



News Bulletin

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Unsafe return: Threats to human rights and security for refugees leaving Tha Song Yang District

More than 4,000 refugees remain in Thailand's Tha Song Yang District, Tak Province, after fleeing fighting and exploitative abuse following joint SPDC/DKBA attacks on KNLA camps near the Ler Per Her IDP site in Dta Greh Township, Pa'an District. Though fighting between these groups is currently in a lull, refugees continue to face serious obstacles to safe return. All three armed groups remain active in the wider Ler Per Her area, and villagers have reported occasional shelling and small arms fire. Large numbers of unmarked landmines have also been placed in civilian areas. While many of these locations are currently abandoned, mines have injured or killed at least five people near Ler Per Her since June, including a 13-year-old boy and a woman in her third trimester of pregnancy. Returning refugees thus face serious risk of injury by landmines. Returned refugees would also face human rights abuses including conscription as forced labourers working on military projects, portering supplies and clearing landmines as well as reprisals against them as accused KNLA supporters. For these reasons, no refugees from the Ler Per Her area should be forced to repatriate against their will. Moreover, refugees should be included in any future negotiations regarding repatriation or relocation.

At least 4,000 refugees remain in Thailand's Tak province after fleeing exploitative abuse and fighting related to attacks during June by a joint force of State Peace and Development Council (SPDC) Army and Democratic Karen Buddhist Army (DKBA) troops operating near the Ler Per Her camp for internally displaced persons (IDPs) in Dta Greh Township, Pa'an District. These refugees have primarily been residing in new arrival sites with temporary permission granted by the Thai Government and support from a consortium of humanitarian organisations.

The refugees, as well as humanitarian aid workers, have consistently complained of obstruction of humanitarian access by local Thai officials, and pressure on refugees to return to Burma. As of January 25th 2010, this pressure has intensified and it looks increasingly likely that these refugees will be repatriated. On January 25th the Thai News Agency (TNA) reported that, "Thailand will repatriate more than 1,500 displaced Karen villagers from Myanmar along the Thai Myanmar border." TNA attributed this report to Lieutenant General Thanongsak Apirakyothin, the 3rd Army Area Commander, whom TNA credited as explaining the move by saying, "there is no fighting in Myanmar, therefore, all of [the newly arrived refugees] would be safe when they



This picture, taken in September 2009, shows Saw G---, age 13, who lost his leg to a landmine after returning to check on his family's livestock in Pa'an District. He and his family have been residing in Thailand since June 2009, when they fled conflict and exploitative abuse related to joint SPDC/DKBA attacks on KNLA 7th Brigade near the Ler Per Her IDP site. [Photo: KHRG]

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return to their country.”¹ According to the Democratic Voice of Burma, on January 27th, a meeting between the Thai military, UNHCR, Thai-Burma Border Consortium, Karen National Union, DKBA and at least one representative of the refugees decided that the newly arrived refugees in Tha Song Yang will be repatriated voluntarily.²

KHRG has not yet confirmed whether the refugees in Tha Song Yang will be repatriated, willingly or otherwise, but it is imperative that any repatriation be genuinely voluntary. While fighting has largely subsided since the joint SPDC/DKBA attacks that culminated in the withdrawal from three camps controlled by the Karen National Liberation Army’s (KNLA) 7th Brigade, this does not mean the situation is automatically safe for refugees to return. The area continues to see activity by troops from the SPDC, DKBA and KNLA. Shelling and small arms fire have occurred as recently as one month ago, and large numbers of unmarked landmines have been placed in civilian areas. These mines have wounded at least five people in the vicinity of Ler Per Her, including maiming a woman in her third trimester of pregnancy on January 18th 2010. There is also a high probability that returning refugees will be required to work as forced labourers supporting SPDC and DKBA troops. Refugees have further said that they fear reprisals from the DKBA and accusations of providing support to the KNLA.

Returning refugees will face substantial threats to human rights and security

Refugees at the temporary sites in Tha Song Yang continue to cite legitimate human rights and security concerns preventing their safe return in spite of the absence of heavy fighting in Dta Greh Township. Landmines present a substantial risk for any refugees considering a return to their original homes. Prior to the attacks in June, KNLA 7th Brigade had used mines to establish a defensive perimeter around three principal camps as well as around the Ler Per Her IDP site. These mines were not removed when the group withdrew from the camps on June 13th. The KNLA has continued laying mines in the area in an attempt to kill or injure DKBA and SPDC troops. SPDC and DKBA troops have themselves mined the area extensively. While the SPDC and DKBA use mines to protect camps, they have also placed mines across a wider swathe of territory. Areas mined include abandoned villages, paddy fields and grazing land, forest paths, roads and sections of the Moei River’s western bank. These mines are unmarked and villagers have not been notified of their locations. Reports of the extent of mining submitted to KHRG by villagers and field researchers have also been confirmed by DKBA deserters; in September, a group of six deserters interviewed by KHRG said that the DKBA significantly expanded the area it was mining beginning in August.³

