

# **Approaching Thailand's National Screening Mechanism through Affective Governmentality**

## **Protection and Competent Governance or Maintaining the Status Quo?**

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### **Introduction**

Thailand's approach to refugee protection is changing. Despite hosting hundreds of thousands of refugees in the country since the 1950s,<sup>1</sup> and being a member of the Executive Committee (ExCom) of the UNHCR since 1979, Thailand has remained relatively hands-off in refugee administration, primarily leaving formal recognition and resettlement procedures to the UNHCR. Yet, in 2016, the then Prime Minister of Thailand, Prayut Chan-o-cha, announced plans for Thailand to develop its own refugee status determination process. On 25 December 2019, the Thai government released the Regulation of the Office of the Prime Minister on the Screening of Aliens Who Enter into the Kingdom and Are Unable to Return to the Country of Origin B.E. 2562 (2019) (Thailand) (Aliens Regulation), which in 2020 was awaiting implementation (Severson 2020). By late 2021, the National Screening Mechanism (NSM) Committee (officially, the Protected Persons Screening Committee (PPSC)) had begun developing standard operating procedures for the new Aliens Regulation.

The Regulation was finally implemented and came into effect on 22 September 2023 (UNHCR 2023). It is intended to ensure that in the future, Thailand screens 'refugees' within the country without the assistance of the UNHCR; a step for which UNHCR has long lobbied (UNHCR 2019). However, the UNHCR reports that 'the implementation will be gradual as the broader set of procedural standards and policies required to implement the NSM remain under development with [the Thai government], with UNHCR technical support and advocacy' (UNHCR 2023).

While the Aliens Regulation may be cause for optimism about refugee protection in Thailand, during ethnographic fieldwork that I conducted in 2017, representatives of academic and nongovernmental organizations were cautious. One interviewee described the Thai government's motivation as a 'security and public image issue' rather than concern about the welfare of refugees. Another interviewee, the head of a refugee nonprofit organization, believed that 'the motivation of the refugee status determination is a concern that UNHCR had been allowing too many new arrivals [*sic*], that they were taking things too far ... The Government wants to know who arrives in Thailand, how long and why they are in Thailand'. Together, these observers expressed doubts about whether genuine refugee protection would be the outcome of the new Aliens Regulation.

In this chapter, I consider what the new NSM might mean for Thailand. I argue that, while an effective refugee status determination (RSD) process could prompt Thailand towards greater commitment to refugee protection, the likely result of the new process will be to produce the *affective impressions* of humanitarian protection and administrative competence within Thai migration governance, while still securitizing migration and maintaining Thailand's dependence on ad hoc, arbitrary migration enforcement.<sup>2</sup> The chapter will proceed as follows: first, I introduce literature on affective governmentality within migration enforcement and describe the context of refugee identification in Thailand; second, I discuss the provisions of the new Aliens Regulation and consider how the new NSM generates affective impressions of protection and competence, even with the continuation of Thailand's longstanding reliance on ad hoc, arbitrary immigration enforcement and its increasingly securitized enforcement approach.

## Affective Governmentality and Border Enforcement

Since the early 2010s, there has been a resurgence in scholarship on affect and emotion in human geography, particularly in linking the production of emotions and affective responses to the construction of space. Emotion refers to the material, subjective life experiences, such as disgust, fear and love, that act as 'ways of knowing, being and doing' (Pile 2010: 6). Affect, for geographers, is summarized by Ben Anderson as a 'transpersonal

capacity which a body has to be affected ... and to affect (as the result of modifications)' (Anderson 2006: 735). This definition highlights three key attributes of affect: first, that affect refers to something that relates to bodily capacities and is constructed through relationships; second, that affect does not simply exist in the relationships between these bodies, but is *transpersonal*, meaning it involves many bodies; and, third, that affect is precognitive (Pile 2010: 8, citing Anderson 2006: 735). Affect, for instance, could be the electric feeling generated by an expectant crowd before that sensation is registered, named and categorized as an emotion, such as excitement or thrill.

Migration scholars have examined the production of affect, including how the affective experiences of fear justify restrictive border measures (Bigo 2002; Williams and Boyce 2013; Williams 2020), and how these measures produce affective responses (De la Ossa and Miller 2019). The production of affects within enforcement efforts has material impacts for migrants (Bissenbakker and Myong 2019; Nielsen and Myong 2019). For instance, Sofie Jeholm and Mons Bissenbakker describe how migrants in Denmark are required to 'do belonging' as part of their application for residency (Jeholm and Bissenbakker 2019: 481). Yet not all approaches to producing affect and emotion within border enforcement relate to these types of disciplinary projects. Jill Williams, for instance, describes the use of public information campaigns that target Central American migrants crossing the US–Mexico border (Williams 2020). These campaigns enter into the daily lives of possible migrants through radio, television and social media, targeting potential migrant communities to generate new emotional and affective associations with migration to the United States (Williams 2020; see also Vammen 2021). The focus is on shaping the affective associations of a wider community with migration, drawing on governmental forms of power that influence what Michel Foucault terms the 'conduct of conduct' (Foucault 2003: 138). These types of enforcement practices attempt to shape the wider population through their 'desires ... habits, aspirations and beliefs' (Li 2007: 275). Such governmental projects aim to convince people that their actions are governed by their own self-interest rather than the interests of the state (Li 2007).

