

**Refugee Review Tribunal
AUSTRALIA**

RRT RESEARCH RESPONSE

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Questions

- 1. Is it possible to say how likely it is that the Burmese authorities would know of an individual's involvement in a rally in September 2007?**
- 2. Do the authorities monitor the activities of students/other Burmese in Australia?**
- 3. What information is there about the treatment of Burmese nationals who have been overseas for several years upon their return?**

RESPONSE

- 1. Is it possible to say how likely it is that the Burmese authorities would know of an individual's involvement in a rally in September 2007?**
- 2. Do the authorities monitor the activities of students/other Burmese in Australia?**

A search through the sources consulted has located two articles on a protest rally outside the Burmese Embassy in Canberra in September 2007. They do not, however, shed light on the likelihood that the Burmese authorities would know of an individual's involvement in the rally (Jensen, Erik 2007, 'Police confront Burmese protesters in Canberra', *Sydney Morning Herald*, 28 September <http://www.smh.com.au/articles/2007/09/28/1190486546224.html> - Accessed 16 October 2008 – Attachment 1); 'Police, protesters clash outside Burmese Embassy' 2007, *ABC*, 28 September <http://www.abc.net.au/news/stories/2007/09/28/2046237.htm> - Accessed 16 October 2008 – Attachment 2). Another search through the sources has also failed to find any information on individual activities, not to mention those of interest to the Burmese authorities.

However, several reports note that the Burmese government maintains pervasive intelligence activities within the country and in émigré communities overseas including in Australia.

In 2006, DFAT advised that “Overseas Burmese (including in Australia) classified as strong critics of the regime are monitored closely by Burmese authorities.” (Department of Foreign Affairs and Trade 2006, *DFAT Report 564 – RRT Information Request: MMR30908* [sic – correct ref No.:MMR30980], 24 November 2006 – Attachment 3).

The 2008 US Department of State *Country Reports on Human Rights Practices – Burma* states that:

Through its intelligence network and administrative procedures, the government systematically monitored the travel of all citizens and closely monitored the activities of many citizens, particularly those known to be active politically (US Department of State 2008, *Country Reports on Human Rights Practices 2007 – Burma*, 11 March – Attachment 4).

The International Crisis Group comments on the pervasive intelligence establishment of Burma capable of monitoring its nationals overseas as follows:

The Tatmadaw’s [the massively expanded armed forces between 1989 and 1995] pervasive intelligence apparatus underpins its ability to maintain the regime’s grip on the country. Enormous resources and effort are put into the surveillance of all potential enemies and dissidents, ‘above ground’ and ‘underground’, at home and abroad. A dramatic expansion of military intelligence capabilities since the 1990s has permitted it to monitor and counter potential threats to its power, including from its own personnel.⁴⁶ The National Intelligence Bureau (NIB) is officially the highest intelligence organ in Burma/Myanmar. It is responsible for broad policy and intelligence coordination and reports directly to the SPDC. The largest intelligence agencies outside the Tatmadaw include the Criminal Investigation Department, the Special Investigation Department (or Special Branch), and the Bureau of Special Investigations, which are under the formal jurisdiction of the Ministry of Home Affairs. But the feared Directorate of Defence Services Intelligence (DDSI) is the most powerful intelligence and security organ in Burma/Myanmar and dominates the military intelligence apparatus. Staff members of the NIB are provided by the DDSI, with Khin Nyunt serving as Director of both the NIB and the DDSI. Significantly, the potent role played by the DDSI in Burma/Myanmar is aimed not only at eliminating dissent among the general civilian population but also at compelling loyalty and unity within the ranks of the Tatmadaw.

Burmese people are subject to constant surveillance by the intelligence apparatus, with intelligence collection ranging from ‘human intelligence’ through highly developed operations for the interception of communications. The DDSI also operates detention and interrogation facilities across the country. The regime’s widespread use of informers within Burma/Myanmar and in emigre communities overseas has created a climate of fear and suspicion because people are frequently uncertain who is an informer and who is safe to trust. The regime’s enhanced signals intelligence capabilities have contributed to its coercive muscle. In support of the regime’s information warfare activities, for instance, the SLORC established the Defence Services Computer Directorate (DDSC) located in the War Office. In addition to the processing and analysis of a wide range of intercepted telecommunications, a particular responsibility of the DDSC is the monitoring of the import, possession and use of certain types of computer equipment. This kind of surveillance is complemented by repressive laws such as the Computer Science Development Law enacted by the SLORC in September 1996 which prohibits the use of computer networks or information technology ‘for undermining State security, law

and order, national unity, the national economy or national culture', and which punishes breaches by penalties of 7 to 15 years in prison (International Crisis Group 2000, *Burma/Myanmar: How Strong is the Military Regime?*, ICG Asia Report Number 11, 21 December, p 13
http://www.crisisgroup.org/library/documents/report_archive/A400302_21122000.pdf - Accessed 10 January 2001 – Attachment 5).

