

3. Rights of the Child

3.1 Background

Burma ratified to the Convention on the Rights of the Child (the Children's Convention) on August 15, 1991 after acceding to the Convention on July 16, 1991. However, there has been little progress towards the implementation of the convention, and the fundamental problems which impede implementation have not changed. These include a total lack of the rule of law and accountability of relevant authorities, as well as draconian restrictions on freedom of expression, association and peaceful assembly. Such restrictions prevent local reporting and monitoring of the human rights situation of children.

The SPDC promulgated its new Child Law on July 14, 1993 in order to "implement the rights of the child recognized in the Convention on the Rights of Child." Chapter V, Section 8 of the SPDC Child Law states that "the state recognizes that every child has the right to survival, development, protection and care, and to achieve active participation within the community." In order to ensure full implementation of the law, SLORC established of a National Committee on the Rights of the Child, chaired by the minister of social welfare, relief and resettlement. The Child Law was seen as a positive sign within the international community, temporarily improving SPDC's image; but the law is a farce. The actual treatment of children in Burma is contrary to the objectives and stated purpose of the Convention and the law itself. In light of the abhorrent and often inhumane conditions faced by Burmese children in their everyday lives, largely due to SPDC policies, the SPDC's efforts to win international respect ring hollow and insincere.

International standards which address child labor include ILO Convention 138 (minimum age for employment), the Convention on the Rights of the Child, and the International Covenant on Economic, Social and Cultural Rights. The ILO is currently drafting a new convention targeting the worst forms of child labor. Other relevant international instruments include the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, and the Slavery Convention. Burma has ratified the Convention on the Rights of the Child, and apparently supports the adoption of a new instrument on child labor by the ILO. Burma has signed but not ratified the Convention for the Suppression of the Traffic in Persons. Burma is bound by the Slavery Convention and its optional protocols.

The situation of children in Burma and the daily practices used by the military regime have been well-documented by the human rights groups. These include abuses of international humanitarian law in ethnic minority areas; the use of children as porters for the army and the forcible relocation of tens of thousands of civilians; the recruitment of children under the age of sixteen into the armed forces, often forcibly; arbitrary arrest and detention, often without charge or trial; the routine abuse of children as unpaid laborers on government construction projects; the arrest of high school students for writing or distributing leaflets, or simply calling out slogans; and the use of forced labor.

32 The social and health situation of children in Burma

Burma is one of the world's least developed countries with per capita gross national product of about US\$220 million. The population is estimated to be 45 million, with approximately three quarters living in the seven more advanced divisions of the country, and the remaining one quarter living in the seven less developed ethnic minority states, according to the 1997 UNICEF report.

The unfavorable economic conditions in Burma have adversely affected the situation of its citizens. As the most vulnerable groups within society, children suffer the most. The declining economic situation often forces children out of school and into the workplace families need all the free hands they can get to survive in difficult economic conditions. In urban areas some families send their smallest children into the streets to beg, while many families in rural areas are handing their children over to procurers in return for down-payments of 5,000 *kyat* or more. Sometimes children flee the country to escape such hardships, with or without their families. Child prostitution among young females, especially those from the ethnic minority areas, who are sent or lured to Thailand, continues to be a major problem. The rising incidence of HIV infection has increased the demand for these supposedly 'safer' young sex workers.

Currently, around 65 percent of the Burmese population has access to basic health services, which explains the poor national health indicators. The national infant mortality rate in Burma was, in 1995, 105 for every 1,000 live births, with wide regional variations. This compares with 34 in Vietnam, 27 in Thailand and 11 in Malaysia. According to UNICEF, in 1997 as many as 37 per cent of young children suffer from protein-energy malnutrition, with 11 per cent being severely malnourished. Many diets are deficient in vitamin A, iron and iodine.

UNICEF reports that maternal mortality rates for 1990 were an astronomically high: 580 per 100,000 live births, compared with 80 in Malaysia and 10 in Singapore. Most maternal deaths in Burma are due to induced abortions, largely conducted clandestinely, and to unsanitary conditions. In addition, there is a widespread lack of essential medication, which contributes to the poor health of the population.

The situation of children in Burma has worsened under the present military regime. The clumsy shift to an open market economy has meant economic disruption for many families. In order to attract foreign investment and tourism, the regime has launched ambitious road building and other infrastructure construction projects which have involved massive use of forced labor, including child labor.

