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## **The repatriation predicament of Burmese refugees in Thailand: a preliminary analysis**

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## Introduction<sup>1</sup>

Thailand shares a long 2,401 km stretch of border with Burma and hosts a steadily growing flow of refugees – some 131,000 persons are now registered in the border camps. Today, more than 16 years after the first Karen camps were first established on a semi-permanent basis in 1984, asylum-seekers continue to flee from the neighbouring war-affected borderlands in Burma/Myanmar.<sup>2</sup> Repatriation appears as a regular discussion item on the plight of Burmese refugees in Thailand. Whilst it is indeed germane to the situation, Thailand does not want to remain an indefinite host and refugees cannot live indeterminately as temporary guests in camps. The issue is also inherently susceptible to contested perspectives as well as some confusion.

In order to address the entangled threads in this debate, analytical attention is required to clearly analyse some of the dimensions to the repatriation issue.<sup>3</sup> Repatriation is a necessarily complex issue, for which, according to international norms and in practice, the starting point involves a fundamental change in the underlying causes of displacement. When conditions permit, the repatriation of refugees can contribute to confidence-building in the reconciliation and peace process at home, and it is usually the preferred solution from the perspective of most host governments with an interest in reducing their obligations to asylum-seekers.

It is also important to keep in mind that the scale of the Burmese refugee problem exceeds the number of registered numbers encamped along the border. In mid-2001, the registered non-Burmese ethnic population comprises some 99,600 Karens, over 19,300 Karennis, as well the population of around 12,500 Mons in their resettlement sites just inside Burma.<sup>4</sup> There is also a caseload of around 1,700 Burmese ‘students’ and political activists who fled after the 1988 pro-democracy uprising, some 530 of whom are registered in the Maneeloy holding centre in Ratchaburi province

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<sup>1</sup> Dr. Hazel Lang, Australian National University, Canberra. Her book, *Fear and Sanctuary: Burmese Refugees in Thailand*, is forthcoming with Cornell University’s Southeast Asia Program Publications (SEAP), Ithaca, New York. The research for this paper was conducted while on a visiting fellowship with the Asian Research Centre for Migration (ARCM), Institute of Asian Studies, Chulalongkorn University, Bangkok, with the generous support of the Dunlop Fellowship, Asialink Centre, University of Melbourne.

<sup>2</sup> Whether to call the country ‘Burma’ or ‘Myanmar’ provokes controversy. A brief note has now become customary on this matter, and political connotations are associated with each form. In July 1989, the State Law and Order Restoration Council (SLORC) changed the name of the country, along with several other large cities and administrative divisions. The United Nations and many governments subsequently recognized these name changes, although some countries (such as the United States, several European countries and Australia) still refer to the country as Burma. While the regime (reconstituted as the State Peace and Development Council, SPDC, in November 1997) claims that it has simply re-instated the original transliterations for the country, its political opponents regard the name change as illegitimate. The opposition movement calls on a boycott of the name ‘Myanmar’ as a form of protest against the regime’s human rights abuses and lack of consultation regarding the change. This article has retained ‘Burma’ as a more familiar form for referring to the country. For a political analysis of Burma, see International Crisis Group, *Burma/Myanmar: How Strong is the Military Regime?* (Brussels/Bangkok, 21 December 2000).

<sup>3</sup> Repatriation refers to the preparation for return, the process of return, and the reception and arrangements for integration made immediately after arrival in the home country. Rosemary Preston, ‘Researching Repatriation and Reconstruction: Who is Researching What and Why?’, in Black and Koser (eds), *The End of the Refugee Cycle? Repatriation and Reconstruction* (New York and Oxford: Berghahn Books, 1999), p. 25.

<sup>4</sup> Figures from the Burmese Border Consortium, Bangkok, April 2001.

(southwest of Bangkok); and many of whom await third country resettlement to destinations including Australia, United States, Canada and northern Europe. But in addition to these figures for the refugees, thousands of displaced persons live in Thailand outside the camp structure. For instance, an estimated further 'hidden' 100,000 displaced Shans (particularly those displaced after the tatmadaw's large-scale relocation program in central Shan state beginning in March 1996), have also fled with their extended families to Thailand, surviving mainly in the illegal day labour economy. Further, according to the Thai National Security Council (NSC), there are some 750,000 illegal migrants from Burma in Thailand, some of whom will have also fled from conflict areas. These constitute the numbers for Burmese in Thailand. The number of internally displaced persons (IDPs) within Burma's eastern border region – although very difficult to determine accurately – is thought to be around 500,000.

While a steady flow of displaced persons from the war-affected border regions continues to seek cross-border shelter, Thailand is clearly unwilling to remain an indefinite host. Since 1975, large flows of displaced persons arrived from the Indochinese states, amounting to some one million persons by the time the Cambodian repatriation was completed in 1993. Statements from official sources such as Thailand's most powerful policy-making body on refugee matters, the National Security Council (NSC), appear frequently in the media and tend to contribute to speculation about an impending repatriation. The Secretary of the NSC, Kachadpai Burusapatana, for example, has been periodically quoted in the media along the following lines:

With a peaceful political environment in Burma, about 100,000 Burmese displaced persons who have been our burden for 15 years can return home soon. The sooner the better.<sup>5</sup>

On the part of their representatives and advocates, such statements tend to provoke confusion and consternation concerning the future fate of the refugees. From the perspective of the Thai authorities, however, these kinds of policy declarations relate to the context of a host country shouldering a protracted refugee burden that has also grown in scale, complexity and capacity as a security threat. At the same time, Thai policy makers are aware that the situation is not so easily resolved and that its resolution is ultimately incumbent upon the underlying causes of the problem in Burma. Indeed, with low-intensity warfare between the ethnic insurgent forces and the Burma Army continuing, the political and security environment in these borderlands remains extremely precarious for civilian populations. The Burmese regime may emphasize the achievement of 17 cease-fires between the government and its former insurgent foes, but a considerable serious level of armed conflict and insecurity continues to affect the eastern border regions opposite Thailand.

The starting point to address the refugee predicament in Thailand is ultimately located within Burma, but the substantive issue remains that Thailand is actively contemplating a future policy for repatriation. This paper aims to provide an overview of the political complexities of the repatriation issue and a consideration of the pre-conditions for human security, which are necessary before a future repatriation is possible. It investigates the key elements of the repatriation question in view of

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<sup>5</sup> Quoted in *The Nation*, 11 March 2000, p. A6.

international protection principles and the wider political setting in which the issue is situated, involving the host country, country of origin, UNHCR, and the refugees' representatives. The essential pre-conditions that would need to be met for a durable solution for refugees from this region long affected by war and insecurity require consideration in view of this complex mix of factors and parties with vital stakes in the issue.

