes of education discontinuing such as getting married, difficulties in learning, assisting family work. The other causes that disrupt the education quality is the study environment, including from crowded and noisy classrooms (Interview school children, Mae La, 5/9/2010). This is the effect from the policy not allowing for school expansion.

In practice, the authority has supported education opportunity for all DPs children regardless to their registered status and flexible enough to include children who are not eligible for DP status but who enter the shelters for education purpose, as shown in the shelter population report (Karen Refugee Committee Newsletter, May 2010). On the contrary, the policy prohibits the attempt access to higher education outside the shelters, with the argument that the RTG has already supported education and other courses beyond basic level for the DPs. This matching to education provided to local children, who have free education to secondary level, is part of meeting obligations under the Convention on the Rights of the Child (CRC) (Interview MOSHS officer, 2/6/2010). In this regard, the RTG has not agreed to the attempts to put forward a policy for some DPs children to attend Thai universities as it is against the confinement policy (Resolution of NSC Sub-Committee, issued in March 10, 2005). In some areas, the permission has given to DPs children access to education outside the shelters, in cases where there are insufficient resources inside the shelters and the local school is very close to the shelters, and on the basis that these children have sufficient language skills to follow the lessons within the Thai education system.

The integration of DP children into Thai education system needs language ability which not all children are willing to achieve. In this current situation, the DP children already have the challenge to acquire at least three to five languages: Karen, Burmese, English, Thai and Urdu (for Muslim children) (TBBC, 2010b: pp36). According to an NGO...
study earlier, interest in learning Thai language was rather low among DPs though some accept the value of the knowledge (Purnell & Kengkunchorn, 2008: pp.21).

There is some basic special education for disabled DPs in some settlements (Source: World Education), aiming to provide inclusive services for blind, deaf and other marginalised groups with physical or other disabilities. There are still some disabled people, however, who do not attend any form of education or support services.

The RTG policy has been to expand to respond to the need for skill training. There are many NGOs and local Thai Government education agencies, vocational colleges, etc. involved in its delivery. The skills trainings aim to provide income generation, such as weaving and carpentry to prepare DPs for more self-reliance opportunities. Resources for educational provision in the settlements remain limited, and most classes are housed in temporary buildings where conditions require some improvement. Recently, permission was granted to build semi-permanent buildings. Internet access in the settlements currently remains prohibited by the RTG. The education in the settlements has been designed based on the Myanmar curriculum; this has meant, for example, that instruction has been in the various ethnic group languages, rather than in Thai, though there are indications that this is another area where practice is changing. The education in the shelters does not gain accreditation from Myanmar. There has been attempt to collaborate with MOE to solve this problem and adapt the curriculum to Thai system but the result has not yet finalized (Education Forum report 2009, ARCM).

4.1.5 Individual registration and children’s Rights

The registration of DPs has been formalized and individual ID cards have been issued to each DP since April, 2007 (UNHCR, obtained on 5/7/10 from www.unhcr.org/461e3ab34.html). The registration of DPs has been restrained after the non-functioning of PAB during 2006-2009. The Pre-screening pilot in 4 shelters which aims to fill the procedure gap and screen out the person not eligible for DP status seems to take longer. The challenge of individual registration is an important one, since Thailand is a signatory party to the UN Convention on the Rights of the Child (CRC). The CRC documents various areas of children’s rights and, crucially, is intended to apply to all children within a country’s borders, including refugee children. The RTG, however,
retained two reservations to the CRC, on Articles 7 and 22. These articles, respectively, relate to birth registration and the right to nationality, and to specific rights of refugee children. The issue of birth registration has been a controversial one for the RTG, which maintained that its system of family registration – including children – was sufficient for recording who exactly resides within the settlements. More recently, the practice of recording births more accurately, and providing formal birth certificates, has improved. From the RTG perspective, it is clear that children born to DPs from Myanmar are Myanmar citizens, and the issue of awarding Thai birth certificates would only work to complicate this idea. A practical issue, though, is that, should voluntary repatriation become feasible in the future, with no formal birth certificates the return of children to Myanmar – especially the Myanmar government’s willingness to accept returnees – might be impaired by the lack of formal documentation of individuals. The Thai Cabinet has agreed to withdrawn the reservation to CRC Articles 7 (Cabinet resolution, September 23, 2010) for birth registration of every child in the country. In practice prior to this resolution, the registration of new born children has already taken placed in most shelters and recorded in family registration forms. According to the regulation, every parent has to report the birth of their child to the district office to obtain his or her birth certificate (Interview MOI Officer, 4/10/2010). This practice was applicable to DPs according to their status and confinement policy, thus has left DPs children without birth certificate. Anyhow, since late 2009 the MOI has assigned shelter commanders as authorized registration officers which enable the issue of birth certificate to DPs new born child. On a more general level, the RTG does seem to place a high premium on its signatory status of the CRC, and is diligent in its reporting (National report to CRC committee, 2010).

4.1.6 Livelihoods, economic activity and employment

According to existing policy, any DPs found outside the settlements are liable to arrest and deportation as illegal immigrants. This restriction has added to the sense of confinement in the shelters, and to the sense of dependency felt by many of the DPs. It reinforces the need for all services and provisions to be provided to the DPs, from basics such as food and water to health and education. In practice, there does seem to be a level of tolerance of employment outside the settlements; but official policy remains much
against it. While increasing education opportunity is the first priority policy where DPs would like to see more change, the restriction of movement comes second, followed by access to employment as the third, some DP show acceptance to this policy.

Figure 13 Opinion towards policy allow employment in the shelters

In the survey, some DPs admitted being engaged in income generating outside the shelters (FGD, Mae La, 5/9/2010). The seeking for employment has been practiced by DPs in other shelters as well, according to a NGO report (IRC, 2008).

In terms of livelihoods, there is no formal rejection from the RTG to the many activities related to the development of DP life quality (Interview MOI, 7/8/10), including various skills training programs, as long as these activities are performed within the settlement areas, although there are some restrictions:

“….Raising poultry is not allowed, especially when we have bird flu but we don’t really stop them, we understand their need…” (Interview MOI officer, 10/8/10)

In part, the RTG is balancing the needs of its local population, who are in many cases already short of work. It is also remaining consistent with the idea that local integration is to be resisted; thereby ensuring the situation of the DPs is contained.

Plots of land have been rented in some instances with local officer’s permission, because space is too limited in the shelters, so that DPs can grow their own food, and can sell any surplus to their communities and local. However, the problem is too little land has been allocated in most cases; and balancing the allocation of an already scarce resource to DPs against the needs of the local communities is a delicate act, and the RTG has
unsurprisingly tended to put its own citizens first when conflict has arisen. There is some small-scale trading and barter activity in the settlements themselves, and this has enabled more entrepreneurial DPs to generate income (e.g., grocery, hair dresser, etc.). Most of these activities include Thai traders from outside and operating inside the settlements, giving some benefit to local communities.

There are small income-generating projects set up within the settlements. There is some enthusiasm for this form of production to be permitted in the shelters as part of skill training, but there is a perception that investments from external investors would be necessary:

“…We’re willing to consider if the activities take place inside shelters; the investment from foreign companies is needed but finally, they do not move further…” (NSC officer, 14/10/10)

Local investors seem reluctant to expand their production units to the shelters, and some others do not support the hiring of DPs and consider that there are already enough supply of migrant workers (Interview Tak Chamber of Commerce, 2/9/10).

It has already been pointed out that there is a curious anomaly here between the DPs and migrant workers from Myanmar. The latter usually enter the country illegally, but they have been allowed an exemption to work temporarily for two years with possible two years extension. There is likely to be some overlap between the DPs and the migrant workers, and some have queried why people choose to be DPs when they know they will be confined and have rights such as freedom of movement curtailed. But what the migrant workers do not receive is the protection afforded by the settlements; and especially for the political activists amongst the DPs, this remains vital as long as the current regime in Myanmar pursues its current strategy towards the ethnic minorities.

