Contested Rights: Subjugation and Struggle among Burmese Forced Migrants in Exile

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CONTESTED RIGHTS: SUBJUGATION AND STRUGGLE AMONG BURMESE FORCED MIGRANTS IN EXILE.

A Thesis

by

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Thesis Abstract

**Thesis Title:** Contested Rights: Subjugation and Struggle among Burmese Forced Migrants in Exile.

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**Abstract**

Through a qualitative thematic analysis of sixty-four semi-structured interviews, this thesis focuses on the situation facing Burmese forced migrants in Thailand. In particular, I look at the ways in which forced migrants, their host government, and humanitarian actors negotiate the meaning of refugee status and what it means to be in a protracted space of transition. Findings for this study point to the ways in which the policies and norms of the Royal Thai Government and the offices of the UN High Commissioner for Refugees inadvertently interconnect to complicate the space for refugee protection. The paper also finds that refugee status can be gained or lost through interactions between asylum seekers and various parties on the Thai-Burma border. Certain actors within the refugee community and among local and humanitarian authorities play the role of gatekeepers, granting access to a variety of services and protection at a cost and excluding those who cannot pay the cost. Underlying this context of asylum are themes of extreme repression and resistance that have implications not only for the lives of those who seek refuge, but also for notions of sovereignty and citizenship.
I. Introduction

Refugees escaping from the camp without permission shall lose their refugee status and be de-registered. This has to be reported to DOPA [Department of Provincial Affairs] and MOI [Ministry of Interior].

—“Operation guidelines for controlling and overseeing refugees living in temporary shelters” Department of Provincial Affairs

I was arrested two times. I went to look for work outside the camp. Then on my way back I was arrested. [The authorities] asked for my ID and I said I didn’t have ID. Then they asked me to get out of the car. They asked us to take off all our clothes. Naked. And they put us in a small circle of barbwire. We were all put in a circle...And they put us in the sun. We were more than 20 people and we were very thirsty and hungry. There is only a little water but there is no food for us...Women were separate. You had to take off your clothes very fast otherwise you [would] get beaten.

—Swe Kabay, Mae La camp, July 30, 2008

Before we left Ei Tu Hta [internally displaced persons camp]; we discussed the situation with the camp committee, the [community based organization] committee and the [youth group] committee then we left the camp and came back home. Before we came back, a family that has eight children came and cried to us. The mother asked me that, “you will go and leave us here? You will leave me to die here?” She came with her two small children who looked up at me and cried. Both the mother and children also cried.

I told her, “Understand me. I know your problem and difficulty. Because, the house that you live in, there is nothing in it.” I encouraged her, “even though you did not have anything in your house, please try to live as best as you can.” I told her, “I could not help you with money or food. The only thing that I could help you with is that I have a mouth to speak out for you.” I told her, “the whole world will know about your situation when you are trouble now...Now the only thing that I can do for you is I can speak out for you.”

—Maw Kler, Community Based Organization staff, Mae Ra Ma Luang camp, August 2, 2008

In the words of Swe Kabay and Maw Kler, one finds an intensity of experience and emotion that has become central to the lives of Burmese forced migrants living in Thailand. Considered together with the governmental decree, shown above, they call for a greater understanding of law and its enforcement. These excerpts not only bring color

1 The name of this respondent and all other respondents in this document have been changed to pseudonyms to protect their identity.
to the black and white of the law, they demand explanation regarding the social meaning of the law and the effects it has on the lives of subjects interned in camp-like situations. They evoke such questions as: How can and why does the apprehension of a forced migrant breaking the rules sometimes result in such brutal treatment? How does resistance among such a marginalized group manifest itself? What are the ways in which such repressive behavior ripples through a community of forced migrants, affecting their social, political, and economic relations?

Though the stories shared above come from Karen refugees in Thailand, both of these testimonies are only too common in the narratives of refugees and asylum seekers throughout the world as they cope with lengthy stays in host societies (Ager 1999; Abusharaf 2005; Landau 2006; Fangen 2006). Such narratives are important for moving toward an understanding of how forced migrants experience border camps and urban asylum when these transitional spaces become semi-permanent. They also inform outsiders that beyond the enforcement of a law, there are various technologies authorities might employ to push forced migrants into illegality and there are ways forced migrants push back, negotiate their status, exert power over others, and assert their right to asylum. These narratives help to reveal that beyond staking claims on legal rights, migrants are often entangled in struggles over their right to exist and manage their own collective survival in the liminal spaces they inhabit as they leave their countries of origin and start a long process of exile. These spaces are locales where refugees face under extreme repression “the reorganizing [of] their collective survival and their moral sense of who they [are] to become” (Ong 2003: 53); where “individual identities and continuities…are
systematically neutralized...making for meaningless existence” (Daniel and Knudson 1995: 3).

In this paper, I look at the narratives of Burmese refugees in Thailand—one of the world’s most protracted refugee situations—and I analyze them for what they reveal about the experience of repression and the mobilization of subtle resistances in forced migrant communities. By highlighting the extent to which forced migrants experience subjugation into spaces of extreme marginality and also the ways in which these experiences foster particular sorts of struggle, I intend to show that their “transition” from country of origin to a place that promises safety is anything but a mere bridge between a traumatic and chaotic past and a new future. What takes place in these spaces goes far beyond discourses cemented in law and policy. Indeed, this transition is a social field in which one finds the distribution of collective agony and great social transformation. As such these spaces deserve due political, social, and cultural consideration. There must be greater attention to the construction of environments that foster such repressive marginalization of forced migrants. And practical lessons should be learned from migrants’ resistances to these pressures. Thus, this paper focuses on the nature of repression and resistance; it is an analysis of how the power of the law and policy is contorted as it reverberates through regional and local politics, humanitarian assistance, and forced migrant community dynamics.

In looking to this deeper conflict of rights and existence, these narratives complicate dominant notions of how forced migrants achieve or lose refugee status. In so doing, they call for a closer look at how status is determined beyond legal discourses.
Forced migrants like Swe Kabay face more than the threat of losing status as a refugee when authorities demand their identification cards, strip them naked, and surround them with barbed wire; they face threats to their lives and the destruction of their human dignity. Swe Kabay’s story reminds us that while the spaces of refugee life in countries of first asylum are transitional, they can also take on a haggard permanence, and because of a number of factors, they can be equally if not more brutal than the situation at home from which the forced migrant has fled. At the same time, Maw Kler’s narrative reflects a kind of resistance that speaks to an assertion of strength, intentional or unwitting, in the face of destructive efforts. Maw Kler’s words and actions may not have a lasting effect on the legal status determination of forced migrants on the Thai-Burma2 border, but they represent a literal and metaphorical confrontation to the forces that seek to exclude Burmese in Thailand from basic human rights.

As one might gather from Maw Kler’s narrative, such spaces can also be tremendously influential in shaping the self and the worldview of the forced migrant, especially those who spend much of their adolescence in “transition” waiting in border camps or urban areas for a more permanent solution to their exile. In addition to a promise of struggle, Maw Kler’s words also signify a kind of power. She is a gatekeeper that has guaranteed a vulnerable deportee the advocacy services that she has to offer. In so doing, Maw Kler effectively grants access to some benefits over which at that moment she has authority. Taking these dynamics into consideration, these narratives demand

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2 While the official name of the country is Myanmar, the respondents in this study referred to it as Burma, thus I follow their usage. When I refer to Burmese in this paper, I intend that to mean all persons originally from Burma, regardless of their ethnic identity.
that we emphasize the totality of the problems and power-relations associated with semi-permanent marginalized transition.

I argue that the experiences of forced migrants in protracted situations must be thought of on two levels. On the first level, it is important to note the ways in which the policies of humanitarian agencies and host governments in countries of first asylum regarding refugees interconnect and contradict one another to complicate space for refugee protection. Despite the tenets of international law, humanitarian projects and local authorities both—though in different ways—work to move individuals in and out of legal categories that are supposed to be predicated less on an individual’s behavior in a country of first asylum than on that individual’s experiences in her or his country of origin. On the second level, I show that beyond these directives and policies, the interactions between forced migrants and those who seek to manage them suggest the operation of processes that have implications for how forced migrant communities develop and interact with others around them. As Turner (1995) and Fangen (2006) point out, such humiliating treatment can have long-term psychological and community-wide effects. Turner (1995) states that the continuation of traumatic experiences for individuals seeking asylum adds “to the experience of alienation and may significantly limit the opportunity for successful resettlement and return to the country of origin even if the political climate there changes” (p. 63).

I ground the first component of my argument in a conceptual discussion of legality, its social construction in the context of migration, and the ways in which migrants move in and out of legal spaces. For this section, I highlight the work of
numerous scholars, but primarily rely on a Foucauldian interpretation of power and Coutin’s (2000) analysis of migration and what she refers to as “spaces of non-existence.” Together these theoretical components provide a useful toolkit for understanding some of the ways that power operates in and around the law. The second level to my argument is informed in particular by the work of Agamben (1997, 1998), who writes of the extreme repression that takes place in concentration camps as well as refugee camps. Agamben’s work provides a useful model for understanding the implications of extreme marginalization. Yet, at the same time, I build on Agamben’s work by focusing on the agency of the camp inhabitant. I argue that in contexts of protracted transition, the extreme repression, the resistance to this repression, and other various coping mechanisms such as gatekeeping are intimately linked to the futures of refugees, wherever they find themselves. While expanding Agamben’s conception of the camp, I consider the contribution of James Scott (1986, 1990) and Foucault important for the framing of a discussion on resistance. As the reader will see, I use some aspects of Scott’s theories on hidden transcripts and public transcripts, but I attempt to move away from the linearity Scott applies to his analysis. I also rely on Corra and Willer’s (2002) writing on gatekeeping to articulate some of the ways in which individual acts of repression and coping connect to broader social and economic networks that work to define the forced migrant context.

After this introduction, I provide the conceptual basis for both aspects of my argument. I then explain my research methods for this paper, which were informed by the conceptual framework. Next, I give some background to the Thai-Burma context,
followed by the outlining of the ways in which interactions on the Thai-Burma border lead to a kind of permeability of legal categories. I then add to this my analysis of the deeper processes at work in the borderlands, sharing excerpts from the interviews I conducted with Karen and Karenni refugees there. As I conclude, I expand to consider the relevance of this study to the global phenomena of forced and voluntary migration.

II. Conceptual framework

Spatial relations: legality and illegality – visibility and invisibility

Foucault’s conception of power is important for building an interpretation of authority and subjects not bounded by linear flows of influence. This is useful for looking at the context of forced displacement as it helps us move away from a view in which refugees are solely the recipients of state power and the power of the international community’s policies. Considering refugees as passive dependents bypasses the complexities of how power, resistance, and domination operate on a variety of levels and in a multitude of directions. Rather than an image of straight-forward dominance, Foucault regards power as a span of relational forces that operate via “a multiplicity of discursive elements that can come into play in various strategies” (Foucault 1976, in Lemert 2004: 470). The product of these strategies is a history of select discourses that become dominant knowledges subverting other viewpoints, narratives, and versions of reality. The act of determining which aspects of knowledge and experience to privilege and which to silence is a process entangled in historical discursive struggle as every strategy corresponds to a number of alternative ones that over the years have strived to project different assertions of truth. “Truth,” writes Foucault, “is undoubtedly the sort of
error that cannot be refuted because it was hardened into an unalterable form in the long baking process of history” (Foucault 1977a: 144).

Importantly, the empowering of certain knowledges over others relates to their “institutional crystallization” through “state apparatus, in the formulation of the law, in the various social hegemonies” (Foucault 1981, in Weedon 1997: 110). On one level, then, forms of knowledge that become dominant over others are reproduced through legislation and state power, while on a deeper level, the adoption of particular knowledges into the social fabric influences the way individuals see and govern themselves. “The ‘distribution of power,’ and the ‘appropriations of knowledge,’” writes Foucault, “never represent only instantaneous slices taken from processes involving…a cumulative reinforcement of the strongest factor, or a reversal of relationship…Relations of power-knowledge are not static forms of distribution” (Foucault, 1976 in Lemert, 2004: 469). Rather these relations are dynamically shifting, fractured, and reproduced on the individual level forming a pervasive hegemonic set of social forces.

Power can be distributed and maintained via governmentality, Foucault’s interpretation of how private and public “policies, programs, codes, and practices…attempt to instill in citizen-subjects particular values” that lead them to, in a sense, govern themselves by being model citizens (Ong 2003: 6). A fundamental part of this theory deals with the proliferation of governing devices into every aspect of a person’s life. “Relations of power,” according to Foucault, “are interwoven with other kinds of relations (production, kinship, family, sexuality) for which they play at once a conditioning and a conditioned role” (Foucault 1977b: 142). Thus, an individual, led by a
set of morals, norms, and paradigms that are reproduced at multiple levels and in a range of sectors of society, comes to govern herself or himself in the ambition of being a model subject or citizen. Such forms of power can be so pervasive and controlling that they operate not only to influence the way an individual might act, but also the way an individual regards her or his body and the way this individual governs the actions of her or his body. Foucault (1979) discusses the operation of power on what he refers to as a biopolitical level of discipline. Such control over a person’s body—like governmentality—manifests itself through a variety of “methods of training the body in the form of habit, in behavior” (p.131). The influence of power-laden actors pushes others to conceptualize themselves and move and control their bodies in particular ways and according to set orders of relations.

Taking this Foucauldian perspective, it is possible to see the ways that various institutions and agencies work to mold the identities of refugees. Turner (2005) lays out some of the ways that humanitarian agencies impose a biopolitical power influence in refugee camps in Tanzania, regulating bodily health and nutrition. Ong (2003) highlights how humanitarian officials helped to instill certain values in refugees “transforming them into particular kinds of modern human beings (bound for Western liberal democracies)” (p. 52-53). On the level of discourse, Malik (2003) is interested in revealing the ways in which migrant women in Sudan are confined by the dominance of state/urban discourses on displacement over their lives and ways of identifying with their situation. It is also important to note that refugees are agents within the social fields of their context. This is not to stress that refugees’ agency represents a unified “resistance” pushing back against
the power of states and institutions. Instead, I apply Foucault’s interpretation of power to understanding the ways that refugees’ voices and perspectives struggle in a field of relations with the discourses of other power-laden actors, such as state authorities, local communities, or humanitarian officials, resulting in a diversity of meanings behind what it means to be a refugee. As these meanings confront one other in a social field where control over resources enables humanitarian actors and state actors to have louder voices, actions and discourses that forced migrants themselves may associate with their identities and positions can be interpreted and understood as problematic or as transgressions. This is to say that states and other resource-bearing actors have the power to categorize and define refugees, and thereby influence both the way they define themselves and the way the world views them.

So central to concretizing Foucault’s notion of power, a focus on law and its uses reveals a tool used by states and individuals to delineate boundaries and to marginalize. Law is intimately tied to the expression of sovereignty and a state’s ability to use brute force and to transgress its own laws to uphold that sovereignty. Despite its utterly transnational nature, immigration and its management “is a state-making project” (Sterrett 2004: 356) and simultaneously a breakdown of the formal state/territory/citizenship relationship. It is law that creates the protected category of refugees and the unprotected category of undocumented, “illegal” migrants. It is also law that facilitates and makes possible the movement from the former to the latter and vice versa. By looking at the legal construction of the concepts “refugee” and “illegal alien,” it is
possible to develop a further understanding of exactly how law delineates between legal and illegal forms of migration that work to define notions of exclusion and inclusion.

For refugees, international law has created a category of persons worthy of citizen-like protection outside of their own state territory. In this case, international law essentially safeguards the rights and argues on behalf of individuals who:

…owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it (UNHCR 1951: 16).

Refugee law is national and transnational at the same time. Originating in the 1951 Geneva Convention Relating to the Status of Refugees and the convention’s 1967 Protocol that removed geographic and temporal boundaries, the United Nations, regional bodies such as the Organization of African Unity, and national governments have worked to generate a series of laws and norms aimed at protecting and regulating those forced to migrate. For individual states to adopt the 1951 Convention and the Protocol is for them to adopt it into their domestic laws regarding asylum. In addition to refugee law, protection of forced migrants implicates a number of international conventions that make up international human rights law, including the ICCPR (International Convention for Civil and Political Rights), the ICESCR (International Covenant on Economic, Social, and Cultural Rights), and the CRC (Convention on the Rights of the Child) to name a

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few. Helton (1994) defines protection for refugees in practical terms suggesting that UNHCR traditionally considers it to mean “life-saving interventions, fair treatment upon reception, compliance with essential humanitarian standards and non-return to a place of prospective persecution (non-refoulement)” (pp. 1-2) (see also Helton 2003). Often these actions may include registration of asylum seekers and refugee status determination, monitoring the rights of refugees, and occasionally intervening with stakeholders who violate the rights of refugees. Such tactics are important to take note of for what they say about the apparent correlation between protection, governing, and management. Furthermore, an individual usually must prove his or her status as a refugee; that is as a forced migrant and not a voluntary migrant. The failure to provide such proof can result in a person being considered illegal.

The category of “refugee” contrasts sharply with that of “illegal migrant.” The primary legal difference is embedded in the assumption that while refugees have lost the protection of their state and are thus in need of international protection, voluntary migrants who cross borders illegally have of their own accord given up the protection of their state to commit an illegal act. Their entry is illegal and their presence in the country to which they have migrated is illegal. Thus they inhabit spaces of illegality. Scholars have been quick to point out that such illegality only exists because of the nature of immigration laws and the construction of national boundaries that determine belonging (Coutin 2000; Sterrett 2004; Inda 2006). As such “illegality…is a social relation that is fundamentally inseparable from citizenship” (De Genova 2002: 422). This is to say that

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citizenship and an illegal presence in a territory define each other as seemingly mutually exclusive categories. To be in one is not to be in the other. On the one hand, citizenship is the restoration of legality and the right to be situated in a particular place. On the other hand, to be regarded as illegal is to be without either the rights that states afford citizens or the rights that international law grants migrants. Central to the binary of citizen and migrant is the belief that individuals’ rights are situated territorially; that the only way for individuals who are illegal to reclaim their rights as citizens is to return to their own country.

