

THAILAND

OVERVIEW

March 2017

Thailand is not a signatory to the 1951 UN Convention relating to the Status of Refugees or its 1967 Protocol, and does not have a formal national asylum framework. In the absence of legal protection, refugees and asylum seekers have no legal status and remain at risk of arrest, arbitrary and indefinite detention, constant discrimination, deportation, and possible *refoulement*. Access to justice is limited and exploitation and abuse of refugees and asylum seekers by Thai authorities is rife.

The vast majority of refugees in Thailand are ethnic minorities from neighbouring Myanmar. There is also a sizable population of stateless Rohingya refugees who are fleeing violence and persecution in Myanmar, and in their attempts to reach Malaysia are often smuggled and trafficked through Thailand. Refugees and asylum seekers residing in urban centres have almost quadrupled in number in the last four years, in part due to Thailand's comparatively relaxed 'visa on entry' regulations for many nationalities.



KEY STATISTICS

- As of April 2016, there are at least **120,000** asylum seekers and refugees residing in Thailand.¹ Around **90% or 102,998** are refugees from neighbouring Myanmar who have been living in 9 'temporary camps' along the Thailand-Myanmar border for more than two decades without a durable solution to their situation. The remaining 9,500 people are refugees and asylum seekers from a variety of countries living in urban centres (mainly Bangkok), and stateless Rohingya refugees in 'shelters' or detention centres in the southern provinces of Thailand.
- From January to October 2016, 4,501 Myanmar refugees from the 'temporary shelters' were resettled in third countries, and a further 2,136 Myanmar refugees were submitted for resettlement consideration, pending a decision by resettlement countries. Figures are not available for other refugees resettled aside from the camp population.²
- Over **40** nationalities and ethnicities are represented in Thailand's diverse refugee population including: Pakistani, Sri Lankan, Rohingya, Vietnamese (Hmong, Khmer Krom), Lao Hmong, Syrian (including Palestinian Syrian), Somali and other African nationalities.³

AREAS OF CONCERN

1. Urban Refugees

- As of January 2017, there are 3,801 urban refugees and 4,130 asylum seekers registered with UNHCR Thailand.⁴ Over the last three years there has been a notable increase in the number of asylum seekers in Bangkok with the majority originating from Pakistan. This sudden increase has put a strain on already under-resourced service providers, with the result that only the "most vulnerable" (such as women, children and unaccompanied minors) are receiving basic services.

¹ These are estimated figures based on asylum seekers and refugees who are registered with UNHCR Thailand. However, there are also an unknown number of asylum seekers who have not registered their claim with UNHCR Thailand. UN High Commissioner for Refugees, '2015 UNHCR Country Operations Profile – Thailand', <http://bit.ly/1hhAOIX>

² UNHCR Thailand Factsheet, January 2016, < <http://www.unhcr.org/50001e019.html>>

³ UNHCR Thailand, pers. comm. during Bangkok Asylum Seeker and Refugee Assistance Network (BASRAN) meeting, 28 April 2016

⁴ UNHCR Thailand, pers. comm., 16 February 2017

- Asylum seekers, especially those from Pakistan, also face extremely long waiting times for their first instance interviews with UNHCR, with some people receiving interview dates up to 3 or 4 years in advance. During their wait, asylum seekers have no protection and are highly vulnerable to extortion by authorities and arbitrary arrest and detention.

