

**CHRISTIAN SOLIDARITY WORLDWIDE
HONG KONG (CSW HK)**

**FACT-FINDING REPORT MARCH 2006
BURMESE CHIN REFUGEES IN MALAYSIA**

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SUMMARY

Burmese Chin refugees in Malaysia are in a very risky situation. They came to Malaysia to flee persecution in Burma, hoping to find safety and protection, dreaming of resettlement in another country. However, they remain vulnerable in Malaysia, primarily because its government has not signed international agreements that protect refugee rights. Consequently, they are considered illegal immigrants until they are officially recognized as refugees by the United Nations High Commissioner for Refugees (UNHCR).

While waiting for UNHCR recognition, they are exposed to oppressive treatment by employers, police authorities and others who take advantage of their lack of legal status. Their basic needs for nutrition, safe living conditions, education and medical care are not adequately met. Women who are victims of sexual abuse cannot complain without exposing themselves to arrest and detention because of their immigration status.

This report concludes with major issues of concern and recommended actions for NGOs, the Malaysian Government, UNHCR and international agencies involved with human rights.

INTRODUCTION

Christian Solidarity Worldwide Hong Kong (CSW HK) is a human rights organization that serves as a voice for the persecuted and oppressed in Asia. It conducts fact-finding missions to better understand the situation on the ground for those who face persecution, providing first-hand information for its advocacy work.

In November 2005, Salai Bawi Lian Mang, director of the Chin Human Rights Organization (CHRO)¹ drew the attention of CSW HK to Burmese Chin asylum seekers and refugees in Malaysia. This was during a talk given by Bawi Lian at CSW HK's 6th Christian Human Rights Conference on November 5 and 6, and also at a joint speaking event held by CSW HK and the Lawyers' Group of Amnesty International HK on November 7.

The Fact-Finding Team

CSW HK constituted a **fact-finding team** of three human rights lawyers to investigate the situation of the Burmese Chins in Malaysia. They are: Chato Olivas-Gallo, CEO of CSW HK, Melissa Karpouzes Neher and Raquel Amador, both of Public Interest Connect.

Public Interest Connect is a Hong Kong partnership that supports NGOs through organizational strategic planning and campaign development. Its work in HK led to the implementation of a project to provide independent legal advice and assistance for asylum seekers in the refugee status determination (RSD) process of the UNHCR.

¹ Chin Human Rights organization (CHRO) is a non-governmental non-profit organization established in 1995 by a group of Chin activists. It documents the human rights situation of ethnic Chins in Chinland, various parts of Burma, and in other parts of the world.

Melissa Karpouzes Neher and Raquel Amador joined this fact-finding mission as volunteers of CSW HK.

Objectives of the fact-finding mission

1. Uncover issues of persecution related to religion and ethnicity suffered by the refugees when they were still in Burma, to understand why they fled from Burma to Malaysia
2. Understand their situation in Malaysia and identify the issues they face
3. Bring attention to their situation so that various agencies and organizations can take appropriate action

Persons and organizations interviewed

In the course of this visit, the team met with:

1. Individual refugees and asylum seekers from the Chin community in Malaysia
2. Chin Refugee Committee
3. Chin Women's Organization
4. Chin Students' Organization
5. Chin Christian Fellowship
6. Alice Nah of HAKAM , an NGO working on refugee related issues
7. Edmund Bon , human rights lawyer
8. Latkeefa Koya, human rights lawyer
9. Alliance of Chin Refugees
10. Carolin Verma, Deputy Representative of UNHCR Malaysia
11. Rosemary Chong, head of ACTS, an NGO working directly with refugees

Our meetings and research were conducted in various offices and sites in Kuala Lumpur, Putrajaya and Petaling Jaya.

HOW WE USE CERTAIN TERMS IN THIS REPORT

Refugees and asylum seekers

As used in this report, “refugees” are “people who are outside their countries because of a well-founded fear of persecution based on their race, religion, nationality, political opinion or membership in a particular social group, and who cannot or do not want to return home.”²

There is, however, a technical difference between the words “refugee” and “asylum seekers” as applied by UNHCR. For UNHCR, refugees are those that it has recognized as such after going through a procedure known as refugee status determination (RSD). During these proceedings, the applicant presents proof that he is a refugee.

Until that happens, UNCHR considers him an asylum seeker. When an asylum seeker registers with UNHCR, he receives a document stating the fact of registration, and he will be scheduled for consideration under RSD procedure. Because of the number of asylum seekers, it is possible that they wait for months or years before going through RSD procedure.

Non-Refoulement

If an application is denied because a person does not meet the definition of a refugee, he faces the possibility of being returned to his country of origin, legally known as *refoulement*. Under the principles of international law, *non-refoulement* should be observed, such that a person must not be returned to his country of origin if he may be subjected to persecution there, whether he has been formally recognized as a refugee or not:

Non-refoulement is a concept which prohibits States from returning a refugee or asylum-seeker to territories where there is

² UNHCR, HELPING REFUGEES: AN INTRODUCTION TO UNHCR (2004), p. 6

a risk that his or her life or freedom would be threatened on account of race, religion, nationality or membership of a political group or political opinion.³

IDENTITIES OF REFUGEES IN THIS REPORT

The United Nations' 1951 Convention Relating to the Status of Refugees and the 1967 Protocol set forth the kind of legal protection and minimum assistance that should be given to refugees by State parties. The Malaysian Government is not a signatory to these instruments. In addition, Malaysia has no domestic law or procedure to protect refugees. Consequently, authorities treat refugees as illegal immigrants, subject to harsh penalties including detention and deportation under Malaysia's immigration law.⁴

Names and personal circumstances of the refugees we interviewed are not disclosed in this report because revealing their identity could put them at personal risk of harm. Most of them are asylum seekers who are not yet registered with UNHCR in Malaysia. They are identified by the initials of the team-member who interviewed them as shown in the corresponding footnotes.

³ Sir Elihu Lauterpacht, CBE QC and Daniel Bethlehem, Barrister, THE SCOPE AND CONCEPT OF THE PRINCIPLE OF NON-REFOULEMENT [OPINION], (20 June 2001), p. 1.