33 Education of children in Burma

Education and other social services for children in Burma have been grossly neglected since the regime has directed immense resources toward doubling the size of the military. While the SPDC claims that the education standards in Burma are being upgraded and that it has allocated extra expenditure for the education sector, the fact is that students are not staying in school. According to a recent UNICEF report, 39 percent of Burmese children are never enrolled in school, despite a widespread primary school network, and

only a paltry 25 percent ever complete the first five years of school. The overall rate of school drop-outs in Burma, especially among children under ten years of age, has drastically increased during the 1996-97 academic year.

Of the total number of high school students estimated to be attending school in Mon State's capital Moulmein in the 1997-98 academic year, over 20 percent are said to have not appeared in class at all, due to simple impoverishment on one hand and widespread disappointment with the chronic educational instability caused by the mismanagement by the ruling military regime on the other. Schoolteachers had previously estimated that at least 10,000 high school students (ninth and tenth grades) from the area would be coming to school at the beginning of the 1997-98 academic year. In practice, however, only 8,000 came to school. Most of those students missing school in this way were said to have to find jobs in order to support their impoverished parents. Some of them have reportedly left to the neighboring countries Thailand, Malaysia and Singapore in the hope of seeking better opportunities there.

The present ruling military regime, since it took over power through the ruthless and bloody massacre of thousands of peacefully-demonstrating pro-democracy students and people in 1988, has spent much time closing high schools and universities in the country, except for few months each year. The ruling military dictatorship, in constant fear of possible student uprisings against its misrule, has thus failed to open and run properly the schools and universities in the country. The military regime has also dismissed many qualified university teachers who were outspoken in expressing their unhappiness with its crackdown on the student-led peaceful democracy movement. It has ordered the remaining teachers to strictly control their students, forbidding them from taking part in any demonstrations against it in the future, threatening them that if the teachers fail to control their students, they will be subjected to legal action. At the same time, it has forced students' parents to sign formal agreements acknowledging they are responsible for keeping their children out of any opposition political activities.

Many Burmese children enjoy no childhood at all; they are simply put straight to work. The greatly increasing costs of living often render working people in Burma incapable of providing their children with an education, and thus a future. One working family member is no longer able to secure enough food for the whole family, forcing other family members, including school-aged children, into the work place.

If a family is fortunate enough to spare a school child from working, it must face the high cost of schooling. Although nominally free basic education is available in Burma, many compulsory fees force families to forego schooling for their children. At the beginning of the academic term, parents are required to pay many initial fees, including 200 *kyat* for a school registration fee, 200 *kyat* for school fundraising, 35 *kyat* for school sports fees, 200 *kyat* for renovations, and 200 *kyat* for a computer lab fee. In each township, many other fees are required throughout the academic school year, depending on the school's particular needs. Children who remain in school are faced with impediments beyond the numerous fees, including insufficient school supplies. Often, students are compelled to buy their text-books on the black market at extremely high prices. These fees have forced many working parents, especially those who have many children in school, to keep their children at home.

The SPDC uses the school system as a means of imposing discipline and control

over the general population. Many people in remote villages are afraid to send their children far away to a SPDC-run school. If villagers try to establish their own school, the authorities, invariably, shut it down. Existing schools that teach ethnic languages are often near conflict zones and are thus prime targets for attack from SPDC troops. Even government-run schools near conflict areas are often shut down because teachers flee the school when government military columns come near for fear they will be taken as porters. Since middle and high schools are an easy source for young porters, SPDC soldiers often surround the school and forcibly recruit porters there. As an additional method of controlling school children, teachers and parents must sign forms promising to keep their children from doing or saying anything against the State; if the child does anything objectionable to SPDC, the parents and teachers are then subject to arrest.

The money SPDC claims it uses to build and renovate schools has been extorted from the local population. The SPDC will often extort two to three times the amount it truly needs for a school to ensure it is profitable. In SPDC schools, all teaching must be in Burmese; no other languages may be taught or spoken. Ethnic children grow up illiterate in their own languages and ignorant of their own literature and culture.