### *A note on Thai policy*

In Thailand, defining 'the refugees' is a delicate matter and a brief note on terminology is needed. The Royal Thai Government (RTG) is not a signatory to the 1951 UN Convention on Refugees or its companion 1967 Protocol, and under national law, asylum seekers in Thailand are technically 'illegal immigrants'. In strictly formal terms, legal refugee protection, and even the terminology of 'refugee', does not exist. Since the late 1990s, the official parlance of Thai policy has been expressed in terms of 'displaced persons fleeing fighting' (rather than 'refugees'), 'temporary shelters' (rather than 'refugee camps'), and their official status as illegal entrants under Thai law. However, in practice, the Burmese are recognized as *de facto* 'refugees' and as a group with genuine claims to asylum in the border camps. The general policy approach from Bangkok has been to 'accept and assist the displaced persons on a humanitarian basis.' The policy provides for 'temporary shelter' and Thailand will not push back asylum-seekers until the conditions allow. The Thai position also holds that before it is possible to return the displaced persons, it is necessary to communicate with the government of Burma and be sure that it is willing to cooperate in a future repatriation.<sup>6</sup>

### **Repatriation and protection**

As a protection matter, the international ideal for repatriation is a 'voluntary repatriation in safety and dignity' to an environment in which 'the causes of flight have been definitively and permanently removed.'<sup>7</sup> Repatriation, involving questions of change, human rights and cessation of status, has been defined as a protection exercise in itself.<sup>8</sup> In the normative framework of international law, repatriation is favoured as a matter of principle because it reflects the right of a citizen to return to his or her own country.<sup>9</sup> Repatriation can conclude the 'temporary' or 'palliative' role of international protection,<sup>10</sup> in which protection is explicitly conditional on the risk for refugees in their country of origin. And a voluntary repatriation to a safe and secure environment is the hope of the refugees on this border: 'We want to go back, to work hard, without war and fighting and running'.<sup>11</sup>

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<sup>6</sup> Personal communication with senior policy and military officials, Bangkok, April 2000.

<sup>7</sup> UNHCR, *The State of the World's Refugees: The Challenge of Protection* (New York and London: Penguin Books, 1993), p. 104.

<sup>8</sup> Guy S. Goodwin-Gill, 'Refugee Identity and the Fading Prospect of Protection', in Frances Nicholson and Patrick Twomey (eds), *Refugee Rights and Realities: Evolving International Concepts and Regimes* (Cambridge: Cambridge University Press, 1999), p. 243.

<sup>9</sup> Guy S. Goodwin-Gill, *The Refugee in International Law* (Oxford: Clarendon Press, 1996), p. 275.

<sup>10</sup> James C. Hathaway, 'New Directions to Avoid Hard Problems: The Distortion of the Palliative Role of Refugee Protection', *Journal of Refugee Studies*, 8, 3 (1995), pp. 288-294.

<sup>11</sup> Interviews, Thai-Burmese border, February-April 2000.

At its core, refugee protection is underpinned by access to asylum and the principle of non-refoulement, which prohibits the expulsion or return of refugees to their country of origin where their lives or freedom are threatened.<sup>12</sup> Non-refoulement applies both at the border and within the territory of the receiving state. Under the 1951 Convention protection system, non-refoulement – together with the willingness of states to be more or less flexible concerning asylum-seekers in practice – comprises the key element of refugee protection. It has also attained the status of customary international law, meaning that it applies irrespective of formal accession to the refugee instruments.<sup>13</sup> The 1951 Convention does not mention repatriation, but the UNHCR Statute specifically mentions voluntary repatriation in article 8(c). It is, however, mentioned in the Convention in negative terms, in article 31, which prohibits the expulsion or forcible return of refugees or refoulement.<sup>14</sup>

Some commentators argue that repatriation under duress may be tantamount to refoulement<sup>15</sup> and thus voluntary return regarded as a necessary corollary of the principle of non-refoulement recognised in customary international law. There are also two key UNHCR Executive Committee Conclusions adopted in 1980 and 1985 dealing with repatriation. The 1980 Conclusion looks towards the facilitation rather than promotion of repatriation. The 1985 text emphasizes that ‘the voluntary and individual character of repatriation of refugees and the need for it be carried out under conditions of absolute safety, preferably to the place of residence of the refugee in his country of origin, should always be respected.’<sup>16</sup> UNHCR’s standards and principles for voluntary repatriation are elaborated in its 1996 Handbook on Voluntary Repatriation.<sup>17</sup>

### **Contending agendas: The politics of repatriation**

However, as a political matter, repatriation is also a highly charged concern, encompassing a complex mix of factors and parties with vital stakes. These principally involve the position of the host country, the conditions in and attitude of the country of origin, the role and prospect for access by the UNHCR, and the position of the refugees’ representatives and advocates.

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<sup>12</sup> See UNHCR’s Executive Committee’s ‘General Conclusion on International Protection (No. 81 (XLVIII), 1997),’ reproduced in *International Journal of Refugee Law*, 10, 1/2 (January/April 1998), p. 258. The principle of *non-refoulement* is contained in Article 33 of the 1951 UN Convention on Refugees. It has attained status as customary international law, binding on even those states that have not ratified the 1951 Convention/1967 Protocol. In principle, it applies to a broad class of refugees and asylum-seekers, irrespective of their statutory status as refugees. See Guy S. Goodwin-Gill, ‘Asylum: The Law of Politics and Change’, *International Journal of Refugee Law*, 7, 1 (1995), pp. 6-7.

<sup>13</sup> On legal aspects of the principle of *non-refoulement*, see Goodwin-Gill, *The Refugee in International Law*, pp. 137-155.

<sup>14</sup> Barbara E. Harrell-Bond, ‘Repatriation: Under What Conditions is it the Most Desirable Solution for Refugees? An Agenda for Research’, *African Studies Review*, 32, 1 (April 1989), p. 47.

<sup>15</sup> B. S. Chimni, ‘The Meaning of Words and the Role of UNHCR in Voluntary Repatriation’, *International Journal of Refugee Law*, 5, 3 (1993), p. 454. See also Barbara E. Harrell-Bond, ‘Repatriation: Under What Conditions is it the Most Desirable Solution for Refugees?’, 1989, pp. 41-69.

<sup>16</sup> See Goodwin-Gill, *The Refugee in International Law*, pp. 272-73. The text of ‘UNHCR Executive Committee Conclusion No. 40 (XXXVI)-1985’ is found in Annex 3.

<sup>17</sup> UNHCR, *Handbook, Voluntary Repatriation: International Protection* (Geneva: UNHCR, 1996).

