“Everyone has the right to leave any country, including his own, and return to his country.”

- Article 13 (2), Universal Declaration of Human Rights
18.1 Introduction

“The tragedy of the situation of migrant workers from Burma is that many leave Burma to escape human rights abuses only to experience the denial of basic human rights and human dignity all over again. We dream that things will be better here so we come but we didn’t know that here we will face other types of problems and have little more value than a dog in another person’s country.”

- Ma Nam Mo Kham (37) construction worker

Migration is usually a response to a combination of push and pull factors. In Burma the push factors have been economic deterioration and human rights abuses, while the pull factors have centred around the strong economies of neighbouring countries and their demands for labour. A significant proportion of Burma’s middle class continues to be attracted by the higher salaries and better standard of living on offer in countries like Singapore. However, for the large part of Burma’s population already living in poverty, the push factor becomes stronger every year and many now see migration as a question of survival.

The level and extent of migration in Burma has now reached a point where it has become partially self-perpetuating. In a report for the Internal Displacement Monitoring Centre (iDMC), Andrew Bosson, explains the cycle of cause and effect behind displacement in Burma. In rural areas of Burma, people survive largely on subsistence agriculture. The initial push factors of forced labour, extortion, agricultural restrictions, land confiscation, economic sabotage and ongoing violence are often exacerbated by a reduction in numbers of farmers, which pushes more people to leave and reduces the numbers yet again. When SPDC forces or ethnic militias make demands on villages for food, money or labour the villagers have little choice and the fewer there are to share the burden the heavier it is. If a large number of people have been taken to work as porters, for example, and not enough are left to tend the farms, then the village faces starvation. The poorest often have little choice but to leave. (For more information, see Chapter 1: Forced Labour and Forced Conscription and Chapter 6: Deprivation of Livelihood).

For this group migration is about finding whatever work is available. This generally means taking jobs in what is described as the “3D” category i.e. dirty, demeaning and dangerous. It also means working in sectors where national laws are ignored and international standards are considered irrelevant. Legal registration is often both difficult and expensive. It is also of limited benefit given the number of employers who confiscate their employees’ documents. Many migrants therefore live in a state of legal limbo and the constant fear of arrest and deportation. On top of all this, they also have to deal with largely negative attitudes from their host countries where migrant workers are often the scapegoat for myriad social problems.

“Never did I imagine that one day, my identity and my homeland would be held against me. Belonging to a country or one’s nationality is supposed to be a source of pride but here I am so scared that people here will discover it ... I keep to myself, I have no personal life outside the factory and no local friends. I just stay in the factory most of the time and it does get very lonely. But then I go out and it’s even lonelier because the locals hate us and the danger of being arrested is so great. When I do go out I must pretend that I am mute so that they won’t know who I am and where I come from.”

- Ma Myo Myo (29) factory worker

Not content with causing the situation that pushes so many Burmese people into leaving, the junta finds ways to take advantage of them even after they have left. In recent years, the regime has attempted to collect tax from an increasingly wide range of activities. One
The initiative has involved forcing families to register the number of family members working abroad so that these people can also be taxed. In Mon State it has been reported that there is a fee for registering migrant workers from the family, set at 200 kyat per family. Mon migrant workers returning from Thailand have also reported being taxed at the military check-points and face jail if they refuse to pay. The amounts charged are completely arbitrary and are additional to a 700 baht fee charged by the Burmese Immigration Department at the point of re-entry into Burma. In Pangone Village there were reports that the local police were imposing a tax of 10,000 kyat on all returning migrant workers, regardless of how much, if any, money they had been able to send or bring back with them from Thailand.  

It is unlikely that the situation facing migrant workers will improve without drastic changes within Burma itself. At present the level of migration actually looks set to increase as plans to dam the Salween river threaten economic and environmental consequences for some half a million people living downstream of the proposed site. The Salween is South East Asia’s longest free flowing river and one of the most important waterways in Burma. If the dam is built, the work is likely to alter river flows, resulting in higher concentrations of salt water travelling further inland. The changes in water quality and salinity will affect both drinking water supplies and the growth of agricultural crops. In the Balance, a report from the Mon Youth Progressive Organisation, describes the further consequences that damming could have:

“Sudden and unnatural water surges increase erosion, destroy islands, and make the river dangerous to local communities. In addition, the decreased amount of sediment reaching downstream damages agriculture. A decline in fish catches due to interrupted migrations will impact the protein source of the local diet. Any one of these changes to the river would tip the balance fine-tuned over generations between self-reliant communities and their environment. Lastly, the proposed dams like on active earthquake fault lines; dam breaks would be a disaster.”

The project is a joint initiative involving the Thai and Chinese governments as well as the junta. Supporters say it will bring huge economic benefits and provide a reliable, and much needed, source of electricity. However, the communities facing potential destruction once the work begins will have little choice but to leave and join the steady stream of migrant workers leaving Burma.
18.2 Situation of Burmese Migrants in Thailand

Thailand lies to the south-east of Burma, bordering Shan State, Karenni State and Karen State. There is also a thin strip of Burmese territory which runs north to south along the coast of the Andaman Sea, almost the full length of Thailand’s western border. The northern part of this strip is comprised of Mon State on the western, coastal side and Karen State on the eastern side. Mon State extends slightly further south than Karen State and borders Thailand briefly. Below Mon State, Tenasserim Division extends to the south, separating half of Thailand’s southern strip from the Andaman Sea.

This means that the border between Burma and Thailand is a long meandering territory encompassing many different States, Divisions and Provinces. In his recently published book, *Frontier Mosaic*, author Richard Humphries refers to this border territory as the “land in between”, somewhere that is neither Burma nor Thailand. He describes it as a “volatile sanctuary for the homeless and impoverished”, a place where “hopes and dreams are often dashed”.8

The total number of migrant workers in Thailand is estimated at close to two million. Of this number, 80 percent are estimated to be from Burma, of which the vast majority is illegal. Despite a concerted effort to register migrant workers in 2004, re-registration numbers have dropped annually in the subsequent years; from the initial total of 1,284,920 to just 532,305 in 2007. Of this last number, 485,925 were from Burma. The main obstacles to registration are costs and bureaucracy. Moreover, the common practice of employers retaining their employees’ registration documents leaves a significant number of those who do register in legal limbo. Consequently, some workers simply do not see the point of registration. The complexities of changing jobs also leave many workers with the stark choice of remaining legally employed in abusive conditions or quitting their job to become illegal immigrants and running the risk of arrest and deportation.9

Burmese migrant workers typically take the lowest paying and most dangerous jobs in Thailand. [Photo: The Irrawaddy]
In recent years, questions have been raised over whether factories located on the border which employ Burmese migrants are actually assisting the junta in providing a route around the sanctions. U.S. and European sanctions currently prevent most Western companies from doing business in Burma but many get around this barrier by locating their factories along the border where they are technically in Thailand but able to take advantage of cheap Burmese labour. Much of the money earned then flows back into Burma as the main goal of most migrant workers is to support their families back home.\(^{10}\)

Labour activists have denounced the systematic exploitation of Burmese migrant workers in Thailand, and have even had some success. In May 2007 a Thai labour tribunal awarded the equivalent of US$ 36,000 to 134 unregistered workers who had been fired when they complained about their low wages. Unfortunately, not all attempts to improve conditions are that successful. In 2003 the Burma Labour Solidarity Organisation (BLSO), supported by a Norwegian NGO, built a case against a Mae Sot factory producing goods bearing the Tommy Hilfiger brand. In response, the U.S. company washed their hands of the factory, claiming it was either unauthorized or producing counterfeit goods. The factory subsequently closed and all 800 workers lost their jobs.\(^{11}\)

Most campaign groups are now careful not to encourage action which would lead to the closure of factories. Closures help no-one as they leave hundreds of Burmese workers unemployed while the exploitation simply moves elsewhere. Meanwhile, economic sanctions pose their own conundrum as the well intentioned refusal to put money in the hands of the regime contributes to the economic deterioration that pushes so many Burmese workers over the border into the arms of foreign companies which are all too willing to take advantage of their desperation.\(^{12}\)

### Patterns of Migration and Trafficking

Official SPDC figures published in February 2007 suggested that there were 300,000 Burmese migrant workers in Thailand, of whom only 80,000 held official labour permits. Sources in Thailand, however, believe the number of migrant workers is closer to one million. *The New Light of Myanmar*, the SPDC-run newspaper which published the story, placed the blame for the high number of illegal workers on human traffickers. The same traffickers were also blamed for the mistreatment that many Burmese workers are subjected to in their host countries.

The junta claims it has played its part in solving the problem by commissioning 70 agencies to find legal jobs for Burmese people abroad and by agreeing to issue “temporary passports for Burmese workers, who in the past worked illegally in Thailand, so that they will become legal guest workers”. This last statement was made on 6 November 2006.

Legal foreign travel requires three documents: a passport from the Ministry of Home Affairs, a revenue clearance from the Ministry of Finance and Revenue and departure form from the Ministry of Immigration and Population. For some, such as the Rohingya, this is physically impossible as the junta does not recognise them as Burmese citizens. For others, the documentation is financially impossible. The bribes necessary to move an application through the multiple layers of bureaucracy can be as high as 300,000 kyat, which is equivalent to the average annual salary.\(^{13}\) (For more information see Chapter 10: Freedom of Assembly, Association and Movement).

Although a lack of national identity papers is one of the reasons why so many migrant workers are illegal, the junta-run newspaper failed to mention any of the reasons why so many Burmese feel compelled to seek work abroad despite their illegal status.\(^{14}\) In addition
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to the economic deterioration and human rights abuses which drive people out of the country, there are claims that both military and civil officials in Burma are directly involved in trafficking and selling people into forced labour.\textsuperscript{15} There are also restrictions on emigration which target specific ethnic groups and women more generally.

Young women in Burma are traditionally viewed as providers for their families, and many feel an obligation to support their parents and younger siblings in any way they can. Migration is therefore encouraged although some young women feel pressured. One girl interviewed for a report written by the Burmese Women's Union (BWU) was told by her parents that they could no longer afford her education and that it would not help her to get a job anyway. They strongly suggested she went to Thailand in search of work. She told the interviewer she was very upset at the time but that it was unfortunately true that getting a decent job in Burma depended more upon connections with the SPDC than education or merit.

The restrictions on the travel of ethnic minorities are most stringent on the Rohingya from Arakan State. Consequently many of them access third countries by sea via Bangladesh as this is perceived as less risky than travelling across Burma by land which would entail passing through numerous SPDC checkpoints. Unfortunately, few seem to realise that the risk of arrest for those who travel by sea is almost as high. Following the arrest of 92 Rohingya in Thailand on 2 February 2007, Annawa of the Rohingya Human Rights Association in Thailand was quoted as saying, "Maybe people do not know about the fate of previous groups who came here. Otherwise, they would not have come. If possible, I want to tell Rohingya inside the country not to come out here."\textsuperscript{16} (For more information, see Chapter 10: Freedom of Assembly, Association and Movement).

In June 2007 the U.S. Department of State released a report criticising Burma's failure to combat human trafficking. The report placed Burma in Tier 3, the worst category, saying the country had neither complied with minimum standards nor made significant efforts to do so. The Burmese junta claims the report is "politically motivated, unfair and biased". Burma adopted a National Plan of Action in 1997 and passed an anti-human trafficking law in September 2005 which provides for victims of trafficking to be protected and aided as well as setting a maximum penalty of death for traffickers. Col Sit Aye, head of the department of transnational crime, issued a statement expressing his disappointment that the U.S. had deliberately turned a blind eye to Burma's achievements and determination in the fight against human trafficking. He went on to say the report belittled the country's efforts and undermined the activities of agencies working in Burma to tackle the problem. Sit Aye also claimed that in the period of September 2005 to April 2007, 270 people had been arrested and prosecuted for involvement in human trafficking and that 428 victims had been rescued.\textsuperscript{17}

However, the report itself asserts that Burma's anti-trafficking legislation is weakened by the lack of an independent judiciary and the junta's failure to take any action against officials who are complicit in trafficking. It is also unclear whether the numbers provided by the junta actually refer to trafficking statistics or whether they also include incidences of people smuggling. Police who have undergone anti-trafficking training provide separate statistics for trafficking and smuggling but other officials are known to combine the two and data previously provided by the junta was found to be based on combined figures.\textsuperscript{18}

According to Thai military sources, two of the most popular routes into Thailand for migrants from Burma are the Huey Pheung Checkpoint in Mae Hong Son Province and the Nong Ook village in the Chiangdao District of Chiang Mai Province.\textsuperscript{19} Many of the illegal migrant workers in Thailand do in fact opt to enter the country legally with a one day pass and then simply stay on to find work. The migrants become illegal once their pass expires.\textsuperscript{20} When crossing the border migrants are at risk of arrest, as the authorities from both countries maintain regular border patrols. On 21 April 2007, a group of 30 migrants were arrested
while attempting to trek around the Sangkalia gate near the town of Sangkhalaburi in Kanchanburi Province.\textsuperscript{21}

In April 2007 it was also reported that a new military check point had been set up at Three Pagoda Pass. Although the purpose of the checkpoint is to prevent illegal border crossings, local villagers claim the soldiers have struck a deal with the traffickers and the going rate for migrants is 100 baht per person. The soldiers are also using the checkpoint to tax local villagers for any goods they carry across the gate.\textsuperscript{22}

In the same month, a group of 18 migrant workers were caught by Thai police when the vehicle they were travelling in hit an electric pole. They were imprisoned for one week in Takuapa, southern Thailand, and then returned to Burma. The group was comprised of 13 women, three men and two children, all of whom were from Karen State. They had made arrangements with touts in Chaungzon Township, Mon State, and their vehicle was reportedly driven by a Thai policeman. This, however, did not prevent the Thai police from attempting to stop the vehicle or from firing their guns to frighten the driver when he failed to stop. It was the gunfire which caused the driver to hit the electric pole. One woman jumped from the vehicle as it hit the pole and later died. Three others were injured and then treated at Takuapa hospital before being imprisoned. Local sources say such incidents are usually avoided by touts bribing the local police.\textsuperscript{23}

Crossing the border can prove extremely expensive. Residents of villages around Three Pagoda Pass say around 2000 migrant workers crossed the border following the water festival in spring 2007, and most of them had paid bribes to the police, immigration officers, cease-fire groups and the military as well as paying fees to the touts.\textsuperscript{24} Although the Ministry of Home Affairs maintains that there are no instances of complicity in trafficking, NGOs have reported widespread corruption among officials in local and regional offices. The majority of cases are limited to officials turning a blind eye to proceedings but there are reports of individual police officers being more actively involved.\textsuperscript{25}

Nonetheless, May 2007 saw an increase in the number of migrant workers crossing into Thailand, despite heavy rains and tightened border controls. Approximately 2000 arrived at the Chaungzon check point at Three Pagoda Pass between 18 April and 6 May 2007. Shortly afterwards, during 8 and 9 May, around 800 migrant workers were arrested by the Thai army, police and immigration officials in Mae Sot. Later in the month a further 160 were arrested in Sangkhlaburi.\textsuperscript{26} A headman from one of the border villages near Three Pagodas Pass told reporters that two hundred people had been arrested in the space of a week.\textsuperscript{27}

