



Protection Analysis

Refugee influxes from Myanmar, February 2022

Background

Since early 2021, widespread violence against civilians across Myanmar and the resurgence of clashes between the Myanmar Military (Tatmadaw) and ethnic armed groups in border areas have forcibly displaced thousands of people within Myanmar and to neighbouring countries. Since the end of March 2021, approximately 15,700 refugees have crossed into Thailand to flee the conflict and seek protection, including a high proportion of women, children, and older persons. Many refugees were received and accommodated in Temporary Safety Areas managed by the Royal Thai Army. While most refugees subsequently returned to Myanmar, thousands of Internally Displaced Persons (IDPs) located close to the Thai-Myanmar border remain at high risk of harm, and along with others newly displaced, may seek to cross the international border to escape persecution and the situation of generalized violence.

The protection analysis presents the main protection threats, risks, vulnerabilities, and coping strategies of refugees in Thailand who have fled Myanmar since 1 February 2021. The protection analysis was developed by the Protection Sector on the basis of findings from protection monitoring activities, involving interviews with refugees and key informants, and desk review of publicly available information. The methodology reflects the ongoing access restrictions to Temporary Safety Areas, limiting the ability of protection actors to assess needs comprehensively and conduct protection activities. On 2 February, an inter-agency workshop with members of the protection sector was the opportunity to review priority issues and validate the recommendations. This analysis aims to inform inter-agency decisions, advocacy and programming.

Priority Protection Risks

Current Threats

Refoulement

Myanmar nationals fleeing conflict-affected localities located near the border have been allowed to enter Temporary Safety Areas in Thailand, managed by the Royal Thai Army, or have sought safety in remote, informal and temporary campsites, located along the border. The refugees who used irregular border crossing points from districts not immediately affected by conflict, often taking the same routes as migrants, were at risk of arrest and deportation. Between June 2021 and December 2021, according to media sources and the Centre for COVID19 Situation Administration, it is estimated that more than 20,000 Myanmar nationals have been arrested for non-compliance with COVID-19 restrictions, involving primarily irregular entries into Thailand. During the same period, the Immigration authorities and the media reported that more than 23,000 Myanmar Individuals were deported from provinces located at Thai-Myanmar Border. These deportations occurred without safeguards to identify people in need of international protection.

Thailand is not a signatory to the 1951 Refugee Convention and does not have specific refugee legislation. To date, there is no formal procedure for refugees fleeing generalized violence and conflict in Myanmar to apply for asylum in Thailand.

Armed violence

Located on average less than three kilometres from the Myanmar border, the Temporary Safety Areas do not provide sufficient guarantees for the safety and security of refugees. For instance, on 12 January, one refugee in Mae Kon Kane Temporary Safety Area was injured by shrapnel and a stray bullet punctured one of the water tanks inside the site, when the fighting in Myanmar was less than one kilometre away from the Thai border.

Abuse and exploitation

In Mae Kon Kane Temporary Safety Area, refugee women and girls have raised concerns over the risk of gender-based violence including domestic violence, highlighting the crowded, unfamiliar, and highly stressful environment. The lack of segregated washing facilities and toilets was noted as an additional risk factor. Several reports have confirmed the presence of unaccompanied and separated children on the site. Family separation reportedly occurred during the flight to Thailand or following the death of a parent once in Thailand. In such circumstances, the risks of abuse and exploitation are significant.

There is no protection mechanism in place in temporary safety areas to prevent, identify and respond to abuse and exploitation, including gender-based violence. Similarly, there is no protection mechanism in place to respond to family separation and ensure that the best interest of the child is safeguarded in all circumstances. Given the prevalence of these violations in displacement situations, the lack of available information and response systems are of concern.

Limited freedom of movement

The refugees are not able to move freely beyond the Temporary Safety Areas, due to security and public health concerns, according to the Royal Thai Army which manages access to the sites. Refugees located outside of temporary safety areas are at risk of arrest and deportation.

An ad hoc response for basic needs

The RTG preferred approach for the immediate assistance of refugees is to rely on private donations and local civil society organizations, without prior multisector needs assessments or allowing traditional humanitarian actors to support. While the generosity and spirit of solidarity of these local actors are remarkable, this ad hoc and relatively uncoordinated approach can lead to insufficient and inadequate assistance being provided. For instance, for Non-Food Items, mosquito nets, diapers, and baby milk were missing but donated second-hand clothes accumulated because volunteers did not have the capacity to sort and distribute them. During recent influxes, reports of donation stockpiles running out after a few weeks also highlighted the unsustainable character of this modus operandi.

Returns in adverse conditions

Available information suggests that some returns to Myanmar from Temporary Safety Areas have taken place in adverse conditions. Some refugees did not have all the information they needed about the situation in places of origin to make an informed decision about return. Inadequate conditions for longer dignified stay in temporary safety areas also contributed to pressuring some refugees to return.

Furthermore, many refugee returnees did not go back to their homes but to situations of internal displacement in Myanmar. Some villages were burned while some areas of origin are dangerous due to newly laid landmines. Returnees opted to move to IDP sites despite the limited assistance there and the risk of attacks by the Tatmadaw and other armed groups.

Impact on refugees

Loss of life, persecution

Repatriation in circumstances that are not conducive to voluntary returns in safety and dignity can result in serious harm for refugees, including loss of life. On 3 January, a 42-year-old refugee returnee woman was killed by shelling outside of Lay Kay Kaw, Myanmar. On 25 January, three IDPs were injured after stepping on landmines near the Thai border in an area on the other side of the Moei River from Ban Muen Rue Chai of Phob Phra district, Thailand. Some refugees would also be at high risk of persecution due to their political or other profiles.