Publicly, the SPDC maintains it supports different nationalities. Paragraph 118(b) of the SPDC's 1996 report to the UN Committee for Child's Rights states, "although there is no written curriculum in their languages, the nationalities have the right to pursue their own literature." In reality, publishing literature or periodicals in non-Burmese languages is virtually impossible in Burma.

All school teachers in Burma must periodically attend government-run 'refresher courses', where they are issued uniforms and military boots, and are forced to do military parade drills, shout slogans, and sit through SPDC lectures. Anyone who 'fails' the course loses his or her teaching job.

State high schools have been closed for several times as the regime seeks to prevent student protests from erupting. All universities and colleges remain closed throughout the whole of 1997.

34 Childsoldiers

The Convention on the Right of Child states in Article 38 (2) that "State Parties shall take all feasible measures to ensure that persons who have not attained the age of 15 years do not take a direct part in hostilities, and that, (3) State Parties shall refrain from recruiting any person who had not attained the age of 15 years into their armed forces." There is no similar prohibition in the Child Law, but Burma's armed forces regulations prohibit the recruitment of boys under the age of 16.

There are no statistical or other data about the recruitment of children as soliders. However, since 1988 the size of the armed forces has more than doubled from 180,000 to around 400,000, anecdotal evidence suggests that in part this increase has been facilitated by the recruitment of boys aged 13 to 15 years old. Often this recruitment is forced, with whole villages or sections of towns being ordered to 'give' a number of boys to the army or face heavy fines. In other cases the coercion is less explicit but just as compelling. Often boys aged 14 to 16 are drawn in village quota lotteries. Once their names are drawn, unless their families can pay a huge sum of bribe money, the boys have no choice but to join the

army. The family is often further coerced into cooperating by being told they will be free of forced labor duties if the army “gets their son.” Army officers and non-commissioned officers (NCOs) are offered cash rewards of 500 *kyat* for any recruits they bring in; they usually target the youngest possible boys, about 13 to 14, because these boys are the easiest to coerce. Many young deserters have described how they were approached in the market or on the way home from school when they were 13 to 14 years old by soldiers or NCOs and offered the chance of adventure, a happy-go-lucky life, a snappy uniform, a gun, and the high-sounding sum of 750 *kyat* per month. All the boys had to do to get the trappings was to follow the soldiers to the recruiting center. Usually the boys are also told to lie and say that they are 18 when asked by the recruiting officer. It is obvious by looking at most of these boys that they are well under 18, but the recruiting officers never verify the age of the recruits. At the present time, the army has become so desperate for recruits it that will take anyone, regardless of age. In most cases, the boys’ families often do not know what has happened to their sons for a year or more. In many cases, the boys and/or their parents are illiterate, so they cannot even write home, and once at the front line, rank-and-file soldiers do not get home leave.

Some boys reportedly join the army from a military training scheme called the *Ye Nyunt Youth*. UNICEF officials have described a process of “informal conscription” for boys as young as 14. They have also identified a residential military camp in Kengtung, Shan State, where boys from the age of seven were recruited for a future life in the Burmese army. Human Rights Watch/Asia has reported that boys younger than 14 “are ‘adopted’ by the army and institutionalized as military recruits by the time they reach the age of 14.”

Many *Ye Nyunt* “recruits” are orphans, or boys who have been abandoned in front-line villages; others are street children or children captured from enemy positions. These boys reportedly receive political training, and instruction in loyalty to the government and the military. Eventually they are assigned to work in the army, either in intelligence units, or as security for high-ranking officers.

34.1 Army volunteers

Despite the widespread fear of the army, some young boys still volunteer for various reasons: being a soldier is the only job opportunity for most poor people in Burma today, and the only way the boys think they can help support their family instead of being a burden. These are attractions of a soldier’s life, the promise that a recruit’s family will be free from further forced labor, or, in many cases, when a family member has been beaten, tortured or arrested by SPDC, the boy hopes if he becomes a soldier this will not happen again. However, once in the army, the boy’s dreams are dashed and his childhood stolen. Most of their pay is stolen by their officers every month. Their families are still required to perform forced labor, and the boys must endure physical abuse and harm. Officers further exploit young boys by stealing and reselling food rations and medical supplies; boys have to go into villages and beg for or loot their own food. Officers order young soldiers to round up villagers for forced labor or face beatings and other punishments if they fail to return without the specified number of laborers. Out of fear for their safety and the safety of their families, the boys begin to abuse physically civilians in surrounding villages, forcibly removing them from their families and homes. Boys are not permitted any pleasurable

distractions. No newspapers or short-wave radios are permitted and letters to or from home are scrutinized carefully. If a boy writes home, complaining about the army, he is beaten with a cane or tied to a post in the hot sun all day without water. Leave is refused even for good reasons, and when his enlistment time is up after five years, the boy is generally told he cannot leave and is automatically re-enlisted.