Beyond the formal realm of law, it is also important to look at “how, where, and with what effect law is produced in and through commonplace social interactions” (Ewick and Silbey 1998: 20). By focusing on this more informal side of the production of law, Ewick and Silbey reveal the ways in which analyzing what takes place outside the official realms of law is just as much part of developing an understanding of legality as an analysis of court proceedings is. They write, “Legality also operates through social life as persons and groups deliberately interpret and invoke law’s language, authority and procedures to organize their lives and manage their relationships” (ibid). The enforcement and interpretation of laws as well as individual assessments of legality and how it operates in society point us to an understanding that goes deeper than the categorical distinctions of “refugee and illegal immigrant”; they point to how micro-level interactions are implicated in the social construction of such categories and their reproduction on local levels. To incorporate this into the discussion is to take a look at the
way law can play a marginalizing role, in part through its own constructive nature, and in part via its manipulation and reproduction on an individual, informal, level.

Like “refugee,” the concepts of “illegal alien” and “illegal migration” derive from the political and subsequent legal construction of the term. Often additions to these legal constructs follow struggles with anti-immigrant or nativist movements (Parea 1996). They can also come as a result of particular economic agreements or phases. Different periods of legislation that regulate and restrict immigration establish a body of policies that dictate borders, entry and exit practices, and codes for dealing with illegal populations (Inda 2006). In Thailand, there has been a long development of immigration laws that have both restricted and created room for movement for migrant workers who identify as such (Muntarbhorn 2004). In addition to the passage of laws that delineate between legality and illegality, practices for accepting undocumented migrants and for rejecting or expelling them develop into norms. Inda (2006) demonstrates the way in which the evolution of legislation and norms constructing undocumented migrants as illegal comes hand in hand with the bolstering of an anti-undocumented migration industry of surveillance, detention, regulation, surveying, preventing, and deportation.

As a result of the social, political, and legal construction of “illegality” in a given society, one finds what Coutin (2000) refers to as “spaces of non-existence,” (pp. 27-47) in which migrants experience “the erasure of legal personhood—a space of forced invisibility, exclusion, subjugation, and repression” (De Genova 2002: 427). To Coutin (2000), it is through the crossing of borders illegally that the “disjuncture between physical and legal presence arises...This disjuncture renders unauthorized immigrants
legally absent” (p. 29). In this way, illegality becomes part of a lived experience. As Ewick and Silbey (1998) write, “legality is an emergent feature of social relations rather than an external apparatus acting upon social life” (p. 17).

Coutin (2000) elaborates on the notion of “spaces of nonexistence” writing, “Undocumented immigrants are also positioned outside the law in that many of their daily practices must be clandestine…The field of illegality that surrounds the undocumented renders such commonplace actions as working, traveling, and driving illicit” (p. 33). Thus whole lives become nonexistent and the very nature of non-existence and illegality are reproduced by daily actions and interactions.

Coutin asserts that since immigrant legislation limits “reality to that which can be documented” (30), undocumented migrants can live in a country for years but cannot prove this in a court of law given that their clandestine existence in this country necessitated a lack of documented proof of their residence and employment. Though actual places where undocumented migrants can be found correspond to the real places of everyday social life; migrants are apparently only rendered nonexistent by the laws that prohibit them from claiming an official, legitimate existence (Coutin 2000: 34). Being in a space of nonexistence facilitates the rendering of undocumented migrants as “deportable,” and, as nonexistence comes with no rights or protections, legitimates the use of violence against them (De Genova 2002; Coutin 2000). Being forced by political and legal constructions into such spaces means that migrants are often left with no recourse outside of pursuing subsistence illegitimately and existing in a realm of informal economies (see for example Jacobsen 2005; Brees 2008). As Hannah Arendt writes,
“The stateless person, without right to residence and without the right to work, ha[s] of course constantly to transgress the law” (Arendt, 1951: 286).

That Coutin refers to these spaces of non-existence primarily in terms of “illegal” or undocumented immigrants should not indicate a rigidity of membership in such a category. Rather my point is to show that forced migrants can move in and out of being illegal or legal. Given the ways in which the laws regarding migrant legality are often constructed, actions that forced migrants might interpret as natural to their survival or as central to how they define what it means to be a refugee can, in fact, be actions that move them into spaces of illegality, and thus, non-existence. The fact that the decision-making power over the status of forced migrants is often in the hands of individuals (such as those who act as gatekeepers on any one of multiple levels) only exacerbates the extent to which interpretations of discursive struggles are at the heart of debates over legality and illegality. Spaces of non-existence, then, are inhabited not only by those who migrate voluntarily, but also by those whom authorities—state, humanitarian, and even leadership within refugee communities—deem unworthy of protected status. Later in the paper, I will show through my analysis that this is the case on the Thai-Burma border.

Sovereignty, dehumanization, and assertions of humanity

While Foucault and Coutin help establish a framework for regarding the distribution of power in the context of the law and migration, Agamben concentrates on the depth of state control in its expression of sovereignty. He asserts that homo sacer—literally a “life that cannot be sacrificed and yet may be killed” (1998: 82)—reflects those in a society kept on or pushed to the margins in an effort to help define the boundaries of
the state. It is the exclusion of the banned that helps establish a clearer understanding of that which is included in the space of the state. The presence of state power is extreme in these zones of exclusion to where the state has banished the exile so as to render meaningless her or his individual agency. Like Foucault, Agamben recognizes the biopolitical nature of power’s application onto marginalized populations; one aspect of the totalitarian nature of control. But there does not seem to be the same multiplicity of discursive forces at play in this case. I choose to rely on both Agamben and Foucault in my consideration of the presence of repressive forces in the lives of forced migrants on the Thai-Burma border. For while Foucault gives us a way of thinking about alternative sites and dynamics of power production and reproduction, it is Agamben who best articulates the extremities of sovereignty; the space in which interactions between Burmese refugees and their authorities take place.

The actions of authorities work to structure what Agamben (1998) calls “bare life,” that is, the inclusion of the exclusion of the exile in the political order and the development of the meaning of sovereignty for a state. Hansen and Stepputat (2005) write, “This figure, the outlaw, the Friedlos, or the convict was historically the symbol of the outside upon whose body and life the boundaries of the political community could be built” (p. 17). This process of expulsion calls for reducing homo sacer to her or his bare life, referring to the most basic elements of human existence that become exposed to a state’s biopolitical control in the process of exclusion. Agamben (1998) writes:

…the radical transformation of politics into the realm of bare life (that is, into a camp) legitimated and necessitated total domination. Only because politics in our age had been entirely transformed into biopolitics was it possible for politics to be constituted as totalitarian politics to a degree hitherto unknown (p. 120)
While Agamben proves useful for understanding the objective expulsion of Burmese forced migrants to the peripheries of Thai society, his conceptual framework does not afford space for the consideration of how forced migrants exert agency in this context. This may be because his interest lies specifically with what takes place in zones of exclusion and he does not recognize that such zones do not exist in a static way. While it may be true that refugees are reduced to agent-less positions of *bare life* in certain interactions with their authorities, these interactions do not make up the entirety of refugees’ lives in countries of first asylum. The findings of this study show that the subjugation of refugees to experiences of *bare life* does take place, but that they are subject to particular intersections of time and space and are embodied by the interactions of refugees and the various authorities that regulate them.

Turner (2005) recognizes the value of Agamben’s *homo sacer* for discussions of forced migrant existence in camp contexts, but also asserts that this “is only part of the story” (p. 313). For Turner, “sovereignty is complex and multilayered in the camp as are the means of exercising it” (2005: 314). Turner argues that refugees as well as authorities have the capacity to act as sovereigns within certain spaces, specifically those places that are beyond the gaze of local and international authorities. Kibreab (2004) challenges the omnipotence of exile, but does so through an analysis of ways that forced migrants “cheat” local authorities, humanitarian relief agencies, and particularly UNHCR. Relying on case studies from the Horn of Africa, Kibreab claims that attempts to manipulate authorities to improve one’s standard of living is not a function of social disarray or dysfunction, but rather that “the act of cheating was a co-ordinated and co-operative
effort…Without this, they would not have been able to cheat powerful organizations such as UNHCR and NGOs” (2004: 12). Jacobsen (2005) also mentions in detail the various economic strategies forced migrants may employ in order to cope with their situation, whether they are living in camps or in urban or rural places outside camps.

This collective effort towards survival reflects some of the ways in which refugees can and do exert agency in and around the very spaces in which they are controlled, regulated, and pushed to exclusion. The exhibition of agency here must be regarded as a form of resistance when discussed in the context of the camp’s exclusion from society, a process that Agamben asserts involves a repression so extreme as to render agency meaningless and non-existent. Locating the ways in which this expression of agency impacts the lives of other refugees and bears potential to have a lasting effect on individuals and groups builds on Agamben’s position. It also provides us with an analytical framework for assessing the long-term effects of the repression of refugees in transitional spaces.

While Agamben leaves no space for the consideration of agency or resistance, Foucault and Scott outline the ways in which the zones of exclusion and extreme sovereignty are in fact riddled with holes and are not always applied in any sort of even-handed way. As Foucault (1991) writes, “every power relations implies at least in potentia, a strategy of struggle” (p. 225), one may look toward reactions among forced migrants in Thailand that derive from their protest of efforts to dehumanize them.

The concept of Scott’s hidden transcript (1990) is one that provides a useful frame for considering certain narratives and actions among refugees as sites of struggle against
dominant narratives of illegality. It would be here that one might expect to find efforts to create new, subaltern narratives that are power-laden and that challenge the imposition of categories by authorities upon the bodies of forced migrants. Scott has developed a complex understanding of how elites implement their domination and develop a rationalizing discourse for it as well as how oppressed groups move from experiencing abuse and humiliation to formulating open or covert discursive resistance.

*Public transcripts* refer to the discourse found in the interactions between subordinates and those who hold power over them (Scott 1990: 2), while *hidden transcripts* are essentially the discourses one finds when subordinates are out of earshot of those who dominate them (ibid: 4). Hidden transcripts are not merely personal reactions to the repression of the powerful, but come into existence specifically when these personal beliefs are expressed and shared by others in the same position. The development of this discourse is, Scott insists, a necessary piece of resistance, which “originates not simply from material appropriation but from the pattern of personal humiliations that characterize that exploitation” (110). Thus, Scott locates valuable resistance, or at least the seeds of a more vocal resistance in the narrative of subordinate groups as well as in the micro-level interactions between subordinates and those who control them.

On the creation of hidden transcripts, Scott writes:

Within this restricted social circle the subordinate is afforded a partial refuge from the humiliations of domination, and it is from this circle that the audience (one might say “the public”) for the hidden transcript is drawn. Suffering from the same humiliations or, worse, subject to the same terms of subordination, they have a shared interest in jointly creating a discourse of dignity, of negation, and of justice (1990: 114).
The hidden transcript, then, is not merely a tool of resisting power, but it also reflects the establishment of an alternative historical narrative by which oppressed groups can reclaim their humanity and—to add a layer to Agamben’s approach—their rights over bodily control.

By their nature, the creation of hidden transcripts corresponds to the informal establishment of relatively secure spaces and narratives. While public transcripts inhabit spaces where dominating groups or individuals are present or are capable of surveillance, hidden transcripts can be found in spots outside the reach of the elites. However, public transcripts are not merely rationalizations elites tell to one another in private in contrast to the hidden transcripts’ reclamation of dignity and production of counterarguments to hegemonic discourses. The interactive nature of the public transcript means that it can specifically be found in “public assemblies of subordinates summoned by elites,” and thus this is also where they are reproduced (Scott 1990: 121). To remain out of view of authorities, Scott asserts that hidden transcripts have a social location and thus site of reproduction “par excellence in the unauthorized and unmonitored secret assemblies of subordinates” (ibid).

The interplay between public and hidden transcripts is not always mutually exclusive, however. Public and hidden transcripts can overlap, contrary to what Scott asserts. This is to suggest that neither the discourses of the elite nor of those transformed into subaltern identities can be bound spatially into only those public and secret social arenas. Nor can they be restricted to particular actors who fit the prescribed roles of “elite” and “subordinate.” Rather these discourses emerge in bits and pieces in various
contexts and for numerous purposes, though Scott does not make such a break with a
dichotomous view.

Moreover, neither the hidden nor the public transcript can be produced in entirety
simply because they do not exist as complete, discrete forms. Instead they merely refer
to fractured collections of narratives that are reproduced and altered in iterations as actors
share their elements in varying social locations to audiences of differing levels of power.
Foucault supports this idea:

There is not, on the one side, a discourse of power and opposite it, another discourse that
runs counter to it. Discourses are tactical elements or blocks operating the field of force
relations; there can exist different and even contradictory discourses within the same

This is to say that one audience with a certain amount of power might be privy to a
particular version of the hidden transcript narrative that itself is a unique construction of
the time, space, and actors present. Certain individuals can emerge as being both power
brokers and oppressed. As such they entertain and reproduce versions of the public and
hidden transcripts, depending on whom they interact with. Cornwall (2004) calls for us
to think “of spaces less as concrete locales than as sites that are constitutive as well as
expressive of power relations” as this “focuses attention on questions of agency: on
strategies and tactics (de Certeau 1984) and on ‘spatial practices’; and on the lived
experience of particular spaces” (2004: 83). This suggests that there are multiple levels
to Scott’s hidden transcript and that it does not interact smoothly with its counterpart, the
public transcript. Instead, different versions of these narratives exist for different
audiences and different tellers specifically because of the varied nature of power among
the many actors who might be privy to such a telling.
Relying on this assemblage of Scott, Foucault, and Aamben, I suggest here that Burmese forced migrants on the Thai-Burma border actively engage in a discursive struggle over the right to belong and the right to be treated as a human with rights and dignity. I would argue that Agamben’s notion of *homo sacer* is more of an aspiration in the eyes of authorities who seek to exclude migrants from the social realm that is part of the “included” space of the state. Official authorities are not the only power brokers here; actors among the subordinate population who gain control over cultural, linguistic, and material resources mediate the relations of the official authorities and others among the marginalized population. As much as authorities may seek to enforce the exclusion of forced migrants to particular spaces in which they can be more easily controlled and removed from society, forced migrants can only be partially regulated as they assert their own sovereign spaces and try to subvert Thailand’s boundaries of sovereignty that are imposed upon them.

Beyond the symbolism of struggle here, it is also important to consider how such moments of struggle and exertions of power fit within a broader pattern of gatekeeping; a dynamic that speaks to the development of social, economic, and political relationships in this context. Cora and Willer (2002) write of the gatekeeper-client relationship in which gatekeepers grant access to benefits they do not own, but over which they control membership at certain times and for particular individuals (p. 182). They are switchmen “who turn on and off the access to valued things” (ibid: 186) and who benefit in terms of profit, status, and their ongoing position as a gatekeeper. Gatekeeping is intimately tied in with the maintenance of structures of inequality. On a basic level, as Cora and Willer
point out, the more profit gatekeepers make off of their clients, the greater the economic inequality in their relationship (2002: 204). On a broader scale, gatekeepers play a role in maintaining particular sets of social and political relations as their own status as a power-broker depends upon the continuation of the status quo. More specifically, if gatekeepers grant all interested parties access to a set of valued benefits, the networks of power that enable such gatekeeping will shift dramatically. The benefit itself will decrease in its value with the decrease in demand that comes with easier access. Also, often times a gatekeeper loses status if they fail to regulate access to benefits in a way that adheres to the dominant power structure. Thus, a gatekeeper’s access to profits or a more powerful status depends on his or her ability to successfully gatekeep.

By considering the context of forced migration communities, humanitarian actors, and the security forces of the host population as a site for multi-faceted gatekeeping, I attempt to add another layer to a discussion about forced migrant agency, repression, and the local and transnational forces at play. On the first level, those in charge of conferring refugee status and delivering food and non-food assistance to forced migrants are gatekeepers to the extent they regulate the flow of membership to the legally protected community of refugees. For those in charge of status determination, they may grant refugee status to a forced migrant in exchange for an individual’s guarantee that they fit international refugee criteria, for a forced migrant’s tacit promise to behave appropriately (to not commit crimes, to be a model member of a community), or for merely showing up to the adjudication proceedings. For those who distribute assistance, the exchange is more subtle. Forced migrants serve as necessary statistics to help humanitarian and protection
agencies receive continued support from donors (they are the beneficiaries donors fund NGOs to help). Forced migrants also may receive humanitarian assistance as long as they remain within certain behavioral parameters; not acting out too violently or asserting themselves too politically.

On a second level, I look at local authorities as gatekeepers who take bribes to grant forced migrants access to mobility, work, subsistence materials, and the continuation of their protection from abuse. The fees for these benefits change constantly and sometimes authorities deny access completely as they ensure that forced migrants feel their subordinancy. Part of gatekeeping in this context consists of the active maintenance of the status quo and the constant regulation of the forced migrant population. By occasionally inflicting such brutal treatment, local security officials can guarantee that the forced migrant community will not seek access to benefits that will lead to the upheaval of the current set of power relations; they will merely seek access to a life without such repression.

