

# **Asylum and Refugee Protection in Thailand's History**

## **Between Sovereignty and Humanitarianism**

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*Bongkot Napaumporn and Susan Kneebone*

### **Introduction: Refugee Hosting throughout History**

Although the Kingdom of Thailand (hereinafter 'Thailand') is not a signatory to the 1951 Refugee Convention or the related Convention relating to the Status of Stateless Persons (1954 Statelessness Convention) and Convention on the Reduction of Statelessness (1961 Statelessness Convention – together the 'Statelessness Conventions'), it has long provided asylum and humanitarian assistance to displaced non-national persons, including refugees, stateless persons and other 'aliens'. In this chapter we demonstrate that Thailand has attempted to satisfy its key responsibilities under international human rights law for such 'displaced persons', despite its internal selective policies based on national security considerations. Furthermore, in recent years Thailand has acknowledged statelessness among its long-term resident refugees and has worked with the UNHCR to address it. Arguably, Thailand is one of few countries in the region that is taking the lead in resolving the plight of stateless people.

This chapter provides a detailed history of how during the mid-twentieth century, Thailand applied both humanitarian principles of asylum, and national laws and policies aimed at protecting sovereign power to determine

who could be integrated into the Thai community. This is demonstrated through the eighteen groups of post-Second World War refugees who are referred to as ‘displaced persons’ in policy documents, and other ethnic minorities described in the Appendix at the end of the chapter, and their respective journeys from seeking asylum to achieving naturalization in Thailand.

From the late 1940s to the 1970s, several hundred thousand refugees from Cambodia, China, Malaysia, Laos, Myanmar and Vietnam fled to Thailand seeking refuge. Thailand provided refuge to these different groups of refugees from surrounding countries, thus continuing a tradition that dated back centuries. By applying exceptions to immigration regulation through Cabinet Decisions, the Thai government incrementally afforded legal statuses and basic rights to these displaced persons (see the summary in the Appendix). Eventually, many of these groups were able to integrate locally; one of the UNHCR’s three durable solutions, as explained in the Introduction and elsewhere in this volume (for example, Chapter 3). For these groups, Thailand respected the fundamental rights of individuals, such as the right to a legal status and the right to work, as well as the need for family unity and for integration into a local community in allowing their permanent settlement. Furthermore, many people, including the children of these displaced persons, obtained nationality. Although precise numbers from this period are not available, the UNHCR has stated that over 100,000 stateless people, including these long-term resident refugees, have acquired citizenship in Thailand since 2008 (Norapoompipat 2022).

However, many others fell through the gaps of these laws and policies, leaving a substantial legacy of statelessness in Thailand. Today, Thailand has a stateless population of more than 500,000, which is one of the largest in the world according to UN agencies (Norapoompipat 2022). As such, this chapter tracks the changing attitudes of the Thai government towards accepting and naturalizing refugees, while noting that a consistent trend is difficult to identify given the variety of cultures, backgrounds and histories of the eighteen groups in the Appendix, and the influence these factors have on the government’s reception of refugees.

Muntarbhorn describes Thailand as a ‘haven for asylum seekers for many centuries’, including those from what is now Vietnam, as well as China and other parts of Asia. He explains that many Mons – an ethnic group from Myanmar with its origins in southern China – and ethnic Chinese were historically assimilated into Thai society and granted nationality (Muntarbhorn 2004). Later, the concept of naturalization developed and was contained in the Naturalization Act Ror Sor 130 (1911). This first written law on naturalization allowed foreigners, regardless of their legal status, to become naturalized as Thai nationals through three principles: assimilation, social contribution and family unity (sections 7(1)–(2), 12 and 13 of the Naturalization Act Ror Sor 130 (1911)).

Thailand hosted refugees who originated from its east and west in the decades before and following the Second World War (Muntarbhorn 1992: 125). However, during the Cold War, Thailand became a buffer between different ideologies and was embroiled in the conflicts and politics of Southeast Asia. In this period, as Napaumporn (2023) has shown, Thailand's responses to Vietnamese refugees varied according to the progression of the Cold War politics that played out through the Indochina conflicts and the stance of various governments in Thailand. Many of the eighteen groups in the Appendix reflect the refugee situations that occurred in the region during the Second World War and the Cold War conflicts up to the 1990s. These groups include many ethnic Thais who were situated outside of Thailand's modern borders, which began to stabilize around the time Thailand's first nationality law was passed (in 1913). These include indigenous groups who needed to be integrated into Thailand, such as Mons and Highland and Hills-Tribe people. As Thailand's history and geography shows, states and borders are a twentieth-century concept. Its 'people' today include many groups of Thai ethnicity, as detailed in the Appendix (Groups 12–18), for whom state borders were not the most important determinant in their daily lives. Anthropologists have stressed, for example, that there are many 'co-ethnic groups' on different sides of modern borders in Southeast Asia (Skeldon 2000: 16; Gainsborough 2009), and a continuity of traditional cross-border movements across fluid boundaries.

This chapter thus challenges the narratives that begin the discussion of refugee protection in Southeast Asia with the 'rejection' of the 1951 Refugee Convention or with the Comprehensive Plan of Action for Indochinese Refugees (CPA), which lasted from 1989 to 1998 (Davies 2007). Although during the CPA (see Chapter 10) Thailand applied the criteria of the 1951 Refugee Convention to determine the status of displaced persons as refugees, this can be regarded as a temporary rupture with a centuries-old tradition of asylum. The term 'refugee' has been uniformly avoided in national law and policy in Thailand; until today, 'displaced persons' have been granted entry as exemptions to immigration legislation. Prior to 1950, Thai immigration laws allowed undocumented persons to enter and stay in the country, granting them identification papers at their port of entry (Napaumporn 2023).

Although immigration rules have tightened since an amendment of the Immigration Act in 1950, Thai immigration law still leaves some options allowing for special residence permission to be granted to aliens, including these displaced persons. Section 17 of the Immigration Act B.E. 2522 (1979) now provides:

Under special circumstances, the Minister, by the consent of Cabinet, may authorize an entry and residence permit into the Kingdom subject to any condition or exempt any alien from compliance with the Act.

Although Thailand was not unaware of international law, including human rights law (it was among the first countries to endorse the UDHR in 1948), it has applied national laws and policies in a discretionary way through Cabinet Decisions that may contradict these international laws. According to Thailand's National Security Council (NSC),<sup>1</sup> the eighteen groups of the post-Second World War refugees and other ethnic minorities were categorized based on their countries of origin or ethnicities and the date of their arrival in Thailand.

Through exploring historical domestic legal frameworks, policy measures and practices, and a series of Cabinet Decisions of the Thai government, it becomes clear that refugee protection is not new to Thailand; however, framing these issues as 'refugee' issues is new, as historically that term was deliberately avoided. The assimilation of refugees, especially for those who could not return to or had lost their connection with their countries of origin, has been unacknowledged in Thai history. The discussion in this chapter shows a continuum of human rights protection and incremental change as the Thai government progressively responds to its legacy of statelessness, comprising those who fell between the cracks of sovereignty and humanitarian protection.

## **Thailand in the Decades after the Second World War: A Continuum of Refugee Protection**

Even before the mass exodus of Indochinese refugees commencing in 1975 and before the adoption of the CPA, Thailand hosted an estimated several hundred thousand refugees from Cambodia, China, Malaysia, Laos, Myanmar and Vietnam who fled their countries of origin due to internal conflicts, largely driven by power struggles between nationalist and communist movements in a postcolonial context.<sup>2</sup> To show a continuum of protection provided to refugees by Thailand, the analysis in this section of the chapter focuses on refugees from Vietnam, China, Malaysia and Myanmar who arrived between the 1940s and the 1970s (see Appendix, Groups 1–5).

