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From Burma to Thailand: Refugee Flows and U.S. Policy

Rhoda Margesson
Foreign Affairs Analyst
Foreign Affairs, Defense, and Trade Division

Summary

The ruling military junta in Burma, the State Peace and Development Council (SPDC), has been involved in a series of attacks against Burmese minorities. Refugees from Burma currently living in Bangladesh and Thailand come from a variety of ethnic groups that have fled attacks on their villages by the Burmese army and warlords. Seven ethnic groups — Shan, Karen, Karenni, Mon, Chin, Arakan, and Kachin — have been particularly victimized. Approximately 135,000 refugees from Burma reside in camps in Thailand. The United Nations High Commissioner for Refugees (UNHCR) has worked with the Thai government since 1998 to register and protect those in refugee camps along the border. With no access to Burma, UNHCR is limited in its repatriation efforts. Camps were first established in Thailand in 1984. Thailand has been cooperative in helping refugees, but the scale of the problem goes beyond the refugee and resettlement camps as thousands of refugees are living elsewhere in Thailand. While the influx of asylum seekers is currently accepted by Thailand on humanitarian grounds, it has been tightening the restrictions on urban refugees and defining anyone living outside the camps as an illegal immigrant. The United States has been providing assistance for refugees along the Burmese border since the 1990s. It does not provide any bilateral assistance to Burma and sanctions against that country continue. Recent legislation (P.L. 108-61) places further sanctions on the SPDC. This report will be updated as events warrant.

Background

Multiparty elections to a National Assembly in Burma in 1990 resulted in a decisive victory for the main opposition party, the National League for Democracy (NLD). However, the ruling military junta, the State Peace and Development Council (SPDC), which had been in power since 1988, refused to accept the results of the election. The opposition leader, Aung San Suu Kyi, was placed under house arrest between 1989 and 1995 and again for 19 months before her release in 2002. She was seized again in May 2003 during an attack on an opposition demonstration. Throughout the regime of the SPDC, hundreds of her supporters have been arrested. The SPDC has also been involved

in a series of attacks against Burmese minorities, violating human rights, denying the right to religious freedom, and causing many to flee its acts of repression. The United States does not recognize Burma's official name change to Myanmar and has not had an Ambassador in Burma since 1992.¹

Refugees from Burma Living in Thailand

Representing the largest group of refugees in East Asia, refugees from Burma living in Bangladesh and Thailand come from a variety of ethnic groups that have fled attacks on their villages by the Burmese army and warlords.² These ethnic groups have reportedly been subjected to forced labor, use as mine sweepers and bullet shields, forced relocation, conscription into the army as porters or soldiers, rape, mass killing, extortion, and denial of basic human needs.³ This has led to a large internally displaced population (IDP). Seven ethnic groups — Shan, Karen, Karenni, Mon, Chin, Arakan, and Kachin — have been particularly victimized by SPDC troops. In a move to consolidate its power, the SPDC has signed cease fire agreements with armed insurgent groups associated with all but three of the ethnic groups.

The United States Agency for International Development (USAID) estimates that by the end of 2002 lack of security due to ethnic fighting coupled with poor economic policies and deteriorating economic conditions, forced 1.6 million people to flee the country and more than 1.5 million to become IDPs. Since independent monitoring has not been authorized, the exact numbers cannot be verified. Of those that fled, more than 150,000 live in refugee camps in Thailand and Bangladesh and another 800,000 are thought to have become illegal migrant workers in Thailand, Bangladesh, India, China, and Malaysia.

