

Asia Pacific
Refugee Rights
Network


asylumaccess
Making Refugee Rights a Reality in Africa, Asia, and Latin America


Human Rights and Development Foundation
มูลนิธิเพื่อสิทธิมนุษยชนและการพัฒนา (นสพ.)


www.peoplesempowerment.org


Asia Pacific
accompany · serve · advocate


FORTIFY
RIGHTS


MIGRANT WORKING GROUP

**Kingdom of Thailand
Universal Periodic Review – 2nd Cycle
Submitted 21 September 2015**

INTRODUCTION

1. The following report is submitted on behalf of Asylum Access,¹ the Asia Pacific Refugee Rights Network (APRRN),² Fortify Rights,³ the Human Rights Development Foundation (HRDF),⁴ Jesuit Refugee Service (JRS),⁵ Migrant Working Group (MWG),⁶ and People’s Empowerment Foundation (PEF),⁷ for consideration in the Kingdom of Thailand’s second Universal Periodic Review (UPR) to take place during the 25th session of the UPR Working Group.

EXECUTIVE SUMMARY

2. Thailand is home to an estimated 3.7 million migrants – one of the largest populations in Southeast Asia. An estimated 130,000 of these migrants are asylum seekers and refugees,⁸ 90 percent of who are from neighboring Myanmar and have been living in camps along the Thailand-Myanmar border for more than two decades. An estimated 10,000 asylum seekers and refugees representing more than 40 nationalities live outside the camps in urban areas.⁹ Asylum seekers and refugees in Thailand have no legal status, face constant discrimination, and are at risk of arbitrary arrest and detention, refoulement, and exploitation. Access to justice is limited and little relief is possible for human rights violations.
3. This submission highlights violations of the rights of asylum seekers and refugees in Thailand that have occurred during the review period from 2011 to 2015; namely (1) denial of the right to be recognized before the law, (2) arbitrary detention, (3) refoulement, (4) denial of the right to a fair trial, (5) human trafficking, (6) denial of the right to the highest attainable standard of health, (7) denial of the right to education, and (8) denial of the right to work.
4. Since refugee status is declaratory and not dependent on adjudication, any person who satisfies the definition under the Convention Relating to the Status of Refugees (Refugee Convention) is a

refugee.¹⁰ For purposes of this submission, however, the term “refugee” will be used to refer to any person whose refugee claim has been recognized by the UN High Commissioner for Refugees (UNHCR) or through Thailand’s domestic mechanisms, such as the Provincial Admissions Board system. The term “asylum seeker” will be used to refer to any person seeking to be adjudicated for refugee status who is yet to be recognized as a refugee by UNHCR or domestic mechanisms.

5. The submitting organizations propose the following recommendations to the Kingdom of Thailand¹¹ (the State) for consideration by the UPR Working Group:

Regarding the right to be recognized before the law

- **Develop and implement national legislation establishing asylum procedures and providing asylum seekers and refugees with legal status in line with international standards.**
- **Intensify efforts to better respect the rights of asylum seekers and refugees while considering the ratification of the 1951 Convention Relating to the Status of Refugees and its Protocol.**

Regarding freedom from arbitrary detention

- **End the arbitrary detention of asylum seekers and refugees.**
- **Amend detention policies to ensure that when necessary, detention of asylum seekers and refugees is used only in exceptional circumstances, following an individualized assessment, and after all less invasive alternatives to detention have been exhausted.**
- **End the practice of detaining asylum seekers and refugees in jails and holding cells as well as separating families in detention centers.**
- **Ensure all immigration detention centers are sanitary, appropriate in size, and provide those detained with access to physical and mental health services.**
- **Provide asylum seekers and refugees in detention with access to legal aid, asylum mechanisms, and screening services for human trafficking survivors.**
- **Ensure children are not detained based solely on their parents’ immigration status.**

Regarding freedom from refoulement

- **End “push-back” policies with regard to asylum seekers arriving by boat.**
- **Develop and implement adequate safeguards to protect against refoulement for those subject to deportation.**

Regarding the right to a fair trial

- **Provide indigent asylum seekers and refugees access to free legal assistance in all criminal cases, refugee status determination hearings, and any official proceedings that may result in the deprivation of liberty.**
- **Provide the free assistance of an interpreter to asylum seekers and refugees facing criminal charges or detention. Ensure that such assistance is adequate to allow asylum seekers and refugees the ability to understand their rights during every level of the criminal process.**

Regarding the rights of trafficking survivors

- Guarantee that all asylum seekers and refugees who are survivors of human trafficking can access appropriate screening, services and protections available under domestic law to trafficking survivors generally.
- Ensure perpetrators of human trafficking and their accomplices, including government officials, are charged, prosecuted, and punished according to international standards.