⁴ Amer Hamza, Lawyer, THE PROTECTION OF REFUGEE CHILDREN IN MALAYSIA: WISHFUL THINKING OR REALITY?, paper presented at the Conference on Refugees, Migrants and the Law, jointly organized by UNHCR and the Bar Council, on 9 July 2005 at Kuala Lumpur

THE CHIN SITUATION: FROM BURMA TO MALAYSIA

The Chins

The Chins, who are 90% Christian,⁵ used to live as an independent nation in what is known as Chinland with an area of 36,000 square kilometers. This land is now split between India and Burma.⁶

Most of Chinland fell under British colonial rule in 1895. In 1933, Chin patriots demanded the independence of Chinland from the British-Burma government in Rangoon.⁷ Two years later, the British placed western Chinland under British Indian control, and eastern Chinland under Burma's control.⁸ In 1947, Chin representatives joined with representatives from Kachin, Shan and Burma and signed the Panglong Agreement to form a federal union.⁹ After Burma gained independence from Britain in 1948, the ethnic groups became concerned that their autonomy was not respected. Civil war ensued for the next decade until a military coup was staged in 1962 by General Ne Win, Burma Army's Chief Commander.¹⁰

General Ne Win suppressed all attempts to form a federation, and isolated Burma from the rest of the world, stifling essential human rights such as freedom of expression and association. The desire for basic freedoms drove Chins from different sectors of society to join pro-democracy demonstrations in 1988 in which thousands were killed by

⁵ Salai Bawi Lian Mang, RELIGIOUS PERSECUTION: A CAMPAIGN OF ETHNOCIDE AGAIN CHIN CHRISTIANS IN BURMA (2004), p. 9

⁶ www.chro.org/index.php/About_us/12, website of Chin Human Rights Organization

⁷ www.chinland.org/cnf/index.html (Chin National Front website in the section "Important Historic Events of the Chin People")

⁸ www.chro.org/index.php/About_us/10

⁹ www.chinland.org/cnf/index.html

¹⁰ www.chro.org/index.php/About_us/10

the military government.¹¹ Here is one of several accounts on what happened on August 8, 1988 in Burma¹²:

For every person who experienced Burma's democracy summer of 1988, August will always be remembered as a month of bloodshed and crushed hopes. For it was in August 1988 that literally millions of Burmese from every walk of life joined to demand an end to more than a quarter-century of unenlightened despotism, only to be gunned down in untold numbers throughout the country.

Horrifying images crowd the mind of every person who witnessed this deadly massacre: endless gunfire and the relentless advance of soldiers bearing down on unarmed crowds; bullet-riddled corpses in the streets; the innocent faces and blood-stained uniforms of murdered schoolchildren; smoke billowing non-stop for days from the crematoria of city cemeteries.

Since 1988, Burma was ruled by a military junta, first known as State Law and Order Council (SLORC) and later as State Peace and Development Council (SPDC). Burma has been described as “sinking deeper into the un-rule of law,”¹³ being one of the worst regimes in the world. Amnesty International has called Burma an “institution of torture.”¹⁴

Torture and ill-treatment have become institutionalized in Myanmar. They are practised by the army as part of counter-insurgency activities; by Military Intelligence (MI) personnel when they interrogate political detainees; by prison guards; and by the police. Patterns of

¹¹ www.chro.org

¹² Excerpt from “Another Black August” in THE IRRAWADY, Vol. 8 No. 8 August 2000

<http://www.irrawaddy.org/database/2000/vol8.8/baugust.html>

¹³ Asian Human Rights Commission, THE STATE OF HUMAN RIGHTS IN TEN NATIONS - 2005, p. 127

¹⁴ Amnesty International, MYANMAR: THE INSTITUTION OF TORTURE, 13 December 2000, Amnesty Online Library Documentation Archive, <http://web.amnesty.org/library/index/ENGASA160242000>.

torture have remained the same, although the time and place vary. Torture occurs throughout the country and has been reported for over four decades. Members of the security forces continue to use torture as a means of extracting information; to punish political prisoners and members of ethnic minorities; and as a means of instilling fear in anyone critical of the military government.

Burma is a culturally diverse place. There are eight major national ethnic races, and Chin is one of them. The others are: Kachin, Kayah, Kayin (Karen)¹⁵, Bamar, Mon, Rakhine and Shan. Each of these major ethnic races has several ethnic sub-groups. The Chin has 53 sub-groups including Zo, Tedin, Lai and Asho. In all, Burma has 153 ethnic groups and sub-groups.¹⁶

There are 1.5 million Chin people worldwide. Of these, 600,000 are in Chinland, while the rest are scattered in Malaysia, United States, Canada, Australia, Norway, Denmark, South Korea and Japan.¹⁷

At the time of our visit, we learned that there were between 14,000 and 16,000 Chins in Malaysia.¹⁸ As of end of 2005, 4,090 were registered as asylum seekers with the UNHCR in Malaysia, while 2,470 were recognized as refugees.¹⁹

¹⁵ Amnesty International, MYANMAR: THE KAYIN (KAREN) STATE MILITARIZATION AND HUMAN RIGHTS, 1 June 1999, Amnesty Online Library Documentation Archive,

<http://web.amnesty.org/library/Index/ENGASA160121999?open&of=ENG-2S3%7CThe>

¹⁶ www.myanmar's.net (<http://www.myanmars.net/people/ethnic.groups.htm>)

¹⁷ Christian Solidarity Worldwide (UK), VISIT TO THE CHIN AND KACHIN REFUGEES IN INDIA, March 2 to 9, 2004, p. 11.

¹⁸ Interview with Chin Refugee Committee, 8 March 2006 reported 16,000. Interview with Rosemary Chong of ACTS stated 14,000 estimate after a survey in 2005.

¹⁹ Active cases breakdown provided by Carolin Verma, Deputy Representative of UNHCR in Malaysia.

Reasons for fleeing Burma

The first objective of this fact-finding mission is to “Uncover issues of persecution related to religion and ethnicity suffered by the asylum seekers when they were still in Burma, to understand why they fled from Burma to Malaysia”.