### *Refugees Fleeing the First Indochina War from Vietnam (1946–54): Appendix, Group 1*

During the First Indochina War, the conflicts that followed and the French reoccupation of Indochina, several thousand Vietnamese refugees fled to Thailand (1946–54) (Napaumporn 2023). While the actual number of Vietnamese refugees is unknown, as of 1956, a Ministry of Interior survey showed that 46,600 Vietnamese refugees were living in five northeastern

and eastern provinces (Napaumporn 2023). They were officially recorded in the Thai civil registration system<sup>3</sup> as 'Displaced Persons from Vietnam' (Appendix, Group 1). Thailand's acceptance of these Indochina refugees from Vietnam in the years closely following their arrival was due to the then liberal foreign policy of the Thai government. This policy sought to support neighbouring countries – particularly Laos and Vietnam – in regaining their national sovereignty and independence from colonial rule (Sriphana 2005: 77–85). This policy was evidenced in the Thai government's actions, such as admitting Vietnamese refugees entry free of charge, providing them with identity documents and exempting them from the alien registration process,<sup>4</sup> as well as through Cabinet of Thailand decisions that approved the provision of humanitarian assistance, and a budget that loaned living expense funds and paid wages to Vietnamese refugees who were involved in the construction of highways (Sriphana 2005: 75–76). It is noteworthy that after this period, during the subsequent military regimes, the treatment of Vietnamese refugees became harsher, as most were from the north of Vietnam and fell afoul of Thailand's anti-communist policies (Napaumporn 2023). Consequently, later Vietnamese 'displaced persons' were treated differently and had difficulty integrating into Thai society. However, the restrictive policies that targeted Vietnamese people in Thailand were later suspended. After Thai–Vietnamese relations were normalized – a process that began in the late 1980s – the issue of Vietnamese refugees in Thailand was prioritized in bilateral discussions between Thailand and the government of Vietnam at that time (the Socialist Republic of Vietnam). During reciprocal visits by the Vietnamese and Thai prime ministers in 1991 and 1992, Vietnam requested that Thailand accept long-time Vietnamese refugees as citizens (Sriphana 2005). Given the changing circumstances globally and regionally (for example, the Vietnamese withdrawal from Cambodia and Laos in 1989 and the end of the Cold War after the fall of the Berlin Wall that same year), Thailand's NSC re-adjusted its policy to facilitate the permanent settlement of 42,000 Vietnamese refugees (including their children) who remained in Thailand after a repatriation programme<sup>5</sup> to North Vietnam ended in 1964 (Cabinet of Thailand 1992a).

### *Kuomintang Refugees Fleeing the Chinese Civil War (1950s–1970s): Appendix, Group 2*

During the Chinese Civil War (lasting from 1927 to 1949), the Kuomintang (KMT), or Chinese Nationalist Party, led by General Chiang Kai-shek (later the founder of Taiwan), was exiled from mainland China after being defeated by the Communist Party. The majority of the KMT managed to flee to Taiwan, while others who were stationed in the southern flank

of China (which borders Myanmar) were unable to do so. These party members (Appendix, Group 2) fled from China to Myanmar, with some of them and their families subsequently moving to Thailand, mostly in the 1950s (Internal Security Affairs Bureau 2005). Around 11,500 of the KMT had moved to Taiwan in 1954 and 1961 (Operation Center for Displaced Persons 1982: 2), but those who remained in Thailand were provided with protection as displaced persons. In exchange for laying down their arms, the Thai government allocated plots of land to the former KMT soldiers who sought refuge in Thailand (hereinafter ‘KMT refugees’) in the northern Thai provinces of Chiang Mai, Chiang Rai and Mae Hong Son, with the aim of permanent settlement.<sup>6</sup> They were officially recorded as ‘Former Chinese Nationalist Party Members or Kuomintang Soldiers’ and were granted temporary residence in 1970. Additionally, some former KMT members were later granted Thai citizenship (starting in 1978). By 1984, there were 24,996 former KMT members and their families still living in these three provinces (Cabinet of Thailand 1984b). In addition to this figure, in 1989 the Ministry of Interior reported that 16,426 people who claimed to be KMT family members were residing in these areas (Cabinet of Thailand 1990a). In light of this large influx of refugees, from 1978 the Thai government attempted to resolve their legal statuses by granting permanent residency, facilitating the naturalization process and expediting nationality applications for children born in Thailand to the former KMT members.

### *Refugees among Ethnic Chinese Communist Insurgents from Malaysia (1950s–1960s): Appendix, Group 4*

After the Second World War, the British reoccupied Malaya until 1957, seeking to reclaim their former colony. The Communist Party of Malaya (CPM), which had supported the British to mobilize defence against the invading Japanese army, started an insurgency against the British, demanding self-governance and independence. Even after Malayan independence was achieved in 1957, a low-level communist insurgency continued until 2 December 1989, when the CPM agreed to end its armed struggle and signed a peace agreement with the Malaysian government and Thai military commanders (Kheng 2009: 150). During the years of fighting between the 1950s and the 1989 peace agreement (known as the ‘Second Malayan Emergency’), many members of the CPM fled to the south of Thailand for refuge (see Appendix, Group 4). Others followed to Thailand after the Malaysian government ended the First Malayan Emergency in 1960.<sup>7</sup> On separate occasions in both March 1987 and December 1989, a total of 1,726 members of the CPM surrendered their arms to Thai troops (Cabinet of Thailand 1990b; Prime Minister of Thailand 1980). From 1980

onwards, the Thai government applied a more moderate approach to dealing with communist refugees from Malaysia.<sup>8</sup> Those who surrendered their arms and chose to live in Thailand were granted a land settlement and the social status of so-called 'Thai nation development cooperators' (Cabinet of Thailand 1990b, 2002). In 1990, the Thai government registered these refugees and provided them with identification papers, on which they were officially recorded as 'Former Malaya Communists of Chinese Ethnicity'. Subsequently, in 2002, the Cabinet of Thailand decided to grant them Thai nationality through naturalization.

### *Refugees from Myanmar (1960s–1970s): Appendix Groups 5, 8, 9, 10 and 11*

Myanmar (also called Burma) is made up of many ethnic groups, including ethnic Thais. There are also ethnic Nepalese people, who were brought to Myanmar by the British Army prior to the Second World War (see Appendix, Group 5). After several coups and civil conflict between the Burmese army and ethnic armed groups commencing in 1962, these groups and people in affected areas fled to Thailand. This movement took place before the nine refugee camps that are currently located along the Thailand–Myanmar border were set up during the 1980s. These camps are mostly populated by members of the Karen, Karenni and Burmese ethnic groups (Roussel-Hemery 2022).

The first group to arrive in Thailand comprised ethnic Thais, who came from the areas along the border of Thailand and Myanmar contested by the two states (see Appendix, Groups 8 and 9). These areas include Tavoy (Dawei), Myeik and Kawthaung of Tenasserim Division, as well as Myawaddy of Kayin State, which were previously provinces of Thailand. These ethnic Thai groups had been residing in these contested areas before they were ceded to the British Empire in 1868. Due to conflicts and violence inside Myanmar, especially after the 1962 military coup organized by General Ne Win, they decided to return to Thailand (Internal Security Affairs Bureau 2005). In Thailand, they were recorded in the civil registration database as 'Displaced Thais from Myanmar'. As these refugees have a strong link to Thailand and its culture, Thailand's relevant nationality law was amended in 2012 by Nationality Act No. 5 B.E. 2555 (2012) to retroactively reinstate their Thai birth nationality, thus following the *jus sanguinis* principle.

As the conflicts in Myanmar continued throughout the 1950s and 1960s, a second group of ethnic minorities, mainly from the Shan, Kayah and Kayin states, arrived in Thailand in several waves. Those who fled before 9 March 1976<sup>9</sup> were officially recorded as 'Displaced Persons from Myanmar' and granted a temporary residence permit<sup>10</sup> regardless of approval from

the Cabinet of Thailand (see Appendix, Group 10). In 2000, the Cabinet of Thailand allowed these displaced persons to apply for permanent residency as a pathway to Thai nationality through naturalization. The groups that arrived after this date were divided into two subgroups,<sup>11</sup> with both considered illegal migrants (see Appendix, Group 11). It is estimated that over 140,000 individuals from ethnic minorities in Myanmar were living in Thailand at this time (Cabinet of Thailand 1992b). Although there was no long-term solution provided for this later group of arrivals, the Thai government granted temporary residency and allowed them to work in Thailand.