Regarding the right to education

- Remove all legal and practical barriers that prevent asylum seekers and refugees from accessing education in Thailand.
- Implement programs to facilitate the integration of asylum seekers and refugees in Thai public schools.

Regarding the highest attainable standard of health

- Ensure asylum seekers and refugees are well informed about the State's universal healthcare system by widely distributing information in various languages.
- Provide healthcare workers with training to combat discrimination against asylum seekers and refugees in accessing healthcare in Thailand.
- Ensure that asylum seekers and refugees have access to affordable health care.

Regarding the right to work

- Provide asylum seekers and refugees access to formal labor markets.
- Strengthen the application of laws protecting against abuse and exploitation of asylum seekers and refugees in the workplace.
- Support the development of vocational and livelihood programs as well as language and skills development trainings to promote the positive contributions of asylum seekers and refugees in the labor market.

RIGHT TO BE RECOGNIZED BEFORE THE LAW

6. By regarding asylum seekers and refugees as illegal migrants, the State bars such individuals from the right to be recognized before the law under Article 16 of the International Covenant on Civil and Political Rights (ICCPR).
7. The situation of asylum seekers and refugees in Thailand is governed largely by The Immigration Act of 1979 (the Immigration Act). The Immigration Act does not afford asylum seekers and refugees legal recognition; in effect, the State treats such populations as illegal migrants with no guaranteed rights or protections. In some cases, the State cooperates with UNHCR to assist asylum seekers and refugees. However, Thailand's policies on asylum seekers and refugees are *ad hoc* and vary from population to population. For example, of the 120,000 asylum seekers and refugees from Myanmar living in protracted displacement in refugee camps along the Thailand-Myanmar border, around 40,000 have never had access to asylum mechanisms.
8. Urban asylum seekers in Thailand must wait several years to be processed and recognized as a refugee by UNHCR. Refugee legal aid organizations report that urban asylum seekers currently wait

an average of four years before their claims for refugee status are heard. In addition, the majority of asylum seekers who were due to be interviewed in 2015 have had their interview dates postponed at least once and as many as four times. Without legal recognition or protection in Thailand, asylum seekers and refugees, including those pending recognition of their refugee status by UNHCR, face the risk of arbitrary arrest, detention, and refoulement.

9. Article 16 of the ICCPR grants everyone the “right to be recognized everywhere as a person before the law.”¹² By deeming asylum seekers and refugees as illegal migrants, the State breaches its obligation to afford such individuals with the legal personality necessary to enjoy protection against arbitrary arrest, detention and refoulement as well as other human rights abuses.

Recommendation

- **Develop and implement national legislation establishing asylum procedures and providing asylum seekers and refugees with legal status in line with international standards.**
- **Intensify efforts to better respect the rights of asylum seekers and refugees while considering the ratification of the 1951 Convention Relating to the Status of Refugees and its Protocol.**