On a third level, I look at gatekeepers within the forced migrant community as examples of empowered actors operating in an extremely repressive environment. Attention to their role helps illustrate the power dynamics of a forced migrant population. It facilitates an understanding of how social and political relationships develop in displaced communities stuck in transitional spaces. And, importantly, it brings greater clarity to an analysis of how refugee status can be gained and lost. Forced migrants in positions of power can grant access to humanitarian assistance, knowledge of domestic and international refugee policy, coveted job opportunities inside and outside the camp,
and border camp residency. They can facilitate the learning of strategies of survival on the border, visibility to external actors who can advocate on a high level for a person’s status, and the gaining of political capital. Access to all of the above helps position a person to appear as a legitimate refugee, something that can be central to their recognition by UNHCR as a refugee. It also helps recognized refugees hang on to their refugee status in an environment where it is easy to lose it. The cost for this is rarely financial; rather individuals granted access to the community of forced migrants have to fit the profile of a community member. This could refer to having had experiences that justify their claim to being forced migrants as opposed to voluntary migrants, important for maintaining the outward appearance of being a community of forced migrants. Or it could mean that they fit the ethnic, religious, and political profile of the community. For those forced migrants that don’t fit the latter profile, they may find themselves outside the camp without access to humanitarian assistance or refugee status determination proceedings.

Severe repression, gatekeeping, and subtle resistance may be prevalent in all forced migration contexts, but they become systematized elements of life and community in protracted situations. The majority of the world’s refugees now fit under this growing category which spans thirty contexts (especially if one counts the number of Palestinian refugees, though they do not fit under the purview of UNHCR) (Loescher et al. 2008). “Protracted” refers to a refugee situation with 25,000 people or more that has continued for more than five years without signs of conclusion (ibid). A range of factors common to protracted refugee situations exerts a strain on the ability of the international refugee
regime to provide protection. These include donor fatigue, national and regional security concerns, residual caseloads, intra refugee community conflicts, conflicts with the host-country on the local and national levels, and a number of other issues related to the effects of long-term encampment, immobility, and isolation (Loescher et al. 2008). There is commonly tension between the host-country government and the protracted refugee population after many years of dealing with each other (Loescher and Milner 2005).

In addition to those factors mentioned above, part of what complicates UNHCR’s goal of protection in the context of protracted refugee situations is the fact that host-states and communities do not see the potential of a durable solution for the protracted population (Slaughter and Crisp 2008). This often causes host-countries to make attempts to stem the influx of more refugees into their territory. A process of negotiation must ensue between UNCHR and the host-country to grant some, if not all of the incoming asylum seekers the right to protection (ibid). All too often, by being in this position of negotiator, UNHCR finds itself agreeing to the exclusion of thousands of legitimate refugees who then live as undocumented migrants and are treated as being illegally in the host-country (see for example Loescher and Milner, 2008).\(^6\)

Because they drag out over many years, the warehoused encampment of refugees takes on a kind of normalcy. It becomes standard procedure to regard forced migrants as helpless dependents or as an unhealthy addition to society. The camps are in a way an ongoing reminder of that which does not belong in the host society. They are symbols of

\(^6\) Loescher and Milner (2008) explain that after negotiating with the Bangladeshi government, UNHCR was able to register approximately 21,000 Rohingya refugees and facilitate their entrance to camps. At the same time upwards of a quarter million additional Rohingya refugees receive no protection, even when they reside outside the walls of the camp (pp. 22-23).
non-citizenship. The tighter the regulations and controls on this population, the more responsibility local authorities have to enforce forced migrant immobility and lack of rights. The more normal such enforcement becomes, institutionalized patterns of abuse are increasingly sanctioned and go unnoticed by the international community. As protracted refugee situations take on an atmosphere of endlessness, highly restricted camp environments, such as those currently in Thailand, come to more closely resemble Agamben’s camps of exile, in which residents live with their bare life exposed and vulnerable to the control and abuse by local and international authorities.

But warehoused protracted refugee situations are not actually endless. And the fact that they do come to an end, through resettlement, repatriation, or less commonly, local integration, suggests that it is of paramount importance to understand the ways in which domination and resistance operate and effect the forced migrant population. Not only an issue of the lasting trauma stuck with forced migrants who are abused while in countries of first asylum (Turner 1995), the extreme exclusion of forced migrants has broader implications for the types of violence local authorities find themselves capable of and the amount of human rights violations the international community is willing to ignore. Such exclusion also has implications for the ways in which, through the dialectic of subjugation and resistance, forced migrants develop cognitive strategies to cope with oppression.

Approaching this study with this conceptual framework in mind, my methodology reflects a struggle to negotiate my own role in the exercising of power over forced migrant bodies and voices. As I continue into the next section of this paper, I use my
position as a researcher on the Thai-Burma border as an analytical frame to conceptualize the role of foreign aid workers and researchers in this context.

III. Methodological approach

Placing this theoretical discussion into the real context of a country of first asylum, I look at the ways in which power-laden interactions take place and are discussed among Burmese migrants in Thailand. In this study, I rely on key findings from fieldwork I conducted in 2008 in Thailand with Burmese forced migrants and those working to provide protection and assistance for them. During a two-month period, I interviewed eighty-five persons, including Lao Hmong refugees who are not included in this study. In this paper, I refer to semi-structured interviews with sixty-four Burmese individuals who range in age, gender, and ethnicity. Respondents ranged in age from 18 to 71 and belonged primarily to the Karen ethnic group, though there were some from the Rohingya, Shan, and Karenni groups. Of the number of interviews used in this study, I interviewed forty-seven persons inside border camps; fourteen in the urban areas of Thailand’s capital, Bangkok and Mae Sot, a thriving border town; and three who live in the rural province of Ratchaburi. I used a snowball method for contacting interviewees and I also relied on a number of local contacts to facilitate meetings. All but one interview required the assistance of an interpreter. On average the interviews lasted ninety minutes. All the names of respondents have been changed to pseudonyms, given the sensitive nature of the interviews.

I couple the tools and concepts of two modes of analysis—thematic and dialogic—to look at segments of the interview. I chose these pieces from the interview
because they adhere to common definitions of “narrative”: words spoken with “culturally meaningful and recognizable boundaries of a passage,” a “connected succession” related to temporal order, “causality, implicativeness, or thematic coherence” that shape speaker’s particular “telling” of actual events and interpretation of those events (Mishler 1995: 91). Riessman adds to this definition by highlighting that in narrative, “events perceived by the speaker as important are selected, organized, connected, and evaluated as meaningful for a particular audience” (2008: 3).

Thematic narrative analysis refers to a process of identifying the main points of speaker’s message, spoken and unspoken as well as the underlying assumptions that come with the telling of the story. Riessman (2008) considers a primary focus in thematic analysis to be on “what” is said, rather than ‘how,’ ‘to whom,’ or ‘for what purposes’” (pg. 53-54). The analyst’s concern lies with unpacking the content of a narrative to understand the meaning behind the speaker’s words rather than with why the speaker chose to tell the story in the way s/he did or how the story emerged out of a conversation co-constructed between the interviewer and the interviewee. The power of the interviewer and his or her role in shaping the narrative is missing from this form of analysis and Riessman points out that this causes thematic analysis to sometimes resemble “objectivist modes of analysis” (2003: 59). Thematic analysis makes use of the analyst’s theoretical approach and the analyst situates the text of the narrative in the broader socio-historical context that the analyst deems relevant to the story and the life of the speaker.
It is crucial to link my investigation with the themes evoked through my respondents’ narrative with an examination of how the respondents’ comments were part of a larger co-construction of a conversation between them, the interpreter, and me. For this reason, I recall Riessman’s above-mentioned definition of narrative and I interrogate my thematic inferences by questioning why respondents decided to share a particular story with me in the way that they did. Thus, the analysis I apply to my interviews is not simply thematic, but dialogic in a way that makes use of elements of a thematic analysis. By asserting that an understanding of the meaning behind my respondents’ words is contingent on an understanding of the inherent power difference between him and me, I acknowledge Riessman’s assertion that “form and meaning emerge between people in social and historical particularity, in a dialogic environment” (2003: 107, author’s emphasis). This is to say that claim-making and meaning making happen not just in the words of the respondent, but in our mutual co-construction of a narrative.

It is important to note that I conducted this fieldwork not only for academic research, but also for a human rights organization concerned with Thai policy toward Burmese refugees and asylum seekers. In this position, I acknowledge that while negotiating the “activist-scholar divide,” I constructed a particular kind of study that is a reflection of my tension in interests (Hale 2008). The human rights organization and its researchers should certainly be considered actors that are at least symbolically familiar to many Burmese along the Thai-Burma border. In any case, the assertion of my identity as a researcher concerned with human rights no doubt affected the quality of my interviews—it is fair to say that I heard narratives from my respondents I would not have
heard if I had introduced myself as somebody more concerned with another issue. On a fundamental level, my affiliation with this organization established a frame for my study: the target group for my interviews was “individuals that have experienced human rights violations in Thailand.” Rather than attempting to get a representative sample, I sought out exemplars, that is, individuals who could help illuminate the variety of human rights violations forced migrants experience on a regular basis in Thailand. As such I was able to build a wide base of knowledge of the diversity of repressive technologies at play in this context and the ways in which refugees articulated their experiences with those technologies. It is from this position that I analyze the nature of the repression that does exist. I do not make inferences about how widespread it is.

My role on the border also affected with whom I was able to meet. For example, I did not interview Thai authorities. Were I able to conduct such interviews, this paper would likely have a different focus. Thus, rather than looking at this as a biased study that only considers the opinions of refugees, I center the argument within the narratives of the latter and make that the analytical framework.

Beyond these considerations, it is important to reflect on where I was situated in the social and political context that I analyze in this paper. As mentioned above, I write about the various sorts of authorities engaged with status and boundary negotiations with Burmese refugees. Thus, it is necessary and useful to recognize that I was knowingly one of these authorities. Western human rights and humanitarian workers have tremendous power with any population of forced migrant, particularly those living on the margins. In part this power derives from our ability to make connections for the forced migrants, to
direct services their way, and to help facilitate their protection. Perhaps even greater than this, however, is the assumption of power that forced migrants may attribute to us; an assumption based on knowledge about where resources for forced migrants typically come from and based on the great interest many researchers over the years have shown in the lives of forced migrants. This interest has not been general, but rather has been particularly focused on tragedy, violence, and suffering. As I assert a kind of situated knowledge, I attempt to use my partial perspective to my advantage (Harraway, 1991). The power involved in my interactions with Burmese forced migrants should not only be considered in terms of how it may have guided the words of my respondents. It is important to consider how my presence and my interviews fit within the discursive environment of migrants’ lives and the context of forced migration in Thailand. This is to ask how my interviews fit within a particular set of relations and how the discourses interconnected with and configured by those relations privilege certain narratives over others. It is also to question how a sustained focus by foreigners on forced migrant suffering impacts notions of what it means to be a refugee. Thus, I try to contextualize the testimonies I heard as narratives mediated within a framework of repression, marginality, agency, and resistance. By doing this, I mean to turn my methodology and my role as interviewer into analyzable data.

Thinking of Scott’s hidden and public transcripts, I view interactions between forced migrants and human rights authorities as strategic, candid, and hidden on a certain level. I write candid and hidden in the sense that I was clearly privy to part of a collective hidden transcript generated in response to the repression of migrants by Thai authorities.
However, I was at the same time only given partial “public” stories tempered by my power over my respondents. I do not for a minute imagine that the testimony I heard from a respondent would be the same as the recounting the respondent would give to her or his family, close friends, or community. It was not only respondents that may have exercised caution, but interpreters too acted as filters to make sure I was hearing a narrative that I was allowed to hear. In at least one instance, I was able to detect this process of filtering after the interviews were transcribed. Consider the following excerpt from one of my interviews that was translated fully into English after the initial Karen-English conversation:

A: And did you have to do the portering at all for the KNLA or DKBA?

N.B.H.: Yes, there was. When I was young I had to fight too.

Interpreter: Yes, he had to do it sometimes for KNLA. It is a long story, I had to be the porter, and I had to help. I had to run away during the fighting time, many times, I had to help (N.B.H. Mae Ra Ma Luang camp, August 21, 2008).

In this case, the interviewee felt comfortable to share with me the fact that he had fought previously for the Karen insurgency army. Whether intentional or not, the interpreter left out the detail that the interviewee was conscripted to fight at a young age. The interpreter also assumed that the respondent was referring to the KNLA (Karen National Liberation Army), the insurgency force, and not the DKBA (Democratic Karen Buddhist Army), the proxy force for the Burmese military. If intentional, this filtering would make sense: up until recently the United States would not resettle Burmese refugees who had any background of “material support” for an armed group. Moreover, serving for the DKBA, which has, since its inception, been perceived as perpetrating many of the human rights
abuses may negate one’s claim to refugee status. In this interview, perhaps the interpreter assumed I had more power over the respondent’s fate than I had. Or, perhaps she recognized the danger in having a widely publicized report that acknowledges the presence in the border camps of former combatants.

A last point: I do not wish to portray the Burmese forced migrant population as homogeneously generating one collective narrative. As I suggest above, actors in this context, including me, take on identities of subordinate and superior during different times and spaces. I may indeed have had access to accounts from respondents that they might not have told certain forced migrants while I may not have had access to other accounts. Nevertheless, I did perceive a subtle, yet forceful, discursive layer shielding the heterogeneity of Burmese refugee power; forced migrants often presented themselves and their fellow camp residents to me as victims and never as perpetrators of rights abuses. It is important to recognize this for how it may guide my findings. In addition, while I present data from both male and female respondents, my sample was biased towards males. This is primarily because in several instances, respondents’ families decided that it would be safer for them if I interviewed a male representative. During times when I had to meet respondents outside their homes or outside completely safe spaces, I was usually only able to interview men. Both factors contributed to the methodological challenges of this study.

IV. Background: Burmese refugees in Thailand

In Thailand, national security is a constant precondition for humanitarianism; this policy has guided other policies related to forced migrants in Thailand and has effected
dysfunctional and sporadic treatment toward refugees and asylum seekers. For most of
the second half of the 20th century and into the 21st century, Thailand has played the role
of reluctant host for millions of displaced persons from neighboring countries, allowing
many to seek safety within its borders but often imposing harsh restrictions on their
freedom. In response to the massive influx of forced migrants from Indochinese
countries during the 1970s, the Royal Thai Government established policies that largely
adhered to international law regarding the treatment of refugees. Thailand has gone from
maintaining an “open door” policy—largely before 1980—to putting forth a “closed
door” policy of pushing asylum seekers back across the border. With regard to the
Burmese seeking refuge in Thailand, the government has traditionally sought to deal with
the problem without international influence and involvement. Sometimes cooperative
and tolerant and other times eager to be rid of a problem, Thailand has developed a web
of different policies resulting in restrictive and contradictory treatment towards the more
than 150,000 Burmese refugees and asylum seekers there.

Whereas the Thai government permitted UNHCR access to the camps for Indochinese refugees and allowed UNHCR to conduct status determination, the Thai government only allowed UNHCR limited access to the population of Burmese refugees in 1998 and has still not fully involved UNHCR in the status determination process.
Thai governmental responsibility for Burmese refugees and asylum seekers falls to a number of ministries and other stakeholders. These include the National Security Council (NSC), various branches of the Thai military, including the paramilitary forces such as the Rangers (Tahan Phran) and the Border Patrol Police, and the Ministry of Interior (MOI) which on the local level is divided into the Department of Provincial Administration (DOPA), the MOI Operations Center for Displaced Persons (OCDP), and MOI district and provincial officials, including those in charge of refugee camp management. Camp security falls under the jurisdiction of the district-level MOI.
officials, one of whom is the camp commander and is implemented by the Territorial Defense Volunteer Corps, known in Thai as the Or Sor.

Though Thailand is not a signatory to the 1951 Convention Relating to the Status of Refugees or its 1967 Protocol, it is a signatory to the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, and it is bound by the customary international law of non-refoulement.

Over the last twenty years, Burmese have fled conflict into Thailand. After the State Law and Order Restoration Council (SLORC)\(^8\) 1988 accession to power to take control of Burma,\(^9\) the Burmese government invigorated its previously fatigued campaign against the ethno-political insurgencies thriving throughout the northern part of the country (Lang 2002: 34-48). At the same time, there were massive uprisings in Rangoon, the nation’s capital, that were severely repressed with thousands killed and thousands more forced underground or into the jungle (Fink 2001).\(^10\) The result of these two acts of government repression was the massive outflow of Burmese from their country and into Thailand. The Burmese government continues to wage its wars against varying ethnic groups, which include the Shan, Karen, Karenni, and Mon,\(^11\) dislocating hundreds of

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\(^8\) SLORC continues to be the party in power in Burma though its name has changed to the State Peace and Development Council (SPDC).

\(^9\) This was not the beginning of the dictatorship in Burma. Since 1962, the country has been under a military dictatorship.


thousands from their villages and pushing a steady stream of displaced Burmese into Thailand.

Those Burmese fleeing political persecution and looking for a better life now make up one of the world’s most protracted refugee situations. At the end of 2008 there were about 116,000 registered Burmese refugees living in Thai camps, though the unregistered amount is far greater, with estimates of 40,000 on top of the latter number. In addition to the number of refugees living in the border camps, there are approximately 4,000 registered refugees living outside the camps, primarily in urban areas with an estimated additional 200,000 refugees and asylum seekers that are unregistered. There are also 7,000 Hmong as well as Rohingya and Sri Lankans seeking refuge in Thailand.

In 2001, the Thai Ministry of Labor approximated over 800,000 Burmese illegal migrant workers (Brees 2008). It is important to note that this population of the Burmese camps are not homogenously made up of rural-based ethnic Karen or Karenni fleeing active military campaigns in Eastern Burma, but that the population consists also of political activists from urban areas in Burma, particularly Rangoon, Muslim ethnic minority groups, and a mix of persons who have lived in Thailand for many years and are (re)-entering the camps for protection, assistance, or a chance to apply for resettlement.