On this matter, we confirmed from interviews with Chin individuals and organizations that they have fled Burma for many reasons. Some reasons which contributed to their flight include the following:

1. Repercussions for engaging in Christian activities such as having youth conventions, Bible tract distribution, and worship celebration;
2. Forced conversion to Buddhism;
3. Harassment as part of soldiers’ strategy of extorting food and money from villagers;
4. Repercussions for actual or perceived support for the Chin National Front (CNF),²⁰ or its defensive military arm, the Chin National Army (CNA);
5. Repercussions for support for the National League of Democracy²¹;
6. Intimidation and forced labor for the military and military service;
7. Sexual violence by Burmese soldiers.

²⁰ The Chin National Front, formed on 20 March 1988, seeks self-determination for the Chin people, and to establish the federal Union of Burma based on democratic principles. (www.chinland.org, The Official Website of the Chin National Front)

²¹ Burma’s leading political party headed by Nobel Peace Prize Laureate Daw Aung San Suu Kyi as General Secretary, who has been under house arrest in Burma since 2003.

Here are specific accounts given to us by the victims:

1. Repercussions for engaging in Christian activities such as having youth conventions, Bible tract distribution, and worship celebrations

(a) Youth pastor

In February 2004, we had a three-day youth convention. I was president of the Christian Youth Fellowship (CYF). Military spies in civilian clothes attended our meeting. I did not know they were there until later. They were there all three nights. On the third night, after the meeting, they called me and the CYF secretary. They brought us to the military camp where they interrogated us, asking us what were we doing. They said Burma government does not allow such outdoor convention, and they accused us of teaching the youth about a certain political way.

In April 2004, our church council decided that we will have Bible tract distribution. I was a tract distributor. I went to a village and while giving away the tracts, a SPDC troop led by Sgt. Aung Myint arrested me for having a Bible tract in my hand. They placed me in a lock-up for seven days. It was a Burmese military lock-up, where they put my ankles through a hole in a wooden box so I could not move, and they beat me again in different ways. On the 7th day, our church elder came and appealed for my release, and he paid 50,000 kyats for my release.

One week later, I preached inside our church. Two strangers came in and listened. I was encouraging the congregation to obey the government through the teaching of the Bible, and said we must continue our Bible tract distribution because it was the mission of our church.

After the service, we visited the home of a sick church member to pray for him. My wife sent word that two men came to our house to arrest me, and she told me not to go home.²²

²² CG-4

(b) Woman who joined a worship celebration

On January 3, 2004 we invited some of our Chin friends to my brother's house to celebrate the New Year. We were singing and dancing, giving thanks to God. Many people gathered around our place to watch us, maybe they thought it was unusual to see people worshipping in this way. Around 2:00 in the afternoon, the local government leader and some police came to the house and asked for the owner to come out. My younger brother and I came out of the house and the men told us to come with them to the village office. We went with them about five minutes away by walking.

When we arrived at the government office, the officers, five in uniform, told us we had arranged a religious program without informing them. My brother explained we were not trying to harm the government, just praising God for his love and giving thanks for the year. The officers beat us on our bottoms and legs with policemen's batons.²³

2. Forced conversion to Buddhism

[Account of a 16-year-old boy]: When I was 15 years old my mother decided that I should move to another town so I could continue my studies. I lived with my aunt and uncle. I began studies for my '5' Standard. I liked Burmese language studies and hoped to be an English teacher or a university professor.

One day I was walking to school with some other students when I was stopped by the military. They forced us to go with them to a military camp. At the camp they gave me breakfast and told me to do exercises. I understood that they wanted me to join them. I had to worship Buddha.. They also asked me to do chores like weed the grass of the compound, take out garbage and clean toilets. I was very scared.

²³ MN-1

On the fifth day, one of the soldiers asked me to go outside the compound so that I could buy tea. I took this opportunity to run away. I made my way back to my auntie's house but she said it was too dangerous for me to stay, that the army would come to look for me. She said she knew of similar situations where young people ran away from the army only to be caught.²⁴

3. Harassment as part of soldiers' strategy of extorting food and money from villagers

Because the village is in the country we regularly had problems with the military; they killed our animals and took rice and other provisions from our house for their own use. We lived in an atmosphere of insecurity and fear.²⁵

4. Repercussions for actual or perceived support for the Chin National Front (CNF), or for its defensive military arm, the Chin National Army (CNA);

Arrested for perceived support for CNF:

I often had friends and family from Chin State visiting me at my home. It is part of our culture never to deny visitors entry to our home. I did not enquire into their backgrounds or know details of their political affiliation. In September 2003 there were rumors that the military had arrested and questioned a number of CNF supporters. On 1 October 2003 I was arrested by the army and accused of supporting CNF members. The military said a member of the CNF had stayed at my home. If this was true I had no knowledge of it. On arrest I was taken to Burmese Military Intelligence Battalion 17 where I was questioned for two weeks.²⁶

²⁴ RA-4

²⁵ RA-1

²⁶ RA-1

Husband and wife were tortured, until husband died, for being a CNF member:

My husband was a member of the Chin National Front. He used to work as a trader and traveled regularly between India and Myanmar. In mid-2002 the military came to our house and arrested us. My husband begged them not to take me. They brought us to a camp and put us in separate cells. My first child was only six months old at this time.

In the camp they interrogated me and asked if my husband was committed to the insurgency. On the second day I was struck in my stomach with the butt of a gun but I denied any knowledge of his activities. The torture and interrogation continued on the third day but when I still said I knew nothing they agreed to release me on certain conditions. The first was that I had to sign a paper to say that my husband was being treated kindly in prison. On my release I had to agree not to leave the town where we lived and further that I would not accept guests at my home. My husband was still detained on my release.

On 30 October 2002 two people came to my home and asked me to go with them to the hospital. There I saw the dead body of my husband. His face was bloodied and black and he was naked. They told me that he had died from sickness. They said I was not permitted to take his body, that they would take responsibility for his burial. He was buried the same day.²⁷

Arrested for allegedly supplying CNA with uniform:²⁸

In November 1999, I was stopped and searched by Burmese soldiers who found a certain kind of clothing material in my possession and accused me of was supplying the CNA with uniforms. I denied this but I was taken to the police station and later to prison where I was detained for six months on suspicion of connections with the CNA. I was never brought before a court. In the police station I was detained for two hours. Two police officers and one military intelligence

²⁷ RA-2

²⁸ RA-3

official interrogated me about my involvement with the CNA. I denied it and they hit my body with rattan sticks. They then broke my nose with a rifle butt. In prison I was not tortured again but once a month I was called for interrogation. At this time they were verbally abusive and used very bad language against me. On 19 May 2000, I was released after my wife and uncle paid officials 600,000 Chat . I was asked to sign a paper that I would never have any connections with the CNA.