Reporting on the 2005 desertion of an intelligence officer attached to the Burmese Embassy in Washington, *AFP* comments that “One of the functions of military intelligence officers assigned overseas was to monitor the movements of pro-democracy activists and Myanmar exiles.” (‘Myanmar attache in Washington absconds with family: report’ 2005, *AFP*, 3 April – Attachment 6).

In 2002 Emily Rudland, Department of Political and Social Change, Research School of Pacific and Asian Studies, the Australian National University commented that:

The Burmese Government is extremely sensitive to the activities of exile communities, and attempts to monitor activities in countries where large groups of political exiles live, including Australia. It is not known what the intelligence capability of the Burmese embassy in Canberra is. It is unlikely to extend to the monitoring of activist’s email accounts, as is suspected to occur in Thailand... The Burmese government is also known to monitor the internet to keep track of activists. It is also commonly believed that certain individuals in community groups are informants to the embassy. There is a requirement of income tax (10%) of Burmese living abroad to be paid to embassy to retain passport and citizenship rights. Anyone who does not pay this would be considered in opposition to the government.

Those who do pay it are usually those who immigrated for economic reasons, and wish to maintain access to business connections and family in Burma. When people apply for visas to go back to Burma, they are interviewed at the embassy and asked to list all the organisations they are involved in and who else is involved. However, even people who are careful to remain non-political are often considered to be anti-government by the embassy. I know of one case of a woman denied a visa to visit Burma because she attended a conference and seminars on Burma at the Australian National University, and another who was denied because she hosted a dinner attended by activists ...

I do not know of any political activist who would risk returning to Burma under the current regime, as the possibility of harassment and arrest remains high. There has been several cases of the refoulement of refugees taking place in the last decade. Even under the supervision of UNHCR, the refugees have been returned to militarised regions, without any way of guaranteeing safety their safety or well-being (Rudland, E. 2002, ‘Email to RRT Country Research Re: BUR14925: Burmese Organisations in Australia’, 25 January – Attachment 7).

In 1998, Andrew Selth, a visiting fellow at the Australian National University's Strategic and Defence Studies Centre commented that:

Outside Burma, the DDSI [Director of Defense Services Intelligence] maintains a close watch over the many politicized Burmese exiles living in places like the United Kingdom, West Germany, Thailand, Australia and the United States (Selth, Andrew 1998, ‘Burma’s Intelligence Apparatus’, 15 October <http://soros.org/burma/bdsepoct.html> - Accessed 20 October 1998 – Attachment 8).

3. What information is there about the treatment of Burmese nationals who have been overseas for several years upon their return?

In 2006 UNHCR commented on the likely treatment of returnees as follows:

It is well documented that the prevailing human rights situation in Myanmar is extremely poor. In the context of return to Myanmar, it must be assumed that individuals will be subject to government scrutiny upon arrival. Persons with a political profile are reasonably likely to be subject to disproportionate punishment, and so the question of whether or not an individual has such a profile must be carefully evaluated as part of the refugee status determination process.

Even if an individual does not have a political profile, it is reasonable to believe that any person whom the Myanmar Government suspects to have applied for refugee status abroad, and who has the profile of someone who *may* harbor a political opinion, risks being charged under the *1950 Emergency Provisions Act* upon his or her return to Myanmar, and subjected to disproportionate punishment. For example, while a rejected asylum-seeker (such as a manual laborer) who has been found to be an economic migrant and is unlikely to have been politically active would probably be questioned by the government upon return to Myanmar and later released, someone who has not been politically active but has the profile of an individual who could have been active (such as an intellectual or a student) risks being charged and punished under the Act. Accordingly, UNHCR continues to oppose forced removal of failed asylum-seekers to Myanmar (UNHCR 2006, 'Return of asylum seekers to Myanmar', Letter to DIMA, 15 June – Attachment 9).

Similarly, Amnesty International refers to the likely treatment of anybody forcibly returned from Australia to Burma as follows:

Although, it is impossible to make a general statement – it is really on a case-by-case basis and while unable to state definitively, Amnesty International would be concerned that at a minimum anybody forcibly returned from Australia to Burma would probably be held for questioning by the Burmese authorities (Amnesty International 2000, 'Email to RRT Country Research on the Burma Workshop', 13 June - Attachment 10).