### *The host country*

From the perspective of the host country, not only in Thailand, but also globally, refugees are increasingly viewed as a burden and a potential threat to national security and stability – particularly when a deterioration in the asylum conditions and/or a political push for repatriation occur. Thailand is host to a large, long-term refugee scenario on its western border and it is clearly vexed by this burden, as exemplified in this policy statement:

...the influx of displaced persons has entailed huge cost[s] for Thailand in terms of administration and personnel, environmental degradation, deforestation, epidemic control and the displacement of affected Thai villages as well as the psychological impact on the local population.<sup>18</sup>

The future voluntary return of the refugees to their homelands is now a priority for Thailand, but it is beset with difficulties and complexities which relate to the broader political and security situation.

Since 1995, when the cross-border raids on the Karen refugee camps began, the refugee population itself has featured as a prominent element in the deteriorating borderlands' security environment. Following the fall of the opposition strongholds of Manerplaw and Kawmura to the Burma Army, the previously stable Thai-based camps in Tak and Mae Hong Son provinces were subject to regular attacks. The raids were conducted by the newly established breakaway faction of the Karen National Union, the Democratic Buddhist Army (DKBA), and resulted in large sections of long-established camps being burnt to the ground. Prior to the first incursions, the DKBA distributed leaflets warning all refugees to return to Burma. According to one source, there were 152 cross-border incursions during the period January 1995 to April 1998.<sup>19</sup> Thus today the presence of the refugee camps, along with the large increase in the cross-border movement of illegal drugs (amphetamine-type stimulants in particular), represent a major priority for Thai national security policy.<sup>20</sup>

The consequences of this dramatic 'spilling' of the war across the border have therefore created contending pressures for Thailand in terms of the refugees. On the one hand, Thailand has been placed under greater pressure to end the refugee predicament on its western border, particularly in view of the deteriorating security implications of this cross-border chaos. At the same time, the attacks have also heightened the need for greater protection of the refugees, in both physical and policy terms, than hitherto.

But while Thailand would like to repatriate the refugees, senior policy-makers and practitioners also recognise that a safe and voluntary repatriation is possible only

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<sup>18</sup> Khun Surpong Posayanond, Director-General, International Organizations Department, Thai Foreign Affairs Ministry, 'Thailand's Policy on Myanmar Displaced Persons: The Challenges of Humanitarian Assistance', *UNHCR Newsletter*, Regional Office for Thailand, Cambodia and Vietnam, March 2000, pp. 6-7.

<sup>19</sup> Images Asia and Borderline Video, *A Question of Security: A Retrospective on Cross-Border Attacks on Thailand's Refugee and Civilian Communities along the Burmese Border Since 1995* (Chiangmai, May 1998), p. 2.

<sup>20</sup> On the drug issue see, Anthony Davis, 'Thailand Tackles Border Security', *Jane's Intelligence Review*, March 2000.

when conditions of peace and security allow. For example, senior military officers in Bangkok highlight that Thailand will not push the displaced persons back until the conditions are acceptable, in which the problem ‘as a whole’ is resolved ‘to serve all parties’ (Thailand, the Burmese authorities, and the minorities).<sup>21</sup> Other Thai agencies including the Ministry of Interior and the Ministry of Foreign Affairs are also actively contemplating the conditions for a future repatriation but analogously acknowledge the obstacles. According to the Ministry of Interior, for instance, Thailand ‘cannot consider repatriation without security, although we are thinking about repatriation’.<sup>22</sup> In the context of a necessary future agreement between UNHCR and the Burmese authorities, Deputy Foreign Minister MR Sukhumbhand Paribatra has noted:

Once the displaced persons have confidence they can return home with safety and dignity, they will certainly volunteer to go back...Unless and until there is a neutral presence in Burma to build confidence among the displaced persons, it’s unlikely that many will volunteer to go back.<sup>23</sup>

Some senior members of the Royal Thai Army (RTA) emphasise the need to view the repatriation issue in the broader ‘non-linear’ context of war and ethnic conflict and border security as a whole. From this perspective, the problem is multi-faceted and requires an appropriately integrated response. How can Thailand best approach the major burden that spills across its border in the form of refugees and other illegal migrants, narcotics, and other inimical repercussions of military activities in Burma? One view within the RTA says that if the problem is not approached in an integrated way, then it is not possible to identify and work according to the priorities of the task. The future repatriation of the refugees – a peaceful, voluntary repatriation – is clearly an important long-term objective, but other key short-term and intermediate matters need to be addressed before this goal can be realized.<sup>24</sup>

Other key persons in the RTA and the Ministry of Defence also recognize that the solutions to Thailand’s security problems along the border are to be found in Burma, but express the process differently. One key General, for instance, notes that Thailand needs to acknowledge the reality of ‘Myanmar as a military state’, which is loathe to engage in discussion on key problems such as the refugees, minorities, and the pro-democracy movement. According to this senior general who is very experienced in dealing with the junta leadership in Burma, it is necessary for Thailand to understand four elements in this reality: (1) a knowledge of how history is used; (2) an understanding of the ‘top 5’ leaders, their likes and dislikes; (3) knowledge of the minorities and what they want; (4) a knowledge of the Burmese people and how they live and think.<sup>25</sup>

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<sup>21</sup> Personal communication, Royal Thai Army Headquarters, Bangkok, April 2000.

<sup>22</sup> Khun Wannida Boonpracong, Chief, Displaced Persons and Illegal Immigrant Affairs Subdivision, Ministry of Interior, speaking at a seminar ‘Re-thinking Policies Toward Burmese Refugees and Students in Thailand’, held at Chulalongkorn University, Bangkok, 8 November 1999.

<sup>23</sup> Don Pathan and Marisa Chimphrabha, ‘Burma Agrees to UNHCR Monitor’, *The Nation*, 17 March 2000, p. 1.

<sup>24</sup> Personal communication, Royal Thai Army Headquarters, Bangkok, April 2000.

<sup>25</sup> Interview, General Sanan Kajornklarn, Special Ministry of Defence, Office of the Permanent Secretary, Ministry of Defence and Ministry of Defence Spokesman, Ministry of Defence, Bangkok, 7 April 2000.

### *The country of origin*

Of course, the priorities of the country of origin affect and politicize the repatriation issue and process. It is imperative to understand the attitude of the home government towards the displaced persons, not only regarding the refugees, but also in relation to the politics, conflict and security situation in the country as a whole.

