

UNHCR Position on Re-entry to the Temporary Shelters by Verified Refugees during the COVID-19 Situation

This paper sets out the position of UNHCR in relation to re-entry of verified refugees to the Temporary Shelters during the COVID-19 preparedness and response phases.

1. Legal Framework

The Thai legal framework does not recognise the status nor rights of refugees under its domestic law. As such, refugees are only legally entitled to stay within the confines of the nine Temporary Shelters as an exception to the Immigration Act. Refugees who leave the camps without requisite permission are therefore subject to arrest, detention and deportation in the same manner as other undocumented migrant workers.

It is recognised that many refugees and their families leave the Temporary Shelters informally to seek livelihood opportunities in Thailand, spontaneously return to Myanmar, in some cases to prepare for an eventual permanent return. Such informal movements are precipitated by further constraints in the legal framework which prevent refugees from working legally and has created a dependence on humanitarian aid to meet their basic needs. In addition, limited formal options that can be availed to prepare for an eventual permanent return to Myanmar prevents refugees from crossing the border to Myanmar in an authorised manner.

UNHCR is mandated by the General Assembly to provide protection and solutions for refugees who are considered to be “persons of concern” under international law. This mandate ensures that UNHCR is able to advocate for the rights of refugees to be upheld regardless of their recognition under domestic law, and importantly, to ensure that no refugee is forcibly returned to their country of origin. This is referred to in international law as the prevention of *non-refoulement*, and, as a principle of international customary law is binding on all States regardless of their signatory to the 1951 Refugee Convention.

2. Verified Caseload

As of 31 March 2020, the total verified refugee population of the nine Temporary Shelters along the Thai-Myanmar border is 93,227 individuals according the UNHCR data. It is noted, however, that this data differs from that collected by The Border Consortium (TBC) for the purpose of providing food and shelter assistance, and recent headcounts initiated by the Ministry of Interior (MOI) in each Temporary Shelter. Over time efforts have been made to consolidate data-sets and steps towards this end had been initiated again in 2019 to progress these efforts. However, at the onset of the COVID-19 situation, advocacy with MOI was interrupted and the issues remains pending a resolution.

3. Position

- In lieu of a consolidated data set with the MOI, the current caseload of verified refugees who remain in need of international protection remains 93,227 individuals.
- UNHCR will advocate for all verified refugees to be permitted re-entry to the Temporary Shelters during this period as a means of ensuring that they are not subject to arbitrary arrest, detention and deportation which would amount to a forcible return under international refugee law.
- UNHCR will support MOI with practical matters related to re-entry such as adhering to quarantine measures, in accordance with guidance from the Ministry of Public Health (MoPH) and other relevant health actors.