

Abuse, Poverty and Migration

Investigating migrants' motivations to
leave home in Burma



KHRG

Karen Human Rights Group

Documenting the voices of villagers in rural Burma

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Cover photo: Burmese migrants cross the natural boundary of the Moei River in February 2009 in order to access work and trade in Thailand. *[Photo: KHRG]*

Back cover photo: Residents of T'Ree Poh Gkwee village do SPDC-sponsored forced labour delivering 350 bamboo slats to the Burma Army camp at Gklaw Gk'Dtih, Pa'an District on August 31st 2008. *[Photo: KHRG]*

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Contents

1	Introduction and executive summary	2
	Notes on the text	12
	Terms and abbreviations	13
	Maps	
	Map 1: Karen districts	14
	Map 2: Burma	15
2	Background	16
3	Data Set 1: Abuses in SPDC-controlled areas of Karen State	19
4	Data Set 2: Push factors and migrant statements	27
5	Data Set 2: Pull factors	38
6	International frameworks	45
7	Expanding protection	54

1. Introduction and executive summary

“[T]he majority of the people in my village have come to work in Thailand. They don’t want to stay in their village because they’re afraid that they’ll have to do forced labour.”

- Ko M--- (male, 30), Th--- village, Doooplaya District, Karen State (Feb 2009)¹

While Burma’s ruling State Peace and Development Council (SPDC) continues to claim that the country has reached unprecedented levels of peace and development over the past 20 years, tens of thousands of Burmese residents continue to leave the country every year in order to find a way to survive. Indeed, all indications suggest that this flow of people is increasing.²

The majority of those leaving Burma have sought out employment opportunities abroad. An estimated 1 to 3 million people who have left the country currently reside in Thailand.³ In Malaysia, the working population from Burma is estimated at 150,000⁴ with a further 50,000 to 60,000 in Singapore⁵. Up to 100,000 ethnic Chin who have fled western Burma currently live in the north-eastern Indian state of Mizoram.⁶ On top of this, approximately 200,000 Rohingya, also from western Burma, have settled in eastern Bangladesh and remain in what has been described as “*precarious conditions in villages and semi-urban slums.*”⁷

¹ For this and other interviews conducted with individuals from Burma currently residing abroad, their place of origin, rather than their current location, is given in the quote tag.

² See, for example, *Burmese Refugees: End the exploitation of Burmese in Thailand*, Refugees International, November 29th 2007. Accessed at http://www.refugeesinternational.org/sites/default/files/burmeseall_1129.pdf on April 30th 2009 and Peter Biro, “The plight of Thailand’s migrant workers,” *Reuters*, March 19th 2009. Accessed at <http://www.alertnet.org/db/blogs/2684/2009/02/19-170052-1.htm> on April 30th 2009.

³ See, for example, “Myanmar’s overflow,” *The Economist*, March 19th 2009. Accessed at http://www.economist.com/world/asia/displaystory.cfm?story_id=13334070&fsrc=rss on March 25th 2009 and Kavi Chongkittavorn, “How Far Will the Thai Govt Really Go to Protect Migrant Workers?,” *The Irrawaddy*, March 11th 2009. Accessed at http://www.irrawaddy.org/print_article.php?art_id=15277 on March 24th 2009.

⁴ “Malaysian, Thai Officials Trafficking Burmese Migrants?,” IPS, January 26th 2009. Accessed at <http://ipsnews.net/news.asp?idnews=45542> on March 24th 2009.

⁵ “Burmese migrants in dire straits post meltdown,” *Independent Mon News Agency*, December 8th 2008. Accessed at <http://www.monnews-imna.com/commentaryupdate.php?ID=41> on March 24th 2009.

⁶ “‘We are Like Forgotten People’ The Chin People of Burma: Unsafe in Burma, Unprotected in India,” Human Rights Watch, January 2009. Accessed at <http://www.hrw.org/en/reports/2009/01/27/we-are-forgotten-people> on April 30th 2009.

⁷ Chris Lewa, “Asia’s new boat people,” *Forced Migration Review* 30: 40 – 41, April 2008, p.40.

Only a small percentage of Burmese people who have moved abroad are legally recognised as refugees or otherwise officially acknowledged as forced migrants entitled to host-government or UN assistance. These include approximately 135,000 individuals residing within 10 refugee camps in Thailand⁸, about 1,500 UNHCR-recognised refugees in India⁹ and 26,000 Rohingya residing within two officially recognised refugee camps in Bangladesh.¹⁰

While the expatriate migrant populations from Burma working abroad have been growing steadily for more than 20 years, the international community has only recently begun recognising the insecurity these people face at home, during migration and in their host countries. This heightened international awareness is partly due to the obvious increase in those leaving Burma and partly due to especially dramatic news reports on the struggles of Burmese migrants and asylum seekers. These reports include the April 2008 incident in which 54 individuals from Burma suffocated while being transported in a container truck to a work site in southern Thailand.¹¹ More recently, the large numbers of Rohingya boat people arriving in Thailand, Malaysia and Indonesia have prompted international statements of concern and regional forums to discuss the issue.¹²

Concurrent with this mass influx of migrants into neighbouring countries, there have been ongoing debates about the appropriate definitions for classifying these migrants and how these people should be treated by host governments and international bodies. The key issue has been whether and how to distinguish between refugees and economic migrants. Regional governments receiving large numbers of people from Burma have been particularly sensitive about the political and economic implications of their arrival. For example, in response to a journalist's question regarding the Rohingya boat people, Thai

⁸ "Burmese border refugee sites with population figures," Thailand Burma Border Consortium, March 2009. Accessed at <http://www.tbtc.org/camps/2009-03-mar-map-tbbc-unhcr.pdf> on April 30th 2009. The Thai government does not officially recognise those residing within Thailand-based camps as refugees but as persons "*temporarily fleeing fighting*".

⁹ *UNHCR Statistical Yearbook*, 2005, United Nations High Commission for Refugees. Accessed at <http://www.unhcr.org/cgi-bin/texis/vtx/statistics/opendoc.pdf> on March 27th 2009. More recent *UNHCR Statistical Yearbooks* do not divide countries' refugee population statistics by country of origin. Human Rights Watch reported in January 2009 ("*We Are Like Forgotten People*" *The Chin People of Burma: Unsafe in Burma, Unprotected in India*) that 1,000 Chin people – the largest ethnic group amongst Burmese refugees in India – had been granted UNHCR-recognised refugee status.

¹⁰ Chris Lewa, "Asia's new boat people," *Forced Migration Review* 30: 40 – 41, April 2008, p.40.

¹¹ "Burma migrants suffocate in lorry." BBC, April 10th 2008. Accessed at <http://news.bbc.co.uk/2/hi/asia-pacific/7339939.stm> on March 24th 2009.

¹² "UN to boost focus on Myanmar's Muslim boat people," AFP, March 12th 2009.

Prime Minister Abhisit Vejjajiva replied, “*Let’s get that straight – they’re not refugees, they’re just illegal migrants.*”¹³

Approach of this report

Within the context of ongoing mass migration within and out of Burma and the ongoing debates about how these people are defined, this report seeks to answer the following questions:

1. What causes people to leave their homes in Burma and seek economic opportunities elsewhere?
2. Do international frameworks accurately reflect these causes and address the protection needs of these people?¹⁴

To answer these questions, this report draws on two separate data sets consisting of over 150 interviews collected and translated by KHRG researchers between August 2007 and March 2009. The findings of this research strengthen and give a human face to the main assertion of this report: the vast majority of those who leave Burma and seek work abroad are *not* leaving home simply to find better economic opportunities as a matter of personal convenience, but are *instead* fleeing life-threatening poverty that is a direct result of exploitative SPDC policies.

The first data set is comprised of 128 interviews conducted with residents of SPDC-controlled areas in Karen State from late 2007 to the end of 2008. These areas include Pa’an, Dooplaya, Thaton and Nyaunglebin districts. This report focuses on the most heavily SPDC-controlled parts of Karen State in order to examine the everyday exploitative abuses common under SPDC rule in rural areas and the impact those abuses have on poverty, livelihoods vulnerability and food insecurity. Furthermore, it is primarily from SPDC-controlled areas (rather than more contested areas like mountainous northern Karen State) that migrant workers typically come. This report uses both the

¹³ “Lunch with the FT – Abhisit Vejjajiva,” *Financial Times*, February 13th 2008. Accessed at <http://www.ft.com/cms/s/2/1db20060-f960-11dd-90c1-000077b07658.html> on February 20th 2009.

¹⁴ While this report focuses on the specific causes of migration from Burma, the wider issues discussed below – including appropriate definitions for various types of migrants and current international protection frameworks for migrants – apply to many countries. Indeed, this report seeks to both address the specific problems that currently plague people who leave their homes in Burma and the international community’s failure to protect any people who migrate because they are no longer able to access basic goods and rights at home. Burma requires special attention because of the SPDC’s especially harsh and widespread abuses against its own citizens, especially those in the rural areas of the state. With that said, many of the points discussed below can – and should – be applied to other cases of exploitation and mass migration currently taking place in other areas of the world.

statistical data and personal testimonies from these interviews to discuss the environment of human rights abuse and resulting poverty in those districts.

The second data set is comprised of 27 interviews conducted with individuals from Burma currently living and working in Thailand that were held between January and March 2009. These interviews were designed in order to find out the reasons why these people decided to leave Burma. While there were five interviewees who came from urban areas (Rangoon, Moulmein and Pegu Town), over 80% originally came from rural parts of Eastern Burma. Interviewees were asked to describe their former lives, including their professions in Burma, cost of living, factors influencing their choice to leave home and whether they had endured any human rights abuses in their home areas. The data and quotes taken from these interviews help to illuminate the relationships between abuse, poverty and migration.

Of course, there is no way to establish how many of those who were interviewed in Karen State and cited abuse subsequently decided to leave Burma to find work abroad. Therefore, these two data sets should be viewed as complementary rather than directly linked. With that in mind, KHRG wished to see whether the abuses which migrants cited as factors compelling them to leave Burma resembled those that were cited by residents of Karen State. As this report will demonstrate, the abuses cited in the two data sets are extremely similar. Both current residents of Karen State and those from Burma now working in Thailand overwhelmingly cited exploitative demands and restrictions as being the most prevalent forms of abuse which they sustained or witnessed in Burma. Furthermore, interviewees explained that these abuses significantly eroded financial and food security.

The match between these data sets suggests that SPDC abuses in rural Burma contribute to a life-threatening level of poverty for villagers and that that poverty, in turn, forces villagers to leave their homes and seek work abroad in order to survive.

Framing migration

Conventionally, classification as a refugee or internally displaced person (IDP), as opposed to an economic migrant, is based on what *push and pull factors* influence individual acts of migration. Whereas push factors refer to undesirable conditions at places of origin which 'push' people to seek a better situation elsewhere, pull factors refer to those positive features of a new location which 'pull' individuals towards it.

Refugees and IDPs are understood to have had little choice about migrating and were pushed out of their homes. More specifically, the 1951 Convention relating to the Status of Refugees defines refugees as those who have been compelled to leave their country of origin due to persecution on grounds of

“race, religion, nationality, membership of a particular social group or political opinion.” Less conventionally, the term has been used by some advocates and aid agencies to also cover those who have fled imminent physical threats due to armed conflict or natural disasters. The definition of IDPs, according to the 1998 Guiding Principles on Internal Displacement, includes those displaced by persecution, armed conflict, violations of human rights, natural disasters or large-scale development projects, but who have not crossed an internationally recognised State border.

By contrast, economic migrants are understood as individuals who, while able to remain at their places of origin, freely choose migration in order to access better economic opportunities abroad. The choice made is often viewed as a matter of personal convenience rather than survival. Ultimately, refugees and IDPs are seen as being pushed from their homes (and hence have no choice), while economic migrants supposedly decide freely to be pulled towards better economic opportunities abroad.

KHRG’s research findings

Framing KHRG’s research in terms of push and pull factors is not an abstract exercise – policymakers in governments and international bodies use these distinctions in order to determine who receives vital humanitarian aid as well as legal and other protection. And what KHRG’s research demonstrates is that there is no strict separation of push and pull factors when it comes to people who leave Burma.

In Data Set 1, the information collected from 128 interviews which KHRG conducted in SPDC-controlled Karen State indicate that the overwhelming majority of abuses faced by villagers in these areas are exploitative in character and significantly impact poverty, livelihoods vulnerability and food insecurity.¹⁵

The most prevalently cited abuses found in these interviews were forced labour (47% of interviewees), extortion (29%), looting by SPDC and Democratic Karen Buddhist Army (DKBA) forces (14%) and movement restrictions (12%) – all abuses used to exploit villagers’ resources. While less frequently cited, cases of arbitrary taxation were also noted by interviewees as a form of exploitation in Karen State.¹⁶ In addition to these exploitative abuses, interviewees also cited

¹⁵ While some interviewees also cited forms abuse typically associated with overt armed conflict and persecution (often connected to SPDC and DKBA counter-insurgency operations), these cases were fewer in number. However, it is important to note that even those abuses seemingly connected to armed conflict and persecution are also frequently used to facilitate exploitation (such as where forced relocation into SPDC-controlled sites or arbitrary detention are used to extort funds).

¹⁶ While KHRG has in other reports documented cases of arbitrary taxation by Karen National Liberation Army (KNLA) troops, none of the interviewees cited in this report specifically identified any demands by KNLA personnel.

incidents of arbitrary arrest, executions, intimidation, landmines, scorched earth tactics (such as razing whole villages, farm fields and food stores and killing livestock) and torture.

Data Set 2 contains information taken from 27 interviews KHRG conducted with Thailand-based Burmese migrants between January and March 2009. Out of the 27 individuals interviewed, 21 (roughly 78%) cited exploitative abuses (most commonly committed by SPDC soldiers and other State authorities) as factors that negatively affected their economic situations in Burma. The exploitative abuses cited by this group of interviewees included: forced labour, arbitrary taxation, extortion and land confiscation as well as movement restrictions used to facilitate demands. Out of these, forced labour was the single most common form of abuse, with 19 people (about 70%) citing it as a regular occurrence in their home communities.

Blurring the line between push and pull factors

Thailand-based interviewees explained to KHRG how exploitative abuses increased poverty, livelihoods vulnerability and food insecurity for themselves and their communities in Burma. These issues were in turn cited as central push factors compelling them to leave their homes and search for work abroad. In some cases, interviewees explained that the harmful effects of exploitative abuse were compounded by environmental and economic factors such as flood and drought and limited access to decent wage labour.¹⁷

While the individuals interviewed by KHRG in Thailand would normally be classified as 'economic migrants', the factors which they cited as motivating their choice to migrate make it clear that SPDC abuse made it difficult for them to survive in their home areas. Hence, these people decided to become migrants not simply because they were lured to Thailand by economic incentives, but because they found it impossible to survive at home in Burma. Clearly, the distinction between push and pull factors is blurred in the case of Burmese migrants.