Boy was arrested for speaking with a CNA member:²⁹

I left my village in November 2005 and was working around the border area at Mizoram as a woodcutter. One afternoon I saw someone I know from my village with a few others and stopped to speak to share news from home. I knew he was a member of Chin National Army. Some Burmese army men saw us together and they shot my friend, just as he was standing next to me. Then the army men approached the group, and everyone ran, but I was caught. They took my identity card and accused me of being CNA and hit me in the face. They interrogated me demanding more information, and when I was unable to tell them what they wanted to know, they cut my back with a knife.

Nursing graduate wanted for arrest for treating CNA member for malaria: .³⁰

After finishing my nursing studies, I used to give medicine to the people in my hometown. One day, a CNA member was brought to my house. He had malaria and I gave him quinine intravenously. Burma soldiers learned about it and came to the village to arrest me. My uncle told me to flee immediately.

²⁹ MN-2

³⁰ CG-5

5. Repercussions for support for the National League of Democracy:³¹

I was an active member of National League for Democracy (NLD). In 2003, when Aung San Suu Kyi and U Tin were arrested, all NLD offices were forcibly closed. In my village, the chief commander called all members of the NLD party to sign a document agreeing to close our office there. I was a committee member of NLD. I refused to sign, so the commander kept an eye on me and said from now on, wherever I go, I will need permit from the chief commander. I could not go anywhere, because I refused to ask for a permit, and I knew they will not give me any for sure. On 5 June 2003, a military intelligence (MI) officer and police came to my house and invited me to their office for an interview. I went with them, but they did not interview me immediately. They put me in jail for two nights. After two nights, they asked me about my personal background. They had a record about me because when Aung San Suu Kyi visited my village in 2003, I was the one who entertained her and her companions. They forced me to sign a document saying I will not be an active member of the NLD anymore. If I sign, they will release me. So I signed and I was released. 2004 September, first week - I received a letter from NLD Rangoon asking me to collect 2000 signatures for the release of Aung San Suu Kyi. I was the one who went around to collect the signatures. Unfortunately, a lady mentioned it to an intelligence officer in a casual conversation. When she realized it would be bad for me, she told me to run away.

6. Intimidation and forced labor for the military and military service

Burma, a signatory to the Convention Concerning Forced or Compulsory Labor (No. 29), has committed massive and systematic violations of this Convention.³² “The military junta compels more than 800,000 Burmese to work as porters or laborers for little or no pay... Since the early 1990s, hundreds of thousands of civilians have been

³¹ CG-2

³² DLA Piper Rudnick Gray Carry, THREAT TO THE PEACE: A CALL FOR THE UN SECURITY COUNCIL TO ACT IN BURMA (20 September 2005), p. 21

forced to work in infrastructure projects that involve the construction of roads, dams, railroads and military barracks. Civilians who refuse to provide mandatory labor are often threatened with prosecution, and those laborers who do not properly carry out their tasks are often shot or beaten to death.”³³

Our team interviewed several refugees who were subjected to forced labor. They confirmed that there was a lot of suffering in their village when they were forced to work as porters for the army. ³⁴ Sometimes, forced labor was used as “punishment”, as when the village council chairman who was a former Burma soldier, gave orders to force a man to be a porter to retaliate for a personal dispute over the use of a water pipe.³⁵

A 17-year-old boy said he learned that his father, a pastor, was tortured until death because he refused to porter for the military during Sunday service. He said:

*My father was a pastor and he died when I was five years old. I don't remember that time, but others have told me the army told the villagers to porter their goods on a Sunday and my father wanted to wait until after church services. He was beaten badly and died.*³⁶

We also spoke with a man had to carry 70-kilogram mortars for the military, each mortar weighing 70 kilos. He said:

“In 2003 I lived with my wife in Karen state. The military asked for porters again, and I became a porter for more than one week, carrying mortars day and night. While walking through the jungle, thorns wounded my right foot so badly, I could not carry things anymore. The soldiers left me in the village, and I stayed there for

³³ Same.

³⁴ MN-1

³⁵ MN-4

³⁶ MN-2

*three weeks. When I recovered, I went back home. There, my wife said the military was searching for me, saying I had run away.*³⁷

Women are not exempt from being porters for the military. A nursing graduate recounts:

*“The soldiers came to our village and asked for 30 porters, men and women. Since I was the eldest in the family, and my mother was sick, I was forced to be the porter. There were 25 soldiers. We carried big rucksacks, we did not know what was inside. We did this for two days. They did not give us food, but we brought our own because that was how it was. When the soldiers commanded the village head to provide so many porters, we just had to obey and we knew we had to bring our own food. The villagers gave us food also when they saw us. The soldiers did not tell us how many days we will carry things for them. They did not give us enough time to rest, and not much time to eat. We just kept on walking from 3 a.m. until 9 p.m. The youngest porter in our group was a boy who was 13 or 14 years old. When I got tired, I rested for a while, and a soldier kicked me two times. It was the same with the others. We cannot refuse to porter, otherwise the soldiers will torture and even kill us. Even for small things, if we disobey, they beat us.”*³⁸

7. Sexual violence by Burmese soldiers.

Rape is being used as a weapon of war by the Burmese military against Burma’s ethnic groups. Widespread incidence of rape and sexual violence against women and girls in Burma have been documented in various reports submitted to the United Nations, and it is clear that indeed this has been used as warfare strategy by the Burma army to weaken the ethnic minorities.³⁹

We interviewed a woman who gave this account of rape in their village:

³⁷ CG-1

³⁸ CG-5

³⁹ DLA Piler Rudnick Gray Cary, THREAT TO PEACE: A CALL FOR THE UN SECURITY COUNCIL TO ACT IN BURMA (20 September 2005), pp. 22-25.