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12 TBBC, “2007 Survey: Internal displacement in Eastern Burma.” Estimates suggest that close to half a million Burmese individuals from ethnic minority groups are displaced in Eastern Burma.
13 UNHCR Protection Gaps and also TBBC, “Program Report,” December 2007. In this paper, I rely on the statistics of the TBBC as the most reliable for the actual number of Burmese refugees living in Thailand. They make their count in terms of numbers of people they feed and not only in terms of who has been registered by the UNHCR or the Thai government.
14 UNHCR Protection Gaps. See also “Invisible in Thailand,” at 5. Authors find that upwards of 50% of migrants in two Northern Thailand locations actually qualify as refugees.
The last ten to fifteen years in Thailand have been marked by a significant decrease in the freedom, visibility, and legality of Burmese refugees and asylum seekers. In 1994, less than 100,000 Burmese refugees lived in thirty camps along the Thai-Burma border. Observing the situation in the mid-1990s, Bowles writes, “The camps, particularly the smaller ones, have traditionally had a village-like atmosphere” (1998:11). Bowles continues, describing small plots of land used for livestock or vegetable gardens. Forced migrants were able to come and go easily, traveling to different places along the border. Bowles remarks that the system of having “small, open camps spread out over hundreds of kilometers…had advantages for all parties and particularly for the refugees” (1998: 13). Not overly dependent on humanitarian assistance, maintaining positive relations with surrounding communities, and living in an environmentally sustainable way; one can argue that Burmese forced migrants on the border lived day to day life without confronting the realities of Thai law which regarded them as illegal at worst and as temporarily displaced persons fleeing fighting at best. Starting in the mid-1990s, however, intense conflict in Eastern Burma, close to and over the border with Thailand, pushed thousands more Burmese into Thailand and spurred the Thai military to consolidate from thirty open camps to nineteen by 1998 and nine in 2008 (Bowles 1998; Lang 2002; South 2008). Thai military and paramilitary forces took up posts in and around the border camps, which became the targets of cross-border attacks by the Burmese military and their proxy forces. Thai authorities erected barbed wire around the perimeters of the larger camps and restricted movement in and out (Bowles 1998: 14). These measures were for the defense of the forced migrant population, but also to prevent
the camps from housing, feeding, and arming ethnic insurgent groups (South 2008). As part of its increased control, in the mid-1990s Thai security forces began forcibly pushing newly arrived Burmese back across the border into Burma (Muntarbhorn 2004: 23). In this way, over the last several years, the context of the Thai-Burma border has become a protracted situation of warehoused forced migrants.

There are a number of different authorities, local and international, that manage the forced migrant population in Thailand. The Thai government regulates the Burmese population via five different security forces, three of which are paramilitary (Ball 2004; Ball and Mathieson 2007). Officially these groups have different mandates; some are tasked with border security while others were specifically deployed to control/protect the forced migrant population. In urban and semi-urban centers, as well as along routes of transit in Thailand, Thai police monitor the movement and presence of Burmese. Of the non-Thai authorities, UNHCR has one field office in each province where the border camps are located and the agency monitors life inside the camps as a way of fulfilling their protection mandate. UNHCR has also interviewed asylum seekers attempting to claim refugee status in Thailand, advised refugees on where to live to find the most protection, and conducted advocacy with the Thai government on behalf of the refugee population. In addition, there is a swelling industry of humanitarian assistance groups based in several of the border towns.

In the last five years, the fighting along the border has largely quieted, in large part due to the waning power of Karen and Karenni armed resistance (South 2008). Simultaneously, the governments of Thailand and Burma have grown significantly closer
as Thai businesses implement and plan for titanic development and resource extraction
deals. For example, a 2006 agreement between Thai and Chinese businesses and the
Burmese government established plans for two upcoming massive hydroelectric projects.
The Tar-Hsan and Hutgyi projects will collectively produce close to 40 billion kilowatt-
hours per year, primarily for Thai and Yunnanese consumption and together will cost US
$7 billion (Xinhua 2007). In addition, Thailand is a major investor in Burma’s gas
production and export industry, with the government of Burma earning a US$2.16 billion
profit from its gas deals with Thailand in 2006 (Human Rights Watch 2007).

As the Thai and Burmese governments forge ever-stronger relationships, the Thai
government has increasingly cracked down on Burmese dissidents living in Thailand and
has set forth more restrictive policies for Burmese forced migrants. Some Thai officials
have even recognized that to refer to the population of Burmese entering Thailand as
refugees might be seen as an unfriendly act toward the SPDC, and thus too risky a move
(Muntarbhorn 2004:11). The mechanisms restricting Burmese migrant life along the
border that were put in place for protective purposes during times of armed conflict have
remained in place. They now serve the purpose of controlling and suppressing what has
become an even more inconvenient population to the Thai government.

The most recent figures reveal that there are ten border camps inside Thailand,
nine of which are fully permitted by the Thai government; the tenth is for a limited
number of Shan forced migrants who are still considered illegal immigrants (TBBC

16 “Burma committed to building more hydropower plants,” Xinhua News Agency, May 7, 2007. See also
“Burma says joint energy projects put on hold as Thai government changes,” the Myanmar Times website,
Each camp is inhabited primarily by one ethnicity, with the Karen and Karenni refugees occupying several camps each. Ongoing persecution continually pushes Burmese across the border into Thailand; sometimes they are able to return to their villages or internally displaced person (IDP) camps in Burma while other times it is safer to remain in the Thai camps. In addition to human rights abuses perpetrated by local SPDC units in ethnic minority villages in Eastern Burma, the many resource-extraction ventures mentioned above displace many thousands of Burmese. A dam in Shan State will soon flood approximately 5,000 acres and displace 3,500 Shan, who are not recognized as legitimate asylum-seekers by the Thai government despite clear evidence proving their long-time persecution by the Burmese government.

Thailand’s policies toward Burmese asylum seekers and refugees in urban areas has ebbed and flowed according to Thailand’s relationship with the military government in Burma. In the 1980s, the Thai government had loose restrictions on incoming Burmese urban asylum seekers, allowing thousands to move to cities where they worked and lived as other migrants. However, the combination of a warming Thai-Burma friendship with a number of instances when the urban Burmese asylum seeker population made themselves visible to the world through collective action has led to a drastic narrowing of legal space for this group. In particular a 1999 siege of the Burmese Embassy in Bangkok and that of a hospital in Ratchaburi in 2000 by radical Burmese student activists intensified negative attitudes toward the Burmese urban asylum seeker and migrant population (Nation 1999). As then Prime Minister Chuan Leekpai stated,

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18 TBBC, “Burmese border refugee sites with population figures: February 2008.”

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“They rely on Thailand for refuge, but they organized and created a problem that could be viewed as threatening our security…If they organize in such a way that undermines Thailand's interests, the country may not be able to continue to accept them” (Cited in Nation 1999). The Thai government has tried to stem Burmese political activism in Thailand by moving urban asylum seekers to a “holding center” to the west of Bangkok in the mid-1990s (Lang 2002) and then ordering all urban refugees and asylum seekers to move to the border camps in 2003 (Human Rights Watch 2004).

Since the end of 2005, the Thai government has ordered a halt to the entrance of more Burmese into Thailand, citing a cessation to the fighting between the SPDC and ethnic minority insurgent groups that has been the primary cause of displacement in the past (TBBC 2008). As a result, registration of new arrivals has stopped, as has the Thai government’s system of determining refugee status for Burmese. Human rights groups, refugee relief organizations, UNHCR, Thai governmental officials, diplomats, and forced migrants themselves all recognize that the current paralysis of a concrete status determination system for Burmese asylum seekers is at the root of many of the other problems facing displaced Burmese along the border and in urban areas. The provincial admission boards (PABs) that are in place to assess the status of incoming forced migrants have all but ceased with only rare convening of the boards that are subject to arbitrary admittances. As a result, UNHCR has also been prevented from conducting refugee status determination (RSD) and current talks between UNHCR and the Thai government have resulted in ideas that raise serious human rights concerns. 16,000 people who were registered in 1999 were absent from the camps during the 2005
registration period and as a result they have lost their registration numbers and did not receive MOI-UNHCR ID cards. Among the camp population registered with the MOI and UNHCR, there are not only refugees and asylum seekers, but also a category specifically for “students” who are not eligible for refugee status.

Starting in 2004, a number of Western countries agreed to begin resettling Burmese refugees. Thus far, over 50,000 have departed Thailand; the vast majority leaving for the United States. Table 1 below shows the outflow of persons from Thailand with assistance from the International Organization for Migration. Starting in 2004, the majority of these have been Burmese.

**TABLE 1: IOM Assisted Departures from Thailand 2004-2008**

<table>
<thead>
<tr>
<th>YEAR</th>
<th>Australia</th>
<th>Canada</th>
<th>Denmark</th>
<th>Finland</th>
<th>Netherlands</th>
<th>Norway</th>
<th>New Zealand</th>
<th>Sweden</th>
<th>UK</th>
<th>USA</th>
<th>Other</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>74</td>
<td>45</td>
<td>10</td>
<td>27</td>
<td>19</td>
<td>165</td>
<td>7</td>
<td>46</td>
<td>-</td>
<td>10,442</td>
<td>-</td>
<td>10,835</td>
</tr>
<tr>
<td>2005</td>
<td>391</td>
<td>10</td>
<td>74</td>
<td>92</td>
<td>1</td>
<td>304</td>
<td>3</td>
<td>330</td>
<td>55</td>
<td>6,968</td>
<td>-</td>
<td>8,228</td>
</tr>
<tr>
<td>2006</td>
<td>757</td>
<td>794</td>
<td>7</td>
<td>208</td>
<td>115</td>
<td>355</td>
<td>201</td>
<td>357</td>
<td>81</td>
<td>2,681</td>
<td>5</td>
<td>5,561</td>
</tr>
<tr>
<td>2007</td>
<td>1,520</td>
<td>1,611</td>
<td>9</td>
<td>383</td>
<td>96</td>
<td>460</td>
<td>158</td>
<td>212</td>
<td>111</td>
<td>10,380</td>
<td>106</td>
<td>15,046</td>
</tr>
<tr>
<td>2008</td>
<td>1,562</td>
<td>637</td>
<td>1</td>
<td>283</td>
<td>144</td>
<td>70</td>
<td>24</td>
<td>141</td>
<td>29</td>
<td>14,280</td>
<td>1</td>
<td>17,172</td>
</tr>
<tr>
<td>TOTAL</td>
<td>4,304</td>
<td>3,097</td>
<td>101</td>
<td>993</td>
<td>375</td>
<td>530</td>
<td>393</td>
<td>1,086</td>
<td>276</td>
<td>44,751</td>
<td>112</td>
<td>56,842</td>
</tr>
</tbody>
</table>

Source: International Organization for Migration (numbers include family reunion, assisted voluntary return, and national migration for all nationalities leaving Thailand)

Resettlement is thus far the only durable solution for Burmese refugees agreed upon by the Thai government and the international community. However, it is only offered to those who the Thai government has processed through its Provincial Admission Board.
system. Inevitably, a great many forcibly displaced Burmese who might be living in Thailand in a precarious situation in need of a concrete solution will remain stuck, living as illegal migrants.

V. Forced migrants and illegality in Thailand

Within this historical background the reader should note the complex array of political, social, and economic factors that intersect to affect the forced migrant situation in Thailand. Mediating these factors are the policies of the many stakeholders involved and domestic laws regarding asylum and forced displacement. International law also plays a role, despite the fact that Thailand is not a signatory of the Refugee Convention. In this section, I show some of the ways in which these institutionalized norms operate to delimit the space for Burmese migrants in Thailand. I do not intend to conduct a full analysis of all the regulations influencing this context, a task that could make up the base of a different argument. Rather, I share examples from the Thai government and from UNHCR, demonstrating how the combination of humanitarian and governmental directives can affect the legality of forced migrants. As I begin this section, I want to stress that Burmese persons entering Thailand do so for several reasons, not all of which meet the standards of international law to qualify as a refugee. Nevertheless, the point here is to show that individuals arriving in Thailand because of a valid fear of persecution in Burma based on their “race, religion, nationality, or membership of a particular social group or political opinion” (UN 1951) may or may not find themselves recognized as refugees as a result of the myriad of intersecting policies and laws pertaining to them. While this may not be surprising given Thailand’s status as a non-signatory of the
Refugee Convention, the intersection of a multitude of laws and policies has lasting effects on the lives of forced migrants.

For those living inside one of the nine border camps, access to humanitarian support is officially contingent on registration with the Thai authorities, but also depends on registration with the consortium of assistance organizations that administer the provision of food and non-food items to camp residents. Thus normally, an asylum seeker would have to register with the camp authorities as well as with the Thai authorities to receive some of the rights given to refugees. The rules and criteria used by both humanitarian agencies and the Thai government to determine who qualifies for protection and assistance are not always in sync and make the provision of rights and status somewhat dynamic. An individual may receive some assistance from humanitarian agencies while living in a camp or an urban area, but may not be recognized by the Thai authorities. Further, an individual who is recognized by both at one time can, as a result of policy changes, find herself or himself suddenly illegal and/or non-existent.

Brees (2008) provides a useful table for understanding the different categories in which Burmese find themselves divided by the Thai government (see table 2 below). These categories do not come from one law in particular, but rather pertain to a series of directives, some of which relate to national security while others are concerning labor. Also, as indicated above, different rules apply to Burmese who entered Thailand at different times, delineating specific categories with temporal criteria for membership.
### TABLE 2: Migrant/refugee categories in Thailand

<table>
<thead>
<tr>
<th>Category</th>
<th>N=</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. “Displaced persons fleeing fighting” and “Displaced Persons” fleeing political persecution (the two categories of persons that correspond to some extent to the 1951 Refugee Convention’s definition)</td>
<td>116,468 (as of May 2009)&lt;sup&gt;19&lt;/sup&gt;</td>
</tr>
<tr>
<td>2. Legally present migrants (data from Ministry of Labor)</td>
<td>1,284,920 (as of 2004)</td>
</tr>
<tr>
<td>3. Legally working migrants (included in figure of legally present migrants; not all migrants go through the process of getting work permits)</td>
<td>~500,000&lt;sup&gt;20&lt;/sup&gt;</td>
</tr>
<tr>
<td>4. Illegal migrant workers</td>
<td>&gt;800,000</td>
</tr>
<tr>
<td>5. Burmese migrants with identity cards&lt;sup&gt;21&lt;/sup&gt;</td>
<td>Unknown</td>
</tr>
</tbody>
</table>

Adapted from Brees 2008, p. 3

As mentioned above, legal status depends on one’s date and point of entry as well as where one chooses to reside. “Temporarily displaced persons” are only those living inside the camp while all those living outside are essentially illegal if they do not hold migrant worker cards or permits. However, to be a legally recognized migrant worker negates one from being considered a “displaced person fleeing fighting.” While this has been the Thai rule for some time, Thai authorities have stepped up enforcement in recent years, according to some stakeholders.

In addition to these legal categories from the Thai government, UNHCR also has divided the Burmese population into several groups (see Table 3 below). Both have some root in international refugee law, though while the Thai government’s categories come from Thai domestic laws, UNHCR’s distinctions are primarily a result of this

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<sup>19</sup> Figure comes from the Thai-Burma Border Consortium. They post monthly figures and include the total feeding figure as well as UNHCR and the Thai government’s total recognized count. The number in this table is the UNHCR/Thai government tally, while TBBC counts 135,256 refugees encamped. These figures are from May 2009 (see http://www.tbbc.org/camps/2009-05-map-tbbc-unhcr.pdf).

<sup>20</sup> This figure comes from Sanitsuda Ekachai, “Migrant Workers in for a rough time,” Bangkok Post, January 8, 2009.

<sup>21</sup> Some Burmese who have been living in Thailand for decades, primarily ethnic minority groups were allowed to get colored ID cards that provide them with resident and work eligibility status. This status is permanent in some cases, temporary in others, and often contains some restrictions on movement.
organization’s difficulty in operating in Thailand. The categories reflect both UNHCR’s attempt to capitalize on whatever leeway the Thai government has given them over the years as well as the limits of their organizational abilities.

<table>
<thead>
<tr>
<th>Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. UNHCR-Ministry of Interior ID holders (issued 2006-2007 by UNHCR and the MoI to camp residents who had undergone Thai official screening by mid-2005)</td>
</tr>
<tr>
<td>2. Pending status determination; those slotted for official screening</td>
</tr>
<tr>
<td>3. Person of Concern: those living outside the border camps who UNHCR regards as meeting the criteria outlined in the 1951 Refugee Convention. Members of this category were all supposed to move from urban and rural areas to the border camps in 2005, but there were many who did not.</td>
</tr>
<tr>
<td>4. Registered asylum seekers (registration issued to Burmese entering until mid-2005)</td>
</tr>
<tr>
<td>5. “Slip-holders”: Burmese arriving after the August/September 2007 demonstrations throughout Burma (this is a temporary status as the “slips” issued to Burmese have three month expiration dates)</td>
</tr>
<tr>
<td>6. Unregistered asylum seekers (effectively illegal)</td>
</tr>
</tbody>
</table>

These categories are historically constructed. For example, UNHCR registered many urban asylum seekers as Persons of Concern, which was to effectively grant them refugee status in the eyes of the international community. This practice continued until the Thai government began conducting refugee status determination on a large scale in the early 2000s and when the Thai government instructed all urban cases to move to border camps. Thus there are no longer any new Person of Concern cases. Similarly the “slip-holder” category has very specific parameters as it reflects a short-term solution created by UNHCR to deal with what was assumed would be a large-scale influx of asylum seekers after the Burmese government cracked down on demonstrators in the fall of 2007. While it would not be fair to accuse UNHCR of entirely fabricating these categories on its own, it is clear that UNHCR operates with these groupings as frameworks for providing protection and assistance to Burmese refugees. For example, the Persons of Concern I interviewed, all of who did not move to the border camps at the
time the Thai government issued orders to do so, complained that they were unable to get in touch with UNHCR and that UNHCR told them to wait for further information.