On the one hand, the absence of a country's nationals can be damaging to the government's legitimacy – the existence of refugee camps provides a visible reminder of the precarious situation inside the country. As a visible political reminder, their presence may present an embarrassment for the country of origin. In international relations, refugees represent the breakage in the bond between the citizen and the state. Indeed, displaced persons and refugees are ultimately the responsibility of the sending state. Due to the arcane nature of the SPDC regime, accurate or authoritative information relating to its policy position on the repatriation question is very difficult to obtain. And it has been hitherto unwilling to acknowledge responsibility for the refugees encamped along the Thai border. In March and October 2000, government officials in Rangoon agreed to the respective visits of the UNHCR Assistant High Commissioner and the UNHCR chief Sadako Ogata from Geneva, but little substantive progress on the matter was achieved.<sup>26</sup>

On the other hand, the apparent unwillingness of the Burmese regime to accept back the displaced persons requires consideration. According to other senior Thai military sources, Rangoon has been unwilling to meaningfully discuss the matter of repatriation with its Thai counterparts. At the bi-annual Regional Border Committee meetings between the two militaries, for instance, the official Burmese response has stipulated that (a) it can only accept back 'Myanmar citizens', and (b) that they 'already have 20 reception centres around the country' [for this purpose].<sup>27</sup> Thailand's Deputy Foreign Minister Sukhumbhand Paribatra has stated that 'Burma must have reaffirmed a willingness to receive the displaced persons'.<sup>28</sup>

In practice, however, it is unlikely that the Burmese regime will want to take back refugees until it has secured cease-fire surrenders (on its own terms) and/or complete control over the minority forces and their border territories. Because the aim of the government's counterinsurgency strategy is to undermine and eliminate the civilian support base for the insurgents, it is unlikely that it will accept back people of whom it is suspicious.

Under the present regime, the Burmese authorities deny responsibility for the refugees encamped along the Thai border. The regime's position on the refugees contains the following contradiction: in one sense, they are identified with the insurgent forces (as

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<sup>26</sup> After the visit by the UNHCR Assistant High Commissioner from Geneva, *The New Light of Myanmar* ran a brief column simply mentioning which senior SPDC officials welcomed him at the airport. It noted that the SPDC officials present included Deputy Minister for Immigration and Population, the Director General of Immigration and National Registration Department and other officials. 'Assistant High Commissioner of UNHCR Arrives', *The New Light of Myanmar*, 13 March 2000, p. 12.

<sup>27</sup> Interviews, Ministry of Defence, Bangkok, April 2000.

<sup>28</sup> Don Pathan and Marisa Chimphrabha, 'Burma Agrees to UNHCR Monitor', *The Nation*, 17 March 2000, p. 1.

rebel soldiers and their families);<sup>29</sup> in another sense the government proclaims unprecedented achievement of peace in the country. According to a Myanmar Information Committee statement, for example, released by the SPDC concerning the 2000 United Nations Human Rights Commission report:

The report of the Special Rapporteur is highly biased against Myanmar...It also ignores the most important fact that the entire population of nearly 50 million Myanmar people are enjoying peace, stability and a better living conditions for the first time in their life.<sup>30</sup>

It is also uncertain whether the durable repatriation of the remaining refugees encamped along the Thai border could occur under the present cease-fire arrangements where political sustainability remains potentially fragile.<sup>31</sup> The case of the Mon refugees repatriated in 1996, pursuant to the cease-fire between the government and the beleaguered New Mon State Party (NMSP), represented a limited outcome in which the displaced population was simply transferred from the Thai to the Burmese side of the border. The Mon repatriation also occurred within a set of particular political pressures.<sup>32</sup> While the immediate NMSP cease-fire territory remains relatively calm and stable, the benefit of the cease-fire has been confined to this narrow jurisdiction which also serves as a sanctuary for the arrival of new displaced persons from the surrounding areas affected by ongoing conflict. The tatmadaw continues to fight its counterinsurgency campaign against the Karen National Union/Karen National Liberation Army with intensity. Moreover, armed splinter groups that broke away from the NMSP after the cease-fire have been active in several Mon-populated areas creating continuing problems for the local civilian populations.

## The UNHCR

In 1998, Thailand formally determined an enhanced, 'permanent' role for the UNHCR on the Burmese border for the first time.<sup>33</sup> This new agreement between the RTG and

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<sup>29</sup> This view has been consistently expressed by the regime, including to the United Nations High Commissioner for Refugees, Sadako Ogata, when she met with Lt.Gen. Khin Nyunt in Rangoon in October 2000. AFP, 'Myanmar Junta tells UNHCR Chief Exiles in Thailand Rebels not Refugees', 16 October 2000.

<sup>30</sup> Myanmar Information Committee, 'Information Sheet no. B-1316 (I), Yangon, 2 April 2000, Statement released by the SPDC.

<sup>31</sup> Since 1989, the regime has offered the ethnic minorities its cease-fire policy, in which former insurgents 'exchange arms for peace', 'return to the legal fold' and participate in the government's National Convention. At present, the former rebels are permitted to remain armed within certain defined territories, enter into business activities and receive government assistance for 'border area development' until their future position is institutionalized under the new constitution.

<sup>32</sup> See Lang, *Fear and Sanctuary: Burmese Refugees in Thailand*, Chapter 5.

<sup>33</sup> Nussara Sawatsawan, 'Ogata Accepts Invitation', *Bangkok Post*, 25 July 1998. UNHCR describes its role as one in which 'UNHCR field-based protection staff will advise the Government of Thailand in establishing criteria for refugee status determination procedures to ensure that groups of asylum-seekers fleeing conflict, or the effects of conflict, will be permitted temporary protection in camps in Thailand. UNHCR will provide assistance as required, to relocate camps at risk of incursion further away from the border, and, in collaboration with the Government, will conduct comprehensive and verifiable registration exercises and monitor the civilian character of the camps.' UNHCR Funding and Donor Relations, East Asia and the Pacific, *UNHCR 1999 Global Appeal –Thailand/Myanmar*. Available online at <http://www.unhcr.org>

the UNHCR for an operational role arose out of both the deteriorating borderlands' security environment (presented by the cross-border attacks on the Karen refugee camps since 1995) and Thailand's desire to work towards the resolution of what had become a long-term, protracted refugee problem. Military developments in the Burmese borderlands meant that Thailand remained confronted with a growing refugee problem, that the issue was becoming more difficult to deal with informally, and that a spontaneous and speedy return of the displaced persons could no longer be contemplated.

After the UNHCR became officially operational along the border in 1999 (with field offices in Kanchanaburi, Mae Sot, and Mae Hong Son), it undertook a major registration exercise, in conjunction with the Ministry of Interior. In addition to recording the bio-data of each household member, the exercise also recorded demographic information such as the refugees' places of origin within Burma. On a computer-generated map produced by the UNHCR in early 2000, the data indicated the numbers of refugees and their places of origin by township district. The agency also worked with the Thai authorities to formalize refugee admissions procedures, including the establishment of Provincial Admissions Boards in the border provinces and the construction of reception buildings within several of the camps.