4.1.7 Resettlement

The RTG has remained somewhat ambivalent about cooperating with resettlement solutions put forward by the international community. The reason for this is they do not want to create an attractive “pull” factor for new DPs, and possibly economic migrants, to
cross the border into the settlements. However, having said that, more than 64,000 DPs have been resettled to third countries, mostly in late 2005-2010. The policy to allow DPs to resettle has been perceived as the only solution they have (FGD, Mae La, 5/9/2010).

The RTG, along with NGOs, has made efforts to prepare those eligible for resettlement, through courses and vocational education, but the problems remain. Surveys of the views of the DPs show that many find the policy of resettlement attractive, others favour remaining in Thailand, and some choose to repatriate when conditions improve. The break up of families is one of the key factors against resettlement. Ironically, the skilled medical assistants and teachers within the settlements, by the nature of their work, make themselves the most attractive prospects for resettlement, creating an ongoing retraining issue within the settlements to keep going the schools and health centres which are run by DPs. It should be noted that, the high percentage of respondents expressing a resettlement preference may come from the selected criteria to include DPs applicants for resettlement in the survey sampling.

The survey result indicated that resettlement program has certainly response to the need of some DPs as one durable solution.

4.1.8 Local integration

The access to work outside the settlements legally would undoubtedly benefit the DPs, and the confusion with the situation of the migrant workers from Myanmar has already been noted. Work as an antidote for the feelings of indignity that can arise and have been documented in a situation of total dependency like that of the DPs is attractive
in principle; but, again, the RTG has had to balance DP needs with those of the local community with which they may well be competing for jobs and local resources. The issue of national security is also valid here for the RTG; the DPs are considered a target group for political attack, and allowing DPs to move freely in and out of the settlements will be a risk for them and also to local people (Interview MOI officer, 8/8/2010).

The wishes of the DP population are less clear on this issue; some would undoubtedly like to move outside the settlements and to integrate fully with Thai society but, as has been stated, some DPs want to return to Myanmar. The situation of children and young people is especially difficult to assess; many have lived their whole lives in exile in the settlements, and know neither Thailand nor Myanmar. As one NSC officer has said: “We don’t permit them [the DPs] to go outside shelters to work because that will lead to potential to get permanent residency, and we’re not ready for that” (Interview NSC officer, 22/10/10).

Figure 15  DPs opinion toward integration with local, by length of stay in the shelters

4.1.9 Preference for future

In this survey, almost half of the respondents chose to resettle in third countries if not staying in the shelters while a bit smaller proportion wished to remain in Thailand and some prefer to go back to their hometown (Figure 16).
The above answers could be simply interpreted that resettlement in another country and staying in Thailand are the desire for most of the displaced persons. But information gathered from several focus groups and interview of DP key informants, which are conducted parallel to the baseline survey, convey other messages that need to be carefully considered. At the time when this study is taking place, resettlement is considered the only opportunity that can be offered to the DPs, as some of DPs who have been accepted for resettlement explain. It should be noted that the criteria for sampling selection include DPs applying for resettlement which can contribute to the high percentage of resettlement preference.

“….I’ve applied and will resettle soon, my family want to go, for the sake of my children we have no better choice…” (Key informant, male 56 years, Tham Hin, July 14, 2010)

“…..I’m still thinking of going back home, but see no hope after so long, that’s why I applied for resettlement” (Focus Group Interview, female, Mae La, September 3, 2010)

Some DPs choose to remain in Thailand because the repatriation seems uncertain, and their fear of unsafe situation that made them not desire to repatriate. Although their thoughts of going back to their hometown still remain, as DPs indicate:

“….If it’s safe, we prefer to go back, we’re not sure for now the same to many of us…” (Focus Group Interview, male Tham Hin, July 14, 2010)
“…..We hope, one day we could go back home all of us would like to, when there is no more conflict…” (Focus group interview, female, Mae La, September 2, 2010)

“….We don’t have any choice now, stay here or resettte but many people living in the shelters, they prefer to going back, if possible…” (Karenni key informant, female 50 years, Ban Mai Nai Soi, August 10, 2010)

“…..I’d prefer to stay here, I’m afraid of the fighting and threatening…..” (Focus group interview, male, Tham Hin, July 13, 2010)

In spite of their preference for places to be in the future, more than half of the respondents are looking for organizations to negotiate with Myanmar to make their safe repatriation possible (Figures 17).

Figure 17 Organizations DP want to negotiate with Myanmar

58.6% of DPs think there should be organizations negotiate with Myanmar to enable them to repatriate safety, but 35.4% do not think it should be and 6.1% give no answer

4.2 Gaps in the RTG policy response to DPs needs and existing intervention

4.2.1 Protection

There are policy gaps in provision of services and other aspects of DPs needs. Protection is limited to the shelter areas because of the policy of confinement, for example, although there is flexibility for DPs to move between shelters. Permission has been given to the meetings between shelters, children’s access to higher education levels in other shelters, vocational and capacity trainings. The protection needs of those seeking employment outside the shelters is limited.
The prolonged screening procedure to grant DP status has limited the protection towards non registered DPs. The PAB process which only considers on a case by case basis is not only unsuitable for the real situation but also contributes to the increasing number of non registered DPs which affects their eligibility to access the appropriate protection.

In order to respond to the situation and fill the gap of the status determination procedure, the Pre screening program was launched in 2009, aiming to standardize the screening procedure before submitting the application to the PAB. The result will also screen out those not eligible for assistance. The program will expand to cover another 5 shelters after the pilot program in 4 shelters had completed the result. At the time of this research, the Pre screening result has not yet been released and the protection gap to DPs who need protection still remains.

4.2.2 Shelter administration

Because the policy has encouraged a high degree of self-management through the settlement committees, it has resulted in gender imbalances in the shelter management. In some shelters, over 80% of committee membership is male, thus women’s voices may not be heard and their may be a gender gap in provision of some services and facilities. It also means that the settlement administration tends to be conservative in outlook. RTG personnel, too, have included only a few female staff working in the shelters’ offices, while all the corps members are male. All this helps create a largely male culture, and this is an area where the RTG could do better. Noticeably, the issue of gender imbalance is also reflected from MOI personnel at field level, where female security corps are not selected intentionally in some shelters:

“….we do not choose female security corps, male is more suitable to this kind of work…”
(Interviewed MOI officer, Tham Hin 6/8/10)

The reasons for not choosing female corps are the concern about the tough work and heavy responsibility to oversee security issues but this practice also reflects the unawareness of gender sensitivity among RTG officers.
The other factor that may result in shelter administration is the relationship between DPs and the authorities. There was some relations gap between DPs and Thai authority indicated in the DPs response in this survey. In spite of their answer about having good relationships with authority, most DPs will first seek help from people acquainted to them, as reflected from the survey. The majority prefer to go to community leader for help, the second group seeks from shelter committee, a smaller number go to NGOs staff, their religious leaders and Thai authorities. The answers from different status groups are similar (Figure 18).

![Figure 18 The persons DP first seek for help (percentage)](image)

When they needed help from the Thai authorities only 15.8% would have direct contact but the majority would contact through other persons: almost half (46.7%) would contact through shelters committee, 24.1% would contact through other shelter member, 4% would contact through NGOs staff and 8.8% stated that they had no contact.

The relationship gap could cause some problems for DPs stress, and may come from the communication challenges. As the findings found that only a small number of DPs were able to communicate in Thai and many Thai officers and voluntary guards did not speak the DPs’ languages.

### 4.2.3 Accreditation and access to higher education level

Education is the main area that DPs feel positive changes could and should be made. The RTG has supported children's access to basic education at the same level as local children. The limited space has made classrooms too noisy and crowded due to the
policy that limits school expansion. The policy has made the study environment inappropriate and not effective or conducive to quality education.

