Burmese asylum seekers in Thailand: still nowhere to turn

Until the Thai authorities and UNHCR can provide an asylum process that is systematic and fair, as opposed to one that is conditional on particular events and dates, the current asylum system will offer nothing more than pot luck.

If there is one positive result from the Burmese junta’s brutal response to the peaceful demonstrations in Yangon in September 2007, it is the re-opening of registration by UNHCR for new asylum seekers from Burma. This comes after a hiatus of two years beginning in November 2005 when UNHCR, at the request of the Thai authorities, stopped registering anyone from Burma who sought asylum and international protection in Thailand.

Up until January 2004, UNHCR had been able to conduct full Refugee Status Determination (RSD) for Burmese asylum seekers. Due to the Thai authorities’ wish to retain greater control over the asylum screening process, asylum seekers arriving from Burma after January 2004 could only register with UNHCR and obtain a slip (hence now commonly referred to as ‘slipholders’). Those arriving since November 2005 have had no opportunity to register or receive any form of documentation or protection.

Previously, there were three groups of slipholders, based in Bangkok, Mae Sot and Kanchanaburi provinces, comprising a total of 10,887 people. In September 2006, more than 2,000 slipholders were transferred to camps in Tak province and underwent the Thai asylum process known as the Provincial Admissions Board (PAB). All now have recognition as camp refugees. However, for the remaining slipholders, despite ongoing discussions between UNHCR and the Thai authorities, none has been transferred to a camp. The majority of asylum seekers have remained without protection since the beginning of 2004.

On 15 September 2007, UNHCR re-opened registration for all those arriving in Thailand after this date for reasons related to the protests in Yangon. However, as with the previous batch of slipholders, the new slips offer no legal status in Thailand and do not grant any rights; they are only proof of their registration with UNHCR and merely represent a request to the Thai authorities not to arrest or deport the bearers.

In the last few years, international organisations, including the Jesuit Refugee Service (JRS), have been advocating for slipholders and non-slipholders alike to undergo national screening for refugee status and admission into the nine official camps along the border. Recommendations have been made to the Thai government to allow registered Burmese asylum seekers to stay temporarily in Thailand and for assistance to be provided to them by UN and other relief agencies. So far, advocacy efforts by UNHCR and a handful of international organisations have met with limited success.

A 2005 report by JRS and the International Rescue Committee (IRC) on the conditions of Burmese slipholders in Thailand found that almost all of the 353 individuals surveyed had experienced persecution in Burma and risked serious human rights violations if they were to return. As they did not possess legal documents, they would be regarded by the Thai authorities as illegal immigrants and were therefore subject to arrest, detention and deportation. In order to survive, many of them ended up working illegally in Thailand, often in exploitative conditions. Unlike camp-based refugees, refugees and asylum seekers living in urban areas are not able to receive basic services from NGOs. Many of them do not have adequate shelter and food, and are frequently arrested and have their money and property confiscated.

The provision of slips to the September protestors is welcome. It gave hope that those with genuine asylum claims could now register with UNHCR again and that eventually the Thai authorities would reactivate the PAB system to screen all Burmese asylum seekers. Although established in 1999, the PAB has been largely dysfunctional in practice. This is partly due to the fear that accepting the current
Rohingyas and refugee status in Bangladesh

The Rohingya refugees from northern Rakhine State in Myanmar are living in a precarious situation in their country of asylum, Bangladesh, but have seen significant improvements in recent times.

In 1991 some 250,000 Muslim Rohingyas were recognised as refugees on a prima facie basis by the Government of Bangladesh. The vast majority were repatriated by the Government of Bangladesh to Myanmar in the following years, leaving only two of the 20 refugee camps in existence. For the last 16 years, a residual number of approximately 27,000 Rohingyas have been living in two refugee camps in the southernmost tip of the country, near Cox’s Bazar.

Bangladesh is neither a signatory to the 1951 Convention relating to the Status of Refugees nor to its 1967 Protocol and has not enacted any national legislation on asylum and refugee matters. Nevertheless the government, on its own initiative, recognised the Rohingya arrivals in 1991 as refugees and has, in partnership with UNHCR, been providing them with assistance to this day.

It is significant that Bangladesh has acceded to several of the existing international rights Covenants and Conventions and has provisions within its Constitution that uphold the rights and duties within the UN Charter and further safeguard the legal protection of non-citizens within its territory. As a result, it recognises a body of international law which provides the framework for protecting refugees.

The difficulty lies in ensuring compliance and sustainability in the standards of protection when there is no law regulating refugee status itself. The situation of the Rohingya refugees demonstrates the challenges in providing protection in an ad hoc, arbitrary and discretionary system. Although 16 years have passed, Rohingya refugees are still denied freedom of movement, the right to work and the right to education – and thus are denied the chance of self-reliance and self-determination. Refugees are forced to engage in clandestine activity, working illegally and for low wages. They have been denied the opportunity to develop, to learn and to better themselves, restricted until recently to informal education classes taught by refugee volunteers with limited courses and grades.

UNHCR in Bangladesh has had some success lobbying for the improvement of standards across all sectors by strongly advocating to bridge the discrepancy between international protection principles and practice on the ground. The agency reached landmark agreements with the previous government in 2006, before recent political events and the declaration of a state of emergency. The present interim government is also showing very positive signs of engagement with refugee issues.

What can be observed thus far are milestones in negotiations between the government and UNHCR which are changing the shape of the delivery of protection. First, in 2006, the government agreed to allow UNHCR to construct new shelters for refugees in both camps, recognising the abysmal conditions of the current structures which fall below international standards. The maintenance of the shelters built in 1992 had been restricted by the government to the bare minimum for fear of promoting any form of permanent presence of the refugees.

There is a danger that unless the Thai government allows the new arrivals to be screened for refugee status soon, a new group of Burmese slipholders will be created, adding to a backlog of those who are still waiting for some form of durable solution.

The greatest concern is for those who have had no access to a process of registration and therefore have no protection and no hope of asylum. Undocumented, unwanted and largely invisible, these Burmese slipholders and asylum seekers will continue to live on the fringes. It remains to be seen whether the crack opened up by the September protests in Burma for Thailand and the international community to redress their situation will lead to significant improvement and a better future.

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1. Email exchange with UNHCR Bangkok, October 2007