The soldiers raped the women. This happened to some of my friends in our village, five of them. The soldiers take the pretty girls to the forest, aged 18 to 20 years old. Some were raped by five men, some by two men. This happens often in Burma. The girls themselves told me. After that, the girls are rejected in the village because they are no longer clean, even if it was not their fault. Some get married, others are rejected by the bachelors. Some girls in our village became pregnant because of rape.⁴⁰

TORTURE BY AUTHORITIES AND RELATED HUMAN RIGHTS VIOLATIONS

Torture is “an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person”, for a purpose such as obtaining information or a confession, punishment, intimidation or coercion, "or for any reason based on discrimination of any kind".⁴¹

In Burma, where there is an absence of the rule of law, military authorities freely use torture particularly against ethnic minorities.⁴² Our team documented the following ways in which Burmese military authorities tortured the Chin refugees when they were still in Chin State:

⁴⁰ CG-5

⁴¹ UN Convention Against Torture, and other Cruel, Inhuman or Degrading Punishment, Part 1, Article 1

⁴² DLA Piler Rudnick Gray Cary, THREAT TO PEACE: A CALL FOR THE UN SECURITY COUNCIL TO ACT IN BURMA (20 September 2005), pp. 14, 24, 52, 54

(a) Victims' hands were tied behind their backs and they were beaten by several soldiers on different parts of the body

Account of 17-year-old boy⁴³:

Then the army men approached the group, and everyone ran, but I was caught. They took my identity card and accused me of being CNA and hit me in the face. They broke my front bottom tooth. They asked me where the CNA camp was, and when I told them I am not CNA and I don't know, they got very angry and were hitting me with their hands. They tied my hands together and cut my back with a knife, but I told them I did not know where the CNA camp was. They told me they were going to take me back to their camp.

I am not sure what exactly happened because I was unconscious at some points. They were kicking and punching me when I woke up and continued to ask me where the CNA camp was. We were walking along like that when bullets started flying. I think it was CNA firing at the Burmese Army. It was confusing and everyone stopped paying attention to me, so I ran as fast as I could while they were busy firing their guns. My hands were still tied together and I was so scared, I just ran away as fast as I could, but I didn't really know where I was going.

I kept moving the whole night and in the morning I reached a riverbank in an area I recognized. I came to a hut and I was bleeding and hurt from the cut on my back, so I approached the hut and was surprised to find three men I know inside, woodcutters who I had worked with before. I went in the hut and told them everything about the incident. They took care of my injury and told me to stay in the hut because it is not safe for me outside. For one month I stayed with them. They would work during the day and I would be alone, scared. I had no way to contact my mother at that time.

⁴³ MN-2

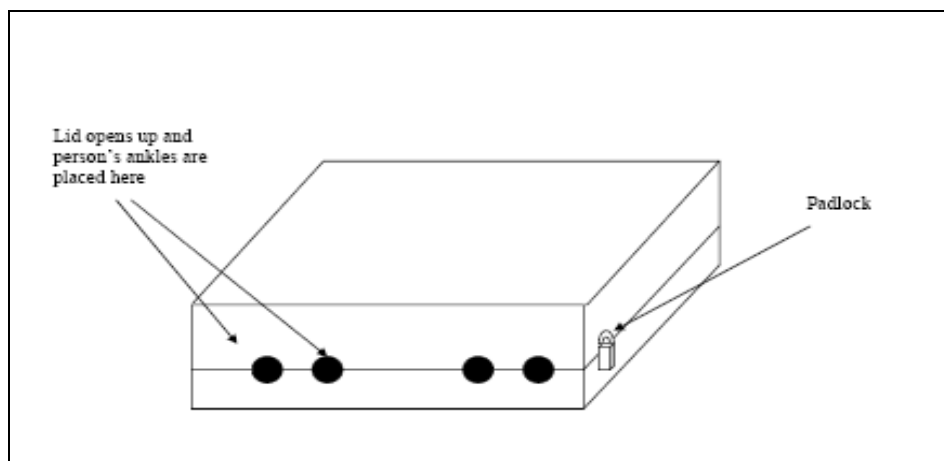
Account by a pastor:⁴⁴

They tied our hands behind our backs while we sat on a chair. They punched us on the face. They used a stick to hit our backs. They kicked our back, head and face. I was beaten by four people.

After beating us, they brought us to the hospital, saying we were beaten by other people and they found us on the way. We were in the hospital for seven days. Then we went home.

(b) Victim’s ankles were restrained in a “Burmese military lock-up” while he was beaten on different parts of the body

Two refugees told us that they were placed in a “Burmese military lock-up”, which they described. We made a drawing based on their description, and they confirmed that it appeared like this:



⁴⁴ CG-4

Account of suspected CNA supporter: ⁴⁵

I was arrested for “supporting the CNA”. I was blindfolded, my hands were tied behind my back with a rope, and I was put in a detention camp for two days and two nights. My wife borrowed 400,000 kyats for my release (USD200). The chief commander told me “If you help the CNA, you will be jailed for life. He made me sign a paper saying that if I join the CNA, I agree to be jailed for life. I was placed in a Burmese military lock-up, a big wooden box that had holes for ankles. The lid was lifted to place my ankles in such a way that when the lid was closed and locked, I could not take my feet out. The box was locked on the side. I had to sit on the floor. When I got tired, I lied down. I was like this for two days and two nights.

Account of a pastor: ⁴⁶

They placed me in a lock-up for seven days. It was a Burmese military lock-up, where they put my ankles through a hole in a wooden box so I could not move, and they beat me again in different ways.