Accreditation is another area that needs to be improved, since certification within the Thai system has been another difficult area. The MOE has responded to solve the problem of accreditation by collaboration with ZOA, one of the main responsible organizations in education in 7 shelters with the support from UNICEF (ZOA), to adapt the curriculum in the shelter to the Thai system. The MOE at local and national levels collaborating and supporting on this issue should fill in the gap of gaining accreditation for the DPs’ children. The Thai language will soon be included as a second language from primary level in shelter curriculum and will help to improve their communication skills in order to communicate better with locals and authorities.

Higher education, though it is provided in other forms such as “post 10” level and business courses, is not real tertiary education; and access to this level of education has not been encouraged. RTG policy restricts education at higher levels because it is beyond the basic level required by law for all local children. A few trial cases that have been proposed to tertiary education could be useful to increase the capacity and capabilities of DPs to take forward the development of their community, as well as making them more value added citizens when they repatriate to Myanmar. The number of children reaching this level will be small, but they can become a new generation of community leaders. Access to tertiary education is still a gap that RTG policy does not respond to positively.

The RTG policy has been to expand to respond to the need for skill training. There are many NGOs and local Thai Government education agencies, vocational colleges, etc. involved in its delivery. The skills trainings aim to provide income generation, such as weaving and carpentry to prepare DPs for more self reliance opportunities. Resources for educational provision in the settlements remain limited, and most classes are housed in temporary buildings where conditions require some improvement. Recently, permission was granted to build semi-permanent buildings. Internet access in the settlements currently remains prohibited by the RTG. The education in the settlements has been designed based on the Myanmar curriculum; this has meant, for example, that instruction
has been in the various ethnic group languages, rather than in Thai, though there are indications that this is another area where practice is changing.

4.2.4 Confinement policy and income generation activities

The confinement policy, supposedly temporary, has lasted too long and it is against human needs. The policy is not practically successful as many DPs, driven by other needs than basic food, have managed to seek employment outside the shelters.

The wishes of the DP population are less clear on this issue; some would undoubtedly like to move outside the settlements and to integrate fully with Thai society but, as has been stated, some DPs want to return to Myanmar. The situation of children and young people is especially difficult to assess; many have lived their whole lives in exile in the settlements, and know neither Thailand nor Myanmar.

RTG policy on confinement of DPs to settlements has led to the situation where many of the DPs are unemployed. There are some jobs available within the shelters, such as administrators, nurses and teachers; but these are limited. The RTG has permitted several vocational training courses in the settlements. These training courses are geared towards future income-generating activities; but, under current RTG policy, these activities have little potential to provide the DPs with income at present but are envisaged to take place back in Myanmar after repatriation becomes possible.

There have been projects planned to set up real income generating activities, such as food production, small trading within the settlements, linked in to vocational training and making use of the ready supply of labour. It is unclear what effect this would have on the DPs; it would depend on how wages were calculated and distributed, what voice the workers would have in the activities, and other factors. However, thus far it has proved too difficult logistically to set up a manufacturing or other operation which would involve bringing in the raw materials from outside the settlements, and then exporting the finished products back into Thailand. There is some enthusiasm for this form of production to be permitted in the shelters as part of skill training, but there is a perception that foreign investments would be necessary.
4.2.5 Resettlement

The permission to resettlement program has served as one solution to the protracted situation of the DPs from Myanmar. The gap is the failing of PAB process that does not speed up the status determination. During 2005-2009, with the inactive PAB process in some provinces, applicants for DP status were mostly rejected and deferrable result of pre-screening pilot program has affected some DPs who waited to determine their status. As the application for resettlement is only open for registered DPs, the delay in registration process has thus limited the number and need of DPs who may be eligible to the programme. The reconsidering of granting DP status is necessary in order to make resettlement a durable solution. On the other hand, the proper screening process will effectively screen out those who are not eligible to the status.

4.3 RTG contribution to the DP’s situation

The RTG has faced difficult problems with the DPs from Myanmar, for many of the reasons noted earlier in this report. The DPs have been provided protection, basic needs, sustenance, shelter, education and healthcare; and also a degree of self-administration. In the views of the DPs themselves, they largely feel safe, and believe their education and healthcare provision are at a certain level satisfactory. The RTG has made clear it is not open to local integration, and has stuck to this line. Its initial opposition to resettlement was not helpful; nor the inadequacies in the registration and screening processes, though these have largely been fixed.

The areas that have used for shelters are mostly reserved forest and water resources which have to be shared with local communities surrounding the shelters. In many cases, especially in the dry season, the DPs consume water and do not release enough water for local use (Interview Local Administration Officer). Some land was being used by other government sectors prior to the establishment of shelters and they have had to move out to let the DPs use those lands. In most areas, there is conflict or complaints from local people over the competition for land use and natural resources.

Thailand has had to deploy considerable people resources to provide safe areas for the DPs, including security personnel to safeguard the shelters. In order to ensure that, RTG has used its own limited budget and employees from local areas, with the Territorial
Volunteer Security Corps (TVSC) assigned to the task under the management of deputy
district officers. There are now 447 TVSC on duty, who cooperate with DP volunteers to
manage shelter safety. The TSDC looks takes on duties for external security and border
control using RTG government budget. In all shelters, one deputy district officer is
assigned to be responsible for the administration of the shelter as shelter commander. In
large shelters, the shelter commander has to spend 70-80% of the time on shelter matters.
There are small numbers of government employees to assist shelter commanders, plus
one UNHCR support assistant to every shelter. The RTG contributes more officers of
relevant government sectors at central level: OCDP, MOI, NSC, MOFA, MOD, MOE,
MOPH, etc. in several committees, policy planning, etc. At local level, government
personnel that contribute to DPs welfare and protection are provincial officers such as
governors, deputy governors, border petrol police officers, military forces, local health
personnel, etc. Part of their responsibility, and budget for their salaries, is for responsibility
on the DP issue. Approximately 40 million baht has been used annually for only TSDC
salaries. The in-kind contribution are lands used for settlement areas, sharing of natural
resources and shouldering of environmental degradation surround the shelters.

Considering that Thailand has not signed the UN convention, its policy and
practice on the basics of hosting refugees, the “DPs” of official RTG language, have
largely been according to international standards in some respects.

Undoubtedly, the RTG has contributed to the protracted nature of the issue.
However, this has not just been down to RTG intransigence. There are strong indications
that the RTG did not believe this issue would continue so long, and did not give it a high
priority, or at least not as high as the UN agencies and the international community would
have liked. In part, it is quite clear that the RTG’s opposition to local integration as a
durable solution is because of its limited capacity to cope with new arrivals and the many
more IDPs who could cross over to Thailand if the more flexible policy is introduced. The
RTG has also had higher priority policy issues to deal with – the ongoing internal political
turmoil within Thailand, and the 2 million migrant workers from Myanmar (as opposed to
the relatively small number of DPs) that has provided a huge management challenge.

The RTG has not had very much success in engaging constructively with
Myanmar to deal with the root cause of the DPs issue. But it has hardly been alone in this,
and Thailand has the added complication that Myanmar is its nearest neighbour. Nevertheless, formal relations do exist, and contacts are happening, giving some hope for the future, especially if ASEAN’s recent interest in developing Myanmar is maintained.

Overall, the DPs seem satisfied that they have been treated well in Thailand under difficult circumstances. What the DPs actually want, in some cases, is safe voluntary return and repatriation; and this is not something the RTG can achieve by itself. Data from our survey shows that large numbers of DPs prefer to go back to their homeland, if the situation allows them to do so, either to their original areas or to safe areas. Thailand, too, considers repatriation the best choice for DPs: “We believe repatriation is the best solution, because research and informal interviews indicates that some of them still want to go back to their country” (NSC officer, 23/11/10). This belief, however, should not overlook the fact that a lot of effort and collaboration from all stakeholders including Myanmar government are needed to make it real. In the meantime, other solutions should be considered, as many DPs are struggling for their survival out of the shelters. The reasons why they risk being arrested and deported are clear as they do not want to live without hope and dignity. The ability to look after themselves should not be discouraged. The flexible opportunity for them to become more self reliant, while waiting to settle, either in a third country, their homeland or even locally, will at least increase their share of taking care of themselves and make them less burden to all stakeholders.
CHAPTER 5 – SOLUTIONS AND POLICY OPTIONS

INTRODUCTION

The first displaced persons (DPs) from Myanmar began arriving on Thai territory in significant numbers in the early 1980s. Now, more than twenty-five years on, a significant number remain. Registered and feeding figures vary from 98,644 to 141,076 (TBBC, 2010: pp.7), giving the scale of the issue. The impasse on the Thai-Myanmar border is one of the world’s most protracted displacement situations, and there is no consensus about which, if any, of the standard durable solutions, resettlement, repatriation or local integration, offers the best outcome for all the various stakeholders, including the RTG, the Myanmar government, international agencies and the international community. Most of all, a solution remains elusive for the DPs themselves, some of whom have spent their whole lives inside the temporary settlements on the border.