While the priority of the UNHCR's mandate begins with protection, there has however been concern that the UNHCR's official presence on the border relates to the promotion of repatriation. On the one hand, there is some evidence for this. In its 'Thai/Myanmar mission statement', the UNHCR lists repatriation as one objective: '...the UNHCR aims to ensure preparedness for repatriation by keeping close contact with refugees and by monitoring the situation in the country of origin.'<sup>34</sup> Criticism has been levelled at the UNHCR more broadly (for promoting repatriation in the short-term rather than the facilitation of repatriation when conditions become conducive). Guy S. Goodwin-Gill, for instance, notes that the agency is obliged to 'refrain from promotion of repatriation where circumstances have not changed, or where instability and insecurity continue.'<sup>35</sup> On the other hand, UNHCR acknowledges the problems of refugee repatriation in practice. Its 1997 document on 'Repatriation Challenges' notes that many refugee repatriations are undertaken in fragile and uncertain political conditions, where large questions remain concerning voluntariness of return, precipitous repatriation under pressure, and lack of safety or lack of a fundamental change in the original conditions provoking refugee flight.<sup>36</sup>

In Bangkok, the UNHCR has emphasized that the agency cannot 'act on its own' and can only promote repatriation when the conditions allow.<sup>37</sup> The Bangkok office notes that until it has access to those relevant (war-affected) areas in Burma, it is not in a position to promote an organised repatriation for Burmese asylum-seekers. Until now it has not received permission from the government authorities in Rangoon to visit these areas – and while there is no access, UNHCR remains unable to substantively

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<sup>34</sup> UNHCR, 1999 Mid-Year Progress Report – Thailand and Myanmar, 'Initial Objectives'. Online at <<http://www.unhcr.org>>.

<sup>35</sup> Goodwin-Gill, *The Refugee in International Law*, p. 273 (emphasis in original).

<sup>36</sup> See Executive Committee of the High Commissioner's Programme Forty-eighth Session Annual Theme: Repatriation Challenges', UN doc. A/AC.96/887 (9 September 1997). Reproduced in *International Journal of Refugee Law*, 9 (4), 1997, pp. 679-687.

<sup>37</sup> Interview, Deputy Regional Representative and head of Legal Section, UNHCR, Bangkok, 23 March 2000.

investigate the repatriation matter.<sup>38</sup> UNHCR recognizes that Thailand would like it to look into the repatriation issue, but the agency is limited in what it can do without access: ‘UNHCR can’t bring about a political settlement!’<sup>39</sup> At this time, therefore, a key matter from the perspective of UNHCR relates primarily to admission. At the same time, repatriation remains an underlying longer-term concern, which is incumbent on political developments in Burma and thus beyond the scope of the UNHCR mandate and activities at present.

### **The refugees’ representatives**

Overall, the agenda of the refugee representatives is for change and a durable peace permitting repatriation. For instance, a common response on this topic is, ‘if they [SPDC] declare peace today, we would not even have to wait for tomorrow, we would go back today’.<sup>40</sup> This agenda is often closely linked to the status of the politico-military struggles across the border. In many cases the representatives of the refugees will be closely associated with, if not members of, the ethnic insurgent organizations. Close identification and cooperation necessarily occurs between the refugee leaders and the respective opposition armies in refugee administration. Not only are the refugee committees reliant on these for information, their work is fundamentally entwined with the circumstances and dynamics of the wider military and political context. A veteran Karen worker on the border explains that ‘if the SPDC does not accept peace talks with the KNU, a repatriation is not possible. If the SPDC accepts peace talks or an agreement between the KNU and the SPDC, then repatriation is automatic’.<sup>41</sup> Also, the refugees have generally fled those regions previously under the control and *de facto* administration of the insurgent organizations and are by implication identified with the insurgencies.

At the same time, however, the views of the refugee representatives are not always simply synonymous with their armed ethnic organization counterparts. For instance, as one independently-minded refugee leader stated:

As civilians we would have to watch the...cease-fire, and if it only benefits the [ethnic] leaders, then that would be no good...If such an agreement is just a leaders’ agreement, and not for the well-being of the people, then it would not be acceptable. If the...and the SPDC came to an agreement, we would still need to think [about it], observe the conditions ... We civilians would watch these conditions, actually, we’d suggest that the leaders and their families go first, not the civilians!<sup>42</sup>

In addition to state authorities, non-state actors must also be willing to meet the needs of displaced persons and refugees. There are problems of representation within the indigenous refugee organisations, such as the lack of women’s participation within the

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<sup>38</sup> Interview, UNHCR, J. de Reidmatten, Deputy Regional Representative, Bangkok, and Anna Wang Heed, Legal Section, 23 March 2000.

<sup>39</sup> Interview, UNHCR, J. de Reidmatten, Deputy Regional Representative, Bangkok, and Anna Wang Heed, Legal Section, 23 March 2000.

<sup>40</sup> Interview, Karen Refugee Committee representatives, Mae Sot, February 2000.

<sup>41</sup> Interview, Karen Refugee Committee, Mae Sot, 21 February 2000.

<sup>42</sup> Interview, Mae Hong Son, February 2000.

key decision-making processes. In view of the general tendency for leadership structures to be male-dominated, UNHCR has identified the need for refugee women to be in a position to actively participate in and influence the collective decision-making process.<sup>43</sup>

### **Repatriation and human security**

Repatriation as a refugee solution cannot just be a means to an end: it is necessary for a future repatriation as a durable solution for the refugees in a human security context. The emphasis of human security is its focus on the quality of life of individuals and the people of a society or polity.<sup>44</sup> In terms of the answer to ‘security for whom?’ the individual is the primary referent. But the conception of human security is not intended to clash with the interests of states so much as generate the protection – through developing norms, strengthening institutions and implementing strategies – of those who are most vulnerable.<sup>45</sup> Proponents of this approach argue that state security ultimately depends on the security of the individual human being, and security of the individual depends amongst other things on the security of the state.<sup>46</sup>

Human security promotes policy norms that focus on a people-based notion of security, concerned with, as Richard Falk describes,

the social and human dimensions of unresolved conflicts’ which is ‘more in touch with the actual circumstances of conflict...[and] more closely attuned to the emerging political situation...’<sup>47</sup>

Although it is beset by major political machinations and obstacles, a human security approach views the resolution of the refugee predicament as a whole, embracing the problems confronting Thailand as the host state, the needs of the displaced persons and their communities, as well as looking into the future toward post-conflict repatriation and reconstruction/reconciliation within Burma.

For the achievement of human security, the conditions that need to be met before a future repatriation is possible combine three elements. These involve a voluntary return, a fundamental change in the underlying causes of displacement, and the achievement of safety and security within Burma.

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<sup>43</sup> The UNHCR *Handbook on Repatriation* 1996, p. 41.