Lt Col Hla Min, military commander in Three Pagodas Pass, has earned the nickname Bo Mike Khae (meaning devil) because of his control over corruption practices in the area. He is even reported to have extorted 7000 kyat from one migrant worker seeking passage into Thailand. The border closure in place at the time was extended because it generated income from goods traders. Although there is some disapproval within the military, there is also widespread competition for a share in the money to be made at Three Pagodas Pass. Lt Col Hla Min’s commanding officer is Major Gen Myint Aung who allegedly maintains his own position by paying 60m kyat to Senior Gen Than Shwe.\textsuperscript{28}

In addition to the expense and the risk of arrest, there are various physical hazards associated with trying to cross the border unofficially. Many migrants have reported travelling through the jungle at night or in the booths of cars and numerous accidents have occurred when drivers transporting illegal migrants have used unsafe routes or crashed while trying to escape police. Women are also vulnerable to sexual abuse. On 5 November 2007, it was reported that three women from Burma had been repeatedly raped while trying to secure passage into Thailand to find work. Together with another six people, they had paid 9000 baht to a broker who promised to take them to Bangkok. The broker took them as
far as Kam Paeng gate, near Mae Sot, where he raped the three women and then left them in the hands of a Thai businessman who also tried to rape them. On this occasion they managed to escape but did so by making their way into the jungle where they claimed they were raped again by a group of Thai robbers.\textsuperscript{29}

Burmese migrant workers without proper documentation are frequently arrested and deported by Thai authorities. \textit{[Photo: Reuters]}

Migrant labour in Thailand includes workers who cross the border daily in order to go to work and return home to Burma in the evening. Top Form Brassiere (Mae Sot) Co., which is part of Hong Kong based company Top Form International Ltd, is located on the bank of the Moei River. The scores of women who cross the river to get there everyday are part of this group of day migrants. The majority of them live in the Burmese border town of Myawaddy, which is right across the river.\textsuperscript{30}

On 2 June 2007, Thai authorities at the Myawaddy-Mae Sot border crossing starting taking finger prints and photographs as part of a more rigorous checking system. The move was ostensibly made in order to help the authorities trace any Burmese people who commit crimes whilst in Thailand. The border bridge is one of the main entry points for businessmen and traders from both countries as well as for labourers in search of a daily wage. It is reportedly crossed by over 2,000 Burmese every day.\textsuperscript{31}

The Mae Sot market, on the Thai side of the national border, has long attracted Burmese traders who are able to make a significantly higher profit than they can at their local markets. This profit does not come without risk, though. Vendors require a temporary border pass, which costs them 1,000 kyat, and also have to pay 500 kyat for each bag of goods they hope to sell. None of this, however, legally entitles them to sell goods at the market. Instead, they must apply for permission from the market authorities and also pay tax on goods sold. Vendors caught selling goods without permission are often arrested and their goods confiscated by the authorities. Nevertheless, many vendors take the risk as they are unable to afford the market fees after paying the border fees.

Many of the vendors are school age children whose families cannot afford to keep them in school. Moe Moe (10) is one of many who travels to Mae Sot daily. Her day begins at 4:00 am with a trip to the local Myawaddy market where she and her mother buy produce. She then walks to the border crossing, which she usually reaches around 6:00 am. From there she takes a bus to the market. She and her fellow vendors are always on the lookout for market authorities and sometimes have to run away to avoid arrest. However, Moe Moe believes it is worth the risk because she can make up to 4,000 kyat a day in profit.\textsuperscript{32}
Thai Migration Policy and Legal Registration of Migrant Workers

In 2003 Thailand and Burma signed a Memorandum of Understanding on Employment Cooperation which formalised joint efforts to verify the nationality of illegal immigrants and get them registered as legal migrant workers. Thailand has a similar agreement with Cambodia and Laos. Vasant Sathorn, director of the Labour Ministry’s Bureau of Illegal Migrant Worker Management, said that Cambodia and Laos had been very cooperative and that the registration of illegal migrants from these two countries should be completed by June 2008. Burma, however, has not cooperated and all efforts came to a halt in September 2006. The problems lie in disagreement on how to register the migrant workers. The Thai government has requested that SPDC sends officials to Thailand in order to carry out the verification process. However, the junta has insisted that all migrants must return to Burma in order to have their nationality assessed. For migrants however, many of whom have left Burma illegally, being registered by SPDC officials can in itself be a risky affair.

Representatives of various NGOs voiced concerns over the nationality verification process. Satien Thanprom, of The Prevention of HIV/AIDS among Migrant Workers in Thailand Project, claimed that migrants who were required to return to Burma to obtain documentation might face difficulties and that their safety could not be guaranteed. The Thai government made arrangements to discuss the matter further with the junta but as yet no outcome has been reported.

Early in the year there were fears that a recent surge in the number of asylum seekers from Burma and North Korea would prompt the Thai government to adopt a harder stance towards migrant workers. Officials at the National Security Council were reportedly alarmed by the recent influx of Rohingya from Arakan State and asylum seekers from North Korea. There was a risk the situation would put an end to, or at best delay, proposals for job creation around refugee camps and policy changes allowing refugees to work outside of their camps. There are, however, still plans for the justice ministry to launch a legal handbook for refugees which explains the Thai legal system.

Despite these efforts, opinion on Thailand’s policy towards migrant workers is not entirely positive. Thai policy towards migrant workers has been inconsistent over the years and there is no clear or comprehensive strategy. According to feedback from an ILO seminar on the rights of migrant workers in South East Asia, Thailand “is taking steps to reform migrant worker laws and regulations but still falls short”. The seminar was a follow-up to the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers which was signed by ASEAN nations in January 2007. The declaration calls on member countries to improve migrant worker rights and welfare and to make efforts to combat human smuggling and trafficking.

One of the specific issues that has been criticised is the fact that since 2005 migrant workers from Burma have not been allowed to bring their families or dependents into Thailand with them. Pranom Somwong of the Chiang Mai based Migrant Assistant Programme (MAP) says the decree is impractical and ignores the fact that many migrant workers have left Burma because of violence or starvation.

Another contentious issue is the restrictive law which has been in force in a number of Thai provinces since December 2006. Commonly known as ‘martial law’, the legislation prohibits migrant workers from gathering in groups of more than five, using mobile phones, riding motorcycles or going outside after 8:00 pm. The law has been implemented in the southern provinces of Phuket, Ranaung and Suratthani as well as the eastern province of Rayong. There are reportedly plans to implement it in the northern province of Chiang Mai and
consideration is also being given to Chumpon Province. Some are concerned that the law will eventually be applied across the country.

According to Action Network for Migrants – Thailand, the decree will make it very difficult for migrants to access education and healthcare, as well as having an impact on cultural activities and religious observance. The law also encourages negative attitudes towards migrants and reinforces negative stereotypes. The official reasoning behind the law is that it protects national security and helps prevent drug trafficking. There are indeed problems with drug trafficking in northern Thailand and civil unrest linked to Muslim separatists in southern Thailand but no data has been presented which links migrant workers to either of these problems.  

A lot of opposition to this law was mobilised in 2007 among activists, both by Burmese migrant organisation and Thai human rights activists. On 30 April 2007, it was reported that a combination of labour rights groups had planned a joint demonstration against the new law and that they had sent letters to the ILO, the Human Rights Commission of Thailand and the Thai Lawyer Council requesting their support. On May Day Burmese migrant workers gathered with the Workers’ Union of Thailand and many Thai workers to protest against the restrictions. On 11 May 2007, NGOs and Burmese migrants held an emergency meeting in Chiang Mai district to discuss the proposed introduction of the law. A press conference was held after the meeting and Pranom Somwong of MAP spoke against the law, saying it was not appropriate in a democratic country. The group subsequently submitted letters to the Chiang Mai district governor. A group of Thai students from Mahidol University in Bangkok also set up an online petition which was submitted to the National Legislative Assembly at the end of August.

A further petition was organised by a group comprised of both Thai and international labour and human rights activists. Suthhida Malikaew, one of the group’s coordinators, said that copies of a petition had been delivered to the prime minister and to the ILO office in Bangkok. A statement was released by the Hong Kong based Asian Human Rights Commission (AHRC) supporting the group’s efforts and condemning the law as “an affront to basic human dignity and a flagrant breach of Thailand’s commitments under the International Convention on the Elimination of All Forms of Racial Discrimination.”

Concerns that the law will reinforce negative stereotypes are rooted in the often expressed belief that immigrants are to blame for a wide variety of social problems. It is likely that this situation is fuelled by the way that news about immigrants is reported. NGOs have described it as misleading and divisive. According to Adisorn Kerdmongkol, advocacy and research officer at the International Rescue Committee - Thailand, Thai media tends to focus on national security and ignored issues such as human rights or the importance of migrant labour to the Thai economy. Media reporting obviously influences social attitudes, and if migrant workers are routinely portrayed in a negative light then it is not surprising that social attitudes towards them will tend to be negative.

Sompong Sakaew, of the Labour Rights Promotion Network in Samut Sakhon, also voiced criticism of the Thai press, saying that negative reporting was leading to an increasingly restrictive policy towards migrant workers and more frequent immigration raids. His warning came as Thailand’s Deputy Minister of National Security, Gen Sonthi Boonyaratkalin, who is also chairman of Thailand’s National Foreign Workers Administrative Committee, publicly claimed that illegal migrant workers were a social problem and presented a threat that needed to be addressed.

Sakaew’s fears were realised when the Samut Sakhon shrimp market was raided early on the morning of 31 October 2007, resulting in the arrest of over 1,000 migrant workers, most of whom were ethnic Mon from Burma. It was reported that around 700 police were
deployed and that raids also took place on various places within a five kilometre radius of the market, including nearby communities, seafood processing companies and a workers' encampment. Police Major-General Suchart Muenkaew confirmed the raid had been prompted by a report in a local newspaper about an influx of migrant workers into the area.46

In November 2007, Gen Boonyaratkalin caused further anxiety by arguing that tighter security measures were needed to stop migrant women from giving birth in Thailand and ensure that they were sent back to their home country if they fell pregnant. This proposal, which does not sit comfortably with the Thai prohibition on dismissing pregnant women from work, was also prompted by media reports which claimed that 2,000 babies were being born to migrant workers every month. According to Sakaew, this was another example of facts being distorted by sensationalist reporting and the number of possible births was a maximum of 350.47

The governor of Samut Sakhon Province later in the year suggested further restrictions on migrant workers. Governor Veerayuth Leam-ampar released a statement on 26 October 2007 banning irrigation workers from celebrating their traditional cultural festivals. Moreover, the governor made negative and ungrounded comments about Burmese migrant workers, claiming that they “create health problems, stateless children, commit sinful crimes and violations of laws.” He claimed that allowing migrants to observe traditional cultural celebrations could affect the peace of the country, and was quoted as saying that cultural performances by migrants “should not be supported because it will make the community feel that these people are the owners of the community and could create security problems.”48

The governor was strongly criticised in a number of open letters published in the wake of his statement. Over 70 percent of the Burmese migrants in the province are believed to be Mon and a significant proportion of the province’s native Thai population is also of Mon ethnicity. The governor’s efforts to suppress the Mon culture were therefore not well received.49

Earlier in the year there was a more official tightening of the rules regarding migrants. The deadline for migrant worker registration in 2007 was 1 July and surveillance and immigration raids on worksites increased in the period after the deadline passed. Reports put the number of registrations at 500,000 which was a decrease of 200,000 from the 2006 figures. The estimated total number of migrant workers in Thailand, however, is between one and two million.50

Moe Swe, secretary-general of the Yaung Chi Oo Workers Association, has suggested that the conditions for migrant workers would be improved if Thai authorities allowed them to register on their own behalf, instead of through their employers. He claimed this would prevent employers and factory owners from using their employees’ work permits to effectively hold them hostage or keeping them in a state of vulnerability by refusing to obtain permits for them.51

According to Thai policy, employers who hire illegal migrants can be fined 30,000 baht per worker. As a result migrant workers are at risk of losing their jobs. In July, over 200 migrant workers at Pathumthani Bakery in Bangkok were dismissed because their employer was worried about being fined. The bakery owner had previously paid the police 500 baht per worker each month but the police were no longer accepting this.52

Moreover, registered migrants often face problems caused by employers retaining their work permits. On 31 October 2007, it was reported that 1200 migrant workers had been rounded up and arrested in the Gulf of Thailand. Many of them were legally registered but did not have the original documents in their possession and the police were not willing to accept
photocopies. The police released those whose employers were willing to stand guarantee for them, while the rest were scheduled to be deported within three days.  

However, all the arrests and immigration raids during 2007 took place in the context of Thailand’s overwhelming need for migrant labour. In January 2007, the Thai Labour Minister, Apai Chanthanajulaka, acknowledged the country’s labour shortage and stated that another 10,000 migrant workers from Burma were needed. Migrant workers arriving through official channels would be accepted in groups of between 100 and 200. Moreover, in October 2007 the Department of Employment announced that Thailand needed 400,000 more migrant workers to alleviate the country’s labour shortage. The department planned to create a Migrant Worker Administration Committee which would be tasked with reopening registration for illegal migrants and finding ways to attract more legal migrant workers. The industries in particular need were agriculture, farming, fishing and seafood processing.

**Working Conditions and Labour Law**

An ILO report published in May under the title, “Equality at work: Tackling the challenges”, criticised the lack of progress that South Asian countries had made in combating discrimination. The report highlighted the emergence of new forms of discrimination regarding age, disability, sexual orientation and people living with HIV/AIDS. Traditional forms of discrimination, particularly gender based, remained problematic and it was noted that South Asia was one of the worst areas in the Asia Pacific region for women. The report also commented on the growing discrimination against migrant workers which was manifested in racial discrimination and intolerance as well as exploitative working conditions.

According to the Thai government, Mae Sot is an “export processing zone”. More critical observers have described the town as effectively one large sweatshop or labour camp. Conditions in the factories are harsh and Thai labour law is routinely flouted. On average, migrants work twelve hour days, get one day off a month and are paid approximately half the minimum wage. Many of the factories are owned by Chinese or Taiwanese businesses and the clothes are exported mainly to the United States and Japan. The workers often do not know which brand they are making clothes for. However, as a result of labour activists putting pressure on the brands directly, many factories now send their clothes elsewhere to have the labels attached in order to disguise the link with the brand.

Aumnat Nanthahan, chairman of the Federation of Thai Industries in Mae Sot, claimed that the wages only appear low because employers make legitimate deductions to cover the food and accommodation they provide for their workers. However, according to workers themselves, the accommodation is often in cramped dormitory conditions and the food sometimes so poor it is inedible. Workers who complain risk having their work permits confiscated, leaving them effectively without bargaining power. Despite these conditions, the majority of migrant workers attest they are better off in Thailand than they were in Burma.

Unfortunately many employers are aware of this, and it serves to fuel the levels of exploitation to which Burmese migrant workers are subjected. The numerous media reports on the conditions facing migrant workers build a depressing picture of working life in Thailand. The working week is often seven days long with the days themselves regularly 12 hours or more. Overtime is often paid at a lower rate than standard hours or not paid at all. Wages are paid at well below the minimum rate and subject to a number of deductions. These deductions can include the cost of registration, fees paid to traffickers, or bribes paid to keep the police and immigration authorities at bay. Employers who do obtain work
permits for their employees tend to keep the documentation in order to prevent the employees from leaving.