Approximately 135,000 refugees from Burma reside in camps in Thailand. The border between Burma and Thailand extends for 2,401 km. The United Nations High Commissioner for Refugees (UNHCR) has worked with the Thai government since 1998 to register and protect those in refugee camps along the border. It has three field offices in Thailand. With no access to Burma, UNHCR is limited in its repatriation efforts. In 2002, the Burmese and Timorese were the largest groups of “people of concern” to UNHCR. Reportedly, fewer Burmese are now fleeing across the border. Rather than reflecting improved conditions, however, some argue that this trend reflects the

¹ In July 1989 Burma was changed to Myanmar by the State Law and order Restoration Council (SLORC). The United Nations (and others) recognized the change, while the United States, Australia and some European countries did not. The opposition boycotts the name change as a form of protest against human rights abuses. See “the Repatriation Predicament of Burmese Refugees in Thailand: A Preliminary Analysis,” Working Paper No. 46, by Dr. Hazel Lang, July 2001 available at [<http://www.unhcr.ch/evaluate/main.htm>]. For a more detailed discussion of the political situation and U.S. Policy, see CRS Report RS20749, *Burma — U.S. Relations*, by Larry Niksch.

² Most of the refugees along the Thai-Burma border are from ethnic tribal groups in Burma and therefore distinct from “Burmese” or “ethnic Burmans.” For the purposes of this report, the term “refugees from Burma” will include the different ethnic groups.

³ Christian Solidarity Worldwide, “Fact-Finding Visit to the Thai-Burmese Border,” November 2002.

depopulation of the border areas. Those further inland have been said to be located too far from the border to attempt the journey.⁴

Camps were first established in Thailand in 1984. Thailand has been cooperative in helping refugees, but does not want to become an indefinite host, nor does it want to absorb those Burmese who do not qualify as refugees. Moreover, the camps were intended for temporary use and are not considered suitable for permanent habitation. However, the scale of the problem for Thailand goes beyond the refugee camps along the Thai-Burmese border or the resettlement camps just inside Burma. Thousands of refugees are living elsewhere in Thailand. The country was previously the recipient of large numbers of refugees from Indochina. Currently, the Thai government views Burma as presenting the most immediate source of refugee problems. In 1999 the Thai government began implementing new procedures at the border for registration and determination of status. While Thai willingness to work on the refugee issue was widely applauded, implementation proved problematic partly because authorities insisted on group screening rather than working with refugees on a case-by-case basis. The UNHCR and refugee representatives have been actively involved in addressing border issues and the problems of repatriation.⁵

The Thai government is not a signatory to the 1951 U.N. Convention on Refugees or the 1967 Protocol.⁶ The term “refugee” and the protections mandate recognized under international law are not formally recognized in Thailand. Asylum seekers are technically viewed as illegal immigrants, although the legal issues are circumvented through the use of informal references, i.e., “temporary shelters” instead of “refugee camps” or “displaced persons fleeing fighting” rather than “refugees.” Until an agreement can be reached with Burma and it is safe for the refugees to return, Thailand has basically accepted the influx of asylum seekers on humanitarian grounds.⁷ In October 2002, UNHCR discussed the possibility of a presence inside Burma if repatriation agreements were reached, but efforts have gone without success.

Human Rights Watch identifies two refugee groups — border refugees and urban refugees. Border refugees are typically permitted to stay in camps for humanitarian reasons. Urban refugees are thought to be mostly political dissidents, although this group includes some refugees who did not feel safe at the border. If considered a “person of concern” by UNHCR, then the refugee is supposed to return to and register at one of the refugee camps. UNHCR divides this urban group into two subcategories — those refugees who would have protection in camps at the border and those refugees who flee

⁴ Christian Solidarity Worldwide, “Fact-Finding Visit to the Thai-Burmese Border,” November 2002.

⁵ See “the Repatriation Predicament of Burmese Refugees in Thailand: A Preliminary Analysis,” Working Paper No. 46, by Dr. Hazel Lang, July 2001 available at [<http://www.unhcr.ch>], and search for “Hazel Long”.

⁶ For more information on international refugee assistance, see CRS Report RL31690, *United Nations High Commissioner for Refugees (UNHCR)*, by Rhoda Margesson; and CRS Report RL31689, *U.S. International Refugee Assistance: Issues for Congress*, by Rhoda Margesson.

⁷ See “The Repatriation Predicament of Burmese Refugees in Thailand: A Preliminary Analysis,” Working Paper No. 46, by Dr. Hazel Lang, July 2001 available at [<http://www.unhcr.ch>], and search for “Hazel Long”.

because of a secondary fear of persecution by the Burmese army and other armed insurgent groups at the border itself.

