

BURMA HUMAN RIGHTS YEARBOOK 2007
CHAPTER 17

**THE SITUATION OF
REFUGEES**

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

- Article 14 (1), Universal Declaration of Human Rights

17.1 Introduction

In 2007 Burma continued to be one of the largest sources of refugees in the world, with hundreds of thousands of people fleeing the country as a result of persecution by the SPDC military junta. According to the U.S. Committee for Refugees and Immigrants (USCRI) *World Refugee Survey*, during 2007 approximately 686,800 Burmese refugees and asylum seekers resided in Bangladesh, India, Malaysia and Thailand. Of this number, the vast majority – approximately 400,000 – sought refuge in Thailand. Bangladesh provided for 178,000, while Malaysia and India offered refuge to 58,800 and 50,000 refugees respectively.¹ In addition, over one million Burmese were estimated to live as migrant workers in those countries.²

During the year 2007 Burmese refugees continued to suffer a life in limbo, both within and outside of refugee camps. Efforts by aid organizations to improve the living conditions of refugees were offset by the continuing inflow of displaced Burmese nationals, and in some cases resistance from the governments of host countries. Continued escalation of military operations in eastern border areas by the junta's military, the *Tatmadaw*, forced thousands more Burmese across the Thai border, where camp systems were already saturated and overburdened by the massive influx of refugees from Burma over the past two and a half decades.

In all host countries, refugees in camps faced increased crowding, as well as a shortage of material resources, skilled personnel, and patience on the part of host governments. Refugees outside of camps remained susceptible to exploitation, trafficking, and disease, including tuberculosis (TB), malaria, and HIV/AIDS.³

Opportunities for third-country resettlement continued to increase for asylum seekers who had secured official refugee status. However, these inchoate resettlement programs brought with them a new set of challenges. As camp populations increased overall, a relative few of the well-educated camp residents left for third countries, thus many camp communities were stripped of their best management, education and health personnel. Resettlement continued to be an attractive option for some, but the question of how to help those left behind remained unanswered.

Most Burmese refugees fled their country as a result of the military junta's decades-long offensive against ethnic populations in rural areas of the country. The *Tatmadaw's* targeting of civilians and of infrastructure such as schools and hospitals compelled Burmese of many ethnicities to relocate permanently or semi-permanently to other countries in order to escape the systematic destruction of their communities. People of the Karen ethnic group have been particularly affected by the violence, although many others, including but not limited to the Chin, Mon, Shan, Karenni, and Rohingya ethnic groups, have also been forced out of their traditional lands by the military regime.

Over the past several years, *Tatmadaw* offensives have intensified as part of the junta's attempt to consolidate control over the area surrounding its new capital Naypidaw, as well as the areas projected to be flooded by the massive Salween damming project. The regime also continued a more general effort to destroy all ethnic resistance groups, including those with whom it held cease-fire agreements. Recent *Tatmadaw* offensives in Karen State, which began in 2006 and continued without pause into 2007, were the worst in over a decade.⁴ The junta government launched another offensive against the KNU in December 2007, sending over 1,000 soldiers into KNU-controlled territory in Kawkaik District, Karen State. The ensuing attacks, initiated by both SPDC and DKBA forces, forced more Burmese to flee across the Thai-Burma border.⁵

In 2007, the SPDCs brutal crackdown on the September pro-democracy demonstrations forced a new wave of political refugees to flee to neighboring countries. Late 2007 arrivals to the Mae Sot area included monks, protestors, members of the 88 Generation dissident group, and reportedly an SPDC official who fled after refusing to attack protesting monks.⁶ Initially, all new arrivals received UNHCR slips (explain this), however they were not recognised by Thai authorities hence by the end of 2007 their status in Thailand remained unclear and unsecure.

The Muslim Rohingya population, originating predominantly in Arakan State, continued to face discrimination both domestically from the military regime in Burma, and abroad from the governments of states in which they seek refuge. Rohingyas were still not recognized as a national ethnic group by the regime, and continued to be denied citizen status. Thus, they continued to face restrictions on their travel within Burma. As a result, many Rohingyas have fled to Bangladesh, which borders Arakan State, where they live at the mercy of a hostile government with no national legal framework for asylum seekers and refugees.⁷

Under the 1951 Convention on the Status of Refugees (Refugee Convention), states are prohibited from returning a refugee to any area *“where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”* Similarly, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) also prohibits the return of *“a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.”* This is often referred to as the principle of *refoulement*. When forcibly repatriating Burmese refugees and asylum seekers back to areas where they are vulnerable to persecution, the governments of Bangladesh, India, Malaysia and Thailand have continued to violate the principle of *refoulement*. None of the governments hosting the majority of refugees from Burma have ratified either of these Conventions, with the only exception being India which is a state party to the CAT. However, the principle of *refoulement* is now considered universal under customary international law and must be obliged by all nations, regardless of whether they are signatory to the convention.

In recent years the international community has recognized that the internal situation in Burma makes it unlikely for voluntary repatriation to take place in the near future, and that an alternative to the long-term confinement in camps, or ‘warehousing’ of refugees, is beneficial to all parties. In Thailand, the Committee for Coordination of Services to Displaced Persons in Thailand (CCSDPT) and the United Nations High Commissioner for Refugees (UNHCR), are the two organizations officially responsible, under the RTG’s Ministry of Interior (MOI), for protecting and administering services to refugees. In May 2007, they issued a joint statement, advocating *“a comprehensive policy approach which would allow refugees more access to education and skills training and engage them in productive activities which would better equip them for the future, wherever that may be.”*⁸ This change in rhetoric is both welcome and necessary if refugees are to take a productive place in their present host countries or as part of third-party resettlement programs. However, this rhetoric must be accompanied by a substantive change in host government policies which, until now, have been uniformly restrictive of refugees’ movement, employment, and education.

17.2 Burmese Refugees in Thailand

Demographics of Refugees and Asylum Seekers in Thailand

Thailand is one of the main destinations for asylum seekers, political dissidents and others fleeing the oppressive policies and practices of the SPDC military regime. The Thai government estimates that 3 million Burmese have taken residence in Thailand since the junta came into power, although that number could be even higher due to the large numbers of unregistered immigrants.⁹ Of the total Burmese population in Thailand, the vast majority reside outside of camps and, as such, are afforded no official protection or assistance. Around 200,000 refugees are believed to be residing outside of official camps, including large numbers of Shan refugees, who are not recognized by the Thai government and are therefore denied access to camps and aid services.¹⁰

According to statistics from the Thailand Burma Border Consortium (TBBC), 156,560 refugees from Burma were living in nine border camps in Thailand as of June 2007. Refugees originating from Karen State represented the largest proportion of the registered population, accounting for 62 percent of the total. Those originating from Karenni State accounted for 13 percent, while Tenasserim Division accounted for 9 percent, and Pegu Division and Mon State each accounted for 5 percent. Refugees originating from other parts of the country were also represented in smaller numbers. The figure of 156,560 official camp residents, up from 153,882 recorded in December 2006, represented the arrival of 4,500 new refugees over the six-month period after factoring births, deaths, and departures through resettlement. This increase was attributed in part to heightened *Tatmadaw* offensives in eastern Burma, but also to a large number of urban refugees entering camps in the hope of gaining access to resettlement programmes.¹¹

Refugees in Camps

2007 marked the 24th year that Thailand, with the help of the international donor community, provided refuge to refugees fleeing Burma.¹²

The new influx of refugees strained the already limited resources of many camps, and most of the recent arrivals remained unrecognized by Thai authorities.¹³ Of the nine official camps in Thailand, three did not meet UNHCR standards for minimum space per person and two were listed as 'borderline.'¹⁴ According to the *Comprehensive Report for 2007-2008* jointly released by the CCSDPT and UNHCR, camp residents reported protection from violence and the administration of justice as key concerns. The report found prevention and response systems to be insufficient and noted that camp-based justice systems "*do not systematically work for the protection of the victims and the prosecution of the perpetrators.*"¹⁵ The report further noted that protracted confinement in camps has led to increased rates of violence, crime, and substance abuse among refugees. However, efforts were also made to improve the situation, as in Mae La camp, which on 26 June 2007 celebrated "Anti Drugs Day" in an attempt to spread awareness among the refugee community.¹⁶

A mid-December incident between refugees and Thai security forces in Karenni Camp 1 underscored the rising tensions in camp communities. On 15 December 2007 a Karenni refugee student was shot and killed by Thai border guards after a sports contest in the camp. The border guards arrested several students who were participating in the contest, and in response another group of students marched to their base to protest. The guards reportedly fired approximately 30 rounds into the crowd, killing one student and wounding

another.¹⁷ On the following day several thousand camp residents protested the killing, and during the protest two vehicles and approximately 30 motorcycles belonging to the security forces were destroyed.¹⁸ Protests continued two days after the initial violence as 4,000 refugees marched to the camp committee office, calling on Thai authorities to protect the rights of refugees and refrain from using violence against the camp community.¹⁹ In the aftermath of the incident, the Thai forces responsible for camp security were replaced by regular Thai army troops, and the administration officer, a Thai national, submitted his resignation.²⁰

Refugees in Thailand continued to exercise a higher level of ownership of camp administration than was typical of refugee camps worldwide. The CCSDPT/UNHCR report found that Community Based Organizations (CBOs), such as the Karen and Karenni Refugee Camp Committees were instrumental in administering the camps. However, a lack of resources and training hindered their ability to fully protect residents and implement programs.²¹ The composition of refugee committees varied from camp to camp, but generally included around 15 active members, half of whom are appointed and the other half elected. The committees oversaw camp activities, coordinated NGO assistance, and interacted with the Royal Thai Government, the UNHCR, and security personnel.²²

Over the past 24 years, the TBBC has administered the dietary needs of refugees. During that span, the TBBC increased its food basket for refugees in camps from 50 percent rice to a full food basket. Over the same period, increasing restrictions by the Thai government on the movement and activities of camp residents hindered the ability of refugees to forage and find food to supplement the rice baskets.²³ Efforts by some NGOs to teach small-scale agriculture were limited by space, and sometimes a lack of available water.²⁴ In 2007, refugees in camps were entirely dependent on donor-supplied food baskets. However, it was estimated that most registered refugees shared their rations with non-registered refugees, diminishing the effectiveness of food programmes.²⁵ As of 2007, the food basket provided to each adult refugee per month contained: 15 kg rice, 1 kg yellow beans (legumes), 1 kg AsiaMIX (a blended food mix designed to provide a nutritional supplement), 750 grams fish paste, 1 litre soybean oil, 125 grams dried chili, 300-500 grams iodized salt, and 250 grams sugar. The TBBC also supported additional programmes such as nursery school lunches, vitamin A distribution, and supplementary and therapeutic feeding.²⁶



Distributing rations of chilli in one of the refugee camps located along the Burma-Thai border. [Photo: TBBC]

In late 2007, the TBBC faced funding cuts due to the falling strength of the U.S. dollar against the Thai baht. The organization anticipated a loss of 80 million baht, representing 7 percent of its total budget, for the year 2008.²⁷ This funding shortfall, which was compounded by increasing number of new arrivals and rising commodity prices, will force the group to cut rations unless new funding sources can be secured.²⁸ The impending reductions would include substantial cuts to fish paste and chili, both staple foods in Burmese cooking. This caused anxiety in camp communities, whose residents reported that rations were already not sufficient for families with school-aged children, and expressed concern that they may have to leave the camps illegally to find supplementary food sources.²⁹

The CCSDPT had 20 member NGOs providing humanitarian assistance to refugees under agreement with the MOI's Operations Centre for Displaced People (OCDP).³⁰ In addition to their food ration, refugees in the camps also received an allocation of charcoal, as well as building materials for the construction and repair of houses. In November 2007, the organization Episcopal Relief and Development, working in conjunction with the TBBC, created a "New Arrivals Pack" to meet the needs of 2,275 recent camp arrivals. The pack contained blankets, mosquito nets, sleeping mats, cooking pots, utensils and food containers.³¹

After the formation in late 2006 of the CCSDPT "Environmental Health and Infrastructure" subcommittee, it was found that physical living conditions in camps had improved overall. Specific gains included the mitigation of risks associated with road consolidation and construction of drainage systems in Mae La Oon camp, improved solid waste treatment in Mae La and Tham Hin camps, and the consolidation of water security in Mae La camp. Nevertheless, much remained to be done. The CCSDPT noted that the improvement of roads and river crossings, the consolidation of hills and river banks, and the training of camp residents in maintaining roads and infrastructure all needed to be addressed in coming years.³² Flooding and erosion remained a threat in some areas. The 2007 rainy season was particularly severe, with storms destroying some twenty houses and seriously injuring several people in two Karenni camps in Mae Hong Son province.³³ However, the Thai government continued its policy forbidding the use of permanent building materials in the refugee camps, as it deemed the refugee population to be only temporarily displaced. This effectively limited any efforts to improve the quality of infrastructure and housing in the camps.

Health conditions in camps remained a concern in 2007. The arrival of new refugees put further strain on the operational capacities of already crowded camps, in some cases leading to sanitation problems and water shortages.³⁴ Moreover, many camp medical personnel had either been resettled to third countries, or were actively seeking resettlement.