KHRG has documented five civilians killed or wounded by mines in the Ler Per Her area between June 2009 and January 2010. Details on these incidents are provided in the table below:

| No. | Details |
|------------|---|
| 1 | On January 18 th 2010 at 1pm, Naw M---, age 30, stepped on a landmine in a farm field near Mae La Ah Hta village, Dta Greh Township. Naw M--- had been residing in the Oo Thu Hta new arrival site in Tha Song Yang District, but had returned to check on livestock left behind when she fled. She lost her left leg and had to be treated in Thailand. Naw M--- was in her third trimester of pregnancy and doctors in Thailand had to perform an emergency caesarean section to save her child. |

¹ “Thailand to repatriate Karen villagers who fled Myanmar army,” Thai News Agency, January 2010.

² “Rival groups meet on Karen refugees,” Democratic Voice of Burma, January 2010.

³ For more on landmines laid following the joint SPDC/DKBA attacks in June, see “Security concerns for new refugees in Tha Song Yang: Update on increased landmine risks,” KHRG, September 2009.

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| 2 | On September 17 th Saw G---, age 13, stepped on a landmine in a farm field near Mae La Ah Hta village, Dta Greh Township. Like Naw M---, he had returned to tend to livestock left behind by his family when they fled to Oo Thu Hta. Saw G--- was treated in Thailand and lost his left leg. |
| 3 | In late July, Saw Hs---, age 43, was killed after stepping on a landmine near Mae La Ah Kee village, Dta Gre Township. |
| 4 | In early July, Saw ---, age unknown, stepped on a landmine near War Mee Gklah village, Dta Greh Township. Saw --- had been conscripted as a forced labourer for DKBA soldiers and stepped on the mine after returning to his village. After stepping on the mine he was removed by DKBA soldiers and the extent of his injuries are not known. |
| 5 | In the second week of June, Saw M---, age 27, was killed after stepping on a landmine on a trail between Bp’Nweh Bpoo and Mae La Ah Kee villages, Dta Greh Township. |

There is a high probability that more villagers will be killed or injured if they are forced to return to the Ler Per Her area. The SPDC, DKBA and KNLA continue to actively place mines. None of the groups have indicated a willingness to begin demining or begin retroactively marking areas where mines remain in place. Even given willingness on the part of these groups, which will probably not be forthcoming, it is not likely that mine removal or marking could be undertaken comprehensively enough to mitigate the threat for villagers.

Though the SPDC, DKBA and KNLA now appear to be limiting their movements due to fear of landmines or encountering each other, conflict in civilian areas is ongoing. On December 20th 2009, for instance, DKBA Brigade #999 Security Force column commander Saw Maung La Wah ordered company commander Saw Neh Neh to shell the abandoned villages Mae La Ah Kee and Mae La Ah Hta.

In addition to threats to personal security from landmines, there is a high probability that returned refugees will be forced to work as unpaid labourers building and repairing military camps, portering supplies and clearing mines. This conclusion is drawn for three reasons: first, KHRG and other human rights organisations have extensively documented the perpetration of these types of exploitative abuses by the SPDC and DKBA. Second, many of the refugees in Tha Song Yang interviewed by KHRG have said they fled because of conscription by the DKBA and SPDC. Third, these abuses have continued steadily well after the KNLA’s withdrawal in June, and households from Dta Greh have continued arriving at the new arrival sites in Tha Song Yang, the large Mae La refugee camp and non-official refugee sites elsewhere in Thailand.

KHRG researchers have continued to document forced labour demands by the DKBA and SPDC in 2010. Every day since January 5th 2010, for instance, DKBA soldiers based at the Wa Kaw Loo camp have forced seven villagers to come and work repairing, maintaining and building the military camp. The Wa Kaw Loo camp is located about a 45 minute walk from the Ler Per Her IDP site, between Meh Keh and Meh La Ah villages and opposite Noh Bo village in Tha Song Yang District. This area has been almost entirely abandoned, with only a few individual villagers remaining in hiding. Because there are no villagers in the vicinity available to complete the forced labour projects, DKBA soldiers from Wa Kaw Loo have had to search farther afield; they have been conscripting villagers from Gklay Poe Glo and Gklay Moh Kee, both of which are a 2.5 hour walk from Wa Kaw Loo.