The UK Home Office stated in 2007, relying on a source in the US Committee for Refugees (speaking in 2001) that:

... those who seek to emigrate illegally to the U.S. (or other western countries) will likely be jailed upon return to Burma. Also, those who return to Burma with an expired passport, and those who have 'caused embarrassment' to the government, e.g. applied for asylum abroad, could be immediately jailed upon return to Burma (UK Home Office 2007, *Operational Guidance Note – Burma*, UK Home Office website, 31 October, para 3.10.10 – Attachment 11).

On the other hand, the 2008 US Department of State *Country Reports on Human Rights Practices – Burma* states that:

Security services also monitored and harassed persons believed to hold antigovernment opinions... Citizens who emigrated legally generally were allowed to return to visit relatives, and some who lived abroad illegally and acquired foreign citizenship also were able to return (US Department of State 2008, *Country Reports on Human Rights Practices 2007 – Burma*, 11 March – Attachment 4).

Amnesty International provides a specific case of a returnee who had been active in the pro-democracy movement in both Burma and Australia as follows:

[Applicant] joined the ABSDO [All Burma Students Democratic Organisation] when he arrived in Australia and he had been very active with them, he financially supported the ABSDO's campaigns against the military regime in Burma. This can be verified by the ABSDO in Sydney. He contributed over \$1700 toward the UG campaign being conducted by Nyi Nyi Hlaing in Burma. Nyi Nyi Hlaing was subsequently arrested and the computer which was bought with the money was also destroyed. Soe Pai Tun had also been active physically in Burmese politics by participating in demonstrations in front of the Burmese embassy in Australia. AI have received a statement from his solicitor in relation to his situation in Burma after his deportation from Australia. The solicitor states that the applicant was immediately arrested upon arrival in Burma and held in custody for three weeks, during which he was interrogated. There is no confirmation of torture but according to family sources he is under house arrest and far too frightened to talk to anyone. AI believes that the solicitor's statement is highly plausible (Amnesty International 2000, 'Email to RRT Country Research on Amnesty Burma response', 26 June - Attachment 12).

Several DFAT reports comment that although it is difficult to generalize about what kind of treatment would be meted out to returnees, it would vary depending on the level of their political profile and the government's interest in them.

In 2006 DFAT responded to the RRT request for comments on the likelihood of a person engaged in a pro-democracy organization in Australia (Coalition for Democracy in Burma (ACDB)) being detained, arrested, goaled or otherwise affected on return to Burma as follows:

There is a high risk the Burmese regime would treat harshly Burmese nationals who have engaged in high profile political activity abroad. There is no clear definition of "low-level" political activity...

There is no clear, reliable definition of "low-level" political activity. For example, the Burmese regime considers distribution of pro-democracy materials in Burma as a very serious offence. Severe penalties, including life imprisonment, are routinely imposed for demonstration of dissent in Burma ...

Any Burmese returning to Burma after a lengthy period overseas would come at least to the attention of their local township authorities and their movements may be monitored for an initial period. Some Burmese returning after engaging in anti-regime activities overseas appear to escape close attention or retribution. They may well only receive an interview on return to Burma with a warning against continuing any political activities in Burma.

... But there is a high risk the Burmese regime would treat harshly returning Burmese nationals who, the regime considers, have engaged in high profile political activity abroad. Strong offshore critics of the regime have been treated summarily by the regime on return to Burma (Department of Foreign Affairs and Trade 2006, *DFAT Report 564 – RRT Information Request: MMR30908* [sic – correct ref No.:MMR30980], 24 November 2006 – Attachment 3).

A DFAT cable dated 19 June 2002 states that:

As to the likely treatment on return to Burma of those who have been active members of anti-Burmese government organisations in Australia, it would depend on the nature of the organisation to which an individual belonged, the nature of the individual's activities and the prominence they have assumed within those organisations. For example, those involved in peaceful demonstrations may be subjected to some questioning upon return but not long term

harassment. However, those prominently involved in organisations which have actively pursued violent methods of demonstration, and who would then be likely to be known to the Burmese authorities, may face more serious interrogation and harassment, if indeed they had a valid means to return to Burma (DIMIA Country Information Service 2002, *Country Information Report No.194/02 – Information on the current situation of groups actively opposing the government in Burma*, (sourced from DFAT advice of 19 June 2002), 19 June – Attachment 13).

Earlier DFAT advices addressing the issue include:

- Department of Foreign Affairs and Trade 2000, *DFAT Report 021 - Burma: RRT Information Request BUR13881*, 15 March – Attachment 14).
- DIMA Country Information Service 2000, *Country Information Report No. 285/00 - Information on the current situation with respect to passport issue and departure from Burma*, (sourced from DFAT advice of 26 May 2000), 2 June - Attachment 15).
- DIMA Country Information Service 2000, *Country Information Report NO. 111/00 - Treatment of returnees to Burma*, (sourced from DFAT advice of 15 March 2000), 12 April – Attachment 16).