Another group who arrived in Thailand from Myanmar was the ethnic Nepalese people (see Appendix, Group 5), who were first understood by Thai authorities to be part of the Shan and Karen ethnic groups. These Nepalese people, referred to as Burmese Gurkhas, originally served in the British army in Myanmar prior to the Second World War. During the war, they were recruited by the Japanese Empire in occupied Burma to build the Thailand–Myanmar Railway in Kanchanaburi, a western province of Thailand. The Thai government separated this group from other Burmese refugees and eventually recorded them as ‘Displaced Nepalese’ in 1987. In 2000, together with the other ethnic minorities from Myanmar, these Nepalese migrants were granted permanent residency, which would later allow them to be naturalized as Thai nationals.

In the decades before and following the Second World War, Thailand provided refuge to several groups of people from different backgrounds. It hosted Indochinese refugees from Vietnam in the east, the KMT refugees from China in the north, former Malaya communists from Malaysia in the south and several ethnic groups from Myanmar in the west. Although the Thai government prioritized national security and at some stages imposed restrictive policies on these long-term residence refugees, it granted asylum to many. As members of armed groups, the KMT refugees and former Malayan communists were previously under the strict control of the Royal Thai Army. Yet, even they were given specific plots of land on which to live, while other groups, such as the Indochinese refugees and ethnic groups from Myanmar, were allowed to settle in border provinces where there was a concentration of people who shared their ethnicity. Despite granting the respective groups’ legal statuses at different periods of time, the Thai government ultimately provided humanitarian assistance and basic human rights to all groups. Indochinese refugees, the KMT refugees, former Malayan communists and refugees from Myanmar were all provided with a legal identity that allowed them to access other social services, and apply for permanent residency and naturalization, as will be described below.



## **From the Past to the Present: Learning from Thailand's Protection of Refugees**

It is evident that in the first part of the twentieth-century Thailand was more relaxed about the entry of foreigners into its territory and into its communities. According to Thai immigration law, Thailand automatically considered foreigners who entered the state before 11 July 1927 to be permanent residents.<sup>12</sup> Between 1927 and 1950,<sup>13</sup> Thailand's immigration control offered a degree of flexibility for undocumented foreigners (including asylum seekers and refugees) who could be at risk of statelessness. These undocumented immigrants were able to enter and reside in Thailand, and were issued with an identification paper at their point of entry (Meesen, Napaumporn and Petcharamesree 2016: 200). However, as described in this chapter, following the Second World War and coinciding with the Cold War, Thai immigration law became more restrictive. According to the current immigration legislation contained in the Immigration Act B.E. 2522 (1979), undocumented immigrants are no longer allowed to enter Thailand without a visa. However, even in this era of more restrictive immigration policy, Thai immigration law does allow foreigners who have entered Thailand illegally to be granted permission to stay and acquire permanent legal status in special circumstances (section 10 of the Immigration Act B.E. 2470 (1927); section 13 of the Immigration Act B.E. 2480 (1937); section 15(2) of the Immigration Act B.E. 2493 (1950) as amended by Act No. 2 B.E. 2497 (1954); and section 17 of the Immigration Act B.E. 2522 (1979)). Additionally, since 1950, Thai law has provided an option for 'stateless persons' to apply for permanent residency through Thailand's annual immigration quota (section 29 of the Immigration Act B.E. 2493 (1950); section 40 of the Immigration Act B.E. 2522 (1979)). Thus, throughout the twentieth century, Thailand's legal framework has provided options for foreigners, including refugees, to settle in Thailand.

In treating these former refugees and stateless ethnic minorities as special cases, Thailand facilitated their naturalization through particular and specialized measures – for instance, by introducing reduced income criteria and exempting the stateless elderly from the requirement to show evidence of a work permit (Government of Thailand Ministry of Interior 2020). Thai nationality law also allows naturalization for those in vulnerable circumstances, such as persons classified as incompetent by the court, abandoned children in public foster homes and children adopted by Thai people (section 12(1) of the Nationality Act B.E. 2508 (1965) as amended by Act No. 4 B.E. 2551 (2008)).

Thailand provides several pathways to settlement through offering opportunities to gain permanent residency and naturalization for immigrants.

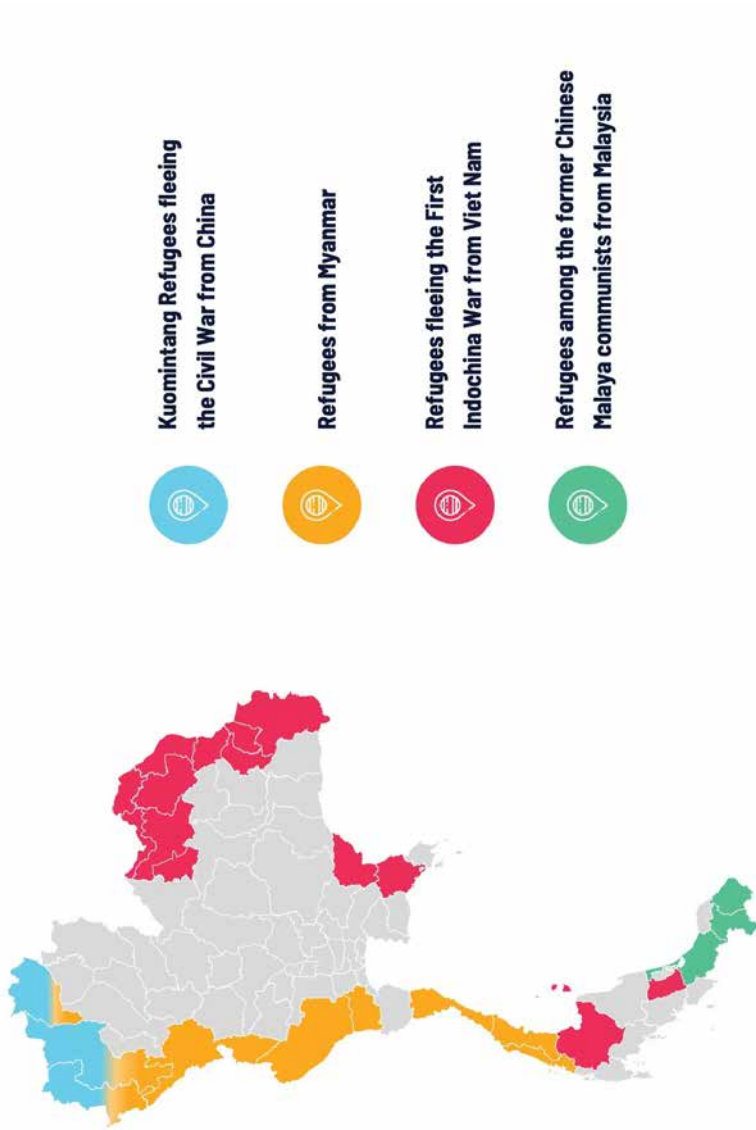
A key eligibility criterion is to have a close link to Thailand, either through the territorial principle (such as being a long-term resident or providing a good service to Thailand) or the family principle (having a Thai spouse and family). Apart from this, Thailand has promoted the inclusion of post-Second World War refugees who have stayed in Thailand for decades and whose children were born there. Records of Cabinet of Thailand decisions reveal that authorities have encouraged local settlement for several groups, such as refugees from the First Indochina War (Appendix, Group 1) and members of the KMT (Appendix, Groups 2 and 3), on the assumption that they were unable to return to their country of origin and had already integrated into Thai society. Although the integration policy towards these refugees was ad hoc and selective, the following measures demonstrate Thailand's engagement with a continuum of refugee protection over time.

### *Allocation of Plots of Land for Settlement*

The Thai government has monitored refugees considered to be national security concerns – particularly former members of armed groups – by providing plots of land upon which to build their own villages under the supervision of local authorities. As mentioned earlier in this chapter, refugees from China who were formerly KMT soldiers (KMT refugees) and their families (Appendix, Groups 2 and 3) continue to live in thirteen villages in the northern provinces of Thailand – Chiang Mai, Chiang Rai and Mae Hong Son – on the plots of land that were given to them by the Thai government. Prior to this gift of land, these areas were under the control of the Royal Thai Army. The Army transferred the control of this land to the Ministry of Interior, with the Ministry subsequently establishing villages for the KMT refugees in accordance with the Local Administration Act in 1984 (Cabinet of Thailand 1984b).