It appears that child soldiers perform the same duties as adult soldiers. Human rights groups report that children serve in the front lines for much of their tenure in the army, and see military action by ages 14 or 15. Child soldiers have been ordered to round up porters and forced laborers, and to guard porters or prisoners. Former child soldiers have reported being ordered to beat and kill porters who can no longer work, and to execute villagers who are suspected of collaborating with enemy troops. One former child soldier estimated he had seen over 200 porters killed by soldiers while he was in the army. Child soldiers who disobey, or fail to carry out orders, may be severely beaten. Young soldiers are also beaten if they cannot keep up, if they are ill or injured, or if they cannot perform heavy work. "In extreme cases, child soldiers [have been] summarily executed . . ." Another abuse to which child soldiers are subjected is being drugged before going into battle. In battle situations, boy soldiers are often forced by the officers to drink alcohol or take drugs such as amphetamines or *myin say* (a powerful combination of amphetamines, caffeine, and opiates), which makes them mindless, sleepless, and aggressive.

In addition to their ordinary duties, child soldiers commonly have to work on projects such as brick making which brings in personal profit for their officers. Brick making for private profit is only one example of the widespread corruption in the military which has a severe impact on child soldiers. Many child soldiers report that their pay was constantly reduced. In some cases, officers reportedly charge "medical fees," yet most child soldiers report that medical care in the army is very poor. For example, child soldiers have reported officers ordering that wounded soldiers, often young men or boys, be left behind or killed. One reason for poor medical care is that officers in some units sell medicines on the black market. Corruption in the army also affects the availability of both food and clothing. These conditions of work often compel child soldiers to attempt desertion. This is doubly dangerous, as they may be followed by their own troops, or they may encounter enemy troops. Some child soldiers simply commit suicide.

35. Child forced labor

Child labor appears to be common in Burma, and is associated with a lack of investment in education for primary school age children and with widespread poverty. Despite a compulsory education law, almost 40 percent of children never enroll in school, and only 25 to 35 percent complete the five-year primary school course. Many families cannot afford to pay the numerous fees for primary school education, which together impose substantial costs. Children working in the urban informal sector in Rangoon and Mandalay often start work when very young. The SPDC continues to force citizens, including women and children, to work as porters, which leads to mistreatment, illness, and sometimes death in military operations against armed ethnic groups. The SPDC does not specifically prohibit forced and bonded labor by children. While bonded labor is practiced, forced labor occurs in military portage and in situations in which a family or household is required to contribute

labor to a particular project, and the children are called upon by parents to help fulfill that obligation, without opposition by the authorities. Often, a family's sole breadwinner can ill afford to spend time working on forced labor projects because they lose valuable working time and wages. Subsequently, many children from rural villages substitute for their parents or siblings and work on forced labor projects. In many cases, as soon as a child is strong enough to carry a basket or split rocks, he or she must perform forced labor alongside the adults. Children are affected by forced labor both directly, when they have to work alongside their parents, and indirectly when the work takes their parents away from them for long periods, leaving them vulnerable to all kinds of abuse.

The SPDC army routinely uses civilians as unpaid porters to carry ammunition and food supplies to front line positions or while on patrol in ethnic minority areas. Many children are extrajudicially or accidentally killed while working as porters, and all are subject to cruel, inhumane and degrading treatment. Boys as young as 14 years old have been taken to work as porters, particularly during major military offensives. Routinely, though, young boys are forced to carry supplies for one day at a time, while the army is on patrol. Many boys have died as a result of the treatment they received while working as porters.