During one interview, 36-year-old Aye Aye Thin told me:

I always contact UNHCR and they told me that if I have a chance to enter the camp, they will let me know. When I arrived in Bangkok, I called UNHCR.

“The due date already expired,” the [UNHCR] officer explained to me. And then they also told me, “in the future, whether or not you will have the chance, we don’t know.” After they told me like that, I had no chance any more. I just must wait and also some people, I got information from them that when they finish with resettlement they will add more people to the camp. So I waited with hope.

I always contact the UN and ask for information. During these four years, I always contact UNHCR. I called to the UNHCR office [to ask] whether they will call me to enter the camp or not. They asked me for my mobile number and said that if I had a chance to go into the camp, they would inform me. After the period to enter the camp finished, I was cut off from assistance. (August 27, 2008)

As a result of her situation, Aye Aye Thin effectively lost her status as a refugee. Prior to 2003, she received some cash assistance and some protection in the form of a slip of paper stating UNHCR considered her a refugee. After this time, however, UNHCR no longer gave her money. She worked without legal status as a domestic worker in Bangkok until one employer sexually abused her, resulting in pregnancy. While attempting to move to a safer location, Thai authorities arrested Aye Aye Thin and deported her back to Burma, violating the customary international law of non-refoulement, which refers to Article 33 of the 1951 Refugee Convention.22

Between the UNHCR categories and those of the Thai government, many forced migrants express confusion and frustration, which they often direct towards UNHCR. In

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22 Article 33 of the 1951 Convention states, “No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”
a 2008 letter to UNHCR, members of a political activist group in Mae Sot, a Thai town on the border with Burma located close to the largest of the border camps, Mae La, vented their anger:

Even though we, political refugees, do not understand what kind of certain criteria UNHCR office has hold for a refugee, we feel that there is no fair system.

For example, in the biography of a political refugee, it has clearly mentioned the facts such as the involvement in the 1988 uprising or five years and nine months imprisonment by the Urgent act for political prisoner (5-J) or the participation in the September Saffron Revolution in 2007, but sadly, those people have been denied by the UNHCR. If we compare with one of the biographies whose already received the slip, it is clear that this political refugee surely should be recognized as refugee.

In addition to the categories of UNHCR and the Thai government, many humanitarian and human rights organizations have broader criteria regarding who they are willing to assist. Thus there is a dizzying amount of standards and regulations and, as Bodermar et al. (2008) put it in their assessment of aid distribution on the Thai-Burma border:

The lack of clarity about who qualifies for assistance in the case of the Thai-Burma refugee situation is not merely a matter of determining who meets the criteria that have been set. It is also a matter of which criteria are applied to determine whether an individual qualifies, and for what form of assistance (p. 12).

Taking this one step further than Bodermar et al., I would argue that the diversity of criteria and policies is related to the failure to provide protection to a vast number of individuals seeking asylum. Green et al. (2008) assert that more than 50% of all Burmese in Thailand qualify as bona fide refugees according to international standards (p. 5), but “less than one-tenth of the Burmese in Thailand have been able to access the camps” (p. 2). Amidst the confusion of this multitude of potential identities, it is important to note that within those established by the Thai government and UNHCR only certain categories
of people can be eligible for recognition as a refugee by the international community. Those Burmese who acquired migrant worker permits or those who entered Thailand after a particular cutoff date will automatically have less of a claim to legality in the eyes of the world.

As the case of Aye Aye Thin highlights, once granted status as a recognized asylum seeker or refugee, domestic law and the limited capacity of UNHCR to provide protection make it easy to lose it. As the excerpt at the beginning of this paper suggests, it is not only when an undocumented migrant is caught, but even when a recognized refugee leaves the border camp without permission, police have the authority to strip that person’s status from them. This does not happen every time security forces catch a forced migrant outside the camp, but the potential is there. In one organization’s survey of samples of residents from three border camps, they note that 27% of respondents (n=2,299) have experienced arrest in Thailand and that 73% of those arrests were for forced migrants being unlawfully outside the camp (Author confidential, unpublished report, 2007). The same survey states that 16% of respondents reported that they or members of their families experienced refoulement (ibid). Green et al. (2008) explain that recent provincial decrees restrict the movement of migrants, imposing curfews and prohibiting gatherings of five or more (p. 2). While there are not police on every corner looking for undocumented Burmese, it has grown increasingly easy to be pushed into a space of illegality.

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23 An organization providing humanitarian support to Burmese refugees and asylum seekers on the Thai-Burma border conducted this research for an internal report. They were willing to give me a copy but required that they remain an anonymous source.
For forced migrants that entered border camps after the cessation of refugee status determination, their undocumented status makes them illegal immigrants to the Thai authorities, even if humanitarian agencies continue to provide them with food and non-food assistance. Instead of reinstating this status determination to screen the thousands of new arrivals, Thai security forces have attempted to prevent any new arrivals from entering the camps, and have, on more than one occasion, forcibly deported dozens of newly arrived camp residents to Burma. As a result of the halt on asylum seeker registration, there is a growing crisis related to an increasing number of unregistered and unscreened camp residents, a lack of sufficient food and non-food items, and a decrease in the camp leadership’s ability to control the camp populations (Bodermar et al. 2008).

From the many national laws, provincial decrees, organizational policies, and established norms, it is clear that legality is a tenuous and dynamic state of being to hold onto. Easily taken away by others, easily lost in the struggle for survival, “legal” must be considered as a flexible category that is often pushed into flux at the expense of rights and recognition. As resettlement efforts expand, the fact that governments of receiving countries only accept those refugees who were lucky enough to not fall through the many cracks is highly problematic. Because of the mess that is the complicated web of policies for forced migrants in Thailand, thousands will remain on the margins legally and socially as they struggle in spaces of non-existence to make ends meet.

**Narratives of displacement: subjugation and resistance**

They said “where are you going?” The Thai said to us like that. Then we said we were going back to Mae La. They said “I do not trust you, this is not the way to go to Mae La camp, this is the way to sneak out to go to Bangkok.” They asked for money...I said “I
don't have money." Then he started to beat me and then back here, two times and then kicked me once...They started searching our bag for money. They asked for 2,000 [Baht, equal to USD $58.50] and we didn't have that money. Then he looked in my bag and he saw my ID card and he took my ID card away. The UNHCR ID card. (Ali Ali Mae La camp, July 30, 2008).

As the situation for forced migrants has grown so protracted, Burmese in Thailand have come to exist as part of a subclass, one that Agamben would consider representative of that which is excluded from Thai society. The draconian treatment metered out to some Burmese forced migrants, such as Ali Ali above, goes way beyond the scope of the network of laws and policies discussed above. It reflects an informal pattern of subjugating Burmese in Thailand to a level of subhuman invisibility. In this section, I look at the narratives of the Burmese forced migrants I interviewed, most of whom experienced some act of repression by Thai authorities. I highlight the extent to which the abuses they encounter represent patterns of control and the threat of destruction. I do this as a way of illustrating the deteriorated state of relations between Burmese forced migrants and their authorities. I want to emphasize again that the purpose of this paper is not to demonize Thailand or any country that serves as host to incoming asylum seekers. Rather, my point is to stress that the level of severity on the border goes way beyond contests of legality; that it is not only the situation in the country of origin that is trauma-inducing for the displaced, but also life in the country of first asylum as well. While what I show in this section is just a snapshot of life on the border, and while my data does not prove protraction as much as it is situated in an environment of protraction, it is important to consider the way that this dynamic is perhaps normalized, if not exacerbated in such contexts. It is therefore important to examine the ways that protraction and warehousing
act as independent variables, exacerbating tensions and creating conditions that facilitate dehumanization.

This section is as much about resistance as it is about repression. I find that the two are interwoven on the border, like Scott’s public and hidden transcripts of domination and resistance. Just as the context breeds a kind of dehumanizing abuse, it also can enable a type of agency that denies any assumption of passive victimhood. Some of the excerpts below reflect both subjugation and resistance; the two were often entangled in the same respondent’s narrative. Though the resistance I identify does not constitute any kind of insurrection against marginalizing authorities, I intend to demonstrate that the intensity of the repression on the border is so great—so similar to the reduction of humanity to \textit{bare life}, as Agamben puts it—that any act asserting humanity and strength should be regarded as not only agency, but as struggle. Thus while I do demonstrate in this section the ways in which the context of the Thai border camps resonate with Agamben’s conceptual framework, I am simultaneously challenging his lack of attention to the agency of the camp resident.

It is important to recognize the extent to which life on the border appears relatively calm. There are many Burmese forced migrants who are able to travel undocumented without ever having a problem, sitting quietly on public buses as they pass through checkpoints. When one visits the largest refugee camp, Mae La, there are dozens of residents that walk on the main road outside the camp’s run down barbed wire fence, in violation of Thai decree. For the most part, Thai authorities leave these individuals alone. But, as is the case with the subjugation of a population, it is sufficient to strike
infrequently, to make examples out of some as a way to keep the entire population in check. Thus, while the moments of violence illustrated below are not necessarily experiences that everybody in the camps or urban areas have on a regular basis, they should be regarded for the collective effect that they have. As the situation in Thailand has grown more long-term with no clear end in sight—despite an energized resettlement process—these occasional expressions of domination have become commonplace. And with the complacency of the international community, these practices are quickly becoming institutionalized ways of “managing” Burmese forced migrants.

I organize the following narratives according to a set of five thematic categories that emerged during my analysis of the data. These subsections highlight the diversity of ways that respondents explained their situation as forced migrants in Thailand. Instead of presenting examples from all sixty-four interviews, I choose respondents whose stories are representative of a particular forced migrant subgroup or a component of the discussion on repression and resistance. The thematic categories reflect the experiences of forced migrants who: (1) are caught and made an example of while outside of camp; (2) experience repression through the witnessing or second-hand recounting of an event; (3) reside outside the camp in urban areas and consider their work political activism; and who (4) find themselves playing the role of gatekeeper, a sort of middle-range authority. In the fifth subsection, I analyze two forced migrant narratives around a particular event, a forced deportation that took place on July 17th, 2008. The different perspectives around this one event—one from a deportee and one from a community based organization staff person observing the deportation—help illustrate the different ways that repression and
resistance manifest themselves in a particular situation as seen by different forced migrant actors. Each category features between one and two extended interview excerpts periodically interspersed with examples from other interviews. The reader should note that I do not label any specific category “domination,” “subjugation,” or “resistance.” This is simply because these three themes flow throughout all of the above categories. As indicated above, it would be wrong to assume that any narrative of repression does not also contain elements of struggle.

**Caught outside camp: Kyaw Soe & Na Wah**

As stated above, strict regulations on Burmese forced migrants in Thailand prohibit their movement outside the camps of which they are residents, unless they have specific permission from a Thai district official. Thai provincial decree states that status will be removed from any refugee caught outside the camp and Thai national law declares any undocumented foreign national illegal (Immigration Act 1979). As the quotes in the beginning of this paper and the beginning of this section indicate, enforcement of this law can be carried out to an extreme level. In so doing, authorities that inflict abuse on Burmese forced migrants under the guise of law enforcement are, whether intentionally or not, exerting power and control that can potentially destroy the life of their detainee. Issuing physical and verbal assaults are not new tactics to reign in unwieldy Burmese. Rather, they are intermittent additions to the normal flow of informal relations on the border, a social field that has been constantly developing and shifting over the last thirty years. Just as the distribution of rations has become a routine part of everyday life for the camp resident, so has the expectation that one might lose one’s life
while sneaking outside the camp for whatever reason. In this way, the occasional bursts of violent repression seep into the collective knowledge among Burmese refugees and play a role in the general management of the population.

*Kyaw Soe*

At age twelve in 1999, Kyaw Soe entered Mae La camp with his grandparents. He reports having been arrested and deported to Burma on more than one occasion, despite the fact that he is a recognized refugee. Often Kyaw Soe left Mae La in order to find work or to visit relatives. He felt that even though he was given rations in the camp, they were not sufficient. Moreover, only allowed to work with limited amounts of temporary building materials, Kyaw Soe would leave camp to search for other materials, such as the leaves of teak trees for roofing. Once Thai authorities picked him up for illegal logging and he served a six-month jail sentence in a Thai jail.

When traveling outside of camp Kyaw Soe felt comfortable using the public transportation, *Songtaew*, a covered pickup truck with two rows of benches extending to the back. Often when passing through checkpoints, armed Thai police or paramilitaries dressed in all black with blue, white, and red scarves tied at the neck would wave the truck through. Most of the times the police or paramilitaries stopped the *Songtaew*, he was able to pay off the guards who made him get out of the truck upon learning that he lacked proper ID. Kyaw Soe told me of one time in particular that was different:

*I was arrested in the Songtaew, they stopped the Songtaew and they caught us. I was trying to go out to work. They asked, “do you have ID? If you don’t then get out” so after you get out they send you wherever they want. At that time, I was arrested at the police checkpoint. This time it was not in the detention center, it was in the jail. They put me in the jail. When they put you in the jail and when you are in the jail they recognize you as a big criminal. They chain you—your ankles and your chest and your hand—everything. Yeah and there’s different—when we are in the*
jail, there are many other prisoners that are very bad. Even though they were in the jail, they would fight each other and the police would punish them.

Before they let us enter the cell, they told us that they would search us for drugs. So they put their finger into my asshole to try to search it before we enter the cell. For women they have different jails, a different compound.

In the jail, as you know there are a lot of rules that you have to follow exactly. If not you are beaten with a stick. Sometimes, it is very [strict] on time, when there is a whistle sound you go to the bathroom, [even if you are] not finished yet and wheee, you have to go out...

This story of Kyaw Soe’s degradation illustrates the extent of control authorities wield over Burmese forced migrants. While Thai and humanitarian authorities delineate specific austere regulations for Burmese forced migrants regarding their means of survival, Thai security officials can arrest migrants like Kyaw Soe when they try to leave the border camp to supplement their income, their diet, or the integrity of their homes. Later in the interview, Kyaw Soe informed me that he remained in detention for several weeks before being released. To the best of his knowledge, the Thai court never officially charged him with any crime.

As Kyaw Soe related this story to me through my interpreter, he did not show signs of distress. In fact he was calm and clear as he used his hands to demonstrate how the police chained and violated him. During the interview he occasionally laughed at moments that suggested he was both embarrassed and incredulous. The ease with which he spoke stirred some unease in me, the interviewer. Could it be that Kyaw Soe did not experience these events traumatically? Or that the banality of the situation, the fact that this level of dehumanization was to be expected, left him with nothing else to do but laugh? Or perhaps he was just laughing away his embarrassment at telling a stranger about such an intimate experience. I wondered then if he had had to tell this story many
times before to foreigners coming to ask questions. As I sat there listening to him speaking Karen with the interpreter, I questioned the role of this interview in his life, how experiences such as this affected his sense of what it meant to be a refugee in a protracted situation. While my goal was to help Kyaw Soe by documenting his story for the human rights organization for which I worked, it is important to note that during many years of encampment, frequent requests by outsiders for stories of trauma can potentially leave a respondent feeling objectified with her or his experiences with repression exploited. In a way then, while the encounter with abuse in prison certainly can have the impact of subjugating an encamped forced migrant, so can the process of the human rights interview, though obviously in quite a different way.

Naw Wah

When forced migrants are caught outside the camp, they are typically in the process of gathering materials for building or selling, traveling to and from employment sites, or visiting Burmese in other camps. The story of Naw Wah, however, is different. A recognized refugee for many years, Naw Wah was on her way to an official meeting for which she had permission to leave the camp when a Thai Or Sor, a local security guard, assaulted her. Knocked unconscious, Naw Wah had to go to the nearby hospital before being brought back to the Mae La camp hospital, where she stayed for three days. While at the hospital, her assailant and several other guards paid her a visit:

As soon as we arrived in the camp hospital, then the Or Sor arrived. The boss of the hospital said, “They will ask you some questions.” I was put in the hospital bed and the Or Sor came into the patients’ area and talked to me, asked me questions. I was surrounded by the Or Sor and also one of the Or Sors’ wives...
They asked me whether I would like to report this case to anyone and I said to them, “I already reported it to an NGO in the camp and also to my boss. I also reported it to them.” Then the Or Sor started to talk to us like...after they knew that we already brought up the case and reported it then they said, “Ok the case does not come directly from you because the case...your auntie reported it, not you. So that doesn’t mean that we will have to or the police will have to pay for your compensation, this is your auntie who will have to pay for that because she is the one who reported the case.”

We were thinking if my auntie has to pay and if I have to pay, we don’t have any money and we are poor so then we started to put ourselves down and we don’t want to bring up or follow up with the case anymore because if we have to pay then we don’t have any money.

Camp security came and spoke to me and said, “Don’t you know that people in the refugee camp are not allowed to go out? We rang the bell that everybody has to come for the assembly and why don’t you come and listen to know that you can’t go out of the camp?” I was very unhappy because he is Karen and I am Karen. Why does he have to come and shout at me like that? Because if there were no issues I would not go out because I work here...and I never have time to go out. Only when [the office] informed me that I have to go out and get the envelope then I have to go out. Then they didn’t allow my husband to speak up.