In 1990, after the ethnic Chinese Malaya communists (Appendix, Group 4) surrendered their arms and requested to remain in Thailand, the Thai government gave them an area of land for homes and agriculture. This land was located in three southern provinces near the Malaysian border – Yala, Narathiwat and Songkla – where nine villages, named 'Friendship Villages 1–5' and 'Peace Villages 1–4', were built for them (Intarak et al 2003: 32–42). According to the Peace Agreement, the villagers also received a daily allowance of THB 22 (approximately US\$1 in 1990) for three years (Intarak et al 2003: 24–25).

Although the other groups discussed in this chapter (such as the refugees from Vietnam and Myanmar) were not provided with this kind of support, the Thai government allowed them to live in the communities in which most of their relatives had previously settled. Vietnamese refugees resided in the Mekong River provinces in the east of Thailand, while those from



**Map 2.1** Provinces where the Thai government allowed refugees to reside after the Second World War. Map prepared by Bongkot Napaumporn

Myanmar stayed in the western border areas where there was a concentration of people who shared their ethnicity. Thus, these refugees easily blended into, and economically contributed to, the local communities as, for example, workers or entrepreneurs. These are also legal requirements that help to equip these populations to integrate and to become part of Thai society as nationals (UNHCR 2022b).

However, these and other measures discussed below (such as the right to education) did not extend to refugees from Myanmar who fled to Thailand from the 1980s onwards and were placed in refugee camps along the Thai–Myanmar border which have operated from 1984 onwards, controlled by the Thai government (see Chapter 5; McConnachie 2014; Ramirez Carpeño and Feldman 2015). Current statistics indicate that 91,401 refugees are housed in camps along the border, to whom Thai laws and policies do not apply.

### *Recognition of Legal Identity since 1967*

Since 1967, Thailand has recorded and provided identification papers (including identification cards and ‘profile registration’)<sup>14</sup> to refugees. These identification papers were provided to Vietnamese refugees from 1967, KMT refugees from 1970 and the former Chinese Malaya communists from 1989. From 1972, refugees who arrived and stayed in Thailand for a long time were granted household registration, or Thor Ror 13, which is provided to non-Thais who are permitted to stay in Thailand temporarily in accordance with immigration law. This type of household registration is an important proof of residency that facilitates stateless persons to apply for naturalization. Other groups received this treatment in later years. In 1983, the Ministry of Interior introduced a nationwide project of issuing thirteen-digit unique identification numbers to all residents<sup>15</sup> and began to computerize their system of record-keeping regarding resident identification. This project also provided identification numbers to groups that were classified as stateless by the NSC. Despite the fact they had resided in Thailand for decades, this was the first attempt by the Thai government to recognize these refugees as legal persons and to provide them with access to civil registration and documentation.

On 18 January 2005, the Cabinet of Thailand approved a milestone policy; the Strategy on Administration of Legal Status and Rights of Persons was proposed by the NSC (Cabinet of Thailand 2005b) and became the first government policy in Thailand aimed at addressing the legal status of non-nationals – including refugees – by emphasizing the need to take both national security and human rights into account in determining their legal status. Among other concerns, the strategy prioritized the right of these individuals to be registered and have legal documentation, with specific focus

placed upon those who were excluded from registration schemes in the past (Cabinet of Thailand 2005b: 4). This strategy contributed to the promotion of universal civil registration among persons considered to be stateless under Thailand's civil registration law.<sup>16</sup> Recognition of legal identity through civil registration led to better protection for persons considered to be stateless, as well as improved legal status. For example, obtaining registration enables an individual's period of residence in the country to be proved. Based on this evidence, they may apply for permanent residence and naturalization accordingly.

### *Inclusion of Long-Term Inhabitant Refugees through Permanent Residence*

Cabinet of Thailand decisions show the effort that was made throughout the mid-twentieth century by Thailand to permanently settle refugees. Former KMT soldiers were the first group (Appendix, Group 2) to be granted permanent residence status in 1978 (Cabinet of Thailand 1978), followed by the Vietnamese refugees (Appendix, Group 1) in 1984 (Cabinet of Thailand 1984a), the refugees from Malaysia (Appendix, Group 4) in 1990 (Cabinet of Thailand 1990b), ethnic Thai refugees from Myanmar (Appendix, Groups 8 and 9) in 1997 (Cabinet of Thailand 1997) and other ethnic minorities from Myanmar (Appendix, Group 10), including the Nepalese (Appendix, Group 5) in 2000 (Cabinet of Thailand 2000). The order in which permanent residence status was granted to each of these groups suggests that their inclusion was determined by focused and pragmatic considerations.

In 2010, the NSC proposed new criteria to determine the legal status of the target populations under the 2005 Strategy on Administration of Legal Status and Rights of Persons and requested that the Cabinet of Thailand repeal its previous decisions on each group to ensure consistency of policy (Cabinet of Thailand 2010a). The 2010 Cabinet Decision (Cabinet of Thailand 2010a) provided each group with equal access to permanent residency on the basis that they had entered Thailand prior to 1995. A 2021 Cabinet Decision replacing the 2010 Decision (Cabinet of Thailand 2021) removed the temporal limitations (i.e. the requirement that group members had arrived before 1995) and approved a new set of criteria to determine the legal status and rights of people who had remained in Thailand for at least fifteen years, including these former refugees. The criteria that were developed in 2021 enhance access to a wider set of entitlements associated with their legal immigration status and permanent residency, which will further improve access to nationality.

### *Facilitation of Thai Nationality Acquisition*

In principle, the majority of these long-term inhabitant refugees, including their children born in Thailand, were entitled to Thai nationality under the law in force at the time of their arrival or the latter's birth in Thailand, such as the Nationality Act B.E. 2456 (1913), the Nationality Act B.E. 2495 (1952) or the Nationality Act B.E. 2508 (1965). However, prior to 1967, it was difficult for refugees who fled their homes and entered Thailand irregularly, often without identity documents, to meet the requirements for naturalization. In most cases, it was also impossible for children born in Thailand to these refugees to obtain a backdated birth certificate.

Although the first of these undocumented individuals were registered in Thailand and provided with identification documents by authorities starting in 1967, other administrative barriers to naturalization might have operated, such as the need to have a regular occupation and to earn sufficient income. In the absence of a special measure to help simplify and facilitate the application process, these requirements may have obstructed attempts of refugees and children born in Thailand to refugees to acquire Thai nationality. As special cases, the following groups were permitted to access Thai nationality through facilitated naturalization (such as exempting them from income requirements): refugees from China or KMT soldiers in 1978 (Cabinet of Thailand 1978), ethnic Thai refugees or so-called 'Displaced Thais' from Myanmar in 1997 (Cabinet of Thailand 1997) and refugees from Malaysia – that is, the former Chinese Malaya communists – in 2002 (Cabinet of Thailand 2002). Other groups of refugees were granted permanent residence status and most were able to apply for naturalization through the normal process. As mentioned above, the Cabinet Decision in 2010, which repealed all previous decisions, facilitated a Thai nationality process for the children of these refugees on an equal basis (Cabinet of Thailand 2010a). As of 2016, the most recent Cabinet Decision set out more simplified eligibility criteria where refugee parents who have resided in Thailand for at least fifteen years (and can prove this fact) may have Thai nationality granted to their children, where these children are born in Thailand (Cabinet of Thailand 2016b).

### *Promotion of Sustainable Livelihoods*

While these refugees wait for their legal status to be resolved, the Thai government has nevertheless enabled them to build sustainable livelihoods through improved access to education, employment and health. Since 1992, an 'Education for All' policy has been in place and was strengthened in 2005 to enable every non-national child to be enrolled in

Thai public schools (Cabinet of Thailand 2005a). In 2010 and 2015, the Cabinet of Thailand approved proposals made by the Ministry of Public Health to provide free health services to many groups of stateless people, including post-Second World War refugees, as detailed in the Appendix (Cabinet of Thailand 2010b and 2015). The latter decision also called for the establishment of the Comprehensive Strategy to Address Legal Status and the Right to Health of Stateless Persons in Thailand. In 2016, the Thai government allowed registered stateless persons, including the post-Second World War refugees who were previously only permitted to perform unskilled work, to engage in all categories of work except those reserved exclusively for Thai nationals (Cabinet of Thailand 2016a).

