



# Prospects for Hope?

## Myanmarese Refugees in Thailand

by Veronika Martin

### Background and Overview

*“Children born in the camps are already mothers and fathers, will they be grandmothers and grandfathers in the camp also?”*

Member, Karen Refugee Committee

**Tham Hin—Warehousing As Deterrence** There are few places along the Thailand-Myanmar border that better sum up what it is like to be a “warehoused” refugee than Tham Hin Refugee Camp. Three hours southwest of Bangkok in Ratchaburi Province, Thai authorities established the camp in 1997 to contain the growing numbers of refugees fleeing fighting and forced relocation in eastern Myanmar. Some nine thousand people live in the camp, which covers less than half a square mile (one square kilometer). This provides families with approximately fifty-four square feet (five square meters) each on which to build houses that stand no more than three feet (one meter) apart. Overcrowding allows diseases like malaria, typhoid, dengue fever, or worse, cholera, to spread quickly. Even after an outbreak of typhoid less than four years ago, authorities still did not allow refugees freedom of movement to escape the unhealthy camp conditions.

Thailand’s Ministry of Interior (MOI) forbids the refugees from having thatched roofs—leaving black plastic as the only practical alternative. With seasonal temperatures well over 100 degrees Fahrenheit (38 degrees Celsius),

*Photo: A Myanmar-Karen family in a refugee camp along the Thailand-Myanmar border. Children are born and grow up in camps that have existed for up to 20 years.*

*Photo credit: USCRI/V. Martin*

living under a black plastic tarp is gruelingly uncomfortable. The inconsistent water supply makes it more difficult to get water to cool oneself. People sit in line in the hot afternoon sun waiting to fill their containers and some people even get up in the middle of the night to try to collect their daily ration of three to seven gallons (ten to twenty-five liters) of murky brown water.

Because latrines built underneath the houses are full and no one can empty them, residents must go to a common bathroom near the periphery of the camp—something most women would rather avoid at night. The full latrines also increase the risk of disease, particularly during monsoon season when toilets overflow and cover the camp in sewage. Doctors without Borders announced that poor sanitation was one of the reasons it planned to pull out of the camp. “How can we be asked to save lives of people when they are living in conditions that can kill them?” one medical professional told the U.S. Committee for Refugees and Immigrants (USCRI).