Refugees have not indicated a desire to be repatriated

If the Thai authorities really send us back, I will not go back because I know now the DKBA treatment of the villagers. They use nice words but they are just good for listening

[to]. Before I fled to Thailand, during the summer time, I had to do forced labour such as constructing roads, building fences around the army camps, build a place for rice storage, carrying rations and cutting wood for them. And during the rainy season, we have to make thatch shingles and roofing for them. When I am not home, if it is my turn to send rations, my son who is 13 years old can go instead of me. But if I am ordered to go and do construction [while I am away], my son is too young to do that so my wife has to hire people...[and this] is a lot of money for me. If I have to go back, I am sure that I will have to suffer the same kinds of abuses. For me, I can go and stay anywhere along the border here but I don't want to leave my family and stay alone. I would like to stay with all the people here. Here in Oo Thu Hta, we already have shelters to stay in, so we would like the leaders to discuss and continue to let us stay here for the next hot season and rainy season. If they can't let us stay here, I would like the leaders to organize a place for us to stay or send us to the camp, we are willing to go to that place.

Saw G--- (male, 41), Mae La Ah Kee, Dta Greh Township (January 2010, new arrival site, Thailand)

If the Thai authorities send us back to Ler Per Her, I have made up my mind that I will not go back. This is because the DKBA said they will stay hand in hand with the KNLA but I dare not believe them because the DKBA officer who is sitting in the meeting yesterday is not the higher officer. He is Saw Bpweh Gkay, company commander from DKBA Brigade #999 Battalion #7. For the future, I would like the leaders to organise a place for us to stay or send us to a camp within this hot season. For me, I cannot go to a Thai village here to stay because I do not have friends who I know here. We already suffered a lot in the first round of the rainy season and if I have to suffer during the next round of the rainy season, I will go crazy.

Saw S--- (male, 27), Pah Gkha village, Dta Greh Township (January 2010, new arrival site, Thailand)

Refugees have consistently said that they would like to return to their home villages. However, it is vital to note that these statements have come with a substantial caveat: refugees have said they would like to return home *only if* their human rights and security concerns are addressed. Because they do not believe these concerns will be addressed, refugees that have spoken with KHRG have said they do not wish to return to Burma. Indeed, the fact that the refugees have continued to remain in the new arrival sites should be seen as a statement about how they view repatriation. Services at the camp should not be seen as a pull factor encouraging them to remain in Thailand; though humanitarian aid organisations have made a valiant effort to support the refugees, they have not been able to operate without constraint and do not appear to feel the current locations are sustainable. In spite of this, refugees have chosen to remain, leaving behind their homes, fields and livelihoods. This is not a decision made lightly, particularly for villagers who are primarily subsistence farmers and have an intense connection to their land.

Refugees in Tha Song Yang should also not be seen to have been passively remaining in the new arrival sites, awaiting potential relocation and surviving solely on external support. Rather, some refugees have attempted to secretly return to their home areas to tend livestock, harvest fields and assess the situation. At least one group of families has returned to their original village, attempted to resume life there and then returned to Thailand after determining it was not tenable. In early December 2009, four families left the Oo Thoo Hta site to return to Mae La Ah Hta. According to one of the villagers who returned, Saw P---, age 35, the families left because they had been pressured to return by Thai soldiers and had been told by DKBA soldiers that they could return safely. After two weeks, however, the group decided to return to Oo Thoo Hta on December 23rd 2009. Saw P--- told KHRG that he had to work using his boat to transport DKBA rations every day after he returned. He also said that his family had not felt secure. Apart from one night spent in the forest during shelling by the DKBA on December 20th, he said that his family had been afraid to venture outside of Mae La Ah Hta because they feared landmines and encountering soldiers.

Some refugees have also remained in contact with friends, family members, community-based organisations, the DKBA and KNLA. At least one group of village leaders went so far as to try to negotiate safe return for their villagers should they be forced back by Thai authorities, but were rebuffed by a DKBA commander. At the end of August 2009, for instance, a group of village leaders from M--- village, Dta Greh Township, returned to Pa'an District to negotiate their return with DKBA commander Pu Bp'Neh at the Kyaw Gkay camp. In the meeting, however, commander Pu Bp'Neh told them they would be treated as KNLA supporters because they had chosen to flee to Thailand. The village leaders subsequently decided that they would not return.

The threat issued by commander Pu Bp'Neh likely fed into general concerns held by some refugees, who worry about reprisals from the DKBA because the group has equated flight to Thailand with support for the KNLA. Fear of such reprisals is legitimate, and KHRG has repeatedly documented DKBA abuse of civilians accused of supporting the KNLA. On August 26th, for instance, village head Saw Oo Soe Myint from Wah Gka village, T'Nay Hsah Township, was accused of contacting the KNLA and executed following his return from a trip to Thailand, where he had travelled to purchase agricultural supplies.⁴

I have fled from them [the DKBA], but in the past I used to be beaten by the DKBA. The DKBA commander's name was Pah Bu. I was tied up by DKBA soldiers two times and I was beaten one time. The reason I was arrested the first time, the DKBA soldiers thought that the KNU hid their guns in the village... When I was sleeping in my house the DKBA soldiers entered my house and pointed their guns at me. I couldn't do anything. They called me to follow them to their military camp based at Htee G'lee Hta. On the way they met my father-in-law and they tied him and tortured him instead of me. They released me and ordered me to return to my home. A few months later, I was tied up and beaten by them and they also fined me 18,000 Baht. I was beaten three times and the stick was big as my hand. After I gave them money they released me. At first I thought that the DKBA would do good things for us, but later on they were not good to the villagers.