FREEDOM FROM ARBITRARY DETENTION

10. The State breaches its obligations to respect freedom of movement under Article 12(1) of the ICCPR by arbitrarily detaining asylum seekers and refugees and housing them in facilities with conditions that fall below international standards. In addition, by separating asylum seeker and refugee children from their parents and subjecting them to detention, the State violates its commitments under the Convention on the Rights of the Child (CRC) to act in the best interest of the child.
11. By virtue of being treated as illegal migrants under Thai law, asylum seekers and refugees without valid visas are increasingly subject to arbitrary detention. In 2014, 254 individuals including 34 children were arrested in 108 incidents; while in 2013, 125 individuals were arrested in 58 incidents. Of those detained in 2014, 38 asylum seekers and refugees were successfully released after UNHCR intervened. From December 2013 to August 2015, Thai authorities detained 4,569 ethnic Rohingya, 2,598 Bangladeshi migrants and over 240 Uighur asylum seekers in different Immigration Detention Centers (IDCs) nationwide.¹³
12. In southern Thailand, families are typically separated in detention centers—women and children are normally confined to shelters run by the Minister of Social Development and Human Security while men are typically detained in jails or holding cells. Civil society organizations, including legal services providers, are unable to speak with at-risk populations held in IDCs. This makes it difficult for asylum seekers and refugees to obtain services, legal support, and screening for human trafficking. Asylum seekers and refugees, including children and the sick, are held in overcrowded detention facilities. Reportedly, these facilities do not have adequate healthcare access due to limited budgets. Officials in IDCs have low cultural and religious awareness about detainee populations and, thus, do not offer meals in line with their religious dietary restrictions.¹⁴
13. Studies by civil society organizations in Thailand reveal that detained children in Bangkok are often separated from their parents, typically for periods of more than a year and are at great risk of sexual abuse by adult detainees. The report also discovered that children in IDCs cannot enjoy basic

services necessary for their development; many detained children suffer from stress, depression, fear, and alienation and cannot access education otherwise available to all children in Thailand under the 1999 National Education Act. Children in IDCs also lack access to justice when their rights are violated.¹⁵

14. Article 9 of both the UDHR and the ICCPR protects against arbitrary arrest and detention, including in the course of immigration proceedings.¹⁶ Guidance by the Human Rights Committee provides that detention of asylum seekers who unlawfully enter a State party's territory is arbitrary if the duration extends beyond the length necessary for processing. When necessary, detention should take place in appropriate, sanitary, non-punitive facilities, and should not take place in prisons.¹⁷ The detention of asylum seekers and refugees in Thailand is arbitrary under Article 9 as it is not for purposes of processing those entering the country unlawfully, but rather to punish those who violate the Immigration Act. Furthermore, the conditions of Thailand's detention centers fall below international standards since they are often overcrowded, take place in jails or holding cells, and lack access to adequate healthcare services and religious and cultural accommodations.
15. Article 3 of the CRC obligates states to take the best interest of the child as the primary consideration in all actions that concern children.¹⁸ The Committee on the Rights of the Child has found that the "detention of a child because of their or their parent's migration status constitutes a child rights violation and always contravenes the principle of the best interests of the child."¹⁹ This principle is not only violated when Thailand subjects children of asylum seekers and refugees to detention, but when the State separates such children from their parents and house them in IDCs where they face a risk of sexual abuse and lack access to services necessary for their development.

Recommendation

- **End the arbitrary detention of asylum seekers and refugees.**
- **Amend detention policies to ensure that when necessary, detention of asylum seekers and refugees is used only in exceptional circumstances, following an individualized assessment, and after all less invasive alternatives to detention have been exhausted.**
- **End the practice of detaining asylum seekers and refugees in jails and holding cells as well as separating families in detention centers.**
- **Ensure all immigration detention centers are sanitary, appropriate in size, and provide those detained with access to physical and mental health services.**
- **Provide asylum seekers and refugees in detention with access to legal aid, asylum mechanisms, and screening services for human trafficking survivors.**
- **Ensure children are not detained based solely on their parents' immigration status.**

FREEDOM FROM REFOULEMENT

16. By deporting asylum seekers in Thailand without properly assessing their protection needs and diverting asylum seekers traveling on boats away from its borders, the State risks refouling victims of persecution to their persecutor in violation of its obligations under customary international law and the Convention Against Torture (CAT).
17. Thailand continues to deport asylum seekers and refugees without judicial oversight under Section 54 of the 1979 Immigration Act, using a policy known as "Option 2."²⁰ Under the Immigration Act,

officials must assess risks of deportation, circumstances in the home or receiving country, and inform a returnee of these findings. However, since 2009, Thailand has seen a large number of arrivals of Rohingya asylum seekers. After serving a term in detention, some asylum seekers were immediately transported back to Myanmar without any risk assessment from Thailand or UNHCR. The Immigration Bureau deports some 200-300 immigration detainees every week without proper screening of their protection claims.²¹ Returnees hence are at risk of persecution, disappearance, or being trafficked.