The RTG policy has provided protection to DPs and assistance for basic services. However, the root cause of the flow of DPs has not been successfully addressed: human rights violations, including military attacks in the ethnic areas, continue to be reported (retrieved from http://www.unpo.org/article/10876). While the RTG does not intend to include local integration for the DPs from Myanmar in its policy, it has tried to pursue policies of education and vocation training which create self-reliance skills that in theory are equipping the DPs for voluntary repatriation to Myanmar when it is safe, or for resettlement. But the protracted nature of the issue and the insistence on confinement in settlements as a key part of its policy has created a dependency amongst the DPs which is more and more away from self-reliance. Most of the DPs still rely on basic rations from the various NGOs that operate in the settlements, though the NGOs are now having to cut back their budgets. The confinement has led to huge frustration for the DPs; local Thai officials are overlooking breaches of strict confinement, which puts them in a difficult position, and can risk the opportunity for bribery in the settlements. Resettlement, where it has taken place, has tended to take away the more talented DPs, weakening the remaining community.

The long road to democracy in Myanmar that should lead to changing situation was signified by the November 2010 elections and the release of the opposition leader
Aung San Su Kyi. However, these will only be important in the longer term if the opportunity is grasped internally in Myanmar, and is supported politically and economically by key elements in the international community. Reports, post-election from Myanmar are not encouraging; the regime appears to have stepped up fighting with the armed ethnic armies, evidenced and reported in November, 2010. Ongoing fighting is not going to make Myanmar a safer place for voluntary repatriation; and it would seem the flow of DPs across the border has again increased since the election, adding to the problem that already exists.

For the RTG, this poses a problem. It may be that the government has to some extent tried to keep the problem of the DPs in the settlements at the edge, primarily because of its relationship with the Myanmar government and other pressing security issues. However, more DPs arriving will ramp up public pressure, both local and international, to put more effort into finding a suitable durable solution. For example, the pressure on existing land, and the resentment of local Thai communities, could increase, making the issue a priority. The reporting of the incident in late December 2010, when Thai border forces were alleged to have forcibly returned some DPs from Myanmar to their side of the border, whether accurately reported or not, is a taste of what negative publicity may come (http://www.thaingo.org/board_2/view.php?id=2520). So this may be the right time for the RTG to give the issue of the DPs a higher priority than it has done.

The international community is also going to have to play its part in a more proactive way. Local integration is not part of RTG policy toward DPs, whether its reasons are legitimate or not. However, by seeming to support this solution above others, as pointed in the Five Years Strategy Plan (CCSDPT/UNHCR, 2007), the international community is risking alienating the RTG, and making a lasting and durable solution favourable to the DPs ever more unlikely. The international agencies have their humanitarian mandate towards their key stakeholders, the DPs, and integration to the local system is seen as an effective way to define a useful and satisfactory future for the DPs, especially as the current state of Myanmar remains so grim. However, the plan to integrate services provided to DPs to Thai system (TBBC, 2010: 16) suggested in the 5 years strategy has not been agreed by the RTG. There is, therefore, a lack of agreement on approach between the RTG and other stakeholders.
The RTG has been careful to avoid creating “pull factors” for the DPs, one of the key reasons why it has opposed any strategies that might make local integration more feasible, and why initially there was opposition also to resettlement. However, previous surveys (Nugul, A.2002:pp.120) and interviews (TBBC, 2004:pp. 85), including those for this study, suggest voluntary repatriation to Myanmar remains one favoured option for some DPs. The data from this study shows that resettlement is favoured by many DPs; but when questioned more closely, return to Myanmar would be the choice if it was possible, and should not forgotten as one of a durable solution among others.

5.1 ADMISSION TO THE SETTLEMENT AND STATUS DETERMINATION

Formal admission to shelters is permissible after the PAB procedure has completed but in practice there are numbers of DPs residing in the shelters before application to PAB have been made, as observed from the feeding figure which is higher than the registered one. It may be argued that the non-registered DPs result from the lack of screening procedure and status determination, the PAB. The current practice of PAB to consider only on case basis (Interview MOI, 12/11/10) is certainly unable to cope with the influx of new arrivals which continues to come every month. In addition, the approximately 50,000 non-registered DPs may include not only genuine asylum seekers but others who seek to be in the settlements for other purposes. The Pre-screening program, which has operated since 2009 to screen out those not eligible for the PAB process, has yet to prove effective. The high numbers of non-recognized population in the shelters has led to many problems, including determining food rations to meet the needs of the DPs and offer opportunity for registered cases.

The first step of status determination is to finalize the result of pre-screening programs in a timely manner, and to resume PAB functioning as it is the only formal mechanism to screen out the non-eligible populations.

At the same time, the effective measures to manage the rejected cases must be enforced. The rejected cases should be deported from the shelters. The authority, NGO and shelter committee should work together to set up the prevention measures to provide assistance more effectively. The prevention of non eligible new arrival is necessary to make the screening procedure more effective and useful to the most vulnerable ones.
5.2 IMPROVED SITUATION

The practice of registering the DPs has improved following the individual registration in the settlements in 2007, and now the new born babies are being added to these. It has been speculated that the previous approach was intended to reduce the likelihood that at some point in the future there might be increased pressure on the RTG to grant the right to remain in Thailand to all individuals in the settlements. It is also likely that any resettlement process would be made more complex; and lack of individual ID would be a possible reason for Myanmar to refuse to take people back if the conditions are right for safe voluntary repatriation. Whatever the reason, individuals, including new born infants, are issued now with personal ID cards. The issuing of ID cards is one of the policy shifts that the RTG has made to improve the situation for the DPs. However, the UNHCR expectation to use the ID card as a protection mechanism if they are allowed to work outside the shelter (retrieved from www.unhcr.org/461e3ab34.html) may not be what the RTG envisions.

Another improvement is the provision of enhanced education, going beyond the basic primary and secondary education to “post 10” further education and various forms of vocational education, such as computer training. However, this expansion and improvement of education has not been explicitly placed within a clear future aim; adapting to the Thai curriculum for education in the shelters, which is underway, aiming to access accreditation and guarantee time spending in schooling, should not be interpreted too broadly.

Previously, justice systems have not been linked to the Thai system, but have rather been based on a mixture of systems, including the prevailing customary law of the dominant ethnic group of any particular settlement. The initiative to ask the International Rescue Committee (IRC) to set up Legal Aid Centers (LAC) is the settlements has meant that access to justice has in principle improved for the DPs, making it possible for serious crimes such as sexual assault and murder to be prosecuted, notwithstanding the cultural and other barriers that remain.

These policy shifts have improved the conditions of DPs, but they have not brought a durable solution closer. The policy of the RTG in not wanting to formalise local
integration, or anything that makes it more likely or possible, is consistent with the hope that voluntary repatriation will become possible. Considering the flow of new arrivals and high numbers of internally displaced persons (IDP) inside eastern Myanmar, the pull factor is a real risk in the RTG’s perception, one that could place an overload burden on its resources.