<sup>44</sup> Ramesh Thakur, ‘From National to Human Security’, in *Asia-Pacific Security: The Economics-Politics Nexus*, (ed.), Stuart Harris and Andrew Mack (Canberra and St. Leonards: Department of International Relations, ANU and Allen and Unwin, 1997), p. 53; Roxanne Lynn Doty, ‘Immigration and the Politics of Security’, *Security Studies*, 8, 2/3 (Winter 1998/99): pp. 81-82.

<sup>45</sup> Astri Suhrke, ‘Human Security and the Interests of States’, *Security Dialogue*, 30, 3 (September 1999): p. 273.

<sup>46</sup> See further, Kanti Bajpai, ‘Human Security: Concept and Measurement’, Occasional Paper #19: OP: 1, Joan B. Kroc Institute for International Peace Studies, University of Notre Dame, August 2000.

<sup>47</sup> Richard Falk, ‘An Alternative to Geopolitics’, *Peace Review*, 11, 3 (September 1999), p. 374.

## *Voluntariness*

First, as an international standard, the principle of voluntariness means that the return is free from pressure and the returnees are fully informed throughout the process. A free choice and informed decision on the part of the would-be returnees is a key principle of a voluntary repatriation. Voluntariness essentially means that the return is free from pressure and the returnees are fully informed throughout the process. The international principle of a voluntary return relates to the situation in the country of asylum (permitting a free choice) and the conditions in the country of origin (calling for an informed decision).<sup>48</sup> The 1996 UNHCR Handbook on voluntary repatriation provides a guide to practical measures to establish the voluntary nature of a repatriation.

In tenuous political circumstances, however, the voluntary component of repatriation may be overlooked in practice. Clearly, refugees fear to be sent back involuntarily, or as one Karen refugee expressed it, ‘sent back to their lands to die’. As noted earlier, UNHCR acknowledges that many refugee repatriations are undertaken in fragile and uncertain circumstances in which, among other problems of safety and security, large questions about the voluntariness remain.

The voluntary character of repatriation has been the subject of some controversy and substantial debate. With the focus of UNHCR on repatriation as the preferred ‘durable solution’ for refugees – the 1990s was coined the ‘decade of repatriation’ – the agency has at times been criticized for its focus on the promotion of repatriation. Goodwin-Gill, for instance, has pointed out that the objective for UNHCR ‘is to oil the wheels once moving, not to get them to turn’.<sup>49</sup> Other scholars of international refugee law, however, are less adamant in insisting upon the voluntariness criteria. James C. Hathaway, for example, argues that because refugee status is ‘a situation dependent trump on the usual rules of immigration control’, there is no reason to deny the right of states to enforce immigration when the human rights of former refugees are no longer at risk in their home countries.<sup>50</sup> In its 1996 Handbook, UNHCR refers to ‘the promotion of repatriation’ as ‘[t]he practical measures which can be taken to help refugees return voluntarily once the conditions exist’.<sup>51</sup> At the same time, it is apparent that the Handbook reflects an orientation towards repatriation, for instance, noting that the registration and gathering of data of refugee populations ‘should...always be done with a view to a possible repatriation operation.’<sup>52</sup>

The voluntary character of repatriation encompasses the two elements of free choice and an informed decision by refugees to return. This second aspect of an informed decision involves information regarding the advisability and feasibility of return. This requires an analysis of the causes which gave rise to the refugee flow, and of their

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<sup>48</sup> See UNHCR, *Handbook, Voluntary Repatriation* (UNHCR: Geneva, 1996), pp. 10-11.

<sup>49</sup> Guy S. Goodwin-Gill, ‘Voluntary Repatriation: Legal and Policy Issues’, in Gil Loescher and Laila Monahan (eds), *Refugees and International Relations* (New York: Oxford University Press, 1989), p. 270.

<sup>50</sup> James C. Hathaway, ‘The Meaning of Repatriation’, *International Journal of Refugee Law*, 9 (4), 1997, p. 604.

<sup>51</sup> UNHCR, *Handbook, Voluntary Repatriation*, p. 16 (emphasis added).

<sup>52</sup> UNHCR, *Handbook, Voluntary Repatriation*, p. 19.

modification over time in light of policy changes and the emergence of security and stability.<sup>53</sup>

At its core, a voluntary repatriation requires confidence among the potential returning population. As Thailand's Deputy Foreign Minister MR Sukhumbhand stated during the visit of UNHCR's Sadako Ogata to the Thai-Burmese border in mid-October 2000, the presence of a credible organisation in Burma would be a 'first step' to build confidence among those deciding to stay or to return: 'If there is no confidence in this regard, there probably won't be any volunteers for the repatriation'.<sup>54</sup> But this component of confidence for a voluntary return will need to be grounded in fundamental change and conditions of safety and security in their homelands.

### *Change*

The second element of a fundamental change of circumstances in the country of origin relates to the root and precipitating causes of displacement in the conflict-affected areas. A substantial level of insecurity in Burma's eastern borderlands, however, continues to uproot people from direct and indirect consequences of war and military control. For example, according to a group of Karenni displaced persons arriving in the Thai-based 'Camp 2' in March 2000, harassment ('they [troops of the Burmese army] were going to kill everyone in the village if they hear just one gunshot near the village') and economic hardships continue to make life impossible.<sup>55</sup>

But how is change impartially assessed, and who decides? If the repatriation is approached as durable solution and part of a firm and lasting peace, it is necessary to address the root and precipitating causes of displacement in Burma. The root causes are located in the long-term historical and political setting of Burma and the precipitating causes relate to the more immediate circumstances of civilian displacement in the conflict-affected areas.

The root causes relate to unresolved ethno-political conflict and how insurgency and counterinsurgency has impacted on the civilian populations in conflict areas. Some aspects of Burma's post-independence inheritance such as the inadequate political accommodation of state-minority relationships remain unresolved today. Burma has been affected by civil war since independence in 1948, and over 5 decades of conflict have thoroughly militarized ethnic claims and their suppression. On the one hand, ethno-nationalist forces have stressed Rangoon regimes as bent on their political and cultural destruction; on the other hand, the tatmadaw has emphasized the unrelenting threat of 'disintegration' posed by the rebellions. The military authorities in Rangoon insist on a strongly centralized, unitary (rather than federalized) state. Despite comprising about 35 per cent of the population, non-Burmese ethnic minority aspirations for a federal structure remain disregarded while the regime seeks to forge ahead with its own plans for the management of ethnic diversity in the form of 'national reconsolidation'. The regime has offered the ethnic minorities its cease-fire policy, in which the former insurgents 'exchange arms for peace', 'return to the legal fold' and participate in the government's National Convention. The tatmadaw's

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<sup>53</sup> Goodwin-Gill, 'Voluntary Repatriation', 1989, pp. 283-284.

<sup>54</sup> *Bangkok Post*, 18 October 2000.