We said that it seemed that the Or Sor was drunk when he [assaulted me] but the Or Sor’s wife said, “My husband never drinks! My husband never drinks! He is just under the sun so his face turns red!” At that time the Or Sor who [assaulted me] never spoke, even one word, he was just seated behind us. It was only the wife who spoke on behalf of him. And then asked me, “Are you sick when you were on the motorbike?” and I answered back to her, “No! I was not sick!” They asked me not to take any further action and they asked me just to keep it quiet and disappear here because “even though you want to bring up the case, you are not going to win and instead you will have to pay for your own compensation.”

At that time in the hospital room, I wanted to go to the bathroom and my auntie supported me to go to the bathroom and when I went to the bathroom the Or Sor’s wife ran after us and gave me 500 Baht [USD $14.65] and when I came back after the bathroom, I came back in front of everyone I said, “She gave me 500 Baht” and they started to push my hands like that to hide the money like that and I said again, “she gave me 500!” and they started to slap and to push me to keep the money. Then she said, “this is nothing, 500, this is just for the food, its not for other compensation, its just for the food.” They asked me for the fingerprint already [on the document] before I went to the bathroom so that I had already put the fingerprint they asked me...and they asked me to put my fingerprints because at that time I was afraid and I worried that if I had to give money then we don’t have any money. We are afraid and so we had to put our fingerprints. Then they got on the motorbike and left and we stayed in the hospital. Another day I was discharged from the hospital and I came back home. I was thinking that, “Oh I am Karen and I am nothing, my life is only worth 500 Baht, and I was very upset.” Because I am Karen and I live in Thailand and in their country and I don’t have any ID card, that’s why I deserve to be treated like this. That’s why I don’t want to live and stay in Thailand anymore. That’s why I want to resettle to the third country.
As Naw Wah told me this story through an interpreter, she proudly emphasized the moments where she embarrassed the Thai security guards who came to silence her complaint by making it publicly known that they had tried to bribe her. She also laughed at what she felt was a ridiculous claim made by the security guard’s wife, that the guard was merely sun burnt and not drunk. At another moment in the interview, Naw Wah noted that this particular guard had a reputation as an alcoholic. To question the guard’s sobriety and then to refuse to admit that she needed hospitalization because she was merely sick were both acts of outright resistance against the guards’ efforts to place the blame for the incident somehow on Naw Wah. Both the experience itself, and the act of telling this experience are important instances of struggle against dominant efforts to enforce a silence among refugees about the injustices they experience.

Also significant was Naw Wah’s anger at the Karen security guard that came with the Or Sor to put pressure on her. She seemed to have been particularly insulted by his criticisms and verbal abuse. As Naw Wah suggests, she has a different expectation for the way Karen people should treat each other; there is a particular code of ethics to which the Karen security guard does not adhere. The betrayal she feels at the Karen guard’s attacks serves as a clear analogy to the polarization between Thai officials and Karen forced migrants. Naw Wah almost seemed to expect abuse from the Thai guards.

Nevertheless, Naw Wah indicates that the guards were on some level successful in getting her to drop her complaint. The document she states she fingerprinted affirmed that she would not pursue the charges that she filed against the guard. The guards successfully instill in Naw Wah and her aunt the fear that they will lose; a reminder that
in Thailand, justice always weighs out of their favor. Moreover, Naw Wah relates that on some level, she has internalized a sense of inferiority from this experience. After being hospitalized for the abuse she experienced, told that she had better drop the case because she would be unable to afford the compensation, and then given 500 Baht as a bribe to buy her silence, Naw Wah expresses the notion that because she is Karen in Thailand, she is nothing. Her words succinctly illustrate the effect of such repression; she is made to feel that this is what she deserves.

**Collective repression and witness: Ka Htoo & Te Pu**

While, according to the study cited above, approximately one third of camp residents have experienced arrest, it is important to recognize the collective nature to the experience (author confidential, unpublished report 2007). Stories of arrests and abuse travel fast in the camp. For every individual humiliated, detained, or physically assaulted, there are usually several dozen community members and neighbors who know about that experience. On a collective level, such encounters contribute to a pervasive sense of fear and the knowledge that Burmese forced migrants lack basic rights in Thailand. This is not to imply that fear was palpable in the camp; this was far from the case. Nevertheless, these sorts of experiences, when passed on in narrative form to other residents, help textualize the roles of authorities and polarize Thai officials from forced migrants. Thus the experience of witnessing directly or indirectly the abuse of other forced migrants has the rippling effect of perpetuating the effect of that repression. The narratives of Ka Htoo and Te Pu are useful illustrations.
Ka Htoo

Together with his wife and three children, Ka Htoo arrived in Mae La, the largest of the border camps in January 2007 and attempted to get registered and put on the food list almost immediately. He was not successful in doing this, however, because of a shortage in the amount of food and limited quantities of rations available for newly arrived forced migrants unrecognized by UNHCR and the Thai authorities. Ka Htoo began leaving the camp to earn money for food like many other newly arrived asylum seekers. When bringing his own food to work, Ka Htoo received an average 100 Baht per day (equal to just under USD $3.00), otherwise pay would be deducted for food. He primarily worked on farms but he would also venture outside the camp in order to take wood for making charcoal or find food in the forest. In addition to a lack of food, Ka Htoo and his family did not have any opportunity to find housing. There was none available for new arrivals when he first entered the camp. At the time of the interview, he and his family were living in a shop inside the camp. In May 2007, Ka Htoo was nearly arrested while returning to Mae La camp after spending some time outside working:

The experience has been like, you know when we get into Thailand, into the refugee camp, we don’t get the food rations and we also don’t know...we cannot also go out to work freely. I tried to go out to work many times.

There were two times I remember that we were chased by the Thai authorities. And at that time, one time when I came back from the work with one of my friends and we were chased, we were run after by the Thai authorities, but I ran fast and I escaped, but one of my friends who could not run very fast was caught by the Thai authority and he was beaten with the handle of the gun and he broke two ribs. And we got 600 baht [USD $17.60] from working and then the Thai authorities confiscated 400 baht [USD $11.70].

Since then I am afraid to go out and work again. We just get food from...try to find it ourselves here in the camp. So after that, I just try to get some work in the refugee camp, like I work in the
pipeline or the water supply because if we do not work then I do not get food. So we just have to try to work at whatever job is available in the camp. I just try to get some work in the refugee camp, like I work in the pipeline or the water supply because if we do not work then I do not get food. So we just have to try to work at whatever job is available in the camp.

It appears that Ka Htoo has essentially had the rules regarding his mobility scared into him through his experience watching Thai authorities beat his friend. Such a lesson not only taught Ka Htoo that he was not allowed to leave the camp to search for work or materials, it may likely have seared into his consciousness the power of local authorities and their willingness to use excessive force. In this case, it was only necessary to assault one individual to exert control and dominance over two—Ka Htoo, the witness in this situation, saw what could just as easily have happened to him and decided thereafter to stay within the confines of the camp.

Te Pu

Te Pu’s narrative confirms how powerful not only the experience of witnessing a traumatic event can be, but also how rumor or second and third hand accounts are operative in maintaining a repressive environment. Te Pu is a 59-year-old woman who has been displaced for many years. She reported going back and forth across the Thai-Burma border for many years when there were spurts of intense fighting and moments of apparent calm. However, since the mid-1990’s, she has remained in Thailand, living in one border camp for some years before it closed, and then moving to Mae La to work educating youth. As we sat in a quiet space in the camp, Te Pu told me about her life in Burma and in Thailand. While she herself has never experienced the kind of abuse that others in this paper mention, she has memories of subjugation. These first-hand
experiences interact with the stories she hears from those in her community and with what she witnesses:

*I heard a real story from neighbors who live around here. [One man] went out of the camp to collect the tree leaves used for making roofs. But he was caught by the Thai authorities. The Thai asked that guy, the neighbor next to our house, to carry a timber and they tortured, they kicked, they beat him. They tortured him and even sent him to the prison. Not only him, but a lot of people who sneak out to collect the leaves for the roof. Most of them, they fled, they leave everything behind, like their basket or knife when they see the Thai approaching them. But the one I mentioned, the guy and his experience, the Thai caught him and punished him.*

*Just recently we had an incident where the Thai Or Sor came to this section and shot all the chickens without asking the permission from the owner of the house. Two times, I can count; I dare not raise chickens anymore. On the day when the Thai came and shot the chickens, I was afraid, I stayed in the house and locked the door. I heard Thai, while they were shooting the chickens, I heard them yell and make noise. So I was afraid, I locked my house, my door.*

Te Pu witnessed the second event, but only heard from her neighbors about the first. Both had a significant impact on her, the latter in a more direct way, while the former seemed to add to a general sense of fear of Thai military officials. Later, when I asked Te Pu about her own experiences with Thai authorities, she told me:

*I was really afraid of Thai soldiers because they came with guns and weapons. Guns, weapons...In 1995—later the soldiers came to Mae La camp with boots and weapons. They went inside the houses. I was really afraid of them, I went to the... Just got out of house, I’m really afraid of that.*

When she says “boots” above, Te Pu refers to the times that Thai soldiers entered her home without first removing their shoes, a sign of disrespect and, when coupled with the threat of violence, domination. From the perspective of the Thai government, the mid-1990s were years of intense conflict along the Thai-Burma border, a time when Thai military forces were dispatched to protect the forcibly displaced Karen from the incursions of the SPDC army, which was intent on rooting out the many ethno-nationalist combatants finding shelter in the border camps. Nevertheless, such an experience lives
on for Te Pu as a base to some of the fears she currently has of Thai troops. This memory, together with rumors, gossip, and the experiences of others she knows seems to make Te Pu fearful of deviating from a strict daily routine:

*I just…go to church, sometimes go to the meeting in the other zone, to other sections. I just go inside the camp by walking. I never had a motorcycle to ride on the main road, on the car road. I just always walk, travel inside the camp to go to the meeting to another section. I come here [home] and I work.*

When I asked if she knew anybody who had been arrested, Te Pu answered, “I don’t know because I stay at home so I don’t know much. I didn’t even find out because it’s scary enough for me so I don’t even find out.” When I asked her if she ever left the camp, she answered:

*I never go outside so I never experienced it. I’m afraid. I heard the Thai arrest people that go outside the camp and the Thai deport them to the Moei river. I was told by the section leader, “don’t go outside the camp and find a job” because there have been so many cases where the Thai caught the refugees and deported them. It happens from time to time.*

As she heard stories over the years of torture, arrest, and deportation of Burmese at the hands of Thai authorities, Te Pu developed a fear of Thai soldiers so strong that she was afraid to risk apprehension. Her experience serves as a useful example of the ways in which the repression of a few camp residents works to maintain a collective subjugation. It is also possible that during my interview with her, Te Pu not only expressed her fear of Thai soldiers, but also her mistrust of an outside researcher. As her interviewer, I assumed a position of power over the reproduction, interpretation, and distribution of her narrative. Humanitarian workers, and researchers to an extent, are authorities in a different way than Thai security officials, but they still have the ability to make the lives of forced migrants more difficult (see for other examples, Daniel and Knudsen 1995).
Urban refugees and political activism: Kyaw Nyunt Aung

A dominant theme in the marginalization of Burmese forced migrants involves documents. Burmese are rendered invisible and illegal by a lack of documentation. For urban and rural Burmese migrants living outside the camps, possession of documents or the lack thereof is extremely important as it can mean their right to avoid harassment in Thailand. In the words of one respondent, “My friend had the document so [the police] released my friend, but for me I didn’t have any document so they asked me to go up to the police car…and then they asked from me 3,000 Baht [equivalent to USD $90.00]” (Mi Mi Bangkok, August 27, 2008). In this case Mi Mi had to pay for her continued stay in Thailand. Documents are also a sign of official existence for Burmese living outside the border camps in Thailand when it comes to education. For one respondent, a lack of sufficient paperwork meant that her children could not attend school: “The teacher told me that if I had the three types of documents, like the ID, the household registration, or the birth registration, they would accept my child” (Aye Aye Thin Bangkok, August 27, 2008). The three types of documents this respondent mentions are those Burmese forced migrants living in Thailand are ineligible to receive if they live outside the camp. These documents are only given to those living in the designated zone in which they can exist, the border camps.

In cases when Thai police arrest Burmese who are in possession of ID or UNHCR papers, documents become a central focus of the interaction. Mi Mi’s husband presents an example:

During that time, the way I came back from my work to home, before I crossed the pedestrian bridge, the police were already below watching so I had no way to flee. They
asked me, “do you have any ID?” I said, no and just showed them my UNHCR slip and they called me to their police station and then they took out my pack, opened everything and made everything drop on the floor and they saw only my UNHCR paper and they tore it and said, “this paper you cannot use anymore. What do you think? How are you going to do? Because now we already arrested you” (Wah Ko Lo Bangkok, August 27, 2008).

For Wah Ko Lo, the destruction of his UNHCR registration (he had been registered as a “Person of Concern,” equivalent to being recognized by UNHCR as a refugee) rendered him illegal. Despite a semi-official status determination process with the UN, this respondent was effectively pushed into a place of non-existence in Thailand by other authorities. Whether or not Burmese forced migrants living in urban areas hold documents, according to some respondents, police continually remind them of their illegality. Mi Mi claims that on numerous occasions, police have stopped her to tell her to not show herself in public. “They [the police] told me,” said Mi Mi “‘you cannot walk like this. If you walk like this again I will catch you.’ Because, I need to walk to the bus stop. I don’t want to take the motorcycle from here to the bus stop” (Mi Mi Bangkok, August 21, 2008). As Ko Nam, a Shan urban asylum seeker, put it, “Whenever we go out, there is an 80% likelihood that we will be arrested by the police…Our life is in uncertainty…” (Ko Nam, Mae Sot July 29, 2008).

**Kyaw Nyunt Aung**

Many urban forced migrants in Thailand are political activists and are from urban areas in Burma, particularly Rangoon, and nearby townships. A large proportion of these persons settle temporarily in the border town of Mae Sot where they maintain some semblance of a politically active life in exile. Groups of activists in Mae Sot have set up “social houses” where they live and organize their political work. One respondent, Kyaw
Nyunt Aung, was a member of an opposition political party in Burma. She participated in non-violent demonstrations in Rangoon in the fall of 2007 and had to flee her home after showing up in news coverage of the protests and their subsequent crackdown by the Burmese government. She first came to Thailand alone, and then managed to get her husband and one child out of Burma to apply for asylum together. While in Mae Sot, Kyaw Nyunt Aung stayed for part of her time at a social house while she tried to get access to the offices of UNHCR to apply for asylum. As mentioned in Table 3 above, the Thai government, UNHCR, and the international community established a special category for persons fleeing the destructive aftermath of what has been called the “Saffron Revolution” in Burma. Certain governments, such as the United States, opened a fast-track resettlement pipeline for those claiming to have experienced persecution during this event. Despite this brief window of acceptance for the small subset of the Burmese asylum seeker population, the lived experience of Kyaw Nyunt Aung reflects something more grievous:

*I tried two times to get registered with UNHCR. I applied in December [2007] one time and the second time was in February [2008]. At that time, UNHCR, I don’t know what their problem was, I didn’t get a chance to submit my application. In February, they told me that they were not accepting applications yet so we could not get into UNHCR and also we could not submit an application.

So because of my security problems living here [in Mae Sot town], I moved to [Nu Pa] camp. While I was living here in Mae Sot, I didn’t have any documents and so I had some friends from the KNU, Karen people, who said, “so if you don’t feel secure living in Mae Sot...” they invited me to come to the camp. So I followed them into the camp.

In the camp, I tried to approach UNHCR but they did not pay attention to me. When I was here in Mae Sot, they didn’t give me a chance to submit the application. In the camp, I approached them and they didn’t give me attention. I tried to submit the application again in the camp, but I could see that they showed no interest in my application. I had a very hard time in the camp. No recognition, no place to live, nothing to eat for more than two months. We just gave our name to the section leader as a new arrival. I was not listed as a refugee so I didn’t have a chance to get [food rations]. I had to go from one house to another for food. I had a political community in
the camp, so I would go from one house to another for my meals. If I don’t have anything, I don’t have anything to eat. At the time I was having such a problem and my husband and another son followed me to the camp from Burma. Nothing to eat; no money. The ones who shared food with me are also refugees; they don’t even have enough for themselves so some days I had nothing to eat.

Kyaw Nyunt Aung clearly finds fault with UNHCR for making the registration process so difficult. As I interviewed her, she expressed relief at being able to report on UNHCR’s behavior to me, a foreigner who she hoped would be able to make public her critique. The unavailability or inaccessibility of UNHCR seemed surprising to Kyaw Nyunt Aung, who assumed that she was entitled to protection from the international community for her political activities inside Burma. Though this inaction on the part of UNHCR is far from the aggression other respondents report receiving from Thai authorities, it is nevertheless important to understand the ways in which UNHCR plays a role—likely an unwitting one—in rendering certain forced migrants invisible and non-existent. The reader should recall the example of Aye Aye Thin, whose experience reflects how tenuous the status of urban refugees is. Once out of touch with UNHCR, urban refugees struggle on their own in spaces of non-existence. Kyaw Nyunt Aung’s story illustrates the challenge to locate basic sustenance following her failure to obtain UNHCR protection. And this inability to gain protection was ongoing. Kyaw Nyunt Aung explains that she tried multiple times to access UNHCR while in the camp. But, once in the camp and without any recognition for her participation in the September 2007 protests, she became an anonymous new arrival, of which there are hundreds, if not thousands—all deemed ineligible for refugee status until formal screening.

Still, her ability to rely on a “political community” is significant for what it says about her capacity to struggle against invisibility and non-existence in Thailand. With
some help from the Karen political wing and from other political affiliates in the camp, Kyaw Nyunt Aung is able to survive, though barely. While her reliance on humanitarian authorities for support signals a level of dependence on external authorities for assistance, it appears that Kyaw Nyunt Aung quickly ascertains the extent to which she will have to negotiate survival and status while in Thailand through unrecognized sites of power and gatekeeping authority.

