15. The Situation of Migrants

15.1 Background

> *"It is true that I have come to Mizoram* (India) *to earn money. My son was forcibly conscripted by the Burmese army, I have not seen him for more than two years. My husband is sick and he cannot work. I try to earn enough to feed him and my three small children, and for my husband's medical care, but each month, for many days, I am compelled to do labour for the SPDC. What alternative do I have but to come here, earn money and take it back with me to Burma? If I don't come to Mizoram, my family in Burma will not survive."* [1]

Due to a range of political, economic and social factors, the population of Burma is highly mobile, with mass migration out of Burma prevalent since the 1962 Ne Win military takeover of the country. Throughout 2006 thousands of people from Burma continued to leave their country. The ongoing exodus represents one of the largest migration flows in Southeast Asia and it is estimated that 10 percent of Burma's population has migrated to other countries. Most migration from Burma involves overland cross-border travel to neighbouring countries, including Bangladesh and India to the west, and Malaysia and Thailand to the east, with the greatest concentration of migrant workers from Burma in Thailand followed by Malaysia, with significant numbers also found in Bangladesh, India, Singapore and Japan. Accurate demographic data of migrant workers from Burma in most countries, however, is difficult to obtain as many remain undocumented and unregistered at their destinations.[2]

A whole web of systematic human rights violations such as forced relocation, forced labour, arbitrary arrest, torture, rape, and extra judicial killings carried out by the SPDC are often either the major reason or a significant contributing factor for these people to leave Burma. Even economic hardship within Burma is often the result of human rights abuses at the hands of the SPDC. As the Federation of Trade Unions- Burma (FTUB) asserts, *"Economics and politics are closely intertwined in military-run Burma, and causation for migration can be complicated."* However, the countries which surround Burma generally have very narrow definitions of who constitutes a refugee. As such many who have fled severe human rights abuses in Burma with valid claims to refugee status are categorized as economic migrants and therefore left vulnerable to involuntary repatriation and abuse. Even those registered as legal migrants are often offered little protection against abuse at the hands of the state and their employers.

Whilst SPDC policies makes legal emigration prohibitive for most, especially those from ethnic minorities, it imposes heavy punitive measures on those who leave the country illegally, criminalizing vast numbers of people who often have little alternative but to seek security and livelihood abroad.

However, in recent times the SPDC has recognized the continued large scale emigration of the population as a potentially valuable source of income, and a means to ease the burden of unemployment within the country, with the money sent home to families providing a hard currency inflow into Burma's ailing economy. As such it has made strides to regularize emigration and has established lucrative taxes for legal migrants working in many destination

countries. As a result, legal migrants in many countries including Malaysia, Singapore and Japan are faced with double taxation, from both the SPDC and their host country.

During 2006, the SPDC continued to make efforts to regularize and document those leaving the country in order that it may maximize profit from the expatriate community. Included in this strategy was the promotion and licensing of overseas employment agencies. By the end of 2006, up to 200 such agencies were reportedly operating within Burma. Cases of abuse and extortion at the hands of these agencies or associated employers are reported to be common. However, SPDC censorship prevents the reporting of such corruption.[3] In addition, the procedure remained inaccessible for most, with prohibitive costs and a lack of documentation again a particular hindrance for those from ethnic minorities. Attempts to regularize the flow of migrants from Burma into Thailand have caused grave concern that vast numbers of migrants as well as their families in Burma will be put at risk, becoming increasingly disenfranchised and vulnerable, under a system of migrant registration involving the SPDC.



Burma's neighbours' strict and often arbitrary classification of who constitutes a refugee means that the vast majority of those persons fleeing Burma are subject to deportation in circumstances which are contrary to the fundamental principle of *non-refoulment. [Photo: unknown/FTUB]*

15.2 Situation of Burmese Migrants in Thailand

The number of registered migrant workers in the Thailand by the end of 2006 was roughly 400,000, whilst the number of undocumented migrants has been estimated as anywhere between 800,000 and two million, with those from Burma accounting for approximately 80 percent of this number,[4] with many working in the illegal, unregulated labor market, and in "3-D jobs" (dangerous, dirty and difficult) that often pay well below the minimum wage. The migrant community from Burma is comprised of a myriad of ethnic groups from across all of Burma's 14 states and divisions, with the majority coming from the ethnic states which share a border with Thailand. Due to the combination of economic and humanitarian reasons prompting migration into Thailand, it is difficult to distinguish between economic migrants and asylum seekers. While many are forced to flee their homes in Burma due to continuing systematic human rights violations, migrants are also drawn across Thailand's expansive border to escape Burma's continually deteriorating economy in the hopes of benefiting from Thailand's booming economy and constant demand for cheap labour. Regardless of the motivations perpetuating the constant flow of migrants from Burma into Thailand, the Royal Thai Government (RTG) maintains a strict and sometimes arbitrary policy on classifying those arriving from Burma as illegal immigrants with many victims of direct human rights abuses refused access to refugee camps, international humanitarian aid, and subject to deportation. Neither Thailand nor Burma are signatories to the 1990 UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which provides basic human rights to those crossing international borders.

Patterns of Migration and Trafficking

The majority of migration from Burma to Thailand occurs in the absence of human traffickers, transporters or smugglers. Migrants from Burma enter Thailand through a variety of methods. Some cross the border legally with work permits and return to Burma upon expiration of their registration. Others enter at legal border crossings such as Mae Sai, Mae Sot or the Three Pagoda Pass. A 2006 FTUB study on child migrants found that the majority of migration to Thailand occurs through such legal border crossings. Burmese citizens are allowed to enter Thailand temporarily using a border pass book issued by the SPDC. On the Thai side, they receive a one-day border pass and then remain in Thailand beyond its expiration, immediately becoming illegal. Many others cross at illegal border points, swimming or wading across rivers, shipped across the Andaman Sea, or hiking long distances through mountains and jungles. Again the majority of these journeys are made either independently or with friends and relatives, rather than with the assistance of traffickers or smugglers.[5]

Thai and SPDC authorities continued to mount crack downs on migrants crossing the border throughout 2006. On 3 May 2006, it was reported that Thai authorities had been intensifying the seizure of boats ferrying Burmese migrants from southern Burma to areas in and around Ranong, Thailand.[6] In April 2006, it was reported, that the Burmese authorities had arrested hundreds of Mon, intending to cross the border into Thailand, in Kawthaung. They were reportedly detained and interrogated inside sport stadiums.[7] Such crackdowns often placed the migrants in great peril. On 2 May 2006, it was reported that up to 20 migrant workers from southern Burma had drowned after they were dumped in shallow waters by their carriers upon sighting the Thai Navy.[8] On 23 April 2006, the New Mon State Party claimed that four

Mon migrants were shot dead by Thai police whilst crossing the Thai-Burma Border River in Sangkhlaburi. Thai police disputed this, claiming only two men were killed.[9]

Whilst the majority of migration occurs independently of human smugglers, such crackdowns, along with the heavy restrictions the SPDC places on movement have meant that the use of such networks to reach Thailand is more prevalent amongst Burmese migrants than their Laotian and Cambodian counterparts. In addition, a lack the knowledge, social networks and language skills, needed to make the journey to Thailand, have led migrants to turn to such groups. When migrants from Burma do rely on these services, very rarely do they rely on one person to transport them from their source to destination and find them employment but instead rely on networks on both sides of the border. Recent studies have highlighted the informal nature of these transporting and recruitment networks, the members of which are often known to migrants and regarded as friends.[10]

The cost for the use of such networks varies widely between 100 to 40,000 baht, depending on the provider and service required, with the average cost thought to be around 5,750 baht including transportation from Burma, and recruitment into a job.[11] As an example, on 5 April 2006, over 80 Burmese Mon nationals, along with their broker were arrested near Ranong, southwest Thailand. They were each in possession of 5,000 baht; the cost of being taken to their destination in Thailand.[12]

However, most migrants from Burma who rely on these networks, lack the initial funds for the service, and therefore enter into debt contracts. The fee is generally calculated according to contingencies en route, such as bribes to local officials, and as such the contract does not generally specify how much the final fee will be. On average, it takes migrant workers six months to fully repay this debt. The debt is often passed on to the migrant's employer, who then seeks to protect their investment by restricting the worker's labour mobility. Such restrictions are in fact facilitated by Thailand's system of migrant worker registration, which ties the migrant's legal employment status to the cooperation of a particular employer.[13] (For more information see Thai Migration Policy and Legal Registration of Migrant Workers).

In other cases, migrants are 'sold', by unscrupulous traffickers and involuntarily assigned to a workplace. Such forced labour situations are unpaid and can continue for indefinite time periods. Common sites of forced labour in Thailand include fishing boats, brothels, factories and farms, with migrant workers often physically restricted to the workplace. In February 2006, it was reported that eleven Arakanese fishermen had been confined to their vessel for over three months by their employer,[14] and a study published in 2006 estimated that 19 percent of migrant workers who had used a broker to reach Thailand had been sold into situations of forced labour.[15] As the use of communication devices such as mobile phones is tightly restricted in Burma, it is difficult for duplicitous traffickers to be exposed to prospective clients by those already in Thailand.[16] However, it was reported that at least one armed non state cease fire group in Burma had been issuing insurance contracts for migrants and their brokers at border crossings. In these agreements migrants and brokers are forced to pay a fee of 150 baht and sign a contract determining the terms of their deal. The cease fire group then enforces these terms through threat of force.[17]

Once inside Thailand, many migrants remain in border areas partly because it is the first place they arrive to, but also because jobs are easy to find and a well-networked migrant community from Burma already exists. Furthermore, they face greater risk of arrest if they attempt to leave the border areas without proper documentation. In the border town of Mae

Sot, for example, there are an estimated 150,000 migrant workers employed in approximately 250 factories. It is estimated that 95 percent of factory workers in this area are from Burma. Other places of employment in Mae Sot and the surrounding Tak Province include fruit and vegetable plantations, flower farms, and informal work sectors such as the domestic service industry. Elsewhere many people from Burma, particularly from Shan State, work in the northern Thai-Burma border areas as seasonal agricultural workers. Thousands of people from Burma, mostly from Mon State, are employed in the fisheries, rubber plantations, service industries, and post-tsunami construction sites in the six southern provinces of Thailand.[18]

Nonetheless, many workers do aim to reach Bangkok and the surrounding provinces particularly Samut Sakhon, Nakhon Pathom, Nonthaburi, Pathom Thani and Samut Prakarn. These areas are perceived as easier than most to reach and move around, and pay relatively well.[19] To reach destinations beyond the border areas, migrants must frequently rely on the assistance of smugglers, including the police. In 2006, an ILO survey indicated that many migrants had paid a Thai police officer in order to get their job, with many also stating that they had paid Thai police to transport them to Bangkok.[20]

Migrants from Burma are reported to pay between 8,000 and 15,000 baht to be transported from the border to central Thailand.[21] On 26 October 2006, a lorry carrying 22 migrant workers from the Three Pagoda Pass overturned and 18 of the migrants were arrested. The driver was reported to have collected the migrants from a smuggling network and was transporting them inside Thailand for a fee of 8,000 baht.[22] As a result of these costs, Burmese migrants working in central Thailand are often heavily indebted and more vulnerable to abuse at the hands of their employers.[23] Research by the FTUB, ILO and Institute for Population and Social Research has found that young Burmese girls, moving to Bangkok in search of domestic work are frequently trafficked into households which they are then unable to leave.[24] The conditions of transport are also often extremely dangerous. In December 2006, a gasoline truck was stopped travelling from Tak Province to Bangkok with 41 Burmese migrants inside, in extremely hot conditions with a severe lack of air. Many fainted as they left the truck. On the same day, in another area of Tak Province a further truck was stopped with 79 migrants crowded aboard, again heading to Bangkok.[25]

In 2006, Thailand remained on the second tier of the United States' human trafficking monitoring system. Whilst the report stated that the RTG showed progress in convicting traffickers and providing protection for victims of trafficking, it suggested government action should focus on punishing those who engage migrants in forced labour. There was a draft proposal on the table for a comprehensive anti-trafficking law at the end of 2006, which aimed to bring the country's laws in line with the UN Anti-Trafficking protocol. However, in the absence of this legislation Thailand's laws only applied to the trafficking of women and children for sexual exploitation and failed to criminalise forced or bonded labour or trafficking involving men. Although trafficking of men is not addressed in current Thai law, the Thai police did in several cases, in 2006, refer Burmese men who were trafficking victims to protective care, rather than subject them to arrest and deportation. However, the RTG does not offer legal alternatives to the removal of foreign trafficking victims to their home country, where they may face hardship or retribution.[26] In addition, officials in Thailand are reported to be complicit in the trafficking of migrants, and Thai and Malaysian officials have been implicated in a criminal trafficking network on the border between the two countries in 2006. (For more information see Section 15.4 Burmese Migrants in Malaysia).

Meanwhile, in September 2005, the SPDC passed an Anti-Trafficking in Persons law that covers sexual exploitation, forced labour, slavery, servitude, and debt bondage. This punitive measure applies to internal and external trafficking and carries penalties of up to life imprisonment. However, the SPDC has failed to take action, against local and regional officials, primarily along the borders, who were suspected of complicity in trafficking.[27] Numerous NGOs have reported on SPDC complicity in trafficking, although it appeared limited to local or regional officials turning a blind eye to trafficking activities. NGOs also reported that individual police officials were likely involved in extorting money from economic migrants and others leaving the country.[28] Furthermore, the SPDC's anti-trafficking measures do not accurately distinguish between people smugglers and human traffickers, with both liable to the same terms of imprisonment.[29] As a result, caution should be applied when assessing SPDC claims that they have taken action against 1,638 traffickers between 17 July 2002 and 30 October 2006.[30]

Thai Migration Policy and Legal Registration of Migrant Workers

Thailand's policy towards migration has consistently prioritised economic development and national security over the protection of migrant's rights. For the past decade, policy has been drafted through a series of cabinet resolutions that reflect the attitude of the administration in office. Contradictions between these resolutions have inhibited the formation of a coherent policy on migration. Despite the large numbers of migrants living in Thailand, the country still faces a severe labour shortage in meeting growing industrial demands, prompting the RTG to frequently revise registration policies.

Thai Law defines an illegal migrant as a person without Thai citizenship who has entered the Kingdom in violation of section 12 of the Immigration Act of 1979. According to this Act, migrants found to be in the country illegally will be repatriated to their countries of origin. However, in March 1992, the Thai cabinet passed the first of a successive number of resolutions that have allowed illegal immigrants to pay a fee and apply for a work permit allowing them to work legally in Thailand. These permits limit work to specific industries in designated parts of the country. Recent registrations have included the issuance of ID cards valid for one year which entitle the migrant to access the Thai health service. Numbers of those registering have been well below the estimated numbers of migrants within the country, and in need of a constant supply of cheap migrant labour a new registration period for 2006 was announced, in December 2005.