The lack of a formal refugee policy is at least partly to blame for the illegal status of the DPs and the use of the Immigration Law to deal with them; though the RTG may be using this ambiguity deliberately as a basis for non-action. So in the absence of a formal asylum act, the other legal policy making is a complex process involving many actors.

5.3 THE OPENNESS OF RTG’S POLICY TOWARDS A DURABLE SOLUTION

It appears that the RTG is adopting a passive policy towards the DPs, using the same policy with little action to search for solutions. By resisting local integration as a durable solution, the RTG allows the status quo to continue; though the current events in Myanmar make this position more difficult to maintain. In contrast, international agencies and parts of the international community see the issue as a priority in the region, not least because of the costs involved in maintaining the settlements. There has been talk of donor fatigue; and there certainly seem to be signs of frustration that there is little or no progress in addressing the DPs issue. As noted, there have been some policy shifts by the RTG that have made aspects of settlement life and administration acceptable to some DPs. Yet the principle of confinement policy remains unchanged. To facilitate the DPs capacity for self-reliance can be done in some ways that do not necessarily lead to full local integration. The RTG had, in the past, started to consider the proposal for employment outside the shelter, as reported in the meeting between RTG, private sector, and civil society in Tak in 2005 (source: MOI). Though that was considered the exercise of the RTG leader at that time, this idea should be aired.

The RTG does not reject the possibility of DPs working inside the shelters (Interview MOI and NSC officers). Also the approach to increase DPs self reliance is acceptable. It need good planning and consulting with the authorities. Working under a training scheme may be one of the possibilities, as well as a sub-contracting work. To equip DPs with better skills does not always lead to a threat of local integration; it can be
preparation for DPs to be productive human resources if and when repatriation will occur in the future.

The RTG’s point that granting formal rights to local integration will act as a pull factor is difficult to argue against, given the continued unrest in Myanmar and the estimated half a million IDPs in eastern Myanmar (TBBC, November, 2009). Thailand could not cope with so many DPs. The number of potential DPs does, then, add validity to the RTG government concerns about resource allocations, especially land for agriculture, manufacturing and housing. Transporting integrated DPs to other parts of Thailand in large numbers would trigger more local conflict, a situation made worse by the RTG’s lack of a formal, transparent policy and its failure to have the DP issue debated openly in public through the media or in other ways.

However, the RTG has allowed the situation with the migrant workers from Myanmar to become intertwined with that of the DPs, partly through lack of formal, written asylum policy. It is harder to argue against local integration of the DPs when up to 2 million migrant workers are living and have been “integrated” in Thailand, even if many of them live in poor conditions and are employed in menial jobs. But the working contract that allows a certain period of employment has given the RTG some relief, while the DPs issue different.

In turn, the international community has made a positive contribution in terms of providing care and protection for so long, in cooperation with the RTG, and in working to bring about some of the shifts in practice by the RTG that have made life easier for the DPs. Where there has been little progress is in engaging with repatriation, the most difficult issue. A significant omission in the recent CCSDPT/UNHCR 5-year plan was any mention of Myanmar, indicating that repatriation is not in the strategizing of the plan. However, though many of the measures in the plan will improve the lives of the DPs if enacted, the root cause of the DP issue will not be tackled. A coordinated diplomacy and rethink about Myanmar’s status and position, and what inducements and penalties can be used to bring Myanmar into the international community, must accompany improvements in the conditions for the DPs. The RTG is far more likely to allow greater integration if it can see that doing so within an overall framework is about creating the right conditions for at least limited return of the DPs. Crucially, too, both the RTG and all other stakeholders will
need a durable solution that removes the factors that forced DPs into Thailand in the first place.

To solve the problem and bring a durable solution to the protracted situation of DPs from Myanmar will need collaboration from all stakeholders which carry their own mandate and agenda. From what Loescher and Milner (2007b) have stated in their paper, a durable solution needs to be based upon the collaboration of all stakeholders which need to have a common ground to agree upon. Then the comprehensive plan should include all possible solutions; each may become possible at different periods of time. The possibility for the RTG to adapt its policy toward a durable solution is open; the willingness to share this responsibility together will only work well in a friendly atmosphere of equal partnership.

5.3.1 Increased opportunity for resettlement

The RTG formally resisted resettlement as an option until the mid 1990s; the “pull factor” was especially relevant here. Again, in practice, this changed, and over 64,000 DPs have been resettled, the majority to the USA. However, resettlement has not led to the significant decline in DP numbers that was expected, because of new arrivals. Anyhow, the resettlement program has made a significant contribution as one durable solution for certain sections of the DP community, and large numbers have been resettled. The RTG appears committed to supporting this solution, though there are signs that third countries may be growing weary of it. The timely status determination procedure should be implemented for group status to support the program. The MOI should facilitate the transparent process screening for resettlement and support for more flexible criteria and status determination. For example, the fast track determination for family members of resettled DPs, etc. should be considered.

5.3.2 Increasing DP’s self-reliance

At the same time, assimilation or settlement in one form or another, which is not favoured by the RTG, may need to reconsidered. In theory, local integration as Kuhlman (1994) regarded, includes legal process to grant the DPs wider rights and entitlement, enables them to keep their own identity, guarantees no discrimination or other forms of
violation by host country, and grants increasing degrees of self-reliance. The negative impacts of local integration, losing control over the movement of people across the border and risking the good relationship with Myanmar, will make the RTG not willing to deliver the full package but partly at some level it can be applied. This may be explained by Jacobson’s conclusion in her paper, “The forgotten solution: local integration” (2001), that local integration must be acceptable to at least the host country, the local community and the DPs. The activities that lead to local integration, including access or integration of DP services to Thai systems, will place a threat to the RTG that the burden may be shifted to its shoulders.

The possibility of increasing DPs’ self-reliance is not totally closed and can lead to some kind of settlement wherever possible in the future. The principle of encampment in RTG policy though has been carried to the present day but the road to DPs skill development has already been considered, looking at increasing permission for skill trainings. There has been flexibility at the practical and local level. It may be that limited local integration, as part of a broader strategy that includes repatriation, will form part of an ultimate durable solution.

There is also some evidence that the “closed” status of the settlements is not strictly adhered to in practice, but of course individual DPs have reportedly been arrested seeking work outside the settlements. This practice is borne out of the need to seek employment, and a desire for self-reliance. However, the strict legal position may need to be flexible for DPs to work in certain areas adjacent to the shelters or designated areas under the authority supervision.

However, in common with many other countries, the local population has developed a mostly negative attitude to their DP neighbours in the settlements, partly based on resentment about the perceived benefits received by the DPs, including basic provisions and healthcare. One of the challenges for the RTG has been to balance the DPs condition with local communities, a factor for NGOs and UNHCR also. More development programs that cover local communities as well as DPs will bridge the gap and reduce the negative attitude of the local people.

5.3.3 Planning for voluntary and safe repatriation
Since voluntary repatriation is the favoured durable solution of the RTG and some DPs, it is useful to assess what efforts it has made to promote the right conditions for this and other solutions. This study proposes an integrated strategy which includes actions over short, medium and long-term, and which is based on the ultimate goal of voluntary repatriation when conditions are right (5-10 years). The time frame at least sets a limit to concentrate minds and resources; but may well be accelerated by circumstances, especially the rate of political change in Myanmar, which is unpredictable but which may well increase in the context of events in the Middle East in particular.

The international and national NGOs, for their part, will have an agreed framework within which to design and deliver their services, and a fixed timeframe within which to manage costs and funding. The international agencies, in particular, will have a role to play in Myanmar in aiding resettlement back into the host country, with its practical and political aspects, and including linking and capacity building of national Myanmar structures and organisations.

The RTG has tried to build and maintain contact with the Myanmar government at national, regional and local levels, including cooperation on border issues. The Joint Commission meeting (Source: MOD) and the Ministers discussion in the recent ASEAN meeting (http://breakingnews.nationchannel.com/read.php?newsid=504419) have included the issue of the DPs and their eventual return to Myanmar in their talks, and the Myanmar side has moved from a basic position that the DPs are terrorists to one where it accepts some responsibility for them as citizens of Myanmar, and that at some point they will need to return. However, unless the root cause that drives people to flee from Myanmar has been solved, clearly not the case with incidents of recent fighting, then safe return will not be possible. It will require input not only from Thailand but from the international community, to be more engaged and supportive to make Myanmar a peaceful country to live.