In July and August 2007, an outbreak of cholera killed one woman in Mae La camp, Tak Province.³⁵ In the same outbreak, 46 patients were hospitalized in the camp, including at least two children, and over 300 cases were reported across the province. According to the secretary for Public Health, the disease was brought by Burmese migrants. "*The public health officials could control the situation,*" he said, "*but the movement of migrants from the neighbouring country makes it reoccur in Thailand.*"³⁶ It was also reported that pit latrines in Tham Hin camp, and possibly other camps, were full and that these conditions increased the threat of cholera and other diseases.³⁷

In August 2007, a possible outbreak of bird flu killed over 200 poultry in the Karenni refugee camp in Mae Surin and may have infected two people.³⁸ Thai health officials expressed concern over the lack of knowledge about the disease among camp residents, and that some refugees may have continued to eat poultry even after the outbreak.³⁹

HIV rates in camps were lower than in surrounding areas of Thailand and Burma. However, the CCSDPT/UNHCR Comprehensive Plan still identified a need to strengthen prevention in higher-risk sub-populations, particularly adult males who leave the camp for extended periods.⁴⁰

Violence between ethnic resistance groups and the SPDC and its allies continued throughout 2007, reaching the Thai border and in some cases crossing into Thai soil. Paulo Sergio Pinheiro, Special Rapporteur to the UN on the situation of human rights in Burma, stated that he had *“received reports from reliable and independent sources alleging that the militarization of refugee camps at the border has put the safety of civilians at risk.”*⁴¹

In July, the Democratic Karen Buddhist Army (DKBA), an ethnic militia backed by the SPDC, was suspected of assassinating a military intelligence officer of the Karen National Union (KNU) and killing another KNU soldier near Mae La camp.⁴² In response Thai authorities placed restrictions on movements entering and exiting the camp, and the Thai military increased security in the area.⁴³ Thai authorities also conducted weapons checks in Karenni camp II, following a Thai-Burma border committee (TBC) meeting during which Burmese authorities alleged that members of the Karenni National People's Party (KNPP), an ethnic resistance group, were residing in the camp.⁴⁴

The Karen National Union-Karen National Liberation Army Peace Council (KNU-KNLA PC), a junta-allied group that splintered from the KNU in early 2007, was accused of recruiting members from refugee camps. According to interviews conducted by the Karen Human Rights Group (KHRG), many young Karen refugees, including children under 15, were convinced to attend the ceremony commemorating the KNU-KNLA PC's signing of a peace treaty with the SPDC. After being told that they had only to 'fill in the blanks,' or stand in the ranks of KNU-KNLA soldiers to make the splinter group appear larger, many of the young Karen were coerced into joining the military group. Some children managed to escape and return to their homes in Mae La camp, while others remained missing for extended periods.⁴⁵

The DKBA, which killed hundreds of civilians in cross-border clashes in the 1990s, caused alarm in April 2007 when they together with the *Tatmadaw* positioned machine guns and artillery overlooking Mae La camp. On 9 April 2007, in response to the threat, hundreds of Thai Border Patrol Police moved into the area around the camp.⁴⁶ Camp officials at Mae La and Mae La Oon camps warned residents to keep lights out after dark, and reportedly threatened to confiscate ID cards, remove refugee status, or even expel from the camp those who disobeyed their warnings.⁴⁷

Later in April, skirmishes between the Karen National Liberation Army (KNLA) and the DKBA broke out near the Thai border, opposite Tak province. Refugees in Noh Poe camp feared for their safety after hearing that the DKBA may attack the camp.⁴⁸ Sophie Richardson, deputy Asia director at Human Rights Watch, observed that *“after years in refugee camps and combat zones, these civilians now live in fear of cross-border attacks. Burma's plans to attack civilians and jeopardize their access to food are deplorable, and the international community should condemn this in the strongest possible terms.”*⁴⁹

One of the few positive developments for the situation of camp refugees was the advent of a new approach by international agencies to prolonged encampment. Since 2005, the UNHCR and CCSDPT have advocated a comprehensive approach, including the training, education, and employment of refugees, to combat the ill effects of protracted confinement. In May 2007, the UNHCR's Assistant High Commissioner for Protection told reporters in Bangkok that the Thai government should allow all refugees currently residing in camps to seek employment outside the camps, and that employment would, among other things, make the refugees less dependant on international aid organizations.⁵⁰ The CCSDPT/UNHCR report noted that *“such an approach would provide the refugees with a*

*more hopeful future, lessen the stress for them, and potentially relieve the burden of assistance as they become more self-reliant.*⁵¹

The CCSDPT/UNHCR report further noted that providing economic opportunities could benefit neighbouring Thai communities and increase national security in sensitive border areas. Moreover, employment opportunities would prepare refugees for resettlement to third countries and in the long term eventually, help them rebuild their own home countries. To this end, the UNHCR's Strengthening Protection Capacity Thailand Project, with the help of two former ILO consultants, in 2007 began developing a livelihoods strategy, with *"particular consideration to opportunities for youth and women."* Specific components of the strategy included micro-enterprise development (MED); support to existing skills development programs; agricultural activities inside and outside camps; research and application of appropriate technology; and the development of a waged employment service.⁵²



Karen refugees in the Tham Hin refugee camp in Thailand. [Photo: Reuters/Sukree Sukplang]

Resettlement

In 2007, large numbers of Burmese refugees from Thai camps continued to be resettled to third countries. According to the UNHCR, from 2005 to the end of 2007 a total of 20,878 Burmese refugees were resettled to third countries from Thailand. As of December 2007, another 3,471 were accepted by host countries, and still waiting to relocate.⁵³ Moreover, an estimated 17,000 refugees were actively applying for resettlement as of June 2007.⁵⁴ Eleven countries accepted displaced Burmese nationals, with the United States taking in the largest number of refugees.⁵⁵

The expansion of third-country resettlement programmes over recent years has led to increased discussion, and growing concern, over the effects of resettlement on the remaining camp population. In some regards, resettlement has been a boon to the refugee community. According to the CCSDPT's 2007 investigation of resettlement programmes' effects on the remaining camp population, 38 percent of the entire camp population expressed interest in resettlement. The report observed that remittances from abroad were already being received by remaining families and CBOs. Also, in some cases the resettling of long-serving individuals opened space for new camp leadership to emerge.⁵⁶ After visiting Tham Hin camp in Kanchanaburi, assistant UN High Commissioner for Refugees Erika Feller told reporters that resettlement *"has created more space and given people expectancy."*⁵⁷

However, resettlement programmes also created a host of new problems and concerns. The RTG expressed concern that the option of resettlement is drawing increasing numbers of refugees to the camps. The governor of Tak province announced that new camp arrivals

would not receive food or accommodation. In addition, a void remained in some areas for the processing of new arrivals.⁵⁸ The CCSDPT cautioned that the costs of running camps, while theoretically falling in the long term as camp populations decrease, would rise in the short and intermediate term as NGOs and CBOs continue to administer to growing numbers of camp residents.⁵⁹

Resettlement also affected camps adversely as it drained camp communities of their leaders and skilled camp personnel. The education sector suffered particularly as a result of resettlement. According to a 2007 UNHCR survey, 65.9 percent of adult refugees with experience in education expressed interest in resettlement, with 48.8 percent already submitted for consideration to third countries. As of early 2007, 11.2 percent of skilled education workers had already left camps for resettlement.⁶⁰ As a result, education standards in camps – already an area of concern – continued to decline. Camp education professionals cautioned that standards would continue to fall as long as the current resettlement program remained in force.⁶¹

The CCSDPT report noted that experienced personnel, such as school administrators, supervisors, and teacher trainers, as well as experienced teachers themselves, are particularly hard to replace. Low teacher salaries and the NGO community's empowerment of self-training in refugee communities were also expected to negatively affect the education sector in the future. The decline in educational standards are expected to have far-reaching effects, as fewer individuals will have sufficient education to fill high-level camp positions or assist in the writing and submission of grant proposals and donor requests. Furthermore, English teachers are expected to continue departing in large numbers as they are recognized by third countries as suitable candidates for integration into their new communities.⁶²

The health sector was also vulnerable to the effects of resettlement. According to the UNHCR, 76.2 percent of adult refugees with experience in the health sector expressed interest in resettlement, with 56.2 percent already submitted for consideration to third countries. As of early 2007, 12.9 percent of skilled health workers had already left camps for resettlement.⁶³ The CCSDPT found the departure rates to be much higher in some communities, with some programs losing 50 percent or more of their staff in 2007. Of highest concern is the departure of highly skilled and specialized personnel, who are particularly difficult to replace. Skilled interpreters are extremely important to the health sector, which requires an estimated 75 percent of the approximately 250 technical English speakers needed to run the camps. The previously noted departure of English teachers only compounds the problem of replacing departed interpreters, whose skills are developed over long periods of time.⁶⁴

In 2007 NGOs faced the increasing challenge of finding immediate solutions to the departures of camp-based health professionals. Training new health workers will require cross-camp collaboration, which can only be made possible by a loosening of the Thai Government's restrictions on refugee movement. Alternative solutions, such as an increase in Thai and expatriate staff and increased referrals to Thai hospitals, are prohibitively expensive in the long term.⁶⁵ The CCSDPT reported that actual and anticipated consequences of a lack of qualified staff include *"a general decline in the overall quality of health care, the risk of misdiagnosis, a reported loss of confidence by patients in medical services, ... increasing under-nutrition, communicable disease outbreak, and potential problems in program coverage of preventative health."*⁶⁶

Compared to the health and education sectors, camp administration was more resilient to the consequences of resettlement. The preexisting structure of camp committees lent itself to a smooth transition between staff, and committees had lost fewer members compared to the health and education sectors. However, the loss of key personnel left an increased work

load on some members. CBOs were also expected to eventually suffer from the overall loss of skilled workforce, and resultant recruitment from their ranks by NGOs.⁶⁷ International NGOs were projected to lose as many as 40 percent of their workers the end of 2007, and NGOs continue to find staff replacement to be a difficult process. In the words of one NGO worker, *“It is demoralizing for us to lose our best staff repeatedly. We are faced with the dilemma of very limited resources to train a new batch which may also opt for resettlement soon after the training is over.”*⁶⁸ In fact, the very act of training replacements increased the likelihood that those same replacements would be accepted for resettlement.

The resettlement dilemma reflected both the desires of the camp population, and the ‘integration potential’ selection criteria applied by some host countries (the US, which accepts the highest number of refugees, did not apply selection criteria). According to the CCSDPT report, 38 percent of the entire camp population expressed interest in resettlement, while a disproportionate number of educated camp residents – 61 percent of the post-10 population – expressed interest. Furthermore, while 11.5 percent of the post-10 population had already departed for resettlement as of July 2007, only 2.4 percent of the non-educated population had departed. In the latter half of 2007, the post-10 population was projected to fall by 38 percent across all camps, while the overall population was only projected to fall by 10 percent. The report also projected that, by the end of 2008, the post-10 camp population would reach ‘critical levels’ unless a response was designed and implemented that could successfully compensate for the disproportionate loss of educated camp members.⁶⁹



A young Karen boy at a teashop located within Tham Hin refugee camp, Thailand. [Photo: Anna Husarska/IRC]

Refugees outside Camps

Around 200,000 refugees are believed to be residing outside of official camps. This figure includes a large number of Shan refugees, who are not recognized by the Thai government and are therefore denied access to camps and aid services.⁷⁰ Refugees living outside the official camp system also include politicians, pro-democracy activists, journalists and others, who are working in exiled opposition groups. Under existing Thai laws, these groups are not officially recognised as refugees and are as such not accounted for in any official refugee population figures. There have been efforts by the UNHCR to register these refugees as Persons of Concern (POC), however this status is not recognised by Thai authorities.

Beginning in September 2007, an increasing number of refugees arrived at the Thai-Burma border fleeing the junta's violent crackdowns against participants in the monk-led 'Saffron Revolution' demonstrations. As noted, several dissidents took refuge in camps, while others arrived in border towns. NGOs in Mae Sot reported a total of 218 people arrived claiming to have taken part in the protests.⁷¹ The refugees included several monk leaders and well-known Burmese artists. Buddhist monk Ashin Sein Tita, a prominent leader of several September protests, was forced to flee to Thailand after military personnel encircled his monastery and tried to arrest him.⁷² Only five days later, U Seindiya, a senior monk from Aung Kaung monastery who was previously honored by the junta for political service, fled to Thailand after the SPDC raided his monastery.⁷³ The Burmese poet Kyaw Thu Moe Myint also fled to the Thai-Burma later that month. The poet is facing multiple charges of illegally circulating sensitive material after publishing a book of poetry that included references to Burmese independence hero Aung San, father of Nobel prize-winning political activist Aung San Suu Kyi.⁷⁴ Famous Burmese actor, Kyaw Thu, was sheltered at a monastery in Mae La camp after he and several other prominent artists and politicians gave offerings to monks protesting in Rangoon. Kyaw Thu was forced to flee after the junta arrested two of the other people who gave offerings.⁷⁵

Following a visit to the Thai-Burma border, a Refugees International team expressed concern that this new wave of political refugees continued to face risks even after their arrival in Thailand. According to one member of the 12-person team, "*They are subject to constant harassment, bribery, exploitation. They are forced to live in limbo, lacking any status in Thailand.*"⁷⁶ Some new refugees have been able to secure letters from the UNHCR certifying them as 'persons of concern' (POCs), but these cards are not always recognized by Thai authorities. According to the UNHCR, as of November 2007 an additional 89 Burmese political refugees had applied for refugee status since the beginning of junta crackdowns in September.⁷⁷

While Thailand continued to prohibit refugees in the camps to take up employment outside, it did allow Burmese nationals outside the camps to register for work permits. However, as the identities of those registering as migrant workers in Thailand were shared with the SPDC, many refugees were deterred from applying.⁷⁸

Thai Government Policy towards Refugees and Asylum Seekers

The policy of the Thai government, which hosts by far the largest number of Burmese refugees, continued to be marked by inconsistency. Thailand is not a party to the 1951 Convention Relating to the Status of Refugees or the subsequent 1967 Protocol, and did not determine refugee status according to the UN definition. Instead, Thai authorities primarily used the blanket term “*fleeing fighting*” to define who is eligible for protection in the camps. The Thai government did not refer to those in the camps as refugees as defined by the UNHCR, but rather as “*displaced persons*.”⁷⁹ Refugees outside camps, lacking passports and visas, were classified as ‘illegal immigrants,’ and subject to arrest at the discretion of Thai police.⁸⁰ In contravention to its obligation of non-refoulement, the Thai government arrested and deported thousands of Burmese who feared persecution upon return.⁸¹

An ominous development for Burmese refugees in 2007 was the apparent tightening of ties between the Thai government and the SPDC regime, which caused a hardening of policies along the border, and hundreds of Burmese fleeing violence and repression were turned away or deported by Thai border police. In November 2007, amid a wave of crackdowns on undocumented workers by Thai police, Burmese pro-democracy activists in Mae Sot said that they feared for their lives. The crackdowns were allegedly at the behest of the military junta in Burma, whose foreign minister pressed Thai authorities to refuse entry to Burmese refugees fleeing political persecution.⁸² It was reported that the Thai government planned to raid the offices of Burmese pro-democracy opposition groups later in September 2007, following claims by the junta that Thai-based organizations had instigated the wave of protests in Burma.⁸³ The Thai government’s complicity in politically repressive activity comes in part from the RTG’s concern over the economic toll of the protests in Burma. It was estimated that unrest in Rangoon cost Thai traders in Mae Sot around 300 million baht (US\$ 8 million) in September 2007 alone, and caused a 50 percent drop in bookings from Thailand to Burma. In addition, all ports on the 300 km stretch of the Moei River in Tak province were for a period shut down by both Thai and Burmese authorities for security reasons.⁸⁴

In February 2007, international organizations working with Burmese refugees expressed concern that the surge of refugees from northern Arakan State and North Korea would result in a tightening of Thai immigration policy.⁸⁵ Human Rights Watch called on the Thai government to grant asylum to new refugees, and protect all refugees from cross-border violence against fleeing civilians.⁸⁶ The US State Department’s director of the Office to Monitor and Combat Trafficking in Persons also reiterated that it is the responsibility of neighboring countries to ensure that refugees and migrant laborers who flee Burma are not victimized by human traffickers.⁸⁷

In October 2007, a border studies committee from the Thailand’s National Legislative Assembly proposed the establishment of a new administrative office for the management of border affairs. Surapong Kongjantuek, human rights activist and member of the Thai Lawyers Council, expressed concern that “*The committee’s report reflects the fact that they look at the minority peoples as problematic. With this attitude, the government cannot resolve their issues. Besides that, they did not mention peace-building, which is important in dealing with conflicts from ethnic diversity in any country.*”⁸⁸

Changes in the Thai Government

On 19 September 2006 Thaksin Sinawatra, the Prime Minister of Thailand from 2001 to 2006, was deposed by a military coup on charges of corruption and engaging in divisive politics. While Thaksin held power, the RTG approved the third-country resettlement of refugees in camps and began to implement policies allowing limited training, education and employment opportunities for migrant workers.⁸⁹ Signs of sympathetic policies from the interim government were seen in October 2006, when interim Prime Minister General Surayud Chulanont promised an improvement of standards in the nine official refugee camps run by the Royal Thai Government. Surayud's administration also announced that it was planning to issue refugees with identity cards, allowing them to move freely outside the camps and to work legally among the Thai labour force.⁹⁰ However, not all of these policies were fully implemented at the time of the national election in late 2007.⁹¹ The newly-elected administration consisted of a broad coalition headed by the People's Power Party, a reconstituted version of Thaksin's previous Thai Rak Thai party. At the end of the year it remained to be seen what approach the new government would take in respect to Burmese refugees living in Thailand.