As well as working as porters, civilians, including children, also have to guard militarily strategic roads and railways. Usually, women and girls are chosen for this work, and those with small children have no option but to take them along. For the children, this can be very abusive. 'Guard duty' lasts from 24 hours to 10 days, and the women sit under trees along the road or at the edge of railway embankments in an attempt to keep out of the hot sun or to shelter from the monsoon rains. The women have to take whatever food and cooking utensils they can carry. They are not given additional food by the army. In some cases their children fall ill, but there is no medical treatment for them and the women cannot leave their positions for fear of being shot. They are frequently checked by soldiers in vehicles throughout the day and night to ensure that they have not fallen asleep. Those who fall asleep or who leave their posts even briefly are beaten and verbally abused.

3.6. Child sex workers

There is relatively little information available on the sex industry within Burma. Child prostitution of young females due to the economic hardship is apparently increasing in the country. A representative of a Thai-based human rights NGO who recently visited Rangoon reported that it is easy to get girls as young as 13 years old as prostitutes: they are available from taxis outside the Hong Kong Club. In 1992 UNICEF found "significant evidence of child prostitution" in Rangoon, where prostitutes were interviewed who had begun work at the age of 12. The SPDC reported to the UN Committee on the Rights of the Child that prostitution is both legally and socially regulated in Burma, that those found to be earning a living from prostitution are prosecuted, and that the women are handed over or transferred to the responsibility of the Social Welfare Department.

However, the SPDC Child Law does not sufficiently protect children from sexual abuses and exploitation. While it is aimed at punishing the abusers, rather than the child, it does not prohibit child prostitution or using children in pornographic films. Violators of this law are given only a light sentence of two years imprisonment and/or a fine of 10,000

kyat (about US\$ 100); the law applies to those persons “neglecting knowing that a girl (leaving boys totally unprotected) under his guardianship, who has not attained the age of sixteen, is earning a living by prostitution,” or, “using the child in pornographic cinema, video, television or photography.”

The Child Law is also inadequate with regard to the trafficking of children into sexual or other slavery in foreign countries, mostly in Thailand. In fact, there is no mention of any penalty for trafficking children, despite the fact that there are at least 50,000 Burmese girls and women working in Thailand as sex workers at any one time. Given a fear of HIV infection, brothels have increased the turnover of girls, and increasingly younger girls are sought by clients, who believe they are less likely to be infected. The reality is that for younger girls, especially virgins, the risk of HIV infection during sexual activity is greater than for older women, and many girls become infected immediately.

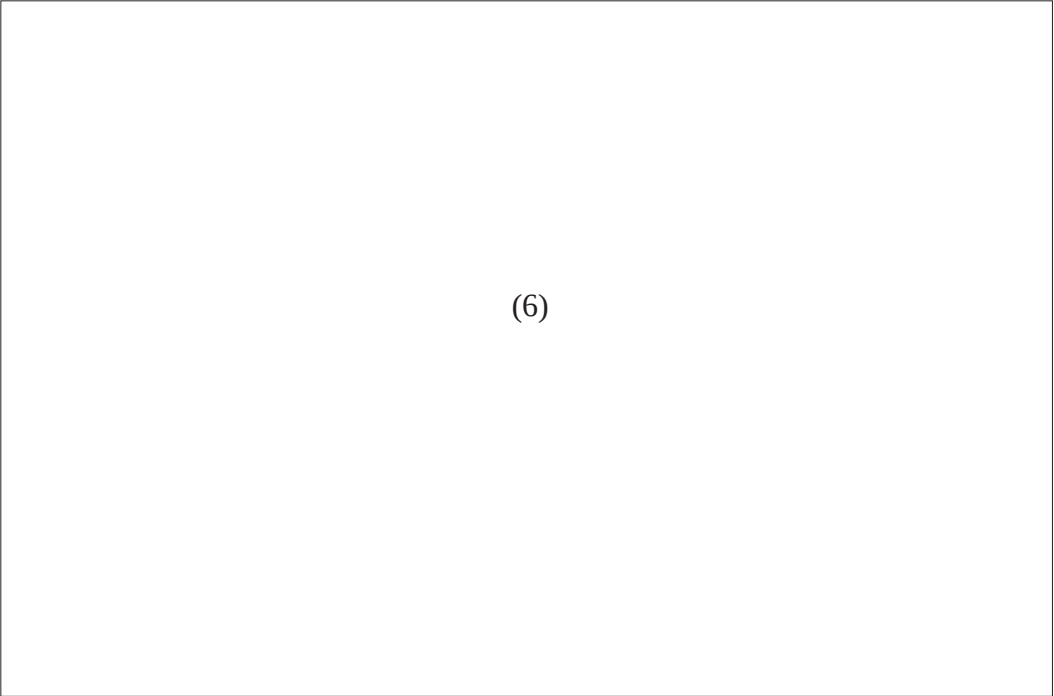
When the trafficked girls and women from Burma arrive in Thailand, the abuses they suffer are extreme. They are forced to service as many as 50 clients a day. In most cases, the young girls are prevented from leaving the brothels. When they do manage to escape, the girls are often too ashamed to return home. By that time, many are found to be HIV positive. Those that are “rescued” in Thai police raids are detained by the Thai authorities on immigration charges and are held for months in detention centers where they face further abuse. From there they are deported to Burma, where again they face arrest under immigration laws for having left the country illegally. The SPDC has taken some steps to work in coordination with Thai authorities to prevent the trafficking of women and children, and has also signed, although not yet ratified, the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others. But much more needs to be done by the Burmese authorities to ensure that future generations of young girls and boys are not sold into sexual slavery, beginning with the swift prosecution of traffickers, and an education program for the most vulnerable children and their parents.