The total cost of legal registration, including administrative fees, work permit fees, health check-ups and insurance, comes to 3,800 baht. Considering that some migrant workers are paid as little as 50 baht a day, the registration fees represent an extremely high sum for them to pay. There are also administrative barriers to workers registering themselves so it is common practice for employers to carry out the registration and deduct the fee from the employees’ salary in instalments.\\hspace{1em}59

Officially, the Thai Labour Protection Act of 1998 provides for a standard working day of eight hours, one day off in every seven days worked, paid annual leave after one year of service, paid sick leave, restrictions on hazardous work for females, maternity leave, employee grievance procedures in establishments with more than ten workers and severance pay in cases of termination. The Act prohibits forced or unpaid overtime, forced work on public holidays and dismissing female employees because of pregnancy. There is also a national minimum wage. Thai policy clearly states that, so long as they are legally registered, the Labour Protection Act, and all other relevant law, applies equally to migrant workers as to Thai citizens.\\hspace{1em}60

However, enforcement is lax, partly because the Ministry of Labour is under-resourced. Another factor is the proliferation of small enterprises which are run from domestic premises or otherwise hidden. There are also language barriers to investigative work, given that few Ministry staff speak Burmese and migrant workers generally speak little Thai. Consequently, employers are free to flout the law with impunity in most cases.\\hspace{1em}61

In December 2007 the specific plight of Burmese migrant women in Thailand was highlighted in a Burma Women’s Union (BWU) report Caught Between Two Hells, based on interviews with 149 Burmese migrant women living and working in Thailand and China. The report stated that many women had left Burma in order to escape abuse and violence and that some had been raped by Burmese soldiers. But instead of finding protection in Thailand, some had been raped by brokers and officials while many faced sexual abuse in their work places, particularly those working as maids.\\hspace{1em}62 The report found that female migrant workers routinely faced sexual harassment from their male colleagues as well as from their employers and the various officials they encountered. This ranged from verbal harassment to physical abuse and rape. Women workers were found to be doubly marginalised by the combined factors of their gender and their legal status. They generally found themselves with very limited work opportunities and obliged to take work in the 3D category. Women are also paid less than men and in the construction industry their wages are regularly half those of their male colleagues.\\hspace{1em}63

The vulnerability of women migrant workers was further documented in independent reports throughout the year. On 8 August 2007 a Burmese woman was killed in Mahachai, an area of Samut Sakhon Province. Hay Mar Oo worked night shifts at a local fish factory and was asleep in her room when the attack took place. It was suspected that the attacker first attempted to rape her and killed her when she fought back. Myo Htut, the victim’s husband, said she had been stabbed around 18 times with a pair of scissors. Another migrant worker in the same area said that violence against migrant workers was common. The Thai Action Committee for Democracy in Burma (TACDB) has raised the issue on violence against migrant workers. They said workers in the fishing industry had been targeted by extortion gangs in June 2006 and at least 20 people had been hospitalised as a result of the attacks.\\hspace{1em}64

If employers complain about working conditions or stage a strike, employers often turn to the police to have the workers arrested. In November 2007 over 100 illegal migrant workers were arrested at their factory after the owner called in the police. The workers had
complained to the factory owner after not being paid. Instead of paying the workers, his response was to have them all taken away by police. This has been a frequent tactic utilised by employers to prevent migrant workers from making complaints or staging strikes.

However, some employers have been known to take more drastic action and even go as far as having workers killed. On 30 October 2007 it was reported that at least three Burmese migrant workers had died after being poisoned by their employer. The workers had been on a shipping boat in the Indonesian archipelago for three to four years and were due to be paid between 100,000 and 300,000 baht on their return. Moreover, following the murder of two migrant workers from Arakan State, an Arakanese journal claimed that Burmese migrant workers were often killed or attacked when employers wanted to avoid paying their wages.

On a more positive note, the Labour Court came to a landmark judgement in August 2007 when it awarded compensation of 389,878 baht to four migrant women who had taken their employer to court. The women had been dismissed from Sein Hein Textile Factory because they were part of a group of 200 workers who demanded a salary increase. The judgement found they had been dismissed without due cause and that their employer had failed to pay their salaries in full and failed to pay them at all for overtime. The women were assisted in their case by the Joint Action Committee for Burmese Affair and the Thai Lawyer Council.

Meanwhile, controversy has increased regarding the manner in which ethnic Padaung are employed in Thailand. On 22 November 2007, six Padaung women were arrested in a hotel in northern Thailand for working without permits. The police subsequently began an investigation into whether the women had been abducted. The Padaung are a sub-tribe of Karenni ethnicity, also known as “long-necks” because of the neck rings which Padaung women wear.

Padaung women start to wear the rings around the age of six and add more as they get older, with adult women wearing up to 23 rings. This tradition has led to the Padaung being turned into a living tourist attraction and tourists are charged 250 baht to enter designated Padaung villages in Mae Hong Son Province where many of the tribe live. The women can also earn money from selling traditional clothing, jewellery and handcrafts. The governor of the province is keen to exploit the Padaung attraction and gather as many as possible into the villages. On 14 September 2007 it was reported that 47 Padaung had been forcibly relocated to Huay Pu Keng, one of three designated villages in Mae Hong Son, which critics have referred to as “human zoos”. In 1998 a Padaung village in Chiang Mai Province was raided by police and the businessmen who ran the village charged with holding the villagers against their will.

Migrant Health

The health status of migrants in Thailand is to a large extent reflected by the health situation Burmese face in their home country. Burma’s military junta spends a very limited amount of the country’s GDP on health services. The AIDS epidemic in Burma and the lack of information about methods of prevention for this and other diseases within the country is a major contributing factor to their prevalence within migrant communities. (For more information see Chapter 7: Right to Health). Health professionals working along the Thai-Burma border are worried that the conditions in Burma are creating the perfect breeding ground for drug-resistant strains of killer diseases such as malaria and TB. The inadequacy of Burma’s healthcare system and the poverty in which most people live mean many cannot afford to complete the necessary course of medication while others rely on the prolific trade in sub-standard counterfeit drugs which ultimately contribute to diseases becoming drug resistant.
International health experts met in Bangkok in January 2007 for the conference “Responding to Infectious Diseases in the Border Regions of South and Southeast Asia” which was organised by The Human Rights Centre at the University of California Berkeley, the Centre for Health and Human Rights at the Johns Hopkins Bloomberg School of Public Health and the Global Health Access Program. One of the main areas of concern was the ongoing humanitarian crisis in Burma and the implications for its neighbours. Voravit Suwanvanichkij, one of the researchers from John Hopkins University, noted that ten percent of the ethnic minorities living on the border between Karen State in Burma and Tak Province in Thailand were suffering from malaria due to having been forced into the forest by military operations. Calls were made for greater efforts to combat HIV/AIDS, malaria and other prevalent diseases in the border areas and the junta was urged to offer more cooperation to aid agencies and researchers. It was also stated that the situation was serious enough to be of concern to ASEAN and the UN Security Council.

The Gathering Storm, the recent report from the Human Rights Centre at the University of California, Berkeley, and the Centre for Public Health and Human Rights at Johns Hopkins Bloomberg School of Public Health, also addresses the topic of Infectious Diseases and Human Rights in Burma. The report blames host country governments for the high prevalence of disease amongst migrant workers. It notes that discriminatory policies and practices, as well as more blatant forms of harassment and violence, serve to push migrants further underground and prevent them from seeking medical attention, even for serious conditions. However, the report put most responsibility on Burma’s junta for having created the situation in the first place. (more information see Chapter 7: Right to Health).

The Shoklo Malaria Research Unit (SMRU) staff conducting a malariometric survey among Burmese migrants on the Burma-Thai border. [Photo: SMRU]
Malaria

At present the most powerful weapon available in the fight against malaria is a Chinese drug known as artemisinin. This drug is most effective when used in combination with complementary treatments known as artemisinin-based combination therapies (ACTs). Doctors have identified that incorrect or sub-standard ACTs can generate immunity in the mosquito-borne parasite which causes malaria. This is common in Burma where health education is negligible and costs often prohibitively high.76

Francois Nosten, a French malaria expert heading the Shoklo Malaria Research Unit (SMRU) based in Mae Sot, is highly concerned about the increasing incidences of drug resistant malaria. Drugs in the artemisinin family are currently the only ones that remain 100 percent effective but if an artemisinin-resistant strain were to develop the consequences would be devastating, especially if it travelled to Africa as previous drug-resistant strains have done. Following survey findings that 90 percent of malaria cases in Thailand occurred along the Burmese border, the Public Health Ministry announced in August the establishment of 300 extra treatment units in border areas.

During the first half of 2007, there were 18,000 cases of malaria and 32 deaths. Although Burmese migrants accounted for only 2,995 of the cases (16½ percent) they accounted for 12 of the deaths (37½ percent). Both government and public health officials are worried that the movement of migrant workers could spread the disease to other areas. They are particularly concerned about the multi-drug resistant strains.77

Tuberculosis

The situation regarding tuberculosis (TB) among migrants is critical. Mae Sot general hospital admitted more TB patients in the first half of 2007 than it did in the whole of 2006. Five of them were multi-drug resistant, a condition requiring a two year course of treatment with only a 50 percent chance of survival. At the same time, Medecins Sans Frontieres (MSF) was treating 15 cases in a refugee camp and was extremely concerned about the lack of health awareness and education amongst Burmese refugees. A spokesperson explained that many patients do not understand the need to complete a course of medication and stop taking their pills as soon as they start to feel better, often only half way through the course. MSF also commented on the difficulty of monitoring the healthcare of migrant workers who move regularly and have no phone or fixed address.

Mae Sot is consequently struggling to deal with the healthcare needs of an estimated 150,000 migrants from Burma. The hospital is committed to treating every patient who arrives, but is concerned about the increasing numbers of Burmese who arrive and also the severity of their conditions. One doctor noted that Burmese often make the trip across the border only when local remedies have failed and their condition has become critical.78

On 11 June 2007, it was reported that aid workers from MSF in Mae Sot had discovered the first cases of "extensively drug resistant" (XDR) TB. One patient was a refugee and the other a migrant worker, both from Burma. This latest incident has fuelled fears that untreatable infectious diseases may be developing in Burma.

MSF has been treating multi-drug resistant patients since 2005. Mae La, one of the refugee camps has a special “TB village” where patients are carefully monitored during their treatment to make sure that they take their drugs as prescribed and complete their treatment course in full. Experts say that when patients miss doses, take lower doses or take sub-standard ‘fake’ pills they create an environment where the bacterium can mutate and start to build immunity.
Cholera

A resurgence of cholera in Tak Province on the Burma-Thai border has also been largely blamed on Burmese migrants. Forty-six patients were hospitalized in Mae La between June and August 2007, a further 30 cases emerged in Mae Sot and the hospital in Mae La refugee camp had ten cases. Cholera cases were reported across several villages in the province despite the efforts of public health officials. Dr Patjuban Hemhongsa, a public health doctor in Tak Province, said officials had found over 300 cases of cholera in five border districts within two months. Almost all of them were migrant workers from Burma. On 9 August 2007, it was reported that one female patient had died from cholera in Mae La refugee camp.

Sexually Transmitted Diseases

Health issues of an entirely different nature result from the increasing number of migrant workers moving into Thailand’s ever buoyant sex trade. In Chiang Mai in northern Thailand, it is estimated that half of all male sex workers are now foreign and of this group 64 percent are ethnic Shan from Burma. With Shan state bordering northern Thailand it is not surprising that large numbers of migrant workers end up in towns like Chiang Mai. The fact that they enter the sex trade is perhaps not so surprising either. The average daily wage for a migrant worker is between 80 and 180 baht. According to a Shan male prostitute the average fee from a single client is 1,000-2,000 baht and some clients, usually westerners, will pay up to 5,000 or even 10,000 baht.

All of the male sex workers interviewed by *Irrawaddy* were heterosexual men who found their work distinctly unpleasant but could see no other options. Migrant workers are generally employed in the jobs that Thais are unwilling to do and the fact that so many of them are illegal leaves them with little scope to object to the abysmal wages and conditions. By contrast, a male sex worker said he had been able to send home 150,000 baht in three years and that this had been enough for his parents to build a new house.

Prostitution is officially illegal in Thailand, so support for sex workers generally only comes from NGOs. All sex workers face a certain stigma but male prostitutes are considered to be the most stigmatized and, therefore, the least likely to get the support they need. At present there are only two organizations working specifically with male sex workers, Swing in Bangkok and Mplus in Chiang Mai. Male sex workers from Burma are particularly vulnerable as sexual health education is negligible in Burma and discussion of the topic is strictly taboo. Although the prevalence of HIV/AIDS and other sexually transmitted diseases is lower in Thailand than in neighbouring countries, a recent study found that the number of male sex workers in Chiang Mai who were confirmed as HIV positive was as high as 11.4 percent. A final barrier to Shan men getting the help they need is language as very few speak any Thai upon their arrival. *Irrawaddy’s* report noted concern that young, male Shans are likely to encounter social, emotional and health problems with increasing regularity.

Health professionals working with Burmese migrant workers in Thailand have noticed that efforts to prevent the spread of sexually transmitted diseases in the general community, particularly HIV/AIDS, are often frustrated by traditional attitudes which persist even in the face of improved healthcare and health education. Married women are unable to broach the topic of condoms because they are traditionally associated with promiscuity and therefore considered inappropriate in a marriage or stable relationship. This is compounded by the double standard which allows a man to visit a brothel with relative impunity but calls his wife’s sexual morality into question when she then asks him to use a condom. Unmarried women are equally reluctant to discuss condom use with their boyfriends because it suggests a level of sexual experience which Burmese men can find objectionable. 
Although specific HIV prevalence statistics are not available for migrant workers, as distinct from the general Thai population, the Prevention of HIV/AIDS Among Migrants Workers Project (PHAMIT) does have a number of sample reports. The latest figures, from 2004, showed a prevalence rate of 9.6 percent among fishermen in Chumpon Province and 5.6 among those in Phuket Province. Fishermen in these areas are primarily from Burma. Statistics for sex workers in the border town of Ranong are also primarily Burmese and infection rates there were recorded at 28 percent.

PHAMIT is funded by the Global Fund to Fight HIV/AIDS, TB and Malaria and works with the Ministry of Health to try and improve understanding and awareness amongst migrant workers. Their efforts have included initiatives aimed at behaviour change and the development of educational material in Burmese as well as a number of ethnic minority languages. Unfortunately, knowledge (or the lack of) is simply one of many hurdles which need to be overcome. As many migrant workers are undocumented, they avoid even incidental contact with any authorities. World Vision, one of the aid agencies working in Mae Sot, found that the women they were seeking to get involved in training sessions were generally working very long hours, and had no free time for training sessions or workshops. Some charities tried persuading factory owners to allow their employees time off for health training but with very little success. The women were also reluctant to leave the factory compounds, where they lived as well as worked, due to the risk of arrest or deportation should they come into contact with any police or government officials. These fears were fuelled by recent restrictions in some provinces which included a prohibition on migrant workers using mobile phones or being outside the workplace after 8:00 pm.85
Health and Safety in the Workplace

Injuries and accidents can be expensive for a migrant worker because, in addition to the hospital fees, the worker will lose money as any time off is unpaid. They may also have to pay bribes if stopped by the police, as very few are allowed the original copies of their registration documents and others do not have any in the first place. Workers in factory, construction and agriculture settings reported more health problems than those in other industries. Many reported accidents resulting from poorly maintained equipment or a failure to implement safety measures. Despite the fact that Thai Labour Law applies to all workers, the Social Security Office argues that the Workmen’s Compensation Fund, which provides compensation and benefits in relation to industrial injuries, is only available to Thai nationals.