The new registration process allowed previously registered migrants, as well as those working illegally in the country 30 days, from 1 March 2006, to remit a much increased deposit fee of between 10,000 (re-registering) and 50,000 baht (new applicants). The RTG claimed that the non refundable deposit would encourage employers to take better care of the foreign workers in their charge, enable the government to control the flow of migrants within the country and as such serve as an insurance against workers changing jobs outside of official channels, or participating in illicit activities. Harsh penalties were introduced for employers who hired illegal immigrants, and crackdowns were planned on unregistered migrants following the 30 March deadline.[31] The instruction given at the cabinet meeting in December 2005 stated that *"Human rights principles shall not be overemphasized."* in the government policy on migrant registration.[32]

NGOs working with migrants in Thailand warned that higher deposit fees would encourage employers to effectively imprison their registered workers to ensure they did not leave and

trigger a deposit forfeit. Concurrently, by investing in a work permit, there is a strong disincentive for workers to change employers, thus hindering their ability to leave abusive work environments. It was further argued that the high cost of the deposit would either lead employers to hire fewer registered workers and more illegal workers, rendering large numbers without the protection of labour laws, or else pass on costs to their workers who can ill afford it. A related concern was that newly arrived migrants would be forced to find work in unregulated industries such as the sex industry.[33] The MAP Foundation stated that *"In many ways, the registration was a form of punishment for migrants who had not re-registered (in 2005)."* The Action Network for Migrants (Thailand) sent an open letter of protest to the RTG stating:

> *"Previous registration policies have charged a fee of 3,800 baht for registration, health insurance and the work permit. Most employers have in the past deducted the registration fee from the daily wages of the migrants, confiscating their work permits as 'insurance' against the workers leaving or changing their work place for better conditions before the fee is re-paid. An additional deposit of 10,000 baht or 50,000 baht is highly likely to increase this debt bondage of migrants to the employers and increase migrants' vulnerability to situations of forced labour and severe forms of exploitation. Migrant workers will be under unreasonable pressure to work excessive hours to re-pay the employer. They will not be able to choose to leave their work or negotiate their working conditions, however exploitative or abusive they may be. This in turn will seriously impact on the physical and mental health of migrant workers."*[34]

By February and March 2006, the effects of the new registration policy were already being felt by newly arrived migrants. There were numerous reports of large numbers of Mon migrant workers arriving in Samut Sarkhun Province, fleeing economic deprivation, only to be forced to return to Burma due to the prohibitive costs of worker registration. There were further reports that those migrants returning to Mon and Karen State, particularly those crossing the border at Myawaddy faced arrest on their return. The SPDC was said to be checking photographs of suspects against the faces of those returning.[35]

When the new registration process actually began, very few employers or migrants registered. On 7 March 2006, one week into the process, it was reported that only two employers had registered their employees in Mae Sot, Tak Province. Similarly low figures were reported in other regions of the country.[36] With little compliance, and continued criticism of the registration policy, from both employers and labour rights activists, the government rescinded the requirement for large deposit fees, and reduced the cost to the previous 3,800 baht. However, NGOs claimed that many employers, fearing the fluctuating governmental policies, continued to shun the registration process. On 28 April 2006, it was reported that just 152,000 migrant workers have been registered with the Department of Employment during the year: 114,551 being Burmese.[37]

As a result, on 16 May 2006, the RTG resolved that migrant workers, who had registered in 2005, could extend their permits, due to expire on 30 June 2006, for a further year. This was on condition that they continued to work for the same employer. In order to change employer the migrant workers had to prove that either: the employer died, the employer changed or stopped his/her business, the employer abused the worker or didn't pay the worker, or that they have been the victim of unfair dismissal of forced labour. 568,878 Burmese workers completed their registration.[38]

An MoU signed between the RTG and the SPDC in 2003, still to come into force by the close of 2006, regarding co-operation in the employment of workers, states that:

> *"Employment of workers requires prior permission of the authorized agencies in the respective countries. Permission may be granted upon completion of the procedures required by the laws and regulations in the respective countries."*

The intention being to move from the current situation whereby Burmese migrants enter the country illegally and are then regularised in Thailand under ad hoc registration procedures, to the establishment of official migration schemes in which migrants obtain permits while they are in their country of origin.[39]

The delayed implementation of the MoU has been the result of disputes regarding the procedure for the verification of migrant workers nationality by the SPDC. The Thais proposed that the SPDC send its officials to Thailand for the verification process, as the Laotian and Cambodian governments agreed to do. Workers from these countries, who have undergone such a process, are eligible to work in Thailand and have access to the same social welfare benefits as Thai workers, including legal support and medical services for their children (although the welfare system does not to extend to workers in the agriculture or domestic sectors). However, the SPDC has insisted that verification centres be based on the Burmese side of the border.[40]

In June 2006, the RTG under Thaksin Shinawatra acceded to the SPDC's demands and instigated the initial phases of such a process; circulating application forms to Burmese workers in Thailand. Workers were required to fill in and return the form which requested their name, date of birth, occupation, citizenship card no, nationality, religion, blood group, address in Burma, and details of their family members. The forms were then to be returned to the SPDC who would approve the applications and summon the worker to return to Burma for completion of the verification procedure. As part of the agreement, the SPDC would issue "temporary passports" to these workers from one of three verification centres, in Tachilek, Myawaddy, and Kawthaung.[41] On 7 November 2006, the *New Light of Myanmar* reported that the three temporary passport offices had opened.[42]

There were two separate processes for obtaining a temporary passport. One for those already in possession of work permits for Thailand, and another for those with no work permits, which required applicants to be male and between the ages of 18 and 45. These applicants could only apply for a three-year temporary passport with no option to extend and were required to undergo a medical examination and present a guarantee of employment. Applicants already holding Thai work permits could apply for two-year temporary passports, with the option to extend for two additional years. When a worker's passport expired, they would be required to return to Burma and wait three years before applying again.[43]

Significantly, workers were also required to remit a monthly tax of 10 percent of their earnings to the junta whilst working in Thailand.[44] There had previously been no taxation by the SPDC of Burmese workers in Thailand. By 15 November 2006, 17,000 applications had been processed by the Burmese Ministry of Foreign Affairs, with seven applications rejected for undisclosed reasons. A further 40,000 applications were submitted in November.[45]

However, the vast majority of those who had submitted applications were from the Burman ethnic majority and were already in possession of Burmese identification cards. Despite the

fact that almost 70 per cent of the Burmese migrant workers in Thailand are non-Burmans, neither the Thai, nor the Burmese, authorities clarified how the process would affect those from ethnic minority groups.[46]

Aside from the increased financial burden of being taxed by the SPDC, there was a strong likelihood that many of these migrants would not be recognized by the SPDC under the new process, [47] and a well founded fear that migrants whose nationality was not recognised would either be sent home or become stateless.[48] There was also a serious concern that those who entered the process would be subject to abuse, extortion, or arrest, when returning to Burma in order to complete the verification process.[49] Not only would the process likely discriminate against ethnic minorities but it would almost certainly favour those supportive of the regime. It has been suggested that the procedure will enable the junta, to dispatch their own members and affiliates to work in Thailand, especially those related to the junta aligned Union Solidarity and Development Association.[50]

Migrants were also fearful that they may endanger their families back in Burma, subjecting them to harassment or excessive taxes, as a result of information provided in the application forms. This fear was fuelled by news from migrants' families inside Burma that, as early as August 2006, Village and Township Peace and Development Councils, in Mon and Karen State, were going house to house taking details of missing persons and requiring families to hang a photograph outside their house of all family members in order to tally who had migrated. Many migrants believed that the Burmese authorities planned to collect taxes from their families.[51] On 13 September 2006, it was reported that families in Mudon Township had to pay to register the names of relatives working in Thailand. Residents were also asked how much their family members earned in Thailand. Whilst some families complied with the order, others refused, despite being informed that their relatives would be arrested upon return if unregistered.[52]

Similarly, many Burmese migrant workers in Thailand refused to fill in their application papers which were required to be completed by 29 September 2006. Only 4,000 workers, out of roughly 100,000 in Chiang Mai, where the majority of migrants are ethnic Shan, had submitted applications by 7 November 2006.[53] As employers in Thailand were pressuring workers to fill in the forms in order that they comply with Thai regulations, many other workers simply provided false information.[54]

Since the military coup in Thailand on 19 September 2006, the enactment of the MoU has again been placed on hold by the incumbent administration. It was reported that senior RTG officials in the new administration had expressed serious concerns about the process, and at a December 2006 policy meeting on foreign labour it was reported that the issue remained unresolved and still open to debate.[55]

Despite a lack of agreement with the Thai administration, the SPDC attempted to unilaterally forge ahead with the process. On 28 September 2006, SPDC LIB #548 organised a meeting with village heads in Dt'Nay Hsah Township, Pa'an District, stating *"The villagers whose children have gone to Bangkok must return to their village and register their names. Everybody must come back without fail. Tell your children who work in Bangkok to come back and get travel documents."* The cost of registration was set at 500 kyat, with requisite travel documents costing a further 100,000 kyat.[56] There is a continuing fear that family members will be punished and fined for their non compliance, even in the absence of agreement with the RTG.

The Thai Cabinet resolution of December 2005, mentioned above, also included a plan to relocate migrant workers from Bangkok and the inner provinces of Thailand to the border areas. The proposal caused concern that the border areas would become overcrowded, forcing down migrant salaries below the already minimal 70 to 80 baht; the estimated average daily wage for migrant workers in Mae Sot in 2006. The RTG asserted that the scheme to relocate migrant workers was just an idea and by the close of 2006 it had not yet become policy.[57] The proposal is in fact part of a wider plan to relocate industries that attract migrants to the border provinces in order to, *"enhance national security, public health, lives and assets security,"* in that migrants would be easier to control and deport in the future. The strategy, which aims to make Bangkok migrant free, includes the establishment of Thai owned factories and industrial zones on the Burmese side of the border and economic incentives for employers to relocate to Thai Provinces bordering Burma.[58]

Working Conditions and Labour Law

In 2006, Burmese migrant workers formed an integral part of the Thai economy, with demand for cheap labour exceeding supply. Migrants from Burma were predominately employed in the agriculture, fishing and manufacturing sectors, with significant numbers also employed as domestic workers. However, Burmese migrant workers frequently suffered abuse at the hands of their employers including excessive working hours without holiday entitlements, underpayment, withholding of pay, violence, and restrictions on their freedom of movement- often being effectively imprisoned. Many found themselves in situations which amounted to forced and bonded labour. Thai Labour laws and policies on registration have confounded the issue for this vulnerable group, as have corrupt officials.[59] With the alternative being deportation, these workers often accept high levels of exploitation, and are prevented from forming Trade Unions in any case.[60]

As a result, most migrants are at the mercy of their employers who frequently pay below Thai minimum wage. In 2006, migrant workers in Mae Sot generally earned 70 to 80 baht a day, well below the minimum wage requirement of 139 baht.[61] Whilst migrant workers often receive food and board as part of their pay, such in-kind payments are rarely assigned a specific monetary value and, under Thai law, should be regarded as additional to, rather than a substitute for, cash payments. Whilst those in the fishing and manufacturing sectors are generally better paid than those working in the domestic or agriculture sectors, they still only receive about 60% of the minimum wage they are entitled to, once the number of hours worked, overtime and lack of days off are taken into consideration.[62]

A joint study conducted by the ILO and Mahidol University published in 2006 found that almost half of all workers in fishing experienced delayed payment and 40% of fishing industry workers had pay deducted for 'mistakes' made such as taking a day off (even when ill), damaging stock or equipment or being late to work. In manufacturing, 25% of workers faced delayed payment and 15% had to pay for mistakes made. One 18 year old Karen migrant stated, "*When I make mistakes, the employer forces me to pay for the trousers at 180 baht each. Some people make 10 mistakes so that's 1,800 baht. Some of the trousers are so cheap they only sell for 50 baht"*.[63] Often employers simply refuse to pay their migrant workforce. For instance, on 10 January 2006, it was reported that roughly 50 unregistered Burmese construction workers in Phang Nga Province, southern Thailand, were arbitrarily refused wages for the previous two months employment, and lacked the legal status to do anything about it.[64]

The ILO study found excessive work hours to be common, with, particularly, those in the domestic sector (82 percent of respondents), but also significant numbers in other sectors working over 12 hours a day. Further, rest periods and holidays, a human right enshrined in the UNHCR, were regularly denied to migrant workers. It was found that a significant number of migrant workers in all sectors had no regular day off per month. If permitted, days off were generally unpaid, with 'fines' sometimes deducted from wages, meaning most migrants were reluctant to do so, even when allowed.[65]

High levels of physical abuse at the hands of employers was also reported with between 7-9 percent of workers in fishing, manufacturing and domestic work claiming to have been victims of such violence.[66] On 15 October 2006, 200 migrant workers demonstrated in response to such employer abuse at the BB Top Co Ltd. (a.k.a. Wool Co. Ltd.) Their manager had assaulted two female employees, and threatened to kill them. His actions came in response to the fact that the two girls; Ma Gyi Gyi Thein and Ma Hnin Aye Thin, arrived to work an hour late on the 7 October 2006, after having to avoid police checkpoints. The response by the workers was met with the factory owners simply taking steps to pack up production and move site, prospectively leaving the entire workforce unemployed.[67]

Many employers arrange accommodation for their migrant workforce, invariably at the place of work. Those living on-site frequently have restrictions placed on their movement. For example, the majority of domestic workers are not allowed by their employer to leave the house, to meet with others, or to accept visitors. Many were prohibited from even communicating with others, with one third of domestic migrant workers surveyed by the ILO not permitted to send or receive mail. A small number of migrants working in fishing, agriculture and manufacturing also stated that their employer did not allow them to go out. A larger number asserted that they could not go out due to fear of arrest, either because they were unregistered or because their documents were being withheld by their employers.[68] Whilst Section 18 of the Working of Aliens Act, 1978, states that registered migrants are required to personally retain their original work permit, more than one third of registered migrants across all sectors surveyed by the ILO stated they did not hold their original documents.[69] As employers generally make the initial payment for the registration of migrants, there is a clear motivation for them to protect their financial investment through tightly controlling the mobility of their workforce.

The research found that whilst unregistered workers suffered worse working conditions, worked longer hours and lacked freedom of mobility when compared with registered workers, the fact that many registered workers did not hold their own identity documents meant that a significant number remained vulnerable to deportation, extortion and harassment at the hands of the authorities if outside their place of work.[70] The prevalence of this practice meant that employers were able to circumvent the protection offered by the registration process and ensure that their workforce remained disenfranchised, thus easier to control and exploit. It also made access to the health care, that registered migrants should be entitled to, much more difficult to obtain.[71]

Such conditions of employment for Burmese migrants in Thailand have meant that many find themselves in situations which qualify as forced and bonded labour. Under ILO Convention No. 29 on Forced Labour, the key aspects of forced labour are defined as *'lack of consent'* and *'menace of penalty'*. Both the ILO/Mahidol study and a report by the FTUB found that the levels of violence, constraints to leave, restricted freedom of movement, lack of access to

ID documents, excessive work hours and insufficient time to rest, particularly in the fishing and domestic sectors, frequently satisfied these requirements.[72]

The migrant registration policy can be seen to reinforce notions of ownership in the relationship between the employer and migrant worker, with a significant majority of employers, surveyed by the ILO, asserting their belief that migrants are not entitled under Thai law to leave work premises outside of work hours, without permission.[73]

Other aspects of Thai Labour Laws and policies also play a significant role in how employers treat migrant workers. Most of the protection provided by the Labour Protection Act 1998 does not apply to workers in the agriculture or domestic sector, nor does it cover those working on fishing boats, whether they are migrants or Thai nationals. As such workers in these sectors are particularly vulnerable to unscrupulous employers. Furthermore, the fundamental right to organise trade unions is tightly circumscribed for migrant workers in Thailand. Thailand has failed to ratify the Freedom of Association and Protection of the Right to Organise Convention, 1948, the Right to Organise and Collective Bargaining Convention, 1949 and Convention 111, on Discrimination. However, the ILO Fundamental Declaration of Rights and Principles requires all ILO members to uphold the core conventions regardless of ratification status. In addition, freedom of association and the right to form and join trade unions are enshrined within the UDHR, the ICCPR and the ICESCR, all of which Thailand has ratified.[74]

Whilst the right to form trade unions was enshrined in the 1997 Thai Constitution for all persons without discrimination, the constitution was repealed following the military coup on 19 September 2006. Regardless, constitutional rights in Thailand can only be enforced where there is an organic law to implement them, with no legal right of appeal to rights guaranteed under the constitution. The functioning domestic law regarding this issue is in fact found in Article 87 of the 1975 Labour Relations Act (LRA) which requires that ten persons out of those who apply to register a union must be Thai nationals. Whilst a non-Thai can be a member of a union, Article 100 of the LRA states that all elected union committee members must be Thai nationals from birth.[75]

Although migrant workers can in theory legally join Thai Unions, there are significant obstacles to such a practice in reality. Including:

- Areas with high numbers of migrant workers have few or no trade unions.
- Only a minority of migrant workers speak Thai or English, and few Thai union leaders speak English or Burmese well.
- There are cultural barriers between Thais and Burmese.
- Migrants' precarious legal status and the constant threat of deportation, means that Thai unions tend to shun Burmese workers wishing to enrol.
- Thai unions are constrained by a lack of resources.
- Migrant workers have a lack of knowledge and information regarding the role of trade unions, particularly as they come from a country where no unions exist.