The concept of pull factors for migrants is further complicated because migrants are not merely seeking better jobs abroad, but are instead pulled to places like Thailand and Malaysia in order to *access protection*. For refugees and IDPs, protection is a service that is often provided by government bodies, UN agencies and international NGOs. For refugees in particular, protection is often primarily understood to mean legal protection against *refoulement* – defined as the expulsion of a person to a place where they would face persecution. Beyond legal protection against *refoulement*, aid agencies have implemented

¹⁷ There were also a few cases cited of persecution and harassment on political grounds, including three incidents of arbitrary detention and four incidents of intimidation.

specific forms of rights-based assistance, such as gender-based violence programmes, as part of their protection mandates.

However, for migrants from Burma the act of leaving home is overwhelmingly a *self-initiated protection strategy* through which individuals can ensure their and their families' basic survival in the face of persistent exploitative and other abuse in their home areas. This broader understanding of protection goes beyond legal protection against refoulement and the top-down delivery of rights-based assistance by aid agencies. It involves actions taken by individuals on their own accord to lessen or avoid abuse and its harmful effects at home.¹⁸

KHRG has chosen to use the term self-initiated protection strategy, rather than a more generic concept like 'survival strategy', in order to highlight the political agency of those who choose such migration. By seeing this protection in political terms, one can better understand both the abusive underpinnings of migration from Burma as well as the relevance of such migration to the protection mandates of governments, UN agencies and international NGOs currently providing support to conventional refugee populations. Understanding protection in this way presents opportunities for external support for the many self-initiated protection strategies (including efforts to secure employment without exploitation, support dependent family members, enrol children in school and avoid arrest, extortion and deportation) which migrant workers regularly use.

International frameworks and their application

Given the factors prompting people to leave Burma in search of work abroad, most of these individuals can be most accurately understood as *livelihoods refugees*. These individuals have legitimate protection concerns and use their own self-initiated protection strategies (i.e. becoming migrants and taking on employment) in order to survive.

Keeping in mind the various reasons influencing migration from home areas in Burma, the second of this report's questions can now be addressed: do existing international human rights laws, frameworks and norms accurately reflect the causes of emigration from Burma and address the protection needs of these migrant populations? After examining those laws and norms, it becomes clear that the answer is a definitive *no*.

¹⁸ This approach is in line with that of the International Committee of the Red Cross, which defines protection as: "all activities aimed at obtaining full respect for the rights of individuals in accordance with the letter and the spirit of the relevant bodies of law (i.e. human rights law, international humanitarian law and refugee law)" (*Protection of Internally Displaced Persons*, Inter-Agency Standing Committee, 1999, p. 4.). In practice, such protection covers strategies aimed at, amongst other things, preventing and mitigating abuse (*Growing the Sheltering Tree: Protecting Rights through Humanitarian Action*, Inter-Agency Standing Committee, 2002, p. 11-12.).

Despite the multiple, often overlapping, motivating factors in migration, current international legal regimes and norms attempt to place Burmese who leave their homes into one of three narrow, often rigidly-defined categories: refugees, IDPs or economic migrants.

Of these three categories, people who are referred to as 'economic migrants' are by far the most poorly defined, least protected group. Indeed, for several decades now, legal thinkers and policymakers alike have struggled to create a satisfactory definition of what constitutes an economic migrant. An issue that has contributed to this legal stalemate is the problem of delineating between voluntary and involuntary migration. As has been discussed above, many people continue to assume that economic migration is a choice that is freely made by the migrant. While that might be true in some countries, the findings of KHRG's interviews with Burmese migrants makes it clear that the decision to migrate from Burma often isn't solely made out of a desire to find marginally better financial security, but is often made because it is the only way that that person or family can survive.

In stark contrast to the case of economic migrants, the international legal protection afforded to refugees is by far the most robust of the three frameworks examined here. Its strength derives in large part from a long-established international consensus that protection must be given to people who are forced to leave their home countries due to political and social persecution. But for a country of over 50 million people who live under SPDC oppression, there are not only more refugees than are currently recognised, but also millions of Burmese who have been labelled 'economic migrants' but have in fact fled the country in order to survive. The interviews conducted by KHRG both within Karen State and abroad indicate that many Burmese have left their homes not because they were specifically identified for political or social persecution, but because they lived in a state of life-threatening poverty that was created by exploitative SPDC policies.

The strength of the current normative regime for protecting internally displaced persons (IDPs) lies midway between that for economic migrants and that for refugees. While the IDP norms, as enshrined in the 1998 Guiding Principles on Internal Displacement, are better defined and recognised by more policymakers than those for economic migrants, they also have not been codified as international law and so are weaker than the legal protection regime for refugees. But these IDP protection norms, like those for refugees, prioritise people perceived to be under *immediate* physical threats, whether due to persecution, warfare, 'situations of generalised violence', human rights violations or natural or human-made disasters. As many people migrate within Burma for the same reasons as those who leave the country, such a definition again fails to accurately address the complex factors that lead many to leave their homes.

The fundamental lack of a legal and normative protection framework for migrants fleeing conditions of life-threatening poverty that result from abuse shows how currently out of sync the international legal community is with the reality faced by people living in rural Burma. That so many people are left without a single, coherent legal and normative protection framework only maintains the state of vulnerability that these people tried to flee when they left their homes in Burma. This evidence should lead policymakers to seriously question their current conceptions of economic migration out of and within Burma and what, if anything, separates such people from those who are commonly classified as IDPs or refugees.

Recommendations

Systematic exploitation and other abuse within Burma are root causes of migration out of the country and need to be addressed. However, so long as this abuse and migration continue, action can and should be taken to assist vulnerable populations from Burma now working abroad.

Expand protection

International agencies, governments and humanitarian organisations currently (or potentially) operating on Burma's borders and providing assistance to conventional refugee populations should acknowledge the legitimate protection concerns of those from Burma now engaged in work outside of officially-recognised refugee camps. Once these bodies have recognised that the line drawn between migrants and refugees from Burma is unsatisfactory, they should then endeavour to expand their current protection mandates beyond a narrow refugee population in order to truly reflect the root causes of abuse that motivate so many to leave home in Burma and seek out work abroad.

Agencies and organisations engaged in protection work should strive to understand the particular human rights challenges as defined by migrant workers themselves and support the self-initiated protection strategies which these individuals are already employing. Also, host governments and the international community should increase financial, logistical and political support for local and international NGOs engaged in protection work with migrant communities from Burma. Where host-government restrictions are the primary barriers to expanding legal, humanitarian and other assistance to vulnerable migrants engaged in paid labour, advocacy with domestic authorities may be necessary to amend restrictive policies.

Establish international frameworks

On the international legal and political level, policymakers should work to establish laws and norms that more accurately take into consideration the causes that lead people to leave their homes in Burma and similar situations elsewhere. Efforts must be made to create a separate, strong international regime that can better protect vulnerable migrants from Burma and elsewhere who take on employment abroad and lack camp-based, or other officially-sanctioned, refugee protection. One option is to create a normative framework for such migrants similar to the Guiding Principles on Internal Displacement that would, rather than creating an entirely new legal or normative regime, instead take advantage of those human rights-related laws that are already widely recognised and codified in international law.



There is an inevitably long fight to be had in order to establish an effective and appropriate international legal protection framework for migrants. However, concrete steps must, and can, be taken now to effectively address the needs (and support the self-initiated protection strategies) of the millions of Burmese migrants who are currently living away from their homes in Burma and who lack officially-recognised refugee status.

Along with the specific recommendations included here, this report aims to stimulate a serious discussion of the causes of migration from Burma, the limits of international protection mechanisms for these migrants and possible initiatives to more effectively address migrants' protection needs. While the findings presented here are strengthened by thousands of similar interviews conducted by KHRG over the past 17 years, this report should also serve as a prompt and model for further research by other organisations and agencies engaged in refugee and migrant protection and advocacy.

Notes on the text

This report is based primarily on two sets of data: 1) testimonies from villagers living in the most extensively military-controlled areas of Karen State (including Thaton, Dooplaya, Nyaunglebin and Pa'an Districts) drawn from 128 interviews conducted in S'Gkaw Karen, Pwo Karen and Burmese languages between August 2007 and December 2008; and 2) testimonies from 27 native Burmese individuals (including those of Burman, Karen, Mon and Chin ethnicities) who are currently living in Thailand as 'economic migrants' and were interviewed between January and March 2009. The interviews with migrants were also conducted in S'Gkaw Karen, Pwo Karen and Burmese languages.

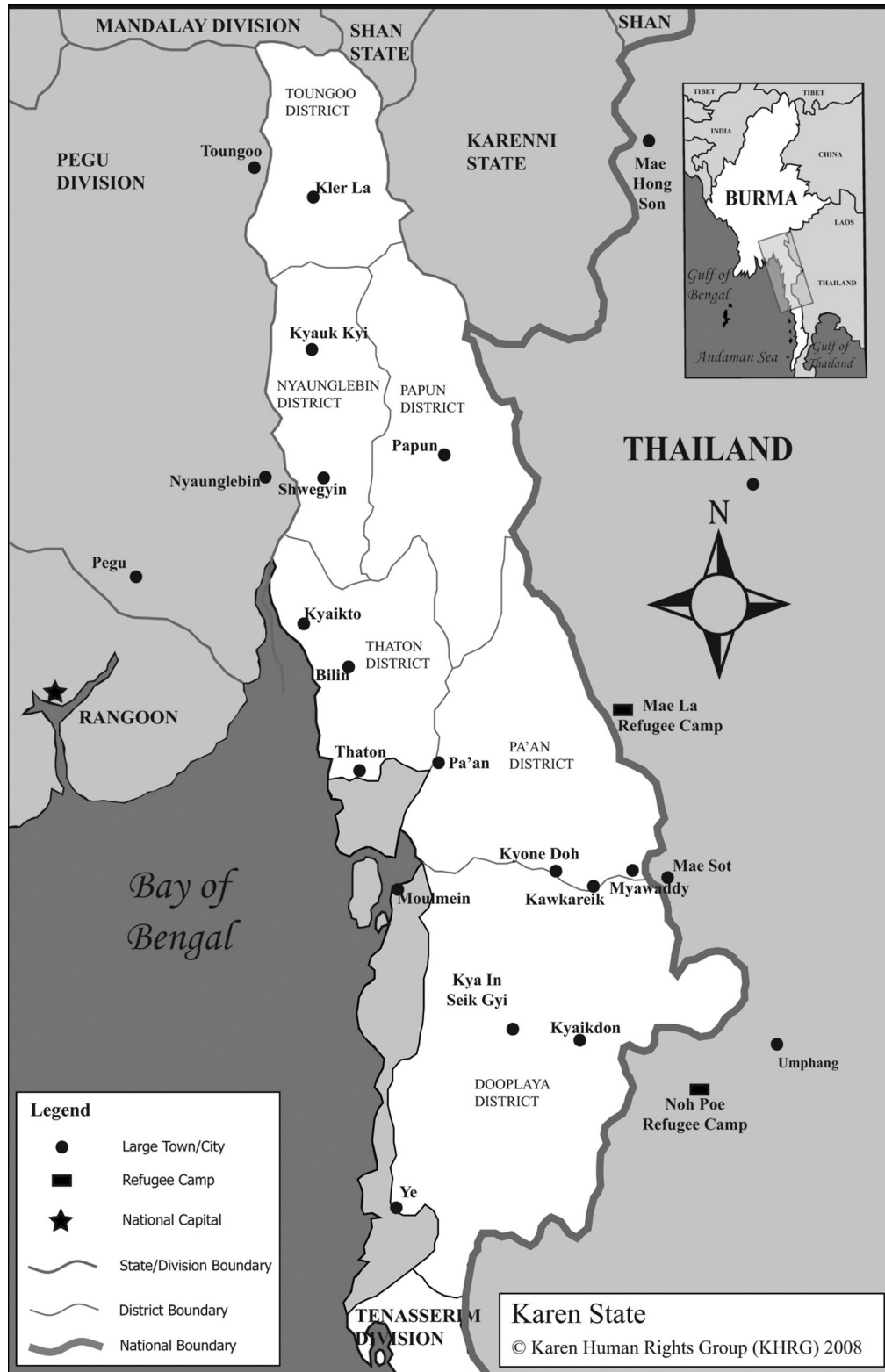
Much of the analysis and background of this report is informed by thousands of interviews conducted by KHRG field researchers since the organisation's founding in 1992. The methodological approach is one of qualitative over quantitative research in order to allow interviewees to speak for themselves about abuses, their effects and the implications on their lives and to describe the manner in which they have responded to events. Further supportive information has been drawn, where appropriate, from academic and media articles as well as reports from government, intergovernmental and nongovernmental agencies.

Many of the place names mentioned in the report are indicated on the accompanying maps. Most districts, townships, villages and rivers in Karen State have both a Karen and Burmese name. We have tried to be consistent throughout this report. While Karen districts are identified with Burmese names, their boundaries follow Karen designations (shown in the Karen State map below) as used by local people and the Karen National Union (KNU) but not the SPDC. Under SPDC designations (as shown in the Burma map below), sections of western Toungoo and Nyaunglebin Districts fall within eastern Pegu (Bago) Division, western Thaton and Dooplaya Districts form part of Mon State, and Tenasserim comprises a division wholly separate from Karen State. Karen and Burmese names transliterated into English follow KHRG standards and may deviate from those used by other organisations as no convention has been universally adopted. This report uses UK English spelling throughout, except where directly quoting texts written in US English. However, dates are formatted following the American convention.

KHRG would like to thank the Yaung Chi Oo Worker Association, the Duke University Hart Fellowship Program and several other anonymous individuals for their assistance.

Terms and abbreviations

AFPFL	Anti-Fascist People's Freedom League
BSPP	Burma Socialist Programme Party
DKBA	Democratic Karen Buddhist Army; allied with the SPDC
IDP	Internally Displaced Person
KNLA	Karen National Liberation Army
KNU	Karen National Union
LIB	Light Infantry Battalion
LID	Light Infantry Division
MADB	Myanmar Agricultural Development Bank
NLD	National League for Democracy
SPDC	State Peace and Development Council
SLORC	State Law and Order Restoration Council (renamed SPDC)
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	The Office of the UN High Commissioner for Refugees
kyat	Burmese currency; US \$1 equals (at time of writing) 5.8 kyat at official rate; approx. 1000 kyat at market rate
viss	Unit of weight measure; one viss equals 1.6 kg / 3.6 lb.





2. Background

Authoritarianism in Burma

On the eve of Burma's independence from British rule in 1948, many politically-conscious leaders of ethnic communities felt that their goals of ethnic self-determination would be threatened by the rule of a centralised and ethnic-Burman-dominated government. Indifferent to these concerns, the post-independence government under U Nu's Anti-Fascist People's Freedom League (AFPFL) began a nation-building project largely shaped by the ethnic Burman experience of the independence struggle and aimed at extending centralised State authority over all areas of the country. The form of nation-building pursued by the post-independence government was received with hostility by numerous ethnic leaders.

U Nu and the AFPFL lacked widespread legitimacy outside of their own ethnic-Burman majority. The government's nation-building project was thus contentious from the start and diverse ethnic groups responded by taking up arms against the U Nu administration. In addition to multiple ethnic insurgencies, Burma's post-independence government was also beset by a large-scale communist insurrection and was at one point too weak to exercise its authority beyond the capital. By 1962, the Burma Army (*Tatmadaw Gyi* in Burmese) under the command of General Ne Win had deposed U Nu and instituted the current military authoritarian approach to governing Burma. Ne Win sought to establish centralised State control even more aggressively than the AFPFL, naming his political program the 'Burmese Way to Socialism'. Under a one-party system, the military-controlled Burma Socialist Programme Party (BSPP) took over all aspects of the government's executive, legislative and judiciary responsibilities as well as the day-to-day administrative work of the civilian bureaucracy.