In addition to injuries resulting from accidents, many migrant workers suffer from exhaustion, sleep deprivation and varying degrees of malnutrition. In some cases this last condition results from workers living in factory compounds where food is provided by the employer in insufficient quantity and/or quality. In other cases it results from workers prioritising the need to send money back home to Burma at the expense of their own health and welfare. In addition, hygiene in most factory accommodation is minimal with some workers lacking access to running water or drainage. The workplaces themselves are often cramped and poorly ventilated. Respiratory diseases, skin conditions and water related diseases are common in such environments.

Access to Healthcare

Migrant workers face various barriers to accessing healthcare in Thailand. Although registered workers officially have access to health schemes and insurance, the situation is quite different in practice because most employers retain their workers’ ID cards, leaving them unable to prove the legal status that entitles them to health services. Unregistered workers run the risk of being arrested when they come into contact with the authorities at the hospital or if stopped by police on the way there. Most registered workers effectively run the same risk as they rarely have anything better than a photocopy to prove their status and photocopied documents are not considered valid.

The restrictive laws which have been in place in a number of provinces since December 2006 make it even more difficult for migrant workers living in those areas to access healthcare. The legislation includes an 8:00 pm curfew and combined with the long hours which most migrants work this leaves them very little time to do anything at all. The legislation has already led to an increase in the number of women giving birth in hiding, sometimes in the jungle, because they are afraid of being arrested in they go to hospital or engage a midwife.

The healthcare provided by Cynthia Maung and her co-workers at Mae Tao Clinic in Mae Sot is of vital importance to the migrant community as most are unable to afford Thai hospital fees, afraid of being detained by the authorities or both. On 22 November 2007, the Taiwan Foundation for Democracy announced that the 2007 recipient of its annual Asia Democracy and Human Rights Award was Dr Cynthia Maung, founder of the Mae Tao Clinic, on the basis of her long-term dedication to giving healthcare to Burmese refugees. Wang Jin-pyng, chairman of the foundation, stated that “Dr Cynthia is going beyond her mandate as a physician by turning a refugee population into a community based on shared values and respect for human rights”.

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Situation for Migrant Children

Since 2005 there have been some positive developments in Thai policy relating to the children of migrant workers. Prapan Vongsarochana, a senior official from the Education Ministry, spoke at an ILO sponsored seminar in July 2007 and supported the right to education for the children of all migrant workers, even those who are illegal. She stated that in cases where children lack identification or registration documentation, it should be sufficient for the parents to bring the children to school and simply testify to their identity. However, she also voiced concerns over the length of time that migrant children are likely to spend in education.91

This last issue is a concern for many of the NGOs working with children’s issues. On 12 December 2007, Burma Anti-Child Trafficking and the Burmese Migrant Workers’ Education Committee (BMWEC) came together to mark the fourth International Day Against Child Trafficking. The two groups organised a campaign in the border town of Mae Sot to highlight the negative impacts of child labour. Their main event was attended by almost 2,000 people.

Many children are sent or trafficked to Thailand on their own and there are no official statistics for these migrant “street children”. NGOs working in the area generally assume the number to be in the region of 20,000. Despite the efforts of various NGOs to run schools for migrant children, many are forced into hard labour, sweatshops, begging and even the sex trade. They have little time or energy for education.

According to Paw Ray, director of Hsa Htoo Lei School in Mae Sot, many families face such hardship that the parents not only encourage their children to work but force them, and there are even reports of children having been sold by their parents. The situation has become so endemic that Thailand’s Minister of Labour, Somsak Thepsutin, acknowledged it would take another ten years for the worst forms of child labour to be eradicated.

The BMWEC often tries to explain to parents the value of education and the fact that children who work instead of going to school have no hope of anything better in the future. However it can be hard to persuade a family to give up a source of income when they are already struggling to put food on the table and keep a roof of any sort over their heads.92
In 2007 there were over 50 schools along the Thailand-Burma border catering for the children of refugees and migrant workers alike. These schools also cater for children who are forced out of their schools in Burma and travel to the border in the hope of continuing their education. In July 2007 over 5000 children were forced to flee from Karen State following clashes between rival rebel groups which forced the closure of their schools. Many of them found places at the migrant schools along the border. Mahn Shwe Hnin, chairman of the Migrant Teachers’ Association in Mae Sot, reportedly stated that the number of children seeking an education in Thailand had doubled in 2007 since the previous year.93

Another issue affecting migrant children is statelessness. This especially affects the children of undocumented migrants born in exile, as they are not given the right to either Thai or Burmese citizenship. According to sources at the Mae Tao clinic in Mae Sot the problem is increasing. A programme run by the UNHCR provides birth certificates for children who are born to illegal migrant workers or in refugee camps but there are many that the programme fails to reach, including children of internally displaced people (IDPs).94

Sometimes migrant children are simply abandoned by desperate parents who are unable to look after them. Poverty is generally the main factor; either the fact that they simply cannot afford to feed another child or the fact that neither parent can afford to take any time off work to look after an infant. Some of these are taken in by orphanages along the border, one of which is run by Mae Tao Clinic. According to Dr Cynthia Maung some migrant women will deliberately get themselves arrested around the time their baby is due because they cannot afford hospital fees and know that they will receive at least basic healthcare in prison.

Social Action for Women (SAW), a local assistance group in Mae Sot, runs a safehouse for abandoned children. San Thaw Dar, one resident of the SAW safehouse, ended up there after incurring a debt of 5,000 baht which neither she nor her family were able to pay. She arrived in Thailand at the age of 11 and immediately started work as a domestic helper. The payment of 5,000 baht was demanded when she accidentally broke a doll belonging to her employers. Not knowing what else to do, her mother dropped her off at the SAW safehouse and then disappeared. Four year old Su Su Aung, who has cerebral palsy, was taken to the SAW house by his father following the death of his mother. The hours and working conditions faced by migrant workers do not allow them to provide the kind of care that a disabled child requires. Disabled children are therefore often abandoned.95
Conditions for Child Workers

Thailand is home to child workers from all parts of Burma. The fact that many of them are ethnic Burmans and travel from areas that are far from the Thai border is considered to be reflection of how badly the economy has deteriorated in Burma.

Many children cross the border legally with a one-day pass and then become illegal once they stay beyond the permitted 24 hours. The cost of crossing the border varies enormously although a study conducted in Mae Sot found that almost 50 percent paid less than 100 baht in border crossing fees while a further 20 percent paid less than 500 baht. One third crossed the border illegally, without assistance, and consequently paid nothing. There are, however, reports of people paying over 2000 baht and human smugglers will charge between 4,500 and 10,000 baht. The costs of moving within Thailand are far higher and travel from a border area into central Thailand is reported to cost between 8,000 and 15,000 baht per person.96

The same study also found that less than 20 percent of the child workers in Mae Sot lived with their parents. A significant number of parents, almost 70 percent, remained in Burma although some had moved to other parts of Thailand, disappeared or died. Nonetheless, around two thirds claimed to have relatives or friends in Mae Sot. A significant number lived on the factory premises and the majority of these did so because it was compulsory. Factory accommodation is generally overcrowded and unhygienic. The majority of the children were legally documented migrant workers, although some were officially underage and their employers had falsified their documents.97

The question of age can be somewhat complicated in Burma. Internationally a child is defined as a person below the age of 18 years. This definition is used by the ILO and is contained within the UN Convention on the Rights of the Child. According to the international principle for calculating age, a person becomes 18 and celebrates their 18th birthday on the day their 18th year of life is completed. According to Burmese traditions, however, a person celebrates their 18th birthday the day their 17th year of life is completed because this is when they cross into their 18th year. In addition to this, a person’s age is considered to date from conception rather than the moment of birth. Consequently, many migrant workers are far younger by international standards than by their own calculation.98

The legal minimum age for employment in Thailand is 15. This is set out in the Labour Protection Act 1998 and is consistent with ILO Convention 138 on Minimum Age for Employment. However, because of the difference in the Burmese concept of age, many children claiming to be 15 are likely to be closer to 13. It is also common for migrant workers to lack birth certificates or similar documents, particularly if they are from ethnic groups and/or remote areas of Burma. These difficulties aside, there is no shortage of employers who are happy to ignore the fact that many of their employees are underage.99

The province of Samut Sakhon has around 450,000 residents and is one of the wealthiest areas of Thailand. Around 40 percent of the seafood processing industry, worth US$ 2 billion a year, is based there. The Labour Rights Promotion Network estimates that 70 percent of the province’s residents are migrant workers from Burma, of whom only 74,000 are legally registered. Conditions in the seafood factories are harsh with many reports of physical abuse as well as forced overtime and pay that is well below the legal minimum wage. According to Thetis Mangahas, an ILO programme manager, some of the factory conditions in Samut Sakhon constitute the worst forms of child labour and forced labour. A 14 year old girl worked an average of 14 hours per day in a seafood factory where she peeled shrimps. She earned about 100 baht a day.
Despite national Thai law stipulating that all children are entitled to an education regardless of their legal status, only two schools in Samut Sakhon accept children from Burma and even then they are kept separate from Thai children. However, as most families depend on the wages their children bring in, the question of which schools will accept them becomes irrelevant as education is a luxury few migrants from Burma can afford.\textsuperscript{100}

In 2006, the Migrants Section of the Federation of Trade Unions-Burma published a report under the auspices of the ILO about the plight of migrant child workers in Mae Sot. The study, which focussed on the garment and textile industry, found that almost every single factory where child migrant workers were interviewed was in violation of Thailand’s core labour law, the Labour Protection Act 1998. The children interviewed were working such excessive hours in such poor conditions that the study judged the situation to equate to “the worst forms of child labour”. Such conditions are categorised and prohibited by ILO Convention No. 1982, which Thailand ratified in February 2001.

The study found that over 70 percent of the children were legally registered, but that in the majority of cases the employer retained their identification cards. This meant they were unable to access medical care if they required it and were at risk of arrest if stopped by the police. A further 30 percent also reported that their employers required them to live on the factory premises as a condition of their employment. Working hours in the factories were routinely excessive and almost 90 percent of interviewees reported working an average of 11 to 12 hours a day and seven days a week. Almost half added that they were not entitled to any paid days off, despite the Labour Protection Act stipulating a minimum of one day off in every seven days worked, or four days off in a month.\textsuperscript{101}

The salaries the children receive are well below the legal minimum and some reported having received no payment at all at the time they were interviewed. The largest group, around 65 percent, received between 300 and 500 baht per week. The second group, 16½ percent, received between 200 and 300 baht while the third group, 14½ percent, received over 500 baht per week. The fourth, and fortunately smallest, group, at 3½ percent, received less than 200 baht per week.\textsuperscript{102}

The study put these figures into perspective by calculating how much a ‘regular’ Thai worker would receive for the same hours that the migrant children usually worked. Starting from the assumption that a regular worker would receive the legal minimum of 135 baht for an eight hour day, the basic salary would be 945 baht for a seven day week. On top of this, overtime would be paid at 25.33 baht per hour and the worker would receive double pay on the Sunday. Thus, a seven day week comprised of 11 hour days should bring in a total of 1,586 baht. This is far in excess of what even the highest earning migrant children receive.\textsuperscript{103}

The children’s salaries are also subject to a number of deductions which can include rent, food, registration fees and uniforms. In addition, employers make deductions for mistakes which, depending on the severity, can be as high as full day’s wages. Many will also fine workers between 100 and 500 baht each time they refuse to do overtime. Nonetheless, many of the children were actually able to save money and send some back to family members in Burma. This was easier for those who lived with their parents, relatives or other adult guardians as compared to those who lived alone or in their factory.\textsuperscript{104}

Although only seven of the interviewed children described themselves as “bonded labourers”, 178 stated they were unable to change their job because their employer was holding their work permit and registration documents. When this complaint is put to factory owners, they usually explain that they hold the documents as security for the registration fee which they pay in advance and which the employee has to pay back in instalments.\textsuperscript{105} The ILO reportedly considers such practices to constitute a form of modern slavery.\textsuperscript{106}
Deportation of Migrants

According to the U.S. Country Report on Burma, the junta still does not have legal mechanisms in place to manage Burmese citizens deported from other countries. However, the SPDC receives 250 deported migrant workers from Thailand every week through official channels. The deportees are escorted across the bridge which connects Mae Sot to Myawaddy and processed at the formal detention centre. However, this only takes place on Fridays and represents only a fraction of the number who are scheduled for deportation by the Thai authorities.

The remainder are dealt with by the Democratic Karen Buddhist Army (DKBA), which has led to many deported Burmese migrants ending up in the hands of traffickers. The DKBA were once part of the Karen National Union (KNU) and the struggle for Karen independence. The DKBA split from the KNU in 1994 and have since enjoyed increasing SPDC support, particularly in their conflict with the remaining KNU. The regime is happy to support this conflict because it means they do not have to expend any resources of their own in suppressing the rebels. The junta now allows the DKBA to control certain areas, including Myawaddy and a number of piers along the Moei River. They also control the public transport system.

The deportees are brought by truck to Pier No.10 on the Thai side of the Moei River, not far from Mae Sot. They are then ferried across the river and ushered into a bamboo stockade on the other side. They are kept there under DKBA control until the fee of 1,000 baht is paid. This fee secures their release but puts them in the hands of brokers and traffickers, working in conjunction with the DKBA, who take them back into Thailand. While returning to Thailand is the preferred option for the vast majority, some unlucky migrants end up back under arrest in as little as 48 hours and are obliged to go through the whole process again. It is estimated that nearly 500 Burmese are deposited at Pier No.10 on a daily basis.

According to Moe Swe, the secretary general of Yaung Chi Oo Workers Association (YCOWA), a group working for the rights of Burmese migrant workers in Mae Sot, the DKBA camp near Myawaddy has been operating since 1999 and they have been processing illegally transferred deportees since 2002.

However, aside from the huge expense involved, many members of ethnic minorities are more afraid of being deported into the hands of the junta. Rohingyas in particular worry about the conditions and treatment awaiting them in SPDC jails. One Rohingya who ended up in a Thai jail on charges of illegal immigration said he would prefer to be executed than deported. He was convinced he would be tortured if returned to Burma.