- Employers have often been reluctant to renew an employee's work permit if they are known to be a member of a union.[76]

Recently, positive steps have been made in bridging the gap between unions and migrant workers, but significant obstacles remain. On 22 October 2006, disparate worker organisations came together at the Convention of Global Solidarity organised by the Thai Action Committee for Democracy. At the convention, Thai worker organisations agreed with their Burmese counterparts to work towards the establishment of a united worker's union to better protect the rights of workers. *"We need to build a strong labour union, instead of fighting alone. We must organize ourselves. Currently our strength is being used by business men for huge profits,"* said the secretary of the Songsirm Thai Textile Labour Union who attended the conference.[77] Following on from the Convention, 20 organizations signed on to support the principles laid down as a result of the discussions, and agreed to work towards securing the right of migrant workers to form unions. The group submitted its proposals, to Thai interim Prime Minister Surayud Chulanont, which included calls for an unlimited time period for migrant registration and greater opportunity to access the justice system through the provision of language assistance and information.[78]

It is likely that future attempts to unionise will be met with great resistance from employers and employers' associations who assert significant influence over the RTG. The influence of these employer associations and the ineffectuality of Thailand's Labour Protection Office (LPO) have greatly contributed to the inability of registered workers to ensure even their most basic rights.[79] The LPO is charged with ensuring adherence to Thai labour laws. As such it has the mandate to arbitrate in disputes between employees and employers. However, criticism persisted throughout 2006 over the LPO's perceived ambivalence to violations of labour rights and bias toward the interests of employers. Many commentators cite the close relationship between the LPO and employer organizations such as the Federation of Thai Industries (FTI) as the reason for the Office's failure to adequately respond to violations of labour law.[80]

The FTI, for its part, actively seeks to constrain the actions of workers, maintain low wages, and limit union power. If workers' organising activities are discovered, leaders are often blacklisted, and find it difficult to work in the area again. The FTI has managed to garner much support in the media for its policies, as its members are largely in control of the local economy and media. The prevalent employer practice of intimidating and sacking workers who stand up for their rights is, as such, frequently allowed to go unchecked.[81]

Despite the vulnerability of migrant workers, and their restricted rights to association, there were numerous incidents of worker's organising to demand fair treatment throughout 2006. On 7 April 2006, in Mae Sot, Thailand, 200 Burmese workers marched through the town in order to demonstrate against the fact their employer was withholding pay, as well as housing and food allowances. The dispute dated back to January 2006 when the workers, from GS Art Knitting factory, had asked their employer for deductions in meal costs and living expenses and compensation for wrongful dismissal. The owners had refused to meet their demands and dismissed 43 employees. Following the march, five workers were allowed to meet with immigration and labour officials. The officials agreed to arbitrate in the dispute on 20 April 2006.[82] As a result of these negotiations, their employer agreed to the majority of the worker's demands.[83]

However, in the same month, on 18 April 2006, over 100 Burmese workers from the Chit Tun garment factory, Mae Sot, were repatriated to Myawaddy, Burma. Following an appeal to the LPO by these workers, asking for increased salary, regular payment, fresh food and one day off a week, Thai immigration officials visited their factory, in order to check the worker's ID and work permits. Eight workers were arrested as their permits had expired. Over a hundred other workers who were unhappy with these arrests were subsequently arrested. Whilst the LPO had agreed to negotiate with the workers, and set a date for 5 May 2006, the arrests and subsequent deportation prevented this meeting ever taking place.[84] Similarly, on 19 July 2006, workers from the NC knitting factory, Mae Sot, held a demonstration to demand their rights. The following day, police rounded up around 700 workers; 300 from the NC factory, with another 200 from Red One knitting factory, and about 200 from the Han Thai factory. Many of those arrested were in fact in possession of identity documents. Those with documents were later released whilst those without were deported.[85] In October 2006, 42 workers from the Progress Ceramic Co Ltd also demanded their rights, and as a result were removed from their posts.[86]

Whilst registered migrant workers do have recourse to the Thai legal system, this system is problematic even for Thai workers. As a result, two NGOs in particular, the Migrant Assistance Program (MAP) Foundation and the Yaung Chi Oo Workers' Association (YCOWA), have made strides to educate migrant workers about their labour rights and best procedure for obtaining them. Furthermore, they have provided assistance and translation services to those migrant workers who wish to take their case through the courts. In 2006, the MAP Foundation, frequently in conjunction with YCOWA, facilitated the successful labour cases of 298 workers for a total compensation of 1,242,038 baht, in the Mae Sot District alone. Such success in the courts has not only empowered more migrant workers to pursue their rights but has additionally had the knock on effect of increasing the responsiveness of employers to their demands, prior to disputes being taken to arbitration or trial. However, as a result of their work, the staff at these NGOs have faced numerous forms of harassment and intimidation over the past few years, ranging from the posting of their photos in factories and forbidding workers to associate with them through to arrest.[87]

Migrant Health

To a large degree, the health status of migrants in Thailand is influenced by the health conditions they face in their home country. Burma has a low GDP, and very limited spending on health services. The AIDS epidemic in Burma and the lack of information about methods of prevention for this and other diseases within the country is a major contributing factor to their prevalence within migrant communities. (For more information see Chapter 9 Health and Education) Migrants' health is also affected by the fact that they often travel through jungle areas, with high exposure to contagious diseases, such as drug-resistant strains of malaria, when attempting to enter Thailand. However, the working and living conditions migrants endure in Thailand also have a large influence on their mental and physical condition. In addition, their tenuous legal status, or lack thereof, and further barriers limiting access to health services, information, and legal mechanisms, means that migrants endure poor working and living conditions without being able to receive full or proper treatment for the health conditions which they endure.

As the RTG perceives the health of migrants to be a threat to the health of the general population, one of the leading aims of the registration process is to combat this threat. As such the registration process includes health checks whereby migrants are screened for seven

'excludable' diseases. Migrants are then deported if they are found to have physical deformations or weakness as a result of elephantiasis or leprosy, advanced TB or Syphilis, illegal drug addiction, psychological disorder or mental illness. Those suffering from TB, elephantiasis, syphilis and leprosy in the early stages of the disease are allowed to stay for treatment. Migrant workers are also required to pay 1,300 baht for health insurance. Once this has been paid they are included in Thailand's Universal Coverage System which provides treatment for the majority of health problems under a flat fee of 30 baht per service[88] (In one instance, a female migrant covered under this scheme who gave birth in a Thai hospital was given a large bill at the end of her stay due to the fact that her newborn baby did not yet have coverage). The dependants of migrant workers are not required to take out health insurance and due to the initial cost, many eschew the process. Furthermore, at the close of 2006 it was estimated that around one million unregistered migrants lived in Thailand without undergoing any formal health checks.[89]

Notably, migrants are not screened for HIV/AIDS during the registration process given Thailand's adherence to international standards regarding mandatory HIV testing. Whilst there is a lack of data on the actual prevalence of HIV/AIDS amongst Burmese migrants in Thailand, it is known that the disease is more prevalent amongst this community than in the population at large. What figures there are indicate that HIV/AIDS is prevalent in those areas of Thailand which border Burma, and are home to large migrant communities.[90] Ranong has been identified as an area of particular concern, with high rates of infection amongst those migrants employed in the fishing and sex industries.[91] Whilst there are identifiable strains of HIV/AIDS spreading from Burma to Thailand, UNAIDS asserted, in 2004, that globally many migrants in fact move from low HIV prevalence areas to those with higher prevalence rates, increasing their own risk of exposure to the virus.[92] Such an assessment is likely applicable to those migrants coming from rural areas in Mon State to Ranong; as an example.

Conditions of employment for migrant sex workers are known to be more precarious than those of their Thai colleagues. Migrant sex workers in Thailand tend to work in massage parlours and brothels rather than Karaoke and Go-Go bars. In such workplaces, not only do employers often impose tight restrictions on their freedom of movement, but these workers are often unregistered and unable to speak any Thai, and as a result very rarely leave their place of work. This renders them out of the reach of information, services and treatment concerned with reproductive health. In areas where NGOs are actively working with migrant sex workers, access to health services has been increased considerably in recent years. However, coverage is limited to specific areas, and employers are often reluctant to allow NGOs access to their employees. Their lack of legal status also means that employers are often able to demand their workers go with higher numbers of customers and limit their opportunity to reject customers. In 2006, the Open Society Institute discerned a correlation between such practices and the fact that undocumented migrant sex workers were found to have an HIV infection rate of 10.9 percent, in comparison to 3.7 percent for Thai and documented sex workers.[93]

Burmese migrants also make up a large proportion of male sex workers in Thailand. Phongthorn Chanlearn, of Mplus+, an organization which runs clinics for male sex workers, has estimated that men from Shan, Kachin and Karen States in Burma account for up to 80 percent of Thailand's male sex workers. He cites a lack of identity documents as a push factor for taking up the role. Whilst bar owners will often refuse to hire those under 18 years of age, this can often expose them to greater risks as they work independently on the streets.

Clients reportedly often offer larger amounts of money for unprotected sex as opposed to protected sex.[94]

Access to condoms is obviously an important requirement in combating the prevalence of HIV/AIDS in the migrant community. Following a long running and somewhat successful public health campaign regarding the threats of HIV/AIDS in Thailand, the RTG has recently stepped back efforts in this area. In 2005 it stopped the issuance of free condoms completely. In the place of this policy, the government was to supply cheap condoms via government condom vending machines. However, by February 2006 not one of these machines had been installed. In their absence, the cost of condoms was equivalent to over half a migrant's average daily wage.[95] Whilst, sex worker organizations distribute condoms as part of their work, their reach is limited both in terms of numbers and geography.[96] Further, sex workers' can lack access to condoms due to the fact that their employers do not want any incriminating evidence of their activities on the premises. Language barriers negate their ability to learn about condoms or negotiate condom use with clients. This ability to negotiate is often non existent anyhow in situations of forced labour. The use of condoms can also become extremely uncomfortable for the sex worker in situations where they are required to take many clients in one day.[97] Lubricants have never been distributed by the RTG.[98]

Not only access to condoms but education and access to information are crucial in combating the spread of HIV/AIDS. Migrants from Burma often arrive in Thailand lacking any real information on the dangers of, and means to prevent, infection from sexually transmitted diseases. The SPDC has been unwilling to engage in any large-scale education campaigns and references to condoms are still heavily restricted in the Burmese media. As sex remains a taboo subject in many parts of Burma, migrant workers continue to be placed, or place themselves, into high HIV risk situations without the background knowledge or education to protect themselves from such risks.[99]

By 2006, a growing number of migrants were becoming educated about HIV/AIDS. However, misconceptions were still common, as was inconsistent condom use. Feelings that condoms are uncomfortable or unnatural were particularly prominent among Mon men, and fishermen from Burma have been known to base the decision over whether to use a condom on the belief that a sex worker's HIV status can be determined by the temperature or color of her skin.[100] A 2006 survey amongst migrant workers in Chiang Mai found that whilst most respondents were able to correctly identify routes of HIV transmission, misconceptions about the disease remained common and stigma against those with HIV was high. It concluded that mainstream HIV prevention programmes in Thailand have poor penetration among Shan migrant communities, largely due to language barriers.[101] The RTG for its part has made only limited attempts to include its migrant population in prevention initiatives.[102] In the coastal areas of southern Thailand, local authorities actually refused Medicines Sans Frontieres (MSF) permission to use local community radio to broadcast Burmese-language programmes about how HIV is transmitted and how to protect against it. They claimed broadcasting programmes in a foreign language constituted a *"national security threat."*[103]

In addition to a lack of access to information, HIV/AIDS in the migrant community is perpetuated by a lack of access to healthcare. STI treatment is a major part of HIV prevention and STI levels provide early warning of the spread of HIV. In the past public health STI clinics provided sexual health care to women employed in the sex industry including undocumented migrants. However, in 2005 and 2006, these clinics were closed nationwide, with the RTG asserting STI services at public hospitals were sufficient, despite the fact that

they are inaccessible to undocumented migrants.[104] Furthermore, Anti Retro-Viral (ARV) treatment at subsidised cost is not available to migrants, making ARVs prohibitively expensive. The Thai authorities argue that Burmese migrants are too transient for it to be worth initiating a course of treatment. Those working for migrants health rights have argued that migrants are no more transient that their Thai working class counterparts who are engaged in seasonal work. According to Suskri Saneha, of MSF, local health workers frequently urged migrant workers found to be infected with HIV, whether registered or not, to return to Burma.[105] ARV for prevention of mother to child transmission is available to migrants. However, once the child is delivered, neither the migrant mother nor their children continue to be eligible for subsidised ARV treatment.[106]

In 2006, ninety five percent of those suffering from malaria in Thailand were found in the country's border regions, with the highest rates and most drug resistant strains found on the border with Burma. Malaria was most widespread in Mae Sot, Mae Ramat, Tha Song Yang, Phop Phra and Umphang, areas where large numbers of Burmese migrant workers are found.[107] These migrants are often exposed to the disease when crossing the border to Thailand, through jungle routes in order to avoid border officials. The risk was compounded in 2006 due to the continuing high numbers of migrants crossing to Thailand and the early onset of the rainy season.[108] A lack of health education and limited access to healthcare means that Burmese migrants who contract malaria often try to self-treat the disease, and only seek treatment at a later date if the symptoms have increased in severity.[109] TB is also prevalent amongst the Burmese migrant community in Thailand. Figures released in 2006 found that 33 percent of TB cases in Thailand were in the border regions, and estimates from the government's health exam in 2004 suggested that over nine percent of those migrants tested may have had TB. Frequently TB is a symptom of HIV, with between 17 and 55 percent of those migrants in Thailand found to have TB also having HIV in 2006.[110] Treatment for migrants with TB is made difficult by their long working hours, high mobility and lack of documentation.