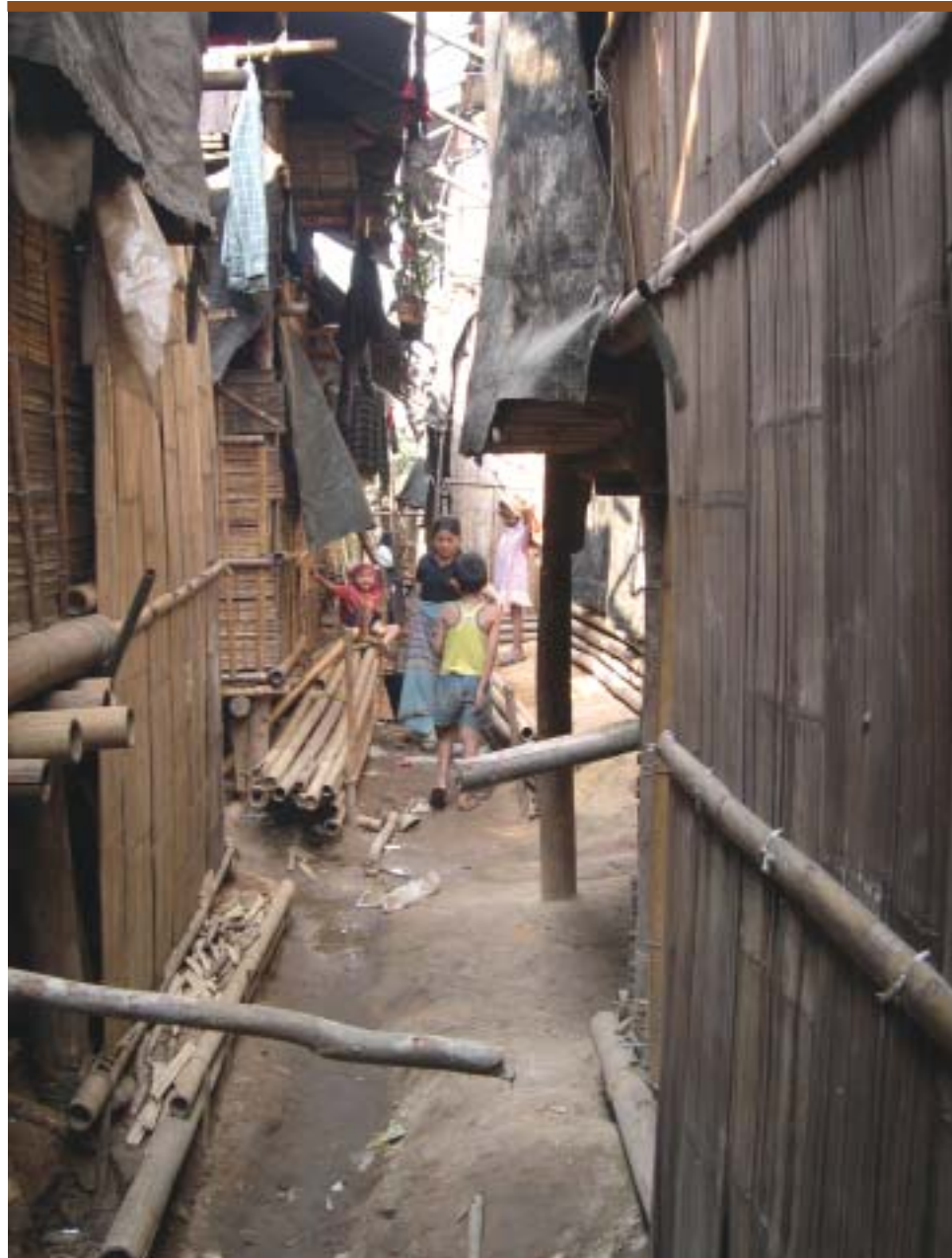
The office of the UN High Commissioner for Refugees (UNHCR) reports that much of the camp population suffers from psychosocial problems including depression. The longer they remain in the camp, the more difficult parents find it to motivate their children to go to school and study. Children perceive that their hard work will have no payoff in the outside world they are forbidden from entering. They feel they will have no option but to continue to live in the camp where there are no opportunities to build their own future. Parents worry that their children’s frustration and depression will lead them to self-destructive behavior or to take dangerous risks in their desperation to leave the camp.

Thai authorities have also deprived refugees in some camps of any opportunities to earn an income or to learn trades that would prepare them for their future. The Karen Refugee Committee estimates that 1,000 Karen graduates are left idle every year.

**Taking Risks to Earn a Living** Asylum seekers have no legal right to work in Thailand. More than the physical discomfort and risk of illness, the desire to meet household needs drives able-bodied refugees, especially men, to risk arrest and deportation by venturing out of the camp in search of work. The day USCRI was in Tham Hin, Thai authorities caught 15 refugees looking for work outside the camp and imprisoned them for illegal entry. UNHCR stated that even if they go to the jail and confirm that the detainees are refugees, the authorities still deport them. In most cases, they simply load them onto boats or force them to cross back over the bridge or pass from the nearest border town to Myanmar. Refugees report that, short of jumping out of the moving truck or boat carrying them to the border, they will be deported to Myanmar. Most deportations are informal, i.e., without the Thais handing over the names of deportees to the Myanmar authorities. This reduces the risk that those the Myanmar military associates with the resistance will face criminal charges, arrest, and torture on return. The Thai authorities also remove the refugee's name from the camp registry, thus forbidding their reentry, denying them protection from arrest, separating them from their families, and relegating them to illegal migrant status.