Despite their usual reluctance to deal with deportees, the junta put pressure on the Thai government following the September 2007 protests to deport all Burmese migrants, particularly those with connections to dissident political movements. A number of raids were carried out by Thai authorities, some resulting in over 1000 arrests, however it was not clear whether the arrests were in response to pressure from the SPDC or not. It was also reported that Burmese police had offered to pay Thai police 80 baht for each migrant worker handed into their custody. The motivation behind the last request may have been purely financial, as corruption is rife and police on both sides are known to be involved in bribery and extortion. Following the arrest of 120 migrant workers in Phuket in July 2007, it was reported that detainees could secure their release with a bribe of 5,000 baht. Those who were unable to pay were deported although it is believed that most re-entered Thailand afterwards as they were released at the border.
Police and immigration officials in Thailand have also been accused of using children to catch migrant workers trying to avoid arrest. Network Media Group reported on a raid which took place in Mae Sot in May 2007 resulting in approximately 800 arrests. According to one source, during such raids it is not uncommon for immigration officers to arrest children if the parents have gone into hiding. The idea is that the parents will come out of hiding if they hear the children start to cry.\[115\]

[Caption and photo: The Irrawaddy]

Burma’s Rohingyas in search of a new life end up behind bars.

Responses to the Saffron Revolution

During September 2007 Burmese monks led a wave of pro-democracy protests across the country. Although they failed to oust the junta, they did succeed in focusing the world’s attention on the situation in Burma, at least briefly. Due to the lead role which the monks played, the movement has been dubbed the “Saffron Revolution”.

When the news of the junta’s violent response to the pro-democracy rallies started to spread, people all over the world reacted and joined demonstrations to show their solidarity. On 6 October 2007 protests took place in cities across Asia, Europe and North America. Thailand was no exception and over 600 protesters took to the streets in Chiang Mai. In addition to hundreds of Thai monks, the crowd also included Burmese migrants, international NGO staff members and representatives from other religious faiths.\[116\] A number of separate demonstrations had previously been held outside the Chinese and Indian consulates. These were held on 2 October 2007, which is the International Day of Non-Violence, and 4 October. Burmese migrants demonstrated outside the consulates together with staff from international NGOs and Thai supporters.\[117\]

In addition to showing their support through their physical presence at demonstrations, it was reported that over 2,000 Burmese migrant workers from Surat Thani in southern Thailand donated a total of 2 million kyat (equivalent to US$1,504) to the All-Burmese Monks Alliance at the beginning of October. The donation was intended as a gesture of solidarity for monks involved in the pro-democracy struggle.\[118\]

The following months a group of Burmese monks resident in Thailand gathered outside the Burmese Embassy in Bangkok to demand the release of Daw Aung San Suu Kyi and show their solidarity for monks involved in protests back in Burma. They were joined by monks from Bangladesh and Nepal as well as members from youth associations. The
demonstration, which took place on 1 November 2007, was conducted peacefully and without any interference from the authorities.\textsuperscript{119}

As the violence in Burma continued, so did the international response. On the morning of 2 December 2007, an agitated crowd gathered outside the Burmese embassy in Bangkok to protest against the sealing of Maggin monastery in Rangoon. The demonstration was organized by the Global Alliance of Burmese Students who told reporters that the monastery was famous for providing shelter to HIV/AIDS patients who came to Rangoon for treatment. The monastery was raided in November and the abbot, Sayadaw U Indaka, was arrested on the grounds that he had been involved in the September protests. He was put incommunicado detention.\textsuperscript{120}

On 3 December 2007 it was reported that a number of students who had been involved in protests outside the Burmese embassy had had their applications rejected when they needed to extend their passports.\textsuperscript{121}

Later the same month, UN Secretary-General Ban Ki-moon celebrated International Human Rights Day in Thailand during his three day visit to the region. Burmese activists took advantage of his presence to stage a rally calling for concrete action on Burma and an end to what they described as “wasting time”. They described the junta as “indifferent” and said it “has been turning a deaf ear to all kind of appeals and pressure”. The rally took place outside the UN office in Bangkok and was attended by political activists, labour rights groups, women’s groups and students.\textsuperscript{122}

Timeline of Events Relating to Migrant Workers in Thailand

January

In January 2007, a group of ten Burmese migrants were deported after going on trial in Chiang Rai provincial court on charges of illegal entry. They were arrested when their van was stopped by police in Wiangpapao district. Pol Sgt Pichai Muangma, a member of the Thai police, was under suspicion of assisting the migrants to enter the country illegally. The van was thought to be associated with another nine vans, each containing ten passengers, which were eventually stopped in Muang District from where the migrants were deported. Suspensions that the migrants were victims of a human trafficking ring involving Thai officials were raised after a Thai newspaper reported they had each paid 4,000 baht for the trip. They had crossed the border at Mae Sai-Tachilek and were believed to be heading for the south of the country in search of work.

February

On 2 February 2007, it was reported that a boatload of 92 Rohingya men were arrested in Thai coastal waters and charged with trying to enter the country illegally.

On 7 February 2007, three brothers were sentenced following convictions for trafficking offences involving four women and two children. The first was sentenced to life imprisonment and the other two to a period of ten years.

On 15 February 2007, a number of raids on illegal immigrants took place, mainly targeting garment factories in Mae Sot. In total, over 500 people were arrested. Those found without papers were charged with illegal entry and scheduled for deportation. The arrests were made at four garment factories located around the outskirts of the city. Many of those detained did actually have valid work permits but did not have the original documents in their possession. Moe Swe, head of the Yaung Chi Oo Burmese Workers Association, said the raids might have been aimed at pressuring employers into registering their workers.

On 21 and 22 February 2007, Thai police rounded up dozens of migrant workers in Chiang Mai, northern Thailand. They targeted an area where migrants usually gather and wait for employers who have day work to offer. The authorities had reportedly noticed an increase in the number of Burmese workers gathering in the area and this had led to the raid.

March

On 3 March 2007, a total of 160 Rohingya were arrested after two boatloads landed on Thai soil. They came from Maungdaw, Buthidaung and Myebon Townships in Arakan State, and had each paid 20,000 taka for the trip which was arranged by an agent in Bangladesh.

On 10 March 2007, it was reported that 67 Rohingya were forcibly deported from the Mae Sot area, and it was believed that they subsequently returned to Thailand. On 23 March 2007 another group of 56 Rohingya were arrested and deported the following day. Both groups were deported into DKBA custody. Human Rights Watch asked the Thai authorities to let the men be assessed by the UNHCR.

Also in March 2007, three Burmese migrant workers were shot dead by suspected Islamic militants in Pattani, one of Thailand southern provinces along the Malaysian border. One of the deceased was beheaded and a further four were seriously injured in the attack.
April

On 3 April 2007, Thai Marine police apprehended more than 150 Rohingya men and boys from Maungdaw and Buthidaung Townships in Arakan State. When the Rohingyas were seized off the western coast of Southern Thailand, they were in two small boats and had been without food for about five days. They had each paid between 10,000 and 15,000 kyat for the trip. According to Grassroots Human Rights Education (GHRE), an NGO working for migrant workers in Southern Thailand, the men were aware of the risk of arrest but decided to travel anyway because they were so desperate to escape Burma.133

Also in April 2007, a group of 18 migrant workers were arrested by Thai police when the vehicle they were travelling in hit an electric pole. They were imprisoned for one week in Takuapa, southern Thailand, before being deported to Burma. The group was comprised of 13 women, three men and two children, all from Karen State. They had made arrangements with touts in Chaungzon Township in Mon State and their vehicle was reportedly driven by a Thai policeman. This, however, did not prevent the Thai police from attempting to stop the vehicle or from firing their guns to frighten the driver when he failed to stop. It was the gunfire which caused the driver to hit the electric pole. One woman jumped from the vehicle as it hit the pole and later died. Three others were injured and were treated at Takuapa hospital before being imprisoned. Local sources say such incidents are usually avoided by touts bribing the local police.134

May

On 1 May 2007, a demonstration was held in front of the Thai parliament hall in Bangkok to protest against new restrictions placed on migrant workers. Fifty Burmese migrants were joined by thousands of people from the Workers’ Union of Thailand. The protest was sparked by reports that the restrictions in force in Phuket, Ranong and Suratthani were to be extended to Chiang Mai. The restrictions include a night time curfew as well as prohibitions on the use of cell phones and motorcycles.135

On 5 May 2007, heavy rains caused a car crash which left four dead and seven injured. The crash involved Burmese migrants in two small vehicles trying to cross the border. The tout responsible is known as Mi Mone.136

Also in May 2007, four migrants were killed in a car crash whilst travelling to Kanchanaburi in Thailand. The Federation of Trade Unions Burma has been searching for the bodies of the dead migrants. It has also called on the border touts who arranged the journey to provide compensation for the families of the deceased.137

On 8 and 9 May 2007, around 800 migrant workers were arrested in Mae Sot in a joint effort involving the Thai army, police and immigration officers.138 According to a local source, around 500 of the arrests were made on 8 May in Ban Hton Htaung and Kant Be Ban wards. Another 200 were made the following day in Naung Bua and the final 100 in Mae Tha Law village.139

On 10 May 2007, some 800 migrant workers were arrested by border police and immigration officers in Tak Province. Around 70 of the arrests were made in Ban Po Thong, an area just outside Mae Sot, the others were made at various locations across the province. Those who were found to have registration papers were later released and the rest were detained at the Immigration Detention Centre in Mae Sot.140

On 24 May 2007, over 160 Burmese migrants were arrested by border police in Sangkhlaburi in Kanchanaburi Province.
June

In June 2007, around 200 migrant workers of Chin ethnicity were arrested in Kawthaung as part of an anti-human trafficking programme. They were believed to be en route to Malaysia. Local sources estimate that around 500 people cross the border at Kawthaung every day.  

On 11 June 2007, it was reported that aid workers from MSF in Mae Sot had discovered the first two cases of “extensively drug resistant” (XDR) TB, both in Burmese migrants.

July

On 1 July 2007, the deadline for the registration of migrant workers passed. The number of workers registered was down to 500,000 from around 700,000 the previous year.

On 11 July 2007, it was reported that a young Burmese man had jumped into the Moei River in order to avoid Thai police and was presumed to have drowned. The police were rounding up illegal workers and had already raided a number of factories and made over 50 arrests. According to Min Oo from YCOWA, a number of people were released once the police discovered they had work permits, but the rest were scheduled for deportation.

On 14 July 2007, over 30 migrant workers were arrested at a labour barrack in Mahar Chai, near Bangkok, early in the morning of 14 July 2007. Police arrived at 4:00 am and forced the workers out of their bedrooms, and any potential hiding places, by injecting gas into the rooms. Once people were out of their rooms the police checked their registration documents and those without documentation were arrested. It was not known what kind of gas was used but witnesses reported a bad smell and a burning sensation caused in the eyes and throat. There were pregnant women on the premises who were subjected to the same treatment.

On 17 July 2007, police rounded up approximately 70 people from Chin state who were waiting to board a ship at the port in Thaketa Township. Thirty of them were arrested on suspicion of planning to cross the Burma-Thailand border illegally although the police referred to the operation as rescue rather than arrest, on the basis that they were the victims of human trafficking. The group of detainees were kept at Natmauk Pariyatti monastery pending return to Chin state. There were no plans for any of them to stand trial or remain in police custody.

On 18 July 2007 the Thai authorities arrested 120 undocumented migrant workers in Phuket. Most of the migrants were Tanoan from Tenessarim Division in Burma but some of the others were Mon. The arrests occurred during working hours at around 4:00 pm. A number of migrants in other factories escaped after hearing about the raid.

On 26 July a group of 40 Rohingya were deported from Mae Sot after being found without registration papers.

On 30 July 2007, a small boat with 23 passengers travelling from Burma to Thailand overturned after being hit by high waves. Ten people were washed overboard, presumed dead. The boat was travelling from Kawthaung in Burma to Ranaung in Thailand. The trip usually does not take much more than an hour but the boat’s engine stalled. The survivors were eventually rescued by a fishing boat but none of the missing bodies were found. Most of the travellers were ethnic Mon resident in Thailand at the time, working on a rubber plantation in Hat Yin city in Songkhla province, and had been to Burma to visit their families.
August

In August 2007, Thai police raided a number of seafood factories in the Mahachai district of Samut Sakhon, and arrested more than 500 illegal migrant workers. Some of the migrants did have registration documents, but they were for specific areas and did not include the area they were working in.\textsuperscript{150}

Burmese migrant workers in Mahachai in southern Thailand. [Photo: NMG]

September

In September 2007, 19 ports on the Moei River were closed in a joint effort by Thai and Burmese officials to decrease the number of illegal crossings. The officials also claimed the move would help to boost economic activity in the area. The Friendship Bridge between Myawaddy and Mae Sot remained open for both people and goods.\textsuperscript{151}

October

On 31 October 2007, over 1000 Burmese migrant workers were rounded up during dawn raids in Samut Sakhorn Province. Those without work permits were arrested and those with permits were interrogated. According to one migrant worker, the Thai authorities were worried about reports that 100,000 Burmese had entered the country during the past three to four months. One aim of the operation was reportedly to find out why so many were suddenly arriving and what they were doing in Thailand.\textsuperscript{152}

November

On 12 November 2007, Thai police arrested over 100 migrants in Samut Sakhorn Province.\textsuperscript{153}

On 18 November 2007, a Thai corn plantation owner was arrested on suspicion of having murdered five of his employees.\textsuperscript{154}

Between 23 and 25 November 2007, over 100 workers were arrested at a factory in Pathum Thani Province.\textsuperscript{155}
On 25 November 2007, 7 Burmese migrants and a Thai driver was killed when the vehicle they were travelling in plunged into a canal while trying to escape police in Petchaburi province. The migrants, 4 adults and 3 children, were part of a group of 21 migrants who were being smuggled across the border in a pick-up truck. In addition to the 7 fatalities, a further 6 required hospital treatment for their injuries.156

Also on 25 November, Thailand’s Deputy Prime Minister, Sonthi Boonyaratkalin, announced that pregnant migrant workers would have to return to their country of origin to give birth.157

December

On the evening of 20 December 2007, SCD Textile Factory in Mae Sot was raided, resulting in the arrest of 350 unregistered migrant workers. The detainees included 49 children, some as young as 12 and 13 years old. Following the raid the factory had to close as the number of workers arrested represented half of the entire workforce. The suspected presence of underage workers was reportedly the reason behind the raid158.

On 22 December 2007, Thai police found 22 bodies off the coast of Ranong. The deceased were believed to be migrant workers whose boat sank due to overcrowding while on the way to Thailand.159

On 26 December 2007, over 200 Burmese factory workers in Thailand took part in a walk-out. The workers had not been paid for the first half of the month and staged the walk-out in protest.160

In late December 2007, it was reported that a crack down on migrant workers had affected language classes in Bangkok. The classes were held by the Thai-Mon Literature Promotion Club and offered instruction in Thai, Mon and English to the migrant community. According to one of the teachers, Nai Tun Wei, classes had declined from several a day to one a week because people were too afraid of being stopped by Thai security forces. A Mon social worker added that the security forces were known to confiscate migrant workers’ ID cards as a way of extorting money from them.161
18.3 Situation of Burmese Migrants in Malaysia

Malaysia lies in the South China Sea, south of Thailand and north of Indonesia. The country is geographically divided and the capital, Kuala Lumpur, is located in the area known as Peninsular Malaysia, which borders the southern peninsula of Thailand and lies just north-east of the coast of the Indonesian island Sumatra. The Malaysian states of Sarawak and Sabah are located to the east of Peninsular Malaysia, along the northern border of Borneo.