<sup>55</sup> Visit to the Karenni camps, Mae Hong Son, March 2000.

enhanced operational capabilities since 1988 have provided for unprecedented military successes in the field against the long-running insurgencies in the border regions, with most of Burma's insurgent forces now having entered into cease-fire agreements. Thus under military domination since 1962, there has been a lack of a sustainable political solution or reconciliation – instead the cycles of war have continued.

The cycle of violence is embedded in the nature and consequences of low-intensity warfare. In the context of insurgency, because civilians serve as the crucial support base for low-intensity guerilla warfare, they become identified with the rebellions. The overlap of combatant, non-combatant, and support system in a shared social and geographic space is fraught with danger for civilians. In counterinsurgency warfare, civilians become the targets in military campaigns precisely for this reason. The civilian base is the target for pacification and destruction. Those living in the affected areas become collectively regarded as potential insurgents or sympathizers: the boundary between frontline and rear areas is blurred. The tatmadaw's counterinsurgency strategy, the Pya Ley Pya or 'Four Cuts' strategy (officially endorsed in 1968 and still in operation today) is designed to suppress internal insurgency by cutting the insurgents off from their support system (food supplies, funding, intelligence and recruits) linked to the civilian population.

The immediate precipitating causes of civilian displacement arise out of this context. Fear pervades everyday life and intensifies the blurred boundary between civilians and rebels. Because people almost always run away when counterinsurgency/government troops arrive, the view that villagers are potential insurgents and sympathizers is reinforced because they run away. This cycle of fear and running only perpetuates insecurity and impoverishment. There are four main (overlapping) precipitating causes of displacement: direct fighting, the requisition of forced labour, coercive financial demands, and the forced relocation of villages.

The regime claims the cease-fires as one of its major achievements for 'internal peace' since 1988. With Khin Nyunt as the key architect, the SLORC began implementing its cease-fire strategy after the collapse of the Communist Party of Burma (CPB) in 1989, when a number of breakaway ex-CPB ethnic forces (such as the Wa and the Kokang groups in the Northeast) 'returned to the legal fold'.<sup>56</sup> A host of other ethnic insurgent groups have subsequently entered into cease-fire arrangements with the government, amounting to a total of 17 cease-fires by the year 2000. Under the cease-fire arrangements, the former rebel armies are permitted to remain armed within certain defined territories, enter into business activities and to receive government assistance for 'border area development' until their future position is institutionalized under the new constitution.

The major non-cessate-fire groups in June 2001 remain the Karen National Union (the largest), the Karenni National Progressive Party (an earlier March 1995 deal collapsed within three months), the Shan State Army (South), and several other smaller forces (which include various splinter factions and tatmadaw proxies such as the Democratic Karen Buddhist Army). The tatmadaw continues to wage its counterinsurgency

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<sup>56</sup>For a comprehensive summary of ethnic and other anti-government armies in Burma, see Bertil Lintner, *Burma in Revolt: Opium and Insurgency Since 1948* (Chiang Mai: Silkworm Books, 1999), Appendix 3.

program in the eastern areas along the Burma-Thailand border where these groups remain active.

Since 1995, the politico-military scene within the eastern borderlands region of Burma has also been complicated by the emergence of new armed splinter groups. Numerous factions of the ethnic insurgent organizations abound in the border regions, including other Karen breakaway groups (such as the Democratic Kayin Buddhist Army and the millenarian God's Army in Tenasserim Division), Karenni, Mon, and a plethora of other groups (including those associated with drug-trafficking) operating in Shan State.<sup>57</sup> After the Mon cease-fire between the NMSP and the SLORC in 1995, a number of small regionally located splinter factions broke force from the NMSP, vowing to fight on in contravention of the cease-fire. These splinter armies were operating in those familiar locales that before the NMSP-SLORC cease-fire were targeted for counterinsurgency and that remain targeted for military suppression in view of the continuing activities of the armed rebels. The activities of the splinter factions not only threaten the cease-fire agreement (opposing and challenging it and also creating trouble for the NMSP), but the presence of the splinter groups has brought further suffering to local villagers inhabiting the areas in which these groups have been active.<sup>58</sup>

What does an end to armed hostilities mean for the cycle of civilian displacement and insecurity? In the case of the military cease-fire reached between the NMSP and the SLORC in June 1995, which presaged the repatriation of the Mon camps from Thailand, it only partially addressed the problems producing civilian displacement. This prompted the question of whether a 'calmer' situation in view of respite from active hostilities constituted a sufficiently secure, and sustainable, basis for the repatriation of the cross-border population. In the case of the Mons, neither the cease-fire nor the repatriation engendered the confidence of the returning population to go back to their original homes. Instead, the camps were transferred into the designated cease-fire areas within Burma under the management of the NMSP. This comprised an interim arrangement in the context of a politically unresolved and potentially fragile military environment, leaving the larger story of Mon refugees unfinished. The repatriation of the Mons effectively transformed their status as 'unrecognized' refugees into internally displaced persons (IDPs). While the refugees were returned to safe sites across the border, the repatriation did not comprise a durable solution.

In making the general point about the policy of taking back refugees in this way, Khalid Koser and Richard Black offer the critique that, in converting refugees into IDPs, state authorities in some cases aim to strengthen government-held, as opposed

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<sup>57</sup> See further, Desmond Ball and Hazel Lang, *Factionalism and the Ethnic Insurgent Organisations in Burma* (Strategic and Defence Studies Centre, Working Paper, Australian National University, Canberra, June 2001).

<sup>58</sup> The subject of the Mon splinter groups is a very sensitive matter for the NMSP. The NMSP emphasizes their lack of sophistication, lack of strength, as well as their unpopularity among the people. As one NMSP official noted, 'these armies have no discipline; their rules are in their mouths, their power is in their mouths only.' At the same time, the faction commanders and members (who keep a low profile) express their determination to fight on. Personal communication with NMSP and splinter faction leaders, Thailand, June and November 1999.

to rebel-held, areas, and this contributes to the consolidation of government control.<sup>59</sup> In the case of the Mon returnees, the resettlement sites were autonomous from the authorities in Rangoon, but the repatriation of the refugees was still regarded (and manipulated) as a component in their 'victory' over insurgency. The primary emphasis was on repatriation as the goal in itself rather than as a substantive step towards a durable solution and future security.

### *Safety and security*

Third, as elaborated in UNHCR's Handbook on Voluntary Repatriation, the condition of safety and security involves legal safety, physical and material security.<sup>60</sup> Legal safety includes arrangements such as a tripartite memorandum between the country of origin, country of asylum and the UNHCR, and the option of a fourth part for the non-state entities concerned; as well as the provision of formal guarantees for the safety of returnees such as amnesties, peace agreements and guarantees for the requisition of nationality. Physical security requires the need to address such matters as the anti-personnel (AP) landmines problem, and material security needs involving the rebuilding of damaged infrastructures, community services, agriculture and economic development.