In order to support the expanding military government, the BSPP went about creating an exploitative system in which civilians were forced to serve and maintain absolute military authority. By nationalising all agriculture and industry and establishing a monopoly on trade, the military effectively appropriated the country's entire natural wealth. The BSPP exploited the civilian population and instituted draconian restrictions on trade, travel and communication. Eventually, the Burmese Way to Socialism proved a dismal failure both politically and economically and led to the collapse of Burma's national economy. Burmese citizens' frustrations with the military's economic failures and heavy restrictions were major factors underlying a massive popular uprising in 1988. The government responded to the protests with a brutal crackdown.

In response to the uprising, the State Law and Order Restoration Council (SLORC) formed in 1988 in order to ensure continued military rule and prevent

a loss of State control to a civilian administration. The SLORC defended continued military rule on grounds of economic development and national security while it also maintained and intensified military control over Burma. The SLORC and SPDC (as Burma's military junta renamed itself in 1997) have attempted to portray, both internally and abroad, an image of absolute unity within the country and total domestic support for absolute military rule. Any expression of power which does not clearly benefit the military regime is deemed a threat to the State. The regime has thus responded with military force in order to counter calls for autonomy by ethnic opposition groups.

The Four Cuts Policy and 'Living off the land'

Since the late 1960s, the Burma Army has used a counter-insurgency policy termed the 'four cuts' which aims to cut off insurgents' access to food, finances, intelligence and recruits. Applying this strategy, military operations have largely functioned to extend the SPDC's control over traditionally non-SPDC-controlled areas. Over the decades of conflict, the area under SPDC-control has steadily grown as armed opposition groups across the country have become weaker.

The decades-long armed conflict in Burma continues to this day, as do the underlying tensions between centralised and local control. Despite claiming to have abandoned the failed socialist policies of the Ne Win government, the post-1988 military regime continues to operate a centrally-controlled economic system with heavy restrictions on independent organisation.



Rather than looking at 'conflict areas' where SPDC control is tenuous, this report specifically focuses on those parts of rural Burma in which the SPDC has firmly established its authority and instituted widespread exploitative policies that have created a situation of life-threatening poverty for villagers. Thus, it is useful to briefly explain why the SPDC has chosen to exploit the population and natural resources across such large swaths of Burma.

From 1988 to the mid-1990s the military rapidly expanded its size from 180,000 to about 400,000 individuals.¹⁹ The logistical requirements of supporting such a large institution have increased accordingly. Indeed, the ongoing operations of Burma's armed forces have become directly dependent on the country's agriculture, industry and trade.

Given the popular resistance to military rule, the junta has become increasingly aware that it needs to shore up its most crucial support base: armed forces personnel and their families. As a consequence, the junta has sought to ensure

¹⁹ M. Callahan, *Political Authority in Burma's Ethnic Minority States: Devolution, Occupation and Coexistence*, East-West Center, 2007, p. 36.

basic subsistence rations for low-level armed forces personnel and their families and provide better and more comprehensive services for its higher-level officials.²⁰

The concentration of wealth and resources at the highest levels of military control and the simultaneous expansion of the size and operations of local military units across the country has led to a contradictory manner of distributing resources. While the regime has recently begun earning massive revenue of roughly US \$100 million per month through the export of natural gas, it appears that most of this wealth is being hoarded in undisclosed locations.²¹ As a result, in order to support both the increasingly privileged lifestyles of upper-level military officers as well as the large-scale expansion and operations of on-the-ground military units, local-level armed forces have become dependent on the regular direct exploitation of the civilian population in Karen State and other, especially rural, parts of Burma.

Whereas control over agriculture, industry and trade support the larger system of military rule, local army units in regions such as Karen State are themselves dependent on the routine exploitation of the local civilian population. This dependence on the local population became explicit in a 1997 order by the War Office to the country's 12 Regional Commanders *"to meet their basic logistical needs locally, rather than rely on the central supply system"*.²² This policy, typically termed *"living off the land"*, has placed the burden of financing militarisation and the military elite on the largely rural population of Burma through an extensive array of exploitative demands enforced on village communities. As a consequence, as this report will show, large numbers of people from Burma's rural areas (who comprise about 70% of the country's total population) have had to leave their homes in search of employment opportunities elsewhere.

²⁰ See M. Callahan, "Of kyay-zu and kyet-su: the military in 2006," in Monique Skidmore and Trevor Wilson (eds.), *Myanmar – The State, Community and the Environment*, Asia Pacific Press, 2007. p.47.

²¹ See S. Turnell, "A Shattered Rice Bowl," *The Irrawaddy*, May 19th 2008. Accessed at http://www.irrawaddy.org/article.php?art_id=12110 on April 30th 2009.

²² See A. Selth, *Burma's Armed Forces: Power Without Glory*, Eastbridge, 2002. p. 136 and M. Callahan, *Political Authority in Burma's Ethnic Minority States: Devolution, Occupation and Coexistence*, East-West Center, 2007, p. 46.

3. Data Set 1: Abuses in SPDC-controlled areas of Karen State

This chapter presents the findings of the 128 interviews which KHRG conducted inside SPDC-controlled areas of Karen State between August 2007 and December 2008.

Before going into detail about the findings of these interviews, it is important to first understand the nature of the conflict in Eastern Burma. The existing armed struggle in Karen State is not an intensive battle between equally strong opponents. Instead, the Karen National Liberation Army (KNLA)²³, with just a few thousand soldiers, is far outnumbered by SPDC forces and lacks the weapons and resources of its adversary. Furthermore, unlike in many other conflicts around the world, the SPDC has predominantly targeted civilians and not its armed opponents. Communities in difficult-to-control forest and mountain areas, such as much of northern Karen State, are typically forced to relocate to sites near army bases or SPDC-controlled villages to ensure that they remain firmly under military control. Forced relocation creates consolidated pools of civilians who are then subject to systematic forms of exploitation by military forces and State officials for food, money, labour and other supplies.

Aware of the pervasive exploitation and restrictions in SPDC-controlled areas, many villagers avoid relocation by fleeing and hiding in the forest. In response, the Burma Army deems those who flee to these non-SPDC-controlled regions as enemies of the State and legitimate military targets. In search and destroy missions, the Burma Army targets these displaced communities, burning down their food supplies, farm fields and hiding sites and shooting on sight anyone who is spotted.

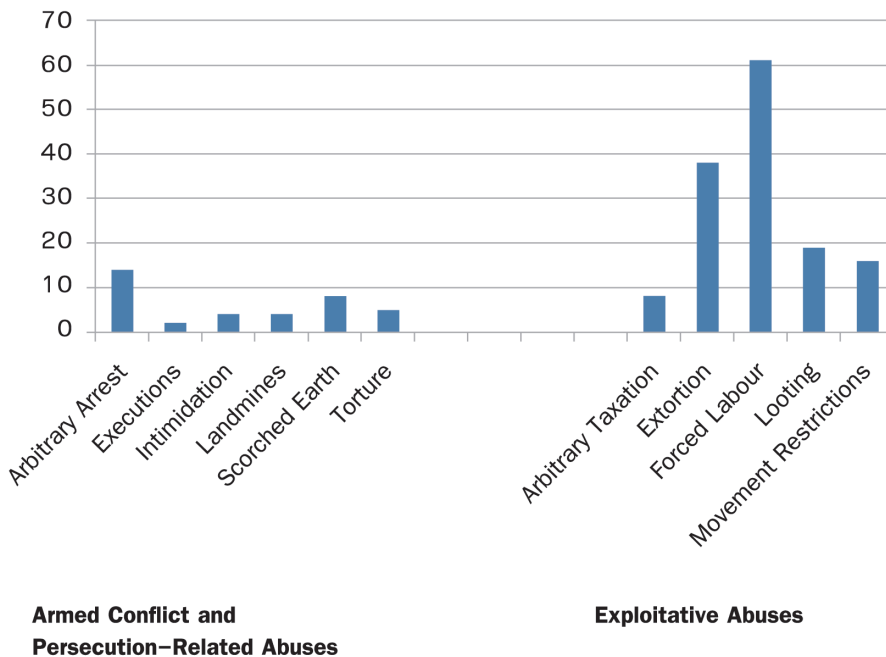
However, it is not on such areas that this report is primarily focused. Rather, in an effort to determine what forms of abuse are common under 'normal' SPDC governance, this report primarily focuses on those areas of Karen State where military control over the civilian population is most extensive; Thaton, Pa'an, Dooplaya and Nyaunglebin districts.

As the results of the interviews indicate, the vast majority of abuses which villagers experience in SPDC-controlled areas of rural Karen State are exploitative in character and repeatedly perpetrated. The abuses cited included: forced labour, extortion and ad hoc demands, looting and movement restrictions. To a lesser extent, interviewees also cited abuses commonly associated with persecution and armed conflict (including scorched earth tactics like attacks on villages, farm fields, food stores and livestock as well as the

²³ The armed wing of the Karen National Union (KNU)

deployment of landmines in civilian areas). The comparative prevalence of the abuses cited by interviewees is presented in the chart below. Those abuses commonly associated with armed conflict and persecution are grouped on the left. Those abuses more clearly exploitative in character are grouped on the right.

Chart 1. Abuses cited in SPDC-controlled areas of Karen State



Forced labour

"They [the villagers] usually worked on farms and plantation gardens. We didn't have a good opportunity to work on our plantations. The SPDC military camp was based beside our village. So we always had to do loh ah pay [forced labour] for them. We didn't have much time to do our work. Now we still have to do their work, such as cutting bamboo poles and then sending them to their camp. Last year, they ordered us to fence our village. They always came to the village and ordered us to provide them food such as pigs, goats, chickens and vegetables. They never paid us. We dared not to say anything to them even though they took our things without our permission."

- Saw B--- (male, 24), Th--- village, Nyaunglebin District (April 2008)

Forced labour was the single most commonly cited abuse amongst villagers living in SPDC-controlled areas in Karen State. Out of 128 interviewees, 61

(about 48%) cited cases of forced labour in their communities. Interviewees reported forced labour demands by both SPDC and DKBA personnel.

Currently, forced labour takes many forms including, but not limited to, portering military supplies; road construction and the clearing of overgrowth from the sides of vehicle roads; 'guiding' army patrols; sentry duty; *set tha* (messenger duty); fabrication and delivery of building materials; forced conscription into the army; participation in ceremonies and rallies; construction of fences, army camps, clinics, schools, pagodas and libraries; and participation in parastatal organisations. In almost all cases of forced labour, no compensation of any kind is provided.²⁴

The military primarily depends on the exploitation of civilians under their control to support ongoing military operations in Karen State and so forced labour has become a widespread and systematic abuse. In some cases, forced labour creates a direct threat to life. For example, villagers serving as porters are often forced to walk ahead of military patrols in order to block gun fire from a potential ambush or trigger landmines that may lie on their path. More generally, regular demands for forced labour rob villagers of valuable time needed to perform their own work. This loss of personal work time results in poor harvests, lost wages and increased poverty. Any villager who is unable or unwilling to participate in forced labour must either pay a fine or hire another villager, as required by SPDC/DKBA authorities, to work in their stead. To avoid forced labour demands and protect themselves from other human rights abuses, many villagers decide to travel to other places in Burma or to Thailand.

"There were 60 households and over 800 people lived in the village. The villagers here were working on hill fields and farms but they didn't get enough food to eat because they didn't have time to take care of their plantations. They had to do loh ah pay [forced labour] and serve as set tha [messengers] for the SPDC and DKBA. Some people went to Mae La refugee camp [in Thailand]. Recently, over 20 households left the village and went to Mae La refugee camp. People who didn't go to refugee camps look for work such as day labour jobs in the village. They had to plant small paddy plants. When they received money they bought their food. They got 1,500 kyat [US \$1.50] or 2,000 kyat [US \$2] per day and they also had another job such as cutting sugar cane in the summer season. A quart of rice was 900 kyat [US \$0.90] and a quart of paddy was 700 kyat [US \$0.70]. One viss [1.6 kg. / 3.6 lb.] of pork cost 2,000 kyat [US \$2] and 3,000 kyat [US \$3] for a viss of chicken.

- U L--- (male, 50), Gk--- village, Thaton District (Nov 2007)

²⁴ Local SPDC personnel often refer to uncompensated forced labour as *loh ah pay*, a Burmese term traditionally referring to voluntary work on community projects like temple construction, but not on military or State projects. As a result of this recent linguistic manipulation, local people in Karen State now use the term *loh ah pay* in reference to most forms of forced labour.

Extortion and ad hoc demands

“When I lived in our village, there were a lot of demands and taxes placed upon us. I have two young children and I have to look out for my family’s livelihood. I didn’t have the money to pay taxes or pay soldiers and if I went somewhere to find work, we had to pay money along the way [to clear the checkpoints]. I couldn’t handle this kind of oppression and so I came to live in L--- village [an IDP hiding site in Karen State].”

- Saw --- (male, 32), L--- village, Pa’an District (July 2008)

In addition to widespread forced labour, extortion is another common form of abuse in SPDC or DKBA-controlled areas in Karen State. Amongst those interviewed in Karen State, 29% said that they had personally experienced or knew others who had experienced this abuse. Residents of rural Karen State have to comply with demands on a regular basis as scheduled by local military authorities and on an ad hoc basis whenever soldiers arrive at their village. Demands usually include: providing building materials such as bamboo and thatch, food such as rice, salt, chilli and meat, money for festivals, obligatory donations to monasteries or pagodas and cash payments in place of forced labour.

Not only are these arbitrary demands a blatant abuse of power, but it is also clear that SPDC personnel often do not even use extorted funds for the purposes they state. Villagers have observed that temples and schools which local SPDC authorities promised to build with the money collected were never actually constructed.

“They demanded money once or twice a month. If the villagers cannot give money, they have to leave the village to look for money from other places... Most of the villagers are in this position. Many villagers came to the border²⁵ to work. We can’t count how many. If I count only M--- village, there were over 30 villagers who came to look for money to meet the DKBA demands.”

- Saw Gk--- (male, 38), M--- village, Pa’an District (Sept 2008)

Such widespread and systematic extortion forces many villagers who are already facing financial difficulties to sink deeper into life-threatening poverty. As observed by Saw Gk--- in the quote above, many villagers have to leave their homes and families to look for work in other places just to meet their basic needs and pay money demanded by military forces.

²⁵ This interview was conducted at a village in Karen State adjacent to the Thai-Burma border. The speaker’s statement that ‘villagers came to the border to work’ refers both to those who remain on the Burma side of the border and those who have gone on to find work in Thailand.

Looting

On top of regular SPDC demands for labour, money, food and other supplies, army personnel often steal or loot villagers' property. Villagers have reported that soldiers come to their village, often at night, to steal livestock such as chickens and pigs or break into their homes to take what limited valuables villagers possess. Looting occurs because senior officers often sell off the food allocated to low-ranking soldiers, knowing full well that the soldiers will in turn steal livestock and other food from village communities in order to survive. Looting and theft add to the long list of hardships faced by villagers in SPDC-controlled areas of rural Karen State.