Migrants travelling from Burma to Malaysia must either pass through the length of Thailand or arrive by sea. Most of those travelling to Malaysia from Burma do so by land via Thailand, usually with the help of smugglers or traffickers. Some take the sea route, either directly from Burma or via Bangladesh. The majority are undocumented immigrants although some do arrive legally with pre-arranged contracts. These, however, are often far from secure.162

With its booming economy, Malaysia has been an attractive destination for immigrant workers since the early 1990s. It currently attracts more workers than any other country in South-east Asia besides Thailand. Over half a million Burmese have made the journey in search of work and an escape from poverty and hardship in Burma. The FTUB estimates that around 300,000 of them remain undocumented. Burmese migrants represent almost half of the undocumented migrant worker community in Malaysia, which is estimated to number around 700,000. A further 1.8 million workers from various South and South-east Asian countries are employed legally.163

The Rohingya, who share their Muslim religion with the majority of the Malaysian population, was one of the first groups from Burma to start arriving in significant numbers after the suppression of the 1988 uprising. However, the largest Burmese ethnic group in Malaysia is currently the Chins, although there is also a significant number of Mon, as well as groups of various other ethnicities.164

The turn of the century saw the beginning of a construction boom and migrant labour has been central to the achievement of a number of notable projects including the Petronas Twin Towers and the construction of new cities. Migrants work on the construction of luxury hotels and apartments, while forced to live in overcrowded slums or jungle shanties. However, the vital contribution that migrant workers have made to Malaysia’s development has been neither recognised nor appreciated. Instead public opinion holds migrant workers responsible for much of the country’s crime and the government has increased efforts to remove undocumented migrants.165

Migrant workers continue to fill a gap in the Malaysian labour market and are generally employed in restaurants and factories as well as on construction sites and rubber plantations. The work is hard and the days are long but the pay, despite being low by local standards, is far in excess of what many could hope to earn at home in Burma. Kyaw Min, a migrant worker, was able to earn 20 times more than he had earned in Burma and could send much needed money home to support his family.

Not all migrants do so well for themselves, though. Some are enticed into the trip by a good contract, only to have the employer renge on the agreement when they arrive and offer them a much lower wage than they were expecting. There is also a complete lack of job security and the constant fear of being returned to Burma. Zay Yar Min had a three year contract but found himself back home after only a few months. His employer had cancelled the contract after Zay Yar Min complained that the terms were not being fulfilled. Moreover, most contracts fail to make any provision for illness or accident. According to the FTUB, industrial accidents involving Burmese workers averaged ten a month at the beginning of 2007, and those who were unable to work simply lost their jobs.166
Efforts to crack down on undocumented migrant workers in Malaysia have been ongoing since March 2005. This has been particularly harsh on the Burmese as the Malay government considers most to be economic migrants and does not recognize any of them as refugees or asylum seekers. A number of official statements made in early 2006 supporting the arrest of undocumented migrant workers contributed to the worsening situation and arrestees now commonly face caning as well as imprisonment. Between January and May 2007, over 700 Burmese migrants of Chin ethnicity had been arrested as part of the Malaysian government’s raids on undocumented workers.

Illegal immigrants are usually deported to Malaysia’s borders rather than back to their own country. This means that many Burmese end up in Thailand where they quickly fall prey to traffickers and corrupt border officials. There are even reports of immigrants being sold to traffickers by immigration officials. Some deportees are sold to Indonesian fishing boats, whose owners will generally pay around US$ 286 per person.

The majority of Burmese in Malaysia live in and around Kuala Lumpur. Those who opt for urban living often find themselves sharing a single room apartment with up to 20 others. The rest try to survive in jungle shelters although these are more easily subject to raids from police or RELA forces.

Project Maje, a U.S based information project, has called upon Malaysia to recognise the contribution that migrant workers have made to its burgeoning economy. In a report released on 10 August 2007, Project Maje stated that Burmese refugees and migrants remain unrecognized, unwelcome and vulnerable to immigration raids by RELA.

The report calls for RELA to be disbanded and also makes reference to Malaysia’s 2007 tourism slogan, “Malaysia: Truly Asia”. It claims that Malaysia cannot be “truly Asia” until it accepts the contribution that workers from other Asian countries have made to its infrastructure and economy.

Other observers have backed the call for acknowledgement of the contribution that migrant workers have made to Malaysia’s development. It has also been noted that many of the UNHCR recognised refugees being resettled to third countries from Malaysia will arrive as highly skilled construction workers despite lacking any formal training or qualifications. It has
been suggested that refugee aid groups look into the possibility of providing skills certification.\textsuperscript{172}

In February 2007 a serious deterioration in conditions was avoided when the government declined to implement a proposal to confine foreign workers to their living quarters. Foreign labourers and human rights groups mounted protests after the proposal from Home Minister Radzi Sheikh Ahamad was announced. The intention of the proposal was to prohibit unregistered workers from leaving their residence and to make their employers responsible for their movements.

The proposal was supported by Malaysia’s chief of police who voiced concerns over the number of crimes committed by foreign workers although Amnesty International put the number at only two percent. The number of crimes cited by the chief of police was 5,000 out of 230,000 which does in fact equate to just over two percent. Despite these low numbers, migrant workers continue to be blamed for various social problems. Human rights groups including Amnesty International and Human Rights Watch say the new proposals will be counter-productive and more likely to entrench the attitudes causing the problem than bring about any improvement.\textsuperscript{173}

**RELA**

RELA is an abbreviation for Ikatan Relawan Rakyat, meaning People’s Volunteer Corps. It was founded in 1972 under the 1964 Emergency (Essential Powers) Act and was intended to help maintain national security. Until recently, RELA’s role was confined to natural disasters such as flooding. Now, however, they are responsible for rounding up illegal immigrants and possess powers beyond those of the regular police force, such as arrest without warrant and search and seizure. They are also armed despite receiving no training nor being subject to any background checks. The group is often described as an unregulated vigilante force.

RELA was subject to increasing levels of criticism during 2007 for its reckless conduct and abusive actions during raids. Calls for the organization to be disbanded came not only from international human rights groups but from organizations within Malaysian society including human rights group SUARAM and the Malaysian Bar.\textsuperscript{174} According to SUARAM, RELA members are arresting and torturing Burmese refugees who have been recognized by the UNHCR as well as migrants holding valid work permits. In March 2007, the Malaysian Bar called on the government to abolish RELA and to ratify the International Convention of the Protection of the Rights of All Migrant Workers and Members of their Families.\textsuperscript{175}

In May 2007, Human Rights Watch again called for the complete disbandment of RELA. Human Rights Watch also have reports that RELA members are known to have detained legal immigrants including refugees, asylum seekers and registered workers and to have subsequently destroyed their identification. RELA members have also been accused of extortion and of confiscating goods and property belonging to foreign workers. In March 2007 a team of eight RELA members were detained on robbery charges after removing belongings worth 1800 ringgit from a house.\textsuperscript{176}

On 2 July 2007, Malaysia stepped up a crackdown on undocumented Burmese immigrants which had begun on 28 June 2007. RELA detained 200 Burmese nationals of Chin ethnicity during the operation, 15 of whom were UNHCR card holders. Although the group of 15 was later released, the rest remained in prison. Detention periods for undocumented immigrants range from two to six months, while some are caned instead.\textsuperscript{177}
Although NGOs and lawyers have regularly voiced concerns over RELA’s activities, criticism is now also coming from government sources, including the Tourism Minister. This came after an Indian television producer and an African-American U.S. Navy lawyer were mistakenly arrested by RELA in separate incidents. Datuk Zaidon Asmuni, director-general of RELA, attempted to explain away the incidents by saying that non-Caucasians are not obviously tourists and therefore it is necessary to detain them and check their status.

This attitude is troubling to many of Malaysia’s citizens who see no role for such an organisation within a democracy. However, for the moment RELA continues to enjoy government support, although the bounty which was previously paid out for each illegal immigrant arrested has now been cancelled. Unfortunately, this has led RELA members to treat the immigrants themselves as a source of income, including registered refugees and those on resettlement programmes.

RELA is now considered to be damaging the economy through the impact they have on employers, landlords and others who benefit from the presence of migrant workers. There is still a need for foreign labour, particularly in the capital, but a sizeable proportion of the potential workforce has either been detained by RELA or frightened away. On top of this, many Malaysian citizens report having been caught up in raids through mistaken identity or harassed for voicing opposition to RELA. More still are fed up with the disruption caused by constant identity checks.

Officers of the Malaysia People’s Volunteer Group (RELA) guide refugees that were detained before dawn during an immigration raid on to a detention bound truck at the district office in Kuala Lumpur on 25 June 2007. [Caption and photo: Marcus Yam/AP]
Chapter 18: The Situation of Migrant Workers

Conditions for Unregistered Migrant Workers and Refugees

Malaysia is not a signatory to the 1951 Refugee Convention nor the 1967 Protocol and is known for taking a somewhat arbitrary approach to the recognition of refugees or asylum seekers. Thus, most refugees and asylum seekers are classified as migrant workers, and not given any protection. In 2004 the government did agree to issue IMM13 work permits for some 12,000 Rohingya who had applied for refugee status, but by May 2007 no permits had yet been issued. Many Rohingya still get rounded up in raids targeting illegal immigrants.

In March 2007, Foreign Minister Syed Hamid Albar stated that Malaysia’s reluctance to recognize refugees from Burma is a precautionary measure aimed at preventing an onslaught of economic migrants. Although many immigrants end up in menial jobs spurned by locals and therefore fill an obvious gap in the labour market, they are generally unwelcome and perceived as a nuisance to society. Malaysia’s Home Affairs Ministry has previously stated that it does not recognize the authority of the UNHCR and claims that the presence of the refugee agency gets in the way of officials attempting to crack down on illegal immigration.

Still, in 2007 UNHCR continued to register Burmese refugees. Hence it was possible for Burmese migrants in Malaysia to apply to the UNHCR for status as political refugees. So far approximately 20,000 have done so and most have been successful. Six thousand of these, mostly ethnic Chin, have been able to resettle in third countries. Around half of all those who apply for refugee status in Malaysia are Rohingya from Burma’s Arakan State. (For more information, see Chapter 17: The Situation of Refugees).

Following a statement from the Malaysian government agreeing with other members of ASEAN that Burma’s failure to implement democratic reform should not be defended, human rights organizations called upon the government to back up its foreign policy with protection for Burmese refugees and asylum seekers. The Chin Human Rights Organisation (CHRO) claims the Burmese community in Malaysia is regularly subjected to security abuses and immigration raids. CHRO further claims that there are pregnant women and children less than a month old currently being held in Malaysian detention centres, despite Malaysia being a signatory to the UN Convention on the Elimination of All Forms of Discrimination against Women, the UN Convention on the Rights of the Child and a sitting member of the UN Human Rights Council.

CHRO has appealed to the Malaysian government to stop the crackdown on Burmese migrants and cooperate with the UNHCR. It claims the government is violating basic human rights by relentlessly targeting the migrant community. It also cites reports of torture and abuse in detention camps as well as cases of forcible deportation. CHRO is particularly concerned about two pregnant women and 36 children who are among over 200 Burmese refugees of Chin ethnicity who were arrested during RELA raids on 25 and 27 June 2007. CHRO’s letter of appeal calls upon the international community to join them in pressuring the Malaysian government for the release of Burmese refugees currently held in immigration detention centres.

Burmese migrants living in Malaysia have limited access, if any, to basic services such as health care. Many are afraid to go to hospital because they can be arrested there if they do not have the right documentation. There are even cases of pregnant women being arrested when they have gone to hospital to give birth. On top of this, foreigners are required to pay twice as much in medical fees as local Malaysians. A UNHCR registration letter entitles the bearer to a fifty percent discount but, given the low wages that migrant workers generally receive, medical fees remain prohibitively high in all but the most desperate cases.
of Kuala Lumpur, most hospitals do not even recognise the UNHCR letters. A number of NGOs offer free medical assistance to refugees and undocumented migrants, but both staff and funding are in short supply.

The Journey

Burmese migrants often pay large sums of money to smugglers or traffickers promise to take them to Malaysia, and sometimes also to find work for them. However, this poses great risks to migrants, as the journey is often dangerous and the smugglers cannot guarantee for their safety. Moreover, in the hands of traffickers many are forced to take on jobs which mostly benefit the traffickers. In June 2007, the U.S. Department of State added Malaysia to Tier 3 in its Trafficking in Persons Report. The government’s failure to protect foreign workers was one of the main contributing factors. Conditions for those who arrive by boat are particularly perilous as the vessels are invariably overcrowded despite often being not seaworthy and the trips are poorly organised. The following incidents confirm some of the hardships and dangers faced by Burmese migrants on their journeys to Malaysia in 2007:

In January 2007, a boat of illegal Burmese immigrants bound for Malaysia beached in Southern Thailand where the 114 men on board were arrested and locked up in the local jail. The men had set off from a number of villages along the Burma-Bangladesh border in search of a better life. Two weeks into their voyage the food ran out, the compass proved unreliable and finally the engine died. Each of the men on board had paid between 12,000 and 15,000 kyat for the journey. One of the men claimed he would prefer to be executed in Malaysia than returned to Burma where he feared death at the hands of torturers.

On 5 March 2007, Malaysian authorities detained 108 Burmese nationals who had been found on a fishing boat meant for 10 people with no food or water. The boat was intercepted after being sighted by fishermen. The passengers were all male Rohingya, aged between 12 and 52. They were charged with entering the country illegally. One of the migrants, Mohamed Alias (37) was quoted as saying that they had come to Malaysia illegally in search of work in order to escape the poverty back home in Burma. However, Zafar Ahmed, president of the Rohingya Human Rights Organisation in Malaysia, stated that the men were refugees seeking protection in Malaysia and should not be considered as illegal immigrants. Malaysian authorities categorised the men as economic migrants and refused to recognise them as political refugees.

In June 2007, Refugees International documented the case of a 37 year old Karen woman who had attempted to start a new life in Thailand with her husband but found herself in Malaysia after her husband was sold by traffickers. They gave money to an agent who promised to find work in Thailand for them but then sold her husband into forced labour. She waited for two months hoping to hear of her husband’s whereabouts and also tried to find work for herself in Thailand but to no avail. Eventually she borrowed some money and paid a smuggler for passage to Malaysia. Despite being pregnant at the time, she was too frightened to visit a doctor in Malaysia as some refugee women had ended up in detention after going to hospital or being arrested when trying to register the birth of their babies.