The RTG needs to consider investment in Myanmar, though not any mega project that poses a threat to or allows violations to take place in the ethnic areas. The Thai government or government enterprises must not consider collaboration with Myanmar in such projects that will lead to a huge relocation of people and which may finally end up causing further displacement into Thailand. The same should be considered by other
Asian countries. Cooperation among Asian countries may be needed to engage with other investor countries such as China, Japan, Singapore, India, etc. to work toward non-abusive enterprises and real development in Myanmar.

In seeking a lasting, durable solution, it is necessary, therefore, to think beyond local integration, resettlement and repatriation, and look at the core problems that make DPs to flow. This is where the international community, maybe through the UN Security Council, or peace-keeping forces, or regional dialogue, or trade, can act to stabilise and put pressure on countries of origin and the factions within them. This, of course, is the hardest task. However, as was the case in Liberia, when refugees began to return before the underlying issues were resolved and politics stabilised, then the refugees will flee again. Refugee problems have chronic underlying political causes; unless these are resolved, the refugee problem will remain, and will become protracted. This is the case with Myanmar.
CHAPTER 6 – CONCLUSION AND RECOMMENDATIONS

6.1 CHARACTERISTICS OF RTG’S POLICY AND PRACTICE

The RTG’s policy towards displaced persons from Myanmar does not appear in a formal asylum policy, but is shaped in various Cabinet resolutions, Ministry announcements and regulations. The situation of the DPs is seen first and foremost as a security issue rather than a humanitarian one. The leading roles to administer the issue have been assigned to security sectors including the National Security Council (NSC) and the Ministry of the Interior (MOI) which set up ad hoc sub-committees that include members from various other sectors. The initiative of new programs, and the changing or improving of some regulations and guidelines, have been done with the participation of these sub-committees. The three principles of the policy for DPs management have included confinement of the DPs to the settlements, reducing the burden on the RTG of providing sanctuary and services, and addressing the root causes of the DP issue. These principles have been carried through to the present day, though there have been some changes and shifts in the implementation of the policy.

The whole approach has been based on the traditional paradigm that prioritizes national security. National security has shaped the issue because the DPs are seen as illegal entrants into the country against the immigration laws, because of the possible destabilising effect in the face of growing public hostility and communities adjacent to the settlements, and the delicate nature of the relationship with Myanmar. Thailand does not abide with the UN convention on the status of the refugees and uses its own definition of “displaced persons” (DPs) with a higher threshold for those seeking protection.

The RTG has permitted humanitarian organizations to provide basic assistance to DPs from the time when the 9 current shelters were set up by consolidating the many smaller resettlements. Since 1998, UNHCR has been invited to provide protection and started formal registration with the establishment of Provincial Admission Board (PAB) as a status screening and confirmation. The registration process has slowed down from group determination to case basis after 2005, while new arrivals continued and contributed to a high non-registered population in the shelters. These non-registered DPs are not eligible for the resettlement program that has taken place since 2005.
The RTG policy can be seen as rigid in its principles that have remained unchanged for almost thirty years, though there have been many shifts in the implementation and some approaches. The areas of improvement have included education, health, and vocational training that equips some DPs with skills to earn their living. However, the increasing number of DPs under the confinement and strict regulation has made the shelters crowded areas with unhealthy environmental problems. Though the conditions are acceptable to the majority of DPs, compared to the worse situation in Myanmar, improvement in living conditions is needed. The confinement policy has proved ineffective because many DPs have managed to find jobs outside the shelters. Some were arrested and deported, but managed to come back to the shelters. The shortage of funding, accompanied with the donor strategy to reduce the care and assistance approach program, have limited the assistance to the DPs, while the need for cash to buy some extra food, clothes and other items is obvious. The limited demand inside the shelters cannot absorb the over supply labour of DPs.

6.2 FACTORS INFLUENCING THE CURRENT RTG APPROACH TO DPs

The RTG policy is considered to be a passive one towards the DPs and will not lead to durable solutions. There are many factors that influence the policy formulation. The internal factors include RTG’s concern for security of its sovereignty, resulting from the attacks of the Myanmar army and DKBA army on the shelters. The radical political activity of some DPs has also contributed to the more restricted policy. Arguably, the policy of confinement has been the principle of the RTG from the beginning, in addition to minimizing the population and Thailand’s burden. The policy implementation changed from a flexible approach in the early period, when DPs served as the cheap labour to the local labour market, to a more restricted approach when Thailand was able to bring in migrant labour from 3 neighbouring countries including Myanmar.

The experience from long hosting Indochinese displaced persons, and local resistance, are among factors that have contributed to the current policy of the RTG of keeping DPs from Myanmar far from public knowledge.

Thai national law, notably the Immigration Act 1979, clarifies the classification of DPs as "illegal immigrants". Section 17 of the Act does allow for decisions by the RTG
Cabinet to overrule the Act in special cases, and this was used in some cases in the 1970s and 1980s for some Indochinese displaced persons, but it has been little used more recently and does not apply to the DPs residing in the shelters. The Constitution of Thailand, in principle covering all who reside in the country, Thai and non-Thai, ought to offer some protection to the DPs from Myanmar, since it mentions human rights and human dignity; in practice, though, it applies only to citizens, and DPs are classified as non-Thai citizens. It has not been tested in the Courts.

Thailand’s problems include management of its migrant workers, internal conflict, the coup in 2006, short lived governments since 2006, and many recent changes of Prime Minister and ministers. Even external stakeholders concede the RTG has had competing priorities, meaning the issue of DPs is not an urgent issue to the RTG. The migrant workers issue remains difficult to resolve, and it is hard to envisage that the RTG will devote much time and effort to solving the DPs issue until other priorities are dealt with.

The relationship with Myanmar remains, therefore, the key factor affecting Thai policy. Thailand and Myanmar have a long and mixed history of conflict, trade and exchange; something that is often overlooked by Western governments that have too often assumed that the RTG will follow closely the line of the USA, EU and other Western liberal powers. Myanmar is a source of migrant labourers for Thailand, is an increasing trade partner, and has rich deposits of oil and gas. For the RTG, the relationship with Myanmar is vital, and it will make great efforts to keep it open and cordial. The only factor which might grab the attention of the RTG is if many more DPs start crossing the border into Thailand. Though there have been mixed reports, this may well be happening following an upsurge in fighting after the November 2010 election in Myanmar.

Thailand’s commitment to various international conventions and presence in the international arena has also influenced the RTG to apply those conventions and improve practice towards DPs; the CRC leading to DPs children being provided with birth certificates is the latest example.

6.3 RTG POLICY TOWARDS DURABLE SOLUTION

The RTG policy does not consider local integration as it will become a pull factor for many IDPs already near the border. In spite of absorbing the early wave of DPs to
local communities, reports show that the greater number and competition over resources contribute to the hostility from local people around the settlements to DPs. The negative attitude among public Thai is reflected in a national survey linked to incidents performed by some DPs and POCs in 1998. Self settlement was a natural process in the early stages of the DP issue, especially since there are some ethnic links which extend on both sides of the Thailand-Myanmar border. It was only after the numbers became much greater that the RTG was forced to formalise the settlements, and then to consolidate the shelters that had grown up into the nine formal settlements that exist now. The integration into local communities becomes difficult in terms of population size, the availability of land, resources, etc.

The international community has cooperated with the RTG to bring about some shifts in RTG policy including the resettlement program which has contributed to durable solution for certain sections of the DP community. Repatriation has remained the most difficult and there has been little progress. The recent CCSDPT/UNHCR 5-year plan does not mention repatriation to Myanmar, and the root cause of the DP issue will not be tackled. Coordinated diplomacy and a rethink about Myanmar’s status and position, and what inducements and penalties can be used to bring Myanmar into the international community, must accompany improvements in the conditions for the DPs. Crucially, too, both the RTG and all other stakeholders will need a durable solution that removes the factors that forced DPs into Thailand in the first place.