(c) Victim was hung upside down from the ceiling and beaten; a heated metal stick was inserted under his fingernails and in his anus

During my detention, I was questioned, but because I could not tell them (the soldiers) what they wanted, they persecuted me in many ways. They hung me upside down from the ceiling. They beat, punched and slapped by ears constantly and so badly that my hearing became impaired. The worst they did was burn my anus with a metal stick heated by fire. This stick was also forced under my fingernails. I had a great deal of pain and difficulty when having a bowel movement for about one year after this.”⁴⁷

As a result of this, the victim’s eyesight and hearing have been poor, he has difficulty remembering dates, and when he sees people in uniform he becomes

⁴⁵ CG-3

⁴⁶ CG-4

⁴⁷ RA-1

afraid. Injuries in his anus make it difficult for him in going to the toilet until now, and he has not had medical treatment because he cannot afford it.⁴⁸

(d) Victim spouses were detained separately and beaten during interrogation. The husband was beaten until he died

“In the camp they interrogated me and asked if my husband was committed to the insurgency. On the second day I was struck in my stomach with the butt of a gun but I denied any knowledge of his activities. The torture and interrogation continued on the third day but when I still said I knew nothing they agreed to release me on certain conditions. . . My husband was still detained on my release.

On 30 October 2002 two people came to my home and asked me to go with them to the hospital. There I saw the dead body of my husband. His face was bloodied and black and he was naked. They told me that he had died from sickness.⁴⁹

(e) Hands of men and women were chained together above their heads while they were made to squat, and the police poked them with batons

After they beat us, the officers put us in a small room with our hands bound together and chained above us. They told us to squat, so we were half standing and half sitting with the chains pulling on our wrists. They left us in that room and one officer came back from time to time telling us to shut up and that we had made problems. He was poking us with his baton. We were asking for forgiveness and begging him to take us out of the chains. We were chained up like that the whole night. We were not released to use the toilet, so I wet my pants. I had no choice. The next morning, around 10 a.m., the police came back and told us to come outside the office. They let us off the chain and led us outside and asked us to do 100 sit-ups. I tried to do the sit-ups, but I was having a hard time because I was so sore and tired. If I took a rest, they would beat me and tell me to keep doing the sit-ups. I remember I did about 60 and then I fell back. I couldn't move. The

⁴⁸ RA-1

⁴⁹ RA-2

officers told us to vow we would never do such things again [have worship celebrations] in the future and told us if we did, we would be arrested. They were saying we couldn't gather together and worship in that way.⁵⁰

EN ROUTE TO MALAYSIA AT THE MERCY OF BURMESE AGENTS

The refugees paid Burmese agents from 250,000 to 800,000 kyats (USD250 to 800)⁵¹ to be smuggled across the borders of Burma, Thailand and Malaysia. The trip took from days to months on foot, truck, boat and car, stopping in different places along the way for rest and food. Several people traveled together, but in most cases did not previously know each other.

Among those we interviewed, two said the last leg of their journey was a two to three-day trip inside the luggage compartment of a car, where three of them squeezed together lying face up, arms and legs over and under each other. Shipping containers were parked along the road where they stopped to have meals.

Here are statements of those we interviewed:

I left Burma with three other Burmese people. The price agreed with the agent was 800,000 kyat. I paid 350,000 kyat up front and it was agreed that once I got to Malaysia I would work to pay off the rest. From Rangoon we traveled by bus to Katuang on the border of Myanmar. From there we took a boat to Ranoung, Thailand. The agent took us the rest of the way and I do not know what places we

⁵⁰ MN-1

⁵¹ Although the official exchange rate is USD1 to 6 kyats, the rate is around USD1 to 1000 kyats in the black market since 2003 according to <http://www.allmyanmar.com/currency.htm> .

*passed through. I arrived in Malaysia in a place about two hours by bus from Kuala Lumpur.*⁵²

*[16-year-old boy:] My relatives paid for me to travel to Malaysia. I traveled by bus to Rangoon. From Rangoon by ship to Kok Tong. From there the agent took me by car to Malaysia. I was hidden in the boot of the car with two others.*⁵³

*We spent the night before crossing into Malaysia in a forest area around the border. The agent took the women across first. The men were behind us, but they never came, they never met us across the border. The agent told me the authorities were around the border area searching and my husband and brother ran away. I have not heard any news about my husband since that time. I heard from another agent that my brother was caught and sent back Burma. I do not know where he is.*⁵⁴

*[17-year-old boy] My relative had arranged for an agent to get me out of Burma and paid 600,000 kyat. I left Rangoon at night by ship with many others but I didn't know any of them. I was on that boat for a few days and then got on another boat, I think in Thailand. I was on the second boat for two or three hours and then went by car and on foot. I am not sure when I crossed the border into Malaysia.*⁵⁵

*I saved some money and my parents transferred some money to me to pay for my escape to Malaysia. I paid agents 280,000 kyat and arrived in Malaysia in July 2001. My trip was by bus, boat and car, I am not sure how long in total.*⁵⁶

I paid a Burma agent 600,000 kyats (USD600). I left Burma in late 2004 and went to Rangoon, then the border of Thailand and Burma, then Malaysia. I rode in a car, bus, truck. In the truck, I hid at the

⁵² RA-3

⁵³ RA-4

⁵⁴ MN-1

⁵⁵ MN-2

⁵⁶ MN-4

*back. This route and means of transportation were all arranged by the agent.*⁵⁷

*I looked for an agent who brought me to Ranoung, Thailand Border, going to Malaysia. I paid him 600,000 kyats. He was a Burmese agent. From Rangoon to Ranoung, I rode a bus. When I reached Ranoung, I rode in the baggage compartment of a car. There were three of us inside, covered with a plastic sheet to hide us. We had to fit inside, lying down face up, legs bent, or legs on top of each other. I don't know how many hours passed. We left Ranoung at night. We were on the road two nights and one day. The driver stopped when it was time to eat. He took us to cargo containers along the side of the road. This was arranged by the agent. There were around 20 other people there, but we did not talk to them. Some were women.*⁵⁸

Some of them shared problems they encountered en route. One refugee said while traveling along the Thai Burma border to Malaysia, he and his seven companions were arrested by the police and forced to pay 5000 ringgits for their release. The police took all his belongings, so he arrived in Malaysia only with the clothes on his back.⁵⁹

Another became a slave in a Thai fishing boat for almost two years:⁶⁰

I stayed in Ranoung, Thailand for almost one year. An immigration officer arrested me and asked for money, or else I will be deported to Burma. He asked for 1500 baht. I had no money, but there was a Burmese job agent who paid the immigration officer, and the agent took me to work in a fishing boat. The agent charged me 3000 baht. I worked for one year. He gave me food but no money. For my one year's work, the equivalent amount was 2000 baht. I worked in a fishing boat,

⁵⁷ CG-2

⁵⁸ CG-3

⁵⁹ RA-1

⁶⁰ CG-1

catching fish with net. All other workers were Thai. I had to work almost the whole day and night. If I didn't work, the other fishermen beat me on the head with a rope with iron balls, they punched me on different parts of the body, and hit my face with a wooden plank. The agent gave me food but no money.