Policy for Refugees in the Camps

Most refugees have been living within the confines of the camps for long periods of time, some for up to 20 years. Conditions in Burma have not yet been conducive to repatriation, and the number of Burmese refugees in Thailand continues to rise as more refugees flee ongoing human rights abuses in eastern Burma.

In 2007, refugees living in camps had no right to employment and, if caught outside the camps, were subject to arrest and deportation. Over the years, enforcement of restrictions on the movement of refugees in camps has increased, resulting in most living their lives entirely within camp confines.⁹² RTG policies restricting the travel of refugees to outside training facilities also made it difficult for NGOs to train replacements for staff lost to resettlement.⁹³

As noted, the interim government instituted several important policy changes in late 2006 and 2007. Concurrent with the recommendations of the CCSDPT and UNHCR's joint 2005 letter to the Thai government, Thailand's MOI in 2006 relaxed restrictions on income generating activities, and the RTG made commitments to improve education in camps and experiment with employment outside the camps.⁹⁴ Another encouraging development was the implementation, beginning in May 2007, of the plan to issue individual ID cards to camp residents. The Thai Government also recognized the need for an inclusive approach to HIV, although in practice refugees did not enjoy any real benefits to their theoretical coverage under Thailand's national HIV/AIDS plan.⁹⁵ Thailand's ministry of justice also announced plans to launch a legal handbook for refugees in camps, so that they may gain a greater understanding of the Thai legal system and combat crime in their camp communities.⁹⁶

While the RTG made several important concessions in its official policy towards registered refugees, members of the international community remained concerned for the future of refugees living in camps. The TBBC cautioned that the RTG's theoretical proposals are not necessarily put into practice: *"It has proven difficult to translate these new opportunities into substantive activities. Although there has been some expansion of NGO skills training activities and a few small income generation projects have been approved by MOI, life for most refugees has not changed... such initiatives will take time to develop and will require more substantive technical inputs and other resources."*⁹⁷ It was also feared that violence

near the Thai-Burma border, and the recent influx of refugees, would cause the RTG to tighten restrictions and suspend the newly proposed employment and training policies.⁹⁸

Some refugees, particularly new arrivals who were not registered with the UNHCR, continued to face pressure from Thai authorities to return to Burma. In August 2007, Thai authorities told 5,000 unregistered refugees in Mae La camp that they would be provided neither food nor housing. Unregistered refugees found in the camp were subject to arrest and deportation, and the chairman of the Karen Refugee Committee anticipated that all 5,000 would have to return to Burma.⁹⁹ Again, it remains to be seen how the newly elected government will approach the situation of refugees in camps.

Detained, Arrested and Deported Refugees

Unregistered refugees, and registered refugees who lived in camps but worked or traveled outside the camp confines, continued to be subject to arrest, detention and deportation. According to the *2007 World Refugee Survey*, the Thai government informally deported as many as 10,000 Burmese nationals per month.¹⁰⁰ Many deported refugees were democracy activists and members of persecuted ethnic minorities, who faced unsafe conditions upon their return. Abuse, extortion and detention of deportees upon return to Burma were reported on numerous occasions, raising concerns for the fate of forcibly repatriated asylum seekers and refugees.

According to Human Rights Watch (HRW), between October 2006 and April 2007 over 2,000 Rohingya refugees arrived in Thailand from Bangladesh in boats and were subsequently repatriated to areas of Burma under DKBA control.¹⁰¹ Separate reports confirmed that in March only was 123 Rohingyas forcibly returned to Burma from Thailand. On 10 March 2007, the Thai military forced 67 Rohingya men to return to Burma, to an area controlled by the junta-backed DKBA. On 23 March 2007, Thai authorities arrested another 56 Rohingya men and on 24 March 2007 forcibly repatriated them into the same area.¹⁰² Human Rights Watch noted that the refugees faced 'a well-founded fear of persecution' in Burma, and therefore the deportations constituted refoulement.¹⁰³ The Thai government conducted most deportations outside of official channels and as such it remained difficult to document the number of cases accurately.



Karen refugees queue for the distribution of their food rations in Mae La refugee camp in Thailand. [Photo: AFP]

The UNHCR and the Refugee Status Determination Process

The Provincial Admission Boards (PABs) and Registration

Provincial Admission Boards (PABs) were originally set up by the Royal Thai Government in 1999 to handle the admission process of refugees from Burma seeking entry into the refugee camps. The PABs were in the subsequent years closed down and then resurrected according to Thai immigration policies. For many years the role of the UNHCR was limited to observer status, until 2004/2005 when the PABs were used in a joint MOI/UNHCR re-registration drive. Throughout 2006, the UNHCR continued to accept statements, but was unable to register asylum seekers to be processed by the PABs. In 2007 the PABs, having processed the vast majority of 2004/2005 re-registration applicants, essentially ceased to function altogether. However, Burmese refugees continued to cross the border into Thailand, with many entering camps illegally. The UNHCR continued negotiations with the RTG to ensure that PABs could continue to function, and thereby permit the official registration of new refugees,¹⁰⁴ however at the end of the year the PABs remained closed.

The 2004-2005 MOI/UNHCR re-registration of the entire border camp population recognized 101,992 persons from the original 1999 registration plus 35,867 others, for a total of 137,859. The MOI initially agreed only to consider refugees from its own records for processing and registration, along with any children born since August 2003. These 18,592 refugees would be presented to PABs for consideration on a group basis, with the remainder to be considered by the PABs separately. These included 16,275 persons in Tak and Mae Hong Son provinces, and 1,037 persons in Tham Hin camp who had been subsequently registered by the authorities in Ratchaburi province. As of the end of June 2007, the PABs had already approved a total of 33,512 of those arriving after the 1999 registration, including 471 in Kanchanaburi, 1,097 in Ratchaburi, 27,610 in Tak, and 4,334 in Mae Hong Son, leaving an estimated 4,500 still to be considered in Mae Hong Son province.¹⁰⁵

In May 2007, Thailand's Department of Provisional Administration began the distribution of ID cards to refugees in all nine official camps. The ID card project, which was funded by a US\$ 1 million grant from the UNHCR, was the culmination of three years of planning by the UN refugee agency.¹⁰⁶ An estimated 88,000 refugees received the cards, which are seen as a first step in securing further rights and opportunities for camp residents. One camp leader noted that refugees holding cards would be less likely to be deported if caught outside, and more likely to be returned to the camp.¹⁰⁷ The ID cards could also potentially lessen the strains of resettlement, if the RTG agrees to open employment opportunities. According to a teacher in Mae La camp, *"some people have said that if they can use their [ID] card to work outside the camps, they would not seek resettlement."*¹⁰⁸

The UNHCR characterized the recent distribution of IDs as 'very positive.'¹⁰⁹ However, gaps remained in the protection of refugees in camps. Not all refugees in camps received cards, and the actual rights of card holders remains unclear.¹¹⁰ As of April 2007, the refugees holding cards were still not allowed to go outside camps. A UNHCR representative noted that *"the ID cards are an important way of improving protection of refugees because the most basic element of protection is being able to prove your identity. At the same time, we hope the ID cards will be only the first step in a series of measures that will open up the closed camps where refugees have been living for almost two decades."*¹¹¹

Situation of Women in Refugee Camps

In October 2007, a group of female activists in Burma sent a letter to the UN Security Council calling on them to protect the safety of all women living in fear and hiding. On the same day, the Security Council urged all member nations, and its own offices, to include more women in decision-making processes, and to take specific steps to protect women from gender-based violence.¹¹² According to a number of border-based NGOs, this should also apply to resettlement. UNHCR criteria for resettlement state that refugees who face particular risks if they are repatriated to Burma should be given priority in resettlement programs. However, the acceptance policies of many host countries continued to discriminate indirectly against women, who face risks of gender-based and sexual violence (GBSV) if they return to Burma.¹¹³

Domestic violence continued to be a concern in refugee camps throughout 2007. Camp committees had been working with the GVB, a branch of the IRC, to create awareness on domestic violence.¹¹⁴ The CCSDPT/UNHCR Protection Working Group also worked with the Thai government to improve protective services, but noted that women were still at elevated risk for violence, and that many gaps in protection remained. Targets included the improvement of complaint mechanisms in SGBV, better coordination with all stakeholders to improve responses to claims, provision of physical protection to SGBV survivors and their children in camps, and expansion of NGO programs to all nine camps with a focus on supporting CBOs already working on SGBV issues.¹¹⁵

NGO programs did sometimes conflict with the reported needs of refugee communities. In 2007, both the Karen Women's Organization and the Karenni Women's Organization criticized the IRC for instituting a program to combat sexual abuse by NGO staff against women living in camps. The women's groups called for NGOs to consult with CBOs before implementing programs, so that those programs may best meet the actual needs of camp communities. In response, the IRC pointed out that abuse by NGO staff is a global problem, and noted that victims may not understand the nature of exploitation. According to the deputy director of the IRC, *"In [cases involving exploitation], it's quite difficult because the community isn't aware of abuse and exploitation and so the project itself is trying to define and find out the prevalence of abuse and exploitation."* The chairperson of the Karenni Women's Organization contended that this particular issue should not be a priority because other problems, such as high rates of depression among young and older women, domestic violence issues, and harsh living conditions were in more urgent need of address.¹¹⁶

In 2007, most positions in camp committees continued to be held by men, although the ratio has developed towards equality in recent years. Furthermore, many young women continued to face obstacles to continuing their education, including strong social pressure to drop out of school once they marry or become pregnant.¹¹⁷ In order to ensure more women in key positions, the CCSDPT/UNHCR recommended that leadership training programmes for women be strengthened in order to empower more women to take key roles in camp management and justice systems.¹¹⁸

Situation of Children in Refugee Camps

According to TBBC's 2007 report, acute malnutrition (thin) for children in camps fell within acceptable limits as per WHO criteria (<5 percent for children under 5), and was lower than in Burma or Thailand. However, chronic malnutrition (stunted) was "moderate to very high" and more prevalent in camps than in either Burma or Thailand. Supplementary feeding programmes, intended to serve as short-term treatment of acute malnutrition, did not include chronically malnourished children. Beriberi continued to be reported, although rates had declined following a revision of the case-definition and medic training. Angular Stomatitis (AS), an indicator of micronutrient deficiency in children, was also found in most camps.¹¹⁹

Protection mechanisms for children in camps remain an area of concern. The CCSDPT/UNHCR in 2007 found that these mechanisms, including camp juvenile justice systems, must be strengthened and must cooperate with the Thai government, particularly the Ministry of Justice. There was also a need for programmes to combat drug and alcohol abuse in youths, who are often idle as a result of a lack of educational and employment opportunities. A number of unaccompanied minors remained living in camps. The CCSDPT recommended the enhancement of the Best Interest Determination (BID) procedure in regard to separated and unaccompanied children, the facilitation of the disarmament of child soldiers, and the improvement of conditions and monitoring of boarding houses in camps. The CCSDPT also noted the continuing efforts, in cooperation with other UN agencies and NGOs, to adopt an official birth registration system for children who are born in camps.¹²⁰



Karen children attending school in one of the refugee camps located along the Burma-Thai border.
[Photo: BBC]

Official enrollment rates in camp schools were high. A 2007 report by ZOA, an NGO that sponsors the Karen Education Project, found that enrollment rates within the registered 5-17 camp population reached 97.5 percent as of June 2006. However, the report noted that enrollment figures were difficult to verify, as the camp population is constantly changing, and enrollment did not necessarily translate to full attendance. It further noted that barriers remained for some groups, including special needs students, married and pregnant adolescents, ethnic groups who are minorities within their respective camps, and unregistered and unaccompanied children.¹²¹ In particular, students of non-Karen descent living in Karen camps had trouble accessing schools, which are taught in the Karen language predominantly at the primary and secondary levels and exclusively at higher level schools. Even Karen children could not always demonstrate proficiency at the written level,

owing to the junta government's policy forbidding the instruction of ethnic languages in Burmese schools.¹²²

In 2007, there was widespread shortage in funding for camp-based education. Education services in all seven Karen camps were under-funded, including school libraries, supplies, nursery schools, and special education. While funding needs for primary and secondary education in the two Karenni camps were being addressed by private donors, gaps remained in nursery education, and there was a widespread need for lighting so that students may study in the evenings.¹²³ The TBBC provided school lunches at the nursery level in most camps.¹²⁴

As noted, resettlement programs have caused a serious drain on camp education in recent years. Low stipends paid to teachers, compared to other NGO workers, also served as a disincentive for prospective teachers.¹²⁵ In 2007, only 2,467 of the 34,000 primary and secondary school students in camps (13.8 percent) passed the annual examination, known as the "border test." After including high school students, the figure was 72 percent, in contrast to the combined rate of 80 percent in 2006.¹²⁶ Students currently have little access to post-10 education, and there remains no funding in place for higher education.¹²⁷

Situation of Specific Ethnic Groups of the Refugee Population

Situation of "Burmese Muslim" Refugees

Burma's military regime does not recognize the Muslim Rohingya population as a national ethnic group, and thus denies citizenship to all members of this ethnic group. This renders Rohingyas effectively stateless, and subject to systemic discrimination. As a consequence, Rohingyas continued to flee to Bangladesh and some also to Thailand and Malaysia.