Inadequate assistance and services for a dignified stay

No comprehensive needs assessments have been conducted in temporary safety areas due to restrictions on humanitarian access. The number and gender-age breakdown of beneficiaries were not systematically available. Consequently, assistance was often provided based on estimated figures and second-hand information and focused on the most visible and general needs, which included in particular food, health, water, latrines and shelter. Some non-food items were provided. Furthermore, most temporary safety areas were only suitable for a very short stay, with no existing accommodations or wash facilities to host refugees. For instance, Mae Kon Kane Temporary Safety Area is a cowshed. In these conditions, the human dignity of refugees cannot be safeguarded.

Neglect of people with specific needs

During recent influxes, older persons, pregnant and lactating women, newborn babies, and persons with disabilities were reported in Temporary Safety Areas. It is likely that less visible groups of Persons with Specific Needs were not identified, such as unaccompanied children, survivors of torture or sexual violence, or persons at high risk of harm in Myanmar due to their political profile. While some health and nutrition support has been provided in some circumstances, vulnerable individuals have not received the level of tailored services and assistance required to ensure that their specific needs are addressed, leaving them at increased risk of harm.

Lack of timely, accurate, and relevant information

Refugees have expressed the need to be better informed on the availability of social and protection services, procedures related to family reunification, and information on safety and security, including about the ongoing fighting and returnability to Myanmar. In Mae Kon Kane Temporary Safety areas, although the Thai authorities provided situation updates to the refugees, the refugees were not allowed to use mobile phones and charge them onsite, and therefore were not able to verify and gather further news themselves to make informed decisions on returns.

Existing capacity to address protection risks

Refugee volunteers and community activities

During recent influxes, refugees organized themselves to support community cooking and other communal activities. Refugee volunteers facilitated the distribution of assistance provided by local actors with no direct access to the site. In some instances, they referred individuals with specific needs requiring additional support to the site managers or other actors with access. Coming from border areas with existing relationships in Thailand, some refugees were able to mobilize their own families and social networks for help.

Local Civil Society Organizations

There is a wide network of local civil society organizations (CSOs) implementing various activities in border areas. They are often trusted by local authorities and able to reach even

remote areas to deliver assistance. In Mae Hong Son province, many CSOs have a long experience working in the refugee temporary shelters, usually providing basic assistance such as food, health and WASH. Although some of these actors have a long experience delivering humanitarian assistance, their capacity varies, with gaps in terms of protection expertise in particular.

Operational challenges

Denial of humanitarian access for traditional actors

The response of traditional humanitarian actors is hampered by access constraints. According to the RTG SOPs, Thailand will initially receive refugees at temporary safety areas managed by the RTA. Traditional humanitarian actors will only be able to provide direct assistance after refugees are moved to holding areas designated and managed by Provincial authorities. In practice, no relocation has taken place and humanitarian actors have not been granted access to provide complementary support, despite the humanitarian needs reported by local authorities or refugees.

Hard-to-reach areas

Logistical access to remote areas where refugees sought refuge can be challenging and require boats, motorbikes or hiking through the jungle. Such access restrictions limit the type of assistance that can be provided. In addition, communications in remote border areas have been slowed at times by the lack of mobile networks or internet connectivity.

Fragmented presence of traditional humanitarian actors

Traditional humanitarian actors are concentrated around the nine temporary shelters along the Thai-Myanmar border, with limited presence in other areas. For instance, few traditional humanitarian actors are present in Chiang Mai and Chiang Rai provinces, bordering Southern Shan State, Myanmar.

Recommended Actions

Humanitarian actors

- In light of the risks of unintended negative effects of humanitarian activities in Temporary Safety Areas, all humanitarian actors should consider the guiding principles of the Guidance Note on Assistance in Temporary Safety Areas before implementation.
- All sectors should support protection mainstreaming, including incorporating questions in sector-specific needs assessment or during implementation to better understand refugee protection risks. The 5-Action Strategy for Protection Mainstreaming developed by the Protection Sector provides additional guidance for sector leads and members.
- Use inter-agency referral pathways and service mappings for the coordination of assistance, to prevent duplications, address gaps and strengthen consistent engagement with local actors.
- Invest resources in building the capacity of local civil society organizations with the ability to assist refugees where they are displaced and advocate for site-level expansion of the protection space.
- Advocating for refugee rights in Thailand can start with raising awareness about the situation in Myanmar. This action can be undertaken by all humanitarian actors.

Donors

- Collaborative advocacy can strengthen efforts to safeguard refugees' rights.
- Non-earmarked funding can facilitate flexible responses to diverse needs across different border areas in a fast-evolving humanitarian environment.
- The authorities managing Temporary Safety Areas have usually requested that no visibility be used, for instance on assistance packages, vehicles or staff clothing. Some flexibility may be necessary regarding donors' standard visibility requirements.

RTG/RTA

- Humanitarian needs should be assessed comprehensively to facilitate the adequate provision of assistance, address gaps and prevent duplication as well as identify Persons with Specific Needs.
- The establishment of referral pathways is essential to ensure that unaccompanied children, survivors of gender-based violence and other Persons with Specific Needs can access specialized services outside of temporary safety areas if necessary.
- A clarification of the timeframe for the relocation of refugees hosted in Temporary Safety Areas at the border to holding areas where they can access safer and more dignified temporary accommodation as well as receive improved humanitarian assistance would facilitate preparedness and adequate support to the authorities.
- Refugee influxes into Thailand should be managed as a humanitarian situation rather than as a matter pertaining to national security. Thailand's obligations under international human rights law apply.