3.7. Life as an illegal immigrant child from Burma

Political and economic hardships in Burma force many children, with or without their families, to seek refuge in Thailand or other neighboring countries. Fleeing forced labor and other abusive situations, many children end up in foreign countries where they are generally considered illegal immigrants and are subject to arrest, imprisonment, deportation, and sometimes forced repatriation; they are afforded almost no protection from international agencies.

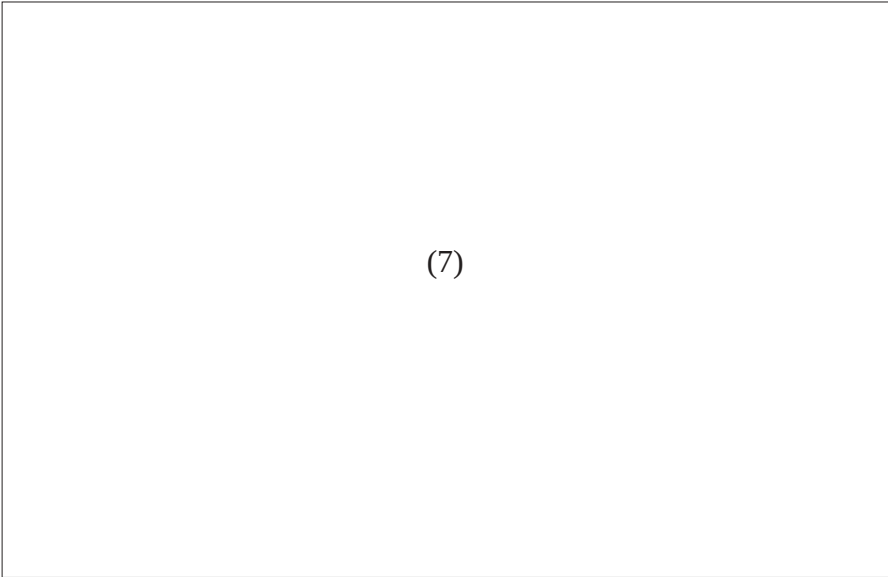
Many unaccompanied children from Burma come to Bangkok and other cities in Thailand. Once there, they must beg or drift on the streets; they will consider any work that enables them to survive. Even the children who fled to the cities with their parents seeking odd jobs, must often find jobs themselves. Many of these “drifting” children end up in low-paid or unpaid construction jobs, or are sold into bonded labor in Thai brothels or factory sweatshops. Burmese children are working in the provinces all along the Thai-Burma border, in towns such as Tak and Ranong, at construction sites, gas stations, restaurants, and on fishing boats. Due to their illegal status and their lack of Thai language skills, most children are afraid to seek help. When these “illegal alien” children are arrested in Thailand, they are held at Immigration detention centers until their cases are processed.

Often this takes from six months to one year. At the centers, children are crammed together with other adult detainees in small, dark rooms where they wait to be sent back to Burma and an uncertain future.