In 2007, many Rohingya journeyed to Thailand by boat from Bangladesh in the hopes of securing access to refugee services denied them by the Bangladesh government. Once they reached Thailand, however, Rohingya were subject to arrest and deportation by Thai authorities. In March, the RTG deported two groups of 67 and 58 Rohingya from Mae Sot into areas of Burma controlled by the DKBA, a pro-junta military group.¹²⁸ According to HRW, between October 2006 and April 2007 the RTG forcibly repatriated over 2,000 Rohingya despite their well-founded fears of persecution, a practice that violated Thailand's obligation of non-refoulement.¹²⁹ On 20 July 2007, Thai Army General Boonsang announced that Thailand was willing to assist in the resettlement of Rohingya refugees. The same day, Thai authorities urged a group of approximately 100 Rohingya camping out on a Mae Sot football pitch to return to Burma.¹³⁰

On 14-15 August 2007, the Thai National Human Rights Commission held a seminar with the purpose of discussing issues concerning the Rohingya refugee population. The meeting included officials from Thai immigration, police, and the National Security Council, students and professors from Thai universities, members of the International Jurist Committee, members of the stateless watch, and members of the exiled National Coalition Government of the Union of Burma (NCGUB). Representatives of the Burmese Rohingya Association in Thailand (BRAT) detailed the problems faced by Burmese ethnic Rohingya, both in Burma and abroad, and urged the Thai government to provide temporary shelter to refugees. A follow-up meeting was scheduled for March 2008.¹³¹

Situation of Karen Refugees

Thousands of Burma's ethnic Karen were forced over the Thai border in 2007 as a result of *Tatmadaw* offensives. Although the Karen National Union (KNU) signed a ceasefire agreement with the SPDC in 2003, repeated violations by the regime, including a major offensive campaign beginning in 2006 that targeted civilian populations, have effectively nullified the agreement.¹³² Throughout 2007 the military regime continued its attempt to consolidate control over parts of Karen State, with Toungoo, Papun and Nyaunglebin Districts particularly affected by the violence. Unlike previous years, the *Tatmadaw* did not withdraw during the rainy season but continued attacks in what was estimated to be the most intense offensive in over a decade.¹³³ Human Rights Watch condemned the violence and called for an end to the attacks by the *Tatmadaw* and junta-aligned armed ethnic militias, both within Burma and across the Thai-Burma border into the predominantly Karen refugee camps.¹³⁴

Situation of Karenni Refugees

According to reports, over 20,000 refugees lived in Karenni camps on the Thai-Burma border in 2007.¹³⁵ In the summer of 2007, a new wave of Karennis crossed into Thailand fleeing fresh *Tatmadaw* offensives against the Karenni National People's Party (KNPP). However, as of June 2007, more than 200 of the new camp arrivals remained unrecognized by the RTG.¹³⁶ On 2 June 2007, Thai authorities prevented 400 Karennis, who were fleeing forced relocation, from crossing into Thailand's Mae Hong Son Province.¹³⁷

In July 2007, the military regime in Burma called for the repatriation of Burmese long-necked Karennis, or Padaung, living in Thailand. During a Thai-Burma Township Border Committee meeting, SPDC authorities asked the Thai government to assist in the repatriation process. The Padaung community refused the appeal, as continuing violence between the *Tatmadaw* and the KNPP, of which the Padaung are members, threatened their security.¹³⁸ The Padaung have become a lucrative tourist attraction, and groups on both sides of the border coveted the revenues they represent. Long-necked Karenni refugees have been granted official refugee status by the UNHCR, and in the past resided in three separate holding centres in Mae Hong Son Province. Citing security reasons, the Thai government announced plans to consolidate the Padaung in one centre, the Ban Huay Pukang holding centre in Muang district, by September 2007.¹³⁹ However, some parties allege that the RTG is forcibly relocating the Padaung from the other two sites to allow tourists easier access.

Situation of Mon Refugees

Burmese ethnic Mon continue to flee Burma to escape abuses, land confiscation, and forced recruitment by the military regime. In 2007, abuses continued despite an active ceasefire agreement between Mon and *Tatmadaw* forces.¹⁴⁰ On 1 August 2007, Thai authorities forced 89 Mon refugees, including women and children, to leave Umpium camp. The group included former members of Honsawatoi Restoration Party (HRP), an ethnic resistance group that recently split from the New Mon State Party (NMSP). Refugees were concerned about their security as other refugee camps are located near areas controlled by the NMSP, which has signed a ceasefire agreement with the SPDC and do not support the HRP. The UNHCR worked with the Thai government on behalf of the Mon refugees in an attempt to secure access to the camps.¹⁴¹

Situation of Shan Refugees

According to the *2007 World Refugee Survey* approximately 200,000 Burma's ethnic Shan reside in Thailand. Although the Shan, as Burma's other ethnic minority groups, flee forced relocation and ethnic persecution by the SPDC, the Thai government has never recognized them as refugees.¹⁴² As such they have been denied the rights afforded to asylum seekers of other ethnicities. In April 2007, the *Tatmadaw* intensified its counter-insurgency efforts in Shan State,¹⁴³ however those fleeing as a result were still not recognised as eligible for protection in Thailand.

The Shan State Army – South (SSA-S) maintained four informal refugee camps in areas under their control along the Thai-Burma border. These camps were believed to provide refuge to some 5,000 individuals.¹⁴⁴ The TBBC provided support to 600 refugees in one small camp in Wieng Heng District of Chiang Mai Province. The residents of this camp, for the most part, fled fighting and the associated human rights violations near their homes in 2002.¹⁴⁵ An “unofficial” Shan refugee camp located at Doi Tailang. This camp is estimated to house as many as 15,000 Shan refugees, including an estimated 230 orphans.¹⁴⁶

17.3 Burmese Refugees in Bangladesh

The vast majority of the estimated 178,100 Burmese refugees in Bangladesh are Rohingya, a Muslim minority group predominantly residing in Burma's Arakan State.¹⁴⁷ In 2007, approximately 26,000 officially recognized Rohingya refugees lived in Nayapara and Kutupalong camps, located in the Cox's Bazaar area. Most of the remaining refugees lived along the border illegally, some in unofficial makeshift camps.¹⁴⁸ More than a quarter million Rohingyas fled Burma in 1992 to escape a campaign of ethnic cleansing of Muslims in Arakan State by the Burmese military. Since that time, tens of thousands have been forcibly repatriated to Burma, with most eventually returning to Bangladesh.¹⁴⁹ Although formal repatriation was halted on 1 March 2007, there were continued reports of Bangladeshi authorities engaging in the forced repatriation of refugees.¹⁵⁰ In addition to the Rohingya, there were also smaller numbers of Buddhist Arakanese (Rakhine) refugees recognized as POCs by the UNHCR residing mostly in Dhaka, the Chittagong Hill Tracts, and in Cox's Bazaar District.

In late 2006-2007 the military regime forced Rohingyas out of their homes to make way for a 'Muslim free' model town, the thirteenth of its kind. After the villagers learned that they had to relocate, many attempted to cross the Bangladesh border. In January 2007 it was reported that over 1,000 Rohingyas were camping on the banks of the Naff River preparing to enter Bangladesh illegally.¹⁵¹ These model villages, which were built to stimulate trade on the Burma-Bangladesh border, resulted in two outflows of refugees: the displaced Rohingyas, whose homes were destroyed to make way for the new settlement; and the Buddhist Burmese who were brought from urban areas against their will and forced to live and work in the jungles of western Burma. Unable to return to their homes without permission from the regime, model villagers occasionally crossed into Bangladesh in order to return to 'Burma proper' extra-legally.¹⁵²

In addition to inflicting violence and imposing forced labor, the military regime in Burma continued its refusal to recognize Rohingyas as a national ethnic group and denied Rohingyas the rights of citizenship and the freedom of movement, religion, and marriage.¹⁵³ Arakan State held few economic prospects, with the Army serving as the only employment option for most young people. Buddhists in Arakan State were able to move freely to other areas in Burma, and often continued on to Thailand and Malaysia to find employment. However, the regime continued to restrict the Muslim Rohingya population from travel within Burma, so they were able only flee northwest to the Burma-Bangladesh border.¹⁵⁴ (For more information, see Chapter 8: Freedom of Belief and Religion, and Chapter 10: Freedom of Assembly, Association and Movement).

Rohingya refugees in Bangladesh faced a set of challenges unique from the greater population of Burmese refugees and asylum-seekers. Rohingyas living in Bangladesh were subject to hostile or indifferent policies, varied forms of abuse, and forced repatriation by the government. Refugees caught outside of camps were subject to arrest, detention, beatings, withholding of rations, and extortion by Bangladeshi security forces.¹⁵⁵ Unrecognised Rohingyas residing outside of camps were denied the right to citizenship, documentation, employment, and marriage by the Bangladesh government. In addition, the authorities limited the UNHCR and other aid groups' access to refugee populations.¹⁵⁶ In the words of Brad Adams, Asia director of Human Rights Watch, *"the Rohingya have been caught between a hammer and an anvil for over a decade in desperate circumstance, with Bangladesh making it difficult for them to seek refuge and Burma continuing to abuse the rights of the Muslim minority in Arakan state."*¹⁵⁷

Rohingya Refugees in Nayapara and Kutupalong Refugee Camps

According to the 2007 *World Refugees Survey*, 26,200 Rohingya refugees were confined at Nayapara and Kutupalong, the only two officially recognized refugee camps for Burmese refugees.¹⁵⁸ Official policies prohibited the construction of permanent structures, restricted movement and employment outside of camps, and limited education and health services. The Bangladeshi government reported that its restrictive policies were designed to serve as a deterrent to the permanent resettlement of Rohingya refugees in Bangladesh.¹⁵⁹ However, in 2007 Bangladeshi authorities did respond to pressure from international organizations and relaxed some restrictions on refugees in camps. These included the agreement to allow limited vocational training facilities set up by NGOs, the construction of a new official camp, and the continued facilitation of resettlement, albeit in very limited numbers.

The needs of refugees in camps were administered by international aid groups, such as UNHCR and Medicins Sans Frontieres (MSF). However, the Bangladeshi government only allowed these groups to retain low levels of staff and administer limited services.¹⁶⁰ In 2007 the UN allocated an additional US\$ 1 million to Rohingya refugees in Bangladesh through the UN Refugee Agency.¹⁶¹ In November, the UNHCR distributed 25,000 mosquito nets to families in Nayapara camp, after distributing nets to families in Kutupalong in October. The project was facilitated by the Bangladesh Red Crescent Society (BDRS).¹⁶² In July 2007, the BDRS distributed utensils, also provided by the UNHCR, to families in both camps.¹⁶³ On 9 December 2007, the UNHCR floated a tender for Bangladeshi citizens to provide food items and fuel to Burmese refugees throughout 2008. The food items included eggs, biscuits, and peanuts – items not previously included in camp rations – while the non-food items included compressed rice husks and kerosene for fuel.¹⁶⁴ On 19 December 2007, a joint local-international NGO provided sacrificial meat to residents in both camps for the start of the Holy Eid- ul-Azha holiday.¹⁶⁵



Rohingya refugees in a camp in Bangladesh. [Photo: BBC]

As a result of the Bangladeshi government's policy against permanent structures in camps, flooding remained a constant concern. In April 2007, heavy winds and rain destroyed most of the housing in Nayapara camp, blowing off the plastic sheeting that served for roofing on the structures and leaving most refugees unprotected. According to a refugee in the camp, no immediate steps had been taken by NGOs or the government.¹⁶⁶

The Bangladeshi government continued to limit educational opportunities for camp residents. Authorities allowed informal education up to primary level, but there existed no opportunities for secondary or higher level education.¹⁶⁷ At the beginning of 2007, it was estimated that only 12 percent of the camp population was literate.¹⁶⁸ On 9 May 2007, the Technical Assistance Institute (TAI) held a meeting in Nayapara camp to discuss the development of camp-based education. Attendees included TAI staff, WFP staff, teacher trainers, and over 30 teachers from refugee schools. Teachers stressed the need for adequate textbooks and teaching materials, as well as an increase in teacher salaries, and teacher trainers and TAI staff discussed ways to develop education for refugee children. In 2007 Nayapara camp housed eight schools, with 45 teachers administering to over 2,500 students. Kutupalong camp also had eight schools, with 40 teachers and over 2,000 students. Subjects included Burmese, English, Mathematics, History, Geography, and Science.¹⁶⁹

In 2007 the Bangladeshi government also continued to limit access to healthcare for refugees living in camps. It was reported that children in camps had high rates of chronic and acute malnutrition, and all camp residents found securing treatment to be difficult.¹⁷⁰ Moreover, in early December 2007, several children caught pneumonia as a result of colder weather. The children were treated at the MSF clinic, and the UNHCR distributed blankets to all children under ten years of age in both Nayapara and Kutupalong camps.¹⁷¹

On 20 November 2007, a workshop on HIV prevention and family planning was organized by the Family Planning Association Bangladesh (FPAB), supported by the UNHCR. During the workshop, an FPAB doctor warned that only 17 percent of the most-at-risk groups have correct knowledge about prevention of the disease and most people have misconceptions about it. Furthermore, nearly 50 per cent of the married women and 42 percent of men in the age group 15-54 years had no idea about how to avoid HIV.¹⁷² On World AIDS Day, 1 December 2007, a workshop was held in Nayapara camp to address AIDS-related issues. The event, which was jointly organized by the UNHCR, TAI, and the government of Bangladesh, focused on HIV/AIDS prevention and encouraged de-stigmatization of the disease. According to WHO/UNAIDS estimates, there were over 13,000 total cases of HIV/AIDS in Bangladesh, although less than 1,000 were reported.¹⁷³

In July 2007, a pregnant woman from Nayapara died due to lack of proper treatment. She was taken to the Ministry of Health (MOH) clinic, run jointly by the UNHCR and the government, but waited for four hours before being treated. By the time she was seen by a doctor, her condition had become critical, and she was referred to the MSF clinic, where she died while being treated. An MSF doctor told her husband that she could have been saved, had she been admitted two hours sooner.¹⁷⁴ Following the incident, camp residents decried the Bangladesh government's policy regarding access to medical care. According to one refugee: *"If we go to MOH centre with serious patients, the doctors don't provide proper check ups and keep patients waiting for a long time without treatment. Neither do they refer serious patients to the MSF on a priority basis."* The MSF was only allowed to admit serious patients with the consent of the MOH. Both the MSF facilities and the MOH facilities remained under the control of Bangladeshi authorities.¹⁷⁵

Refugees living in Nayapara and Kutupalong camps were restricted from leaving the camps or securing employment, often forcing them to sell their rations to corrupt camp officials or outside merchants.¹⁷⁶ In January 2007, 13 refugees from Nayapara camp were arrested by Bangladeshi forest department personnel for bringing firewood back to the camp. While the World Food Programme (WFP) normally distributes monthly 40 kilograms of treated rice chaff for fuel, refugees in Nayapara had not received rice chaff for the preceding two months, prompting them to gather firewood from a nearby forest. After they were caught, the 13 refugees were detained and allegedly tortured at the forest department office.¹⁷⁷