Whilst factors from their source country, Burma, as well as the journey these migrants make, to reach Thailand, play a large role in high incidence rates of disease amongst Burmese migrants, conditions within Thailand are also a significant contributing factor. Burmese migrants are often employed in occupations that are dirty, difficult and dangerous, with employers who show little concern for occupational safety. The Raks Foundation has asserted that health conditions arising from environmental factors associated with the work place are common amongst Burmese migrants, with fatigue widespread. The accommodation employers provide for their migrant workforce is commonly overcrowded and unsanitary, lacking ventilation and clean water; the conditions in which workers live often leaving them exposed to infection from mosquitoes, and harsh weather conditions.[111] Research on Shan migrants, working in Chiang Mai in 2006, supported such an analysis. The study found that an increasing number of these workers faced health problems from environmental contaminants at their workplace and long working hours. Shan migrants who worked on orange plantations exhibited increased levels of contaminants in their blood as well as skin diseases from chemicals used on the crops. Despite advice from NGOs working on the issue to take breaks from their jobs, workers refused as their families depended on their income, and employers would not tolerate days off. Long working hours with few days off posed their own significant health risk, as such conditions can lead to long-term mental and physical illnesses.[112]

Employment factors also contributed to the exacerbation of reproductive health issues within the female migrant community. Pregnancy remained grounds for dismissal by many employers in 2006. In addition, pregnant migrant workers are generally not offered maternity leave and breast-feeding is often forbidden during work hours.[113] A report published by the Open Society Institute and Melbourne University in December 2005 found the need to retain their jobs for the simple issue of survival led many female migrant workers in Thailand to terminate their pregnancies.[114] The illegality of abortion in both Thailand and Burma forces migrant workers to seek assistance outside formal channels, often to the detriment of their physical and mental wellbeing. Key findings from the research on the Thai-Burma border were that:

- At least a quarter of women with post-abortion complications have had self-induced abortions.
- A third of the women interviewed had five or more pregnancies, which is a health risk in itself.
- Most women and lay midwives classified menstrual regulation and abortion as traditional methods of fertility control.
- Unqualified abortionists and home remedies are the only practical recourse women have to end an unwanted pregnancy.
- Women used a wide variety of methods to end their pregnancy, including self-medication with Western and Burmese medicines, drinking ginger and whisky, vigorous pelvic pummelling and insertion of objects into the sex organs.
- The Thai Ministry of Health has recorded the abortion rate among migrants as 2.4 times higher than that of Thai women

It was also noted that the women interviewed had little to no education and nearly 25 percent could not read or write, making alternatives to written information on reproductive health a necessity. In Thai hospitals, however, women requiring medical care following serious abortion complications *"are discharged without education, counselling or contraceptive supplies."*[115] In Burma, it is estimated that only 28 percent of fertile-age women use a modern method of contraception, compared to 72 percent of Thai women in Thailand. In Thailand, the scenario for Burmese migrants is much the same, with most migrant women unable to access reproductive healthcare, information on sexually transmitted diseases or contraceptives.[116]

The inaccessibility of reproductive health services is indicative of a larger problem. Even those migrants registered and in possession of health insurance face significant barriers to actually benefiting from this cover. Research conducted into Shan Migrants in Chiang Mai Province found that language was a large impediment to receiving adequate health care. Not only are many migrants unable to ask for help, but it is difficult for hospital staff to keep medical records "*because we don't understand their language.*"[117] Another debilitating obstacle is the fact that many employers withhold migrants' ID cards, as a means to ensure that they don't leave or change employers. Without their ID cards, migrants are subject to arrest when outside their workplace and are unable to claim the benefits of their health insurance. This effectively restricts migrants' freedom of movement and makes migrants

reliant upon their employer to provide transportation, or to allow them to seek treatment in the first place. Furthermore, registered migrants are required to seek assistance at specified medical centres assigned to them in the registration process. These centres are often a long way from their place of work, making it difficult and expensive to reach for those with long working hours and few days off, especially as service hours often coincide with work hours. This issue is especially pertinent for those employed in mobile occupations such as fishermen, who are assigned to a provider at their port of origin, which they may return to only periodically.[118]



Construction villages for Burmese migrant workers barely have basic conditions. This village has approximately 100 workers and just one hand dug toilet. *[Photo and caption: OSHAID International/MAP Foundation]*

Thus, the common and somewhat truthful belief that migrants import diseases with them overlooks their conditions of employment and the social and structural barriers faced by migrants in obtaining their right to health in Thailand. In reality, both registered and unregistered migrants' inability to obtain basic rights, which are ostensibly granted to registered migrants but untenable due to practical barriers, significantly and negatively influences their health. During 2006 Thailand's Ministry of Public Health did initiate steps towards ameliorating some of the health issues surrounding the Burmese migrant population within Thailand, recognising the potential for epidemics caused by large numbers of high risk groups going uncared for. In April 2006, an event jointly organized by the World Health Organisation and Thailand's Ministry of Public Health, and attended by numerous NGOs, discussed plans to create a border health master plan in order to cope with any outbreaks of malaria, tuberculosis or avian flu.[119] Following on from this, in December 2006, the Public Health Ministry announced plans to make migrant healthcare a bigger priority in an attempt to halt the spread of disease. The Ministry's Permanent Secretary Dr Prat Boonyawongwirot expressed concern over the large number of unregistered foreign workers who did not have healthcare coverage, stating, *"If foreign workers are covered in the healthcare scheme, they will receive treatment and will not pass on diseases to Thais."*[120]

Situation for Migrant Children

Given that approximately 42% of Burma's population is aged 18 years or less, it is not surprising that a significant number of those who migrate to Thailand are in fact children. It has been estimated that there are around 200,000 Burmese children living in Thailand, many of whom are working, with 20 percent of the migrant workforce in Thailand thought to be made up of children aged 15 to 17 years of age. These children often end up as targets for abuse and exploitation with their vulnerability heightened by the fact that a significant majority of their parents remain behind in Burma, having sent their children to Thailand to generate income for their struggling family.[121]

Numerous studies in 2006 have revealed that child migrant workers in Thailand are faced with the same abusive and exploitative working conditions and labour practices as their senior compatriots. FTUB reported that migrant children in Mae Sot, Tak Province, suffered excessive working hours, lack of time off, unhealthy proximity to dangerous machines and chemicals, situations of debt bondage, confiscation of their identification documents, and systematic restrictions on their freedom of movement. As such FTUB asserted that *"many of these children in Mae Sot can most accurately be described as enduring the "worst forms of child labour," prohibited by the ILO's Convention No. 182 – a Convention that the Royal Thai Government ratified in February, 2001."* The youngest child interviewed by FTUB was 12 years old, and was operating a machine 8 hours per day, 7 days a week. The report concluded that *"Mae Sot has perfected a system where children are literally working day and night, week after week, for wages that are far below the legal minimum wage, to the point of absolute exhaustion."* [122] These conditions are endured despite the fact that many of those children over 15 years of age are legally registered and theoretically entitled to protection under Thai labour laws.[123]



The number of Burmese children crossing the border unaccompanied has continued to increase in recent years and 20 percent of the migrant workforce in Thailand is estimated to be made up of children aged between 15 and 17 years of age. *[Photo: FTUB]*

An ILO joint study with Mahidol University procured similar results and conclusions in 2006 concerning the use of child migrant labour in Thailand. The report uncovered human rights violations including physical assault, forced labour, children working in hazardous environments, and routine psychological and verbal abuse. Its authors claimed that Thai

employers prefer immigrant workers and especially child migrants *"due to availability in the market and (the fact they are) easier to control"*. Child labour was most prevalent in the fishing and domestic sectors where they endured long working hours, faced significant constraints in leaving their job and were more likely to be unregistered than adult workers in these sectors. Boys aged 15-17 working on fishing boats were considered to be most vulnerable to the worst forms of child labour. The fishing sector also had significant numbers of children aged less than 15 years old i.e. below Thai and ILO Convention 138 minimum legal working age. The report concluded that such findings underline *"an urgent need for effective labour inspection"*.[124]

Furthermore, a 2006 Chiang Mai University study on child labour in the agriculture sector of Phop Phra and Mae Sot Districts, found that more than half of the 600 under 18 year olds interviewed claimed to have handled pesticides and fertilizers which are *"very dangerous for their physical and brain development"*. Such a situation stands in direct contravention of Article 32 of the Convention on the Rights of the Child and Thailand's own labour laws. The study estimated that there were around 4,000 labourers under the age of 18 in these areas, 20 percent of which were under 13 years old. Further, around thirty percent of them were receiving no education.[125]

An additional issue of increasing concern has been the growing population of stateless children residing in Thailand. The Thai Ministry of Social Development and Human Security estimates there to be around 430,000 stateless persons living in Thailand with stateless children numbering around 100,000.[126] Thailand refuses to acknowledge the citizenship of children born to undocumented migrants within its borders, in direct contravention to Article 7 of the Convention on the Rights of the Child, which states:

> *"The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents…in particular where the child would otherwise be stateless."*

At the same time, the 1982 Citizenship Law of Burma refuses citizenship to children whose parents have left Burma illegally, and often children arriving in Thailand from ethnic minority areas in Burma lack any kind of identity documents. As a result a generation of stateless children has emerged in Thailand lacking citizenship and its concomitant rights, security and entitlements.[127]

Whilst Thai Law denies citizenship to these children, every child born in a medical centre or hospital within Thailand is theoretically entitled to a delivery certificate. However, it is common practice for hospital staff to ignore this policy and simply remove any records documenting that the baby was born there. This is said to be done to prevent the child from claiming Thai nationality in the future. Similarly, those children born outside of Thai hospitals, as many migrant children are, should be entitled to a letter certifying the place of birth from the head of their village, granting them some proof of their identity. However, this policy has not been widely publicised, and there is concern over whether parents would be arrested and deported whilst attempting to obtain such a document.[128]

The process for obtaining citizenship for those children born to registered migrants is also problematic. Since 2004, children born of legally registered migrants are entitled to receive birth certificates. However, in most cases, this still does not occur, and has prompted

expressions of significant concern from the international community.[129] Parents must go to the village head and then the local municipal office within 15 days of their child's birth. Here they are required to produce their work permits and a guarantee from their employer that they are who they say they are. Aye Chan, general secretary of the Committee for Protection and Promotion of Child Rights draws on his own experience to illustrate how this process can often work in practice; *"Eight days after my wife gave birth, I went to the Municipal office together with the village head, but they did not recognize my baby."*[130]

There was considerable uncertainty surrounding Thai policy on migrant education throughout 2006. On 5 July 2005, the Thai Cabinet approved a new Ministerial Regulation regarding migrant and stateless children's access to education, as proposed by the Ministry of Education (MoE). The 'education for all' policy stated that education at the primary and secondary school levels shall be opened to children without documentation, regardless of area, and the Ministry of Education was to provide adequate financial resources to cover the extra cost for schools. In a separate initiative, the Cabinet also ordered the Ministry of Interior (MoI) to issue an identification card, with a 13 digit I.D. number on it, to these children.[131]

However, the Office for Basic Education (OBE), the department within the MoE responsible for this policy, with a small staff and budget, lacked the authority and ability to enforce it, and as such policy was interpreted widely, or even disregarded. Many schools simply refused to enroll these children as they did not have the budget to accept them. School administrators have reportedly told migrant students that scarce budget resources must be used on students of Thai nationality first. [132]

In Phra Pradaeng Amphoe, Samut Prakhan Province, it was reported that, in December 2006, the Ministry of Social Development and Human Security had set local policy so as to refuse undocumented children in the Thai school system. This is contrary to OBE policy and the Ministry involved lacked any real authority to do so.[133] This episode highlighted a further significant impediment to the implementation of the policy; there was no definitive hierarchy within the RTG departmental system regarding this issue. Whilst the MoE asserted that budget would be approved per head in schools, the MoI sought to register migrant children before they would be allowed to attend Thai schools. In Samut Sakhon province migrant students were required to have an MoI 13 digit I.D. number before the school would be granted any extra budget. [134]

Whilst it is important for children to be documented, it was feared that those who did not match the criteria for obtaining the card, which were unclear, could be deported. In the past such systems of registration in Thailand have required the children to have been born in the country. Given the difficulties faced by migrant children in obtaining any documentation of their births, a significant number of undocumented migrants would fail to satisfy such a criterion. As such many families were reluctant to apply, and NGOs working on the issue were hesitant to endorse the scheme. [135]

The situation may be somewhat ameliorated in 2007. Whilst the OBE's operating budget for this project was 20 million baht in 2006, they were promised 175 million baht for 2007 under the new administration.[136] Nonetheless, the additional costs associated with attending Thai schools (books, uniforms, transportation costs) are often beyond the means of migrant children, and differences between Burmese and Thai language instruction are also sometimes too much for migrant students.[137]

The upshot during 2006 was that the vast majority of Burmese migrant children remained outside of the Thai education system. Migrant children were instead reliant on informal schools established by various bodies, ranging from NGO's, exiled trade unions and political groups, religious communities, small migrant associations, or motivated individuals in the community. In some cases, these schools lack an appropriate curriculum or the necessary resources for students to attain a high level of education. The informality of these schools also results in an 'unaccredited' education that is unable to provide the necessary documentation or recognition for more advanced educational placement.

The illegal nature of these schools meant that they constantly operated under threat of closure and often had to pay large bribes to local officials in order to remain open.[138] Throughout the first quarter of 2006, the Thai authorities had taken a hard line stance against these schools, ordering the closure of five schools in Tak Province during February 2006. *"These schools were opened without permission from local authorities,"* said a local government official, adding *"We don't know what curriculum is being taught, and the schools could be a threat like religious schools in southern Thailand, where violent uprisings continue."* The schools in Phop Phra district were subsequently closed on 21 March 2006.[139]

However, in May 2006, a draft resolution was introduced in Tak Province regarding the registration of independent migrant schools. Once a school was registered it would be free from the fear of such closures and its pupils would be able to obtain standardised Thai qualifications. Two categories were proposed, with tougher criteria to be met by those that wished to be schools than those wishing to operate as learning centres. Requirements included bringing their curriculum in line with Thai schools including the teaching of Thai language and culture. It was further suggested that they would be required to hire at least one qualified Thai teacher in order to qualify as a school. Lacking resources, a great many of these schools would struggle with the curriculum requirements and very few would be able to afford a Thai teacher's wage. NGO staff, working on migrant education, have suggested the closure of some of these schools would not necessarily be a bad thing given the dire educational standards of some of them. However, the closure of some of the better establishments would represent a significant loss. By the end of 2006, this proposal remained just that; a proposal, and still required approval from the Ministry of Education, the Ministry of Interior, the National Security Council and the Ministry of Labour.[140]

Deportation of Migrants

Whilst illegal migrants in Thailand were incessantly at risk of deportation throughout 2006, Thai authorities tend to mount crackdowns each time a migrant registration period finishes. As such, in July 2006, following the expiration of the June registration period, Thai authorities began a crackdown in Mae Sot to round up unregistered migrant workers, forcing many workers into hiding in the surrounding jungle.[141]

When undocumented migrant workers are arrested in Thailand, they are dealt with in a number of ways. Some are quickly released after paying a bribe to the police either on the spot or after being held for a short time at a police station. Others are sent to the Immigration Detention Centres (IDCs) in Mae Sot or Bangkok. Those held in Bangkok may be kept there anywhere from one day up to and over a year. Those who are taken to the Mae Sot IDC are generally moved on within a couple of hours. Some undocumented migrants in the Bangkok IDC are transferred to the Special Detention Centre (SDC), which is primarily reserved for

political activists, and from where it is very difficult for people to gain release. For those who are to be deported there are two possible procedures:

The vast majority of undocumented migrants arrested by the Thai authorities are 'informally' deported. During 2006, migrants deported informally were generally handed over to the junta aligned Democratic Karen Buddhist Army (DKBA) not far from the Mae Sot – Myawaddy border crossing. In turn, the DKBA requested a small fee of around 500 baht from the migrants to secure their release. Given the fact that these migrants had already been held by Thai authorities they often had no money at all. Those unable to pay, instead, have their 'release' secured by brokers who pay the DKBA the required amount. The brokers then continue to detain the deportees, and request a fee of around 800-1,500 baht for their release, with the captors given the chance to contact a friend or relative to pay the ransom. The price of freedom was often increased if the person remained with the brokers for a long time. Many migrants deported in this way simply return to Thailand once they are released.[142]

Since August 2003, when an MoU between Thailand and Burma came into force, there has also been a formal deportation process, whereby Burmese migrants are transferred directly from Mae Sot in to an SPDC holding centre across the border in Myawaddy. The quota for the number of deportations through these channels remained at 400 per month in 2006, with two deportation days designated as the first and third Monday of each month, although the system was said to be less regularised than in previous years.

The holding centre, known as *Ke Say Yee Sa Kan* in Burmese, was established in February 2002 following initial negotiations between the RTG and the SPDC, and according to SPDC figures, 20,883 migrants have passed through the centre from the date it was opened up until 30 October 2006.[143] At the reception centre, deportees are reportedly placed under a combined police, military and DKBA guard. All returned migrants are screened through a series of interviews with immigration officials, public health officials and members of military intelligence. Conditions in the holding centre are reportedly poor, and with the ICRC unable to make visits, there were no international organizations monitoring the conditions at the centre throughout 2006.