During June and July 2007, a total of forty illegal immigrants, including six women, were arrested near the Thai border. It was believed they were destined for Kuala Lumpur to look for work. They were detained at various locations in Bukit Kayu Hitma in Kedah.
On 21 December 2007, it was reported that 45 Burmese of Chin ethnicity went missing after the ferry they were on hit a fishing boat. There were almost 100 Chins on board the ferry heading for Malaysia. They collided with a fishing boat whilst still in Burma’s territorial waters and, according to the Chin Refugee Committee in Malaysia, the missing passengers were believed to have drowned. A number of survivors reportedly managed to climb into the fishing boat but their condition was unknown and there were no reports of any rescue attempt by the Burmese authorities.190

This small vessel transported more than 100 Rohingya refugees across the Andaman Sea to Malaysia. [Photo: Grassroots HRE]

**Working Conditions**

Working conditions for Burmese migrants in Malaysia, in particular undocumented migrants, are often harsh, and making complaints can have grave consequences for workers. According to Ye Min Htun of the Burma Workers Rights Protective Committee, migrant workers in Malaysia are frequently threatened with deportation if they complain. The committee receives regular complaints about abuse and punishment of workers.191

On 8 November 2007, it was reported that a female Burmese migrant worker was recovering in hospital after having jumped from a second-floor window. Ma Win Win Maw (38) had been in Malaysia since 2004, when she arrived with a group of 70 other women who had been hired by a Malaysian agent to work in garment factories in Jaho province, an industrial zone in southern Malaysia. According to her friends, Ma Win Win Maw had been abducted and imprisoned by gangsters after she made complaints about her working conditions and unpaid overtime. She had jumped from the window in order to escape the building where she was being held prisoner. She was blindfolded at the time.192

According to refugee advocates in Malaysia hundreds of slum-like camps have been set up by migrants around cities and towns across the country. In the camps people typically live in crowded conditions in huts made from sheets of zinc, cardboard and plastic.193 Conditions like these make it easy for RELA to carry out their immigration raids as the groups are readily identifiable as immigrants and they can round up large numbers of people in one go.
In addition to poor living and working conditions, there are also concerns about the significant increase reported in use of a drug known as Boi among migrant workers of the Mon ethnic group. Nai Ramonnya, secretary of the Mon Organisation in Penang, is among those concerned about the drug’s prevalence. In 2007 he estimated around 50 percent of Mon construction workers were regular users, however he was unsure whether migrant workers from other Burmese ethnic groups had similar levels of dependency. The drug is sold in tablet form and one dose, which comprises three tablets, costs 2.50 ringgit. Many migrants use up to three doses while some regularly use up to ten doses, which costs the same as their daily income. Boi is often sold by Mon women who obtain it from pharmacies and then sell it on the construction sites. The drug is popular because its effects include the ability to work harder as well as generally feeling good.194

**Responses to the Saffron Revolution**

Burma’s various ethnic groups came together in Kuala Lumpur on 2 October 2007 to show solidarity for pro-democracy protesters affected by the violent crackdown on the September protests in Burma. Over 1,500 people gathered to demonstrate outside the Burmese embassy before marching to the Chinese and Russian diplomatic missions to hand over letters calling for their support in the struggle for democracy.195

A second protest on 4 October 2007 attracted over 2,600 people from the Burmese community in Malaysia. The protest, led by the General Strike Committee, was restricted to one hour by the Malaysian authorities, although there was no attempt to disrupt the event or prevent it from taking place. It was also reported that a prayer and candle lighting ceremony had been organized by a group of Malaysians to commemorate the monks and civilians who had been killed during the protests in Burma.196

This was reportedly the first time that the various ethnic groups had gathered together in such a show of solidarity. Sai Saing, a Shan ethnic leader, stated that there had been agreement amongst the ethnic groups to support all protesters in Burma and that this had been extended to the community in exile.197

A Burmese worker who returned after deportation from a Thai-Malay human trafficking syndicate by paying 2500 Malaysian Ringgit to come back to Malaysia. [Caption and photo: RFA/Kyaw Min Htun]
18.4 Situation of Burmese Migrants in India

Burmese continued to migrate to India throughout 2007. India’s four northeastern states - Mizoram, Manipur, Nagaland and Arunachal Pradesh, share more than 1463 km border with Burma, and are thus the major destinations for Burmese migrants. There is a large presence of Burmese migrants in these north-eastern states and also a sizeable population in Delhi.

Most of the Burmese migrants in India were Chins, while smaller numbers were of Naga, Arakan, Burman and other ethnicities. Fearing religious, cultural and political persecution, as well as economic destitution, many Chin Christians continued to flee across the border into Mizoram and Manipur States. However, India has not ratified the 1951 Refugee Convention, nor does India allow the UNHCR access to either of these states. Therefore, Chins seeking refugee status and the protection of the UNHCR are labelled illegal immigrants by the Government of India and fall within the jurisdiction of India’s Foreigners Act of 1946, which grants the Government the right to expel them at any time. India has also failed to ratify the 2003 Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. Thus, migrants from Burma are afforded little legal protection in India.

Conditions of Burmese Migrants in the Northeastern States of India

As India is not a signatory to the refugee convention, lacks a national refugee law, and does not allow the UNHCR access to refugees in the northeastern areas, asylum seekers there are categorized as illegal migrant workers, and as such depend on the attitude of the state governments and local people. Although the situation of Burmese migrants differs slightly from state to state, most suffer from poor living conditions, instability and the threat of deportation.

In the state of Mizoram, the 70,000 – 80,000 Burmese migrants, mainly Chin, live with the negative stigma of being called ‘Ramdangmi’ meaning ‘Foreigner’. Before 2003 the Mizos called people from Burma ‘Burmami’ meaning ‘People from Burma’. However, in 2003 a campaign against the Chins started, spearheaded by the Young Mizo Association (YMA). In spite of the accepted ethnical and linguistical affinities between the Chin and Mizos, the campaign against the Chins still continues. Chin migrants are typically treated as scapegoats and often blamed for existing social problems, including drug trafficking and rape. Thus they are easy targets of eviction campaigns, crackdowns by the authorities, and general suspicion.

Most of the Burmese refugees in Mizoram work as domestic workers, daily-waged labourers, vegetable sellers, or run small businesses like selling clothes or handicraft. Most of the Chin women work as domestic workers, but the murder of one Chin housemaid in June 2007 instilled fear among Burmese women, and many are now apprehensive of working as housemaids.

The situation of the Naga people from Burma is slightly different from that of the Chins in Mizoram. As there are many Naga tribes which live both in India & Burma, the Nagas in India do not see the Nagas from Burma as refugees when they cross the border. They are instead seen as Internally Displaced Persons (IDPs). In addition, some mechanisms do exist that provide assistance to the Nagas from Burma. This also holds true to some extent for the Singpho people from Burma, as they live both in Burma and India.
The generally poor living conditions have made access to education difficult for the children of Burmese refugees. Common diseases like malaria, jaundice and diarrhea continue to take its toll on Burmese people.

As the distinction between migrant workers and refugees in India is particularly blurred, much of the information cannot be separated. HRDU has attempted to separate the categories to a certain extent, however to obtain a most comprehensive picture of the situation for all Burmese migrants in India, also see Chapter 17: The Situation of Refugees.
18.5 Situation of Burmese Migrants in Bangladesh

Bangladesh lies to the west of Burma and borders the north-western edge of Arakan State as well as the lower western border of Chin State. It has traditionally been a popular destination for the Arakanese Rohingya, presumably as much because of the high proportion of Muslims of Bangladesh as because of its geographical proximity. However, over the past few years conditions have become increasingly difficult and the Rohingya now appear to be quite unwelcome.

According to reports from a meeting held in Teknaf by Zila Law and Order Committee on 29 March 2007, it was generally believed that Burmese Rohingya migrants are poorly educated and lacking in morals as well as prone to be involved in robbery, theft and murder. The meeting was attended by, amongst others, the District Commissioner, the Directorate General of Forces Intelligence, police officers, Upazilla Nirbahi officers, National Security Intelligence officers and local journalists. At the meeting it was agreed that Rohingya should be arrested and repatriated whenever possible. It was further decided that Rohingya should not be issued with national identity cards or any other documents, provided with paid work or shelter, or allowed to marry locals. It was further agreed that non-compliance should result in legal sanctions or other punishment.203

The same day that the meeting was held, newspapers in Cox’s Bazar published an announcement from the authorities prohibiting local residents from renting houses to Rohingya. The announcement warned that those found in breach of the order would face severe punishment. Border security was heightened following the announcement and many patrols were on the lookout for Muslims attempting to return to Burma as well as those on their way in to Bangladesh.204

The policy was reinforced the following month when an official announcement was made on loudspeakers in Teknaf on 20 April 2007, warning people not to engage illegal Burmese immigrants as labourers. The authorities further announced that all house owners should drive out Burmese refugee tenants as quickly as possible and that rickshaw owners should not hire out rickshaws to any Burmese. 205 Nevertheless, as the situation in Burma remains much worse, the Rohingya continue to cross into Bangladesh in significant numbers.

Unfortunately, political instability early in the year prompted the Bangladesh government to proclaim a state of emergency which, in turn, led to much tighter border controls. The Bangladesh Rifles had the border area under surveillance and no boats from Burma were allowed to harbour on the Bangladesh side of the Naff River. The import of Burmese goods was also prohibited and sources said goods were piling up along the border.206

On 25 January 2007 it was reported that the Bangladesh-Burma border had been sealed off by Bangladeshi authorities to prevent a possible influx of Burmese Muslims following rumours of a communal riot in Arakan State. The report stated that Bangladeshi authorities had received information that 1000 Rohingya were camping on the eastern bank of the Naff River waiting to cross the border.207 Border security forces and the local administration in Cox’s Bazar were obliged to deny reports that the international border with Burma had been sealed off. However, following the declaration of a state of emergency two weeks previously, security was heightened and the paramilitary Bangladesh Rifles intensified patrols. Reports of a Rohingya influx were also denied, although intelligence officials were aware of the steady flow of small groups of migrants attempting to cross the border. The increased patrols resulted in more of these groups being detained.208
In a two-day crackdown at the end of January 2007, Bangladesh border authorities arrested 25 illegal Burmese immigrants in border areas of Teknaf Township in Cox’s Bazar district. Five were arrested while trying to enter Bangladesh via the Naff River; another five were stopped at the Damdamiya check post and the remaining 15 were arrested in the town of Teknaf. On 2 February, a further 16 people, including two women, were arrested while trying to travel on to Chittagong after entering the country at Teknaf.

In addition to people attempting to cross the border independently, a number are brought across by people smugglers and traffickers. One such group was detained in January 2007, and it was reported that eight Burmese citizens had been caught during a night-time police raid on the Al Hera hotel in Cox’s Bazar. According to police, they had come from Maungdaw Township with the intention of working in a salt field in Cox’s Bazar. They had been taken there by a trafficking syndicate on the promise of better jobs. One Rohingya and two Bangladeshis were also detained at the hotel and arrested on trafficking charges.

On 25 June 2007, when three officials from a Danish NGO were abducted by a group of armed men, a number of people were arrested on suspicion of involvement in the incident, including both local Bangladeshi and Burmese nationals. The border was subsequently subject to another wave of heightened security. Five days later it was reported that 11 Burmese citizens had been arrested by Bangladeshi Army personnel in Bandaban, an area in the south of the Chittagong Hill Tract which is close to the border with Arakan state. At the time of their arrest, the men were holding a meeting under a passenger shade in the local bazaar. During questioning, the men told the police they had come to Bangladesh in search of work and had crossed at the Teknaf border point a few days previously. They were sent to jail later the same day.

In July 2007 it was reported that five Burmese youths were arrested while trying to enter Bangladesh illegally. They were picked up by local police at the Palong Kali border point in Okia Township, Cox’s Bazar District. They were reported to be from Sittwe Township and Buthidaung Township in Arakan State. Like so many before them, they had crossed into Bangladesh in the search for work and a better life.

Tight border control persisted throughout 2007 and reports from the latter months of the year include one of five Burmese nationals from the Thet tribe in Arakan State who were arrested by the Bangladesh Rifles on 19 November 2007 while trying to cross the border in the Bandarban hill district. The following month a group of 14 Rohingya were returned to Burma after being caught trying to cross the border illegally. They were arrested on 26 December 2007 while trying to cross the Naff River in a rowing boat.

**Trafficking and Migration of Burmese from Bangladesh to Malaysia**

Deteriorating conditions in Bangladesh and continued repression in Burma have led increasing numbers of Rohingya to travel on to third countries. On 21 March 2007 it was reported that around 40 percent of Arakanese youth had left for neighbouring countries, including Malaysia and Thailand, in the past five years. Police claim Rohingya are being encouraged to make the trip to Malaysia by a trafficking syndicate, comprised of both Bengalis and Rohingya, which charges between taka 10,000 and 50,000 per person. They also say most of those who attempt the journey are arrested.

The vast majority of Rohingya caught in transit by Bangladeshi forces during 2007 were bound for Malaysia. According to sources in Maungdaw Township, the winter season is a popular time for migrants to travel by boat to Malaysia as the seas are generally calm.
Trafficking is prolific and the police often receive tip offs regarding hotels where migrants are being kept or boats which are likely to be used for transporting them. Given the preference for winter travel, most arrests are made towards the beginning and end of the year.

On 14 January 2007, nine Burmese nationals were arrested during a raid on the Alhair hotel in Cox’s Bazar. A police source confirmed they were being trafficked to Malaysia by sea.219

Also in January, A police raid in the border town of Teknaf resulted in the arrest of six Rohingya although a further 33 people escaped. The raid was based on information that a number of Rohingya had entered Bangladesh for the purpose of securing sea travel to Malaysia.220

In February 2007, 48 Rohingya and seven Bangladeshi nationals were sentenced to five year prison terms after being caught attempting to illegally enter Malaysia in December 2006. The group were arrested on 20 December 2006 by NaSaKa, the Burmese border security force. The boat they were travelling in had originally left from Teknaf in Bangladesh but the engine failed just one day into the journey. After floating at sea for five days the boat was spotted by two fishing boats from Sittwe Township and towed to the coastal area of Maungdaw where it was seized by the NaSaKa patrol team.221 A very similar story was published separately which gave the same facts but reported the numbers as 41 Rohingya and 15 Bangladeshis.222 It was not entirely clear whether this referred to the same incident.