In 2007 camp populations continued to be denied the administration of justice. Refugees living in camps continued to be subject to violence, extortion, and detention, both within and outside of the camp setting. Victims were routinely denied protection by camp officials and Bangladeshi police, and alleged perpetrators were frequently released without trial or punishment. The following case gives an idea of the dire situation. On 5 January 2007, a 23 year old refugee was beaten by camp police as he was on his way to a friend's wedding. The young man, named Noor Alam, had caught two boys throwing stones at the ceremony, and confronted them. As a patrol of camp police arrived at the scene, another youth accused the young man of being a terrorist and of traveling outside the camp. The police beat him and brought him back to their barracks, where he was tortured further. A few hours after he was released, Noor Alam lost consciousness, and died that night as a result of his injuries. The camp police involved were arrested in Teknaf that night, but reportedly 'disappeared' the next day.¹⁷⁸

In August 2007, the UNHCR held a law and order meeting in both official camps, following a request by the Bangladeshi government. The training was attended by over fifty refugees and included the Camp-in-Charge of both camps, several Nayapara camp imams, staff of UNHCR, MSF, and TAI, as well as the judge and Assistant Superintendent of Police (ASP) from Cox's Bazaar. The judge lectured on Bangladeshi law as it related to a wide range of offenses, including rape, murder, and narcotics offenses. The ASP talked about the role of the police, criteria for arrests, and requirements for those arrested. One participant told the ASF that police responding to incidents often failed to investigate properly. Officers instead arrested people at random, then asked others to confirm the guilt of the detainees. If anyone accused the detainees of engaging in criminal activity, the police arrested, tortured and initiated legal proceedings against the accused. In response, the ASP pledged to end arbitrary arrest by police forces.¹⁷⁹



A Rohingya refugee boy living at the Kutapalong refugee camp in Bangladesh washes himself before attending prayer. [Photo: AFP Photo/Jewel Samad]

Another law and order meeting was held by the UNHCR on 30 October 2007 in Nayapara camp. Members of the camp community listened as the ASP of Ukhiya police station, the Union Nirbahi Officer (UNO) of Teknaf, and the UNHCR protection officer discussed Bangladesh rules and regulations. Attendees also discussed issues concerning law and order in the camp itself.¹⁸⁰ The UNHCR organized another week-long meeting in early December in Nayapara camp on the subject of “peace education.”¹⁸¹ The discussion of law and order in camp communities, and the dialogue between camp residents and Bangladesh officials, represented an important step in the improvement of legal protection for the camp community. However, if actual conditions are to improve, such discussion must be followed by substantive changes in the actual practices of both camp and Bangladeshi law officers.

Other camp projects included the opening of a vocational training center in Nayapara camp on 16 May 2007. The center was founded by the UNHCR to provide training in tailoring to male refugees. A similar center for women was opened by the UNHCR in 1999.¹⁸²

Resettlement programmes, which began in late 2006, continued in 2007, however still on a small scale. In April, nine Rohingya refugees were resettled to Canada as part of the 23 Rohingyas that had been accepted for resettlement in 2006.¹⁸³ In November, 44 Rohingyas arrived in Canada for resettlement.¹⁸⁴ It was reported that the main reason refugees opted for resettlement, was the hope of securing further education for their children, an opportunity not available in the camps.¹⁸⁵

The Situation of Women in Camps

Sexual and gender-based violence (SGBV) remained a major problem for the camp population, and was often accompanied by glaring failures in the administration of justice. HRW also cited the abuse of refugees by Bangladeshi law enforcement personnel, including reports of sexual violence against women.¹⁸⁶ The following cases are instructive of the widespread abuse and apparent lack of justice.

On 19 February 2007, a group of Bangladeshi men tried to kill Rohingya girl after she testified in an outstanding rape case. The men attacked the girl and her family while they were on a bus leaving the court house, and were arrested by police. However, the attackers were released the next day after reportedly bribing the police, and no case was filed against them.¹⁸⁷ On 19 April 2007, a Rohingya girl from Kutupalong was gang-raped by three local Bangladeshi men, with the aide of a local woman. The woman was taken into custody by Bangladesh police, but the three men absconded.¹⁸⁸ On 19 June 2007, a woman from Nayapara camp was severely beaten by four male camp residents. She reported the incident to camp authorities, but no action was taken. The woman was admitted to the MOH clinic, but died in November after being transferred to the MSF clinic for further treatment. It was unclear if her death was directly related to the incident, however no autopsy was to be scheduled unless a case was filed.¹⁸⁹

The situation of impunity for sexual abusers was often linked with corruption. On 8 August 2007, a Rohingya woman from Kutupalong camp was raped by a Bangladeshi villager. The perpetrator owned a market near the camp, and often secured contracts for construction of camp infrastructure. As a result he had influence over both refugees and local authorities, and reportedly assaulted many other women in the camp without punishment. In this case, camp residents coming to the aid of the woman caught the man and handed him over to camp authorities, who refused to take action against him. The refugees finally appealed to the UNHCR, which moved the victim from the camp for protection and took action against the perpetrator.¹⁹⁰ On 18 August 2007, a Rohingya girl from Nayapara camp went missing, and the girl’s parents involved the Camp-in-Charge and the UNHCR. The Camp-in-Charge

transferred the case to the camp police officer, who detained two local villagers believed to be involved, only to release them hours later after allegedly accepting bribes.¹⁹¹

Women in camps were also subject to domestic violence. In May 2007, the Bangladesh Women's Parishad (Union) denounced the torture of a Rohingya woman in Kutupalong camp as a result of a '*fatawa*' (religious edict) issued against her. After the woman was caught in an adulterous situation, a group of Rohingyas allegedly issued a *fatawa* ordering a punishment of 100 lashes. However, the camp elders who dealt with the case maintained that they had not issued the order.¹⁹² In August 2007, a UNHCR training session on law and order dealt with the issue of domestic violence. Camp officials called on husbands and wives "not to quarrel" and for a general cessation of domestic violence.¹⁹³

Unofficial Rohingya Refugees

According to the *World Refugee Survey* as many as 300,000 unofficial refugees live in Bangladesh.¹⁹⁴ Since the mass repatriation of Rohingyas in 1994, access to the two official camps has been denied to new arrivals. Despite the fact that they fled Burma in order to escape a multitude of human rights abuses, the Bangladeshi government regards Rohingya from Burma as "*economic migrants*," meaning they are effectively categorised as illegal immigrants in Bangladesh. As a result of their status as illegal immigrants, they are not entitled to any humanitarian assistance. Most have settled in the Cox's Bazaar and Teknaf areas of southern Bangladesh. More than 10,000 members of the unofficial Rohingya population live in the makeshift Dum Dum Meah camp near Ukhiya, approximately six kilometres north of Teknaf.

A new wave of refugees began entering Bangladesh from Burma in October 2007. Many of these refugees were Burmese nationals fleeing persecution by the military regime following pro-democracy demonstrations in Burma. In addition, an estimated 2,000 Bangladeshi monks who had been studying in Burma were forced to return after the military regime pressured monasteries not to allow monks in residence, in retribution for the demonstrations in Burma. According to reports, NaSaKa, the SPDC border security forces, refused to assist the Bangladeshi monks reentering Bangladesh, forcing many to cross the border illegally by way of the Naff River.¹⁹⁵ It was reported that most new Burmese refugees faced difficulties finding food and accommodation on their arrival in Bangladesh. No NGOs were able or permitted to provide support to the recent arrivals, most of whom were fleeing persecution by the military regime in Burma. Moreover, the UNHCR in Dhaka had no program in place to provide assistance to new asylum seekers before they were recognized as refugees.¹⁹⁶

Rohingyas attempting to cross into Bangladesh by land were frequently arrested by Bangladesh border security forces and deported back to Burma. In 2007, the Bangladesh Rifles (BDR), a paramilitary group that operates along the border, increased its patrols in order to prevent refugees from entering the country. On 29 and 30 January 2007, BDR and police patrols arrested 25 Rohingyas trying to cross in the border areas of Teknaf.¹⁹⁷ On 2 February 2007, police arrested 16 Rohingyas in Teknaf, after they had successfully crossed the border.¹⁹⁸ On 31 July 2007, police arrested five Burmese Rohingya youths who were attempting to cross the border in Cox's Bazaar district.¹⁹⁹

Arrests of refugees by BDR and police often involved corruption and extortion. On 13 January 2007, Teknaf police arrested an unofficial Rohingya from Dum Dum Meah camp and extorted 20,000 taka from him after accusing him of being a human trafficker.²⁰⁰

At the time of the monk led protests in Burma, several monks were arrested while attempting to cross to Bangladesh: they were either Burmese monks fleeing to Bangladesh

out of fear of persecution, or Bangladeshi monks returning from study in Burmese monasteries. On 3-4 September 2007, NaSaKa forces arrested 15 student monks attempting to cross the border from Burma and handed them over to Bangladeshi security forces. The monks insisted they were Bangladeshi citizens who had been studying at a monastery in Burma.²⁰¹ Furthermore, on 2 October 2007, Bangladeshi authorities arrested 11 monks who were crossing the Burma-Bangladesh border to escape crackdowns by the junta.²⁰² On 30 October 2007, it was reported that 2 student monks successfully reached Bangladesh soil after fleeing arrest by junta authorities.²⁰³

In order to escape poor conditions in Bangladesh, many Burmese Rohingyas undertake the difficult journey to Thailand or Malaysia. In March 2007 it was estimated that over 2,000 Rohingyas had arrived in southern Thailand, many of them having journeyed from Bangladesh.²⁰⁴ In February, Bangladeshi police arrested 12 undocumented Rohingyas as they prepared to depart by boat for Malaysia, each of whom had reportedly paid 10,000 taka to a broker in Bangladesh.²⁰⁵ On 8 December 2007, more than 85 Rohingya bound for Malaysia left the Teknaf area on two boats. On 9 December 2007, Cox's Bazaar police arrested 35 Burmese nationals who entered Bangladesh illegally, also with the intent to continue on to Malaysia. Traffickers in Cox's Bazaar reportedly charge between 20,000 and 30,000 taka per person for transport.²⁰⁶

Rohingya Refugees in Dum Dum Meah

In 2007 over 10,000 Rohingya refugees resided in the "Tal," also known as Dum Dum Meah, an unofficial camp north of Teknaf, near the Burmese border. Over half of these, around 6,000 refugees, settled in Dum Dum Meah after the government evicted them from their rented homes in October 2004.²⁰⁷ Conditions in the camp are harsh, and the Bangladesh government neither offered nor allowed regular aid to the refugees living there. In the words of Jaap Broersma, the MSF head of mission, "*I have visited many refugee camps across the world, and most recently in Darfur, Sudan. But the situation here [in Dum Dum Meah] is worse than that.*"²⁰⁸ In 2007 Bangladesh authorities regularly raided the camp as part of its nationwide anti-crime campaign, and the Dhaka-based Daily Star reported that *Jama'atul Mujahideen Bangladesh*, the group responsible for 500 simultaneous bombings throughout Bangladesh in 2005, had recruited and trained Rohingyas in the past.²⁰⁹

Dum Dum Meah remained subject to frequent flooding from the Naff river in times of high tides and heavy rains. According to *Medicine Sans Frontières* (MSF), 79 percent of the shelters in Dum Dum Meah flood during the rainy season each year, while 10 percent are affected by the tides throughout the year.²¹⁰ On 11 April 2007, heavy winds and rain left the camp in knee-deep water and destroyed most of the huts.²¹¹ The MSF project coordinator noted: "*Most of the houses are made of polythene sheets and sacks. It is not sufficient to protect against rain so cold-related diseases are very common.*"²¹²

The dire conditions caused diarrhea, respiratory infections, and malnutrition in the camp population, as well as other health problems.²¹³ MSF estimated that 30 to 40 percent of children in the camp suffered from respiratory infections.²¹⁴ In the first week of December 2007, outbreaks of pneumonia and skin diseases were reported among children in Dum Dum Meah, due to unclean water and unhygienic surroundings.²¹⁵ In early 2007, MSF, which already ran a clinic near Dum Dum Meah, set up an emergency feeding centre in the camp to respond to malnutrition. In the following months, rates of child deaths in the camp fell from 30 to approximately 7 per month.²¹⁶ The president of Solfino, a French NGO active in the refugee community, noted that in the several years since MSF had been allowed to provide limited health services conditions in the camp had improved.²¹⁷

Accidents along the highway claim many lives at Dum Dum Meah, particularly among children. It is estimated that around 25 refugees have been killed in roadside accidents over the past two years. According to one father: *“If we get hit by a vehicle and suffer serious injuries or even if someone dies, the drivers just speed off. They don’t care – there’s no question of a court case or compensation.”*²¹⁸ On 21 April 2007, a five year old boy was killed by a speeding truck while trying to cross the road. The boy died on the way back to camp after he was allegedly refused service at the MSF clinic.²¹⁹ MSF routinely refers serious cases to official hospitals, as it does not have the capacity to treat critical injuries. On 7 July 2007, an adult refugee was critically injured on the same road. He was taken to the MSF clinic, which then referred him to the Cox’s Bazaar hospital due to the seriousness of his condition.²²⁰ On 5 December 2007, a three year old girl was critically injured by a minibus *en route* to Cox’s Bazaar. The girl was sent to the MSF clinic, which referred her to Teknaf, and she was finally referred to the Cox’s Bazaar hospital, where she was treated and reported to be in critical condition. According to the girl’s father, MSF had pledged to cover the cost of medical treatment.²²¹

Despite the obstacles related to assisting unofficial refugees, some NGOs found ways to provide limited services to refugees living in Dum Dum Meah camp. On 4 July 2007, Solfino distributed clothes to refugees living at Dum Dum Meah. In November 2007, Solfino also pledged an attempt to establish a school for refugee children in Dum Dum Meah.²²² A range of organisations, including the World Assembly of Muslim Youth (WAMY), the Internationale Humanitare Hilfsorganisation (IHH), the International Islamic Relief Organization (IIRO) and Hekmutul Insania distributed rations among the families of Dum Dum meah. The rations varied according to each organisation, but included largely a combination of rice, pulses, vegetables, salt, sugar and edible oil.²²³ In December 2007, the European Commission (EC) announced that it had approved 1.5 million euro in a humanitarian aid package for the unregistered Rohingyas living in Dum Dum Meah camp. The EC Commissioner for Development and Humanitarian Aid noted that: *“The situation of Rohingya refugees is continuing to deteriorate. These vulnerable people rely on international solidarity. There is an urgent need to create adequate living conditions for them.”*²²⁴

