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**SPECIFIC GROUPS AND INDIVIDUALS:
MASS EXODUSES AND DISPLACED PERSONS**

Written statement* submitted by Asian Legal Resource Centre (ALRC), a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 January 2003]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

IDPs in Myanmar and forced repatriation from Thailand

1. In a written statement to the fifty-eighth session of the Commission on Human Rights (E/CN.4/2002/NGO/85), the Asian Legal Resource Centre raised concerns at the lack of security for millions of people trying to survive as internally displaced persons (IDPs) in Asia. To illustrate, the Asian Legal Resource Centre now draws the attention of the Commission to the massive internal displacement in Myanmar, and concomitant policy of forced repatriation of asylum seekers by Thailand.
2. The Asian Legal Resource Centre has for a number of years made written statements to the Commission on the widespread and chronic food insecurity visited on Myanmar as a consequence of relentless human rights violations either perpetrated directly by the military regime or arising due to its rule. Those in Myanmar who suffer the greatest hunger, and insecurity in every aspect of their lives, are the internally displaced.
3. Internal displacement in Myanmar is the result of over fifty years of conflict, insecurity and militarization. It is a deep and long-term crisis exacerbated by the hardening of both anti-refugee sentiment and policies in neighbouring countries, notably Thailand and Bangladesh, during recent years. In its separate submission on food security in Myanmar, the Asian Legal Resource Centre has noted the plight of hundreds of thousands of refugees forcibly repatriated from Bangladesh. In this statement it also considers those seeking refuge in Thailand.
4. Current reliable estimates put the number of internally displaced in Myanmar at 633,000. This figure is based upon verifiable data; the true number may be much higher. As pointed out by the Asian Legal Resource Centre in its previous written statement on IDPs, this lack of accurate data on numbers, locations and circumstances of the internally displaced is typical of IDP crises everywhere. In Myanmar, the internally displaced are known to have come from over 2500 villages that have been deserted, and usually partly or totally destroyed, by Myanmar armed forces operations of recent years. The circumstances of internal displacement differ, but broadly speaking people may be classed as residing in
 - a. Forced relocation sites established by the armed forces or other armed groups under ceasefire arrangements.
 - b. Consolidated villages, where the population has been required to move from a wide geographic area into a compact one. The number of people in these first two classes is estimated to be 365,000.
 - c. Outside of officially designated areas, including in free-fire zones where insurgent groups persist, and usually in remote rural and jungle locations. Many of the people in this category may have earlier moved to relocation sites designated by the Myanmar armed forces or other armed groups, but have found life untenable and subsequently fled. This

number is estimated to be 268,000. Others still, not accounted for in this figure, flee to the outskirts of urban areas where they try to survive in menial day to day occupations.