Upon entry, the SPDC authorities specifically screen returned migrants to identify those opposed to the regime-rule. Thai authorities also submit personal data on deportees to SPDC officials at the time of repatriation. These officials then cross-check the information provided with their own files and through questioning. As most political activity is criminalized in Burma, this process places past and present politically active deportees at severe risk of arrest, interrogation, torture, and arbitrary detention. On 16 October 2006, one migrant, whom had signed a petition calling for the release of political prisoners in Burma, was arrested and deported to Myawaddy where the SPDC arrested him for being connected with anti government organisations.[144] Returned migrants are also tested for a number of communicable diseases such as HIV/AIDS, malaria, tuberculosis, and sexually transmitted diseases. Such mandatory testing contravenes UN HIV Principles and Guidelines, of which both Thailand and Burma are signatories.

Regardless of their political background, deportees are subject to potential arrest and imprisonment for up to 7 years for illegal emigration pursuant to SPDC regulation 367/120-(b)(1). They may also be punished under Article 13 (1) of the Immigration (Emergency Provisions) Act, 1947, which states: *"No citizen of the Union of Burma shall enter the Union without a valid Union of Burma Passport, or a certificate in lieu thereof."* Under this Act,

undocumented migrants are subject to one year's imprisonment and a fine upon their return to the country.[145]

Generally, however, at the end of the screening process, those who are able to find a resident of Myawaddy prepared to vouch for them are often simply released upon paying between 2,000-3,500 kyat. The remainder are transported by truck back to their home districts. Some migrants have reported that once they are returned to their villages from the Myawaddy holding centre, they are forced to sign pledges declaring that they will never attempt to leave Burma again. They are threatened with prison sentences and heavy fines if they do so. Others have reported being warned that if they are found to have passed through the centre three times they will be subject to punitive action for illegal emigration under the aforementioned laws.

It is not only illegal migrants who are vulnerable to such arrest and deportation by Thai authorities, but also refugees, UNHCR slip holders and registered migrants. Local Thai officials oftentimes assume that all people without ID documents outside the refugee camps are undocumented economic migrants or simply ignore documents they may have. As such, the withholding of work permits by employers places registered migrants at an increased risk of deportation. On 14 October 2006, two Burmese men were arrested by Thai police in Samut Sakorn province whilst collecting signatures for a petition calling for the release of all political prisoners in Burma. A police lieutenant reported that *"They were arrested and charged as illegal immigrants as they did not have passports."* He added that one of the men held United Nations refugee status but should not have left the border refugee camp. The two men were sent to the Thai immigration bureau in Bangkok and immigration officials stated that they would be deported.[146]



Arrested migrants in Mae Sot, Thailand are regularly transported *en masse* from the IDC to the Burmese border where they are handed to the SPDC. *[Photo: MAP Foundation Thailand]*

In 2006, the UNHCR was no longer able to screen lists of those being deported to determine if they would face persecution on their return to Burma. All UNHCR slip holders outside of Bangkok were expected to have reported to the camps, UNHCR slips were not recognised as legal documents, and the MoI had instructed the Immigration Bureau that there were to be no refugee status determination interviews in the IDC. Nevertheless, the UNHCR was sometimes able to advocate on behalf of those held in the Bangkok IDC, as there remained

around 1,500 UNHCR slip holders in the capital. If tipped off as to the detention of a slip holder, the UNHCR were generally able to negotiate with Thai immigration for informal deportation. Deportees were then, usually, able to return to Thailand. However, this situation will likely change when Bangkok slip holders are finally transferred to camp. (For more information see Chapter 14 The Situation of Refugees.)

In addition, some migrants are subject to deportation pending the results of the health examination conducted as part of the migrant worker registration process. Migrants are screened for seven 'excludable' diseases, and deported if they are found to have physical deformations or weakness as a result of elephantiasis or leprosy, advanced TB or Syphilis, illegal drug addiction, psychological disorder or mental illness.[147]

Official deportations of arrested, and rescued, undocumented migrant sex workers resumed in 2004. Prior to that, deportations had been halted since 1992 because Thai authorities feared for the safety of the returnees.[148] In June 2006, 20 women were charged with prostitution after a raid on a Mae Sot brothel in Thailand. Whilst most of the sex workers were slated for deportation, four of the women under 15 were placed into the care of Thai social workers and NGOs.[149] (For more information see Chapter 7 Rights of Women)

The Tsunami

On 26 December 2004, a tsunami ravaged the Andaman coastline causing unprecedented damage to the western coast of Thailand. According to Surapong Kongchanthuek, deputy chairman of the Law Society of Thailand's Committee on Human Rights for Stateless and Displaced People, 127,714 migrant workers from Burma were employed in the affected provinces. However, only 22,504 were registered with the Ministry of Labour.[150] Estimates for the number of Burmese migrant workers killed by the tsunami are as high as 2,000. Most of their bodies remain missing.[151]

Difficulties in identifying Burmese victims stemmed from a number of factors:

1) Migrant workers from Burma were reluctant to claim the dead bodies of friends, family and co-workers due to fear of arrest and deportation. As many migrant workers lost their work permits during the tsunami, they were rendered unable to prove their legal status, many others were not registered in the first place, and still others had used pseudonyms whilst working in Thailand. Further, the death of employers often left registered workers with no one to vouch for them. The police initiated a crackdown in the aftermath of the tsunami, indiscriminately arresting both unregistered and registered migrant workers, rendering the entire segment of the population vulnerable to potential deportation.[152] (A group of migrant workers arrested during the aftermath of the tsunami and charged with looting were, in 2006, a year and a half later, released after a judge ruled that there had not been sufficient evidence for such a conviction. Whilst the migrants should have been entitled to compensation for their wrongful incarceration, they were instead hastily deported.)[153]

2) The forensic centre, staffed by international forensic experts, and overseen by the Thai police, faced criticism for the misidentification of some bodies slowing the process for those yet to be identified.[154] There were also allegations of a misuse of donors' funds by the Thai Tsunami Victim Identification Centre. It has been alleged that as much as 60 percent of the 60 million baht (US$ 1.6 million) meant for the centre may have been used for travel and other miscellaneous costs. A letter signed by ambassadors from the U.S., UK, Finland,

Germany, France, Sweden and the Netherlands on 22 November 2006, stated that *"There may have been some misuse of funds given by our respective governments to support the disaster victims identification process."*[155]

3) The SPDC exhibited a complete intransigence towards cooperation in the identification of Burmese citizens. Even once bodies had been identified, the bodies remained in Thailand due to the SPDC's refusal to recognize their citizenship and accept their repatriation.[156] SPDC restrictions on international travel also hindered families living in Burma from coming forward to claim their relatives.[157]

As a result, the dead and their families were left in *"administrative limbo caught between an uninterested SPDC and its embassy in Bangkok, the Thai Foreign Ministry and the strict requirements of the forensics centre."*[158]

Between January and October 2006, a total of 120 Burmese bodies which had finally been identified were cremated in Thailand's Phang Nga Province, with the ashes returned to many of their families. However, relatives and employers reported at least a further 175 Burmese still missing.[159] In the last months of 2006, the remaining 410 unidentified bodies of the tsunami dead were buried in Thailand, whilst the bodies of 103 victims who have been identified, but whose families have yet to collect them, remained in storage; of these 72 were Burmese nationals.[160]

Timeline of Events Relating to Migrant Workers in Thailand

January

On 10 January 2006, it was reported that around 50 Burmese construction workers in Phang Nga, southern Thailand had not been remunerated by their employer for the previous two months, leaving total outstanding wages at 750,000 baht. As the workers were unregistered, they were powerless to seek redress.[161]

Also on 10 January 2006, police in Mae Sot rounded up around 30 Burmese workers, including some who were legally registered, and extorted money from them. Two of the workers who questioned these actions were punched and kicked. Thirteen of the workers were detained thereafter at the local immigration office.[162]

On 30 January 2006, it was reported that six bodies, suspected to be Burmese labourers, had been recovered from the sea, off the coast of Surat Thani and Chumpon Provinces. Many of the bodies had been blindfolded.[163]

Also on 30 January 2006, police in Hat Yai, Songkhla Province raided worker's shelters on construction sites, arresting 100 migrants. Twenty two were held with a view to deportation as they had entered the country illegally, whilst the rest were prosecuted for working illegally.[164]

February

On 1 February 2006, 53 Burmese immigrants were arrested whilst trying to enter Thailand. The group was made up of mostly Muslims and included five children, and were found in a boat off the coast of Phuket. They were detained awaiting deportation.[165]

On 7 February 2006, it was reported that 11 Arakanese fishermen had been confined to a Thai fishing boat off the coast of Pattani for the previous three months, under threat from their employer. The fishermen had been forced to work at gunpoint. The owner had originally paid the men 4,000 baht each but had failed to pay them since. The owner maintained that the men had not caught enough fish and therefore should not be allowed back on shore. The 11 Arakanese workers were:

1. U Kyaw, 27;
2. Maung Latt, 27;
3. Zaw Zaw, 27;
4. Hla Tin Maung, 29;
5. Zaw Thein Oo, 28;
6. Htun Hla, 38;
7. Maung Thein Cha, 32;
8. Htay Naing Wong, 26;
9. Maung Aye Than, 18;
10. Bo Saw Hlaing, 22, from Kyauktaw; and
11. Maung Maung, 25, from Mrauk U.[166]

March

In March 2006, the new registration process for migrant workers in Thailand commenced. However, very few employers or migrants registered. Employers complained of high deposit fees, NGOs complained that the system would encourage debt-bondage, forced labour and corruption. The RTG subsequently agreed to reduce the fee. By 7 March 2006, 168,849 Burmese workers had registered. Of these 163,449 were successful in renewing their work permits.[167]

April

On 5 April 2006, more than 80 Burmese Mon were arrested along with their broker by the police near Ranong, southwest Thailand. The group included 35 males, 37 females and 14 under 16 years old, one being a four month old baby. They were each found with 5,000 baht which was to be paid to their broker. Those under 16, and the mothers of the children were deported to Burma, whilst the men were prosecuted.[168]

On 7 April 2006, in Mae Sot, Thailand, 200 Burmese workers marched through the town in order to demonstrate against the fact their employer was withholding pay, as well as housing and food allowances. The dispute dated back to January 2006 when the workers, from GS Art Knitting factory, had asked their employer for deductions in meal costs and living expenses and compensation for wrongful dismissal. The owners had refused to meet their demands and dismissed 43 employees. Five workers were allowed to meet with immigration and labour officials following the march. The officials agreed to arbitrate in the dispute on 20 April 2006.[169] As a result of these negotiations on 20 April, their employer agreed to fix working hours from 8 am to 5 pm, to grant holidays every Sunday, holidays on 13 Thai honoured

days, leave for illness besides leave of three days, a Thai minimum wage of 143 baht per day and 50 percent of the food costs when there was no work. He further agreed to pay compensation to those workers he had fired.[170]

On 18 April 2006, over 100 Burmese workers in Mae Sot were repatriated to Myawaddy. Thai immigration officials visited the Chit Tun garment factory, Mae Sot, in order to check the worker's ID and work permits. Eight workers were arrested as their permits had expired. Over a hundred other workers who were unhappy with these arrests were subsequently arrested. The arrests followed an appeal made to the LPO earlier in the month, by the workers at the factory. The workers had asked for increased salary, regular payment, fresh food and one day off a week. Whilst the LPO agreed to negotiate, and set a date for 5 May 2006, the workers were arrested before being given the chance to present their case, and subsequently deported. Most later returned to Mae Sot, but those who had previously had a work permit, had had them confiscated by officials.[171]

On 23 April 2006, 10 Burmese migrants attempting to enter Thailand across the river in Sangklaburi were fired upon by Thai police, after their boat was ordered to stop and failed to do so. The survivors claimed that they thought the Thai police were fishermen and so did not stop. The New Mon State Party claimed that four men were killed. This was disputed by the vice-chief of police in Sangklaburi, who claimed only two migrants were killed. The four men thought to have died are:

1. Mi Khaing Mar Win, 17;
2. Mi Cho Win, 19;
3. Nai Tun Win, 20; and
4. Mi Aye Than, 38.[172]

On 29 April 2006, a boat transporting Mon migrants from Kawthaung, Burma, to Thailand sunk after being hit by a cyclone 100 kilometres due south of Ranong, Thailand. At least eight of the 32 passengers were said to have drowned. It was believed the boat capsized as there were too many people loaded onto it. It was also reported, that the Burmese authorities had arrested hundreds of Mon intending to make a similar journey, in Kawthaung who were detained and interrogated inside sport stadiums.[173]

May

On 2 May 2006, it was reported that up to 20 migrant workers from Burma drowned whilst trying to cross the border into Thailand, near Ranong. The migrants, thought to have been from Lamine city, southern Mon State were swept away by the tide after being let off in shallow waters in an attempt to evade the Thai Navy Police, whom the boat owner had spotted patrolling in the area. Three children were thought to be amongst the dead. The Thai Search and Rescue Team who later monitored the incident by helicopter saved another 17 people and charged them with illegal entry into the Kingdom.[174]

On 16 May 2006, migrants with work permits from June 2005, which were due to expire on 30 June 2006, were granted permission to continue work for the same employer for a further year. If a worker wished to change employer and apply for a new permit, they had to prove that the employer had either died, changed or ceased business, had forced, abused or failed to pay them, or that they had been a victim of unfair dismissal.[175]

On 28 May 2006, Thai authorities reported that the 300 bodies interred in unmarked graves in Pattani, southern Thailand, discovered in March 2006, were those of Burmese and Cambodian migrant workers. There was evidence to suggest at least 80 percent of the dead had been murdered. It is unclear whether they were victims of the continuing unrest in the province. The Thai authorities commenced the identification process on 5 June 2006.[176]

June

In June 2006, Thai employers submitted their quotas to the government in reference to how many migrant employees they wished to employ. Employers asked for a quota of 1,333,703 migrants including 1,051,577 Burmese. The Department of Employment approved a figure of 1,226,106.[177]

By 7 June 2006, 460,014 work permits had been renewed including 407,379 Burmese migrant work permits.[178]

On 8 June 2006, a female Mon migrant died when a vehicle carrying another 52 migrant workers, mostly Mon nationals from Burma, overturned on the way to Kanchanaburi. Six others were left in a critical condition. The driver had reportedly sped up believing the Thai border police were following him[179]

On 30 June 2006, it was reported that criminal gangs had attacked and hospitalised at least 20 Burmese migrants within the preceding two weeks, in the heavily populated Burmese area of Mahachai, Samut Sakhon Province. Naing Khin was hospitalised with severe head injuries on 29 June after being attacked by eight men. On 18 June Myint Aye, 18, was gang raped by Thai men, and days earlier Ye Than, 24, was gang raped in her home. Pranom Somwong of the Migrant Assistance Program (MAP) asserted that such incidents demonstrated a lack of protection for migrant workers in Thailand.[180]

July

In July 2006, following the expiration of the registration period on 30 June, Thai authorities began a crackdown in Mae Sot to round up unregistered migrant workers. Many workers were forced into hiding in the surrounding jungle, facing threat of malaria and exposure.[181]