18. Since 2009, Thailand has implemented a “push-back” policy with regard to asylum seekers arriving by boat. The policy essentially intercepts boats of asylum seekers approaching Thailand’s shores and turns them back to sea. In 2014, Thai authorities regularly intercepted and pushed back more than 250 Rohingya asylum seekers. In May 2015, Thailand also refused to allow the disembarkation of Rohingya asylum seekers and Bangladeshi survivors of human trafficking arriving to Thailand by sea. Consequently, human traffickers abandoned boats after Thai authorities enforced push back policies, leaving many Rohingya and Bangladeshis to die at sea. Although Thailand agreed to deploy ships carrying humanitarian relief at the end of May, it continues to put lives at risk by maintaining its push back policy and refusing disembarkation of boats.
19. In 2015, Thailand handed over about 109 male Uighur asylum seekers under its custody to China. Following claims by Chinese authorities that deportees are terrorism suspects, the Uighur asylum seekers were officially extradited to China under a Sino-Thai bilateral extradition agreement with no assessment of their protection needs. Those extradited face a great risk of persecution, torture or enforced disappearance upon return to China due to the ongoing conflict between the Chinese Government and ethnic Uighurs.
20. The obligation of states to refrain from refouling a victim of persecution to his or her persecutor is found throughout international human rights law. As customary law, freedom from refoulement requires states to not return asylum seekers and refugees, regardless of their legal status, to countries where they would face a threat to their life or freedom. This obligation typically prohibits both ejection from the state and rejection at the frontier, interception, and indirect refoulement. The deportation of 200-300 immigration detainees every week, including the large number of Rohingya asylum seekers under Thailand’s “Option 2” policy, risks violating the State’s duty against refoulement by forcing individuals to return to countries they fled for reasons of persecution. The risk of refoulement also arises when the State diverts boats of asylum seekers at sea and prevents them from disembarking. This “push back” policy, in effect, constitutes indirect refoulement and risks violating Thailand’s duty under customary international law to ensure that no one is sent back to a country where there exists a threat to her life or freedom.
21. Non-refoulement is also a fundamental component of the absolute prohibition of torture. Under Article 3 of the CAT, states are required to ensure that no individual, regardless of whether she is an asylum seeker or refugees, is expelled to a country where such person would face a substantial risk of torture.²² In light of the ongoing conflict in western China and the use of enforced disappearances and torture against members of the Uighur community, Thailand’s extradition of the 109 Uighur asylum seekers contravenes its duty to against refoulement under the CAT.

Recommendation

- **End “push-back” policies with regard to asylum seekers arriving by boat.**
- **Develop and implement adequate safeguards to protect against refoulement for those subject to deportation.**

RIGHT TO A FAIR TRIAL

22. Asylum seekers and refugees in Thailand subject to criminal proceedings, such as illegal immigration or detention hearings, have limited access to interpreters or legal counsel in violation of Article 14(3) of the ICCPR.
23. Free interpreters provided by government officials, particularly those used during criminal proceedings, typically lack the ability to communicate in both English and in the languages spoken among asylum seekers and refugees in Thailand. As a result, non-Thai speaking asylum seekers and refugees facing criminal charges for their illegal immigration status are unable to effectively communicate with authorities and remain poorly informed of their rights.
24. While the State provides some free legal aid services, such programs do not cover irregular immigration and detention cases. Asylum seekers and refugees in Thailand depend on civil society organizations for legal assistance and enjoy few procedural guarantees, including basic due process safeguards against prolonged or indefinite detention.
25. Article 14(3) of the ICCPR provides everyone facing criminal charges with “free assistance of an interpreter if he cannot understand or speak the language used in court.”²³ According to the Human Rights Committee, this right applies to all stages of the proceeding and to nationals and non-nationals alike. Article 14(3)(d) explicitly guarantees legal assistance in criminal proceedings for indigent defendants and the Human Rights Committee encourages states to provide free legal aid in other cases, recognizing that in some situations, states may even be obliged to do so. Without access to adequate interpreters or legal aid, many asylum seekers and refugees cannot understand their rights or the charges against them, and are thus denied their right to a fair trial under Article 14(3).