The scale of the AP landmine problem in Burma alone presents a major immediate challenge before a sustainable repatriation would be possible. In 2000, the number of casualties produced by these weapons exceeded those of mine-afflicted Cambodia, and neither the tatmadaw nor the insurgent forces have demonstrated any sign of restricting their use.<sup>61</sup> In some cases, landmines cause displacement, in others they inhibit a return home or make life difficult after return.

In terms of legal arrangements, the requisition of nationality is a concern for refugees and the country of asylum alike. Such provisions for thousands of people who were born in the Thai-based camps, and those without national identity cards for Burma will be a necessary future pre-condition for return. Rangoon's present position is that it will only take back those with Burmese identity cards and this may be a means on the part of the home government to prevent repatriation.

### *IDPs*

The problem of internally displaced persons (IDPs) has continued to grow in Burma's eastern border region, presenting possibly the most difficult, as well as invisible and inaccessible, challenge of protection. In some of the remaining contested border areas, the Burma Army is conducting the final stages of its counterinsurgency campaigns, including the relocation of hundreds of thousands of villagers into areas under its control. In 2001, the numbers of IDPs in the eastern border areas opposite Thailand

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<sup>59</sup> Richard Black and Khalid Koser, 'The End of the Refugee Cycle?' in *The End of the Refugee Cycle? Repatriation and Reconstruction*, (eds.), Richard Black and Khalid Koser (New York and Oxford: Berghahn Books, 1999), p. 8.

<sup>60</sup> UNHCR, *Handbook* (1996), p. 33.

<sup>61</sup> Andrew Selth, *Landmines in Burma: The Military Dimension*, Working Paper No. 352 (Canberra: Strategic and Defence Studies Centre, Australian National University, November 2000), p. 1.

were estimated at some 500,000 – comprising some 200,000 Karens, 200,000 IDPs affected by relocations in central Shan State since 1996, 200,000 Karennis, and approximately 40,000 Mons (despite the 1995 New Mon State Party cease-fire).

As the UN Representative of the Secretary-General on Internally Displaced Persons, Francis M. Deng, has noted with respect to internal displacement:

The primary responsibility to provide protection and assistance rests with the State. And yet, paradoxically, the State is often the principal source of their insecurity and deprivation, viewing the displaced not as persons to be protected, but as part of the enemy to be targeted, oppressed or eliminated, thereby creating a protection gap.<sup>62</sup>

Despite the cease-fire, for example, the figure of Mon IDPs is estimated to be as high as 40,000.<sup>63</sup> The scale of IDPs elsewhere within the eastern border areas of Burma is estimated to be as large as 500,000 persons (particularly within the Shan, Karen, and Karenni States), which includes both those people forced to enter relocation sites under the control of the army and those who are dispersed and hiding in the jungle.<sup>64</sup> IDPs are also vulnerable to identification as ‘rebel collaborators’ because they generally hide (and move around) within opposition-held areas. Further, as Roberta Cohen and Francis M. Deng note, states are generally not inclined to admit to the existence of IDPs and may want to conceal the extent to which their own policies or actions have contributed to war and displacement.<sup>65</sup> And as with external displacement, the long-term impact of internal displacement extends beyond the statistics and the immediate plight of those affected.<sup>66</sup>

### **A durable solution?**

The problem of Burmese refugees in Thailand will persist while the underlying factors conducing displacement continue in the sending state. So long as fear and insecurity exists in Burma, Thailand is bound to receive forced migrants across its western border. Meanwhile, it is necessary to approach an understanding of appropriate forms of protection responsive to the specific realities of displacement. Thailand also should be persuaded to continue its adherence to the broad principles of refugee protection. And the difficult question of ‘under what conditions should the refugees return in the future?’ remains open to discussion and hinges on developments conducing a durable solution within Burma.

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<sup>62</sup> United Nations High Commissioner for Human Rights (UNCHR), *Statement by Representative of the Secretary-General on Internally Displaced Persons, Dr. Francis M. Deng*, (Fifty-fifth session, United Nations Commission on Human Rights, Geneva, 22 March-30 April 1999, item 14(c): Specific Groups and Individuals; Mass Exoduses and Displaced Persons), April 16, 1999, p. 1.

<sup>63</sup> Personal Communication, Mon National Relief Committee, Sangkhlaburi, Thailand, June 28, 1999.

<sup>64</sup> Interviews with Mon, Karen, Karenni, and Shan refugee leaders, Thai-Burmese border, February-March 2000. See also, UN Commission on Human Rights, *Question of the Violation of Human Rights and Fundamental Freedoms in any Part of the World. Situation of Human Rights in Myanmar*. (Report of the Special Rapporteur, Mr Rajasoomer Lallah, Submitted in Accordance with Commission on Human Rights Resolution 1998/63, UN doc. E/CN.4/1999/35, January 22, 1999), p. 10.

<sup>65</sup> Roberta Cohen and Francis M. Deng, *Masses in Flight: The Global Crisis of Internal Displacement* (Washington, D. C.: Brookings Institution Press, 1998), p. 7.

<sup>66</sup> See further Cohen and Deng, *Masses in Flight*, pp. 23-26, 35-36.

The starting point for looking at the issue of a future repatriation necessarily involves a fundamental change in the causes of displacement. When conditions permit, the repatriation of refugees will contribute to confidence building and the long-term process of reconciliation and peace in Burma. However, at present, a considerable serious level of armed conflict and insecurity continues to affect civilian populations in the border regions opposite Thailand. In relation to the Bangkok-based exiles, Thailand is reluctant to remain the haven, or indeed platform, for a group of outspoken post-1988 Burmese activist generation in Bangkok. In addition, the official provision for asylum in the Safe Area at Maneeloy holding camp in Ratchaburi province is (over)full and on the verge of closure (set for the end of 2001). The student exiles have become a long-term presence in Thailand with growing tensions and the frustration of restricted opportunities, or, outside the camp, with few alternatives to a life in hiding.

In the longer-term, consideration is needed concerning how refugees would be involved in a firm and lasting peace for their homeland. The return of the refugees will in the future contribute to the larger process of reconstruction and reconciliation in Burma. As UNHCR's Sadako Ogata has noted on the relationship between refugees and peace-building, 'peace-building requires just solutions for refugees and displaced persons...Ending suffering should be regarded as both a humanitarian and a political imperative: it is a function of peace-building.'<sup>67</sup>

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<sup>67</sup> Sadako Ogata, United Nations High Commissioner for Refugees, 'Opening Address', in UNHCR and International Peace Academy, Conference Proceedings, *Healing the Wounds of War: Refugees, Reconstruction and Reconciliation* (June 30-1 July 1, 1996), pp. 4-5.