For the past several years, Thailand has been tightening the restrictions on urban refugees and defining anyone living outside the camps as an illegal immigrant. The refugees are afraid of arrest and forced repatriation. In July 2003, UNHCR and the Thai government reached an agreement regarding the 1,500 Burmese residing in Bangkok. The Thai government wanted to control the number of refugees in Bangkok and their involvement in illegal political activities or crimes such as drug dealing. It also thought that UNHCR had too much decisionmaking authority to issue “person of concern” identity cards. These issues of security and sovereignty were addressed in an agreement, the highlights of which are listed below:

- decisions about “persons of concern” would be more transparent;
- a system to send 1,500 refugees from Burma to camps would be implemented with the support of UNHCR;
- UNHCR would encourage refugee compliance with Thai laws and regulations;
- any refugee refusing to move would have his/her status as a “person of concern” revoked; and
- an additional 300 persons would be resettled in third countries.⁸

U.S. Assistance

The United States has been providing assistance for refugees along the Burmese border since the mid 1990s. It does not provide any bilateral assistance to Burma and sanctions against that country continue. U.S. contributions to assist with the Burmese refugee situation come from both USAID and the State Department’s Migration and Refugee Assistance (MRA) appropriation accounts and are implemented through the Bureau of Population, Refugees, and Migration (PRM). These funds provide support such as humanitarian assistance, food security, health care, and education, to help refugees from Burma, internally displaced persons within Burma, and ethnic minorities.

The United States, using MRA funding, contributes funds to UNHCR to help provide access to asylum seekers in border camps and to ensure that procedures of admittance and registration by Thailand comply with international standards. Contributions to the International Committee of the Red Cross (ICRC) fund ongoing programs for refugees, including emergency relief and medical care. Contributions to the World Food Program (WFP) support programs coordinated with the UNHCR. Funding also goes to non-governmental organizations (NGOs) assisting refugees on Thailand’s border. In FY2003 a total of \$5 million was allocated by the State Department for NGO refugee assistance activities and \$1 million for UNHCR and enforcement of the protection mandate.⁹ PRM works closely with USAID to coordinate its programs.

⁸ “Thailand: UNHCR Says it Discloses all Exiles,” UNHCR, July 2, 2003; “Thailand: Refugee Policy will be Dictated by Government - PM,” UNHCR, June 28, 2003; “Thai PM Lashes U.N. Refugee Agency over Myanmar Exiles,” UNHCR, June 27, 2003. See [<http://www.unhcr.ch>].

⁹ Migration and Refugee Assistance/Emergency Refugee and Migration Assistance, United States (continued...)

USAID supports NGOs providing assistance to refugees and for democracy programs. Most of its support is focused on refugee camps along the border where movement and opportunity are very limited. USAID is also concerned about the humanitarian needs of those who live outside the confines of the refugee camps in Thailand, but recognizes the difficult first step of identifying this population which is vulnerable to Thai government sanctions if discovered.¹⁰ In FY2002 USAID spent \$6.5 million on such programs. Estimates for FY03 were slightly higher (\$6.95 million) while the request for FY04 is \$6.5 million. It should be noted also that some funds — \$1.5 million in FY2003 and \$2.5 million requested in FY2004 — are also available to help combat infectious disease for vulnerable populations along the Thai border through other USAID regional programs.