2. Refugees on the Thailand-Myanmar border

- Over 100,000 refugees from Myanmar continue to live in nine ‘temporary camps’ along the border of Thailand and Myanmar. Many have lived there for over two decades, with many children and youth being born in the camps. Conditions inside the camps remain harsh, and dramatic cuts in funding for the camps has led to a noticeable reduction in service provision (including food rations), acutely affecting the most vulnerable.
- Due to ceasefire agreements between the Myanmar army and some ethnic groups, discussions between stakeholders about the voluntary repatriation of refugees residing in the camps have gained momentum in the last two years. In July 2014, the Royal Thai Government and the Government of Myanmar announced plans to repatriate over 100,000 refugees living in the camps, back to Myanmar, although meaningful consultation with the refugees has been limited. In the first wave of voluntary returns organized in October 2016, a total of 71 refugees left Thailand to return to Myanmar.⁵
- Specific concerns include the increased militarisation and on-going presence of Burmese military troops in ethnic areas, active armed conflict in northern Myanmar, reports of ongoing human rights violations, continued placement and existence of uncleared landmines, oppressive and discriminatory laws, lack of equal access to citizenship rights, land ownership issues, lack of equal access to adequate assistance, healthcare, livelihoods, and education services. The continued lack of meaningful engagement with refugees about the plans for their repatriation has resulted in widespread rumours, fear and anxiety.

3. Stateless Rohingya refugees

- Rohingya refugees fleeing systematic and unrelenting persecution and discrimination in Myanmar, continue to arrive in Thailand by land and by sea, en route to their intended final destination – Malaysia. Desperate Rohingya rely on smugglers who are often part of well-established human trafficking networks. Reports speak of Rohingya refugees (and migrants from Bangladesh) being held for indeterminate periods of time in human trafficking camps along the Thailand-Malaysia border, while demands for steep ransoms in exchange for their release are negotiated.⁶ Rohingya who have been rescued from human traffickers by Thai authorities are often subject to indefinite detention in immigration detention centres (IDCs) or government-run shelters.
- Following the discovery of mass graves and camps used for human trafficking along the border between southern Thailand and northern Malaysia in May 2015, Thailand and Malaysia tightened their border enforcement. Unable to disembark their cargo in Thailand, human traffickers abandoned boats carrying hundreds of Rohingya asylum seekers and Bangladeshi migrants at sea. The ensuing world-wide media attention on this crisis, resulted in governments in the region coming together to discuss the situation. While Malaysia and Indonesia agreed to allow people to disembark and provide temporary shelter, Thailand maintained its position and ‘pushed on’ boats that attempted to disembark on Thai territory. Due to the lack of a coordinated and sustained search and rescue operation during this crisis, the number of lives lost at sea is unknown.⁷

⁵ UNHCR (2016), “Myanmar refugees pave the way home in pilot return,” accessed on 1 February, <<http://www.refworld.org/publisher,UNHCR,,THA,581b4ce54,0.html>>

⁶ Fortify Rights and Burmese Rohingya Organization UK (2016), *Everywhere is Trouble: An Update on the Situation of Rohingya Refugees in Thailand, Malaysia and Indonesia*

⁷ UNHCR (2015), *Abandoned at Sea*, <<http://tracks.unhcr.org/2015/08/abandoned-at-sea/>>

4. Detention

- According to Thailand's Immigration Act B.E. 2522, anyone who enters the country without proper documentation is regarded as an 'illegal alien'. In the absence of legal protection, refugees and asylum seekers have no legal status and remain at risk of arrest, arbitrary and indefinite detention, and deportation. As such, safety and security are the primary concerns amongst the urban refugee population in Thailand, especially in Bangkok. There are currently no effective alternatives to immigration detention, and all sectors of the population, including women, children, (including those unaccompanied and separated from family), the sick and elderly, are subject to detention.
- It has been widely reported and documented that conditions in IDCs are gravely substandard. Detainees have described severe overcrowding with up to **150** people being held in a cells at any one time and leading to incidences of violence and degrading treatment by guards. Sanitation condition are describes as appalling including limitations on fresh water for washing and drinking, tainted food, and an insufficient number of toilets for the number of detainees. Children are often detained with adults to whom they are not related rendering them at a great risk of abuse, including sexual abuse.⁸
- Children who are detained even for short periods do not receive the basic services necessary for their mental and physical development and suffer from serious and negative impacts of incarceration.
- In addition to the IDC in Bangkok, urban refugees and asylum seekers are detained in other facilities outside of Bangkok, where access for NGOs is limited and health services are not available. Asylum seekers whose refugee claim has been rejected, and stateless refugees, may face indefinite periods in detention with little hope of release or repatriation.
- In January 2016, the provision for men recognised as refugees to be released on bail from immigration detention centres under a surety of THB 50,000 (US\$1470) was suspended until further notice. By June 2016, the bail system was completely suspended for all detainees.⁹
- Between January and February 2017, the number of persons of concern in immigration detention significantly dropped by 39 individuals to 285 currently detained. Although this figure also includes some who were resettled, it also represents a significant increase of individuals voluntarily repatriating.¹⁰