"The SPDC military soldiers have already come to our village eight times and every time they took our pigs, chickens and ducks. They've not only taken our mangoes, but also cut down our mango trees."

- Naw Gk--- (female, 53), Gk--- village, Nyaunglebin District (April 2008)

Movement Restrictions

"They didn't allow us to go out at night, and also we couldn't visit each other even if we had something very important to do. If they saw us anywhere at night time, they would shoot and kill us."

- Naw M--- (female, 39), W--- village, Nyaunglebin District (Feb 2008)

Movement restrictions in Karen State primarily serve to confine civilians to relocation sites where soldiers can more easily enforce exploitative demands such as forced labour and arbitrary taxation. Due to these restrictions, villagers are unable to travel freely to their farm fields or plantations for work as they risk being shot on sight by soldiers operating in the area. Restrictions are often enforced at checkpoints on village roads and involve night-time curfews usually accompanied by a threat of physical abuse and fines for non-compliance.

For example, from June to September 2008, SPDC and DKBA forces operating in Pa'an township of Thaton District, prohibited the 16 villages in T'Gkoh Boh village tract and Ha T'Reh village tract from spending time in their workplaces at night. They issued orders that villagers could only go to work outside the village from 7:00 am to 4:00 pm and had to remain in the village after 4:00 pm. Due to these restrictions, villagers' crops were destroyed by cattle wandering in the area.

Restrictions on movement and the threat to enforce them serve to undermine villagers' livelihoods. When villagers are not allowed to sleep in their farm field huts – as is the traditional agricultural practice in the area – they cannot spend enough time tending crops that require special attention or that are located far away from the village. In some cases, crops die because farmers are unable to regularly water their fields. Some crops are destroyed by insects and wild

animals. These combined factors, in turn, lead to increased food insecurity among villagers in Karen State and make it difficult to simply survive.

Abuses tied to armed conflict and persecution

Although the overwhelming majority of abuses cited by villagers in these interviews were exploitative in nature, interviewees also occasionally cited abuses perpetrated by SPDC and DKBA forces that are more commonly associated with armed conflict and persecution. It is important to note that, while the majority of the areas contained within Papun, Thaton, Dooطلا and Nyaunglebin districts are under firm SPDC control, there are patches of each district which are still contested by the KNLA. As a result, abuses associated with armed conflict and persecution continue in these areas as well. With their inclusion here, the reader can more fully understand the environment of total abuse endured by residents of SPDC-controlled Karen State.

Scorched earth policy

“The SPDC soldiers destroyed our food by throwing it on the ground, burning the rice stores and houses. So now we don’t have enough food to serve our family.”

- Saw S--- (male, 50), L--- Village, Nyaunglebin District (Oct 2007)

In order to better facilitate forced relocation, SPDC forces have employed a scorched earth campaign against civilians who, whilst living in one of the four districts discussed here, still remain in areas currently outside firm military control. To prevent residents from returning to their homes following forced relocation or flight into hiding, Burma Army soldiers destroy buildings, burn down food stores and cropland and plant landmines in and around abandoned villages. Soldiers typically loot villagers’ personal property and destroy whatever they cannot take with them. They target non-SPDC controlled villages and hiding sites, farms, fields and food storage facilities to make life unbearable for those outside of SPDC control. After returning to their villages, residents often find their livestock killed or left to rot by departing soldiers.

Landmines

In areas under the control of the SPDC or its allied armies, landmines are routinely laid around army camps to prevent attacks from KNLA soldiers. Landmines placed on paths and roads are used to ambush and kill KNLA soldiers, while mines laid around villages, relocation sites and on forest paths serve to restrict villagers’ movements and prevent the return of relocated villagers or those who have fled into hiding. Villagers in hiding often cannot cross vehicle roads for fear of mines. The mines deployed around depopulated villages also prevent villagers from returning to their original homes.

Interviewees reported that villagers and animals have been injured or killed by landmines that were laid on the roads, forest paths or in the areas surrounding villages. For instance, on October 15th 2008, 40-year-old Saw Pah Nya Loo, a resident of Khaw Tho Kee village, Dta Greh Township, Pa'an District, was walking to his hillside farm field located about 20 minutes from the village. On the way, he stepped on a landmine laid by soldiers from DKBA Brigade #999, Battalion #2, under the command of deputy company commander Pah Muh Naw Dweh. He was severely injured and subsequently died.

The widespread use of landmines as a means to restrict villagers' movements has greatly undermined villagers' efforts to meet their basic livelihood needs. For instance, farmers cannot leave relocation sites to tend their crops. And so, as interviewees explained to KHRG, many villagers must leave their homes in order to survive.

"I came here because the SPDC oppressed us and we didn't have a chance to study. My family and other families face difficulties because they don't have a chance to earn their living freely because SPDC soldiers planted landmines on the way to the hill fields. For these reasons my parents couldn't afford to send me to school."

- Saw K--- (male, 16), A--- village, Nyaunglebin District (May 2008)

Persecution

While the four districts examined here are under extensive SPDC or DKBA control, KNU and KNLA personnel continue to operate in the area. Both SPDC and DKBA forces have persecuted villagers, typically through harassment, detention and torture, on the alleged grounds that they have contacted or supported KNLA forces or the KNU. Soldiers often frame such abuse as part of counterinsurgency operations, as either punishment for supporting the KNU or KNLA or in order to get information from villagers about ongoing KNLA operations. However, it also appears that, in many cases, such abuse simply functions as a front for extortion.

There are several cases from amongst the 2008 interviews in which villagers were arrested and punished for allegedly contacting the KNU or KNLA. In some instances, villagers were asked to show the soldiers KNLA camp locations. If the villagers told the SPDC that they did not know the locations, they were assumed by the soldiers to be lying. Villagers were then arrested and tortured.

Due to the insecurity related to such abuse, some villagers in Karen State, especially those who have experienced physical violence, have decided to move from their homes to IDP camps, refugee camps in Thailand or migrant communities both in Burma and abroad.

Conclusion

"Villagers depend on farming as the main source of income. They don't have any other work to supplement their incomes. The money they earn from their jobs doesn't reflect the effort they make. We don't have any other special income. We just sell our paddy and buy other food. In my estimate, just 600 people worked on their farms and the rest of the people didn't work on farms. They've gone to find work in Thailand. They thought that even if they did farm work [at home], they could never get enough food."

- U W--- (male, 48), P--- village, Dooplaya District (Aug 2007)

As the interviews examined in this chapter illustrate, villagers living in SPDC-controlled areas of Karen State experience widespread and systematic abuse at the hands of military personnel. Most typically in SPDC-controlled areas, such abuse is exploitative in character and regularly committed over a prolonged period of time. Such abuses severely exacerbate poverty, livelihoods vulnerability and food insecurity.

Some villagers interviewed within Karen State have explicitly cited abuse and its effects as factors compelling themselves, their family members or others in their community to leave their homes and seek work abroad. However, in most cases it was not evident what migration choices villagers may have subsequently made. Indeed, interviewees themselves often did not know. A more complete and accurate understanding of the role of abuse and its effects in motivating people to leave home and seek work abroad can only come from the testimonies of those who have already decided to move. Such examples will be examined in the following two chapters.

4. Data Set 2: Push factors and migrant statements

As components of migration, ‘push factors’ refer to the constraints, difficulties and threats in people’s home areas which ‘push’ them to seek a better situation elsewhere. These factors may be social, political, economic or environmental. Most accounts of contemporary Burma emphasise poor economic conditions as the most significant push factors fuelling migration out of the country. For example, the Chiang Mai-based MAP foundation describes the migration situation thus,

“A decade ago, incoming migrants from Burma came predominantly from border areas where the Burmese regime was enforcing policies of forced relocation, forced labour and where there was armed conflict, today migrants come from all over Burma as the economic situation deteriorates and affects all the people of Burma.”²⁶

As poor economic conditions at places of origin are not generally accepted as legitimate grounds for asylum or access to refugee camps, regional governments have overwhelmingly asserted that the majority of the people from Burma travelling to, arriving at and working within neighbouring countries are economic (and typically ‘illegal’) migrants.²⁷ Those seeking work abroad are thus typically deemed to be leaving their homes due to some sort of generic ‘third world poverty’ unconnected to abuse, violence and political constraints. This conventional understanding of economic migrants as opposed to refugees and IDPs is illustrated in chart 2 on the following page.

While economic factors are indeed key elements of migration within and out of Burma, it is misleading to believe that these are the only factors that contribute to migration from peoples’ home areas. While all 27 interviewees who spoke to KHRG in Thailand cited economic difficulties within Burma as factors influencing their choice to seek work abroad, 21 of these individuals (roughly 78%) cited exploitative abuses (often in combination and over a prolonged period) as factors affecting their economic situation in Burma. Exploitative abuses cited by interviewees included forced labour, arbitrary taxation, extortion and land confiscation, as well as movement restrictions used to prevent evasion and facilitate demands. The breakdown of the various types of abuses faced while living in Burma cited by interviewees are shown in chart 3 on the following page.

²⁶ *No Human Being is Illegal, No Migrant Worker is Illegal: 1996 – 2006*, MAP Foundation, 2006. Accessed at www.mapfoundationcm.org/eng/PDF/eng/map10yrsbook.pdf on March 18th 2009.

²⁷ For example, the BBC reports that “many countries, including Thailand, class the Rohingyas as illegal economic migrants and refuse to recognise them as refugees,” in “UN to expand North Burma Mission,” BBC, March 13th 2009. Accessed at <http://news.bbc.co.uk/2/hi/asia-pacific/7941099.stm> on March 18th 2009.

Chart 2. Conventional understandings of refugees, IDPs and ‘economic migrants’

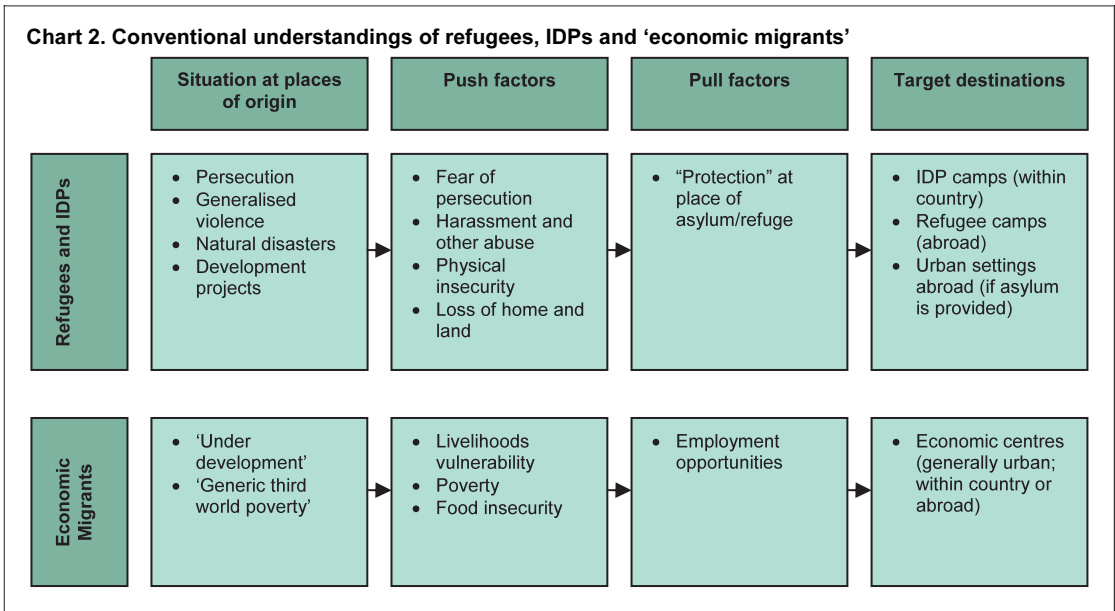
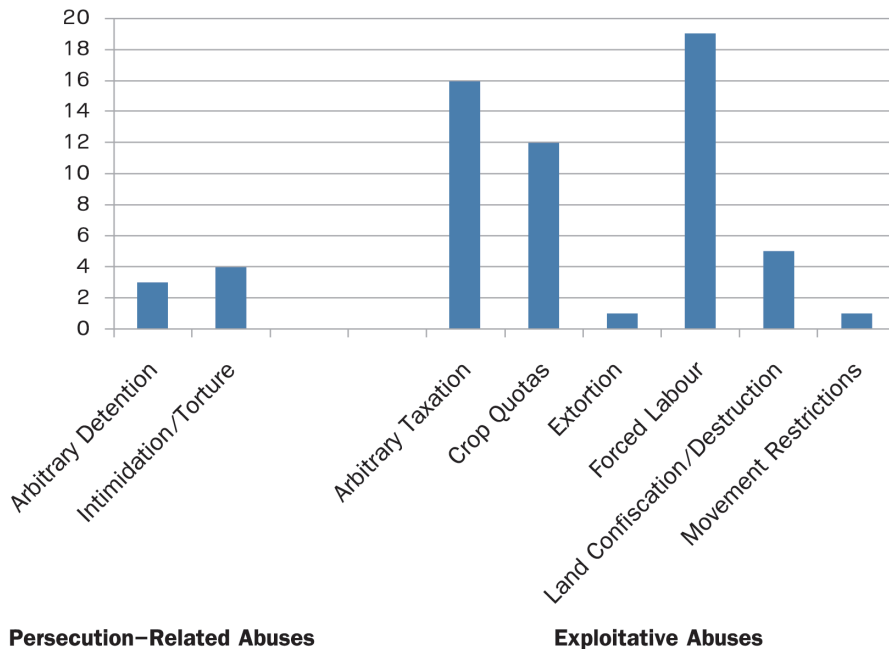


Chart 3. Abuses sustained or witnessed in Burma prior to migration



The results of the Thailand-based interviews conducted by KHRG suggest that the vast majority of those from Burma who seek work abroad are fleeing the cumulative effects of exploitation and other abuse.²⁸ Aside from exploitative abuses, a few interviewees also cited abuses related to political and other persecution. In one case, the interviewee had been arbitrarily detained for having urged others to vote against the new constitution in the May 2008 referendum and in two other cases the interviewees explained that local SPDC authorities would arbitrarily arrest anyone who refused to pay arbitrary taxation demands – thus crossing over into forms of exploitative abuse. In another case, the interviewee had faced repeated harassment on grounds of allegedly having contacted the KNLA.

In addition to the large numbers of interviewees who cited cases of abuse (exploitative or otherwise), some also explained that the harmful effects of such abuse were compounded by restrictive economic and environmental factors. These included limited employment prospects at or near places of origin and crop failure from flooding or drought. Furthermore, due to a lack of low-interest credit many interviewees cited an unmanageable debt which they were compelled to take on – often in order to meet financial requirements resulting from exploitative abuse. In some cases, inability to repay debt led to the confiscation of agricultural land and thus loss of livelihood.