Through examining Cabinet of Thailand decisions, it is clear that Thailand implemented measures to integrate refugees who arrived after the Second World War, even though it imposed restrictions on some groups. These Cabinet Decisions recognized that these groups of refugees had resided in Thailand for an extended period of time and that many had Thai families. The Cabinet Decisions highlighted the need to engender trust and confidence between the refugee populations, local communities and the government, and considered that the aforementioned measures, including promoting the rights and livelihoods of refugees, granting them permanent residence and facilitating their naturalization, would contribute to peaceful coexistence, social inclusion and national security.<sup>17</sup>

## **A Thai Tradition of Protection for Refugees and Stateless Persons**

This discussion shows that while different standards of protection were afforded to groups of refugees over different periods of time, human rights standards have been enforced in Thailand, through its respect for fundamental rights, such as the right to a legal status and to work, as well as the opportunities provided for local integration. Regardless of whether or not Thailand's policy was created by design or on an ad hoc basis (Dewansyah and Handayani 2018: 475), it constituted the foundation for protecting refugees arriving and remaining in Thailand, especially those who were unable to return to their countries of origin and those who had already integrated into local Thai communities.

This chapter challenges the scholarship that argues that Asian states have rejected international refugee law as Eurocentric or as a postcolonial stance. In this chapter we have shown that in the case of Thailand – a country that has never been colonized – despite little evidence of its overt acceptance or rejection of principles of international refugee law, there is a

long tradition of asylum and of protection practices that fit with Thailand's interests as they are understood by the government of the day. Following the Second World War, Thailand provided humanitarian assistance to an estimated several hundred thousand refugees, despite being a nonsignatory to the 1951 Refugee Convention and its 1967 Refugee Protocol. Many refugees who came from Vietnam, China, Malaysia and Myanmar from the 1940s to the 1970s were eventually granted permanent residence status. Their children born in Thailand became eligible for Thai nationality. These refugees and their children also had access to education, employment and free healthcare according to the relevant laws as mentioned above. At the same time, there is evidence of incremental change and adjustment to new challenges (see the Introduction) in place of the previous ad hoc approaches to 'displaced persons' or refugees.

One such challenge is that of how to manage and account for stateless persons – a concern that has recently re-emerged within the international community. As Abraham observes in Chapter 1 of this book, the issue of statelessness was glossed over when drafting the 1951 Refugee Convention. However, in Thailand there has long been awareness of the problem, despite it not being addressed by name as 'statelessness'.<sup>18</sup> The movement of refugees to Thailand after the Second World War added to the existing problem of statelessness amongst indigenous ethnic minorities, commonly known as Hill Tribes. As we have explained, Thailand sought to address the legal status of these displaced persons by taking steps to enable them to resettle in Thailand on the assumption that they had lost all connection with their countries of origin and could not return. One significant step taken was to provide these refugees with a legal identity by registering them in the civil registration database and issuing identification papers. A number of these refugees were able to permanently settle in Thailand, although many remain stateless today because of Thailand's selective policies that were based on national security interests. The Ministry of Interior reported that as of the end of 2022, there were 573,900 stateless people in Thailand who were registered with the national civil registration system (UNHCR 2023).

However, more recently, the Thai government has actively engaged in resolving the status of its stateless population. Since 2011 the government has collaborated closely with the UNHCR on this issue. In the Global Trends report of 2010, the UNHCR reported that there were 542,505 stateless persons who were registered in the Thai civil registration system (UNHCR 2011). This report identified stateless populations, which included the post-Second World War refugees from Cambodia, China, Malaysia, Laos, Myanmar and Vietnam who have been discussed in this chapter. After the launch of the UNHCR's #IBelong Campaign to End Statelessness in November 2014, Thailand endorsed and became a leader among the



'Group of Friends' of the Campaign (UNHCR Thailand 2019). At the High-Level Segment on Statelessness in 2019, Thailand submitted seven pledges aiming to resolve existing situations of statelessness, to provide protection to stateless persons (e.g. through access to education and social protection) and to prevent statelessness by, for example, ensuring access to civil registration and birth registration for all. It also committed to 'promote international and regional cooperation in addressing statelessness' (UNHCR 2020).

The refugee protection described in this chapter did not occur in an international law vacuum. States in Southeast Asia were aware of the human rights of refugees through their involvement in the CPA, and in the case of Thailand, through the UDHR in 1948. Despite the low accession rates by Southeast Asian countries to the 1951 Refugee Convention, the governments of Thailand and Indonesia have acceded to key international human rights treaties that provide rights for people seeking asylum (see Table 0.1 in the Introduction to this book). There has been universal ratification by the three states (Thailand, Malaysia and Indonesia) of the three core conventions that protect the rights of women, children and persons with disabilities; the Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW), the Convention on the Rights of the Child 1989 (CRC) (1989) and the Convention on the Rights of Persons with Disabilities 2006 (CRPD) (see Table 0.1). Together with regional and domestic laws, these form an international law framework that protects the human rights of refugees in theory, if not in practice.

In the case of Thailand, as Muntarbhorn explains, that after the 1970s, the new and very politically sensitive influxes led to constraint in the national policies (Muntarbhorn 2005).

According to Muntarbhorn, national security concerns that reflect Thailand's geopolitical position continue to drive its response to refugees (and to the work of the UNHCR in Thailand). In relation to the issue of accession to the 1951 Refugee Convention, Muntarbhorn suggests that Thailand prefers 'to have a large margin of discretion to deal with influxes, especially mass influxes' (Muntarbhorn 2005). In this sense, there is a continuity with the approach of the Thai government in dealing with refugees from the 1940s to the 1970s, namely in preferring discretionary responses in tune with national security considerations.

## **Conclusion: Ongoing Challenges**

Understanding the history of refugee protection in Southeast Asia is an ongoing challenge. As this book demonstrates, there is a kaleidoscope of different historical refugee protection practices; different groups have

been offered asylum by states over the centuries for different motives. Muntarbhorn describes the region as one where there is a ‘jigsaw of complexity and diversity’ (2021a: 425) and ‘a mosaic of influences’ (2021b: 9). In 1980, in the midst of the Indochinese refugee crisis, the UNHCR’s director of International Protection appealed to the region’s ‘historical heritage of humanitarian ideas and concepts’ (UNHCR 1980, cited by Moretti 2022: 62) as existing in the region’s cultural and religious traditions, including in Buddhism and Islam. Muntarbhorn (2021a: 424) explains that historically asylum had various ‘religious and cultural underpinnings’ (see the discussion in the Introduction to this book), but that the Cold War had made hospitality ‘more constrained’.

As the chapters in this book demonstrate, there are many viewpoints concerning the history and basis of refugee protection in Southeast Asia. For example, some scholars have identified the Bangkok Principles (1966 and revised in 2001) as an important influence on Southeast Asian countries and have suggested that the expanded refugee definition in Article I(2), which extends to people fleeing armed conflict and generalized violence, is influential (Moretti 2022: 62, 125–29; Yacoub 2023). Relevantly, Article II(2) states that the right to be granted asylum is a ‘sovereign right’ and Article II(3) states that the grant of asylum is a ‘humanitarian, peaceful and non-political act’ (see the discussion in the Introduction to this book).

Through providing a detailed study of the grant of asylum by Thailand, focusing in particular on the period between the 1940s and the 1970s, this chapter demonstrates the importance and value of case studies of particular countries. Although Thailand’s policies towards refugees have been ad hoc and selective, it demonstrates that asylum was eventually granted to thousands of individuals, that the protection graduated from a temporary to permanent status, and that these steps often led to full integration and Thai nationality. Thailand’s historical experience of asylum is very different from that of Indonesia, for example, which in the 1950s was framed as a postcolonial response (Kneebone, Missbach and Jones 2021; Chapter 4 in this volume).