Recommendation

- **Provide indigent asylum seekers and refugees access to free legal assistance in all criminal cases, refugee status determination hearings, and any official proceedings that may result in the deprivation of liberty.**
- **Provide the free assistance of an interpreter to asylum seekers and refugees facing criminal charges or detention. Ensure that such assistance is adequate to allow asylum seekers and refugees the ability to understand their rights during every level of the criminal process.**

RIGHTS OF TRAFFICKING SURVIVORS

26. Discrimination in the application of domestic laws protecting trafficking survivors along with low conviction rates of human traffickers breach Thailand's obligations under the ICCPR and the Protocol to Prevent, Suppress and Punish Trafficking in Persons (the Protocol), respectively.
27. Thailand's 2008 Anti-Trafficking in Persons Act (the Anti-Trafficking Act) is a key piece of legislation to suppress human trafficking and protect survivors. The Anti-Trafficking Act requires a multi-disciplinary team to screen potential survivors of human trafficking. However, in many cases, asylum seekers and refugees are automatically labeled as illegal migrants without the necessary screening, and thus do not have access to available protections for trafficked persons.²⁴
28. Rohingya have long been trafficked from Myanmar through Thailand and on towards Malaysia. From 2012-2015, Thai authorities informally facilitated the passage of Rohingya asylum seekers to Malaysia, in some cases handing over sizable numbers of asylum seekers to the custody of transnational criminal syndicates, who in turn tortured them, deprived them of adequate food and shelter, and held them in conditions of enslavement in "jungle camps" in Thailand, demanding sizable ransom payments in exchange for their release. This unofficial policy contributed to untold deaths and killings of asylum seekers. In May 2015, Thai authorities uncovered a series of mass graves along the Thailand-Malaysia border where survivors of trafficking were presumably held and tortured on both sides of the border.
29. Although Thailand's military leader General Prayuth Chan-ocha publicly acknowledged the involvement of Thai authorities in human trafficking and pledged to punish those responsible, the conviction rate of human traffickers in Thailand remains minimal. Currently, a Rohingya-related human trafficking case is the only case that the court of justice delivered a judgment, finding that the individuals were in fact survivors of trafficking under the Anti-Trafficking Act.²⁵
30. Under Article 26 of the ICCPR, laws must afford all people, including asylum seekers and refugees, equal protection without discrimination.²⁶ As such, when states enact anti-trafficking legislation aimed at protecting survivors of trafficking, such legislation must apply without discrimination on any grounds, including nationality. Thus, preventing ethnic Rohingya from accessing available protections for trafficked persons under the Anti-Trafficking Act violates their right to equal protection of the law.
31. Furthermore, the Protocol requires that states ensure perpetrators of trafficking, such as those participating as an accomplice, are subject to prosecution under domestic law.²⁷ With only one human trafficking case obtaining a judgment in court, the State has failed to discharge its obligation under the Protocol to ensure perpetrators of trafficking are brought to justice.

Recommendation

- **Guarantee that all asylum seekers and refugees who are survivors of human trafficking can access screening, services and protections available under domestic law to trafficking survivors generally.**
- **Ensure perpetrators of human trafficking and their accomplices, including government officials, are charged, prosecuted, and punished according to international standards.**