In early March 2007, the Bangladeshi government ordered the destruction of a large section of Dum Dum Meah camp in order to make room for a new highway. In compliance with the official order, the refugees demolished around 200 huts, but were given no alternative site to construct shelters. Citing the potential destruction of plantations, Bangladesh authorities refused to let them use nearby land, and instead suggested that they camp on the bank of the river. MSF sent the displaced refugees plastic sheets, water jugs, and some children’s materials.²²⁵ The UNHCR has not been allowed to assist refugees at Dum Dum Meah, except for the distribution of some plastic sheets in 2006. A UNHCR official suggested that the easiest solution *“would be to allow the Teknaf refugees just to go back to the villages where they were living peacefully with local people before 2004.”*²²⁶ UNHCR’s representative in Bangladesh condemned the government for ordering the refugees to abandon their homes without any advance warning, and called on authorities to assist in the search for new homes.²²⁷ The Bangladesh government eventually postponed the move, but gave no official news to camp residents regarding its decision.²²⁸

In August 2007, it was announced that the Bangladeshi authorities would begin construction of a new camp to accommodate refugees living in Dum Dum Meah. The new site was located on 13 acres of land near Nila village in Teknaf Township, slightly elevated from the surrounding area and therefore at a lesser risk of flooding than Dum Dum Meah.²²⁹ The move came after the UNHCR and EU had put pressure on Bangladesh to provide alternative shelter for the displaced refugees. Several foreign envoys who visited Bangladesh in 2007 had also expressed concern over the critical living situation of unofficial refugees, women and children in particular, and urged Bangladeshi authorities to relocate the refugees to a safer location.²³⁰

The European Union provided 2 million euros to fund construction of the new camp, which was planned to begin in September 2007 and be completed by the end of the year. The camp was intended to house 2,500 residents, but would reportedly have the capacity to accommodate at least 10,000 refugees.²³¹ Refugees at Dum Dum Meah expressed hope that the new camp might alleviate some of their physical constraints. However, as of December 2007 they had yet to be relocated to the new camp. Some also feared that the remote location of the new camp, and their continuing unofficial status, would leave them vulnerable and without protection from Bangladeshi security forces.²³²

Arakanese Refugees in Bangladesh

According to the *World Refugee Survey*, approximately 200 Buddhist Arakanese refugees were included in the UNHCR's urban caseload. Refugees in Dhaka recognized by the UNHCR as POCs were provided subsistence allowance, education and vocational training, and basic medical services. In addition, refugee children in urban settings had access to primary education.²³³ Beginning on 1 July 2007, the UNHCR increased its subsistence allowance to accommodate the rising cost of living. Daily allowances were increased from 90 to 120 taka per day, with head dependants receiving 15 additional taka per day. Subsistence allowances were given to refugees for six months after being granted POC status, after which time they were given a lump sum to start a small business. Urban refugees welcomed the increase, but noted that new asylum seekers had problems securing accommodation when they first arrived in Dhaka to apply for status determination. It was suggested that the UNHCR could set up shelters for new applicants.²³⁴



Rohingya refugee mother with her child in one of the refugee camps in Bangladesh.
[Photo: BBC]

Policy of the Bangladeshi Government

Bangladesh government policy remained unfavourable to refugees in general, and to Rohingya refugees in particular. Bangladesh is not a party to the 1951 Refugee Convention and does not have a legal framework through which refugees can seek and be granted protection. Moreover, there is no public funding available to refugees, and the government limits UNHCR and other international assistance to refugees residing in the two official refugee camps and to individual Arakanese refugees who have received POC status. According to Brad Adams, the Asia director of Human Rights Watch: *“The Bangladeshi government is ignoring its obligations to protect Rohingya refugees and permit international relief agencies to assist with the humanitarian needs of Rohingya refugees. This shameful situation has dragged on for many years and is now causing secondary flows to countries as far away as Thailand and Malaysia.”*²³⁵

After the government’s mid-January declaration of a state of emergency, the army was given an expanded mandate to *“cleanse society of unwanted elements”* as part of the national law and order campaign.²³⁶ In the month of January alone, Bangladesh joint forces arrested over 10,000 people across the country as part of the crackdown, including a number of registered Burmese refugees. According to a Rohingya teacher from Cox’s Bazaar, a number of false accusations had been made against innocent refugees.²³⁷

In January 2007, the Bangladeshi authorities tightened border security following a report that 1,000 Rohingyas, who had camped on the eastern shore of the Naff River since December 2006, were planning to cross the border into Bangladesh.²³⁸ Authorities denied that the border was sealed entirely, but confirmed that patrols by the paramilitary Bangladesh Rifles (BDR) had increased to prevent intrusion.²³⁹ The junta government in Burma also increased border security on the Burmese side, fearing that increased restrictions by the Bangladesh government would force Rohingyas back into Burma.²⁴⁰

On 29 March 2007, following a marriage between a Burmese Rohingya and a Bangladesh national, Cox’s Bazaar authorities held a meeting with government and security officials to discuss the issue of Rohingya refugees. Participants at the meeting characterized Rohingyas as *“being involved in robbery, theft, murder... uneducated, and of loose character”* and stressed the need to repatriate Rohingyas. It was agreed that Rohingyas caught trying to cross the border would be arrested and immediately sent back to Burma.²⁴¹ It was also decided not to issue national identity cards, provide shelter, pay Rohingyas for labour, or allow marriages between Rohingyas and Bangladeshis.²⁴² On 20 April 2007, Bangladeshi authorities announced that house owners were expected to evict all Rohingya tenants and that immigrants should not be employed as labourers. Also, rickshaw owners were prohibited from renting out rickshaws to any Burmese.²⁴³ Any Bangladeshi who failed to comply with the order was to be punished to the full extent of the law.

Throughout 2007, the Bangladeshi government worked to strengthen its relationship with the military junta in Burma. In the beginning of January 2007, the president of the Bangladesh caretaker government expressed hope that the two countries would work together to resolve the issue of repatriation of Rohingya refugees, as well as a number of trade issues.²⁴⁴ In the past, voluntary repatriation has been inhibited by the SPDC’s refusal to recognize Rohingyas as Burmese citizens, as well as the unwillingness of the Rohingya population to return under the regime’s restrictive policies.

UNHCR Disengagement and Forced Repatriation

In 2004, the UNHCR announced plans to withdraw from its role as caretaker to the refugee population in Bangladesh. However the Bangladeshi government, citing a lack of resources and capability to accommodate refugees, rejected the UNHCR's appeal for 'temporary self-reliance.' In 2007 the Bangladesh government continued to insist that the only solution to the protracted refugee situation was through voluntary repatriation to Burma.²⁴⁵ Since 2004, the number of refugees forcibly repatriated to Burma has decreased precipitously, and in 2007 there were no reports of forced repatriation of Burmese refugees already settled in Bangladesh. During a meeting with refugees in Nayapara camp in April 2007, an officer from the Refugee Relief and Repatriation Commission claimed that repatriation of Burmese refugees had been stopped for two years.²⁴⁶ However, in April 2007 local Bangladeshi authorities reiterated their commitment to deport refugees caught entering the country illegally.²⁴⁷

In its 2007 Global Appeal, the UNHCR stated that it would "*work towards the voluntary repatriation of refugees in Bangladesh and assist returnees with their initial establishment in Northern Rakhine State.*"²⁴⁸ The UNHCR continued joint programmes with Bridge Asia Japan (BAJ) in Maungdaw, Burma, to assist refugees returning to Burma from Bangladesh. Projects included the construction of tube wells, bridges, and education and vocational training centres.²⁴⁹ In April 2007, a UNHCR representative met with the Bangladeshi Foreign Advisor to discuss the bilateral resolution of the refugee situation. The Bangladeshi Foreign Ministry announced plans to hold a meeting in May 2007 with all concerned stakeholders, to discuss issues surrounding Burmese refugees.²⁵⁰

During a meeting with Cox's Bazaar officials and UNHCR personell at Nayapara camp in March 2007, Bangladesh's Food and Disaster Management Advisor stressed the need to resolve voluntary repatriation issues using bilateral talks with SPDC authorities at the top levels.²⁵¹ Following an April 2007 visit to Burma, the Bangladeshi Foreign Advisor called on the junta to launch programs, such as micro-credit lending, to encourage Rohingya refugees to return to Burma. He also stressed the importance of joint efforts by the Bangladeshi government, the military regime in Burma, and the UNHCR to facilitate voluntary repatriation.²⁵² The Foreign Advisor reiterated the need for a tripartite approach during a discussion with the visiting Burmese trade delegation in November 2007.²⁵³ Rohingya returnees to Burma continued to face junta-imposed restrictions on movement, denial of citizenship, land confiscation and forced labour.²⁵⁴ Although talks between Bangladesh and the junta regime continue, most Rohingyas in Bangladesh refuse to return to Burma voluntarily until their situation in the country improves.

Burmese Refugees in Bangladeshi Prisons

By some estimates, over 500 Burmese refugees remained in Bangladeshi prisons, many of whom had served out the entirety of their sentences.²⁵⁵ Some refugees remained in prison without any official trial or sentence. Many of the prisoners were in Cox's Bazaar and Bandarban prisons, and were denied reentry into Burma by the junta government. The Bangladesh government reportedly spends 10 million taka every year to accommodate prisoners from Burma, and other countries, who are refused repatriation.²⁵⁶ In August 2007, During a meeting on law and order, the UNHCR protection officer discussed earlier cases of arrest with Bangladesh authorities. However, the UN refugee agency continued its attempts to secure the release of Burmese prisoners, with little success.²⁵⁷

For some Burmese detainees, extended confinement in Bangladesh prisons proved fatal. In February 2007, an Arakanese man died in Cox's Bazaar jail. He had been arrested in January 2007 while trying to cross the Bangladesh border.²⁵⁸ In August 2007, a 70 year-old man from Dum Dum Meah died in Cox's Bazaar jail. He was arrested for smuggling and carrying a fake passport in January 2005, but did not receive an official trial or sentence. According to relatives, he frequently suffered from malaria, typhoid, and jaundice while in prison, but did not receive adequate medical treatment.²⁵⁹

Moreover, several Burmese prisoners refused offers of repatriation from junta officials. One Burmese man of Mon ethnicity, who remained imprisoned even though his jail term ended in December 2005, refused an offer for repatriation because he feared religious persecution by the military regime in Burma.²⁶⁰

Some refugees faced continuing harassment and imprisonment as a result of political activity in Bangladesh. In July 2007, Bangladesh police arrested a refugee from Kutupalong camp in an outstanding arms case. The man had been accused of arms-related charges in 1992, when many camp residents were involved in protests against the practice of forced repatriation. Two other men were arrested for their involvement with the man, and they were imprisoned in Cox's Bazaar jail.²⁶¹ Furthermore, a Nayapara camp resident has reportedly faced harassment since 2001, when the Bangladesh government tried to forcibly repatriate him. After he refused, an anti-repatriation case was filed against him, along with 27 other camp residents who had been on a hunger strike to protest the policy. He was arrested in March 2003, released after seven months, and then arrested again in June 2006. He was released on bail on 5 April 2007, however 9 male refugees involved in the case remained in Cox's Bazaar jail.²⁶² Another Burmese man, who was arrested in December 2005, continued being imprisoned into 2007 without an official trial or verdict, despite reportedly poor health. He was arrested in 2005 for distributing a Burmese opposition newspaper, after having submitted a letter of appeal for asylum to the UNHCR.²⁶³

17.4 Burmese Refugees in India

India is home to a large number of refugee populations, including around 100,000 Burmese refugees.²⁶⁴ In 2007, Burmese refugees in India continued to encounter a perennial struggle for survival and sustenance. With very little limited help available to them from UNHCR office, an indifferent Government and minimum participation and assistance from civil society groups, the Burmese community is faced with problems of livelihood, ill health, poverty, illiteracy etc.

Like Thailand and Bangladesh, the two other main destinations for Burmese refugees, India is not party to the 1951 Geneva Convention relating to the status of refugees and its 1967 Protocol. In addition, India has no national law for refugees, but instead deals with the refugee question under the Registration of Foreigners Act 1946 and the Citizenship Act 1955, both of which are meant to apply to foreigners who voluntarily leave their home in regular circumstances. The Foreigners Act contains broad powers of detention and makes illegal entry into the country a crime punishable by up to five years in prison, with no exception for refugees or asylum seekers. Under the Act, it gave the Government the power to force all foreigners, including refugees and asylum seekers, to “reside in a particular place” and “[impose] any restriction on [their] movements” and to persecute criminally anyone aiding or abetting their escape.²⁶⁵

However, the Indian Supreme Court has held that refugees and asylum seekers cannot be sent back to their country of origin where their life and liberty is at risk. In addition, there are few provisions in the Indian Constitution that provide protection for refugees. Article 7 provides refugees the same treatment as all aliens; Article 3 applies a policy of non-discrimination; Article 16, free access to the courts is provided; Article 21 protects life and liberty for all, including non-citizens; and according to Article 27 and 28, identity and travel cards are to be issued to refugees.²⁶⁶

In 2007, India continued dealing with refugees and asylum seekers in an adhoc manner. While the two largest groups of refugees, the Sri Lankan Tamils and Tibetans are protected directly by the Government of India (GOI), refugees from Burma were under UNHCR mandate in Delhi.

Demographics of Burmese Refugees and Asylum Seekers in India

India's four northeastern states - Mizoram, Manipur, Nagaland and Arunachal Pradesh, share more than 1,643 km border with Burma.²⁶⁷ There is a large presence of Burmese refugees in these north-eastern states and a sizeable population in Delhi. It is estimated that 70,000 – 80,000 Burmese refugees live in Mizoram,²⁶⁸ 10,000 in Manipur, 6000 in Nagaland and the Naga areas of Manipur and Arunachal Pradesh, and about 100 in Arunachal Pradesh.²⁶⁹ In Delhi, there are more than 2,200 Burmese refugees belonging to Arakan, Burman, Chin, Kachin, Kuki, Lushai and other ethnic groups. The Chin constitute about 80% of the Burmese refugee population in Delhi.²⁷⁰

In 2007, the Indian Government continued prohibiting the UNHCR to operate in the north-eastern region. Thus, the Burmese in this region are not covered under the UNHCR mandate, and since India has no refugee law, they are left at the mercy of the state governments and local people in the region.

In Delhi, out of the total Burmese population, 1,779 are recognized under UNHCR mandate. The UNHCR document has to be renewed every year at the Socio-Legal Information Centre (SLIC), one of the Implementing Partners of UNHCR.²⁷¹ Once recognized by the UNHCR,

the refugee must apply for Residential Permit (RP) at the Foreigners Regional Registration Officer (FRRO) New Delhi. This RP is renewed every six months.

The UNHCR and the Refugee Status Determination Process

Only 1,779 of the around 100,000 Burmese refugees in India are recognized under UNHCR, mandate while the remaining are either in the process of applying or rejected cases.

Since 2006, newcomers have faced several problems registering at the UNHCR office. Once registered, they have to wait for 6 months to 1 year, or even 1½ year to fill in the forms. It usually takes a further 1 to 1½ year before an interview takes place, followed by a year of waiting to know whether they have been recognized for protection or rejected. Thus, the process of securing refugee status can take up to 3 years.