The Myanmar government is not easy to work with but more engagement is needed to make a difference and deal with the protracted status of the DPs from Myanmar which need careful and creative thinking to work with Myanmar and its leaders.

A short term, medium term and long term plan of action to work with Myanmar, as with the Somalia CPA, may help in making at least part of Myanmar safe for voluntary repatriation. This may be the most practical approach.

6.4 THE WAY FORWARD: “SELF RELIANCE” AND PLAN OF ACTION TOWARD MYANMAR

The main lessons from other protracted refugee situations (PRS) for finding a solution to the situation of Myanmar DPs in Thailand are that it will take time, and that a
wider political engagement will be needed, not because of the opposition by the RTG to local integration, one of the key “durable solutions”. It is clear that no PRS can be finally solved without addressing the root causes for the displacement of large numbers of civilians. By explicitly adopting the framework for all other activities relating to the management and support of the DPs from Myanmar, all stakeholders could feel they are working towards the same end to the durable solution in the context of voluntary repatriation and resettlement, and possible local integration. The RTG will be willing to increase self reliance opportunities in the context of all durable solution based on the ultimate goal of voluntary repatriation with right conditions. The international organizations will also deliver their services toward development in Myanmar in aiding repatriation and to Myanmar structures and organisations.

6.5 RECOMMENDATIONS

To the Royal Thai Government

- Promote the human security principle which is claimed to balance with the traditional security paradigm of the National Security Policy since 2003 to cover the issue of DPs from Myanmar, since they are a group of people with permission to reside in Thailand, no matter what status they are. This principle should be applied to the regulation for approving services providing to DPs, allow more activities relating to improvement of their livelihood as well as to allow more flexibility for employment opportunity

- Regulating timely screening process and status determination and applying a broader definition “fleeing from persecution” to screen out people not eligible to settlement and enforce the measures to deport the rejected cases with or without the assistance from UN agencies

- There is a need to consider a long term plan or strategy focusing on irregular displacement in the country, including DPs from Myanmar. This strategy should be accompanied with foreign policy to Myanmar which should also support the solution to the root cause of the problem. The strategy should be drafted, based on updated situation data and information from relevant stakeholders related to DPs, including civil societies and local communities
• Play the leading role to initiate the dialogue platform with UN and donors to work for possible collaboration toward solutions for DPs in Thailand which includes all possible solutions: increased self-reliance of DPs and acceptable forms of integration, increase more flexible criteria and countries for resettlement opportunity and plan for future safe voluntary repatriation

• Reconsider collaboration with the Myanmar Government, as well as the private sectors, to develop any mega projects that may lead to relocation or exploitation of the ethnic areas which will drive more displacement to Thailand

• Collaborate with other Asian countries suffer from housing displaced persons from Myanmar: Malaysia, Indonesia and China more closely to dialogue with Myanmar to eliminate the conditions that contribute more displacement

• Collaborate with ASEAN and other investment countries such as China, Japan, etc. to use a flexible engagement approach with Myanmar toward reconciliation with ethnic groups and improvement of people’s living conditions

To the Donors and UN agencies

• Collaborate and dialogue with the RTG towards the solutions for displacement from Myanmar with equal consideration of all possible resolutions

• Initiate supporting strategy instead of funding strategy to encourage shifting of policy, and provide technical support and collaboration where necessary

• Provide more support to improve the conditions in the affected areas surrounding the shelters to reduce the negative attitude of local communities towards displaced persons

• Collaborate with more countries and allow more flexible criteria to increase resettlement opportunity

• Initiate long term dialogue with the Myanmar government to improve the conditions in ethnic areas and initiate development for safe repatriation

• Collaborate and support organizations working for sustainable development in ethnic areas

• Start planning for possible voluntary repatriation.
To Non Government Organizations

- Collaborate with the RTG and shelter committees not to provide assistance to screened-out people, to reduce the non eligible population in the shelters
- Promote a reduced expense approach along with the approach to increase employment opportunity.
- Initiate a pilot sufficiency economic program to improve the livelihood of DPs
- Initiate more programs to secure food producing using appropriate technologies.

To Displaced persons

- Avoid breaking the regulations and laws to reduce the risk of being deported
- Avoid taking Thai community resources to reduce the negative feelings
- Engage in more skill trainings to prepare for all possible options and opportunities
- Construct good relationships with local communities to reduce tensions and conflict
REFERENCES


Non-Formal Education Department, Office of the Permanent Secretary, Ministry of Education. 2006. Report on Thai language teaching in the shelters.


Ban Mai Nai Soi, Mae Hong Son province

The shelter was first set up in 1989 in Karenni state and has been moved many times. It moved across the border into Thailand in 1993 but was forced back into Myanmar in 1995. After the Karenni had agreed to ceasefire with the Myanmar Army, the residents moved to the current area. In 2002, the Thai authority consolidated the Karenni shelters in Mae Hong Son by closing Ban Nai Soi, formerly Site 3, which was located 5 kilometres down the hill from Site 1. The shelter was given the name Ban Mai Nai Soi or Site 11, consists of Ban Tractor and Ban Kwai.

The shelter is situated 3 kilometres from the border, 26 kilometres from Mae Hong Son, divided into two zones: Ban Pang Kwai and Ban Pang Tractor.

### Population

<table>
<thead>
<tr>
<th>Shelter</th>
<th>UNHCR/MOI Registered population</th>
<th>TBBC Verified caseload</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>February, 2011*</td>
<td>February, 2011**</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td></td>
</tr>
<tr>
<td>Ban Mai Nai Soi</td>
<td>12,117</td>
<td>6,925</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7,480</td>
</tr>
<tr>
<td></td>
<td></td>
<td>14,405</td>
</tr>
</tbody>
</table>

Source: TBBC, February, 2011

* UNHCR figure includes registered, pending PAB and some students but excludes new arrivals.

** The TBBC verified caseload includes all persons verified as living in the shelters and eligible for ration, registered or not registered with UNHCR(including outside students). Rations are provided only to those personally attending distributions, actual feeding figures are typically 4% lower than the caseload. It excludes all permanently out of shelter.

The majority of Ban Mai Nai Soi population is 94% Kayah/Karenni ethnic, which comprise of various sub-groups with different dialects. Non-Karenni groups are Karen 3%, Shan 3%, Burman 1%, Kachin 1%, and Mon 1%. The religious beliefs of the population are Christian 48%, Buddhist 42% and Animist 10% (Source: MOI document).

There are 13 primary schools, 4 elementary schools, and 2 high schools. There is also a special school called “accelerating school” for those who recently arrived and have

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1 There are four camps in Mae Hong Son: Ban Mai Nai Soi (Site 1), Ban Mae Surin (Site 2), Ban Mae La Oon and Ban Mae Ra Ma Luang.
had no educational background in their home state. The schools open from 8.30 am to 
3.15 pm every day. The language used in instruction is Karenni in primary school and 
Burmese in elementary and high school. Though Karenni is considered to be a sub-group 
of Karen, its language is a little similar to Karen. There are many ethnic groups in the 
shelter such as Paku, Kayah, Pa-O, etc.

Mae La Shelter, Tak province

The shelter was first established in 1984 near the border for approximately 1,000 
asylum seekers from Karen state after the Myanmar Army launched its attack and 
successfully broke through the Karen front lines and maintained in the area. Soon the 
shelter was moved from the border to the current area (Zone C). After the fall of the 
Manerplaw (headquarters of Karen ethnic insurgents) the Myanmar Army and Democratic 
Karen Buddhist Army (DKBA, a faction of the Karen armed groups which split off and 
aligned itself with the Myanmar Army in 1994) launched several attacks to smaller shelters 
closer to the border. The RTG decided to consolidate those small shelters and transferred 
the people to Mae La, making it the biggest shelter of 9 settlements.