Future and ongoing research into other historical practices of refugee protection will reveal important lessons from Southeast Asia as a region that has hosted significant numbers of displaced people over centuries. Just as that there is no monolithic or single ‘Asian approach’ to international law (Muntarbhorn 2021b: 2), likewise, there is no uniform approach to refugee protection in Southeast Asia. However, this chapter goes to the heart of this book; it demonstrates the ongoing tension between humanitarianism and sovereignty in refugee protection in the context of one country in Southeast Asia, with Thailand raising the question of whether humanitarian responses alone provide adequate protection to refugees.

**Bongkot Napaumporn** is a Ph.D. researcher at the Peter McMullin Centre on Statelessness, University of Melbourne. Prior to joining the Centre, she worked for the UNHCR Regional Bureau for Asia and the Pacific with a focus on statelessness, and at the Thammasat University's legal clinic to provide pro bono legal assistance to stateless people. She was involved in key law and policy reforms in Thailand that aimed to improve stateless people's legal status and access to human rights, and to promote their wellbeing and inclusion in Thai society. Her current research focuses on identity negotiation among stateless persons from Thailand in Japan.

**Susan Kneebone** is a Professorial Fellow and Senior Associate of the Asian Law Centre, and Research Affiliate of the Peter McMullin Centre on Statelessness, Melbourne Law School, University of Melbourne. She is the Chief Investigator of the Australian Research Council *Indonesia's Refugee Policies: Responsibility, Security and Regionalism* Discovery Project 180100685. She supervises Ph.D. students on refugee law, statelessness and forced migration issues in Southeast and East Asia, and has published widely on law, governance and forced migration in these areas. She is currently leading an Australia Research Council (ARC)-funded project on *The Role of Community Sponsorship for Refugee Resettlement in Australia*. She recently completed an ARC project on: *Towards Development of a Legal Framework for Regulation of International Marriage Migration*.

**Appendix:** Groups of Post-Second World War Refugees and Other Ethnic Minorities, and Protection Provided to Them in the Past

No.	Groups as categorized by the National Security Council	Their circumstances	Approximate period of arrival in Thailand	Protection provided by the Thai government <sup>19</sup>
1	Displaced persons from Vietnam.	This group of refugees fled the First Indochina War (1946–54) from Vietnam. They remained in Thailand after a repatriation programme (1960–64) to North Vietnam was suspended in 1964 due to the Gulf of Tonkin incident.	1946–54	<p data-bbox="246 1293 315 1388"><b>Legal status in Thailand</b></p> <p data-bbox="246 1388 315 1475">Issuance of ID cards<sup>20</sup></p> <p data-bbox="246 1475 315 1576">Since 1967</p> <ul data-bbox="246 1576 315 1701" style="list-style-type: none"> <li>• <i>Cabinet Decision in 1984</i> provided permanent residence status to those deemed as having ‘good moral character’.</li> <li>• <i>Cabinet Decision in 1992</i> expedited the Thai nationality process (s 7 bis of the Nationality Act) for Vietnamese children born in Thailand and granted permanent residence status to their parents.</li> <li>• <i>Cabinet Decision in 1997</i> revised the eligibility criteria aimed at granting permanent residence status to the first generation of ethnic Vietnamese who fled the first Indochina War.</li> </ul>
2	Former Chinese Nationalist Party Members, or Kuomintang (KMT) soldiers and their families.	This group of KMT refugees were exiled from Mainland China during the Civil War between 1927 and 1949. They entered Thailand around 1950–54. Their families followed them to Thailand until 1961.	1950–54	<ul data-bbox="315 1293 384 1701" style="list-style-type: none"> <li>• <i>Cabinet Decision in 1970</i> granted temporary residence to all KMT refugees.</li> <li>• <i>Cabinet Decision in 1978</i> granted permanent residence status and granted Thai nationality (by naturalization) to all KMT, especially for those who had fought the Thai Communist Party on behalf of the Thai government.</li> <li>• <i>Cabinet Decision in 1984</i> granted permanent residence status and granted Thai nationality (by naturalization) to all KMT refugees.</li> <li>• <i>Cabinet Decision in 1990</i> expedited the process to grant permanent residence status to the remaining KMT refugees and their family members.</li> </ul>

		1950–61	Since 1984	<ul style="list-style-type: none"> <li>• <i>Cabinet Decision in 1984</i> granted permanent residence status to those who migrated to join KMT family members. The decision also facilitated a Thai nationality process (under s 7 bis) for their children born in Thailand.</li> <li>• <i>Cabinet Decision in 1990</i> expedited the process to grant permanent residence status to the remaining KMT refugees and their family.</li> </ul>
3	Haw or Yunnanese Chinese displaced persons.	1962–78	Since 1988	<ul style="list-style-type: none"> <li>• <i>Cabinet Decision in 1988</i> granted temporary residence to the last group of KMT family members who came to Thailand after 1961.</li> <li>• <i>Cabinet Decision in 2000</i> granted permanent residence status to those who migrated to Thailand and an expedited nationality process (s 7 bis) for their children born in Thailand.</li> <li>• <i>Cabinet Decision in 2001</i> removed a time restriction that hindered the nationality application process for children born in Thailand to KMT refugees.</li> </ul>
4	Former Chinese Malaya communists.	1950s–1960s	From 1989–90	<ul style="list-style-type: none"> <li>• <i>Cabinet Decision in 1990</i> facilitated nationality verification of the former Chinese Malaya communists who claimed that they were born to a Thai parent or born in Thailand. For those who had Malaysian nationality, the decision facilitated voluntary return to Malaysia. It also granted permanent residence status to the group that remained in Thailand.</li> <li>• <i>Cabinet Decision in 2002</i> granted Thai nationality (by naturalization) to those who surrendered to the Thai government.</li> </ul>

No.	Groups as categorized by the National Security Council	Their circumstances	Approximate period of arrival in Thailand	Protection provided by the Thai government <sup>19</sup>	
				Issuance of ID cards <sup>20</sup>	Legal status in Thailand
5	Displaced Nepalese.	This group of refugees served in the British Army in Myanmar prior to the Second World War and were recruited by the Empire of Japan to build the Thailand–Myanmar Railway in Kanchanaburi.	1942 to 9 March 1976*	Since 1987	<ul style="list-style-type: none"> <li>• <i>Cabinet Decision in 2000</i> granted permanent status to those who migrated to Thailand and expedited a nationality process (s 7 bis) for their children born in Thailand.</li> <li>• <i>Cabinet Decision in 2001</i> removed the time restriction to facilitate the Thai nationality process (s 7 bis) for their children born in Thailand.</li> </ul>
6	Displaced Thais from Kong Island, Cambodia.	These groups consisted of ethnic Thais who had become subjects of other states due to the territorial succession of the Kingdom of Thailand in the past. They fled to Thailand during the change of the regime in Cambodia in the 1970s. There were two waves of migration: one before 1977 and another after 1977.	1959 to 15 November 1977*	Since 1976	<ul style="list-style-type: none"> <li>• <i>Cabinet Decision in 1980</i> set out eligibility of displaced Thais from Cambodia. It also facilitated nationality verification of those who were born in Thailand and granted temporary residence to the rest.</li> <li>• <i>Cabinet Decisions in 1983 and 1984</i> granted permanent residence status to those who were earlier registered with the Thai government.</li> <li>• <i>Cabinet Decision in 1991</i> granted Thai nationality (by naturalization) to the group that had been granted permanent residence.</li> <li>• <i>Cabinet Decision in 2004</i> granted Thai nationality (by naturalization) to the remaining group and facilitated Thai nationality (s 7 bis) for their children who were born in Thailand.</li> </ul>

		16 November 1977 to 1999*	Since 1977	<ul style="list-style-type: none"> <li><i>Cabinet Decision in 2004</i> granted Thai nationality (by naturalization) to the ethnic Thais who migrated to Thailand after 1977 and expedited a nationality process to obtain (<i>s 7 bis</i>) for their children born in Thailand.</li> </ul>
		16 November 1977 to 1999*	Since 1977	<ul style="list-style-type: none"> <li><i>Cabinet Decision in 2006</i> granted temporary residency to those from Cambodia who were not among the ethnic Thais.</li> </ul>
		1962 to 9 March 1976*	Since 1976	<ul style="list-style-type: none"> <li><i>Cabinet Decision in 1997</i> granted Thai nationality (by naturalization) to the group who migrated and were earlier registered with the Thai government.</li> </ul>
	Illegal migrants from Cambodia.	These groups of refugees were not considered to be ethnically Thai. However, they arrived from Cambodia around the same time as the ethnic Thais who were fleeing to Thailand. Some refugees registered in this category claimed that they were ethnic Thais.		
7	Displaced Thais from Myanmar who arrived before 9 March 1976.	This group consisted of ethnic Thais who had become subjects of other states due to the territorial succession of the Kingdom of Thailand in the past. They fled to Thailand due to fighting between ethnic minority groups and the Burmese/Myanmar army.		
8				

