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Contacts:  
Camilla Olson and Kavita Shukla  
ri@refintl.org or 202-828-0110

## Malaysia: Government Must Stop Abuse of Burmese Refugees and Asylum Seekers

Burmese refugees and asylum seekers in Malaysia are facing increasing threats to their security. Starting in March 2005, the Government of Malaysia launched a nationwide operation targeting undocumented migrants in the country.

This operation has led to serious human rights violations against Burmese in Malaysia, who the government classifies as illegal migrants rather than refugees or asylum seekers. Since early 2006 the situation in Malaysia has deteriorated with public statements made by the Home Affairs Minister and Immigration Department officials condoning the arrest of undocumented workers, including refugees, while immigration courts in detention centers mete out punishments that include caning. Burmese in Malaysia will continue to face abuses until the government recognizes the protection needs of the refugee population in its country.

There are approximately 40,000 persons of concern to the Office of the UN High Commissioner for Refugees (UNHCR) in Malaysia. The majority of this group consists of ethnic minorities who fled Burma as a result of the violence and abuses carried out against them by the Burmese military junta. The most common abuses occurring in Burma and cited by the Burmese refugees interviewed by Refugees International on a recent mission to Malaysia were forced labor, arbitrary arrest, land confiscation, and the destruction of villages and homes.

Burmese in Malaysia face arrest, detention, and deportation. Malaysia has not signed the 1951 Refugee Convention or its 1967 Protocol and the Government of Malaysia does not distinguish between refugees, asylum seekers, and illegal migrants. In the past, legal protection has been offered to specific groups of asylum seekers who the Government of Malaysia chooses to recognize. The most recent case is that of the Rohingya, an ethnic minority from Burma's Northern Rakhine State. In 2004 the

Government of Malaysia agreed to issue IMM13 work permits for the Rohingya. At least several thousand refugees were registered but no permits have been issued and the Rohingya continue to be vulnerable to arrest and abuse. It is imperative that the Government of Malaysia honor its earlier commitment and grant temporary work permits to the 12,000 Rohingya refugees.

The biggest perpetrator of abuses against the Burmese in Malaysia is the People's Volunteer Corps or RELA. RELA is comprised of around half a million civilian volunteers who are authorized by the Government of Malaysia to arrest undocumented migrants in order to help maintain public order. Unlike the police, who are working to improve their treatment of refugees and asylum seekers through cooperation with international and local organizations, RELA uses extreme tactics, including paying volunteers for each undocumented migrant they arrest.

Burmese refugees and asylum seekers in Malaysia cope with difficult living conditions. They have little access to basic services like health care. Without any documents, refugees and asylum seekers are not able to go to local hospitals because they will be arrested. Foreigners, including refugees and asylum seekers, pay double the hospital fees of local Malaysians. With a UNHCR registration letter, refugees are able to receive a 50 percent discount, but the medical cost is still prohibitive in most cases. Free clinics run by local NGOs periodically offer basic medical assistance to refugees without documents, but the clinics are minimally staffed and lack adequate funding to cover the cost of referrals for more serious cases.

The Malaysian authorities have long been harassing and intimidating Burmese refugees because many lack any type of documentation. Now even those refugees who are recognized by UNHCR and carry registration documents are being arrested by RELA and placed in detention centers. The refugees may be picked up on the street or captured in raids at night. Sometimes RELA even apprehends refugees on their way to church for prayer services. While the majority of Burmese who are arrested are men, women and children are also vulnerable. RI heard several reports of Burmese women going to register their newborn babies with local authorities and having both themselves and their children arrested and put into detention.

International agencies and local NGOs and community groups have difficulty accessing the detention centers where currently at least 700 refugees and asylum seekers are being held. After arrest the refugees are placed in detention where they are not allowed any visitors for fourteen days. The lack of access to the detention centers means that there is very little medical assistance or legal counsel available to the refugees. Several of the Burmese refugees who RI interviewed had been beaten or abused while in detention. The refugees are forced to stay in overcrowded rooms with hundreds of other detainees, some of whom are charged with criminal offences.

Given the dire detention conditions, after completing their sentence the refugees often agree to be deported by the immigration authorities to the Thai-Malay border, where they are picked up by smugglers and traffickers. The immigration officers who deport the refugees to the border witness the trafficking that takes place and may benefit from the fees, around 1500 MYR or 500 USD, paid by the refugees to the traffickers. If they are unable to pay for their release, the refugees are sold into forced labor, most commonly on Thai fishing boats. One Burmese Rakhine refugee interviewed by RI had been deported three separate times and each time spent several months working on a fishing boat where he witnessed severe human rights abuses, such as other Burmese workers being shot or stabbed and thrown overboard.