I got gastric illness, and so I could not work for ten days and cannot pay the agent the remaining 1000 baht I owed him, so he sold me to another job agent. I don't know how much he got for selling me. I worked in another fishing boat for 11 months. I was not paid. I ran away, and went to a jungle in Malaysia-Thai border ... My eyesight is blurred. I cannot hear well. When it's noisy, I cannot think clearly, I get confused. When I worked in the Thai border, I was beaten often, I did not have enough food, and I felt so pressured.

THE CONDITIONS IN MALAYSIA

The second objective of this mission is to document the difficulties these refugees experience in Malaysia.

Refugees in Malaysia have no institutional assistance to meet their daily survival needs. The government does not provide for them and there is very little provision offered by non-governmental organizations (NGOs). In other countries, refugee camps are set up by UNHCR, NGOs or governments to provide food, a place of rest and medical care and protection which are the essential needs of those who have been forced to leave their homes to find safety elsewhere. Malaysia has no refugee camps such as this.

Chin refugees care for themselves by sharing rooms in flats and makeshift huts in the jungles. Our team had these findings about their living conditions, work, health care, education and security issues:

(a) Living conditions

Refugees face uncertain and unsafe living situations. In urban areas, overcrowding is a problem with some sharing a room with up to 40 other people.⁶¹ Meals are also shared by others who are able to work and earn. When they don't have enough money, they have one meal a day of noodles with a bit of meat if they can find it.⁶² They sometimes receive rice rations from local NGOs.⁶³

Many have also lived in one of several camps in the jungles, with up to 400 other Chin refugees.⁶⁴ Some people depend on the employers who hire them illegally for accommodation, and the conditions in those circumstances are equally difficult.⁶⁵

(b) Health care and social services

Refugees have no access to health care and social services from the Malaysian government, even for vulnerable people like women, children and the sick.

Asylum seekers are hesitant to seek medical assistance from private service providers because they are afraid they might be arrested if they leave their flats or jungle huts. Those who have been recognized as refugees can access government health care but must pay 50% of the foreigner's rate, which is still prohibitively expensive.

A local NGO, ACTS, conducts mobile health clinics twice a month in the jungles and also attends to the health needs of those in the

⁶¹ RA-1

⁶² RA-1

⁶³ MN-4

⁶⁴ RA-2. CSW HK donated funds to ACTS and CRC to purchase rice for the refugees during our visit.

⁶⁵ A refugee reported he got a low-paying job and lived in a cargo container owned by his employer, which he shared with four other people. RA-3

urban areas. Medicins Sans Frontier works in cooperation with ACTS by supporting their pharmacy. The medical attention from ACTS cannot meet the needs of all Chins or all refugees in Malaysia.

(c) Education

There are an estimated 400 Chin children in Malaysia⁶⁶. Being refugees, they have no access to government education.

In April 2005, four student exiles set up the Chin Students' Organization (CSO) to meet this need. CSO has 15 members, all of whom have reached university level of education in Burma before coming to Malaysia. Their fields of study are business, history, geography, engineering and psychology.

Their goal is to educate the children about the Chin culture, and also provide them with basic knowledge to help them cope with life in Malaysia. They conduct classes for 80 children from ages five to sixteen, most of whom are ten years old. They have two class levels, one for five to nine years old; the other for ten to sixteen years old. Their classes are held two hours a day, four days a week at the Chin Refugee Center.⁶⁷

CSO reports the children look forward to school so much they sometimes arrive up to two hours early on school days. Children we interviewed expressed a great desire to attend school and felt bored by their lack of activity and the need to stay out of sight much of the time.⁶⁸

⁶⁶ Interview with Chin Students' Organization.

⁶⁷ Without suitable materials, they use the Bible and Bible stories to learn English and grammar. They requested us for teaching materials, and we bought some resources for the teachers.

⁶⁸ MN – 1

(d) Women are at risk of sexual violence

Women are at risk of sexual assault and rape because of their lack of legal status. They could not file cases without disclosing their immigration status, and so they could not report incidents such as these to the authorities. One refugee gave this account:

In late 2005, a taxi driver took me to a place where two other people were waiting. They tried to rape me. They pinned me down and sexually assaulted me. One man masturbated in front of me. They released me and I managed to flag down another taxi back to Subang. I went to the UN office and showed them my injuries; my thighs were red and bruised. They asked me if I recalled the taxi number or any other details. Because I could not, no complaint was made to the police but I did get treatment at a hospital. I was very upset and I have received counseling from the UN.⁶⁹

(e) Constant fear of arrest and harassment

The refugees are in constant fear of arrest by the police.⁷⁰ They also informed us that the police, knowing their immigration status, demand bribes from them.⁷¹

⁶⁹ RA-2

⁷⁰ A refugee informed us that “Police have come to stand on the edge of the highway to take photos of our settlement. After Christmas a local man that lives nearby told us to destroy our church, he said if we refused to do so he would tell immigration we were here so that they would raid us. Everyday we are afraid of being arrested.”

⁷¹ A female refugee told us: “My husband, baby and I live in a small room in Kacang in KL which we share with three other families. My husband works in a coffee shop where he earns 500 Ringit a month. He continues to be afraid of the police who insist that he pay them money in return for not being arrested. Even though he shows his UN refugee card, this makes no difference.” Another refugee said “I face harassment by the police and fear detention. I have been stopped on the street on two occasions and asked to pay money to the police. Since I am here without a letter from UNHCR, the police ask me to pay them 500 Ringgits or they will arrest me. On both occasions they forced me to call my friends to get the money. One time my friend came with the money and they let me go. The other time I could not reach anyone and they arrested

Deaths have taken place when police chased refugees in construction sites, forcing them to jump off the bridge into the lake or to jump off from the building and die.