It is relevant to point out that none of those Thailand-based interviewees cited situations of generalised violence or military attacks against their communities as factors compelling them to leave their homes. While there are many cases of individuals who flee violence or military attacks and enter migrant worker communities in Thailand²⁹ or elsewhere, all of those interviewed by KHRG for this report came from areas of relatively firm SPDC control. Situations of generalised violence, military attacks against villages, landmines and other threats related to armed conflict are far more prevalent in areas (such as much of northern Karen State) where SPDC control is more tenuous. Civilians fleeing these areas have often sought access to IDP camps elsewhere in Karen State or, if they have the right connections, to Thailand-based refugee camps. While those registered in refugee camps have often subsequently left those camps to

²⁸ While such push factors do not easily fit within the conventional refugee definition (as will be examined in Chapter 6), the definition of internally displaced persons (IDPs) provided by the Guiding Principles on Internal Displacement includes those “*who have been forced or obliged to flee or to leave their homes... in order to avoid the effects of... violations of human rights.*” While the Guiding Principles are not immediately transferable to the situation of those from Burma now residing abroad, the criteria for qualification as an IDP contained therein should nevertheless prompt a more nuanced discussion of the role of cumulative exploitative abuse within economic push factors compelling individuals (as ‘livelihoods refugees’) to leave their homes.

²⁹ See, for example, I. Brees, “Refugee Business: Strategies of Work on the Thai–Burma Border,” *Journal of Refugee Studies* 21(3): 380-397, 2008, p. 383.

work outside (whether on nearby farms or at urban areas), there were no such cases amongst those interviewed by KHRG.

The abusive, economic and environmental factors which interviewees did cite as having influenced their choice to leave their homes in Burma and search for work abroad will be examined in more detail in the rest of this chapter.

Forced labour

Forced labour was the single most common abuse cited by interviewees. Out of the 27 individuals interviewed, 19 of these (approximately 70%) said they had experienced forced labour themselves or had witnessed others in their community performing forced labour. This included cleaning army camps and bases, clearing the forest overgrowth from alongside vehicle roads, serving as porters carrying military supplies, forced agricultural labour, preparing and delivering thatch shingles and bamboo poles to army camps, and constructing fences, roads, canals and army camps.

“We had to construct a vehicle road, build military check points and clean out the army compounds. Sometimes we had to work the whole day but other times we’d only work half the day. When we were sick, we had to ask the children to go for us. Some people hired others to go for them. They had to pay them 1,000 kyat [US \$1] per day. If we didn’t comply with their [SPDC authorities’] forced labour demands, they punished us such as by putting us in prison.”

- U Th--- (male, 58), M--- village, Thaton District, Karen State (Feb 2009)³⁰

In order to take part in forced labour, villagers must take time away from their regular livelihood activities. In some cases cited by interviewees, when adults were ill or otherwise unable to take part in the labour, children had to go instead. In other cases, villagers were able to pay a fine in lieu of labouring or hire others to serve in their place.

“We couldn’t work all of the time. Sometimes we had to do forced labour for the Burma Army such as clearing roads and camps... I had to do forced labour when I was in my village, but most of the time my parents would go for that. We had to clean [the sides of] the roads and the military camp. We had to do that three-to-four times per year. The villagers have to do forced labour every year. Each time takes one day. If villagers don’t go, they [SPDC authorities] fine them. Usually, one villager has to pay 1,000 kyat [US \$1] per day [in lieu of forced labour]... If we have to go for forced labour, we have to stop going to work for that day.”

- Ko W--- (male, 17), K--- village, Dooplaya District, Karen State (Jan 2009)

³⁰ All interviews cited in this chapter were conducted by KHRG between January and March 2009 with individuals from Burma currently working in Thailand.

In many cases, forced labour was just one of multiple abuses and constraints leading to a worsening economic situation. However, some interviewees specifically identified forced labour as a primary cause in itself of migration to Thailand.

“Half of the people in my village have come to work here [in Thailand]. The reason is that people in my village can’t bear the forced labour work. Therefore, they’ve come to work here.”

- Ma Kh--- (female, 21), A--- village, Dooplaya District, Karen State (Feb 2009)

Arbitrary taxation

Another common form of exploitation is arbitrary taxation. These ‘taxes’ are often not even used to fund the provision of goods or services by the SPDC. Out of the 27 individuals working in Thailand who spoke to KHRG, 16 (approximately 59%) cited some form of arbitrary taxation. These included: having to pay fees to finance the local ‘people’s militia’³¹, road construction, civilians serving as sentries, school maintenance and operations, and intermittent sporting events. Furthermore, interviewees cited licensing fees for the production of alcohol, annual in-kind paddy crop quotas and ‘taxes’ on water, electricity and housing amongst others. The following example, quoted at length, provides a particularly descriptive account of excessive arbitrary taxation. The interviewee, 27-year-old Ma M---, explained to KHRG in February 2009 how she had to send money earned in Thailand back to family members in Karen State in order to assist them in paying various forms of arbitrary taxation.

They know very well that we don’t have money, but they force us to pay...

“We don’t need to serve as porters but my brother told me that they’re now organising the *Pyi Thu Sit* [‘people’s militia’]. But they only recruit young people in the village. The villagers also have to pay money for the *Pyi Thu Sit*, so my mother said to me, ‘If you have money, please give it to us.’ But at that time we didn’t have money. When my mother went back to Burma, I could only give her 20,000 kyat [US \$20] because I didn’t earn much [in Thailand] either. My mother told me that they still have to pay taxes. They have to pay two to three times per month, but they don’t know what the money’s for because they’re illiterate.

Currently, each time they have to pay at least 5,000 kyat [US \$5] and the maximum amount has been over 20,000 kyat [US \$20]. They [SPDC authorities] have divided the villagers into three classes. These are low, middle

³¹ People’s Militia (*Pyi Thu Sit* in Burmese); paramilitary militia recruited by the SPDC to serve as a home guard.

and high classes. For example, if people are from the low class group, they have to pay 3,000 kyat [US \$3]. The high class people have to pay 9,000 kyat [US \$9] and for the middle class it's 6,000 kyat [US \$6].³²

Sometimes, they [SPDC authorities] have said that this money will be used for road construction. But in my opinion, in order to build roads, it's not proper to collect money from villagers... This year, my family faces a big problem because a flood destroyed their crops. We also have to give rice as payment for sentry fees. But we don't grow rice, so we have to buy rice from other villagers in order to pay [the sentry fees]. But we don't have money to buy that [rice], so our debt has increased. For example, the first time they asked for rice we couldn't pay, so we were already in arrears to them. Again, the second time, we were supposed to pay but we couldn't. So our debt's been gradually increasing. We can only pay six to seven times out of ten because we don't have work [in Burma] either. Only my brother works [in Burma] to earn money. Here [in Thailand], we also don't earn much.

In my opinion, [the villagers go to Thailand] because their families' livelihoods aren't going well. In the village, they can't afford to pay the demands [by local authorities], so they try to find work. But if you live in the village and you can't pay what you're ordered to pay, you'll be verbally abused. If you don't want to face this kind of thing, you have to struggle to find a way [to pay]... Actually, they [local SPDC authorities] know very well that we don't have money, but they force us to pay.

- Ma M--- (female, 27), D--- village, Pa'an District, Karen State (Feb 2009)

Crop quotas

Although the policy of collecting crop quotas as a form of taxation was officially abolished in 2003, many agricultural workers in Burma as well as those individuals whom KHRG interviewed in Thailand report that the practice widely continues. The actual quota typically varies from between 6 to 12 tins of paddy per acre of farm land. A tin is a standard unit of measure in Burma amounting to 10.45 kgs / 23.04 lbs of un-husked rice (paddy). While in some cases villagers must simply give the paddy to local authorities, in other cases they must sell it to local authorities for a price far below the market rate.

"We [family members in Burma] depend on our farm fields. We get 400 tins of paddy per a year. We have to pay 10 tins out of 100 tins of paddy as tax... [In the past] we first put aside enough rice for our family. After

³² Amounts demanded are not the same each time. The speaker gives the example of villagers being demanded 3,000 kyat, 6,000 kyat or 9,000 kyat. Yet she notes beforehand that demands on her family ranged from 5,000 to 20,000 kyat.

we put it aside, if there was any remaining rice, we'd sell it to the authorities in order to get money. Now, the policy has changed. Even though we don't have enough rice for our family, we have to sell it to them [SPDC authorities] according to the amount of rice that they specify... If we don't give them the crop tax as they demand, they come to arrest the farmers and put them in jail."

- U A--- (male, 56), L--- village, Pegu Division (Feb 2009)

Extortion

On top of the increasingly systematised forms of arbitrary taxation, four interviewees (about 15%) also said that they had experienced other ad hoc demands for cash or goods by State authorities. Three of these cases of extortion were related to ID checks while travelling, with two at checkpoints along the highway to Myawaddy in Karen State and one at a random police check on a bus in Rangoon. The fourth instance involved Burma Army soldiers forcibly confiscating villagers' food.

"Once, when I came to the Kawkareik check point, they demanded 1,000 kyat [US \$1] from each of us. We asked them what they would do [with the money] and they said that it was for life insurance. If I hadn't given them [the money], they'd have become angry. Even people who have ID cards have to give them money... When I came [to Thailand] it cost me 20,000 kyat [US \$20] when I arrived in Myawaddy because I came at a time when they were blocking the road. It's not easy to come here [to Thailand]."

- Saw Ht--- (male, 33), T--- village, Pa'an District, Karen State (Feb 2009)

Environmental factors

While the vast majority of interviewees cited experience with some form or exploitative abuse, it is important to note that such abuse seldom occurred in isolation from other push factors. The harmful cumulative effects of abuse were often compounded by environmental factors. For example, some interviewees explained that flooding, drought and wild animals were persistent threats to agricultural livelihoods and affected significant numbers of people in their communities.

"Some years because of heavy rain and flooding the paddy died. Some years because of little rain the paddy fields couldn't get enough water. Also, insects destroyed the crop fields and so the paddy died. People who didn't want to farm anymore came to Thailand. Sometimes mice and wild pigs also came and destroyed the crop fields."

- Saw Ht--- (male, 33), T--- village, Pa'an District, Karen State (Feb 2009)

High-interest debt

As a consequence of persistent exploitative demands, environmental constraints and limited employment opportunities, many interviewees told KHRG that they and their families were either currently in debt or had been in debt prior to leaving Burma. Out of the 27 interviewees who spoke to KHRG, 23 of these (about 85%) cited instances of debt. These included 9 people (33%) currently in debt, another 12 (44%) who had been in debt prior to leaving Burma, and 2 more who explained that, while they themselves had not taken out loans, debt was a significant factor in the economic situation of many residents of their village.

“There were times when we couldn’t afford our medical bills and we had to borrow money from other people. My brothers had to find work outside of the village in order to repay the debt... If we were to borrow 1,000 kyat [US \$1], we’d have to pay an interest of 20% [per month].”

- Naw L--- (female, 22), Th--- village, Pegu Division (Feb 2009)

“When I was in that kind of [financial] situation, I’d go to people who loan money with interest. The interest system is not like it is here [in Thailand] where you pay once a month. In our area [of Shan State] it’s obligatory [to pay] once every ten days. When I took out [a loan of] 1,000 kyat [US \$1], I had to pay 200 kyat [US \$0.20 every ten days]. And for one month I had to pay 600 kyat [US \$0.60]. So, the interest rate is 60%. It’s worse than the rate that the Chettiars³³ charged for interest.”

- Ma Th--- (female, 34), A--- village, Shan State (Feb 2009)

Typically, loans are taken out from local independent money lenders. The most commonly cited rate of interest was 20% per month. One interviewee, Ma Th--- quoted above, cited a figure of 20% every ten days (thus 60% per month) and another interviewee said interest rates could be as high as 80% per month. A few interviewees said that it was sometimes possible to take out loans from family and friends from whom interest rates can be as low as 0 to 10% per month. While in rare cases farmers are able to get small loans from the State-controlled Myanmar Agricultural Development Bank (MADB) at a rate of 5% per month, interviewees explained that such assistance is difficult to access.

“They [MADB authorities] lend money to farmers at 5% interest [per month] and at the end of the year the farmers must repay. If we take 10,000 kyat [US \$10], we must give 500 kyat interest [per month] and after 12 months it becomes 5,000 [sic] kyat in interest for [a loan of] 10,000 kyat. Only people who own fields can get that money. I’ve also

³³ Chettiars are a caste from southern India who were widely involved in money lending in Burma during the colonial period.

had an experience of getting that money. As of now, I've already repaid it. If people don't have any fields, they can't get it. When the time comes, we have to pay the money back with interest and if farmers can't pay, they're arrested and fined."

- Ko Ch--- (male, 30), H--- village, Pa'an District, Karen State (Jan 2009)

Economist Sean Turnell has explained the workings of the MADB in detail and his description helps illustrate why farmers in Burma (who make up about 70% of the country's population) must frequently turn to high interest loans to support their means of livelihood.

"Burma's commercial banks are forbidden to lend to farmers for cultivation. In their place as formal credit providers is the state-owned Myanmar [sic] Agricultural Development Bank (MADB). This institution is meant to be the sole provider of rural credit in Burma... [with] its own modest objective of providing finance to meet just 30% of a cultivator's production costs... In fact, in practice the MADB falls well short of meeting even this modest target. Average loans to paddy cultivators... were between K 2,000 to K 8,000 (\$1.60 to \$6.40) per acre of paddy in 2004... The lack of finance imposes heavy costs on Burmese agriculture in terms of productivity and certainly inhibits the ability of cultivators to move to more capital-intensive modes of production."³⁴

Land confiscation and destruction

As some villagers must pledge their land to money lenders in order to access loans, an inability to repay debts has led to land confiscation and thus a worsened financial and livelihoods situation for those involved.

"When we had a problem with our livelihood, we had to pawn our orchard for 150,000 kyat [US \$150]. The price of food had risen and we couldn't find work in the village. The pawn broker also didn't have much money, but her husband was working in Malaysia. So she was able to get our land for a cheap price. Later we couldn't repay her the interest or even the capital. We had to forsake our orchard."

- Naw L--- (female, 22), Th--- village, Pegu Division (Feb 2009)

In other cases, however, interviewees explained that State authorities, not independent money lenders, are the ones primarily responsible for land confiscation. State authorities have confiscated land on the grounds that land is not being farmed, that land owners cannot pay their 'taxes', that land owners do not comply with the State-dictated agricultural agenda or that State development projects require a particular piece of property. The claim that State authorities can justifiably confiscate land that is not currently under

³⁴ S. Turnell, "Burma's Insatiable State," *Asian Survey*, 48(6): 958-976, 2008.

cultivation is particularly threatening to those who may temporarily leave their homes to work abroad.

“When the villagers aren’t able to pay the taxes for their land, the government comes and confiscates the land with no compensation. Regardless of whether the villagers are in [cultivating] the farm fields, they’re required to fulfill their obligations [crop quotas or land taxes].”

- Saw Ht--- (male, 33), T--- village, Pa’an District, Karen State (Feb 2009)

“The government has tried to construct more and more vehicle roads. In my village they constructed a vehicle road and it crossed our plantation. And they destroyed all the trees which we were growing in our plantation. We grow citrus fruit in our plantation. The road crossed through the centre of our plantation, but we didn’t get any money for that [land].”