5. Numerous reports have indicated that virtually all IDPs are victims of destruction of property, loss of food and land, and a lack of health care and education. Many have lost family members and themselves suffered assaults, including rapes, at the hands of the Myanmar armed forces. Those subsisting under the control of armed groups are typically obliged to pay excessive taxes, engage in forced labour and otherwise meet all the demands placed upon them. Outside these areas they face direct threats to their lives and property by various armed groups. All of these widespread human rights violations have been brought to the attention of the Commission over a number of years, through the efforts of numerous non-governmental organizations, and the statements of successive Special Rapporteurs on the situation of human rights in Myanmar.
6. The Asian Legal Resource Centre, however, has become particularly concerned by the tendency of neighbouring countries to forcibly repatriate persons crossing the border from Myanmar, in utter disregard to the circumstances from which they have fled, and in violation of international legal principles on forcible repatriation. In its written statement on extrajudicial killings of migrant workers and impunity in Thailand to the fifty-ninth session of the Commission, the Asian Legal Resource Centre has noted a growing tendency by the authorities in Thailand to treat all people arriving from Myanmar as "illegal migrants". With already around 140,000 persons from Myanmar languishing in refugee camps that were first established in 1984, and with perhaps at least a million more elsewhere within its borders, it is understandable that the Government of Thailand is reluctant to simply open its doors to all-comers. Notwithstanding, there have been numerous flagrant instances of the Thai army forcing small numbers of genuine refugees back into conditions of extreme danger.
7. In one illustrative case recently brought to the attention of the Asian Legal Resource Centre, 63 persons who attempted to gain sanctuary in Thailand during late 2001 were forcibly repatriated by troops of the Thai Ninth Infantry Division. The group--comprising 15 families and including many children and the elderly--had fled from a forced relocation site. They reportedly had at first tried to eke out a living in the jungle, but were located by Myanmar army troops and were forced to flee again after one of their members was shot. An elderly woman died along the way, and many others were seriously ill and chronically malnourished on their arrival at the border--a fact admitted to by the commander of the Ninth Infantry Division when indicating that he had permitted the group to stay and receive medical assistance for two weeks. Presumably the commander felt this an adequate humanitarian gesture towards starving and frightened children, after which they were forcibly sent back into Myanmar. The commander rejected the group's right to asylum on the grounds that--in accordance with strict policy--it was not actually fleeing from fighting. The group was taken by truck, without the presence of representatives of the High Commissioner for Refugees or other independent agencies, and deposited in another equally insecure location on the Myanmar side of the border. In early January 2002, some members of the group are believed to have again desperately tried to enter Thailand, this time to be refused entry outright by the

Ninth Infantry Division. The group has since scattered into the jungle and has been lost to the outside world.

8. The above account is supported by numerous other documented cases indicating remarkably similar series of events, in total involving hundreds if not thousands of people over the last few years. The Ninth Infantry Division has in particular been implicated in many of these incidents, and its commander has not been afraid to voice his contempt for those coming as refugees, nor express his willingness to send them back by force at every available opportunity and without any outside involvement. The Asian Legal Resource Centre is also extremely concerned by an as yet unconfirmed report that 55 men, consisting of 19 former members of an armed group and 36 civilians, have been disappeared by the Ninth Infantry Division. It is similarly concerned by recent credible reports of forced repatriation of political opponents to the military regime where at least 15 of those sent back have been disappeared by the Myanmar authorities, and are believed to have been summarily executed.
9. Concerned by the dual crisis of internal displacement in Myanmar and mass migration into Thailand, the Asian Legal Resource Centre calls upon the Commission to
 - a. Demand that the Government of Myanmar at once cease engaging in the gamut of human rights abuses, primarily inflicted through its armed forces and affiliated armed groups, that are responsible for the massive internal displacement under its jurisdiction.
 - b. Insist that the Government of Thailand allow entry to those persons who have a well-founded fear of persecution, cease the arbitrary classification of all new arrivals as "illegal migrants", permit full access to humanitarian organizations, and immediately cease forced repatriations. Where evidence exists that persons taken into custody by the Thai armed forces have since gone missing, the Government of Thailand must also adequately account for these persons.
 - c. Recommend that the National Human Rights Commission of Thailand investigate and report in detail upon all cases of forced repatriation by the Thai army, and in particular the Ninth Infantry Division. This should include strong recommendations to the Government of Thailand on ending the practice and bringing the perpetrators of forced repatriations, including the commander of the Ninth Infantry Division, to account for any proven violations of this fundamental principle of international human rights law.
 - d. Urge both the governments of Thailand and Myanmar to allow full access to the High Commissioner for Refugees and other international agencies to operate according to their mandates and the principles of international law, in order to assess and make provision for this crisis. In this regard, both the population of internally displaced persons and those classed as 'temporary refugees' in Thailand must be collectively treated as persons trapped within a large-scale humanitarian crisis, and not merely be condemned as "illegal migrants" or would-be migrants.

- e. Bring all internally displaced persons worldwide under the full weight of international law, by amending the present Convention on Refugees to include reference to IDPs, or by drawing up an additional protocol or convention. Such an instrument is essential, as the current Guiding Principles on Internal Displacement are not binding, and the number of internally displaced is now reported to exceed the number of refugees globally by two to one.