Mae La shelter was under attack by DKBA In 1997 and a mortar shell landed to 
section A of the shelter in March, 1998 and had caused security concern and tension to 
the shelter from the threats the attack.

Mae La Shelter is located in Ban Mae Oak Hoo, Mae La sub-district, Thasongyang 
district. The area is mostly clay and has a stream called “Huay Oak Hoo”, which passes 
through most parts of the shelter. Huay Oak Hoo is also the main water source for the 
people in the shelter. The shelter runs along national road Number 105, between Mae Sot 
and Mae Sarieng (in Mae Hong Son Province). The Shelter backs up to a mountain ridge 
which runs along the border with Myanmar. It is 8 kilometres from the border, and 60 
kilometres from Mae Sot District. The shelter area is approximately 1,150 Rai or 1.8 square 
kilometres, divided into 3 zones (A, B, and C).
## Populations

<table>
<thead>
<tr>
<th>Shelter</th>
<th>UNHCR/MOI Registered population</th>
<th>TBBC Verified caseload</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>February, 2011</td>
<td>February, 2011</td>
</tr>
<tr>
<td>Mae La</td>
<td>29,945</td>
<td>22,608</td>
</tr>
<tr>
<td></td>
<td>23,090</td>
<td>23,090</td>
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<tr>
<td></td>
<td>45,698</td>
<td>45,698</td>
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</table>

Source: TBBC, February, 2011

The people living in the shelter can be divided into 3 groups as: 1) persons who have been accepted by the Provincial Admission Board (PAB) as “people who flee from fighting in Myanmar” and have registered with UNHCR; 2) persons who were rejected by PAB, awaiting to be repatriated but pending as the conflict situation in Myanmar still continues; and 3) persons awaiting submission to the PAB.

The population are 49.5% female and 50.5% divided into 4 age groups: 14% of children under 5 years, 35% of 5-17 years, 47% of 18-59 years and 4% of elderly over 59 years. The major ethnic is Karen 97%, Burman 2% and 1% of other ethnics. The population religious beliefs in Mae La are Buddhist 38%, Christian 47%, Muslim 13% and Animists 2%. There are 24 Christian churches (15 Baptist, 1 Anglican, 6 Seventh Day Adventist, and 1 Roman Catholic), 4 Buddhist monasteries, and 5 Muslim mosques in the shelter.

The shelter has a total of 26 schools, including 5 high schools, 5 middle schools, and 16 primary schools. There is one school teaching Thai run by an MOI Volunteer officer, as part of the RTG policy.

### Tham Hin shelter, Ratchaburi province

Suanphung District has arranged two preliminary reception centres, one is Huay Sot at Moo 3, Suanphung sub-district, another is Huay Khokmoo at Ban Boewi, Moo 4, Tanaosri sub-district, to shelter the influx of Karen people fleeing from fighting between the Myanmar Army and the ethnic Karen fighters along Thai-Myanmar border in March 1997.

In May, 1997, Surasi Task Force established Tham Hin Temporary Shelter to accommodate people relocated from both Huay Sot and Huay Khokmoo. Later on the
task force started to relocate people from other shelters into Tham Hin. Later in 2001 a new zone (Zone 4) was expanded to receive the remainder of political asylum seekers from the closure of UNHCR Maneeloy shelter in the same province. The closed location to the border has led to security tension though there have never been real attacks. In March 2005, about 400 UNHCR Persons of Concern (POCs) residing in urban areas, were transferred to Tham Hin as part of the RTG’s policy.

Tham Hin shelter is located at Ban Tham Hin, Moo 5, Suanphung sub district, Suanphung District, Ratchaburi Province, with 44 rais or 70,400 square metres of land. The landscape is mountainous and the area is surrounded by mountains. It is called Hup kratorn, which is 10 km. away from the border, 270 km. from Bangkok. There is a stream called Nong-Khun flowing across the area.

### Population

<table>
<thead>
<tr>
<th>Shelter</th>
<th>UNHCR/MOI Registered population 28 Feb. 2011</th>
<th>TBBC Verified caseload 28 Feb. 2011</th>
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</thead>
<tbody>
<tr>
<td>Tham Hin</td>
<td>4,293</td>
<td>3,886 3,696 Total 7,582</td>
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</table>

Source: TBBC, February 2011

The population consists of 51% female and 49% male and can be broken down into age groups: 15% of children under 5 years, 36% of 5-17 years, 44% of 18-59 years and 5% of elderly over 59 years. The major ethnic is Karen as of 98% and 2% of other ethnics.
# ANNEX 2

## List of Key Informants

<table>
<thead>
<tr>
<th>Position/Organization</th>
<th>Period of interview(m/y)</th>
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<tr>
<td><strong>Royal Thai Government</strong></td>
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<tr>
<td>- Ministry of Education</td>
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<tr>
<td>- Deputy Secretary General, Office of Basic Education Commission</td>
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<td>- Officer, Office of Non-formal and Informal Education, Office of the Permanent Secretary</td>
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<td>- Ministry of Foreign Affairs</td>
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<tr>
<td>- Director, Social Division, International Organization Department</td>
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<td>- Director, East Asian Department</td>
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<tr>
<td>- Ministry of Human Security and Social Development</td>
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<tr>
<td>- Child Protection Unit</td>
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<td>- Ministry of Interior</td>
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<tr>
<td>- Director, Foreign Affairs Division, Office of Permanent Secretary for Interior</td>
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<tr>
<td>- Chief, Policy Planning section, Operation Centre for Displaced Person (OCDP)</td>
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<td>- Officer, Policy Planning Section, OCDP</td>
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<tr>
<td>- Officers, NGO coordination section, OCDP</td>
<td>8/10,12/11</td>
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<td>- Officer, Department of Provincial Administration</td>
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<td>- District officer, Suan Pueng District, Ratchaburi Province</td>
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<tr>
<td>- District officer, Tha Song Yang District, Tak Province</td>
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<td>- Provincial officer, Tak province</td>
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<tr>
<td>- Senior Deputy District officer, Maung District, MHS Province</td>
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<td>- Senior Deputy District officer, Suan Pueng District, Ratchaburi</td>
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<td>- Head, local Administration Office, Suan Pueng</td>
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<td>• Ministry of Justice</td>
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<td>• Ministry of Public Health</td>
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<td>- Deputy Director, Mae Sot Hospital</td>
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<td>- Karen Women Organization, ThamHIn</td>
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<tr>
<td>- Head Teacher, Tham Hiin</td>
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<td>- Karen Women Organization, Ban Mai Nai Soi</td>
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<td>- Youth Organization, Mae La</td>
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<td>- UNHCR, Senior Program Officer</td>
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<td>- UNDP</td>
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<td><strong>Private sector</strong></td>
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<td>- Committee, Tak Chamber of Commerce</td>
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</tbody>
</table>
ANNEX 3

Questionnaire
ANNEX 4
Demographic of Baseline Survey respondents
ANNEX 5

Displaced person Status determination procedure

Displace person(s) enter Thailand border

Military/Border Police received DP /interview and transfer to reception area/ report to authorized officer (district offices)

Reception area

Screening procedure investigate and record personal profile

Meet criteria

Do not meet criteria

Provincial Admission Board (PAB)

Determine status

Reject application

Temporary shelter

Submit to Appeal Board

Appeal Board re-consider appeal application

Determine status

Reject appeal

Holding centre waiting for deportation

1. District officer
2. Camp commander
3. UNHCR staff
4. Interpreter

1 Provincial Governor
2 Deputy provincial governor
3 District military commander
4 Local Immigration police
5 Border Police
6 Chief of district intelligent operation unit
7 Provincial protection officer (PPO)
8 Assistant to PPO
9 UNHCR representative

- Register with MOI/UNHCR
- Eligible to basic needs: food, housing, education, healthcare, etc.
- Eligible to apply for resettlement
- Not subjected to deportation