In 2007, the UNHCR New Delhi office closed the registration of new asylum seekers for the months of October and November, announcing that the reason behind this measure was to clear all the pending cases. The result of the pending cases were to be declared by November. However, this did not happen. In December 2007, the UNHCR open up for registration of new arrivals since the September protests inside Burma. However, these new arrivals still had to wait 2-3 months for an interview.

Conditions of Burmese Refugees in Delhi

In 2007 the UNHCR provided 2,600 rupees (US\$ 75)²⁷² a month to newly recognized refugees, who numbered about 100 and an additional of 600 rupees for each dependant, allowing up to three dependants for the first six months. This amount is reduced to half at the end of six months and completely phased out at the end of another six months. Thus after a year of recognition, a refugee does not receive any monetary assistance from the UNHCR. Moreover, asylum seekers do not receive any monetary assistance nor could they avail any facilities from the UNHCR. Considering the amount and time-frame of the assistance, the Burmese refugees were largely left to fend for themselves in Delhi to find shelter, food and clothing.²⁷³

As the Residential Permit (RP) does not include a work permit, refugees have no option but to take up work in the informal sector, where the majority of the Indian population is employed. The informal sector is very low paid and dangerous, with competitive, exploitative and abusive work environments. (For more information, see Chapter 18: The Situation of Migrant Workers).

In 2007 UNHCR recognized refugees continued to have access to a top-up salary scheme implemented by UNHCR in 2005 as an attempt to promote self-reliance of refugees. The top-up salary scheme is supposed to assure a minimum wage of Rs 3,166 per month (US \$ 90) in accordance with the Indian Minimum Wages Act. However, this scheme is limited to UNHCR recognized refugees and only available to one member of each family. This scheme did not improve the living condition of Burmese refugees in general, since less than 5 % of the refugee population were not recognised by the UNHCR and hence could benefit from the scheme.

A new policy for the top-up salary scheme was introduced in November 2007. Under the new policy, a refugee was limited to benefit from this scheme for only a year. This meant that most of the refugees benefiting from this scheme would stop getting the top-up amount from Don Bosco Ashalayam (DBA), one of the Implementing partners of UNHCR. Most of

the refugees were receiving only about 1,000 rupees a month from their employer, and received an additional amount of around 2,166 from DBA, to make up the minimum wage. Thus, when these refugees are no longer covered by the scheme they will have to survive in Dehli on as little as 1,000 rupees a month.

In 2007, as they could not afford living in better places, many of Dehli's refugees moved to the Sitapuri area, a crowded slum-like housing locality. The refugees moved there in spite of knowing that there was no clean drinking water available and bad road connections.

About 25 % of the refugee population could not afford two meals a day, with the result that children often went to bed without food.²⁷⁴ The thrown away vegetables by vendors at the night bazaar continued to serve as a source of food for Burmese refugees. However, sometimes this food would not even be accessible; reportedly local people would urinate on the food making it impossible for the Burmese to pick it up. .

Lack of proper food and shelter has made common diseases like jaundice, diarrhea, liver and kidney problem, malnutrition, vitamin and calcium deficiencies, highly prevalent among the Burmese refugee population. In 2007, it was reported that 3 people died of diarrhea. The very basic health care services provided by the Voluntary health Association of Delhi, one of UNHCR's implementing partners) were closed down in mid 2006. As a consequence, for any health problems the refugees had to use the government hospitals – the Deen Dayal Upadhyay (DDU) Hospital or All Indian Institute of Medical Science (AIIMS), which are not easily accessible as they are located far outside. The refugees, therefore, had to resort to medical treatment from the expensive private hospitals and clinics located closer to the area where they lived. However, most of them would simply stay at home as they could not afford the cost.

Children constitute about 20 % of the UNHCR recognised refugee population. In 2007, around 10 % of these children, around 40 children, attended school. The difficult financial conditions faced by refugees, have led many of the children to drop out of school.²⁷⁵ UNHCR's policy on education is to send the refugee children to Government school, however this has proved impossible as the government schools require certain documents which the refugees could not produce. The UNHCR provides UNHCR recognised children with 2500 rupees (US\$ 71.5) per annum for primary level to class IV, and 3100 rupees (US\$ 88.5) for class VI to X, distributed through New Delhi YMCA - one of UNHCR's implementing partners. However, this amount is not enough to cover educational expenses like admission and monthly fees, books, uniforms and transportation, as private schools are expensive. It is estimated that a child needs to spend a minimum of 20,000 rupees (US \$ 572) a year on education (excluding transportation). This is a matter of deep concern as it creates problems at two levels; firstly, the children are deprived of learning, and secondly, the time spent at school is in a small, crowded room which creates a negative learning environment for the children.

In 2007, Burmese refugees in Dehli continued to face the ordeal of discrimination, molestation and harassment. Lack of preferred qualifications, skills and knowledge of local language, as well as a different physical appearance and food habits, made the Burmese more susceptible to any form of discrimination. The year 2007 recorded the highest number of cases of legal problems. Cases were either with the employer for non-payment of salary, long working hours, no leave benefits and similar; or with house owners for being thrown out of the house for not paying house rent; or sometimes just from being beaten up by local people for no apparent reasons.²⁷⁶

Since the implementation in 2006 of resettlement as a durable solution for the Burmese refugees, more than 300 Burmese refugees from Delhi have been resettled to third countries such as Australia, Canada and New Zealand.

Crackdown on Burmese Opposition Groups

A Memorandum of Understanding (MoU) was signed by India and Burma's junta in October 2004, concerned with maintaining peace along the border, as well as economic development of the border areas. However, the year 2007 witnessed tensions at the Indo-Burma border. The Indian Government has used meetings between the Foreign Minister, Union Home Secretary or Prime Minister, and the Burmese Prime Minister, to pressure the SPDC to provide "all possible assistance" to flush out Indian insurgent groups operating from its territory.²⁷⁷ In January 2007, the SPDC armed forces led a crackdown on Indian rebel groups operating in northwestern Burma, while the Government of India took similar action against resistance fighters from Burma based in India.²⁷⁸

In March 2007, India proposed fencing of the India-Burma border.²⁷⁹ This proposal came after a series of abductions, bomb blasts and killings in the border area, particularly at the Moreh-Tamu border. In March, around 400 Kukis were arrested and taken to Namunta village in Tamu Township in Burma by a group consisting of the United National Liberation Front (UNLF), Manipuri militants and Burmese soldiers.²⁸⁰ On 25 May 2007, a bomb blast at Namphalong market killed one person. This led the SPDC to sealing the Burma side of the border. Again, on 9 June 2007 in Moreh, 11 people were killed, triggering fear and sending people fleeing the border town for refuge in Burma.²⁸¹

Legal Cases Involving Burmese in India

In 2007, there were several legal cases involving Burmese in India. Some cases dated as far back as the late 1990s, and were still without a result. One such case dates back to 1999, when 9 Burmese asylum seekers were rejected by the UNHCR New Delhi office. In protest against the rejection, they staged a peaceful protest in front of the UNHCR office on 25 March 1999. They were arrested by Lodi Police and charged under section 313 of the Foreigner Section of the Indian Penal Code. They were released on bail after spending a few months in jail. However the case is still going on at the Patiala High Court, New Delhi, though presently all nine have been recognized as refugees at UHNCR New Delhi Office.²⁸²

A similar case dates back to 2003, when around 200 Burmese asylum seekers were arrested and imprisoned for protesting in front of the UNHCR office in Dehli. At the backdrop of the UNHCR's mass rejection of Burmese asylum seekers, a peaceful sit-in protest was undertaken by the asylum seekers in front of the UNHCR office on 20 October 2003. On 12 November 2003, the Indian police, responding to the UNHCR's call to disperse the protestors at any cost, resorted to the use of water cannons and lathi charge. About 200 protestors were arrested and detained at the Lodhi Road Police Station. While most of them were eventually released, 24 were charged under sections 147, 148, 149, 186, 332 and 353 of the Indian Penal Code (FIR No. 264 of 2003). They have been released on bail after spending few months in jail but the case is still going on at the Patiala High Court, New Delhi.²⁸³

Another critical ongoing case is that of 34 Burmese Freedom Fighters who were arrested in the Andaman Islands on 11 February 1998, and charged under the Foreigners Act, Arms Act and Explosive Substances Act of the Indian Penal Code. They had in 2007 been imprisoned for nearly ten years. At the time of writing, they were lodged at the Kolkata Presidency Jail. The case is very critical, as the Central Bureau of Investigation (CBI) did not file a charge sheet for over six years. The trial only began in September 2006, and after examining 6 witnesses, the presiding Judge was transferred. In September 2007, the trial came to a halt, and at the time of writing it had yet to be reopened.²⁸⁴

In March 2007, two Burmese were arrested after FRRO officials made a complaint to the police accusing the Burmese of opening a Home Ministry envelope and rewritten on the letter inside. They were charged under section 420, 468, 471 and 201 of IPC and imprisoned. Their case was acquitted with the timely intervention of Indian NGOs and Human Rights advocate. They were released in August after spending four months in jail.²⁸⁵



Due to the ongoing raids conducted by Malaysian authorities against illegal immigrants, thousands of Chin refugees discretely sequestered inside deep jungles to hide from authority detection, 2007. *[Caption and photo: hmanthlak/CRC]*

17.5 Burmese Refugees in Malaysia

According to the 2007 *World Refugee Survey*, Malaysia hosted 58,800 refugees from Burma.²⁸⁶ Of this number, approximately 27,000 were registered with the UNHCR.²⁸⁷ Among the registered population, approximately 12,600 were Rohingyas from northern Rakhine State, while various other ethnic minorities accounted for roughly 11,300 of the remaining registered refugees.²⁸⁸ Malaysia is not a signatory to either the 1951 Refugee Convention or the 1967 Protocol protecting the rights of refugees. The Malaysian government had no law or other mechanism for the registration or protection of refugees, and refugees were denied access to all public funds and services.²⁸⁹ Refugee children from Burma continued to be denied access to Malaysian schools.

Most Burmese refugees reached Malaysia overland through Thailand, although some attempted to travel by boat directly from Burma.²⁹⁰ Under the Malaysian Immigration Act, refugees are not permitted to rent or own property, hence they are compelled to live illegally, either in urban areas or in one of the hundreds of small, informal camps set up in the periphery of Malaysian society.²⁹¹ Large numbers of Burmese refugees worked illegally in restaurants, on construction sites, in rubber plantations and in factories. While Burmese workers filled an important gap in the Malaysian economy, which is often subject to labour shortages, they were not afforded job security, insurance, or protection against arrest and deportation.²⁹² (For more information, see Chapter 18: The situation of Migrant Workers). Throughout 2007 Burmese refugees, including women, children, and those holding official documentation from the UNHCR, were subject to arbitrary arrest, detention, and physical abuse at the hands of Malaysia's informal security patrols.

In early October 2007, thousands of Burmese nationals demonstrated in solidarity with the protests taking place within Burma. On 2 October 2007 nearly 2,000 Burmese in Kuala Lumpur, including Kayin, Karenni, Chin, Kachin, Mon, Shan and Arakan ethnicities, protested against the military regime in Burma.²⁹³ The demonstrators moved from the Burmese embassy in Kuala Lumpur to the Chinese and Russian diplomatic missions, handing over protest notes calling on the junta to cease its crackdown on pro-democracy protesters.²⁹⁴ On 4 October 2007, over 2,600 Burmese again protested in front of the Burmese, Chinese, and Russian embassies, calling for an end to the violence against monks, the release of detained students and political prisoners, and a move towards national reconciliation. Although the Malaysia authorities did not disrupt the protests, they allowed no more than 20 minutes for the demonstrations.²⁹⁵



Makeshift homes of Chin refugees in Malaysia. [Photo: Chato Olivas-Gallo/CSW]

Detention and Arrest of Burmese refugees in Malaysia

Throughout 2007, international organizations urged the Malaysian government to disband the *Ikatan Relawan Rakyat* (RELA). The organization, originally formed in 1972 to promote law and order, is used primarily to arrest illegal immigrants throughout Malaysia. Members of the group, who number nearly 500,000, have been granted license to search without warrant, carry firearms, and are essentially exempt from prosecution. In May 2007, Human Rights Watch condemned the Malaysian government's encouragement of the RELA, citing numerous reports that its members "*brutalize inhabitants, extort money, and confiscate cell phones, clothing, jewelry, and household goods, before handcuffing migrants and transporting them to detention camps for 'illegal immigrants.'*"²⁹⁶

The Chin Human Rights Organization (CHRO) and SUARAM, a Malaysia-based human rights organization, also called repeatedly for the dissolution of the RELA. The groups criticized the RELA's practices, which include theft, extortion, destruction of property, and assault, as well as the Malaysian government's policy of providing 80 ringgit (US\$ 25) for each undocumented migrant arrested.²⁹⁷ In March 2007, the Malaysian Bar Association also called for the government to abolish the RELA and to provide refugees and migrants the equal protection afforded them under the Malaysian Federal Constitution.²⁹⁸

Throughout 2007, the Malaysian government increased its efforts to detain irregular immigrants, often through the RELA. Thus, refugees continued to live under the constant threat of arrest, abuse and deportation by Malaysian authorities and the RELA.²⁹⁹ In late January 2007, Malaysian authorities arrested and detained approximately 45 Burmese nationals who were holding official UNHCR documentation. The UNHCR expressed concern that the arrest of documented refugees was becoming a trend, citing the detention of over 70 UNHCR card-holders during the month of January.³⁰⁰ On 28 January 2007, it was reported that Malaysian authorities had arrested 176 Burmese refugees, many holding fabricated refugee cards, who had been living in an unofficial settlement on the outskirts of Kuala Lumpur.³⁰¹ By March 2007, over 2,000 Burmese had been arrested as part of the widespread crackdown. The increased number of arrests led to overcrowding in detention centers and an overall deterioration of conditions for the detained.³⁰²

The Malaysian government continued to detain Burmese women and children despite the country being a signatory to both the United Nations Convention on the Rights of the Child and on the Convention on the Elimination of All Forms of Discrimination Against Women. According to the CHRO, Malaysian authorities kept children under one month of age in detention centres, as well as pregnant women.³⁰³ Burmese women taking their infants to be registered with the local registration department were often arrested, and then detained with their children, for not having proper documentation.³⁰⁴ On 9 November 2007, 8 women and 13 children of Chin ethnicity were arrested on their way to meet relatives in Kuala Lumpur. The refugees were hoping to be resettled to third countries along with their UNHCR-registered family. The CHRO condemned these arrests, as well as the Malaysian government's continuing detention of over 70 Chin women and children. The group called for the immediate release of all women and children held by Malaysian authorities, citing the arrests as further proof of "*Malaysia's consistent disregard for the rights and protections of Chin women and children living in Malaysia.*"³⁰⁵