Thai policy towards the Myanmar people has fluctuated over the 20 years since the arrival of the first refugees. Since the 1990s, restrictions towards refugees have grown as economic cooperation between the Thai and Myanmar governments has increased. Thailand had initially supported ethnic resistance groups from Myanmar, but began to curtail some of the limited freedom of movement and work refugees enjoyed after their arrival in 1984. This caused increased dependency and aid spending. The Thai-Burma Border Consortium, a humanitarian operation assisting the refugees, spent about \$14 per refugee annually in 1984 and now spends \$137 in 2005 (not adjusted for inflation) for the cost and provision of basic food and nonfood items.

**Causes of Displacement** The day USCRI visited the camp, 14 people, aged 20 to 55, had arrived after a fearful 12-day journey. The five individuals USCRI spoke to said that the Myanmar army had accused them of having links to the ethnic Karen resistance. They had seen soldiers torture villagers—partially skinning one of them alive, pouring boiling water on his head, and burning him with hot irons. The military also burned their houses and fruit orchards to destroy their means of making a living. One family reported soldiers forbade them from harvesting an estimated 5,000



Overcrowding is common in these Myanmar refugee camps especially in Tham Hin camp, where limited land forces refugees to build houses only a few feet apart. *Photo: USCRI/V. Martin*



pounds of rice and told them they would be shot if they did. The refugees said the soldiers handcuffed and abused some women, sending others to the army barracks where soldiers repeatedly raped them for several nights.

**“Humane Deterrence” for Myanmar?** Some would argue that the purpose of such harsh regulations towards refugees is to discourage them from seeking refuge in Thai-

“MOST MYANMARESE REFUGEES ARE UNDOCUMENTED AND MISLABELED AS ECONOMIC MIGRANTS. THIS FORCES THEM TO LEAD AN UNDERGROUND EXISTENCE AND DENIES THEM ASSISTANCE AND PROTECTION FROM UNHCR.”

land. A 1977 Cabinet decision described similar policies against Indochinese refugees to be “humane deterrence.” At that time, Thailand closed its border, blocked third country resettlement, and detained illegal entrants in austere camps with only enough aid for survival. This continued until 1989 when the Comprehensive Plan of Action for Indochinese Refugees allowed the United States and other countries to resettle the Indochinese.

Similarly, Thai authorities have stopped would-be refugees from seeking protection in Thailand and have detained refugees who were fleeing fighting, telling them to return as soon as it ended. They also forced refugees to return to Myanmar, including to areas where there was still danger. Nearly the only refugees Thailand recognizes, about 140,000, live in camps and belong to only two ethnic groups forcing all others to live illegally in Thailand. In the 1980s, authorities allowed refugees associated with resistance armies fighting the Myanmar junta—including the Karen, Karenni, and Mon—to create the camps. Following a cease-fire, UNHCR and Thai authorities closed the Mon camps, leading many refugees to return prematurely. Warming relations between the Thai and Myanmar governments induced Thailand to increase restrictions on asylum seekers in the remaining camps.

Aside from the suffering resulting from the con-

finement itself, Thailand’s encampment policies can cause overcrowding, poor sanitation, and malnutrition. Authorities have at times forbidden post-primary education, foreign language classes, vocational training, in-camp income generation projects, and even kitchen gardens. Furthermore, Thailand does not grant birth certificates to refugees born in camps; this leaves thousands of Myanmar children without any citizenship or documentation, which potentially affects their rights as citizens or refugees. In 2001, Thailand even ceased domestic procedures that only allowed refugees legal status if they remained in camps. Until recently, authorities allowed resettlement countries to accept only a few hundred refugees per year.

**A New Era for Myanmar Refugees?** The October 2004 coup in Myanmar ended Thailand and UNHCR’s plans to repatriate the refugees as it ended the cease-fire talks—on which repatriation plans relied—between the Karen National Union, the largest resistance army still fighting the junta, and the Myanmar Government. This may contribute to Thailand’s acknowledgement of the need for new approaches to the long-term refugee problem.