6. Access to Human Rights

Access to Education

- Although under Thailand's domestic legislation all children, regardless of legal status, have a right to primary education, the reality of the system is far from practical for refugees. Tuition in Thai government schools is only in the Thai language and most refugee children are not conversant enough in Thai to be able to participate actively in classes.
- Additional obstacles faced by refugees and asylum seekers include a lack of financial resources for their children to attend school and the necessary materials, uniforms and transportation. Further, refugees and asylum seekers experience discrimination and exclusion from school administrators who are often reluctant to accept refugee children.
- Classes offered by NGOs and community-based organisations often fall short of children's needs and are not formally recognised by the Thai Ministry of Education. In refugee camps, funding cuts and a departure of teachers to resettlement countries has left significant gaps.
- Tertiary education and skills development is a significant gap for youth and adolescents.

⁸ Human Rights Watch, 'Two Years With No Moon' in *Human Rights Watch*, viewed on 28 June 2015, <http://bit.ly/1K6qcNo>

⁹ Urban Refugees Org., 'Resource Center: Bangkok' in *Urban Refugees.Org: Raising the voice of the invisible*, viewed 27 July 2015, <http://bit.ly/1hr861L>

¹⁰ UNHCR Thailand, pers. comm., 16 February 2017

Access to Health

- Urban refugees have described access to health care as one of their most critical concerns.
- Many refugees and asylum seekers experience significant linguistic barriers when seeking medical treatment at Thai government hospitals, and may also be unable to cover the cost of their treatment and medical expenses. Although private hospitals offer better services, the fees for treatment and medicines are prohibitively high for refugees and asylum seekers who are unable to legally work in Thailand.
- Currently, health services (including provision for treating mental health conditions) provided by UNHCR and NGOs have been severely curtailed due to lack of available funds. Mental health has been identified as a major concern amongst refugee and asylum seeking populations, although there are few opportunities for referral for treatment.

Access to Employment

- Thailand's labour law prohibits refugees and asylum seekers from working legally in the country. As a result, many are forced to work in the informal sector where they have no rights and are more vulnerable to exploitation and abuse.
- In the face of this, some refugees and asylum seekers receive money from remittances from friends and family in other places, and may also receive some basic financial assistance from NGOs. However, amidst serious funding cuts, this limited assistance is insufficient to cover basic necessities needed for survival and a dignified existence.

OPPORTUNITIES FOR CHANGE

At present there is a rare moment of opportunity for alignment of states' interests throughout SEA:

- i) Possibility of voluntary repatriation of a large number of refugees in SEA (Thai-Burma border);
- ii) Thailand: Has passed a Cabinet Resolution to develop an effective screening mechanism to distinguish refugees from economic migrants;
- iii) Thailand: Commitments made by Prime Minister Prayut Chan-o-cha in New York also included an end the practice of immigration detention of refugee and asylum-seeker children.
- iv) Malaysia: pilot project on work rights for 300 Rohingya refugees. Stated plans to extend to 56,000 registered Rohingya refugees; and
- v) Indonesia: signed new Presidential Decree on Refugees.
- vi) Non-Rohingya refugees from Myanmar make up the majority of refugees in the region. Given the ongoing changes inside Myanmar, there may be a possibility for **large-scale voluntary repatriation** in the future for this group. They constitute about 64% of the entire refugee population in the region.