No.	Groups as categorized by the National Security Council	Their circumstances	Approximate period of arrival in Thailand	Protection provided by the Thai government <sup>19</sup>	
				Issuance of ID cards <sup>20</sup>	Legal status in Thailand
9	Displaced Thais from Myanmar who arrived after 9 March 1976.	These groups also claimed that they were ethnic Thais who had become subjects of other states due to the territorial succession of the Kingdom of Thailand in the past. They migrated after 1976, when the Thai government considered Myanmar 'safe'. Thus, they were treated as illegal migrants.	10 March 1976 to 1999*		<ul style="list-style-type: none"> <li><i>Cabinet Decision in 2006</i> granted temporary residency to those who entered Thailand after 1976 while awaiting legal status determination.</li> </ul>
10	Displaced persons from Myanmar who arrived before 9 March 1976.	These groups of refugees were not considered to be ethnically Thai. However, they arrived from Myanmar around the same time as other ethnic Thais who were fleeing to Thailand. These groups were difficult to differentiate and they were, in fact, mixed up.	1962 to 9 March 1976*	Since 1978	<ul style="list-style-type: none"> <li><i>Cabinet Decision in 2000</i> granted permanent residence status to those who migrated to Thailand and expedited a process to obtain nationality (s 7 bis) for their children born in Thailand.</li> <li><i>Cabinet Decision in 2001</i> removed the time restriction to facilitate the nationality process to obtain (s 7 bis) for their children born in Thailand.</li> </ul>
11	Illegal migrants from Myanmar who arrived after 9 March 1976.	These groups migrated after 1976; thus, the government considered them to be illegal migrants.	10 March 1976 to 1999*	1992–94	<ul style="list-style-type: none"> <li><i>Cabinet Decision in 1992</i> allowed this group to stay in Thailand temporarily while awaiting repatriation to Myanmar.</li> </ul>



	<p>Displaced persons from Laos.</p>	<p>This group was of mixed ethnicity, but most individuals had an ethnicity with ties to Thailand. Due to porous border and cultural/ethnic ties between Thailand and the Lao People's Democratic Republic (PDR), some refugees arrived earlier, while others fled after the communist government was established in 1975.</p>	<p>Mainly after 1975 to 1991*</p>	<p>Since 1991</p>	<ul style="list-style-type: none"> <li>• <i>Cabinet Decision in 2006</i> granted temporary residency to displaced persons from Laos while awaiting legal status determination.</li> </ul>
<p>12</p>	<p>Hmong from Thamkrabok, Sara Buri Province.</p>	<p>This group fought in an insurgency against the Lao PDR regime and later fled from Laos, alleging that they were persecuted by the Lao PDR government.</p>	<p>After 1975 until the late 1980s</p>	<p>Since 1991</p>	<ul style="list-style-type: none"> <li>• <i>Cabinet Decision in 2003</i> granted permanent residence status to those who had rendered military services to Thailand, and facilitated a nationality process (s 7 bis) for their children born in Thailand. The decision also granted temporary residence to Hmong from Laos while awaiting repatriation to Laos.</li> </ul>
<p>14</p>	<p>Mountain Persons from Laos.</p>	<p>This group consisted of irregular immigrants from Laos who had resided along the Thai-Lao border and left Thailand around 1970. They returned to Thailand after the Lao PDR came to power in 1975.</p>	<p>Post-1975 to 1991*</p>	<p>Since 1991</p>	<ul style="list-style-type: none"> <li>• <i>Cabinet Decision in 1991</i> granted Thai nationality (by naturalization) to the Mountain Persons from Laos who had already integrated into Thai society.</li> </ul>

No.	Groups as categorized by the National Security Council	Their circumstances	Approximate period of arrival in Thailand	Protection provided by the Thai government <sup>19</sup> Issuance of ID cards <sup>20</sup>	Legal status in Thailand
15	Thai Lue	This group consisted of ethnic Thais who were living along the border between the Xishuangbanna Prefecture, the Yunnan Province of China and the northern Thai provinces. They settled in Thailand about 300 years ago.	Settled in the area before the state boundary was drawn.	Since 1994	<ul style="list-style-type: none"> <li>• <i>Cabinet Decision in 1992</i> granted permanent residence status to those who migrated to Thailand and expedited nationality process (s 7 bis) for their children born in Thailand.</li> </ul>
16	Indigenous Hill Tribes	This group was considered indigenous to Thailand, having migrated to and settled in present-day Thailand over the few past centuries.	Settled in the area before the state boundary was drawn or were born in Thailand.	1990–91 <sup>21</sup>	<ul style="list-style-type: none"> <li>• <i>Cabinet Decision in 2000</i> confirmed that the Indigenous Hill Tribes have Thai nationality and enacted a special regulation<sup>22</sup> to establish proof and register them in the civil registration.</li> </ul>
17	Highlanders or persons from Highland Communities who arrived before 3 October 1985.	This group consisted of hill tribes of nine ethnicities: (1) Karen; (2) Hmong; (3) Mien; (4) Akha; (5) Lahu; (6) Lisu; (7) Lua; (8) Khamu; and (9) Mlabri. They were considered as having resided in Thailand for a long time.	Before 3 October 1985.		<ul style="list-style-type: none"> <li>• <i>Cabinet Decision in 1995</i> granted permanent residence status to those who migrated to Thailand.</li> <li>• Cabinet Decision in 2000 expedited a nationality process (s 7 bis) for their children born in Thailand.</li> </ul>

18	Highlanders or persons from Highland Communities who arrived after 3 October 1985.	This group consisted of 'other ethnic minorities' who lived in highland areas. Thailand refers to the mountainous areas bordering Laos and Myanmar as the 'highlands'.	4 October 1985–15 September 1999*.	Since 1999	<ul style="list-style-type: none"> <li>• <i>Cabinet Decision in 2000</i> granted temporary residence to those who migrated to Thailand while awaiting their legal status verification.</li> <li>• <i>Cabinet Decision in 2001</i> granted a one-year extension of the temporary residence permit to those who migrated to Thailand. It also the removed time restrictions to facilitate a Thai application process for those of their children who were born in Thailand.</li> <li>• <i>Cabinet Decisions in 2002, 2003 and 2004</i> also granted an extension of the temporary residence permit to those who migrated to Thailand while awaiting a proper solution.</li> <li>• <i>Cabinet Decision in 2005</i> expedited a process to determine a legal status for the registered populations.</li> </ul>
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*Notes:* Table prepared by Bongkot Napaumporn based on information provided by the Internal Security Affairs Bureau, the Ministry of Interior and the NSC. Entries marked with \* denote the last date of entry on each register by the Thai government.

*Sources of data:*

- (1) Practical Handbook No. 2 on 'Collection of Cabinet Decisions, Proclamations, and Basic Knowledge on Determination of Legal Status of Ethnic Minorities in Thailand', Internal Security Affairs Bureau, Ministry of Interior, 2015;
- (2) National Strategy on Administration of Legal Status and Rights of Persons, 2005; and
- (3) National Strategy on Comprehensive Resolution for Irregular Migration, 2012.

## Notes

All copies of Cabinet Decisions and Thai government documents referred to in this chapter are in the original Thai. Copies on hand with Bongkot Napaumporn.