Kyaw Nyunt Aung eventually did receive recognition as a refugee from UNHCR and the US government. While she awaited resettlement, she found her efforts to be politically active challenging:

As soon as I got here, I got some rations from [the social house]. If I compare back to the camp, it is easier but we still have need. It is ok here. We still need more to survive here but the problem is with harassment by the police. Sometimes the police will raid the offices and also when we are going into town, we will be stopped by the police. That’s why we cannot go outside freely, although we have UNHCR documents.

One day at [the social house], a day when we were having an annual conference, early in the morning at 7:30, Thai immigration raided our organization, they came in without taking off their shoes and searched everywhere in the house and drove all of the people inside out and then asked us all for documents. Because they were disrespectful for us without taking off their shoes and because of the language barrier, we suffered from that. When we showed them the UN slip, they told us, “it is nothing, we can send you back, we can deport you anytime.” They told us like that.

The next day (we had a three day conference), they came again. The next day while the head of the organization and the finance officer, when they went out to buy coffee packets, the police followed them and arrested them and handcuffed these two and took them to the jail. Then we had to collect them with 3,000 Baht [equivalent to USD $90.00]. They first asked us for 5,000 [USD $146.00] and then we asked them to discount. Our life is not secure. Anytime they want to come, they can come and harass.

Another time, the other day, our family didn’t have anything to eat so my husband and I went to a friend’s house who just arrived back from Burma. On the way back we collected watercress (from the ground). On the way the police arrested us and took us to the jail. On the highway my husband and I were riding a bicycle, the pile of watercress in the front. At the time the police in the motorbike stopped us first and asked us to show them the document. At that time a police motorcar went past. The first two police, after we showed them our documents, let us go. Then the car that past by turned back to us and just put us in their car. There were four people already there with handcuffs in the car. Then they took us to the police station. There were already many people there. At that time, I had hypertension so my husband told me, “don’t be worried too
much, I think everything will be ok.” They made us all get down from the car and make fingerprints. Then I told them, “I will not do that.” They asked me for money and I told them “I don’t have money.” I showed it to them, telling them that I could not do that. The one who arrested us, they were not in uniform.

Nobody was in uniform. While they were viewing my UN slips at the police station, the police asked me if I had money, if I had wanat [an elder to vouch for her], if I had a telephone. I told them I didn’t have anything. I told them, “this UNHCR slip is written in Thai too. It has two phone numbers, one from Bangkok and one from Mae Sot.” I showed them the phone numbers. The policeman in ordinary clothes could speak in Burmese and he told me that if I could give them two bottles of alcohol then it would be ok. I had already told him that I didn’t have any money. They told me, “This document is nothing. These people will be deported. If you are holding this slip, you have to live in the camp.” Its not the truth because [UNHCR] told us to live here, that’s why we live here. One of the men told me that we could go back home, then I was all wet in the rain; I was not so well on that day.

It’s like this in Thailand for Burmese political activists and refugees, we always have these problems, its very bad.

Kyaw Nyunt Aung’s account of the difficulty in assembling a conference of Burmese political activists in Thailand illustrates the ongoing struggle between efforts among forced migrants to maintain a political identity and the regulation of their movements and organizing work by Thai authorities.

Nevertheless, her refusal to pay the bribe reflects an important moment of resistance against the police officer’s attempt at extortion. The fact that she and her husband did not get deported at that moment underscores the idea that Thai police are not necessarily interested in destroying the lives of Burmese forced migrants, but simply intent on making some extra cash. Whether or not it was her stern protest that stayed the Thai immigration police from deporting her and her husband, Kyaw Nyunt Aung’s narrative of resistance is important in and of itself as a symbol of standing up to the power of authorities attempting to exert total control over her and her husband.
These examples of the disruption of Burmese political organizing are not unique to Kyaw Nyunt Aung’s social house. Other urban forced migrant respondents shared similar stories of raids on their offices or their homes. One activist shares a story of a raid on his home:

I got the teaching job in June but I hadn’t gotten the salary yet so I had to borrow money from friends so I rented a house at 900 Baht per month. In the morning on the 2nd of July, on that day, I was not going to school because I was not so well, but my two children were about to go to school when the police car stopped on my street. We thought you know, all my family has already got the UNHCR receipt and also I have already got the document from the school so I thought that it was ok. Then the house owner warned us to shut the door. We were living at the back. Its only 900 Baht per month, we have to live at the back. So we shut the door, but shortly after the police knocked at the door.

At first they searched for the people in the lane, our house was at the top of the lane. After that they searched into other houses. I showed both documents but they don’t pay any attention to the documents and they pushed me, my wife, and two daughters out of the house and two children were left inside the house. Four family members of mine were put in the car with other people, it was like full, packed in the car and we were taken (Law Law, Mae Sot, July 29, 2008).

Like the social houses, Thai authorities technically do not permit the existence of political party or Burmese organizational offices in Thailand. Occasionally authorities remind activists of this fact as they arrest and deport them back to Burma or at least threaten to do so. Even when recognized by UNHCR as refugees, local authorities assert their authority and their ability to subjugate Burmese political activity along the border. In Law Law’s case, authorities told him and his family that because they were Burmese and had UNHCR recognition, they had to sleep in the Burmese school where he taught or in the camp and await further instructions. To these police officers, Law Law needed to be contained and reminded that he could not just rent a house in the town like a Thai person. After the incident, Law Law reported that his children were afraid to leave the house. Unable to help, UNHCR later recommended that Law Law look for protection in
one of the border camps. However, when he and his family tried to enter one of the camps, local guards demanded a bribe for entry. Since he did not have enough cash to pay off the guard, Law Law found himself stuck outside the camp and without an existence in the town.

**Gatekeepers: Tha Kler**

Authorities among the population of forced migrants play important roles in both resistances against repressive external authorities and the regulation of camp spaces (Turner 2005). On the Thai-Burma border, these mid-level power brokers may serve as administrative officials on the inside of the camp, mediating the authority of Thai district or military officials. The structure of the camps are designed to have some semblance of governance structures with a camp leader, section or zone leaders, and camp committees that manage aspects of the camp such as health, the judiciary, health, education, and security. There are also authorities that relate to an external structure of ethno-nationalist governance. Officials from the Karen National Union, for example, may reside in one of the border camps and their authority manifests itself more as an insurgent state’s cross-border government in exile. While the latter is present in an informal way, there is believed to be some significant overlap between the two levels of authority, with camp committee members serving also as political party or political structure members.

*Tha Kler*

In part through their official capacities and in part through their personal engagement with their positions of power, these mid-level authorities serve as gatekeepers for the forced migrant community. Camp authorities like Tha Kler take part
in the screening of new arrivals. They make up a first level of status determination; before Thai authorities or UNHCR get a chance to assess the credibility of a forced migrant’s claim to asylum, camp officials gauge the individual and make an initial decision whether or not to allow her or him to stay in the camp. At the same time, they are advocates for the forced migrant population in many ways, and they have enough power in the context to meet with Thai authorities, though not necessarily to effect large-scale change. Tha Kler is one such authority in Mae Surin camp, in Mae Hong Son Province. Despite the use of a pseudonym, the relatively small number of official positions in the camp would make it easy to identify Tha Kler were I to specify his position, so I will leave this information out. When I interviewed Tha Kler, we discussed his role in the screening of newly arrived forced migrants as well as the threat of deportation these new arrivals faced.

*We heard the news in 2008 that the newcomers would be sent back to their country. They are our people and civilians and we don’t want to see that they have trouble again, because they had trouble to come here and we don’t want them to meet trouble when they get sent back. So the reaction of the camp leader has already been discussed. If they really force the newcomers to go back, we will have to do something like a demonstration.*

*I have already asked UNHCR [about this] because I know UNHCR is the one who works close to the Thai government. They already said that they met with the MOI but they didn’t give their answer, they didn’t explain the answer that they got from the Thai authorities.*

*Most of the time, before, most people, the new comers come and meet me first and after that we sent them to the Or Sor or the Tahan Phran, but recently the Thai government, especially the authorities like the Or Sor and Tahan, they don’t like the newcomers to meet me first because they know that if they came to meet me first, I will provide them with some information about what to tell them. Actually, you know our people, whenever we ask the question, “When did you leave Burma? What difficulty did you face?” Even if they faced a problem, but they are shy to speak up or they hesitate to speak, usually.*

*As I mentioned before, I wanted them to meet me first so I could provide them with some information. Even though some people really did meet the real situation, but they cannot explain it to the authorities and if they meet the Thai authorities, the authorities will say, “if you had no problem then why did you come here?” So there will be a problem between them and so I want*
them to meet me first and I will explain or provide some information about how to explain to the Thai authorities properly.

For myself, if the newcomer, they come for only economic reasons or they want to find a job in Thailand, I tell them, “I don’t want to accept you here. You don’t have any difficulties.”

Through Tha Kler’s words, one can see some of the ways he struggles with his power to help manage Ban Mae Surin camp. On the one hand, he and other camp officials maintain senses of solidarity as they contemplate the possibility of a demonstration on behalf of newly arrived asylum seekers threatened with deportation. Such a protest would be an enormous challenge to the power of local authorities; it would also challenge dominant discourses about the passivity of forced migrants. These types of events do happen from time to time on the border.24 The roles of mid-level authorities (official and unofficial) in these types of situations are important to consider for what they reflect about the capacity to mobilize a camp population or subgroup. Nevertheless, it is also important to note that there may not be homogenous support among all forced migrants with power for a non-violent or violent demonstration. For example, some forced migrant authorities serve as guards that have more camaraderie with the local Thai guards than with the Burmese population in general. In these cases, it would be important to examine the ways in which mid-level authorities negotiate their multiple identities to either galvanize the forced migrant population’s action or canalize the power of Thai security officials in suppressing any type of movement.

24 A protest took place in December of 2007 in Ban Mai Nai Soi camp following years of alleged abuse of refugees by Thai authorities. The demonstration turned violent as camp residents destroyed the offices and motorbikes of the local Thai guards. In retaliation, a Thai guard shot and killed a refugee youth, sparking the intervention of the Thai army and subsequent legal action. The camp commander, a Thai district official, inflicted collective punishment on the whole camp population in the aftermath, refusing to allow resettlement procedures to begin there until the residents paid off all the damages caused during the demonstration. In early summer 2008, a group of Burmese activists staged a protest outside the offices of UNHCR in the town of Mae Sot, angry at their lack of protection.
In terms of Tha Kler’s everyday forms of power, his position as a camp authority allows him—or did in the past—to screen new arrivals and regulate membership to the camp community. This process serves at least three purposes. It is first, a manifestation of solidarity with Burmese asylum seekers and their struggle to find safety. Second, this process reflects an act of protection for refugees already in the camp: as Tha Kler does his best to ensure that those entering the camp are people who have actually faced hardship, he attempts to maintain the integrity of the notion that these camps are in fact refugee camps and not just transition centers for migrants on their way to find employment opportunities. Nevertheless, third, as much as Tha Kler screens for the benefit of Burmese asylum seekers, his position is entangled with the politics of ethnicity and conflict. His job involves monitoring the level of combatants living inside the camp and being vigilant about preventing spies or saboteurs from infiltrating the place. Moreover, though he may not have an official mandate to maintain an ethnic Karen/Karenni majority in the camp, there have been reports of tensions arising in the camps between religious groups (Muslims, Christians, and Buddhists) and ethnicities, largely between ethnic Karen and Burma’s dominant ethnicity, the Burman. Burman asylum seekers have complained that the camp committees and section leaders who are predominately Karen discriminate against them. Some Karen camp residents, on the other hand, share suspicions that newly arrived ethnic Burman individuals are, in fact, spies for the SPDC, or at least economic migrants looking for opportunities to go to third countries for resettlement. Until Thai authorities appropriated the intake screening role, camp authorities like Tha Kler had immense authority to grant or prevent asylum. And
because of erroneous assumptions of homogeneity among the forced migrants, most do not suspect that these power brokers act with anything other than compassion for all Burmese people.

**Forced deportation from camp: two accounts**

On July 17, 2008, Thai paramilitaries loaded approximately thirty-nine individuals from Mae Ra Ma Luang camp and thirteen individuals from Mae La Oon camp onto boats and took them across the Thai-Burma border to an internally displaced persons camp, Ei Tu Hta, located on the Salween River. This act of refoulement followed three months of threats from Thai officials who insisted that there be no new arrivals in the camps and that because there was no serious fighting on the border, claims to asylum were invalid. Women and children made up the majority of those forced migrants who ended up Ei Tu Hta IDP camp and Thai officials as well as refugee community based organizations extensively documented the process of deportation. What follows are two accounts of this event. The first comes from one of the deportees, Ser Kyaw Kar. The second is from a staffperson from a community-based organization that accompanied the deportees to the IDP camp. The accounts show two of the many perspectives from that day and are useful when shown together for what they explain about the subtle forms of resistance forced migrants level at what appears to be a threat to their collective survival.

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Ser Kyaw Kar

Mother of eight children, the youngest of which was five months old at the time of the interview, Ser Kyaw Kar and her husband arrived in Thailand at the end of April, 2008. They had never been before, and inside Burma they lived far from the border, but life had become unbearable for them in their village and they left. With so many children, it took Ser Kyaw Kar months to get out of Burma; she reported walking through the jungle and stopping in unfamiliar places for the night. She noted that the journey had been hard for the youngest ones who could not prevent the nightly onslaught of mosquitoes and who hungered the most when there was no food.

Two months after Ser Kyaw Kar finally did enter the camp, Thai paramilitaries entered the camp and informed her and her husband that their family would have to go back to Burma; there were no more new arrivals allowed. It was not only Ser Kyaw Kar’s family. The black-uniformed paramilitaries told more than 300 individuals who had arrived since April 2008 that they would have to go back. Though local authorities typically only returned some of those refugees they caught outside the camps, violators of Thai decree, this time they entered the camps with the intention of an organized mass deportation of asylum seekers to Ei Tu Hta. Ser Kyaw Kar related her experience:

The camp leader came and told us that we have to go and show up at the Thai office, and we went there. The Thai authorities wrote down our names and took a picture. “We will send you back to Ei Tu Hta. You will have the food as you have here in this camp. Such as chilly, fish paste, salt. You people do not need to worry. All of the student also have to go back.” After that they went back. As for us, we did not understand. The Thai authorities talked with the camp leader and
section leader and then they left. The camp leader told us, “you can send your children to school. No need to worry.” So we sent our children to school.

...They gathered us beside their office under the rain and the insects bit us. All black uniformed soldiers held guns...It was very scary. I had never seen or had an experience like that. There were a lot of thoughts that came into my mind. Because, they were soldiers and they were Thai and we were from Burma. We were not their people. I was scared that they would torture us. The children cried as the insects bit them and some children cried because they were hungry. They did not ask us to come back so we did not have the chance to eat. After that, the camp leader told us to go back to our home, I also did not understand the situation. They said, “They will send you. Even though they send you, you do not need to worry. You may have food to eat.” And I thought, “What was going on now?” I went back home. After a while, in the evening time when I was about to cook for the dinner, people came and called us. “The Thai authority asked you go to the office.” We had to go again.

When we arrived in the office, they told us “tomorrow at 8 AM come and wait here at the river bank. Now go back and pack up your stuff, take all that you have with you. Do not leave anything.”

After breakfast we went down to the riverbank. The Thai authorities were very aggressive with us. They scolded us. We did not have time to buy snacks for our children. We also did not have any money. They told us that they would give us 200 Baht per person. I thought that would be better. When we got into the boat we all cried, including, me, the mother, and the father and the children too.

Our children were very hungry and there was no food to eat. We would like to pee, but the authorities did not allow us to. The Thai authorities were like Burmese soldiers. We were very hungry but we did not have any food to eat. We wanted to pee but we could not. On the way to Ei Tu Hta, we prayed to arrive safely as there was a lot of danger on the way. Then we arrived at Ei Tu Hta, and they just dropped us at the riverbank. It was raining and the insects bit us. When we arrived at the riverbank they took a picture of us and then left. My children asked for food and drinking water.

Afterwards, people asked us to live at the [community based organization] office, [CBO] staff cooked the meal for us and then we ate. After the meal, people asked to go and live at other people’s empty house. In that house, there was no kitchenware. We did not even have a gallon for keeping drinking water. We asked people for a bottle to keep drinking water at the [CBO] office. We only had rice and salt but nothing else to eat. It was very hard for us. Some friends pitied us and gave us some food and some plates. We could not ask our children to go to school as we did not have any money and could not give the children pocket money.

We just lived in the [IDP] camp. Other children, their parents sent them to school and bought them snacks. Our children looked at that as though we could do nothing for them. I could not think of what the Thai authorities did to us. Our daily meal was only rice and salt. My husband left for the refugee camp. I was left behind with my children. My husband told me, “I may not come back and pick you up from here and I may never return. If I go back, I do not know whether I will be sent to the third country or not so I may not come back.” At first, he lied to me that he would come back and pick me up. When he went down to the riverbank, I ran after him and
reminded him that, “came back and pick us up.” If I am alone here, it will be hard as I have to take care of my children and find the firewood. No one takes care of my children when the elder siblings go to school. And it was flooding. And students drowned and I was worried for my children—whether they would go to the river and play in the water. I could not think of anything. People who lived there said, the authorities may not let you go and they said that, “we live here and eat rice with salt.” I thought, as for me I can eat rice with salt but how about my children? And so I looked for the way out.

I caught the boat by myself. When people saw us they looked at us and we felt shy. My luck is very bad. I carried two children. I kept one on my back and I carried one on my arm. I also carried the clothing bag on my hand. I thought too deeply and I lost consciousness.