**Changes for Documented Refugees** In recent years, the Thai Government has introduced incremental, but hopeful, changes to the conditions of the 140,000 refugees in nine camps in Thailand. The people at Tham Hin still live under hot plastic sheeting, but authorities now allow them to study beyond primary school, take foreign language classes, and have vocational training. UNHCR’s goodwill ambassador, Angelina Jolie, donated \$100,000 for a vocational training center that now sports several giant huts offering sewing, cooking, baking, and small engine repair classes—although there are not enough for all who want them. The authorities have also allowed vocational training in other camps, but restrictions on freedom of movement, work, and commerce limit the benefits. As one aid worker stated, “What is the point of learning to make a cup, when you can’t sell it?”

General Winai Phattiyakul, Secretary General of the Thailand’s National Security Council, stated that it is considering ways to make the camps more livable. He went on to say, “If we want to help these people, we need to provide better opportunities and education to the young people. This way they can not only be prepared for return, they will also be able to survive and provide for their community.” The authorities might also allow manufacturing industries planned for the Thailand-Myanmar border to employ refugees from the camps. General Winai pointed out to USCRI that 40 babies are born in just one of the camps every month and acknowledged that their chances for a meaningful future were limited. Thai compassion for children, even refugee children, may help fuel changes in refugee policy.

Thailand has also shown some flexibility in its encampment policy in Wat Tham Krabok temple compound



This Myanmar Karen woman in Mae La camp assembles leaves for roof thatching. Some refugees earn income by selling thatching for less than a penny per row. Photo: N. Dunlop

a few hours northeast of Bangkok, where about 6,000 Laotian Hmong refugees remain after Thailand allowed the United States to resettle 9,000 others. The Thai Internal Security Operation Command (ISOC), which oversees the compound, allows refugees to travel, work, and go to school among the local population and gives them refugee identification documents. Forty percent of the refugees are laborers, 10 percent run small businesses, 10 percent are self-employed through handicrafts, and 40 percent are unemployed. The refugees cannot freely go out of the camp and contract for work, but employers inform ISOC one day in advance of their need for laborers which ISOC then approves. Should the employer fail to pay them, the military has at times followed up on the collection of their wages. About 1,000 people leave the camp each day with an identity document that limits their travel to the district. Thai medical personnel provide healthcare and, although schools are available at the temple, 25 percent of the students in the local Thai school are Hmong from the temple. ISOC does not allow the refugees to own businesses or practice professions. According to an ISOC official, the restrictions are necessary to mitigate unspecified “political problems” with Laos. Nonetheless, the measures taken by ISOC in allowing refugees to leave the camp to work and attend lo-

cal schools are a step in the right direction.

After having generally denied exit permits to these Hmong and Myanmar, Thailand has also agreed to allow the United States to resettle more refugees.

**Changes for Undocumented Refugees** The International Organization for Migration estimates that there are three million Myanmar living in Thailand. Most Myanmar refugees are undocumented and mislabeled as economic migrants. This forces them to lead an underground existence and denies them assistance and protection from UNHCR. Many, such as the Shan, have fled ethnic minority areas where the Myanmar army carries out forced relocation, arbitrary arrest, rape, torture, extortion, and the destruction of homes and food sources. There are well over 300,000 Shan in Thailand, the majority of which USCRI counts as refugees even though UNHCR does not.