On 4 July 2006, it was reported that over 20 fishermen including Mon and Burman migrant workers had died whilst at sea and had their bodies thrown over board by their employers. A further 12 fishermen were being treated in hospital with symptoms including chest pains and difficulty in breathing. Family members were not allowed to visit those men receiving treatment. The fleet of six fishing boats had returned to Samut Sakhon port on 2 July. The dead Mon migrants were said to be from Wette village, Mudon Township; Htinyu village, Hanpyuzayart Township; and Hnitkayin village, Ye Township; in Mon State. By 20 July 2006, the cause of the deaths had not been reported. A source close to the fishermen believes their own boss likely fed them with poisoned food. *"It is possible they were poisoned because the owner of the boat lost a huge amount of money in gambling recently; the Captain, mechanics, and other senior fishermen were alive and only the ordinary workers died,"* said a Mon community worker. By 19 December 2006, the death toll stood at 30 migrant workers and nine Thai crew members. The National Human Rights Commission and the Lawyers Council of Thailand announced that they would file charges against the fleet operator. Investigations by the Commission found that the crew were left to fend for

themselves at sea for three months whilst the owner attempted to renew their fishing license. The surviving crew members were reported to be reluctant to seek legal redress due to fear of deportation for those unregistered migrants. Nasser Artwarin, of the Lawyers Council of Thailand, said that they would seek overdue wages and demand legal action against the operator for illegal detention and recklessness causing the deaths of others. He added that State authorities would also face punishment if any negligence of duty was uncovered.[182]

On 19 July 2006, around 700 Burmese migrant workers were rounded up by Thai authorities in Mae Sot. The arrests were made at three different factories with around 300 workers from NC knitting factory, 200 from Red One knitting factory and 200 from Han Thai factory. The arrests followed a demonstration by workers at the NC knitting factory. Workers with I.D. cards were arrested alongside those without. Those in possession of work permits were later released whilst those without any documentation were deported.[183]

August

On 17 August 2006, the Federation of Thai Industries- Tak Province, proposed the establishment of a 'one stop shop' responsible for handling all migrant workers registration, medical assessments, job training and placement as well as providing lodgings.[184]

On 22 August 2006, a large gang of around 30 men raided the residence of roughly the same number of Burmese and Cambodian migrant construction workers in Bangkok. The men assaulted and threatened the workers but did not ask for anything. One Mon migrant worker suffered a broken skull.[185]

On 27 August 2006, Immigration officials and Thai police arrested 674 Karen migrants during a 15,000 strong annual wrist tying festival. The celebration was being held at the Police cadet school in Sam Pran, Nakhon Pathom. The organisers were under the impression that they had permission to stage the event, however, Col Padsanong Boonyakiet, deputy commander of the academy, said he mistakenly gave permission because he believed they wanted to use the field for soccer games involving only 200 factory workers. The workers were deported because they lacked work permits or had violated the law restricting the movement of migrants to within their area of employment.[186]

Also on 27 August 2006, Thai Labour Minister Somsak Thepsutin and Burmese Deputy Foreign Minister Maung Myint agreed to the establishment of a temporary visa centre in Mae Sot within the next six months in order to issue visas to 10,000 new Burmese migrant workers. The centre would also issue visas within a day to migrants already working in Thailand.[187]

September

On 1 September 2006, the registration of Thai employers in need of legal Burmese workers began.[188]

On 5 September 2006, a Thai Cabinet meeting discussed the SPDC's request to send the names of Burmese workers to the SPDC for verification of nationality. The proposal stated that the workers would then be called to one of three processing centres in Tachilek, Kawthaung or Myawaddy to be verified as Burmese. If all documentation was in order they would be issued with temporary passports within 24 hours. Burma also requested Thailand to

send the names of employers to Burma by the end of September so they could start recruiting workers by the end of October. The junta also proposed that these centres be used as recruiting centres by Thai employers.[189]

On 12 September 2006, over 700 Burmese migrant workers at the SR garment factory, near Mae Sot walked off the job in protest at low pay, and the withholding of work permits by their employer.[190]

October

On 7 October 2006, the manager of the BB Top Co Ltd (a.k.a Wool Co Ltd) in Mae Sot assaulted two female employees. Ma Gyi Gyi Thein and Ma Hnin Aye Thin had arrived at work late after having to avoid police checkpoints. The manager refused them permission to work, then tried to run them over before hitting them. The incident acted as a catalyst for the workers to protest against their low wages and lack of rights, holding a demonstration on 15 October 2006. In response the factory owners made moves to close down and shift their site of production, being unwilling to negotiate with their workforce. Moe Swe, of YCOWA, stated *"most factories in Mae Sot, when they need workers, they order what they want, but when they do not need their services, they are not willing to negotiate with the workers. They ask the police to threaten workers and create a conflict."* [191]

On 12 October 2006, a Burmese migrant was beheaded by Islamic militants in front of his daughter in the Pattani Province, in the south of Thailand. His severed head was found in a village 20 km away.[192]

On 14 October 2006, two Burmese migrants were arrested in Samut Sakorn whilst petitioning for signatures calling for the release of all political prisoners in Burma. Despite the fact that one of the men had UNHCR refugee status they were arrested as illegal immigrants. Thai Police Lieutenant Nattakit Eiampratom stated that he should not have been outside of the refugee camp. The men were detained in Bangkok and at the time the incident was reported were due to be deported.[193]

On 16 October 2006, it was reported that 42 workers from the Progress Ceramic Co Ltd in Mae Sot had been taken off work after demanding the minimum wage. They were looked after by the YCOWA organization and asked the LPO to intervene in the dispute. The Thai police intervened and arrested the workers. One of the workers Ko Ye Kyaw Thu, who had signed a petition calling for the release of political prisoners in Burma, was deported to Myawaddy where the SPDC arrested him for being connected with anti government organisations.[194]

On 23 October 2006, a truck transporting 39 illegal Burmese immigrants crashed into a larger truck in Singburi, north of Bangkok. The Burmese were travelling in a windowless cab, and five were killed with 25 hospitalised. The truck was transporting the workers from Mae Sot to Singburi where the driver was due to hand the migrants over to a middleman. The surviving migrants were deported.[195]

On 26 October 2006, one Burmese migrant worker was killed in a road accident. A vehicle transporting 22 migrants from the Three Pagoda Pass on the Thai Burma border overturned after the migrants had paid 8,000 baht to be taken to their destination. 18 migrants were arrested for illegal entry.[196]

November

On 6 November 2006, 50 Rohingya were arrested after their boat came ashore in Ranong. They were later deported back to Burma.[197]

On 7 November 2006, Thai police arrested 51 Burmese migrant workers at a fish processing plant in Samut Sakhorn. They were arrested as illegal immigrants as they did not have work permits or I.D. The factory owner was also charged.[198]

On 21 November 2006, two separate boats carrying Rohingya arrived in Thailand where their passengers were arrested. One boat came ashore in Ranong carrying 96 passengers, the second boat was found in Kuraburi, Phang Nga, with 57 passengers on board. All passengers were deported in early December.[199]

On 29 November 2006, 87 Rohingya were arrested for illegal entry into Thailand after their boat landed in Ranong. They were deported in December 2006.[200]

December

On 5 December 2006, 114 Burmese men were arrested after their boat washed ashore in Phang Nga Province, southern Thailand. It was reported that the men had been at sea for 10 days, and were on the brink of starvation. The men were reported to be Rohingya from Maungdaw Township, Arakan State, and included a 10 year old boy in their midst. The boat had no sail, or shelter, and the engine broke whilst they were at sea. They were charged with illegal entry into Thailand. It is thought they had intended to reach Malaysia.[201]

On 6 December 2006, Nai Chai, a Mon migrant was murdered and his wife was raped in Phuket, southern Thailand. A local Mon social activist said killings and rape among migrant workers are common in these areas because they work in rubber plantations far away from residential areas. The relatives and neighbours of Nai Chai did not want to approach the police for an investigation, through fear of deportation.[202]

On 8 December 2006, two boatloads of Rohingya were arrested in Ranong. Forty men were on one boat and 89 on the other.[203]

On 12 December 2006, Thai police arrested 66 Rohingya in Takuapa Province, southern Thailand. The Rohingya, from Maungdaw and Buthidaung Townships, Arakan State, claimed to be heading to Malaysia but were caught in storms whilst at sea. They entered a local village in search of food but were reported to the police.[204]

On 13 December 2006, Thai authorities arrested 92 Rohingya who came ashore in Khuraburi, Phang Nga, southern Thailand. The passengers were all male and aged between 13 and 60, and came from Sittwe and Maungdaw Township, Arakan State. They were reported to have paid between 12,000 and 15,000 kyat each for the trip to Thailand. One passenger stated *"No matter what, I don't want to be sent back, life is too hard there."* The group were deported on 19 December 2006.[205]

On 14 December 2006 it was reported that 41 migrants were found inside the trunk of a gasoline truck whilst being trafficked from Tak province to Bangkok. The migrants were said

to be exhausted due to a lack of air and extremely hot conditions, with some fainting as they left the truck. Each migrant had paid 4,000 baht for the trip.[206]

Also on 14 December 2006, Thai police found 79 Burmese migrants crammed into the back of a truck in Tak Province. The truck was heading to Bangkok. The migrants were deported, and the brokers arrested.[207]

On 29 December 2006, two boatloads carrying a total of 102 Rohingya were arrested by Thai authorities in Khuraburi, Phang Nga Province, southern Thailand. They were deported back to Burma on 7 January 2006.[208]

On 31 December 2006, the period allowed for employers to fill their quotas of migrant workers ended. If not already filled, employers lost their quota.[209]



Those 66 Rohingya who arrived in Phang Nga, Thailand on 12 December 2006 received food courtesy of local NGO Grassroots Human Rights Education. They were later deported back to Burma on 26 December 2006. *[Photo: GHRE/Irrawaddy]*.

15.3 The Rohingya Boat People

From November 2006, an unusually high number of Rohingya attempted to make the journey across the sea from Bangladesh to Malaysia. From the time the monsoon season ended up until the end of 2006, somewhere in the region of 1,000 people from 15 separate boats had been arrested in southern Thailand, as a result of this influx. Large numbers continued to arrive in the first months of 2007. The majority of those making the journey were either from northern Arakan in Burma, or Rohingya living inside of Bangladesh but outside of the refugee camps. The numbers were also said to include refugees living inside the camps, and a few local Bangladeshis. All of those on board were males, with the majority aged between 18 and 30, and some as young as 10.[210]

There is little information regarding the fate of those Rohingya arrested in Thailand, although it is believed that most were deported through unofficial channels from Mae Sot to DKBA territory within Burma. (For more information see above section on Deportation of Migrants). There is also a limited amount of information regarding the fate of those boats that did not reach Thailand. Three boats are known to have been intercepted by the Burmese authorities. In one case, the Burmese Navy towed a boat adrift near Sittwe to Maungdaw and imprisoned those onboard in Maungdaw Prison. The other two boatloads were taken ashore (1 group to Rangoon and 1 group somewhere in Tenasserim Division), questioned and photographed and then put back at sea, even towed towards Thailand territorial waters. Whilst those on board had told SPDC authorities that they were Bangladeshi fishermen, the Arakan Project, an NGO working on the issue, asserted that it is unlikely this story was believed and that *"we can assume that the Burmese authorities prefer to let them continue their journey rather than keeping them in their jails."* Further Rohingya were arrested by Bangladeshi authorities although it is reported that smugglers and traffickers largely avoid such arrests through a system of bribes, with the Bangladeshi government not overly committed to mounting operations which would in effect maintain their Rohingya population.[211]

In addition, at least five boats carrying Rohingya were reported to have left Bangladesh earlier in the year, between January and April 2006, prior to the onset of the monsoon season. One carrying 80 Rohingya broke down and drifted towards the Andaman Islands where it was intercepted by the Indian Navy in January 2006. At least 66 of the passengers were believed to still be in detention, at the close of 2006. A second boat, which departed in February 2006 with 120 passengers on board including both Rohingya and Bangladeshi, was caught by the Burmese Navy, and it is not known what happened to its passengers. A third boat holding 77 Rohingya ended up on Rondo Island, a small Indonesian Island in April 2006, with the passengers later deported by the Indonesian authorities, who dismissed the option to send their boat back to international waters due to the poor condition of their vessel.[212] Another boat with 10 Rohingya and 5 Bangladeshis on board reached Thailand where its passengers are alleged to have been arrested. A further boat which left from Shaporidip in March 2006 was intercepted by the Thai Navy.[213]

It is believed that the overwhelming majority of passengers onboard all of these vessels had been attempting to reach Malaysia. Whilst the shipping of the Rohingya to Malaysia via Thailand is not a new issue, the volume of traffic in 2006 far exceeded any previous figures. There were no significant events to explain this sharp increase; however, the Arakan Project forwarded numerous factors which it claimed to have contributed to it. The Rohingya continued to be heavily persecuted within Burma, and conditions in Bangladesh, both inside

and outside the refugee camps, are reported to be precarious, with the Rohingya population faced with widespread abuse and pervasive chronic malnutrition. However, the Arakan Project stress that it is more a combination of pull factors which have led to the unprecedented numbers choosing to make this journey.[214]

No	Arrival Date	Arrival place	# onboard	Deported
1	1-2-2007	Ranong	+/- 100	In IDC
2	23-1-2007	Ranong	35	5-2-2007
3	19 or 20-1-2007	Ranong	20+	No details
4	18-1-2007	Ranong	38	6-2-2007
5	16-1-2007	Khuraburi (Phangnga)	37	30-1-2007
6	1-1-2007	Ranong	53	10-1-2007
7	1-1-2007	Ranong	65	10-1-2007
8	29-12-2006	Khuraburi (Phangnga)	69	7-1-2007
9	29-12-2006	Khuraburi (Phangnga)	33	7-1-2007
10	22-12-2006	Ranong	61	30-12-2006
11	13-12-2006	Khuraburi (Phangnga)	92	19-12-2006
12	12-12-2006	Takuapa (Phangnga)	66	26-12-2006
13	8-12-2006	Ranong	89	20-12-2006
14	8-12-2006	Ranong	40	22-12-2006
15	5-12-2006	Takuapa (Phangnga)	114	19-12-2006
16	28 or 29-11-2006	Ranong	87	9-12-2006
17	21-11-2006	Khuraburi (Phangnga)	57	3-12-2006
18	21-11-2006	Ranong	96	Early Dec 06
19	6-11-2006	Ranong	50	1-12-2006
20	November 2006	Phuket	?	No details
21	November 2006	Phuket	?	No details
22	November 2006	Phuket	?	No details
			1,200+	

Boat arrivals in Thailand from November 2006 to 1 February 2007.[215]

On 1 August 2006, the Malaysian Immigration Department initiated the registration of Rohingya for residence/work permits referred to as “IMM 13”. The process, which shunned the UNHCR in the system of identification and registration, and instead relied on certain Rohingya community representatives, was in fact suspended on 17 August 2006 following allegations of fraud and corruption. Nevertheless, news of the registration had already quickly spread throughout northern Arakan and the refugee community in Bangladesh.[216]

Following news of the registration process, opportunist smuggling networks began to expand their operations. It is believed that Rohingya living in Malaysia are at the heart of these operations. Organisers were said to guarantee registration and jobs upon their arrival, in order to secure a payment of roughly US$850 per person, with about US$300 to pay upon departure and the rest on arrival in Malaysia. Additional networks also proliferated within Bangladesh and Northern Arakan who offered voyage as far as Thailand for under US$300.[217]

Concurrently, traditional migratory routes from Bangladesh became more heavily circumscribed during 2006. It became more difficult to obtain Bangladeshi passports in the aftermath of a nation-wide bombing campaign by Islamic extremists in Bangladesh in August 2005. This development hindered Rohingya attempts to reach Saudi Arabia. In the 1970's the Muslim World League obtained permission from the Saudi King to allow Burmese Muslims fleeing persecution to settle in the country. However, the Saudi government required them to obtain passports from any country they could in order to facilitate their stay. The inability to obtain Bangladeshi passports therefore constrained the Rohingya in their attempts to reach Saudi Arabia. In addition, the Saudi embassy in Dhaka tightened the issuance of *Umra* visas (pilgrimage to Mecca) and demand for unskilled labour in Saudi Arabia has reportedly dropped. Smuggling routes to Pakistan have also been seriously curtailed by the construction of barbed-wire fences along the Indo-Pakistan border. As such Malaysia was left as the most viable and affordable Muslim destination, with the journey by sea from Bangladesh the only route available in the absence of official travel documents.[218]

Interviews Concerning the Rohingya Boat People

Interview #1

Ethnicity/Religion: Rohingya, Muslim, age: 22
Village: originally from Maungdaw North
Residence: Bangladesh (1 year) after being deported from Saudi Arabia (3+ years)
Interview date: 30 January 2007 – Thailand (paraphrased)

Date and place of departure: 29/11/2006, Shamlapur, Teknaf (Cox's Bazaar)
Date and place of arrival: 08/12/2006, Ranong
Date of deportation: 22/12/2006
Total people on board: 40

He has been in Bangladesh for one year. He is not a registered refugee. He spent more than 3 years in Saudi Arabia and was deported to Bangladesh. The negotiated deal was 15,000 Taka in advance in Bangladesh to go to Thailand. His destination was Thailand, not Malaysia.