On the way I met some mountainous people and I asked them, “Where will you go my friend” They replied that “we will go to the farm” and we followed them. We slept at their hut. We came back on our own. We did not know the way. I just followed the path. I determined for myself that, I would live and die with my children together. Then I came back even though I was not sure of the direction. We slept night by night on the way. So on the way back here it took 4 days to walk from the place where they stopped the boat for us to here. I don’t know the name of the place. I just travelled like that. We slept at the hut and did not see anyone. I only saw a pig and farm animals. The second night my children could not sleep as the mosquitoes bit them. And we continued our trip and saw a boat and told the boat driver where we wanted to go. We did not know anyone and came back on our own. I threw away my clothing in the river. After the boat trip we continued our trip on foot.

Through her telling of this experience to me in an undisclosed location, Ser Kyaw Kar conveys an incredible suffering. In particular, the threat of violence loomed as paramilitary soldiers came armed and acted aggressively. One can get a sense of the level of bodily control soldiers wield over the Burmese deportees as the paramilitaries did not permit them to urinate or find food. This reflects a level of being exposed to bare life as Agamben puts it, similar to Swe Kabay who was stripped naked in a moment of extreme exposure and vulnerability or Kyaw Soe who was bound and strip-searched. In her narrative, Ser Kyaw Kar expresses confusion a number of times at being called repeatedly along with other newly arrived camp residents to assemble in front of the Thai authorities and Karen camp leadership. The paramilitary soldiers seemed to document the process meticulously, taking photographs a number of times, including upon arrival at
the internally displaced persons camp. Interestingly, Thai officials did not deport all new arrivals in all camps along the border. Instead, they carried out a small-scale deportation (only fifty-two were eventually deported during this event) with a high profile, in many ways a symbolic gesture that both warns incoming asylum seekers to stay out and publicizes the process of subjugation to various stakeholders along the border. Beyond the strategic value of this deportation, I would argue that the treatment of the deportees in many ways reflected a type of devaluing of the refugees’ humanity. Together with the extent to which this experience was degrading and traumatizing for the forced migrants, the level of organization with which the paramilitaries acted is important for what it reveals about the development of protocol and norms related to repressive tactics. Such organization is a reflection of the local authorities’ long-term management of the forced migrant population.

Within the intense difficulty of the situation Ser Kyaw Kar faced, there are also important elements of resistance that should be highlighted here. Ser Kyaw Kar certainly does not resist in a conventional sense by refusing the deportation. As Agamben would suggest, there is no room for such agency in an extreme situation like this. However, Ser Kyaw Kar’s resistance is present, though subtle, and it manifests itself in the many ways she confronts dehumanization with humanizing moves. By protecting her children, determining the route of return, enduring a four day walk through the jungle towards the perceived safety of Thailand, and simply by staying alive Ser Kyaw Kar proves that she is not a passive and helpless subject of domination. It is crucial to locate these moments
of struggle because they confront interpretations of encampment and displacement that position refugees as lacking control over their own fates.

Maw Kler

As a staff person of a refugee community-based organization in one of the border camps, Maw Kler considers herself an advocate for her community. When camp authorities asked her to accompany the group of deportees to Ei Tu Hta, she made it her mission to document the process and to act as something of a liaison for the deportees, facilitating as smooth an arrival as possible in the IDP camp. An excerpt from Maw Kler’s interview can also be found at the beginning of this paper. However, I find it useful to share more from her interpretation of the event.

On the 16th morning, I came to sew things and I did not know anything. The news arrived to the camp authority and meanwhile the Thai soldiers together with the camp committee asked new arrival to go down and gather at the office. As for me, I did not care of these things and I just continued sewing on my own. At about noon near the afternoon I went down and took a look and saw that the new arrivals were still there for such a long time and the new arrivals were being questioned by the Thai soldiers. And I heard some of new arrivals say that “the Thai soldiers will send us back.” The time when I went there, I did not bring the camera with me. I also saw that people cried and I felt very bad and I thought that if I were to be sent back I may not be able to do anything either. I was sad and I came back to the office and cried on top of the big thread bag. The Thai detective saw me when I was crying. He talked with me, but I did not reply to him. I was sad and if I replied to him, my words would not be very nice and it would hurt him. So that’s why I did not say anything. I just kept crying.

In the evening, the camp vice chairperson came and told me that “tomorrow you will have to go with new arrival and have to take care of them. You will also have to take notes in case people come and ask you about the situation that happened to the new arrivals. You will have to give the information to people who will come and ask you.” My friend stood up and said; “vice chairperson, you asked this woman to go. Do you think will she be able to go? She cried the whole evening by seeing the situation of the new arrivals. If she goes with the new arrivals, she will cry and she could die.” I, myself, I told the vice chair person that, “no problem if I have to go, tomorrow I will not cry.”

When we arrived at Thu Mwee Ta, there were 17 students who got out of the boat and I took their names. I looked at the river bank and told the security in charge, wait for me here and I asked people to bring down the rice sack. “You take care of these people.” The reason was, these
people who left from Mae Ra Ma down to Ei Tu Ta, they did not have anything to eat since this morning. Children untied the rice bag and ate it on top of the sand.

I went up and told the camp committee and CBO committee, “the Thais came and sent you new arrivals and now the new arrivals are here. What are you going to do? Did not you know about it? Why did not you go and take care of us?”

“I did not know anything,” said the committee. And I told them back like, “it doesn’t matter whether you know it or not. Right now, we will have to work together. Because these new arrivals are here.”

They asked me, “Have they arrived?” I replied, “yes, they have arrived.” They gathered themselves and went down to the place where the new arrivals arrived. New arrivals who came back faced problems as there were no preparations for them. I talked with the camp committee together with the [community based organization] committee, even though we would like to help them we could not. We asked them to live in a house but, there were no stoves or drinking bottles in the house. There was not firewood because they arrived there suddenly. So they could not have charcoal. We looked around and saw that everything was needed. I said that, “this evening children may need to drink water. It was good for children to drink boiled water as they change place in case they might get sick. I had to run from place to place asking for stoves and pots. It was a very hard and difficult situation.

When I looked back to the people who were forced to go back, they had already suffered physically by changing boats several times and were scared the whole way from rain and flooding while riding the boat. They suffered both physically and psychologically as well.

There were 20 who we arranged everything for them by talking with the camp committee, arranging the accommodations and every basic need. One student who lived in the same section as I do here, when he arrived I told him to go back to school. I even told him that, I talked with the camp leader and also talked with the teacher to accept the new students. But he told me that, “if I will have to go to school in Mae Ra Ma camp I will go but I may not go to school here.” The next morning he packed up and left. I did not know where he headed to or went.

Yes, we were not happy about it. He seemed like he could not rely on us. Before I left Ei Tu Hta, he would like to come back with me. I told him that, “how could you come back with us? You could not come back with us,” I replied him. “I could not take responsibility for you as I am a also refugee.”

Before we left Ei Tu Hta; we discussed the situation with the camp committee, the[community based organization] committee and the [youth group] committee then we left the camp and came back home. Before we came back, a family that has 8 children came and cried to us. The mother asked me that, “you will go and leave us here? You will leave me to die here?” She came with her 2 – 3 small children who looked up at me and cried. Both the mother and children also cried.

I told her, “understand me. I know your problem and difficulty. Because, the house that you lived in, there was nothing in it.” I encouraged her that, “even though you did not have anything in your house, please try to live as best as you can.” I told her that, “I could not help you with money or food. The only thing that I could help you with is that I have a mouth to speak out for
you.” I told her that, “the whole world will know about your situation when you are trouble now.” Before when I was in trouble, no one knew about my situation. I have lived my life together with my children in the jungle for 6 months under the rain. There was war happening and we heard the sound of shooting from the place where the SPDC soldiers arrived. We had to run from different place to place. We had to sleep at different places; one night, one place, in a 6 months period. “Now the only thing that I can do for you is I can speak out for you.”

I explained to her that, “Yesterday I went to Mae Kah Ta. I sent your family’s news to [the community based organization’s] office, it cost me 1000 Baht. If I gave you, you could eat with your children and family and it would last several days. But I did not give you that 1000 Baht. I sent your news instead. It cost me 1000 Baht for the boat fee, telephone fee, and for my food.” And I told her, “Think about it. Would it be good to give you 1,000 Baht for your food or it was worth it to send your news. Which one was better? Think about it and decide about it.” She told me that, “I knew about it. I knew that you did it for me.” It seemed for her like, if I came back to Mae Ra Ma Camp, she could not live there on her own with her family in Ei Tu Hta.

I replied to her that, “you do not need to worry. I will be aware of and keep listening about your situation.”

And she told me that, “my eldest son, soon he will be crazy. He cries both day and night time. I can not do anything.” And again she told me that, “when you arrive back in Mae Ra Ma camp, please tell the English people to come and take my 8 children and raise them. As for me and my husband we may go to another place and die where we are. I do not want to live anymore.”

I told her that, “do not think like that. They are your children. If you live, live with your children and if you die, die with your children. She thought and strongly believed that her children would have a better life in the future. If I was sent back and lived between two Burmese armed group, I could not know how my life would be and how to live. I might not be satisfied with my life.

There are a number of ways to interpret this story. Without imposing one particular interpretation over the other, I am interested in highlighting some key points. The space of liminality for Maw Kler is not one in which she is entirely dependent on humanitarian assistance. In fact, outside the space of humanitarian assistance, Maw Kler takes on the role of protector, humanitarian, and advocate herself. She assumes a responsibility—just as humanitarian actors often assume responsibility—for the short-term care of the deported forced migrants. She assures them that she will tell the world about the injustice they suffered; she will be their voice at least temporarily. Moreover, she seems to perform the role of a coordinator, working to make sure that the deportees
are housed and fed and that other services are in order. She is a caregiver and counselor as well, providing a kind of benevolent control over the woman who asks her to take her children.

Maw Kler also recognizes that she is still “also a refugee” and cannot do everything to improve the lives of those around her. Does this imply she regards those who are not forced migrants, who are humanitarians or researchers, as empowered to do what she cannot? If so, does this suggest an element of internalized inferiority? Central to Maw Kler’s narrative seems to be her ability to empathize with the deportees; she recalls her experience of displacement and interprets the experiences of the deportees through the framework of her own trauma. From the beginning of the story, the reader can see that Maw Kler emotionally identified with those forced migrants who were deported as she wept for them.

Comparing Maw Kler’s narrative with Ser Kyaw Kar’s account, there are three important points to note. First, Maw Kler’s resistance to notions of passivity and to efforts to push the deportees out of Thai existence materialize as moments of activism; Maw Kler’s commitment and ability to help publicize Ser Kyaw Kar’s plight is indicative of her position as an advocate, not a victim. Ser Kyaw Kar, on the other hand, who is pushed farther to the edges of existence, seems to extract some resistance from her dire situation, merely by surviving and attempting to choose her own fate. Both forms of resistance are central to the context and complicate dominant understandings of agency among refugees. Second, even as Maw Kler articulates her moments of resistance, she seems to remove some of the agency from Ser Kyaw Kar, constructing her as completely
helpless. Ser Kyaw Kar, on the other hand, barely mentions the work of the CBO staff person; their struggles seem to take place on different levels. Finally, third, one can learn from both of these perspectives the extent to which the deportation was a polarizing event. Just as the Thai paramilitaries exerted total control over the deportees as if they were transporting cargo or livestock to Burma, Maw Kler and Ser Kyaw Kar do not engage with the Thai authorities, but rather, regard them as monolithic oppressors.

In all of the narratives and excerpts shared in this section, the reader can get a sense for the ways in which Burmese forced migrants express their repression as well as their resistance through their telling of experiences to me, a foreign researcher without established familiarity. Thus, this is only one telling out of many that can take place, a subjective snapshot of life on the Thai-Burma border for Burmese forced migrants stuck in transitional border camps or marginalized in urban areas. Nevertheless, the contests over existence and humanity are of paramount importance for what they tell us about how forced migrants experience protracted refugee contexts. These narratives should remind us that we cannot forget about this middle-stage of migration, the liminal space between a traumatic past and a bright future where forced migrants face new sorts of repressive technologies and develop their own ways to struggle against efforts to subjugate them into a state of passive sub-humanity.

**Conclusions: narratives, space for asylum, and identity struggles**

In this examination of the narratives of Burmese forced migrants in Thailand, I have taken into consideration the importance of legality and policy, looking at how its
construction and manipulation in this context leaves many who deserve equal treatment on the margins of their exile. I show that the layering of humanitarian, domestic, and international policy and law permeate the experiences of forced migrants with the construction of invisible boundaries that create spaces of non-existence, where forced migrant claims to rights go unnoticed and where entire lives effectively disappear from the view of those making refugee policy. As Coutin (2000) and Landau (2006) suggest, the moving in and out of spaces of non-existence has significance for not only the futures of forced migrants, but also for the ways in which states formulate migration policy. State actors normalize and sometimes institutionalize ways of treating forced migrants based on what appear to be different ethical standards in the spaces that extend beyond the law. I have also shown that the historical, political, and social construction of laws, policies, and norms related to the treatment of forced migrants reflect a contentious process whereby the positions of various actors are engaged in struggles that produce particular local and transnational discourses around the lives of refugees. These discourses implicitly embrace certain understandings of what forms of treatment are acceptable for migrants to endure while they are in exile and under the protection of host states or the international community.

They also are part of a broader discussion on space for asylum. Despite the seeming fixedness of international refugee and human rights law, state policies toward asylum seekers tend to be dynamic processes moved by a range of factors from international political developments (Shah 1999: 119) to states’ economic conditions to xenophobia and the stigmatization of asylum seekers as burdensome (Kate 2005; Feller
2006: 515). In light of this policy discretion, a number of researchers and practitioners point to trends of decreasing space for seeking and being granted asylum and a growing inclination toward exclusion (Shah 1999; Joly 1999; Crisp 2003; Steiner et al. 2003; Sperl 2007). For some states—including developed destination countries that are signatories of the Refugee Convention—domestic asylum policy can lead to certain instances of derogation from international refugee law.  

This includes Australia, the European Union, and the United States, where over the last decade, the Bush administration has linked immigration to fears of terrorism (Joly 1999; Sperl 2007; O’Sullivan 2008; Troeller 2008). For developing countries of first asylum, which includes Thailand, concerns over regional security and economic integrity trump whatever asylum policies exist to influence the behavior of stakeholders (Caouette and Peck 2002; Juma and Kagwanja 2003; Landau 2006). States that develop exclusionary policies toward asylum seekers often simultaneously witness the erosion of ethical standards in “managing” those searching for refuge (Caouette and Peck 2002; Landau 2006), with increases in instances of extortion, physical abuse, and forced deportation of asylum seekers and refugees at the hands of local officials.

In questioning the reason for the emergence of this pattern of policy shifts in developed destination countries and developing countries of first asylum, it is useful to

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26 This includes issuing temporary protection to fully recognized refugees and then asking them to re-prove their eligibility for consideration as refugee status. In addition, some states recognize asylum seekers as not fully refugees and thus persons not eligible for employment or education. Frequently, states relegate refugees to camps and prohibit their movement outside the camp walls or fence.


consider at least a couple of factors. First, one can look to a heightened use of the national security lens through which states regard migrants of all sorts, forced and voluntary, documented and undocumented (Feller 2006; Loescher et al. 2008). This appears to be especially so after September 11th, though this is by no means the sole cause for restrictive policies. Second, Feller (2006) and UNHCR (2006) discuss the increasing tendency for state governments and their public to lump refugees and migrants into a category of illegal migrants. In part this stems from the fact that “asylum seekers and refugees have increasingly been resorting to illegal means of entry into states” (UNHCR 2006: 178). But it is also due to a growing bias in many countries toward immigrants. As a result, asylum seekers and other migrants take on a monolithic identity in the public realm (Troeller 2008: 53). For both developing and developed states, anti-migrant sentiments feed into electoral politics (ibid) which only foments citizen anger at incoming asylum seekers and migrants.

When considered in this broader context of global space for asylum, the processes by which Burmese forced migrants move in and out of legal categories becomes all the more important. Their experiences with losing identification and status in Thailand and becoming invisible to the international community must be considered as part of a broader trend in which various technologies are employed to marginalize those seeking asylum. At first, it appears that state policies are to blame, but in reality, one must recognize the extent to which decreasing space for asylum stems from the interconnection

of domestic laws, the capacities of supranational agencies (such as UNHCR), local popular discourses about immigrants, and the individual encounters refugees and asylum seekers have with authorities. Together, these factors generate challenges that are insurmountable for many thousands of asylum seekers who end up stuck in exile or in their country of origin.

On another level that goes beyond legality and status, the narratives analyzed in this paper underscore the ways forced migrants are put in positions where they must not only struggle for status, but for their lives. Moreover, forced migrants must battle for the agency over the formulation of their identities. This is to say that the narratives I examine in this paper are illustrations of the ways in which forced migrants negotiate the parameters of their existence, their collective survival, and their moral understandings of who they are as individuals in relation to others. On this level, the implications of exile refer to long-term changes in the ways that refugees and asylum seekers construct their notion of community and the self. Technologies of subjugation, survival, and resistance in spaces of extreme exclusion are directly linked to the ways those on the margins come to see themselves, their capacities, and those who seek to exert their authority over them.

In this way, an examination of these narratives of displacement calls for further research and greater policy attention into the ways in which transitional spaces in local contexts have transnational implications for the formation of diaspora communities. These narratives also demand greater attention to the shifts protraction and warehousing engender in the consciousness of forced migrants and the authorities who seek to manage them. This will hopefully not only help shine light on an important socio-cultural
phenomenon; it will lead to a greater emphasis on the need to expand the rights of forced migrants in transition and create space for their collective survival to exist and develop beyond the realm of extreme marginalization.
Works Cited