- U Th--- (male), Sh--- village, Pegu Division (Feb 2009)

Conclusion

As stated previously, because there is no way to establish how many of those who were interviewed in Karen State (Data Set 1) and cited abuse actually decided to leave Burma to find work abroad, Data Set 1 and Data Set 2 should be viewed as complementary rather than directly linked. With that in mind, KHRG wished to see whether the abuses which migrants cited as push factors compelling them to leave Burma resembled those that were cited by residents of Karen State. As has been shown, the abuses cited in the two data sets are extremely similar. Both current residents of Karen State (Data Set 1) and those from Burma now working in Thailand (Data Set 2) overwhelmingly cited exploitative demands and restrictions as being the most prevalent forms of abuse sustained in Burma. Furthermore, interviewees explained that these abuses significantly eroded financial and food security. The match between these data sets suggests that SPDC abuses in rural Burma contribute to an unsustainable level of poverty for villagers and that that poverty, in turn, forces villagers to leave their homes and seek work abroad in order to survive.

As the testimonies in this chapter illustrate, push factors compelling most people in Burma to leave their homes cannot be reduced to apolitical economic constraints unconnected to the abusive system of local governance. As the harmful consequences of abuse are often worsened by environmental and other economic factors, it is not possible in most cases to isolate single, narrowly-defined push factors as the sole explanation why people chose to migrate abroad in search of employment.³⁵ However, it is not only with regard

³⁵ This understanding has been likewise noted by researcher Inge Brees who found that, *“Push factors almost always stem from interlinked political and economic root causes in Burma, which makes it impossible to distinguish economic migrants from asylum seekers and refugees.”* (I.

to push factors that simple classification is problematic. As the next chapter will show, attempts to isolate and categorise the pull factors that attract people from Burma are likewise fraught with complications.

Brees, "Refugee Business: Strategies of Work on the Thai–Burma Border," *Journal of Refugee Studies* 21(3): 380-397, 2008, p.383.)

5. Data Set 2: Pull factors

Pull factors, as aspects of migration, are generally understood to be the attractive social, political, economic or environmental features of a new area that ‘pull’ people away from their current locations. The primary pull factors fuelling ‘economic migration’ have typically been identified as better employment and other financial opportunities at a new location. By contrast, pull factors for refugees and IDPs are rarely articulated as such and instead the various push factors of persecution, abuse, armed conflict and other threats to life and security are stressed.

Push factors, however, cannot fuel migration in isolation. When individuals seek refuge at another location, pull factors are indeed involved. In such cases the primary pull factor can be understood as *access to protection*. The Office of the United Nations High Commissioner on Refugees (UNHCR), however, has downplayed this perspective, as illustrated in the quote below. This has been due to concerns that host countries seeking to stem incoming migration will place restrictions on UNHCR protection work should their governments deem such protection to be a pull factor.

“Of growing concern are the situations where governments... start putting into question the propriety and legitimacy of any protection activities, particularly those of UNHCR. The argument seems to be that protection is a pull factor. UNHCR’s response is that the pull factors for irregular migration include economic opportunities, family and community links, and ease of onward movement. UNHCR by no means ranks as the main attraction.”³⁶

This distinction between protection and pull factors can potentially strengthen arguments against government restrictions on protection work. However, it also risks entrenching the unequal responses to those deemed ‘legitimate’ refugees seeking protection and those deemed ‘illegal’ migrants seeking employment. The fact is that seeking employment abroad is often a *self-initiated protection strategy* used to evade abuse and mitigate the effects of abuse at places of origin.

The conventional perspective taken by aid agencies, however, as illustrated in the quote about UNHCR protection above, arises out of a narrow understanding of protection as a top-down process. Indeed, as it currently stands, UNHCR, INGOs and government bodies are the primary providers of protection for a narrow category of refugees who are deemed to be dependant recipients lacking any ability to address their own protection needs. This approach has

³⁶ 39th Meeting of the Standing Committee, Statement by Erika Feller, Assistant High Commissioner – Protection, June 25th 2007, p. 3. Accessed at www.unhcr.org/refworld/pdfid/4680d0312.pdf on March 18th 2009.

evolved alongside conventional definitions of refugees and IDPs as those who flee persecution or armed conflict. Such narrow definitions miss the legitimate protection concerns of those fleeing the harmful cumulative effects of persistent exploitative abuse. They also miss opportunities for external support for the many self-initiated protection strategies which migrant workers regularly employ.

Self-initiated protection

Understanding how opportunities for self-initiated protection strategies can function as pull factors requires a closer examination of what is meant by the term 'protection'. UNHCR typically deems protection for refugees to mean legal protection against refoulement.³⁷ However, the International Committee of the Red Cross employs a broader understanding, defining protection as:

“all activities aimed at obtaining full respect for the rights of individuals in accordance with the letter and the spirit of the relevant bodies of law (i.e. human rights law, international humanitarian law and refugee law).”³⁸

In practice, protection covers a range of strategies aimed at preventing and mitigating abuse, assisting those recovering from abuse, and creating a context in which the likelihood of abuse is restricted.³⁹ KHRG, therefore, also follows this broader definition.

For villagers, townspeople and others from Burma, seeking employment abroad can function as a self-initiated protection strategy which allows them to evade abuse, escape the cumulative effects of persistent exploitation and mitigate the harmful effects of exploitative abuse on family members remaining behind. To illustrate a case of evasion, 30-year-old Ko M---, one of the 27 migrants from Burma interviewed, told KHRG in February 2009 the majority of the residents of his village in Karen State had fled to Thailand to find work in order to avoid regular demands and harassment by local SPDC authorities.

“The villagers have to pay their land taxes and sometimes they [SPDC soldiers] come to the village and demand food from the villagers. If the villagers don't give them food, they beat the village head. They [SPDC soldiers] don't have an army camp [nearby], but they always come to the village. Therefore, the majority of the people in my village have come to

³⁷ UN High Commissioner for Refugees, *Note on Non-Refoulement (Submitted by the High Commissioner)*, 23 August 1977. EC/SCP/2. Online. UNHCR Refworld, available at: <http://www.unhcr.org/refworld/docid/3ae68ccd10.html>. Accessed April 14th 2009.

³⁸ *Protection of Internally Displaced Persons*, Inter-Agency Standing Committee, 1999, p.4

³⁹ *Growing the Sheltering Tree: Protecting Rights through Humanitarian Action*, Inter-Agency Standing Committee, 2002, p.11-12.

work in Thailand. They don't want to stay in their village because they're afraid that they'll have to do forced labour."

- Ko M--- (male, 30), Th--- village, Dooplaya District, Karen State (Feb 2009)

Not all migrants interviewed by KHRG explicitly identified the evasion of abuse as a primary pull factor drawing them to migrant worker communities abroad. Many told KHRG that they were drawn to Thailand because the employment opportunities available there provided a way of escaping the worsening economic situation in Burma.

"I was forced [by the situation] to come and work here when I was very young. For the two years prior to 1999, we were in a very difficult situation. We had a lot of debt because we didn't have a farm or any cows. So my mother said to me 'Daughter, in Mae Sot [Thailand], they need workers. Why don't you go there and work? I said to her 'Yes, Mum, even though we live here in the village, we have lots of problems and difficulties.' At that time, I was in a very difficult situation. My parents were very poor."

- Ma M--- (female, 27), D--- village, Pa'an District, Karen State (Feb 2009)

Other migrants interviewed by KHRG emphasised that employment opportunities abroad provided an opportunity to save money, support accompanying family members, send remittances to family remaining in Burma and repay high-interest debts.

"My friends told me that if we came and worked in Thailand, we could save money and send it back home [to family in Burma]. We had neighbours who came to work in a wool factory in Thailand. When they came back, they were able to have better living conditions. For me, I wanted to be like them and so I came here. Now I'm working in a wool factory."

- Ma Th--- (female, 34), A--- village, Shan State (Feb 2009)

Given the connection in rural Burma between exploitative abuses and poverty, livelihoods vulnerability and food insecurity (as examined in the previous two chapters), such uses of funds earned abroad can be understood as serving to lessen the harmful effects of abuses in Burma.

Furthermore, remittances sent by migrant workers or brought home in person are able to help lessen the harmful effects of exploitative abuse on family members who have remained behind. A 2008 study of the economics of migration from Burma noted that financial remittances sent by Thailand-based migrant workers to family members back home "*were large, were used disproportionately to ensure simple survival and were realised overwhelmingly*

via informal mechanisms.”⁴⁰ This view supports the findings of KHRG’s own interviews with migrant workers:

“My situation here [in Thailand] is different from my situation in Burma because [while working in Thailand] I can save money and support my family in Burma. Sometimes, I send back 50,000 or 70,000 kyat [US \$50 or \$70] once a month for my family. But sometimes, I send 100,000 kyat [US \$100] when I can save more money... I’m supporting five people. These people are my parents, a niece and two nephews inside Burma. When I lived in Burma, even though I worked hard, I couldn’t provide much support for my family. When I came to work here, I could save my money and provide more support for my family.”

- Ma Kh--- (female, 21), A--- village, Doooplaya District, Karen State (Feb 2009)

Such remittances are especially important in the case of Burma as it is usually young children and the elderly who remain behind while those of working age travel abroad in search of wage labour.

“Now, not so many people live in our village. People who are married but are still young will leave their children with their [the children’s] grandparents and go and work in Bangkok. Currently only my brother has work [in Burma]. My parents are too old to work. Their grandchildren [the interviewee’s children] are staying with them in the village in Burma. Sometimes we send money to them but sometimes we can’t, so my younger brother has to work to feed them. He’s not married yet. He stopped going to school after he finished grade seven because my mother has an eye problem and we couldn’t afford to pay for the cost of the operation, so he has had to take care of her.”

- Ma M--- (female, 27), D--- village, Pa’an District, Karen State (Feb 2009)

We can once again see that taking employment opportunities abroad can function as a self-initiated protection strategy employed by migrant workers from Burma. Such opportunities can provide some measure of food and livelihood security, allowing workers to support themselves and their families at locations away from the abuse in their home areas and mitigate the economic (and resulting social) harm of exploitative abuse on family members remaining in Burma (through remittances) and on themselves (through personnel savings) should they return home. This protection strategy, in turn, comprises a major pull factor drawing migrants out of Burma as well as to urban centres within the country.

⁴⁰ S. Turnell, A. Vicary and W. Bradford, “Migrant-worker remittances and Burma: an economic analysis of survey results,” in *Dictatorship, Disorder and Decline in Myanmar*, Monique Skidmore and Trevor Wilson (eds), ANU E Press, 2008.

The blurred line between migrants and refugees

Aside from migration in search of protection from exploitative abuse and the cumulative effects of exploitative abuse, interviewees also described a pull factor of protection for their physical security. This is particularly relevant for those who fled generalised armed conflict, military attacks on their homes or persecution (such as army deserters or real or alleged supporters of the KNU, NLD or other opposition groups), and who have travelled abroad via the same routes as 'economic migrants'. Those fleeing persecution easily fit within the conventional refugee definition and have, in some countries, been able to acquire UNHCR-recognised refugee status. Those fleeing generalised violence or military attacks against their homes fit the Royal Thai Government's criteria for residency within Thailand-based refugee camps.⁴¹

UNHCR has used the terms 'mixed migration' and 'the migration/asylum nexus' to describe this movement of conventional refugees alongside, and using the same routes as, 'economic' migrants.⁴² These refugees may be either unable or unwilling to access camp-based protection opportunities (or, as in some countries, there may be no refugee camps) and choose instead to remain outside as migrant workers. While the threat of arrest, extortion and deportation by host-country authorities exists, migrant worker communities can often offer a relatively more secure environment than that from which these refugees fled. These communities also offer an opportunity to earn money, support family members and send remittances to relatives remaining in Burma.

The following quote provides an illustrative example of the motivations behind such 'mixed migration'. The interviewee, a 30-year-old villager from southern Karen State, fled his home to become a 'migrant worker' in Thailand after facing repeated harassment by SPDC authorities on the grounds that he had had contact with the KNU.

"I came here with the help of the KNU. I don't want to provide the name of the man who brought me here. I dared not stay in my village because the SPDC Army soldiers always came to the village, so the village head helped me come here with that man... I just want to say that I don't want to go back to my village now, because I don't want to flee from the SPDC Army soldiers again and again. They always come to my village and demand porters [people to conduct forced labour carrying supplies]. In the past, I always had to flee from them. I've also faced accusations

⁴¹ The Royal Thai Government does not officially recognise displaced people from Burma who reside within camps in Thailand as refugees, but rather as individuals who are "temporarily fleeing fighting" (*'My Gun Was as Tall as Me': Child Soldiers in Burma*, 2002, New York: Human Rights Watch, p.167).

⁴² *Refugee Protection and Mixed Migration: A 10-Point Plan of Action*, UNHCR, January 2007 and *Agenda for Protection*, UNHCR, October 2003.

that I've cooperated with the KNU and I said to them [SPDC authorities], 'I'm not the kind of person that you're describing. I'm just a simple villager.' I could no longer endure their actions, so I came here to work freely. I'm very afraid of their actions against us."

- Ko M--- (male, 30), Th--- village, Dooplaya District, Karen State (Feb 2009)

To give another example of an individual working abroad who had faced persecution on political grounds, U Th---, upon returning from Thailand to his village in Pegu Division, was arrested for encouraging fellow villagers to vote against the constitutional referendum held in May 2008. Upon his release, U Th--- quickly returned to Thailand.

"Last year, I went back to my home town and thought that I would return here [to Thailand]. But my section leader told me that they [SPDC authorities] would not allow me to return because we had [to remain in Burma] to vote in the referendum. When I went for the referendum, I saw many people who had come to vote in the referendum like me, but they knew nothing about the referendum. I told them to vote with an 'x' – meaning to give a vote of disagreement [with the new constitution]. The police caught me and kept me in jail for three days."

- U Th--- (male), Sh--- village, Pegu Division (Feb 2009)

Conclusion

While conventional refugees who flee via the same routes as 'economic migrants' do indeed warrant protection assistance, there is an increasingly recognised need to go beyond the narrow 'mixed migration' framework. This means acknowledging the legitimate protection concerns and self-initiated protection strategies of those fleeing various debilitating economic and environmental constraints at their place of origin – which, in the case of rural Burma, are frequently underpinned by exploitative abuse – yet who may not fit neatly within the conventional refugee definition. Furthermore, these protection concerns are likely broader than the narrow provision of legal protection against refoulement granted to officially-recognised refugees.