On 14 February 2007, a group of 12 Rohingya were arrested in Cox’s Bazar while discussing their plans for travel to Malaysia at a mosque in Shaha Tali village. A further 38 escaped arrest.223 Another 12 Rohingya were arrested on the same day at a hotel in Cox’s Bazar where they were preparing for passage to Malaysia. They had each paid 10,000 taka to a broker.224 On 18 March 2007, a group of 10 Rohingya were arrested during a raid on hotel Zelarni. They had been brought to Bangladesh by a trafficking syndicate and were waiting for passage to Malaysia.225

These incidents were followed by a quieter period, presumably due to the preference for winter sea travel, before reports of arrests and raids resumed again in November:

On 22 November 2007, police in Cox’s Bazar were tipped about a group of Burmese nationals who were intending to travel to Malaysia in a cargo boat. A group of around 30 were preparing to board when the police arrived and all jumped into the river in an attempt to escape. Seven were caught and arrested, including two touts. According to the statements from those detained, the touts had taken 300,000 to 400,000 kyat per person in payment for the transport. One of the detainees asserted he would prefer to die in the Bay of Bengal than continue living under military rule in Burma.226

On 23 November 2007, police made seven arrests in the Fisherrighat area of Cox’s Bazar, after an incident in the Bay of Bengal which left at least one person dead and several missing. Two boats sank while ferrying 240 people out to a trawler which was to take them to Malaysia. As the boats went down the passengers swam to the trawler and caused it to tip over as it became overloaded. A significant number are believed to have swum to shore and gone into hiding but many remained unaccounted for. Only one body was recovered, found by villagers on Shapuri Dip Island. According to local sources a ten-member syndicate with members from Cox’s Bazar, Teknaf and Burma is responsible for the trafficking in the area.227

On 25 November 2007, another overloaded ferry carrying 250 passengers went down near St Martin’s island after encountering bad weather. Some survivors were able to swim to St Martin’s island but it was unknown how many casualties or fatalities there were as the
incident was not officially reported. It was reported, however, that many of the passengers were Rohingya whose illegal status was the reason for the lack of information.\textsuperscript{228}

On 27 November 2007, the bodies of 11 migrant workers were found after three ferry boats sank in the Bay of Bengal the previous Friday. The deceased were mostly Burmese nationals and were part of a group of approximately 260 who were being ferried out to a trawler which would carry them to Malaysia. The ferries sank quickly after being hit by a heavy wave. Around 60 people were rescued from the water and many more managed to swim to an island in the bay. It was reported that the Bangladeshi government was looking into action that could be taken against the agents involved in the attempted trafficking.\textsuperscript{229}

A boat which was estimated to be carrying around 100 people sank in calm waters off the coast of southern Bangladesh at the end of November. Only one body was recovered, leading police to suspect that the survivors may have been illegal migrants who had gone into hiding after the accident. The authorities had no information regarding the nationalities of the passengers and no survivors were found, despite the search continuing until nightfall. The boat was a wooden fishing boat and it capsized near Saint Martin’s island which is around 120 kilometres (75 miles) south of Cox’s Bazar, where there are two heavily populated refugee camps. Local police reported that weather conditions had been good at the time but that ferry accidents are common in Bangladesh, often as a result of poor navigation, boats being in an unfit condition and safety regulations not being properly enforced. Although details of the cases are similar, it was unclear whether this was the same boat that went down on 25 November 2007.\textsuperscript{230}

On 30 November 2007, it was reported that 69 Bangladeshi fishermen had to be rescued after their boat was driven into the Arakan coast of Burma during a storm. The following day a follow-up story stated that 56 of the men were actually Rohingya from Arakan State who had been bound for Malaysia. The other 13 men rescued were Bangladeshi and a further two had drowned before help arrived. The group had originally left Bangladesh on 23 November.\textsuperscript{231}

On 8 December 2007, a group of 85 left Bangladesh around midnight in two boats bound for Malaysia. The group comprised a mix of Rohingya and Bangladeshis. Another group of 35 Burmese nationals were arrested from various hotels the following day. The detainees named Ahmed Salim (40) from Moshkhali area as the principal organizer of illegal travel to Malaysia\textsuperscript{232}. A further 11 were arrested in Teknaf on 10 December 2007.\textsuperscript{233}

In a subsequent operation, a group of 32 Burmese citizens from Maungdaw Township in Arakan State were arrested in Cox’s Bazar in early December while preparing to leave for Malaysia. On this occasion a Bangladeshi citizen was arrested on human trafficking charges.\textsuperscript{234}
Responses to the Saffron Revolution

Twelve Burmese organizations in Bangladesh got together on 2 October 2007 to stage an hour long protest outside the Burmese Embassy in Dhaka. Over 60 people turned up to voice their objection to the “brutal killings” of monks, nuns and pro-democracy activists in Burma’s September 2007 uprising. 235

A second demonstration was held by Burmese monks on 6 October 2007. They were joined by members of the Burmese community in Bangladesh, resulting in a group of over 100 people. Bangladesh police prevented the demonstration from taking place directly in front of the embassy but allowed the group to protest nearby. The monks subsequently marched to the Chinese embassy to hand over a letter of appeal asking the Chinese government to stop supporting the military junta in Burma. 236

In December, a separate demonstration was held outside the Indian embassy in Dhaka on International Human Rights Day. This demonstration involved a group of around 50 exiled Burmese citizens from Arakan State and Chin State. Their intention was to highlight the continued detention of 34 freedom fighters that India has held in custody since 1998. Protests are not normally allowed in diplomatic areas of Dhaka. In addition, Bangladesh was under state of emergency at the time and there was a nationwide ban on all protests or demonstrations. Despite this, none of the Burmese protesters were arrested. 237
18.6 Situation of Burmese Migrants in Other Places

China

China is located to the north-east of Burma, bordering Kachin State and Shan State. Tibet, which is currently under Chinese control, lies to the north and borders Kachin State. The road running from Mandalay in central Burma to the Chinese border town Ruili was once part of the ancient Silk Route and continues to be of both economic and political importance. China remains Burma’s principal trading partner and arms supplier. It is also the largest foreign investor; a significant proportion of the business in Burma is now Chinese owned.238

There are many border crossings between the two countries, with movement in both directions. The Shan and Kachin ethnic populations of Burma are related to the Dai and Jingpo ethnic groups in Yunnan Province of China, so people cross the border for marriage and social reasons as well as for work and trade. Drugs and diseases also cross the border and this region has one of the worst HIV/AIDS problems in Asia. The high incidence of malaria, TB and cholera brought on by the conditions in Burma is also of concern.239

One major issue of concern relating to Burmese migrants in China is the number of women who are trafficked into the sex trade. In November 2007 Kachin News Group interviewed four girls from Shan State who had escaped from a night club in Hangzhou where Burmese women were held as sex slaves. They said that nearly half of the women in the club were from Burma and that the club employed over 50 security guards to prevent them from leaving. They were forced to work from 5:30 pm to 5:00 am, received only one meal per day and most of the money they received from clients was confiscated.240

The issues facing sex workers were highlighted in Caught Between Two Hells, a report by the Burmese Women’s Union published in December 2007. The report found that some of the women who ended up in the sex trade in China had worked in the same industry back in Burma, but for considerably less money. Others were tricked into it; they thought they were engaging the services of people smugglers only to find themselves in the hands of traffickers who sold them to businessmen or direct to brothels. Some made the decision after finding themselves being worked to death by exploitative employers. In addition to being disposed to the unpleasant and dangerous nature of sex-work, these women faced many of the same problems as other migrant workers: their employers exploited their illegal status, they could lose up to half their salary in deductions, they were subject to verbal and physical abuse and many were in a situation of debt-bondage based on the cost of bringing them into China.241

Women in Asia are generally powerless when it comes to negotiating condom use and sex workers are no different. Their work therefore puts them at a very high risk of contracting sexually transmitted diseases as well as being unwitting carriers of disease. The estimated HIV/AIDS prevalence rate amongst sex workers in China is 30 percent, although the Burmese Women’s Union believes it could well be higher because so few women get tested. The report also noted that some women were reluctant to get tested or even hid the fact that they had contracted the disease because they were afraid of losing their livelihood.242

Besides the obvious risks involved in sex work, one of the biggest differences between sex workers and other migrant workers is that most of them would be ostracized by their communities if the nature of their employment became known. Some of the women interviewed for the report worked in Ruili, a Chinese town on the China-Burma border. Those who were employed as “streetwalkers” on public roads were constantly afraid of being spotted by former neighbours or acquaintances who might be crossing the border.243
“These so-called ‘good’ people have called me a lot of names! It is easy for them to go home and talk about how I have sold my body and how I am no longer pure but did they ever think about the fact that without my earnings, my family will not be able to eat…”

- Anonymous sex worker

According to the report, many young girls get involved in sex work because it is the only way they can make enough money to pay for university. Unfortunately, if news of their employment in China gets back to Burma then they may find it impossible to return home and, consequently, their chances of going to university also disappear.

Another situation which the report discusses is that of women who are sold as “brides” in China. Although some of the women were allowed to choose their “groom”, they were purchased nonetheless. Once bought, their obligations were similar to those of a normal wife and included housework and assisting their purchaser with his work, often farming or agriculture, as well as providing sex. According to the report, some women were lucky and even ended up in legitimate marriages. Those who were less lucky could face various kinds of abuse or end up being sold on to a third party.

Japan

Japan has a significant Burmese migrant community. Japan is not known for being particularly accommodating towards refugees or illegal migrants. During the last week of November 2007, Japanese authorities arrested five Burmese money transfer agents who were operating illegally. As the news spread, other agents temporarily suspended their work and left many of the Burmese migrant community unable to send money home. One migrant quoted in Mizzima News said most people could not afford to use government transfer agents because the official exchange rate was so unfavourable. There are reportedly over 7,000 Burmese migrants in Japan who depend on the illegal transfer system.

In November 2007, a group of Burmese migrants were involved in a piracy incident whilst working on a Japanese tanker. On 2 November 2007 it was confirmed that all crew members were safe after the Golden Nori was seized by pirates off the coast of Somalia. The crew of 23 included 12 Burmese citizens. Ko Thura, head of Seafarers Union of Burma, stated that this was not the first time Burmese crewmen had fallen prey to pirates and that the SPDC rarely made any effort to help them. The Seafarers Union of Burma is based in Bangkok and works on behalf of Burmese seamen, estimated at 20,000 to 30,000, who are employed on ships of various nationalities, usually under fairly poor conditions.

On Sunday 9 December 2007, Burmese pro-democracy supporters gathered together in Tokyo for an early celebration of Human Rights Day and to protest against human rights abuses in Burma, including the recent suppression of the September 2007 Saffron Revolution. They were joined by Japanese, Filipinos, Cambodians and other nationalities.
South Korea

On 14 August 2007 it was reported that the text for a Memorandum of Understanding (MoU) between Burma and South Korea had been agreed and would shortly be signed. The agreement would admit Burmese workers into South Korea under a programme known as the Employment Permit System. This programme places greater emphasis on government approval than previous arrangements did.

Applicants must be aged between 18 and 39 and pass a Korean language test. Those who score over 60 points will be eligible for work in the service and manufacturing sectors. Those who score between 30 and 60 will be restricted to agriculture, livestock and fisheries. Other requirements include a medical examination and a criminal background check. Applicants previously deported from South Korea are automatically ineligible.

Migrant workers were previously recruited to South Korea by private employment agencies using a scheme known as the Industrial Training System. Approximately 4,000 Burmese migrants travelled to South Korea under this scheme including 1,296 during 2006 alone. The new system cuts out the role of the private agencies and requires official involvement instead. It also abolishes the quota system for foreign workers. Although the eligibility requirements are tougher under the new system, officially there are also benefits. There are 46 labour inspection offices across the country where migrant workers can complain if their employers violate the terms of their employment contract.

However, the practice of employers confiscating the registration documents of their employees is as common in South Korea as it is in countries like Thailand and Malaysia. On 17 August 2007 it was reported that a Burmese woman of Chin ethnicity had been in Hwaseong Immigration Detention Centre in Seoul for the past year. She had left her initial job because of the abusive working conditions, but sacrificed her legal status in doing so because her employer retained her passport and travel documents. According to the Burma Association in South Korea there are over 2,000 Burmese migrant workers in the country and more than half of them are not in possession of their legal documents.

Saudi Arabia

Saudi Arabia has previously had a track record of issuing work permits to Rohingya on the grounds that they face religious persecution at home and cannot return to Burma. However, they are now seeking to deport 267 individuals who have been arrested on criminal charges and have asked Bangladesh to accept them. The Bangladesh authorities do not normally accept migrants without valid travel documents that prove their citizenship but are also keen to maintain a good relationship with the Saudi government as there are currently 1.6 million Bangladeshi nationals working in Saudi Arabia.
Singapore

Although Thailand and Malaysia are the top destinations for Burmese migrants seeking manual or unskilled work, Singapore is the destination of choice for most skilled workers and young professionals. The majority arrive as legal migrants and earn good salaries. They also have access to education and development opportunities. Migrants who are willing to work for the government for three years after graduation can take advantage of an 80 percent loan for education fees.254

A group of 40 Burmese protesters gathered on the evening of 20 November 2007, close to the venue of the ASEAN annual summit. Their intention was to draw attention to the ongoing human rights abuses in Burma and the “very passive stance” which ASEAN had taken to date. The group was also protesting that the planned address from Ibrahim Gambari, UN special envoy to Burma, had been cancelled.255 The protesters left peacefully when police arrived to disperse them.256

Singapore has very strict rules governing demonstrations, and public gatherings of more than five people require a police permit.257 On 3 September 2007 it was reported that 23 Burmese activists had been summoned to interviews with the Singapore Immigration Department following their involvement in a separate protest against the fuel and commodity price increase in Burma.258

The working conditions for migrants in Singapore are generally above average. Unfortunately, the benefits available to Burma’s young professionals in exile do not extend to the inevitable number of workers who arrive in Singapore illegally. On 29 November 2007, two Burmese nationals were arrested trying to smuggle themselves out of Singapore in a truck bound for Malaysia. They had paid the equivalent of US$ 600 each, of which the driver received US$ 450 per person. The migrants risked up to six months in jail plus a minimum of three strokes of the cane if found guilty, while the truck driver could face two to five years in jail, in addition to caning.259

The main issue facing Burmese migrants in Singapore, however, is taxation. Migrant workers face double taxation which directly contravenes the Double Taxation Agreement signed by Burma and Singapore in 2000. Despite paying income tax in accordance with Singapore law, migrant workers are charged an additional tax when renewing their work permits at the Burmese consulate.260 On 22 January 2007 it was reported that a group of Burmese workers had started a campaign called “Double Taxation Avoidance Movement” and planned to collect information on workers who were paying double tax. They claim the situation violates Article 26 of the 2004 agreement, “Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income”, and plan to turn the information over to the Singapore authorities once they have enough evidence. Naing Moe Aung, one of the campaign organisers, estimates that of the around 50,000 Burmese migrants living in Singapore,, 10,000 have paid double tax.261 The leaders of the campaign also sent a registered letter to the Burmese ambassador urging him to take action in accordance with the tax agreement. They had previously attempted to deliver the letter by hand but officials at the embassy refused to accept it.262
The United States

The Diversity Immigrant Visa programme, also known as the "green card lottery," admits 50,000 people each year from countries that traditionally have a low rate of immigration to the U.S. Figures from 2007 showed 651 Burmese “lottery winners” out of a total of 5.5 million entries internationally.

The application process is difficult for those in Burma. To start with, the application must be submitted electronically and internet access is still not widespread, particularly in the more rural areas. Many applicants also struggle with the format of the application and the level of English required. Consequently there is an army of middle men, mostly based in Internet cafés, who offer much needed assistance at exorbitant rates which can be as high as 80,000 kyat per person. Some agents also convince applicants that they need a sponsor and offer to provide this too for a fee which can be as high as 700,000 kyat. Sponsors can be helpful but they are not an official requirement. All of the agent’s fees are exclusive of the application fees which total US$ 435. Applicants are also responsible for the cost of their own airfare although credit facilities are available.

Once they arrive in the United States, winners of the “freedom jackpot” can find it difficult to adjust. For those with no friends or sponsors it can be difficult to find work, at least initially, and integration can be a slow process. They also find themselves struggling to pay off the huge burden of debt that most incur to cover the application process and travel costs.263

Unfortunately, those who do well financially still face problems sending money back home to relatives in Burma as U.S. trade restrictions block the transfer of funds. Myint Wai, a 30 year old graduate who had been legally resident in the U.S. for 11 years, succeeded in transferring US$ 4 million between November 2004 and February 2006 but is now facing federal charges of operating an unlicensed money-transfer business and a possible five years in prison.264
Endnotes

2 Source: Ibid.
7 Source: Ibid.
8 Source: “Tales from the Land in Between,” Irrawaddy, 1 November 2007.
11 Source: Ibid.
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