Additional information is also found on the treatment of returnees in the following RRT Research Responses:

- RRT Country Research 2007, *Research Response MMR32023*, 13 July (Q 2) – Attachment 17).
- RRT Country Research 2003, *Research Response BUR15750*, 6 March (Q 10 & 11)– Attachment 18).
- RRT Country Research 2002, *Research Response BUR14925*, 31 January (Q 2) – Attachment 19).

In 2007, the UK Home Office advised its asylum application reviewers as follows:

3.7.7 Conclusion. The claimant's level of involvement in the pro-democracy movement in the UK will be relevant to whether or not a grant of asylum is appropriate. Where it has been established that the claimant is a high profile activist and has close links to the opposition movement either in Burma or the UK they are likely to face difficulties if returned to Burma. Therefore prominent activists are likely to qualify for a grant of asylum.

3.7.8 However, simply protesting outside the Burmese Embassy and the mere existence of photographic evidence to this effect does not necessarily indicate a high level of political involvement in anti-government activities or that the claimant will face persecution or ill-treatment if returned to Burma. Furthermore the Burmese authorities could not from the photographs alone know that the appellant was Burmese. Therefore those who are involved in low level opposition politics in the UK are unlikely to qualify for asylum or Humanitarian Protection (UK Home Office 2007, *Operational Guidance Note – Burma*, UK Home Office website, 31 October, para 3.7.7 & 3.7.8 – Attachment 11).

List of Sources Consulted

Internet Sources:

Government Information & Reports

Government of Punjab India website <http://punjabgovt.nic.in/WELCOME.html>

Immigration & Refugee Board of Canada <http://www.irb-cisr.gc.ca/>

UK Home Office <http://www.homeoffice.gov.uk/>

US Department of State <http://www.state.gov/>

United Nations (UN)

UN High Commissioner for Refugees (UNHCR) Refworld website

<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain>

Non-Government Organisations

Human Rights Watch <http://www.hrw.org/>

Amnesty International <http://www.amnesty.org>

International News & Politics

BBC News <http://news.bbc.co.uk>

Region Specific Links

Search Engines

Copernic <http://www.copernic.com/>

Databases:

FACTIVA (news database)

BACIS (DIAC Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Research & Information database, including Amnesty International, Human Rights Watch, US Department of State Reports)

MRT-RRT Library Catalogue

List of Attachments

1. Jensen, Erik 2007, 'Police confront Burmese protesters in Canberra', *Sydney Morning Herald*, 28 September
<http://www.smh.com.au/articles/2007/09/28/1190486546224.html> - Accessed 16 October 2008.
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4. US Department of State 2008, *Country Reports on Human Rights Practices 2007 – Burma*, 11 March.
5. International Crisis Group 2000, *Burma/Myanmar: How Strong is the Military Regime?*, ICG Asia Report Number 11, 21 December, p 13
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7. Rudland, E. 2002, 'Email to RRT Country Research Re: BUR14925: Burmese Organisations in Australia', 25 January.
8. Selth, Andrew 1998, 'Burma's Intelligence Apparatus', 15 October <http://soros.org/burma/bdsepoct.html> - Accessed 20 October 1998.
9. UNHCR 2006, 'Return of asylum seekers to Myanmar', Letter to DIMA, 15 June. (CISNET Burma CX156435)
10. Amnesty International 2000, 'Email to RRT Country Research on the Burma Workshop', 13 June.
11. UK Home Office 2007, *Operational Guidance Note – Burma*, UK Home Office website, 31 October.
12. Amnesty International 2000, 'Email to RRT Country Research on Amnesty Burma response', 26 June.
13. DIMIA Country Information Service 2002, *Country Information Report No. 194/02 – Information on the current situation of groups actively opposing the government in Burma*, (sourced from DFAT advice of 19 June 2002), 19 June. (CISNET Burma CX65492)
14. Department of Foreign Affairs and Trade 2000, *DFAT Report 021 - Burma: RRT Information Request BUR13881*, 15 March.
15. DIMA Country Information Service 2000, *Country Information Report No. 285/00 - Information on the current situation with respect to passport issue and departure from Burma*, (sourced from DFAT advice of 26 May 2000), 2 June. (CISNET Burma CX42364)
16. DIMA Country Information Service 2000, *Country Information Report NO. 111/00 - Treatment of returnees to Burma*, (sourced from DFAT advice of 15 March 2000), 12 April. (CISNET Burma CX41130)
17. RRT Country Research 2007, *Research Response MMR32023*, 13 July.
18. RRT Country Research 2003, *Research Response BUR15750*, 6 March.
19. RRT Country Research 2002, *Research Response BUR14925*, 31 January.