Around 2001, Thailand ceased determination procedures through its Provincial Admissions Boards (PABs) that allowed refugees protection tied to encampment and in late 2003, stopped UNHCR from declaring them “persons of concern.” Furthermore, UNHCR lacks the resources to conduct refugee status determinations for the many asylum seek-



ers in the Thai migrant workforce. In any event, Thailand does not always respect UNHCR refugee status, even with regard to *nonrefoulement*, let alone the rights of refugees to work, own property, move about freely, and choose their place of residence. The only option for most Myanmarese refugees in Thailand is to become illegal migrants—subject to arrest, deportation, and exploitation. Employers consistently pay them less than lawful wages; labor rights groups frequently report sexual abuse of female workers; and many live without education, healthcare, or other services. Thailand permits very limited assistance to this population including single mothers, the elderly, the infirm, the disabled, and minors.

Thailand does allow one small group of 400 undocumented Shan refugees to live in an open settlement near the border rather than an enclosed camp. The authorities informally permit them to leave for farm work, with limited repercussions.

**Registration of Migrants** In mid-2004, Thailand allowed migrants, 95 percent of whom are from Myanmar, to register along with their dependents for free provisional documents that legalized their presence. After registering, they had to return with an employer to apply for a work permit,

permit documentation allowing them to travel freely. The work permit, however, also tied them to a specific employer and thus limited their bargaining power.

In the few months the process was open, 1.2 million registered. When the Government had asked employers to state the number of workers they would need in the coming year, they requested up to 1.5 million adult workers. Since many of the new registrants were dependents, a large shortage of legal labor remains. This contradicts the popular perception that Myanmarese take jobs Thais would otherwise fill. Consequently, massive police crackdowns on and deportations of migrants have at times shut down construction projects and factories.

Legal status as migrants may also enable otherwise unrecognized refugees to assert their children's right to attend Thai schools. The Ministry of Education's 1992 Regulation on Evidence of a Child's Birth for School Admission provided that all children, including those without Thai nationality or civil registration documents, should have access to education. Thai civil society groups argue that the 1997 Constitution allows education for all, up to university level, regardless of nationality. In practice, however, few Myanmarese children attend Thai schools. Thai teachers discriminate against them or are ignorant of the law.

Myanmarese parents cannot afford school fees or are afraid to send their children to Thai schools for fear authorities will discover the children are illegal. Myanmarese children who have succeeded in attending Thai schools, receive no diplomas when they graduate.

The migrant status, however, does not allow them to apply for asylum, nor does it provide durable protection from *refoulement*, entitle them to assistance, or qualify them for resettlement.

**Birth Registration** At Mae Tao Clinic in the border town of Mae Sot, over 2000 women gave birth to a new generation

of undocumented Myanmarese in 2004. Although a civil registration act allows every person to register their births, MOI regulations bar registration of births to those who enter illegally. Refugees are entitled to only a delivery, not birth, certificate and only if it occurs in a camp or gov-



Myanmarese Karen children may study up to the tenth grade in refugee camps. Every year 1,000 Karen graduate with no way to apply their education in the outside world. Photo: USCRI/V. Martin

contingent on passage of a medical checkup, both for fees amounting to about a month's salary. Those that passed the checkup could enroll in the Thai healthcare system, pay the same fee for healthcare as nationals, and receive a work



Some camps allow Myanmar refugees small income generating activities. The Karen Women's Organization runs a shop (above) that sells woven items made in the camps. Another refugee woman (right) makes cakes for sale. Photos: USCRI/V. Martin



ernment medical center. The majority of Myanmar babies who are delivered outside these structures will have no documentation or any official record of their birth. The lack of legal documentation renders Myanmar children stateless and unable to prove they are from Myanmar should they ever go there. While in Thailand, it also hinders refugees' ability to seek legal employment, register births or marriages, own land, and travel freely. Thai authorities resist certification, fearing Myanmar may use it to claim Thai nationality later. Neither registration nor certificates, however, confer Thai nationality on those who entered the country illegally.

**Temporary Integration** Throughout its history Thailand has allowed various groups of foreigners to integrate, including Vietnamese, Chinese, and Myanmar Mon. Following World War II, Thailand periodically allowed descendants of Chinese, Vietnamese, and Myanmar who entered during the war to naturalize. Others were granted various identity cards that enabled them to work and go to school. A 1976 Cabinet memorandum called for the speedy registration of ethnic minorities who entered Thailand before 1975, including Myanmar; this was an action that could lead to citizenship.