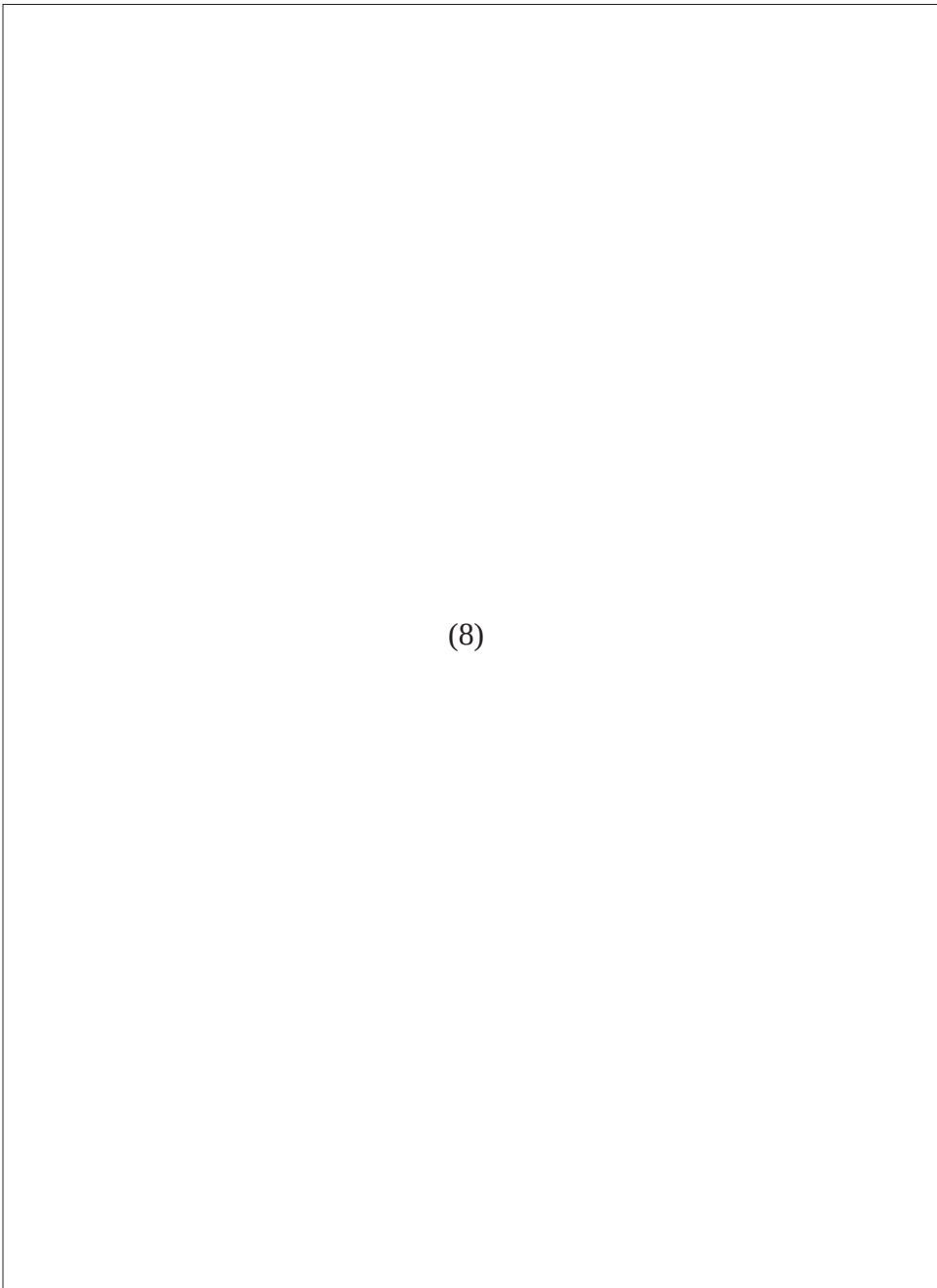
(6)

Refugee children in the Mae La camp, Tha Song Yan district, Thailand in early 1999. Thousands of new refugees including these children streamed across the Thai border. (Photo by Aung Myo Min, HRDU)



(7)

Internally displaced child at Meh La Pho Hta, a site adjacent to the border with Thailand, in January 1999. (Photo by KHRG)



(8)

The children are playing at a shelter in the temporary site inside Burma near Tha Song Yan district, Thailand. They have no choice of a school education, many have already died due to lack of food and medicine. (Photo by Aung Myo Min)