According to a member of the Chin Refugee Committee in Malaysia, authorities regularly confiscated UNHCR cards from officially documented refugees. The cards were rarely returned, even if the detainees were eventually released.³⁰⁶ According to the Alliance of Chin Refugees, over 120 Burmese Chin were arrested in the first half of May 2007, including at least 30 UNHCR card-holders.³⁰⁷ On 7 May 2007, 19 Mon refugees were arrested, including an executive from the Mon Refugee Organization.³⁰⁸

Between 25 and 27 June 2007 immigration officials and the RELA arrested over 200 Burmese refugees and asylum-seekers from Chin State, including UNHCR card-holders, two pregnant women, and 36 children. Malaysian authorities released 15 refugees who were accepted in resettlement programmes, but did not announce plans to release any of the remaining detainees, many of whom were attempting to procure UNHCR refugee cards at the time of their arrest.³⁰⁹ The refugees were imprisoned at Semenyih detention centre in Kuala Lumpur, where they were allegedly kept without adequate food, clothing or accommodation, and subject to verbal and physical abuse by the guards.³¹⁰



A Chin refugee bound for detention gazes out of the immigration truck after being arrested during an raid by RELA on 25 June 2007. [Photo: Marcus Yam/AP]

On 30 July 2007, approximately 60 Burmese refugees from Chin State were arrested by the RELA. The detainees included around 20 women and children and 25 UNHCR recognized refugees. These refugees lived in a neighbourhood in Kuala Lumpur that had also been raided in June, resulting in the arrests of mostly women and young children.³¹¹

In the beginning of August, approximately 150 Burmese refugees were arrested as part of widespread crackdowns. All of the arrested refugees, who included pregnant women and children, were certified by the UNHCR.³¹² On 8 August 2007, Malaysian authorities arrested 77 of the 97 Burmese Chin that had been living at an unofficial camp in the Cameron Highlands. The refugees had earlier been forcibly relocated to the Cameron Highlands camp after the government closed down their previous camp, located near Kuala Lumpur.³¹³ On 17 August 2007, 33 Mon, Chin, and ethnic Burmese asylum-seekers were arrested, including a woman who was eight months pregnant and reportedly in poor health.³¹⁴

Malaysian Government Policy towards Refugees and Asylum Seekers

By its own admission, the government of Malaysia did not recognize refugees or asylum-seekers from Burma, or offer them assistance in any way. Undocumented refugees were subject to imprisonment and caning as part of official Malaysian policy. In February 2007, Malaysia's Minister for Home Affairs said his country was not a signatory to any agreement concerning refugees *"which means that we do not recognise UNHCR refugees."* The Minister went on to state that *"Even if the UNHCR says (most) are under their care, how can we let them all go? They (the Myanmar nationals) are still being detained and we are conducting our investigations."*³¹⁵ On 9 May 2007, Foreign Minister Syed Hamid Albar cited economic reasons for his country's outright refusal to offer assistance to refugees, claiming that *"If we recognize refugees, we could open the floodgates and encourage them to come here just to escape economic hardship in their own country."*³¹⁶

In 2004, the Malaysian government announced it would recognize Rohingyas as refugees and grant temporary stay permits. However, Rohingyas continued to be rounded up in large numbers during raids against illegal immigrants.³¹⁷ Undocumented Burmese were routinely brought to the Thai-Malaysian border for deportation to Thailand, leaving them vulnerable to traffickers and corrupt officials. Moreover, it was reported that some immigration officials sold deported refugees as workers to traffickers at the Thai-Malaysian border.³¹⁸

The UNHCR and Refugee Status Determination

In 2007, the UNHCR was solely responsible for the administration of refugees in Malaysia. The organization continued to handle all refugee status determinations, including the issuance of plastic cards to all recognized refugees. Still, as noted above, the Malaysian government and the RELA incarcerated large numbers of card-holding refugees and reportedly confiscated UNHCR cards.

The UNHCR recognized Burmese Rohingyas as a group, and performed individual status determination for all other ethnicities. However, the UNHCR's limited presence in Malaysia created difficulties in the registration process, with most asylum-seekers required to travel to Kuala Lumpur for determinations. Although the UN refugee agency conducted mobile registration exercises in some areas with high refugee concentration outside of Kuala Lumpur, these were not sufficient to meet the needs of the refugee population.³¹⁹

The UNHCR received no support from the Malaysian government, and the UN organization was frequently subject to criticism from Malaysian authorities. The Minister of Home Affairs stated in February 2007 that *"I have spoken to the Cabinet about UNHCR because they really get in our way... Malaysia, like other United Nations member countries, accepts UNHCR's presence but not their powers."*³²⁰ However, in a turnaround from previous government policy, the Malaysian Home Minister in March 2007 called on the UNHCR to set up its own camps for refugees and begin resettling them to third countries.³²¹ In April 2007, in response to increased crackdowns on undocumented migrants, the UNHCR office in Kuala Lumpur called on the government of Malaysia to refrain from treating refugees and asylum-seekers as criminals.³²² However, the Malaysian government refuted the UNHCR's criticism and continued mass arrests of undocumented refugees throughout the year.

The UNHCR was also criticized by some Burmese ethnic groups for a perceived lack of equal treatment in the status determination process. On 8 March 2007, Burmese activists gathered outside a UN refugee office in Kuala Lumpur, calling for fair treatment of refugees and asylum-seekers. The activists accused the UNHCR of discrimination, human rights abuses, bribery and extortion. They expressed frustration at the lack of progress being made by the organization, and alleged that Chin refugees received preferential treatment in the recognition process.³²³

According to data collected by the Mon Refugee Organization (MRO), 5,683 Mon asylum-seekers had registered with the MRO as of April 2007. However, only 151 had been able to gain status determination interviews with the UNHCR, only 38 held UNHCR recognition cards, and only 11 had been able to resettle to third countries.³²⁴ According to one MRO social worker, *"It is unfortunate that our plight is forgotten. We have no Mon interpreters and the UNHCR office favours other groups (Muslim and Christian) who have good connections with the officers here."*³²⁵ The UNHCR office denied the charges, claiming the agency does not deal exclusively with any particular ethnic community.³²⁶

17.6 Burmese Refugees in Other Locations

Australia

Australia has accepted more refugees for resettlement in the past few years. From 2005 to the end of 2007, Australia received 2,154 Burmese refugees from camps in Thailand.³²⁷ However, much of the news in 2007 concerned Australia's 'Pacific Solution' policy, under which migrants and refugees attempting to enter by boat are detained on outlying islands. Amnesty International Australia alleged that the policy severely restricts and in some cases prohibits asylum seekers from accessing basic needs and rights, including legal representation, education, translators, refugee advocates, adequate health care, the media, community groups, and Australian organizations.³²⁸

A group of eight Burmese, abandoned on Ashmore Reef by Indonesian traffickers in August 2006, were refused entry to Australia and detained on the island nation of Nauru. The refugees refused the Australian government's offer of a return to Malaysia, citing a fear of persecution by Malaysian authorities.³²⁹ On 18 July 2007, the Australian government agreed for the first time to consider visa applications from the asylum seekers.³³⁰ Then on 27 July 2007, in a ground-breaking decision, the government dropped its opposition to the Rohingyas' case, recognizing them as asylum seekers.³³¹

However, the Australian government again drew fire for an April 2007 agreement with the United States to trade refugees housed at Guantanamo Bay for those held on Nauru. Human Rights Watch criticized both governments, saying that "*Refugees are human beings, not products that countries can broker and trade. The United States and Australia have signed a deal that bargains with lives and flouts international law.*" Under the deal, which was announced on 18 April 2007, 90 Sri Lankan and Burmese refugees held on Nauru would be sent to the United States, and up to an additional 200 refugees could be sent each year. In return Australia agreed to take up to 200 Cuban and Haitian refugees held at the US Navy base at Guantanamo Bay, Cuba.³³²

Canada

Between 2005 and December 2007, Canada received 2,132 Burmese refugees from camps in Thailand.³³³ In 2006 Canada also began accepting groups of Rohingya refugees from Bangladesh. A group of 9 Rohingya refugees, who were part of the 23 originally accepted for resettlement in 2006, arrived in Canada in late April 2007.³³⁴ On 13 November 2007, 20 more Rohingya men, women and children arrived in Canada for resettlement.³³⁵ The fourth batch of 24 Rohingya refugees reached Canada on 24 November 2007, bringing to 66 the total number of Rohingya accepted by Canada. The newly arrived families were given training on Canadian culture by the International Organization of Migration (IOM).³³⁶

In 2006 the Canadian government resettled the first group of approximately 800 Karen refugees from camps in Thailand.³³⁷ On 9 February 2007, the Canadian Minister of Citizenship and Immigration announced plans to resettle an additional 2,000 Karen refugees over the next two years.³³⁸ Canada also hosted a number of Burmese Mon, who founded the Mon Canadian Society (MCS) to assist the Mon community in Canada and provide humanitarian assistance to needy persons in Burma. The first Mon Association in Canada was founded in Toronto during Christmas of 1995, and followed by similar groups in Ontario, British Columbia, and Alberta as more Mon refugees arrived in Canada. The majority of the Mon resettled in Canada lived in Calgary, Alberta due to the province's booming economy. A Mon Buddhist Temple and Mon Women's Organization were also formed to administer community services.³³⁹

Japan

Japan admitted few refugees, and government policy was generally unfavourable towards refugees and asylum seekers. During 2006 Japan accepted only 34 foreigners as political refugees out of 954 applications, although more than 80 percent of those accepted were from Burma.³⁴⁰ Typically, those seeking official recognition in Japan were refugees who illegally overstayed in an attempt to avoid the Japanese government's status determination process, until they were finally arrested. In support of detained refugees, local immigrant rights groups complained about overcrowding and inadequate access to healthcare at holding facilities. There were also serious concerns about the heavy-handedness of staff at the detention centres. In a UNHCR-commissioned report, Professor Meryll Dean of Britain's Oxford Brookes University, noted that the general lack of transparency in the appeals process extends to the selection of counsellors, who are appointed by the Ministry of Justice and therefore likely to be *"sympathetic to the bureaucracy and restrained in their criticism of the Ministry of Justice refugee determination procedure."*³⁴¹ However, in 2007 some gains were seen in the protection of certain political refugees, particularly through court rulings:

On 18 January 2007, a Japanese high court upheld a ruling striking down a deportation order against a Burmese Rohingya political refugee. The Nagoya High Court backed an earlier ruling against deportation that had been challenged by the state. The man, who was involved in the pro-democracy movement, fled to Japan on a fake passport in June 1992 fearing reprisals by the military regime in Burma.³⁴² The ruling was finalised on 2 February 2007, when the Justice Ministry decided not to file an appeal. However, the Japanese government did not initially grant refugee status or give assurances that he and his family would be allowed to remain in Japan permanently.³⁴³ On 9 February 2007, the Nagoya Regional Immigration Bureau granted the refugee and his wife, a Philippine national, special permission to remain in Japan.³⁴⁴ Moreover, on 1 September 2007, it was reported that the Tokyo District Court had revoked the deportation order of a 63 year-old Burmese woman. The court confirmed her refugee status, with the presiding judge noting that the woman was at high risk for political persecution by SPDC authorities on account of her pro-democracy activities.³⁴⁵

On 17 Oct 2007 eight Burmese nationals applied for refugee status in Japan, citing fear of persecution after the junta's crackdown on pro-democracy protesters. The applicants included four men working and living in Kagoya illegally, as well as three trainees dispatched by Myanmar firms, while the last was in Japan on a tourist visa. The trainees were dispatched from a firm associated with the junta, but expressed fear of persecution on their return as a result of their participation in pro-democracy demonstrations. According to a Japanese official, *"Because they are new applicants for refugee status — not family members of refugee-status holders — it will probably take a certain period of time for us to complete the investigation... Months or a year, I don't know, it depends on each case."*³⁴⁶

One Burmese national, a former resident of Nagoya, arrested in March 2006 and currently awaiting a decision at the West Japan Immigration Detention Centre, estimated that 200 to 300 Burmese lived in and around Nagoya's Aichi Prefecture, most of them illegally.³⁴⁷

The United Kingdom

Smaller numbers of Burmese refugees reside in the UK, which has accepted 136 Burmese refugees over the past three years.³⁴⁸ In September 2007, it was announced that Ireland would accept 50 Burmese refugees for resettlement from camps in Thailand. The group was to arrive in Co Mayo, Ireland, in mid-November 2007, where they would initially be housed in an orientation centre and given training to prepare them for permanent resettlement in Castlebar, Co Mayo.³⁴⁹

In November 2007, a Burmese political refugee facing deportation was granted asylum by the British Prime Minister after three previous appeals were rejected. The refugee, who lives with his family in Wakefield, West Yorks, and works as a volunteer for the Refugee Council in Leeds, responded *"I felt a lot of relief, after two years of waiting. But at the same time I felt very sad. There are still so many people in my country who fear for their lives. What about their human rights? I really thank Gordon Brown for giving me humanitarian protection, but I wish he could do more for them."*³⁵⁰

The United States

The United States resettles more Burmese refugees than any other country, and does not apply selection criteria based on level of education, professional training, or 'integration potential.'³⁵¹ From the time of its 2005 announcement of an open-ended offer to accept Burmese refugees, to December 2007, the U.S. had reportedly accepted a total of 11,737 Burmese refugees from camps in Thailand.³⁵² During the first three months of 2007, the U.S. resettled 2,681 refugees from Thailand, the vast majority of them Burmese nationals. The International Organization for Migration (IOM) was reportedly poised to resettle over 10,000 Burmese refugees from Mae La camp in the three months from June to September.³⁵³

On 28 April 2006, the U.S. Department of Homeland Security announced that it would waive the restrictions under the Patriot Act that barred entry to foreign nationals who had provided 'material support' to armed resistance groups. This policy shift removed a major barrier to the resettlement of Burmese refugees, and since the waiver thousands of Burmese were accepted to the U.S. On 23 May 2007, the first group of 31 Karen refugees to be resettled from Mae La camp left for the U.S.³⁵⁴ However, not all Burmese refugees are eligible for resettlement in the United States. Restrictions still apply to KNU combatants who have received military training, despite the U.S. Department of State's characterization of the KNU as *"the de facto civilian government of the Karen people in the areas it controlled, resisting the repression of and seeking autonomy from the Burmese regime."*³⁵⁵

In May 2007, it was reported that the U.S. government signed a waiver to exempt Chin refugees from India, Thailand and Malaysia from the provisions of the Patriot Act that had restricted resettlement in the U.S. The move was expected to increase the number of Chin refugees moving to the U.S., which already hosts over 1,000 Chin refugees.³⁵⁶ The U.S. had previously exempted members of several ethnic resistance groups in Burma, including the Karen National Union and its military arm the Karen National Liberation Army; the Chin National Front and the armed group the Chin National Army; the Chin National League for Democracy; Kayan New Land Party; Arakan Liberation Party; and the Narenni National Progressive Party.³⁵⁷

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