Authorities have granted various forms of documentation to persons of Myanmar origin or to Myanmar born in highland areas of Thailand. In one hill-tribe village surveyed by USCRI, 25 percent of the registered residents had legal documentation identifying them as persons of Myanmar origin. Some had entered after 1975, but the Government granted them documentation that allowed residency and travel within a township radius. Authorities required them to renew the permits yearly, but

indicated that after five years they would grant them permanent residency.

## Solutions and Actions

### **Nongovernmental Organization (NGO) Initiatives**

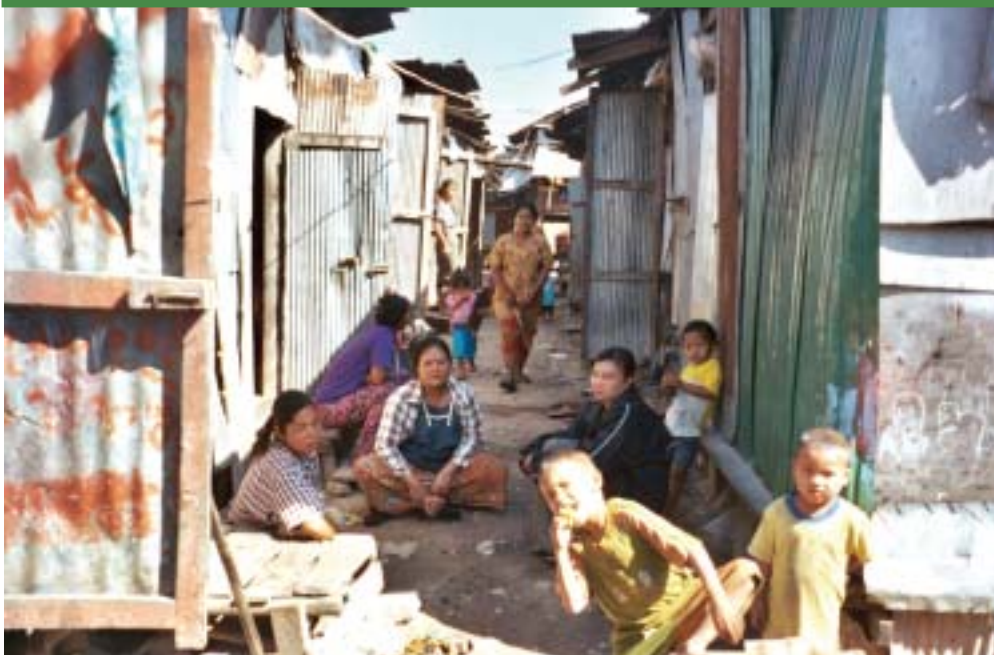
While not party to the 1951 Convention, Thailand is party to several other human rights treaties that provide for some of its rights, including the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); and the Convention on the Rights of the Child. (CRC). Thai NGOs are using these and the Universal Declaration of Human Rights (UDHR) to advocate for increased rights to refugees, generate national legislation, and to get Thailand to ratify the 1951 Convention.

Specifically, the following rights are supported in the text of the above listed instruments and include:

#### ***Freedom of Movement and Residence***

Article 13 of the UDHR states that "Everyone has the right to freedom of movement and residence within the borders of each state."

Article 12 of the ICCPR states that "Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence."



Thailand's refusal to recognize Myanmar refugees forces most to live as migrants, many of them illegal, without protection or assistance. Even those who legally register must tie themselves to particular employers and may not live where they choose.

Photo: K. Landy

### **Right to Work**

Article 23 of the UDHR proclaims the right of all persons, regardless of citizenship, to work and to choose employment freely.