RIGHT TO EDUCATION

32. Restrictions to freedom of movement and practical barriers to accessing higher education opportunities preclude asylum seekers and refugees from exercising their right to education under the CRC and the International Covenant on Economic, Social and Cultural Rights (ICESCR).
33. Section 10 of Thailand's National Education Act (Education Act) provides that every person has the right to free and quality public education for at least 12 years. The July 2005 Cabinet Resolution on Education for Unregistered Persons reinforced the right to education for children of asylum seekers and refugees. However, asylum seekers and refugees, particularly those living in temporary shelters on the Thailand-Myanmar border, are largely unable to access Thai schools due to restrictions on freedom of movement. Most children of asylum seekers and refugees in Thailand attend community-run learning centers with unaccredited curricula that does not transfer into the public school system or advance to higher education in Thailand. Language and discriminatory treatment have been cited as further barriers to education.
34. The right to education under both CRC and the ICESCR includes the right to primary, secondary, and higher education.²⁸ All such levels of education must be accessible to everyone; accessibility includes physical accessibility, which requires that education be within physical reach of students, and the principle of non-discrimination, which mandates that education should be "accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds."²⁹ Limited freedom of movement for asylum seekers and refugees on the Thailand-Myanmar border bars such individuals from enjoying the right to education by precluding physical access to public schools. Likewise, challenges in advancing to higher education in Thailand or transferring from community-run learning centers to the State's public school system violate the right of asylum seekers and refugees to access education without discrimination.

Recommendation

- **Remove all legal and practical barriers that prevent asylum seekers and refugees from accessing education in Thailand.**
- **Implement programs to facilitate the integration of asylum seekers and refugees in Thai public schools.**

RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF HEALTH

35. Impediments faced by asylum seekers and refugees in accessing Thailand's public healthcare system contravene the State's obligation to guarantee the right to the highest attainable standard of health without discrimination.
36. While asylum seekers and refugees have access to affordable healthcare through Thailand's health security system, care under the universal healthcare system is typically limited to certain government hospitals and only available in emergency situations. As a result, the civil society organizations have found that many asylum seekers and refugees, particularly those in urban areas, cannot access public healthcare services. In some cases, asylum seekers and refugees seeking treatment are rejected or face discrimination from public healthcare providers.

37. The right to the highest attainable standard of health is guaranteed under Article 12 of the ICESCR.³⁰ Health facilities, goods and services must be physically accessible to everyone, especially the most vulnerable or marginalized sections of the population.³¹ While states must take steps towards the full realization of the right to health, obligations such as exercising the right without discrimination requires immediate effect.³² As such, asylum seekers and refugees in Thailand who cannot physically access government hospitals or endure discrimination by public healthcare providers are denied their right to enjoy the highest attainable standard of health under Article 12.

Recommendation

- **Ensure asylum seekers and refugees are well informed about the State's universal healthcare system by widely distributing information in various languages.**
- **Provide healthcare workers with training to combat discrimination against asylum seekers and refugees in accessing healthcare in Thailand.**
- **Ensure that asylum seekers and refugees have access to affordable health care.**

RIGHT TO WORK

38. Without access to formal labor markets and protections in the workplace, asylum seekers and refugees in Thailand are precluded from exercising their right to work and enjoying the right to just and favorable conditions at work.

39. Asylum seekers and refugees in Thailand are not lawfully permitted to work. As a result, most asylum seekers and refugees work in the informal employment sector, such as agricultural work, domestic work, and the fishing industry. Although Thailand's Labor Protection Act and other domestic labor laws apply equally to non-nationals, most informal employers are exempt and Thailand's enforcement mechanisms are generally limited. Consequently, asylum seekers and refugees are often subject to abusive, exploitative, and dangerous work environments. Women in particular may find themselves at heightened risk to engage in survival sex and may be more vulnerable to human trafficking.

40. The right to work and the right to enjoy just and favorable conditions at work are afforded under Article 6 and 7 of the ICESCR respectively.³³ The right to work under Article 6 implies the right to freely chosen and accepted work. The Committee on Economic, Social and Cultural Rights notes that those living informal economies do so mostly "because of the need to survive, rather than as a matter of choice."³⁴ The ICESCR also obligates states to ensure domestic and agricultural workers enjoy the same level of protection as other workers.³⁵

Recommendation

- **Provide asylum seekers and refugees access to formal labor markets.**
- **Strengthen the application of laws protecting against abuse and exploitation of asylum seekers and refugees in the workplace.**
- **Support the development of vocational and livelihood programs as well as language and skills development trainings to promote the positive contributions of asylum seekers and refugees in the labor market.**

¹ Asylum Access is an international refugee rights organization providing legal aid, empowerment, law and policy reform for refugees in Latin America, Africa and Asia.