Saw P--- (male, 47), Meh La Ah Kee village, Dta Greh Township (new arrival site, Thailand, July 2009)

Despite villagers' fear of reprisals, DKBA officials have begun lobbying with the refugees, encouraging them to return. On at least two occasions in October and once in November, for instance, Lieutenant Colonel Saw Poe Gklih from DKBA Special Battalion #5 held a meeting with refugees at the new arrival site at --- village. At this meeting, Saw Poe Gklih told the assembled villagers that refugees at the Noh Boh, Oo Thoo Hta and Mae Salid sites would be collected together and returned to Bpoo Loo P'law in the Ler Per Her area, where they would be provided food. The villagers did not choose to return, however, because they said they did not trust the DKBA because it had been operating in cooperation with the SPDC Army. Villagers also said they did not want to return to the designated DKBA area because they worried that they would not be allowed to leave if they suffered abuse or if fighting resumed.

Conclusion

Refugees in Tha Song Yang District continue to face significant threats to their human rights and security that prevent their safe return to eastern Burma. These concerns apply both to a return to their original homes as well as to sites established by the DKBA. Because of these concerns, it is imperative that refugees in Tha Song Yang District be involved in any future discussions of return to Burma. Refugees in Tha Song Yang are actively monitoring their own

⁴ "Abuse in Pa'an District, Insecurity in Thailand: The dilemma for new refugees in Tha Song Yang," KHRG, September 2009.

human rights and security situations, and they are best able to assess the feasibility and safety of potential repatriation. Failure to include refugees in discussions of repatriation not only risks serious violations of their human rights upon return, but also future displacement.⁵ International actors, particularly those currently involved in the negotiation process, should actively seek to genuinely involve refugees in Tha Song Yang in any discussions of repatriation.⁶ No refugees should be repatriated against their will, and international actors should carefully monitor any repatriation to ensure that it is genuinely voluntary.

For more information on the impact of the SPDC and DKBA on villagers in Pa'an District, see the following previously published KHRG reports:

- *Security concerns for new refugees in Tha Song Yang: Update on increased landmine risks* (September 2009)
- *Abuse in Pa'an District, Insecurity in Thailand: The dilemma for new refugees in Tha Song Yang* (August 2009)
- *Exploitation and recruitment under the DKBA in Pa'an District* (June 2009)
- *Update on SPDC/DKBA attacks at Ler Per Her and new refugees in Thailand* (June 2009)
- *Over 3,000 villagers flee to Thailand amidst ongoing SPDC/DKBA attacks* (June 2009)
- *Over 700 villagers flee to Thailand amidst fears of SPDC/DKBA attacks on a KNLA camp and IDP camp in Pa'an District* (June 2009)
- *Joint SPDC/DKBA attacks, recruitment and the impact on villagers in Dooplaya and Pa'an districts* (May 2009)

⁵ This recommendation is based upon KHRG's 2008 report *Village Agency: Rural rights and resistance in a militarized Karen State* as well as Donald Steinberg of the International Crisis Group, who wrote in 2008: "IDPs themselves are best positioned to know when it is wise and safe to return. They know what they need in terms of assistance packages, training opportunities, transport and rebuilding of basic social services... As international mediators press for IDP engagement, they must... reiterate that IDPs are not mere victims of conflict but an essential piece of the puzzle in making and sustaining peace. Peace processes must benefit from their knowledge of local conditions, their power to generate civil society support for agreements, their willingness to return and rebuild stable societies, and their commitment to the future of their countries." See, "A seat at the table for IDPs," *Forced Migration Review*, Issue 30, April 2008. While Steinberg's article is primarily about inclusion of IDPs, there is no reason his arguments do not apply to the situation of international refugees. In fact, in a longer version of the article presented at the US Institute of Peace in December 2007, he made an explicit argument for considering IDPs and refugees to be of the same status when it comes to questions of inclusion in discussions of repatriation. See, "A Seat at the Table: The Role of Displaced Persons in Peace Talks and Peacebuilding," ICG Speeches, December 2007.

⁶ See, Steinberg 2007: "Given that there is likely to be little domestic pressure for the inclusion of IDPs in the processes of peacemaking and post-conflict reconstruction, it often falls to the international community – and in particular the United Nations through its mediation efforts and the power of the UN Security Council – to ensure their participation."



Karen Districts



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Scale: 1 cm to 22 km
1 in. to 35 miles