Article 6 of the ICESCR recognizes "the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts." Article 2 limits the responsibility of each party "to the maximum of its available resources" and allows developing countries to limit economic rights for non-nationals. As experience has shown in Thailand, allowing refugees to freely engage in productive economic activities does not burden available resources but expands them.

### **Rights to Own Property and to Run Businesses**

Article 17 of the UDHR also recognizes the right to own property "alone as well as in association with others" as a universal human right not limited by citizenship. Combined with Article 20's guarantee of freedom of association and the rights to work and freedom of movement cited above, this suggests a broad right similar to the 1951 Convention right for refugees to own moveable and immovable property, to engage in commerce, and "to establish commercial and industrial companies."

### **Right to Education**

Article 26 of the UDHR, Article 13 of the ICESCR, and Article 28 of the CRC state that everyone has the

right to education. And that it shall be free and compulsory in the elementary stages.

Thailand's ratification of these international instruments carries with it the obligation to grant persons fleeing persecution many of the same rights outlined in the 1951 Convention, rights that would improve the lives of refugees *while* they are refugees.

There is a broad array of potential constituencies in Thai civil society that NGOs can mobilize into coalitions for refugee rights including faith communities, business people, and human rights advocates. NGOs can also conduct public education campaigns to im-

prove the image of and dispel misconceptions about refugees. Education about the hardships refugees flee and the problems they face in Thailand can mitigate the common perception that they take Thai jobs and bring crime and disease.

## **Practical Actions for the Thai Government**

- Allow refugees to work. The registration process has demonstrated a significant labor shortage.
- Allow Thais to attend educational programs for refugees to mitigate any backlash against refugees for receiving special services and to support cross-cultural understanding. Support economic development that benefits the local population in areas hosting refugees.
- Continue to allow refugees to establish informal settlements, such as the small group of Shan have been able to do. Allow them to receive aid and protection and to have freedom of movement.
- Allow camp and non-camp-based refugees UNHCR protection.
- Allow alternative schooling and healthcare by Myanmar community-based organizations and NGOs, while increasing the capacity of Thai schools and clinics to integrate Myanmar refugees.

## Prospects for Hope?

- Issue diplomas to all graduating children regardless of nationality.
- Register births and provide birth certificates for all children born in Thailand, regardless of nationality.
- Allow temporary integration through identity cards that allow temporary residency, travel, and work until Myanmar are able to return home. Thailand also should allow ethnic minorities from Myanmar to either set up their own communities or locate counterpart communities of the same ethnicity in Thailand, such as the Karen and Shan communities. Settlement in ethnically similar areas would allow local communities to help them in a culturally and linguistically appropriate environment.

### Donor Country and UNHCR Responsibilities

Donor countries should acknowledge their share of the international responsibility to protect refugees by paying the costs of the process and reimbursing the Thai government for all benefits it provides refugees on par with nationals,

including education, healthcare, and assistance for those unable to work. UNHCR and NGOs should monitor the process to ensure that refugees actually enjoy these rights and to verify any benefits Thailand cites for reimbursement. Donors should also offer development assistance to local communities willing to assist refugees.

An effective program would allow refugees access to local Thai services. In exchange for Thailand granting assistance to refugees, the international community could shoulder the burden this places on Thai systems by spending its humanitarian aid funds less on the care, maintenance, and confinement of refugees in camps and more on supporting host countries that allow refugees to work and travel. This could be done on a per capita basis or using a voucher system by which the Government is reimbursed for each refugee child in its schools and each refugee seeking medical assistance. UNHCR could dedicate its time and resources to overseeing this process and ensuring rights. The expected decrease in humanitarian aid, as refugees opt to support themselves, could help to offset the cost of paying Thailand for the increase in teachers, medical, and social services staff to accommodate this population.



There are over 600,000 IDPs in eastern Myanmar. In December 2004, army attacks against ethnic Karen displaced this eight-months-pregnant woman and her family, and 5,000 others.

*Photo: Free Burma Rangers*