² Asia Pacific Refugee Rights Network (APRRN) is a network of organizations working on advancing the rights of refugees in the Asia Pacific Region through information sharing, mutual capacity building, and joint advocacy.

³ Fortify Rights is a human rights non-profit organization based in Southeast Asia working to prevent and remedy human rights violations.

⁴ Human Rights and Development Foundation (HRDF) is a civil society organization working on access to justice for migrant workers.

⁵ The Jesuit Refugee Service (JRS) is a civil society organization that provides education and healthcare service provider for asylum seekers, refugees, migrants and human trafficking victims.

⁶ Migrant Working Group (MWG) is a network of over 27 CSOs working on migrant issues in Thailand.

⁷ People's Empowerment Foundation (PEF) works to promote a wide range of human rights and human security issues by serving knowledge, strategies, and resources to a civil society and community-based partner.

⁸ UN Department of Economic and Social Affairs, Population Division, International Migration 2013 Wallchart, 15 July 2013; UNHCR. (2015) UNHCR Refugee in Thailand [Online] Available from: <http://bit.ly/1gRC0fl>.

⁹ Over 40 ethnic groups are represented in Thailand's refugee population including: Pakistanis, Sri Lankans, Rohingya, Vietnamese (Hmong, Khmer Krom), Lao Hmong, Syrians (Palestinian), Somali and other African nationalities; UN High Commissioner for Refugees, "Thailand Factsheet: September 2014," *UNHCR The UN Refugee Agency*, (August 2015), <http://bit.ly/1fjOevQ>

¹⁰ *Convention Relating to the Status of Refugees*, 189 U.N.T.S. 137, article 1(2) (*Refugee Convention*).

¹¹ On July 8 2014, Thailand exercised its right of derogation under Article 4(1) of the International Covenant on Civil and Political Rights following the implementation of Martial Law roughly two months earlier. The derogation declared is limited to select provisions which are not at issue in this submission.

¹² *International Covenant on Civil and Political Rights*, 999 U.N.T.S. 171, article 16 (*ICCPR*).

¹³ Migrant Working Group (MWG) Monthly report from January to August 2015.

¹⁴ Kongchantuek, Rasasiripong, and Kanchanatiwat. *Preliminary Study of the Situation of Children in SuanPlu Immigration Detention Centers, Bangkok, Thailand*. Bangkok: Save the Children International (May 2013).

¹⁵ *Ibid.*

¹⁶ *UDHR* Article 9; *ICCPR* Article 9

¹⁷ *Ibid.*

¹⁸ *Convention on the Rights of the Child*, 1577 U.N.T.S. 3, article 3 (*CRC*)

¹⁹ *Report of the 2012 Day of General Discussion*, Committee on the Rights of the Child, par. 78.

²⁰ Migrant Working Group (MWG) Annual Report 2014; *Op., Cit. Supra note* No. 4

²¹ Office of Democracy, Human Rights and Labor Rights, *2014 Human Rights Report, Thailand*, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>.

²² *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 1465 U.N.T.S 85, Article 3.

²³ *ICCPR* article 14(3).

²⁴ See also 2013 and 2014 Migrant Working Group (MWG) Annual Reports.

²⁵ Human Rights Development Foundation, "Court sentence former official to pay compensation to Rohingya human trafficking," <http://issuu.com/hrdfoundation/docs/07-0502015>

²⁶ *ICCPR* article 26.

²⁷ *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, 2237 U.N.T.S. 319.

²⁸ *International Covenant on Economic, Social and Cultural Rights*, 993 U.N.T.S. 3, article 13 (*ICESCR*)

²⁹ Committee on Economic, Social and Cultural Rights, *General Comment No. 13 The Right to Education*, E/C.12/1999/10, par. 6(b).

³⁰ *ICESCR* article 12

³¹ Committee on Economic, Social and Cultural Rights, *General Comment No. 14 The Right to the Highest Attainable Standard of Health*, E/C.12/2000/4, article 12(b).

³² *Ibid.* par 30.

³³ *ICESCR* article 6; *ICESCR* article 7.

³⁴ Committee on Economic, Social and Cultural Rights, *General Comment No. 18 The Right to Work*, E/C.12/GC/18, par. 10.

³⁵ *Ibid.*