There is also a group in Malaysia known as Rela, a volunteer group of civilians appointed by the Home Ministry to assist the immigration department in arresting illegal immigrants. The week before our fact-finding mission, we were told that Rela had raided the flats in Imbi leading to the arrest of around 300 Chin refugees. Most of them were eventually released after presenting documents issued by the UNHCR.⁷²

Once arrested, asylum seekers can register with the UNHCR but will have to remain under detention until they are officially recognized as refugees and there is a third country that has accepted them for resettlement.

Even when they are registered as asylum seekers or recognized as refugees, they have no official residence permits in Malaysia, for which reason they continue to live in fear and insecurity.

(f) Exploitation by employers

Some male refugees are able to find jobs in construction sites while women have found work in restaurants. However, their work conditions are exploitative in terms of working hours and wages, for the employers know fully well they could not file complaints because of their immigration status.

me and put me in a jail. I contacted my friends who gave 1200 Ringgits to get me out.”

⁷² A refugee stated he does not feel safe because he is always afraid of raids by the police or Rela. They are always prepared to run to the roof or football ground where they stay all night until the raid is over. He is afraid of the police who would stop him on the street and ask for money so as not to be arrested.

(g) Fear of being deported to Burma

They are also fearful of being deported and sent back to Burma, many of them saying they will be imprisoned for life or they will die if forced to return. These are their statements:

*There would be no hope for me if I were forced to return.*⁷³

*If I was forced to go back to Myanmar, I fear I would be arrested because I left Myanmar despite an order telling me not to do so. If this happened, I could not take care of my baby. My first child is now five years old and he is still living with my parents.*⁷⁴

*I have no hope. My health is not improving. I cannot work. It doesn't matter if I live or die, it's just the same. If I am sent back to Burma, I am sure I will die.*⁷⁵

*If I could not be resettled, I would rather stay in Malaysia than go back to Burma. If I am forced to return to Burma, I will be jailed for life.*⁷⁶

*If I am forced to go back to Burma, I will not go back. I will surely die there.*⁷⁷

⁷³ RA-1

⁷⁴ MN-1

⁷⁵ CG-1

⁷⁶ CG-2

⁷⁷ CG-3

ISSUES OF CONCERN AND RECOMMENDED ACTIONS

The third objective of this fact-finding mission is to bring attention to the situation of the Chin refugees in Malaysia so that various agencies and organizations can take appropriate action.

Following are several **issues of concern** we have identified in the course of our fact-finding investigation:

1. Treatment by police and authorities; risk of detention and *refoulement*

A large number of Chins in Malaysia who are unable to register with the UNHCR face risk of detention and *refoulement* because Malaysia has not signed the Refugee Convention and amending protocol. As of 11 March 2006, more than 13,000 Chin refugees were waiting to be registered.

Refugees informed us of unjust and unfair treatment by the police. One of their major complaints is extortion by the police under threat of arrest. Rela, the civilian volunteer group, also conducts raids adding to the fear and anxiety of the refugees. Some have died while running away from the police.

2. Health care, nutrition and living conditions

Refugees have very limited access to medical care. Living conditions are unsanitary and unsafe, and nutritional needs are not being adequately met. The UNHCR has taken positive steps in negotiating with the Malaysian government to allow recognized refugees to avail of medical care in public hospitals and to pay 50% of the foreigners' rate, but this is still considered prohibitive because refugees have no stable source of income.

3. Education for children

Refugee children have no access to formal education within the public school system. The Chin community addresses this need through informal education provided by the Chin Students' Organization (CSO) but this is not sufficient, given the CSO's very limited finances and resources.

4. Employment

The Chin refugees meet the need for workers in Malaysia, particularly in the construction industry, because a number of them have been able to work in construction sites. Women are also able to find employment in restaurants. However, because they cannot secure work permits, they are subject to exploitation in pay, working hours and other terms of employment. They cannot file complaints at the risk of being arrested themselves because they are considered illegal immigrants.

5. Women

Women are at risk of sexual violence and abuse. Again, because they have no legal permit to stay in Malaysia, they cannot file complaints and seek redress.

Following are our **recommendations** to address these issues:

1. Recommendations for NGOs within Malaysia

We recommend the creation of an NGO dedicated to refugee issues which could be a forum for NGOs working on refugee protection and assistance issues to exchange information and ideas and formulate strategy. It could also act as a joint platform for lobbying the Malaysian Government.

Through lobbying, NGOs could exert pressure upon the Malaysian Government and local authorities to take steps in protecting refugee rights. They can also come together and set up mechanisms to further strengthen and coordinate efforts in providing for basic needs of refugees, including food and health care.

They could also work to increase capacity for providing coordinated legal assistance to refugees in case of arrest and detention and within UNHCR's RSD process. NGOs could also develop public information programs to make Malaysian citizens aware of the plight of refugees and become more sympathetic to them.

2. Recommendations for the Malaysian Government

A major step is for the Malaysian Government to sign the Refugee Convention and amending protocol, so that necessary mechanisms can be set in place for the protection of refugees.

There is also a need for local legislation and enforcement mechanisms to protect refugee rights according to international standards. Priority must be given to the protection of children as required by the Convention on the Rights of the Child to which Malaysia is a signatory. Other measures must be taken to protect refugees from extortion and bribery by the police, exploitative terms and conditions of work, and sexual abuse and violence.

3. Recommendations for UNHCR

We recommend improvements in the UNHCR's outreach and protection policies so refugees will better understand the RSD procedures followed in their cases, and their general position in Malaysia so that they can make informed decisions about their cases. We also recommend that the UNHCR step up mobile registration for the 13,000 or so still unregistered Chin refugees. We

also recommend that UNHCR improve monitoring of detention centres and make representations for release of Burmese refugees.

4. Recommendations for the regional and international agencies and organizations concerned with human rights

International and regional bodies must engage in a campaign to pressure the Malaysian Government to sign the refugee convention and amending protocol. They can also push for the formulation of local legislation for protection of refugee rights.

International and regional bodies can also extend aid to the refugees through local NGOs to meet basic needs for food, health care and education.