Recent U.S. Legislation and Issues for Congress

In addition to the Consolidated Appropriations Resolution of 2003 (P.L.108-7), which limits U.S. foreign assistance to the types of projects and recipients outlined above, Congress passed the Burma Freedom and Democracy Act P.L. 108-61, H.R. 2330, July 28, 2003. The measure places sanctions on the ruling Burmese military junta by banning the import of goods and freezing government assets in the United States. It continues the ban on visas to Burmese leaders and restricts loans and technical assistance. The United States hopes to strengthen Burma's democratic forces and, through this legislation, again recognizes the NLD as the legitimate government of Burma. The Burmese government has apparently condemned the U.S. legislation and appealed to President Bush through a petition signed by Burmese textile workers.¹¹

Congressional action on Burma through the appropriations process continues mainly to support the current objectives. Consistent with funding levels in FY2003, in the regular FY2004 Foreign Operations appropriation, H.R. 2800, the House recommends \$6 million to support democratic activities along the Burmese-Thailand border and assistance to displaced Burmese.¹² The Senate measure (S. 1426 — as amended, and passed as H.R. 2800) puts forward plans to increase democracy aid up to \$15 million; in addition, the Senate recommends that humanitarian assistance for displaced Burmese be supplemented by \$10 million from the MRA. It also highlights Burma's refugee and other problems, such as HIV/AIDS and drugs. The Senate also calls for the European Union and regional actors to take decisive measures in support of democracy in Burma and suggests the possibility of restrictions on foreign aid to those states providing

⁹ (...continued)

Department of State, Fiscal Year 2003. Interview with Pam Lewis, United States Department of State, July 11, 2003.

¹⁰ For additional information on USAID programs, see *USAID/Burma Annual Report FY2002*, March 2002.

¹¹ "Hill Passes Measure to Punish Burma with Trade Sanctions," *Washington Post*, July 17, 2003; "World Briefing — Support for Burmese Opposition Leader," *New York Times*, July 17, 2003.

¹² House Report 108-222, Foreign Operations, Export Financing and Related Programs Appropriation Bill, 2004.

assistance to the SPDC.¹³ As an example of congressional concern about Thailand's position on these issues, in Sec. 689 of the Senate passed version of H.R. 2800, the Senate specifies that funds appropriated in the bill for Thailand will only be available if the Thai government 1) supports democracy in Burma and places sanctions on the military junta in Rangoon; 2) does not impede delivery of humanitarian assistance to those individuals who flee Burma; and 3) does not forcibly repatriate Burmese to Burma. Any differences in the provisions put forward by the House and Senate must be resolved by the conferees.

Current Challenges for U.S. and International Policymakers

According to USAID, the policy of the United States towards Burma has three main aims: First, to make progress towards democracy; second, to improve human rights; and third, to reduce and eliminate the human costs of the conflict. Observers maintain that the effectiveness of U.S. and international policies toward Burma could be enhanced in three areas.

First, to increase the impact of sanctions, it is seen as important that Burma's neighbors to participate in the sanctions regime. The measures put forward in P.L. 108-61 represent a shift in Bush Administration policy from one of engagement with the SPDC and active encouragement for dialogue between the Suu Kyi and Burmese minorities to one of tougher sanctions and isolation of the country which it hopes will be supported by Burma's neighbors. European nations have also imposed sanctions. Japan has suspended aid to Burma. Through the United Nations and other avenues, the international community regularly expresses its views condemning Burma's human rights abuses, use of forced labor, and poor IDP living conditions. So far, however, China, Thailand, India, and other Asian countries have continued normal relations and opposed policies of isolating Burma.

Second, while the refugee situation continues, access for UNHCR, other international observers, and reporters is generally seen as critical to assessing the problem and situation accurately. Observers believe that accurate information would be helpful in anticipating the needs of the populations on both sides of the border in the short term. And they point out that in the long term, if any repatriation is to occur, arrangements for resettlement of refugees returning home will need to be determined before any agreement can be put in place. The Thai government has long been a host to refugees from Burma and by all indications will continue to be for the time being. However, most observers believe that an eventual long-term solution must be found for these refugees.

Third, others maintain that the international community could consider ways to influence Burma's long-term political development and encourage equal rights and autonomy under a federal system that incorporated the different ethnic and religious groups within a broader framework. Increased U.S. and international sanctions reveal a shift towards greater isolation of the SPDC. However, developing a framework and outlining options for eventual discussion is seen as useful to the larger process of reconstruction and reconciliation in Burma.

¹³ Senate Report 108-106, Foreign Operations, Export Financing and Related Programs Appropriation Bill, 2004.