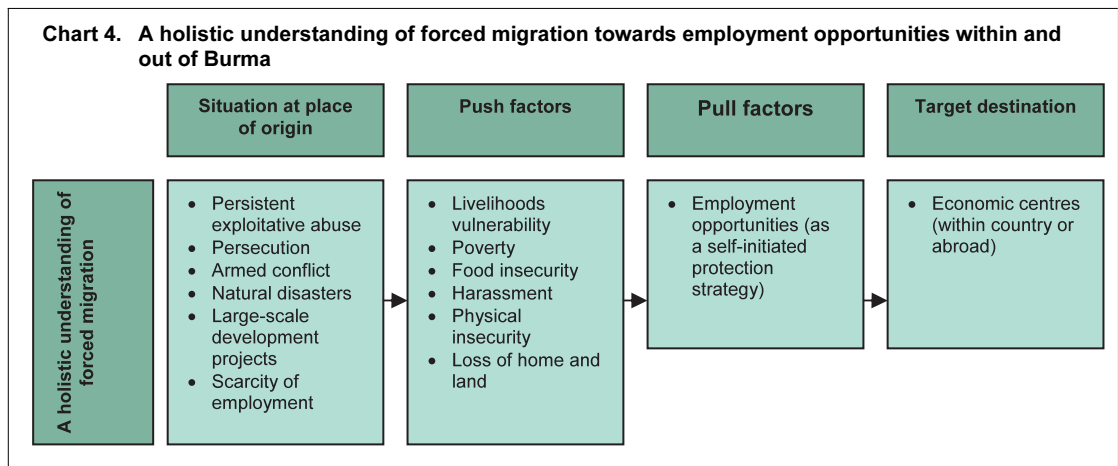
Along these lines, staff of UNHCR noted in 2008 that "*an increasing number of irregular migrants have protection needs resulting from conditions in the country of origin unrelated to [armed] conflict or political persecution.*"⁴³ Despite such acknowledgements, international frameworks for classifying and assisting the diverse range of people leaving their country of origin continue to hinder a more accurate understanding of the protection concerns and self-initiated protection strategies of these individuals. Thus, although there has been some recognition of the abuse frequently underlying 'economic' migration out of

⁴³ A. Betts, "Towards a 'soft law' framework for the protection of vulnerable migrants," UNHCR, 2008, p. 2.

Burma, there has been little effort to challenge conventional protection frameworks and adapt protection assistance according to the concerns and desires of migrants themselves. The issue of classification and its relationship to external protection assistance is addressed in the following chapter.

6. International frameworks

One of the major questions asked by this report is whether existing international human rights laws, frameworks and norms accurately reflect the causes of emigration from Burma. After examining those laws and norms, it becomes clear that the answer is a definitive *no*. As has been discussed in earlier chapters, rather than there being a single reason for why people decide to leave their homes in Burma, it is instead evident that people base their decisions to emigrate on many different factors, including SPDC abuses, environmentally-based crop failure and scarcity of employment. But current international legal regimes and norms attempt to place Burmese people who leave their homes into one of three narrow, often rigidly-defined categories: refugees, internally displaced persons or economic migrants. The findings of KHRG’s interviews with residents of Karen State and Burmese citizens working in Thailand strongly suggest that these categories do not accurately reflect the complex set of motivations that lead Burmese civilians to leave their homes, nor do they satisfactorily provide protection for those at risk both in Burma and abroad. Chart 4 below provides a holistic depiction of the factors underlying emigration from home areas in Burma to employment opportunities elsewhere.



The difficulty of accurately distinguishing between refugees, IDPs and economic migrants stems from the fact that, when it comes to the specific case of Burma, the political and the economic typically cannot be separated. The authoritarian nature of the SPDC means that all aspects of civilian life in Burma are influenced (most often negatively) by the regime’s policies. As has been demonstrated by the data collected from KHRG interviews, ostensive economic reasons for emigration such as unemployment or crop failure often find their roots in highly political, exploitative SPDC policies such as forced labour, crop quotas and extortion. According to a study of international legal definitions and their application to Burmese migrants, *“recent estimates indicate that up to two million people from Burma currently reside in Thailand, reflecting one of the*

largest migration flows in Southeast Asia. Many factors contribute to this mass exodus, but the vast majority of people leaving Burma are clearly fleeing persecution, fear and human rights abuses.”⁴⁴ This understanding was repeatedly confirmed by migrants themselves during interviews with KHRG.

“I used to farm and [work on a plantation]. If there were heavy rains during the rainy season, our paddy plants died and we couldn’t harvest a lot of rice. So when the government taxed us, we couldn’t pay the taxes. We no longer have a farm because it was taken by the government – at that time, I was very small. My parents couldn’t earn a living very well after the government took our farm. Now, [my family] can’t live in the same place, we are staying in different places. I came to live in Thailand.”

- Ko M--- (male, 30), Th--- village, Dooplaya District, Karen State (Feb 2009)

There are three existing legal categories into which Burmese people who leave their homes are placed – refugees, IDPs or economic migrants. For each category, this chapter will examine the current legal or normative protections afforded and how the definitions used by those categories do not satisfactorily reflect the reasons for why people emigrate from Burma. It will become clear that, regardless of the exact causes for leaving, basic survival is a key motivation for many people – a fact that these legal definitions fail to effectively address.

It is important to emphasise that examining the current legal and normative definitions for these categories is not an abstract or academic exercise. Instead, there are very real, concrete implications for the definitions of these laws as they determine how international bodies and host governments understand the protection needs of these groups, establish responsibility for the delivery of protection and other assistance and then determine the amount of humanitarian aid that should be distributed. Hence, external efforts to provide protection and other assistance to people fleeing SPDC-sponsored abuses are heavily restricted by the definitions of refugees, IDPs and economic migrants adopted by the international community and individual governments.

Economic Migrants

Of these three categories, people who are referred to as ‘economic migrants’ are by far the most poorly defined, least protected group. Indeed, for several decades now, legal thinkers and policymakers alike have struggled to create a satisfactory definition of what constitutes an economic migrant. There are several reasons for this failure. Given the centrality of the work conducted by migrants to the economies of receiving countries around the world, many

⁴⁴ T. Caouette, and M. Pack, *Pushing Past the Definitions: Migrations from Burma to Thailand*, Refugees International & Open Society Institute, 2002.

governments are unwilling to effectively address the issue because they believe it would jeopardise an important and inexpensive component of their economies. Hence, political and economic interests have been found to outweigh the importance of providing better protection for migrants. Another impediment to defining economic migrants is that it would require policymakers and governments alike to acknowledge that economic and political motivations for immigration are often inseparable, as has been made clear in the case of Burma.

The difficulty of creating an effective definition of economic migrants becomes evident when one inspects the glossary entry for 'economic migrants' provided by the United Nations Educational, Scientific and Cultural Organization (UNESCO). Rather than containing a single definition, the glossary instead includes several competing, and sometimes conflicting, attempts to define this group. One definition describes economic migration as a process that "*should be understood as covering all cases where the decision to migrate is taken freely by the individual concerned, for reasons of 'personal convenience' and without intervention of an external compelling factor.*"⁴⁵ It is not difficult to see why this definition is unsatisfactory for the case of Burma. What is meant by someone 'freely' deciding to migrate? What constitutes 'personal convenience' and how should that be distinguished from those who are migrating in order to simply survive?

The UNESCO glossary recognises such shortcomings by going on to cite a different possible definition, one given by the UN Special Rapporteur of the Commission on Human Rights. According to the Rapporteur, migrants are

- a) *Persons who are outside the territory of the State of which they are nationals or citizens, are not subject to its legal protection and are in the territory of another State;*
- b) *Persons who do not enjoy the general legal recognition of rights which is inherent in the granting by the host State of the status of refugee, naturalised person or of similar status;*
- c) *Persons who do not enjoy either general legal protection of their fundamental rights by virtue of diplomatic agreements, visas or other agreements*

The UNESCO glossary then goes on to admit that,

"This broad definition of migrants reflects the current difficulty in distinguishing between migrants who leave their countries because of political persecution, conflicts, economic problems, environmental

⁴⁵ "Economic Migrant," Glossary, United Nations Educational, Scientific and Cultural Organization Institute for Statistics. Accessed at http://portal.unesco.org/shs/en/ev.php-URL_ID=3020&URL_DO=DO_TOPIC&URL_SECTION=201.html on April 30th 2009.

degradation or a combination of these reasons and those who do so in search of conditions of survival or well-being that does not exist in their place of origin.”⁴⁶

Indeed, though the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was created in order to legally protect economic migrants, that document also not only fails to satisfactorily define what a migrant is, but is also a functionally inert document that has existed for nearly 20 years and yet has fewer than 50 countries who have become signatories.⁴⁷

Members of the UN themselves have acknowledged this failure of the 1990 Convention and, in one article, have written that “*at the international level, there is no clearly defined institutional framework for the protection of vulnerable irregular migrants.*”⁴⁸ Admittedly, migration is a term that encompasses an extremely diverse range of people. It is an issue that, for many countries, is fraught with myriad political and economic implications – a fact that has seemed to inhibit both governments and international bodies from robustly addressing it. Regardless, the fact remains that the international community’s failure to set proper legal parameters for this issue leaves millions of people around the world – and, specifically, millions of migrants from Burma – without the laws and norms that are necessary to protect them from abuse and ensure them their basic human rights.

Another issue that has contributed to this legal stalemate is the problem of delineating between voluntary and involuntary migration. As has been discussed in earlier chapters, many people continue to assume that economic migration is a choice that is freely made by the migrant. While that might be true in some countries, the findings of KHRG’s interviews with Burmese migrants makes it clear that the decision to migrate from Burma often isn’t solely made out of a desire to find better financial security for one’s self and his family, but is often made because it is the only way that that person or family can survive. Indeed, this issue of survival informs the following discussions of the legal definitions of refugees and IDPs.

⁴⁶ Ibid.

⁴⁷ The definition of migrants given by the Migrant Convention is equally unsatisfactory: “The term ‘migrant worker’ refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.” *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, Article 2, Section 1,

⁴⁸ A. Betts, “Towards a ‘soft law’ framework for the protection of vulnerable migrants.” Research Paper No. 162, New Issues in Refugee Research, Policy Development and Evaluation Service United Nations High Commissioner for Refugees, August 2008. An ‘irregular migrant’ is a term used for migrants who are performing work illegally in a country where they are not citizens.

Refugees

In stark contrast to the case of economic migrants, the international legal protection afforded to refugees is by far the most robust of the three laws and frameworks examined in this chapter. The strength of this protection derives in large part from a long-established international consensus that shelter must be given to people who, due to political and social persecution, are forced to leave their home countries. The Convention relating to the Status of Refugees, adopted in 1951 and expanded in 1967, defines a refugee as one who

*“[O]wing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, unwilling to return to it.”*⁴⁹

Over 100 countries have ratified this Convention and those who are successfully recognised as refugees are provided the protection of international law and other assistance by the UN and a majority of international bodies and national governments. As part of the legal protection afforded to those meeting the requirements in the above definition, the Convention includes the principle of *non-refoulement* which prohibits a receiving country from forcibly repatriating a refugee when that refugee has valid fears of being persecuted if he is returned home.

Indeed, the SPDC’s military offensives and campaigns of repression in Karen State and other regions of Burma have created refugees who fit well within the Convention’s definition. There are approximately 135,000 Burmese who currently reside in Thailand-based refugee camps and receive some form of host-government assistance or international aid and thousands more who have relocated to Third Countries.⁵⁰

But for a country of nearly 50 million people who live under SPDC oppression, there are not only more refugees than are currently recognised, but also millions of Burmese who have been labelled ‘economic migrants’ but have in fact fled the country in order to survive. The interviews conducted by KHRG both within Karen State and in Thailand indicate that many Burmese have left their homes not because they were specifically targeted for political or social

⁴⁹ 1950 Convention Relating to the Status of Refugees, Chapter 1, Article 1. Accessed at http://www.unhcr.ch/html/menu3/b/o_c_ref.htm on April 30th 2009.

⁵⁰ “Burmese border refugee sites with population figures,” Thailand Burma Border Consortium, March 2009. Accessed at <http://www.tbtc.org/camps/2009-03-mar-map-tbbc-unhcr.pdf> on April 30th 2009.

persecution, but because they lived in a state of life-threatening poverty that was largely created by exploitative SPDC policies.

"We have to pay taxes whenever the authorities demand them. They demanded 500-1,000 kyat from each house. Sometimes, they demanded such taxes four or five times a month. Many villagers could not afford the taxes and they left the village to come to work in Thailand."

- Ko Th--- (male, 23), K--- village, Dooplaya District, Karen State (Feb 2009)

Again, the issue at stake is survival. As Joel R. Charny, Vice President for Policy of Refugees International, has written, *"for many, the decision to leave their home country is not about the dream of finding a better life elsewhere, as implied in the label of economic migrant. Rather, the motivation for flight is indeed survival. For this very reason, in many situations it is impossible to draw a clear line between refugees and economic migrants."*⁵¹

Traditionally, international laws like the Convention relating to the Status of Refugees are intended to protect those people whose immediate physical, psychological and social well-being is threatened at home. But as the above discussed KHRG interviews have demonstrated, there are many people living as displaced persons in Burma or as migrants abroad who left their homes because exploitative SPDC policies made basic livelihood pursuits impossible. To remain at home in an SPDC-controlled district of Karen State or elsewhere in rural Burma is to lose stable access to employment opportunities, political and social freedoms and other basic human rights.

Indeed, several writers have explained how difficult it can be to distinguish between economic migrants and refugees. Elizabeth Ferris points out that *"[t]here is evidence that people fleeing violence use the same migratory routes as those traveling for mainly economic reasons."*⁵² Charny writes that *"[a]sylum seekers that are part of mixed flows present challenges to the Office of the UN High Commissioner for Refugees (UNHCR) and non-governmental organizations that may wish to assist them. As UNHCR itself points out, asylum seekers often have no choice but to use the same illegal means of entry as economic migrants."*⁵³

Several questions arise for policymakers, national governments and international bodies: What does it mean to have one's survival threatened?

⁵¹ J. Charny. "Flight for Survival: The Challenge of Refugee Protection Amid Large-Scale Migration" *Harvard International Review Online*, February 2008. Accessed at <http://www.harvardir.org/index.php?page=article&id=1681> on April 30th 2009.

⁵² E. Ferris, "Internal Displacement, Human Rights, and Displacement," Speech given to Club Of Madrid, August 18th-19th 2008, Santander, Spain, p. 7.

⁵³ J. Charny. "Flight for Survival: The Challenge of Refugee Protection Amid Large-Scale Migration" *Harvard International Review Online*, February 2008. Accessed at <http://www.harvardir.org/index.php?page=article&id=1681> on April 30th 2009.

Should there be separate laws for those who are facing immediate physical threats as opposed to those who are threatened over a longer period by the systematic degradation of their human rights? In the case of traditionally defined refugees, national governments and UNHCR are left to determine who is a refugee. But is there perhaps a separate body that should be created in order to identify people like Burmese migrants, people who can no longer access fundamental safeties and rights in their home country yet may not fit the conventional refugee criteria?

Finally, even when refugees are able to reach camps in Thailand and other countries, they still must make several important decisions. For example, will they choose to pin their welfare and income to the policies of camp authorities or will they designate some members of the family to stay in the camp while other family members go elsewhere to find work? Inge Brees explains that “*the male members of the family often temporarily or permanently leave the camp in search of work, leading to internal remittances from urban or rural Thai areas to camp. In some families both parents work outside the camp, leaving the children with the grandparents. This family-splitting technique is the most efficient risk diversification strategy for displaced people.*”⁵⁴ It is clear in such cases that all family members left Burma for the same reasons, but while those family members residing in the camp would normally be classed refugees, the living circumstances of those family members working outside of camp are those that are normally associated with the term 'economic migrant'. This point again demonstrates the difficulty of creating a straight-forward distinction between refugees and economic migrants.

Internally Displaced Persons

The strength of the current normative regime for protecting internally displaced persons (IDPs) lies essentially midway between that for economic migrants and that for refugees. While the IDP norms are better defined and recognised by more policymakers than those for economic migrants, they also have not been codified as international law and so are weaker than legal protections for refugees.