During the journey, they nearly ran out of fuel so the boat crew stopped the engine and used a sail. They faced a small storm one day. The day after the storm, they met a Burmese boat and offered to buy some fuel in exchange of watches and dollars. When the Burmese boat saw all the passengers, it sailed away. Soon after, two Burmese Navy boats with sailors and guns rushed towards them. They asked everyone to put their hands up. The passengers agreed to let one person speak on their behalf to them. He said that they were all Bangladeshi going to find work in Thailand. The speaker spoke in Burmese and told the Burmese Navy that he used to do business with Burma and that is how he could speak Burmese. All the passengers were transferred on the navy boats, their pictures were taken and they had to write their address. By then, all of them were very scared. There was a woman officer onboard of the Burmese Navy boat. The next morning, she came to them and instructed the sailors to provide some fuel and food for them. The Burmese Navy towed their boat for 4 hours towards Thailand and then let them go. After 2 hours of sailing, the boat got caught by the Thai coast guards.[219]

Interview #2

Rohingya community leader.
Date and Place of interview: 23 December 2006 – A village near Teknaf, Bangladesh

When I listen to the traffickers, I am amazed: how they talk about Malaysia and Thailand, how easy it appears to get there by boat, how easy it is to find a job there, and how strong their currencies are! On the map, Thailand looks so close to Bangladesh. The passengers believe these traffickers because they often visit Thailand and Malaysia and have good connections there.

From this village, two traffickers collected people to send them to Thailand and Malaysia. They are R.A. and U.S., both are originally from Maungdaw but have lived in Bangladesh for some years. They have already been to Thailand and Malaysia. In mid-November this year,

R.A. and U.S. got arrested by the Teknaf police but their associates released them by bribing 40,000 Taka to the police. They no longer come here in person but R.A.'s sister who lives here with her husband now collects money on her brother's behalf. Both R.A. and U.S. went to Thailand on two separate boats carrying passengers at the end of October. Then they came back by air. I heard they have a network of agents in Thailand who arranged travel documents so that they could fly back to Bangladesh.

Now, they are again busy collecting passengers to bring them as far as Thailand only, not all the way to Malaysia. They charge 30,000 Taka cash before departure to take them as far as Thailand. In case the passengers have relatives in Malaysia, they promised they can also arrange to take them there but the additional fee is 40-50,000 Taka upon arrival in Malaysia. Now, most boats are only bringing people to Thailand and the traffickers' responsibility ends there. They no longer promise to take them all the way to Malaysia except in some exceptional cases when the passenger has relatives in Malaysia or in Thailand.

Some passengers arrested in Thailand rang their parents or relatives in Bangladesh from Thai custody. The parents and relatives here went to complain to the traffickers that their sons or brothers are now in Thai jails. But the traffickers replied that they had charged 30,000 Taka to take them as far as Thailand and they are now in Thailand. Whether in jail or free is not their concerns. They have kept their promises.

One of my relatives, a young man of 25, left for Thailand from Cox's Bazar in the second week of December. The trafficker bought a boat from a ward commissioner from Teknaf municipality. It was an old boat and the engine was not functioning properly. It broke down near the Arakan coast and was captured by a NaSaKa sea patrol. Some passengers jumped into the sea to escape. Among the passengers there were about 15 Bangladeshi and the rest were Rohingya. Some of them have been living here for more than 20 years and some arrived a month or two ago to go abroad by sea.[220]

Interview #3

Rohingya trader visiting Bangladesh
Date and Place of Interview: 27 December 2006

In the early morning of 21 December, after Fazar prayer, I was strolling on the road near my house when I saw a crowd of people near the Maungdaw jetty. I went there to see what was happening. Eight NaSaKa men had arrived with one rather large boat and two small fishing boats. The two fishing boats were from Akyab [Sittwe] and the large boat looked like a Bangladeshi boat. In the two small fishing boats, there were 10 fishermen and in the large boat, I saw about 50 men. The crowd told me that the boats were caught by the NaSaKa in the sea near Anguma [in Rathedaung but close to Sittwe] and that the two fishing boats were towing the large boat towards Bangladesh.

After sunrise the NaSaKa sent the 10 fishermen from the two small boats to the Maungdaw police station. Later, at about 2 PM, the NaSaKa handed over 56 people from the large boat to the Maungdaw detention centre.

On that day we could not learn more about these people because the NaSaKa were with them

the entire day. But, the next day, on 22 December, we finally learnt that these people had tried to reach Malaysia and they had been by a NaSaKa sea patrol on 20 December not far from Akyab. Relatives of some passengers managed to talk to the detainees by bribing the police to bring them food. 15 detainees were actually from different parts of Maungdaw town.

Through them, I learnt that this Bangladeshi boat had sailed out from Cox's Bazar about 10 days ago but, after 4 days, the engine broke down and they lost their course at sea. They drifted for 3 days and the sea current pulled them towards the coast of Akyab where they saw two fishing boats. The passengers of the boat offered the fishing boats 100,000 Taka to tow them back towards the Bangladesh waters. Since they had even gasoline, they also offered them as much fuel as they need. The two fishing boats agreed to tow them back towards Bangladesh.

But after two days of towing, still not so far from the coast of Anguma, a Burmese sea patrol spotted them and captured them. They brought all of them directly to Maungdaw.

There were a total of 92 passengers onboard: among them, 15 Bangladeshi and the rest Rohingya. Many passengers jumped into the sea when they saw the Burmese patrol boat. I left Maungdaw in the evening of 25. At the time, the detainees were still in the Maungdaw detention centre and it was learnt that the NaSaKa will sentence them very soon.[221]

Interview excerpt #4

Rohingya farmer visiting Bangladesh
From: R--- village, Rathedaung South
Date and place of interview: 19 January 2007

At the end of October 2006 my second son gave 300,000 Kyat to a trafficker named Muktar of Chandopara, South Rathedaung to go to Malaysia. This trafficker collected money from 45 passengers from South Maungdaw as well as South Rathedaung. But my son never told me about all this!

However, the trafficker hired a boat from Shilkhali (South Rathedaung) and sailed in early November. Four days after departing, they returned to Shilkhali because the trafficker told the passengers that the situation was not good enough and that they should wait a few more days. But, as soon as the boat returned to the shore, it came to the notice of the NaSaKa and the police. They told the passengers: *"You tried to leave the country illegally and finally you failed! Nevertheless, what you tried is a crime and we will send to jail unless each of you pays us 150,000 Kyat as a fine!"*

My son had no money and I had no cash at hand. We had to sell our bullock to fulfil the demand of the NaSaKa and the police. Every passenger had to do the same. The trafficker disappeared as soon as the boat landed and fled to Bangladesh. I learnt that he went to take shelter in Nayapara camp in one of his relatives' room. There, he collected again money from Nayapara camp refugees and from surrounding villages in collaboration with some local men and organised a trip to Thailand.[222]

15.4 Situation of Burmese Migrants in Malaysia

Malaysia is one of the largest importers of foreign labour in Asia, with an estimated migrant worker population of 2.6 million, both illegal and legal,[223] and FTU-B estimates that roughly 300,000 Burmese have worked illegally in Malaysia, with around 200,000 having done so legally. As such, Malaysia is home to more Burmese migrants than any country outside of Thailand, including in its number many Chin, Arakanese, Rohingya and Mon.[224]

Malaysia has failed to ratify the 2003 Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. Further, Malaysia has not ratified the 1951 Convention Relating to the Status of Refugees, and the Malaysian government does not generally differentiate between refugees, asylum seekers and undocumented migrants. Further, the UNHCR registration process has been closed since July 2005, leaving thousands of genuine refugees unable to obtain official refugee status or obtain any documents from the UNHCR. Under immigration policy, all undocumented people including asylum seekers are considered "illegal immigrants" and are therefore subjected to harsh and arbitrary immigration laws.

In August 2002, the Malaysian Parliament implemented draconian legal measures for dealing with immigrants. Those found to have entered the country illegally or overstayed their visas have, since this time, been liable to a maximum fine of 10,000 RM (US$2,600), a jail term of up to 5 years and up to 6 strokes of a cane. Subsequently, many migrants from Burma have been held for up to a year or longer in overcrowded prisons, with the Malaysian government requesting detainees furnish payments for transportation costs in order to expedite the deportation process. Whilst in detention, migrants have often been subject to *"assault, sexual abuse, inadequate living conditions, lack of medical treatment and even death."* [225]

Those employing undocumented migrants can also face a jail term of 1 year, fines of up to US$13,000 for each undocumented worker as well as possible canings. As a result, finding employment in Malaysia is made more difficult for undocumented migrants as employers are often reluctant to hire them. The work that they can find is often daily work for daily pay with very little security. Those in more long term jobs can go unpaid for months at a time and have no legal recourse against their employers. Undocumented workers also typically lack access to basic healthcare and education services. In addition, undocumented migrants are vulnerable to extortion by police and government officials as well as harassment and exploitation in their workplace.[226]

In 2004, the Malaysian government announced a crackdown on undocumented workers in an attempt to gain greater control and regulation over its migrant workforce. Prior to the crackdown, undocumented workers were granted an amnesty period to leave the country.[227] The amnesty was extended on numerous occasions in response to the advocacy of human rights groups and the effects of the tsunami. In the interim, many undocumented migrants fled the country, or went into hiding, others sought UNHCR refugee status. The crackdown finally commenced on 1 March 2005 and many more undocumented migrants went into hiding, with some migrants from Burma fleeing across the border to Thailand. On the first day of the crackdown 500 to 800 persons, including many from Burma, were arrested.[228]

In March 2006, the Malaysian government announced renewed plans to launch major operations against illegal migrants and vowed to conduct mass deportation of undocumented migrants from Malaysia. Mass arrests immediately followed the announcement, with

hundreds of migrant workers prosecuted under the Immigration Act, imprisoned and caned. Whilst in May the operations were scaled back, in July the Malaysian government announced fresh plans to arrest up to one million undocumented migrants.[229]

During these crackdowns in 2006 there were numerous reports of abuse with undocumented migrant workers and refugees from Indonesia and Burma reported to be the most vulnerable groups. Cases revealed a consistent pattern of theft, deliberate damage to property, physical assault, humiliation and the degrading treatment of suspected 'illegal immigrants'. On 1 August 2006, it was reported that 13,000 migrants had been rounded up, with 2,000 Burmese estimated to be amongst them. Many other Burmese migrants were reported to have fled to the jungle, in order to avoid the raids which were mostly carried out in industrial areas.[230] During the crackdown, the Malaysian government deployed its reserve civil force, RELA, which is made up of around 400,000 volunteers. The government empowered the 400,000 strong force to conduct mass-scale raids on suspected neighbourhoods of illegal immigrants and to indiscriminately arrest and detain suspects without warrant, despite the fact that RELA's tactics have been heavily criticised in the past by many human rights NGOs.[231]

RELA personnel regularly used brutal methods and excessive and unnecessary force while arresting migrants. On 13 May 2006, RELA personnel conducting raids in Selayang and Sri Kembangan, were reported to have assaulted migrants, extorted and stolen money, destroyed property and arbitrarily arrested registered migrants. The arrest of legal migrants was a common occurrence throughout 2006, as a result of the indiscriminate nature of RELA operations, with many recognised refugees also deliberately and mistakenly arrested. On 30 September 2006, the fact that two Burmese Chin refugees, Mr. Biak Lian Thang and Mr. Zosua Htee Win, had proof of their refugee status did not deter the RELA personnel from arresting them, and throwing away their cards. [232] Not only were refugees and asylum seekers targeted but pregnant women, the disabled and children were also regularly arrested and detained. On 14 October 2006, ten young Chin asylum seekers were arrested during raids in Cheras, and continued to be detained at Lenggeng Camp, at least until 1 November 2006, when the incident was reported.

The children were:

1. Iang Tha Cer, 2 years old;
2. Biak Rem Mawi, 3;
3. Van Lal Ri Mawi, 3;
4. Van Biak Hnin, 6;
5. Joseph, 7;
6. Ngun Kawi Tial, 10;
7. Tum Ling Sang, 11;
8. Esther Siang Hnen Sung, 13;
9. David Van Bawi Thang, 14; and
A. Lian Za, 14.[233]

Theft and extortion consistently accompanied these raids. As one of numerous examples, on 30 July 2006, during a raid on some temporary huts in Putrajaya, Chin migrants and refugees had six mobile phones and 400 RM stolen from them. The panic caused by such brutal raids created its own victims during the year. On 11 February 2006, it was reported that five bodies were retrieved from a lake in Selayang after undocumented migrants allegedly tried to flee one such RELA raid. In addition, Nai Myo Zaw, a Mon migrant worker, died on 29 August 2006 after jumping from a two storey building whilst fleeing a raid.[234]

In one instance, a crackdown was seemingly mounted as a reactionary collective punishment against the Arakanese community. On 27 August 2006, an Arakanese youth had killed a Malaysian national, reportedly in self defence. In response to the killing the local authorities launched a crackdown on Arakanese migrants in the Endu area, arresting 20 and forcing a further 200 in to hiding in the jungle. The operation waned after a Chief Police Inspector came to the area and ordered the release of those migrants not involved in the original incident.[235]



One of five bodies dragged from a lake in Selayang following a raid by RELA personnel on the night of 11 February 2006. The exact circumstances surrounding the deaths are unclear. It is known that RELA officers jumped from their trucks and made for Selayang's large open market, at 2 am, where many of the migrants work. Screams of 'help' in Burmese were reported by migrants who had managed to escape. Other reports testified to the beating of migrants by the RELA force. *[Photo: BBC]*.