1. Thailand's NSC is the authority responsible for establishing policy frameworks, national strategies and plans relating to national security issues. One of its areas of responsibility is migration, which includes the administration of refugees and other non-Thais who have problems with their legal status.
2. However, it should be noted that this figure is only an estimate based on the number of refugees remaining in Thailand. Statistics were not available to the public until 2011.
3. Thailand's civil registration is currently administered by the 1991 Civil Registration Act, which has been amended twice, in 2008 and 2019. It aims to officially record information on vital events pertaining to every person under Thailand's jurisdiction. This includes Thai nationals in Thailand and abroad, as well as non-Thais with or without residence permits, including refugees, stateless persons and migrant workers. The post-Second World War refugees were also recorded in the database and categorized by their countries of origin or ethnicities, and time of arrival. They were provided with identification papers, such as identification cards and household registration.
4. According to Thai immigration law, the alien registration process only governs foreigners who are permitted to stay permanently in Thailand. It did not apply to the displaced persons discussed in the Appendix.
5. The repatriation programme was undertaken from 1960 until 1964. The transportation was mainly by sea and the first trip was scheduled to begin in January 1960.
6. It should be noted that this group was part of the Chinese Nationalist Army and was living in hard to reach border areas between Thailand and Myanmar where several conflicts were still ongoing.
7. After several military operations, the Malaysian government lifted the Emergency in 1960, declaring that all areas in Malaysia were free of communist guerrilla activities. After this declaration, another group of Communist Party of Malaya members withdrew their guerrilla forces from the Thai border.
8. Prime Minister's Order No. 66/2523 on Policy to Fight against the Communist Insurgency was introduced in 1980, with the aim of eliminating social and economic injustices, promoting political participation, democratic institutions and movements, guaranteeing political freedom, and granting amnesty for defectors who left the insurgency movement.
9. The artificial cut-off date set by the Thai government was 9 March 1976, as it believed that the violence and war in Myanmar had ended on this date.
10. The stay permit for this group was granted in accordance with the Immigration Act B.E. 2493.
11. They include: (1) illegal migrants from Myanmar (long-term inhabitants of Thailand); and (2) illegal migrants from Myanmar (who remained in Thailand with the support of their employers).

12. Before 11 July 1927, the right of aliens to enter and reside in Thailand was governed by Thai customary law on immigration. During this period, permission to enter Thailand was not required and aliens were considered to be lawfully permanent residents, even though they entered without any identification papers.
13. The Immigration Act B.E. 2470 (1927) and, later, the Immigration Act B.E. 2480 (1937) were in force during this period.
14. A profile registration is a type of civil registration that records non-Thais who have an actual residence in the country, but who are not yet permitted to enter or stay in Thailand according to immigration law.
15. The project was approved by the Cabinet Decision dated 20 July 1982.
16. In both 2008 and 2019, the Civil Registration Law was amended to allow undocumented/unregistered stateless persons residing permanently in Thailand to be registered in the civil registration system (section 38(2)) and to have an identification document issued (section 38(1)).
17. These rationales were reflected in, for example, the 1992 Cabinet Decision on (Draft) National Security Policy on Displaced Vietnamese (1992–1994); the 1978 Cabinet Decision on a Guideline on Naturalization for the Ex-Chinese Nationalist Party or Kuomintang (KMT) Soldiers; and the 2002 Cabinet Decision on Naturalization for Ex-Chinese Malaya Communists Who Surrendered to the Thai Government.
18. In the context of Thailand, statelessness discourse was first asserted by private international law experts around the mid-1990s. Although the Thai government has now accepted the existence of statelessness and stateless persons, it prefers the term ‘persons with legal status and rights problems’ to officially explain the situation of these populations.
19. The protection measures described in the table were undertaken prior to 2005, when the circumstances of, and issues around, these populations in Thailand were still sensitive. Thus, protection was provided to them on a group basis. The 2005 National Strategy on Administration of Legal Status and Rights of Persons has changed the whole outlook of the population management. It is the first government policy aiming to comprehensively tackle the legal status and rights of non-nationals, including refugees. These piecemeal Cabinet Decisions have been repealed and replaced by two Cabinet Decisions in 2016 and 2021. The former sets out eligibility criteria for Thailand nationality for children born to these post-Second World War refugees and other ethnic minorities. The latter provides equal access to legal immigration status and permanent residence for the generations who were not born in, but have lived in Thailand for fifteen years.
20. It should be noted that these identity documents were not issued under alien registration laws, which only govern foreigners who are permitted to stay permanently in Thailand. At that time, the Thai government recorded these post-Second World War refugees and ethnic minorities, and provided them with identity documents for the purpose of individual verification.
21. The Thai government has previously undertaken two survey projects in Hill Tribe communities: one from 1969 to 1970 and another from 1985 to 1988. During the surveys, individuals were not given an ID card, but instead a ‘hill

tribe coin', on which no personal information or identity was indicated. This made it difficult to prove the owners, and thus those who were surveyed and identified as those indigenous Hill Tribes at the time. Thus, from 1990 to 1991, the Ministry of Interior implemented another project to survey and verify Hill Tribe communities and issued them with proper identification cards.

22. Regulation of Central Bureau of Registration on Procedure of Legal Status Recognition in Civil Registration for Highlanders dated 28 August 2000.

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1978. Guideline on Naturalization for the Ex-Chinese Nationalist Party or Kuomintang (KMT) Soldiers, dated 30 May 1978.
- . 1982. Cabinet Decision on Project on Issuance of an Identification Number, dated 20 July 1982.
- . 1984a. Cabinet Decision on Permission to Grant Permanent Residence Status to the Vietnamese with Good Moral Character, dated 6 March 1984.
- . 1984b. Cabinet Decision on the Problems of Ex-Chinese Nationalist Party or Kuomintang (KMT) Soldiers in the North of Thailand, dated 12 June 1984.
- . 1990a. Cabinet Decision on Granting Permanent Residence Status to Ex-Chinese Nationalist Party or Kuomintang (KMT) Soldiers and Their Families, dated 30 January 1990.
- . 1990b. Cabinet Decision on Measures to Address Legal Status Problems of Ex-Chinese Malaya Communists after Their Surrender, dated 30 October 1990.
- . 1992a. Cabinet Decision on the (Draft) National Security Policy on Displaced Vietnamese (1992–1994), dated 17 March 1992.
- . 1992b. Cabinet Decision on Measures for Displaced Persons from Myanmar, dated 17 March 1992.
- . 1997. Cabinet Decision on Naturalization for Displaced Thais from Myanmar, dated 27 May 1997.
- . 2000. Cabinet Decision on the Study of the Committee on Problems Relating to Determination of Legal Status of Highland Persons in Accordance with the Cabinet Decision on 11 May 1999, dated 29 August 2000.
- . 2002. Cabinet Decision on Naturalization for Ex-Chinese Malaya Communists Who Surrendered to the Thai Government, dated 24 December 2002.
- . 2005a. Cabinet Decision on Endorsing the Issuance of the Ministry of Education Regulations on Proof for Admission of Students to Educational Institutions B.E. 2548, dated 5 July 2005.
- . 2005b. Cabinet Decision on the Strategy on Administration of Legal Status and Rights of Persons, dated 18 January 2005.

- .2010a. Cabinet Decision on Criteria on Determination of Legal Status of the Target Population under the Strategy on Administration of Legal Status and Rights of Persons, dated 7 December 2010.
  - .2010b. Cabinet Decision on Reinstatement of the Basic Rights to Public Health for Persons with Legal Status and Rights Problems, dated 23 March 2010.
  - .2012. Cabinet Decision on the Strategy on Comprehensive Resolution for Irregular Migration, dated 24 April 2012.
  - .2015. Cabinet Decision on Reinstatement of the Basic Rights to Public Health for Persons with Legal Status and Rights Problems (in Addition to the 2010 Cabinet Decision) and Comprehensive Administration of Legal Status and Rights to Public Health of Stateless Persons, dated 20 April 2015.
  - .2016a. Cabinet Decision on Approving in Principle the Regulation of the Office of the Prime Minister on Categories of Works Which Aliens Are Eligible to Engage and for Work Permits in Accordance with Section 13(2) of the Working Alien Act B.E. 2551, dated 18 October 2016.
  - .2016b. Cabinet Decision on Addressing Nationality and Legal Status Problems of Stateless Students and Other Groups of Stateless Persons born in Thailand, dated 7 December 2016.
  - .2021. Cabinet Decision on Criteria on Determination of Legal Status and Rights of People Who Had Migrated to and Stayed in Thailand for a Long Period of Time, dated 26 January 2021.
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