Indeed, over the past quarter century, there has been a growing awareness in the international community that many of the people who are forced to leave their homes by war and human rights abuses do not actually cross international boundaries (and thus become refugees) but instead stay within the confines of their home states. Such internally displaced persons (IDPs) have been forced to confront the hardships of displacement without nearly the same level of legal recognition and protection as is provided to refugees.

⁵⁴ I. Brees, “Towards sustainable livelihoods: Vocational training and access to work on the Thai-Burmese border,” Issue Paper Number One, ZOA, May 2008, p. 2.

In an effort to remedy this protection gap, countries have begun to officially recognise the Guiding Principles on Internal Displacement, a framework created in 1998 that is intended to outline the causes of internal displacement and the special protection needs of the internally displaced. According to the Guiding Principles, IDPs are defined as being

“[P]ersons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.”⁵⁵

But note that this definition, similar to that which is used by the Refugee Convention, prioritises people perceived to be under immediate physical threats from warfare, “*situations of generalized violence*,” human rights abuses and natural or human-made disasters. Such a definition again fails to accurately address the complex factors that lead many to leave their home towns and areas in Burma. Though there are indeed IDPs in Burma, especially in regions like northern Karen State, who have been displaced by SPDC offensives or have chosen to live in hiding to avoid conflict-related SPDC abuses, there are many more who have chosen to leave their homes because their survival was threatened by a more long-term, systematic exploitation committed by the SPDC.

“Most of the young people [from the village] have come to work in Thailand. In the village you can only see old men and women. Only a few young people are left in the village. There are still some people who want to come, but their parents have stopped them. For some, it’s because there are no jobs and they also have to labour for the government and give taxes to the government.”

- Saw Ht--- (male, 33), T--- village, Pa’an District, Karen State (Feb 2009)

“A lot of villagers came to work in Thailand. Every one who grows up goes to Thailand. In our village, there are only children and old people. You can’t find any youth. Many villagers came to Thailand because in our village, we can’t conduct our livelihood properly and the SPDC demands a lot of taxes. Almost every family in our village has one family member working in Thailand.”

- Ko W--- (male, 17), K--- village, Dooplaya District, Karen State (Jan 2009)

Some have recognised the blurred line between conflict and economic IDPs within Burma and have made the case for economic migrants who remain within Burma to also be protected under the Guiding Principles on Internal

⁵⁵ Guiding Principles on Internal Displacement, Introduction, Art. 2, 1998. Accessed at <http://www.unhcr.ch/html/menu2/7/b/principles.htm> on April 30th 2009.

Displacement. According to Andrew Bosson, “[p]eople who leave home in Burma are not simply pulled by the lure of economic opportunity, but are forced out by a combination of coercive and economic factors.”⁵⁶ Bosson goes on to say that “[o]n the question of who is a forced as opposed to economic migrant in Burma, most relevant reports and surveys we have been able to access state essentially that the migrants left home either in obedience to a direct relocation order from the military or civil authorities or as a result of a process whereby coercive measures by the authorities play a major role in forcing down household incomes to the point where the family cannot survive. At this point, leaving home may be the only option.”⁵⁷

There are indeed several concepts included in the Guiding Principles’ definition that could be understood to cover people no longer able to survive in their home areas in Burma. The definition of IDPs includes those “*who have been forced or obliged to flee or to leave their homes... in order to avoid the effects of... violations of human rights.*” Where violations of human rights are understood as primarily exploitative in character and the effects of such abuse as poverty and food insecurity, this definition quite accurately covers the situation of many migrants within Burma. Furthermore, the term ‘generalised violence’ could extend to Burmese citizens who leave their homes due to constant SPDC intimidation, especially as soldiers either harass or threaten villagers with physical harm or further exploit them for non-compliance with SPDC demands. And the notion of ‘human-made’ disasters could very well apply to Karen State and other regions of rural Burma in which exploitative SPDC policies have created a pervasive and dire food crisis.⁵⁸

To be sure, the omnipresence of SPDC-sponsored exploitation makes survival difficult for nearly all Burmese citizens. It is necessary to ask, then, whether people who leave home for economic reasons yet remain within the country should also be recognised as IDPs or, going even further, if there is much use in distinguishing between IDPs and internal economic migrants when the human rights of all are degraded to an unsustainable level at home.

Also, although the Guiding Principles and the policies and discussion they have inspired have been an important step towards raising awareness about IDPs, it is important to recognise that these are ‘guiding principles’ and do not comprise an actual, enforceable international law. Many countries have not signed the Guiding Principles and very few of the states that face the worst internal displacement issues have recognised need for the forms of protection recommended by the Guiding Principles.

⁵⁶ A. Bosson, “Forced Migration/Internal Displacement In Burma: With An Emphasis On Government-Controlled Areas,” Internal Displacement Monitoring Centre, May 2007, p. 5.

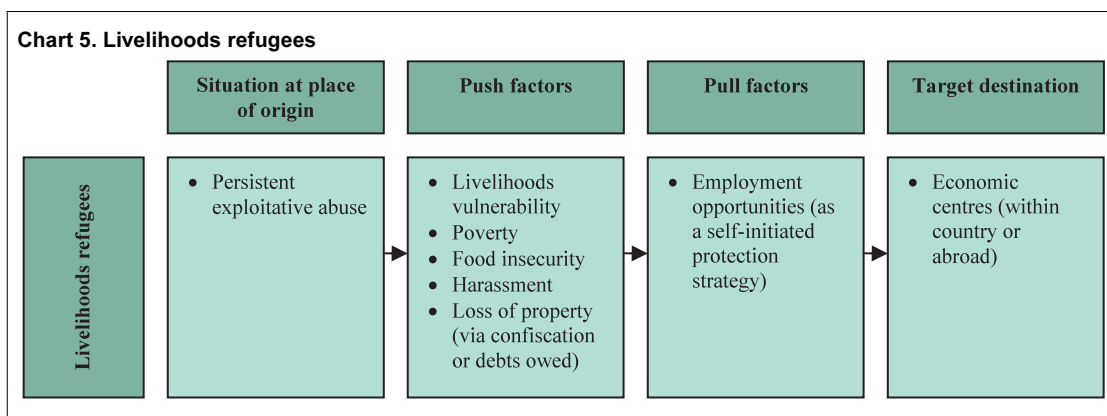
⁵⁷ *Ibid.*, p. 9.

⁵⁸ See, for example, *Food crisis: The cumulative impact of abuse in rural Burma*, Karen Human Rights Group, April 2009.

7. Expanding Protection

The purpose of this report has been twofold: to determine the actual causes and motivations of those who leave home in Burma and take on work elsewhere; and then to assess whether the relevant international laws and norms accurately reflect these factors and provide effective frameworks for protection.

As KHRG’s research indicates, many people who leave their homes in rural Burma have decided to do so because of the threatening political, economic and social environment created by abusive SPDC policies. Because there are common assumptions made about the term ‘economic migrant’, the highly specific case of Burma requires a different term to be applied to those who are forced to seek survival outside their home areas due to the harmful cumulative effects of persistent exploitative abuse. Hence, KHRG suggests that the term ‘livelihood refugee’ can help to more accurately convey many Burmese people’s motivations for leaving home. The key features characterising livelihoods refugees are illustrated in the chart below.



Understanding the abusive factors underpinning poverty and migration in the case of Burma is crucial in assessing current international protection frameworks. In light of the evidence, international laws and norms must be amended to incorporate a more accurate and nuanced notion of ‘migrants’ in order to protect the millions of Burmese citizens who have sought work abroad in order to survive. The fundamental lack of legal and normative protection frameworks for migrants fleeing conditions of life-threatening poverty shows how currently out of sync the international legal community is with the reality of abuse faced by people living in Burma.

Nor is this a problem that can be ignored – while there are about 135,000 officially recognised Burmese refugees currently living in Thailand and another

450,000 IDPs dispersed throughout rural Eastern Burma⁵⁹, there are in Thailand alone an estimated 1-3 million Burmese who are commonly referred to as 'economic migrants'. That so many people are left without a single, coherent legal and normative protection framework only maintains the state of vulnerability that they had tried to flee when they left their homes in Burma.

This evidence should lead policymakers to seriously question their current conceptions of economic migrants from Burma and what, if anything, separates such people from those who are commonly classified as IDPs or refugees. Indeed, it does not make ethical sense that a person's decision to seek out employment alone determines the amount of protection that that person is entitled to, especially when he or she is fleeing an unliveable state of existence in Burma. But, given the current approach to people who leave Burma, those who find it necessary to move abroad or outside refugee camps to survive are essentially punished (i.e. left without officially-recognised legal protection or the services available to refugees) if they decide to seek out employment and try and earn their own ways.

Recommendations

Systematic exploitation and other abuse within Burma are root causes of migration out of the country and need to be addressed. However, so long as this abuse and migration continue, action can and should be taken to assist vulnerable populations from Burma now working abroad.

Establish international frameworks

On the international legal and political level, policymakers must do better to establish laws and norms that more accurately take into consideration the causes that lead people to leave their homes in Burma. It is important to note here that, although this report has indicated the blurred lines separating IDPs, refugees and economic migrants from Burma, there are important reasons for why laws and norms for refugees and IDPs define their subjects in such a narrow fashion. The more specific and limited those laws are, the better they can address those people who are threatened by the most extreme forms of physical danger. If those definitions were to be expanded too far, they could potentially become meaningless.

With that said, efforts must be made to create a separate, strong international regime that can better protect migrants from Burma who have sought out employment abroad as a means of survival. As has been discussed above, the political realities surrounding migrants have stifled efforts to create a robust international convention for migrant workers. So it is important to consider how

⁵⁹ *Internal Displacement and International Law in Eastern Burma*, Thailand Burma Border Consortium, October 2008, p. 3.

norms can be established without actually creating an entirely new convention that would most likely be undermined or ignored by governments and international bodies. Betts proposes a ‘soft law’ approach to economic migrants: “[T]here is no need for the creation of new, binding norms in order to address the current protection gaps. The broad norms already exist, and states have already signed up to relevant human rights instruments. What is required is simply a) an authoritative consensus on the application of these instruments to the situation of vulnerable migrants and b) a clear division of responsibility between international organisations for the operational implementation of such guidelines.”⁶⁰

Betts goes on to propose creating a normative framework for economic migrants that is similar to the Guiding Principles for IDPs: “‘Soft law’ development could be analogously applied in order to develop the ‘Guiding Principles on the Protection of Vulnerable Irregular Migrants’ and to develop a clear operational division of responsibility among international organisations, analogous to the ‘collaborative approach.’”⁶¹

Indeed, a Guiding Principles framework for migrants could help to raise awareness of the specific protection needs of economic migrants from Burma and to also develop a culture of responsible policy among governments and international bodies.⁶² But this framework would also likely share the IDP Guiding Principles’ lack of widespread approval (with few relevant countries signing or adhering to the principles) and the fact that those principles do not exist as robust, enforceable international law but rather just as strong recommendations. Just as the movement to establish the rights of IDPs is in its infancy, so too will it take time before the international community is able to recognise the specific needs of Burmese migrants and those from other countries emigrating for similar reasons. This is not a reason to avoid undertaking such a process, but does provide rationale for also seeking more immediate ways to act.

⁶⁰ A. Betts, “Towards a ‘soft law’ framework for the protection of vulnerable migrants,” UNHCR, 2008, p. 5

⁶¹ Ibid., p. 6.

⁶² In addition to establishing such a soft-law approach to protecting migrants, serious discussion must take place about how, exactly, such a law can be enforced. While Betts proposes that responsibility for implementation be dispersed to various relevant organisations, there is also the possibility of establishing a single body that can take the first step in determining the status of someone who has left his or her home in Burma. Establishing a single body that serves as a ‘migrant clearinghouse’ (similar to the UNHCR for refugees) could potentially help distinguish between refugees/IDPs and migrants. Furthermore, this report has shown that migrants from Burma face differing levels of insecurity at home – from those who are forced to perform forced labour once or twice a year to those who suffer devastating exploitative demands on a near-daily basis. This clearinghouse could potentially be used to distinguish between these migrants and determine who is in the most immediate need of protection and aid.

Expand protection

Despite the inevitably long fight that is to be had in order to establish international legal protections for migrants, concrete steps must also be taken *now* to effectively address the needs of the millions of Burmese migrants who are currently living away from their homes both inside and outside of Burma. Brees writes that “[g]iven the fact that refugees are treated as ‘illegal migrants’ once they are outside [a refugee] camp, they are highly vulnerable to exploitation and are in no position to demand the minimum wage.”⁶³

Indeed, migrants told KHRG that they have sustained a wide range of abuses both during migration and after they had left Burma. These abuses included: human trafficking, rape, abuses by employers, extortion by police and forcible repatriation to Burma.⁶⁴ Given such widespread abuses and vulnerability, both international bodies and humanitarian organisations can take steps to better protect all people who leave their homes in Burma, not only those who have been officially-designated ‘refugees’.

The first step in protecting migrants is for international agencies, national governments and humanitarian organisations operating on Burma’s borders to acknowledge the legitimate protection concerns of migrants lacking legal refugee status and living outside of officially-recognised refugee camps. Though such acknowledgement can only be officially codified in the legal processes described above, these bodies and organisations can in the meantime create temporary provisions that recognise that the vast majority of people who leave their homes in Burma are doing so in order to survive. With a better understanding of the sheer number of vulnerable people leaving Burma, these agencies and organisations can begin expanding their protection mandates beyond a narrow refugee population in order to truly reflect the root causes of abuse that motivate so many to leave home in Burma and seek out work abroad. In support of such an expansion in protection work, the international community should increase financial, logistical and political support to local and international NGOs engaged in protection work with migrant communities from Burma. Any protection assistance should involve support for the self-initiated protection strategies which migrant workers are already employing.

⁶³ I. Brees “Refugee Business: Strategies of Work on the Thai–Burma Border” *Journal of Refugee Studies*, 21(3):380-397, 2008, p. 390.

⁶⁴ While this report does not endeavour to document the particular abuses and vulnerabilities which Burmese migrants have faced abroad, various other organisations and publications have provided in-depth analyses of these issues. Examples include, *Burmese Refugees: End the Exploitation of Burmese in Thailand*, Refugees International, November 2007 and *Thailand: The Plight of Burmese Migrant Workers*, Amnesty International, June 2005.

The long-standing absence of an established international protection framework for migrants has meant that the policies of individual governments have determined to what extent (if at all) migrants are protected when they cross international boundaries. This is true for several of the main countries that currently receive Burmese migrants. Immediate steps must be therefore taken to evaluate how effectively these governments' policies currently provide for incoming migrants and how those policies can better recognise the legitimate protection concerns of these individuals. Where host-government restrictions are the primary barriers to expanding legal, humanitarian and other assistance to vulnerable migrants engaged in paid labour, advocacy with domestic authorities may be necessary to amend restrictive policies. Providing for Burmese migrants is an act of ensuring that they receive the basic rights and provisions owed to all people.

Hence, whilst specific legal mechanisms are developed to address the particular needs and vulnerabilities of migrants, agencies, governments and NGOs can immediately expand protection efforts by using current international legal human rights conventions to help protect Burmese migrants.