Throughout October 2006, RELA conducted numerous night time raids upon communities of Chin asylum seekers. The first such operation was conducted on 5 October 2006 and targeted Jalan Imbi areas where 52 Chin refugees including seven Chin refugee women were arrested and detained. On 14 October 2006, there were mass arrests of migrants in Cheras Alam Jaya, home to 500 Chin asylum seekers, 172 of which were arrested and detained in either Lenggeng or Semenyih Immigration Detention Camps. Amongst this group were forty female asylum seekers and their children, most of which were in possession of UNHCR documents and awaiting their refugee status determination interview. In a further raid in the Limau Manis jungles where about 200 Chin refugees were sheltering in makeshift huts, seven Chin refugees were arrested. Following these arrests, the Chin Refugee Committee estimated there to be around 500 Chin asylum seekers detained in immigration detention centres throughout Malaysia.[236]

The conditions of detention for these migrants have been another serious cause for concern during 2006. Reports from former detainees have highlighted issues of overcrowding, poor sanitation and hygiene, no access to healthcare, inadequate food rations, a lack of clean water and abuse at the hands of the guards. In fact, the Malaysian Home Minster, Radzi Sheikh Ahmad, admitted to the existence of such problems. [237] Despite an ever dwindling amount of space available at Malaysia's immigration detention centres, the Home Minister vowed to continue with the raids stating *"If they have to sleep on floors right next to one another, so be it."*[238]

Many of those Burmese arrested during the crackdowns on migrants in 2006 were forcibly deported from Gota-Bharu in Malaysia to Sunngai Golok, Thailand. At the border, it was reported that three major criminal gangs with Burmese, Thai and Malay members were working closely with both Malaysian immigration officials and Thai police in a brutal extortion racket. The gangs are said to pay corrupt Malaysian officials for each deported worker, and then transfer them to a secret holding cell in a remote area of Sunngai Golok. Thai police are reportedly bribed to turn a blind eye to their operations. They then ask their detainees for any contacts they might have who would be able to pay for their release. If their contacts are able to pay 1,400 RM they are free to go home, or cross back illegally again into Malaysia with the help of human traffickers, if able to afford their high rates. If unable to provide a contact, the migrant is beaten and eventually sold into bonded labour on Thai fishing boats, or brothels. It is believed that hundreds of young Burmese migrants were the victims of these gangs during 2006. In July 2006, five Mon migrant women were placed into the hands of this network and, as of September 2006, had not been heard of since.[239] In October 2006, it was reported that over 30 Chin were being held captive at the Thai-Malay border. After being arrested in raids in Putrajaya, in July 2006, these asylum seekers had spent almost three months in Malaysian detention centres before being sold at the Thai border town of Pandang Pasah, for 800 RM each, on 16 October. Their captors demanded 2,500 RM each in order to traffic the victims back to Malaysia. They were presented with the option of pay or be sold to Thai fishermen. Whilst some were able to procure enough funds to secure their release, others remained, and their fate was unknown at the time of this report (22 October 2006).[240]

Legal migrant workers from Burma in Malaysia also faced serious infringements of their rights in 2006. Employers are reported to frequently renege on contracts initially signed in Burma through employment agencies, paying workers less than half the agreed wages once they actually arrive. In late 2006, Zay Yar Min was sent back to Burma after only a few months into a three year contract after complaining that the terms of his contract were not being fulfilled.[241]

A 2006 report by Human Rights Watch highlighted the plight of domestic migrant workers in Malaysia. Migrants working in this sector do not enjoy the protection of Section XII of the Employment Act 1955, which stipulates such basic terms as one rest day per week, eight hours of work per day and a maximum of 48 hours of work per week. These domestic workers of which there are an estimated 300,000 in Malaysia are often isolated, and faced with varying degrees of abuse and infringements on their human rights.[242] As in Thailand, employers regularly withhold employees' legal documents, thus leaving them vulnerable to the same punitive measures as undocumented migrants. Malaysia's strict enforcement of its immigration laws means domestic workers are less likely to attempt to escape and report abuses in the absence of any documentation. In addition, employers commonly pay migrant domestic workers only upon completion of the standard two-year contract, as a ploy to prevent them from running away or reporting abuses. When domestic workers do receive payment, it is often not the agreed-upon amount. A further point of concern for female migrant workers in Malaysia is the fact that their employer's are legally allowed to terminate their contracts if the employee becomes pregnant once employed. Malaysia also denies entry to prospective migrant workers found to be pregnant.[243]

15.5 Situation of Burmese Migrants in India

> *"For us, living in Mizoram is hardly an option, but going back to Burma is no option at all, so we will just continue to stay here and suffer day after day. Sometimes we feel we are no better than wild animals tracked and hunted by the YMA* (Young Mizo Association)*."*
>
> - Chin migrant deported into the hands of SPDC authorities, and subsequently tortured in a Burmese jail for many months before again returning to India.[244]

Migration to India, primarily from Chin State in Burma, continued throughout 2006. Fearing religious, cultural and political persecution, as well as economic destitution, many Chin Christians continued to flee across the border into Mizoram and Manipur States, India. However, India has not ratified the 1951 Refugee Convention nor does India allow the UNHCR access to either of these states. Therefore, Chins seeking refugee status and the protection of the UNHCR are labelled illegal immigrants by the Government of India and fall within the jurisdiction of India's Foreigners Act of 1946, which grants the Government the right to expel them at any time. India has also failed to ratify the 2003 Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. As such Chins from Burma are afforded little legal protection once inside India.

Approximately 50,000 Chins reside in India with the vast majority in Mizoram State.[245] The Mizo, the local ethnic group of Mizoram State, and the Chin are ethnically and linguistically related and the Chin were initially accepted into their local communities. However, in recent years, relations between the two groups have steadily deteriorated and the Chin are frequently blamed for social problems by nationalist groups, particularly the Young Mizo Association (YMA) which has adopted a strong anti-immigrant position, and holds considerable influence within the state. The YMA, in collaboration with other organizations, has launched numerous efforts in recent years to drive all Burmese settlers out of Mizoram, actions carried out with full knowledge, and sometimes full cooperation, of state authorities.

During 2006, there were continued reports of crackdowns being mounted against undocumented Chin migrants in Mizoram State. The first repatriation drives of 2006 were mounted in Aizwal, the state capital, throughout January, and Serchip town in February,[246] with four Burmese weavers from Sagaing Division, arrested in Aizwal on 6 January, the first Burmese to be deported in 2006.[247] Further crackdowns continued throughout the year. On 15 May 2006, authorities in Mizoram arrested and repatriated 21 immigrants from Burma who had been residing in Aizwal. They were transported to the border village of Zokhawtar, although it is not known if they were handed to SPDC forces when deported.[248]

A further crackdown was initiated in September 2006. It is believed that this particular operation was mounted in retaliation to the fact that a Burmese migrant had hit an Indian lady with a hammer in the preceding month. The Mizo Student Union (MSU) and the Mizo Women's League in Lunglei (MHIP) had strongly condemned the incident in a statement, issued on 12 September 2006, demanding that the Burmese be driven out of the state.[249] Subsequently, the YMA Sub Headquarters in Lunglei town served notice to the illegal immigrants in Mizoram to leave, setting the deadline for their departure as 23 September 2006. The YMA issued directives for their members as to how to prohibit (and discourage the presence of) foreigners against settling illegally within their jurisdiction. These measures included drawing up a foreigner list, the dissuasion of political parties from rallying after foreigners, and ensuring illegal immigrants are not on the electoral roll, in possession of a

house, or able to join religious congregations. Their statement asserted that if the authorities failed to act upon the information gathered by the YMA, then *"the YMA Sub Headquarters, Lunglei, has underlined its intention to take the onus of rounding-up the Burmese foreigners,"* and handing them over to the police.[250]

Despite the fact that the YMA has no jurisdiction or legal power to enforce forcible repatriation without due process, the state government often abdicates responsibility, or even supports their efforts. Following criticism from the Chin Human Rights Organization of the initiation of the repatriation drive; Lunglei YMA President S Laldingliana stated that *"The decision had been made at the YMA sub-headquarters' assembly. The drive was carried out in collaboration with the law enforcement agencies, and there was no violation of human rights."* It is nevertheless clear that the YMA lack any legal mandate to participate in such law enforcement operations.[251] Many Burmese migrant workers were forced to flee upon hearing news of the crackdown. When the police searched every block in Lunglei town, many had already fled to nearby Saiha and Lawngtlai. Others were able to bribe local officials to secure their release. On 27 September it was reported that some of the 44 Burmese migrants arrested in Lunglei town during the crackdown that month had managed to secure their release through bribes of 200 Rs. each.[252]

Later in the year, on 11 October 2006, the Chief Minister of Mizoram argued for the governmental registration of all illegally settled foreigners from Burma within the state. He asserted that such registration would better aid the Mizoram administration in tackling problems arising from having large numbers of illegally settled foreigners in the State. House owners in Aizwal were required to submit a list of all foreigners residing in their properties, in preparation for registration. However, landlords continued to be refused permission to allow newly arrived Burmese to reside in their properties.[253]

State officials from India's north-eastern states also made moves to lobby the SPDC over their response to the HIV/AIDS epidemic in Burma, in an attempt to cooperate on the spread of the disease around the porous border regions between the two countries. NGOs and Indian state officials were concerned that the SPDC's harsh treatment of drug users and sex workers was making it difficult to identify the disease and aggravating its spread into India. However, no joint programme was initiated.[254]

15.5 Situation of Burmese Migrants in Other Places

Japan

> *"You can work for five years without being arrested, and then within two months of applying for refugee status you can be arrested, because the Japanese system is dangerous. We would rather work illegally with the constant fear of arrest than risk getting sent back"*
>
> - Rohingya male, 32. [255]

There are approximately 8,000 to 10,000 Burmese migrants living in Japan, predominately in Tokyo. Burmese migrants and asylum seekers generally enter Japan by plane, on tourist or student visas, either directly from Rangoon or through third countries, with a small number of Burmese sailors also known to desert their crews when they reach Japan. None arrive in Japan already recognised as refugees, and those who choose to apply at the airport undergo lengthy asylum procedures. There have been unsubstantiated reports that officials have immediately deported those who claim asylum upon their arrival.

Given an extremely low acceptance rate of asylum claims in Japan, and the increased risk of detention and deportation upon submitting an application, most Burmese prefer to simply overstay their visas and illegally reside within the country. Conditions upon arrest are said to be poor. [256] The IDC in Ibaraki is reported to be overcrowded and lacking adequate healthcare. There are also reports of mistreatment by the staff.[257] (For more information see Chapter 14 The Situation of Refugees).

'Overstayers' are generally able to find low and semi-skilled employment in Japan. Some Burmese migrants reportedly claim to be legal in order to get jobs. Others have reported that their employers never asked. In other cases, employers know that their workers are illegal. Healthcare is expensive in Japan, and illegal migrants are not eligible for health insurance although some clinics do offer alternative healthcare schemes. However, most eschew medical attention, deterred by high fees, the language barrier, or fear of deportation. Whilst, local schools frequently accept the children of illegal migrants, a university education is inaccessible.[258]

In recent years the situation for Burmese migrants in Japan has become more precarious. In 2004, the Japanese Ministry of Justice and the Tokyo governor announced the intention to crackdown on the number of illegal workers in the country. The government aimed to halve the size of the illegal population over the coming five years through the enforcement of increasingly strict immigration laws. [259]

Simultaneously, on 1 January 2004, the Burmese Embassy in Japan introduced a new fee payment program for Burmese living in Japan who wished to renew their passports. The regulations require those seeking to renew existing documents and those applying for new documents to pay a large fee along with a graded income tax, which increases depending on how long ago their passport expired, with the most extortionate being for those who had no documents at all. The fees and taxes are not weighted according to income. [260]

The concurrent policies left Burmese migrants vulnerable; with neither visas to stay in Japan legally, nor documents to return home.[261] On 14 March 2006, a Burmese migrant who had

been working in Japan for 13 years committed suicide after being refused permission to return to his home country by the Burmese embassy in Tokyo. Zua Nang, a Kachin man, was in poor health and as such wanted to return to his home. However, as he had not paid any tax to the SPDC during his time in Japan his request was denied. No bilateral agreement exists between Burma and Japan allowing Burma to impose taxes on its nationals in that country.[262]

Singapore

For decades, Burmese migrants have worked legally in Singapore. The number of Burmese in Singapore began to increase in the mid 1980's as a result of the country's construction boom and simultaneous labour shortage. Some Burmese migrants in Singapore are highly educated and have obtained work as doctors and professors. However, the majority of Burmese workers labour in low-level jobs including construction work, carpentry, welding, and painting. There are high costs involved in obtaining a work permit and visa for those Burmese wishing to obtain a job in Singapore, and job agencies in Burma often charge extortionate costs to expedite the process. Once employed, they must pay a 10% tax, on overseas earnings, to the Burmese embassy, despite the fact that the legality of such double taxation is extremely dubious. A tax agreement between the countries entitled 'Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income' actually debars the practice. Furthermore, if workers need to renew their passports they must pay the Burmese government US$300 and replacing a worn or lost passport costs US$1,400. For the majority of Burmese citizens, these high costs effectively prevent them from being able to pursue the option of working legally in Singapore.[263]

The majority of illegal Burmese migrants arrive in Singapore as stowaways on ships. These workers generally undertake menial labour in restaurants, factories and on construction sites. Without legal status they are often forced to pay inflated rent costs from corrupt landlords. Migrants caught working illegally in Singapore, as well as those caught trying to enter illegally are subject to imprisonment, deportation and even the cane.[264] On 27 November 2006, it was reported that five migrants from Burma had been sentenced to four strokes of the cane and four weeks in prison, after being caught trying to illegally enter the country by swimming to the Island state. The five Burmese men sentenced were: Ah Myint, Tun Lin Zaw, Maung Mon, Kyaw Thu and Min Thu. A sixth man, Thet Soe, had his case adjourned after he chose not to post bail, set at 20,000 Singaporean dollars (US$12,910).[265]

Bangladesh

There are an estimated 10,000 to 20,000 Rohingya living outside of the two official refugee camps in Bangladesh. Following a mass repatriation of Rohingya in 1994, access to the camps has been denied to all new arrivals. The Government of Bangladesh now considers Rohingya from Burma to be 'economic migrants' despite the fact that they fled Burma in order to escape a multitude of human rights abuses and, as such, they are classed as illegal immigrants, and not entitled to humanitarian assistance. Most have settled in the Cox's Bazaar area of Bangladesh and the Teknaf area of southern Bangladesh. Whilst their stay in the country is facilitated by the fact that they are able to speak Bangla with a local accent, they are frequently the recipients of harassment from local people.[266] (For more information see Chapter 14 The Situation of Refugees).

During the month of Ramadan in 2006 it was reported that Burmese Muslims were crossing to Bangladesh from Arakan State at a rate of 20 to 30 a day. Many of these Burmese Muslims

are reported to stay in Bangladesh either temporarily, as seasonal labourers, permanently, or are otherwise seeking transit to third countries such as Malaysia (See Section 15.3 The Rohingya Boat People).[267] Many were arrested whilst trying to enter the Bangladesh throughout 2006, and consequentially spent large amounts of time in Bangladeshi prisons as the SPDC checked the credentials of those detained.[268] In many instances the SPDC refuses to recognise detainees as Burmese citizens, especially if they are Rohingya, and in 2006, there were roughly 500 Burmese in Bangladeshi prisons, with some having been incarcerated for over 10 years despite the completion of their sentence.[269]

Saudi Arabia

In 2006, thousands of Burmese Muslims residing in Saudi Arabia were left unsure of their status, following the Saudi government's back track in its long standing policy agreement with Pakistan. In the 1970's the Muslim World League obtained permission from the Saudi king to allow Burmese Muslims fleeing persecution to settle in the country. The Saudi government had told them to obtain passports from any country they could in order to facilitate their stay. In 1986, the Pakistani government agreed to issue passports, with assurances from Saudi Arabia that they would grant them nationality after 14 years of living in the country. It was reported in 2006, however, that differences had emerged after a *"massive scam"* in the renewal of the Burmese Muslims' passports at the Pakistani embassy in Jedda, leaving Saudi authorities unsure about the actual number of Burmese who had been allowed to stay in the 1970s. As a result the Saudi government instructed Pakistan to continue renewing the Burmese migrants' passports, as it was not prepared to grant them Saudi nationality.[270] Concurrently, increased difficulties in obtaining a Bangladeshi passport, following nationwide bombing campaigns in 2005, a reduced demand for unskilled labour in Saudi Arabia, and a tightening of restrictions on those seeking temporary visas to visit the Kingdom for Hajj, have made it more difficult for those seeking to enter the country.[271]

China

Following a repatriation deal between Burma and China, over 200 Burmese were arrested in June 2006 in the Chinese border town of Shwe Lee. A month later a Chinese request for repatriation had not been answered by the SPDC officials in Muse. In July, a further 160 Burmese were arrested in Chae Khuang, near the Burmese border, and charged with illegally entering the country. Between 20 and 30 children were among those arrested, after being caught begging or working in the town.[272]

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