The majority of the Burmese refugees in Malaysia are believed to be living in or around Kuala Lumpur. Some stay in urban areas where as many as 20 refugees share a one-room apartment, while others live in jungle sites situated near plantations. RI visited a group of Burmese Mon, including minors, at a jungle site near Penang. Police and RELA had been raiding it several times each month. On one recent raid, the police set fire to the refugees' shelters.

Despite such difficulties, many of the refugees are fearful of leaving their hiding places in the jungle because they lack

any type of documents. They are dependent on their employers for food and are normally paid half of what local workers make. It is difficult for these refugees to access basic services like health care. For the most serious medical cases, the refugees must travel four hours south to Kuala Lumpur since mobile clinics and mobile registration do not reach far outside of the capital and many local hospitals do not recognize UNHCR documents.

UNHCR is the sole provider of protection to refugees and asylum seekers in Malaysia, and along with a few local NGOs it is at the frontline of providing assistance to the Burmese. For the past several years, UNHCR's resources have been limited and the agency continues to deal with processing a large backlog of cases. UNHCR is not able to register any new refugees except for the most vulnerable. Even pregnant women must wait until their seventh month for UNHCR to issue a registration letter that will enable them to give birth in a local hospital without being arrested. Some local NGOs and community groups provide assistance such as health care and education to the Burmese refugees, but funding shortages are a constant issue.

The Government of Malaysia, in particular the Immigration Department and the Ministry of Home Affairs, has publicly targeted UNHCR, claiming that the agency is creating a pull factor for refugees. Despite this criticism, UNHCR is playing an important role in taking the burden from the government by registering, interviewing, documenting, assisting, and referring refugees for resettlement.

In 2007, several thousand of the approximately 20,000 Burmese Chin in Malaysia, who are primarily Christian, will be resettled to the United States. Other resettlement countries are also engaged, albeit in smaller numbers. In addition to the Chin, it is estimated that there are more than 20,000 unregistered ethnic Burmese in Malaysia who are in need of protection and for whom third country resettlement may be the only solution. However, fewer numbers of these ethnic Burmese are accepted for resettlement. There is growing resentment among the other ethnic Burmese groups, who fled Burma because of ongoing persecution and often face the same protection problems in Malaysia as the Chin, but who feel that their situation is not being recognized by resettlement countries.

## **REFUGEES INTERNATIONAL RECOMMENDS:**

### **THE GOVERNMENT OF MALAYSIA:**

- ❑ Recognize the rights of the Burmese refugee population in the country and protect them from arrest, detention, and deportation.

- ❑ Disband RELA and train local authorities and police to respect UNHCR documents.
- ❑ Improve outside access to detention centers for medical assistance and legal representation, separate those with asylum claims from the general population, and cease handing out caning sentences to asylum seekers and refugees.
- ❑ Allow the International Committee of the Red Cross to visit prisons and monitor conditions, especially for those with asylum claims.
- ❑ Fulfill its commitment to provide work permits to the Rohingya refugees; any such process should be facilitated through UNHCR in order to ensure that there is accurate recognition of stateless individuals
- ❑ Uphold its international commitments as a member of the UN Human Rights Council, and a signatory to the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women.
- ❑ Urge fellow ASEAN member Burma to stop persecuting and violating the rights of the Burmese people

#### **THE HUMAN RIGHTS COMMISSION OF MALAYSIA:**

- ❑ Undertake regular fact-finding trips to the detention centers and prisons to ensure that human rights abuses are not committed and that detention conditions meet international standards.

#### **UNHCR:**

- ❑ Continue its work in protecting Burmese refugees and asylum seekers and expand its programs and registration services to refugees in outlying areas.

#### **DONORS:**

- ❑ Increase funding and support to UNHCR and local NGOs, particularly for mobile registration and mobile clinics to reach populations outside of the capital.
- ❑ Support local NGOs in building their advocacy and networking skills and educating the public about the difference between asylum seekers and migrants.

#### **THE UNITED STATES AND OTHER COUNTRIES:**

- ❑ Increase resettlement of vulnerable ethnic Burmese groups in Malaysia in addition to the Chin.

*Camilla Olson and Kavita Shukla recently completed an assessment of the situation for Burmese refugees and asylum seekers in Malaysia.*