Government, for Foucault, 'did not refer only to political structures of the management of states; rather it designated the ways in which the conduct of individuals or states might be directed' (Foucault 1983: 221). Government actions can be carried out by a variety of authorities and by using diverse strategies, but has the goal of shaping 'conduct by working through the desires, aspirations, interests and beliefs of various actors' (Dean 2009: 18). For Foucault, what is interesting about government is how it becomes a practice, which he refers to as 'governmentality'. Scholarship on governmentality explores how government engages with forms of power, truth and identity to shape the conduct of people (Dean 2009: 27).

Foucault characterizes forms of governmentality as 'regimes of government', which emphasizes the ways that truth and knowledge are produced in different contexts and how various forms of governmental rationalities emerge (Dean 2009: 28). Three such regimes of government are sovereignty, discipline and biopolitics (Guild 2014). These are distinguished through their different governmental techniques: sovereignty focuses on the individual sovereign as having the power to determine the life or death of its subjects; discipline relies on the 'differentiation of the individual'; and biopolitics makes the population governable through norms and risk (Guild 2014: 154). Each of these governmental regimes demonstrates a different way of understanding the relationship between power, knowledge production and identity.

Affective governmentality is another way to think about the relationship of power, truth and identity, and an approach that focuses on governance or the shaping of conduct through the use of affect. For Samuel Strong, for instance, affective governmentality can frame how shame shapes the actions of people who receive food at UK foodbanks (Strong 2020). Whereas sovereign power would, perhaps, punish foodbank recipients and disciplinary power would funnel foodbank recipients into regulatory institutions such as schools or prisons, a governmentality or biopolitical approach to foodbank recipients uses the affective production of shame to ensure that recipients police their own conduct and 'optimize' their status as members of the broader population (Dean 2009: 29). Even within this example, forms of sovereign power, disciplinary power and governmentality exist simultaneously, and Foucault similarly concludes that it is useful to envision these forms of government as operating together as a triangle (Dean 2009: 29).

In this chapter, building on the arguments of Williams (2020), Jeholm and Bissenbakker (2019) and others (Bissenbakker 2019; Leser and Pates 2019), I consider the impact of viewing migration governance practices through the lens of affective governmentality. How do state actions aim to shape the conduct of migrants, refugees, humanitarian agencies and other actors in migration governance? How can the production of affects themselves be seen as a possible outcome of migration governance? To explore the affective governmental impacts of Thailand's NSM, I draw on fieldwork undertaken in Bangkok and Chiang Mai, Thailand, in 2015 and 2017 and I consider the scepticism of my interviewees on the proposed RSD procedure. The interviewees included over thirty individuals (60% were Thai nationals), including Thai immigration policy makers ( $n = 3$ ), members of Thai and international migration NGOs ( $n = 18$ ) and scholars ( $n = 9$ ). Due to the limited number of research participants, no statistical conclusions can be drawn about the representative nature of the respondents' conclusions. My conclusions were also informed by academic and nonacademic

secondary sources about the Thai context and recent expert analyses of the Thai RSD process.

## **Thailand’s Approach to Refugee Status Determination**

Thailand is not generally considered to be a refugee destination country, but its engagement with refugees has increased, which aligns with the global increase in the movement of refugees towards diverse, middle-income countries that began in the 1990s (Batréau and Tuitjer 2021). Thailand is not a signatory to the 1951 Refugee Convention, the 1967 Refugee Protocol, the 1954 Statelessness Convention or the 1961 Statelessness Convention, yet Thailand has been a place of refuge for people seeking protection in Southeast Asia since the 1950s, as detailed in this volume (see Chapter 2). Thailand hosted over two million refugees during the ‘Indochinese’ Refugee Crisis between 1975 and 1997, facilitated the resettlement of over 70,000 refugees from Thailand–Myanmar border camps between 2005 and 2014, and is currently home to over half a million stateless people, over 100,000 refugees in temporary border camps and several thousand urban refugees living in urban centres. As a part of the Asian–African Legal Consultative Organization, in 2001, Thailand contributed to and adopted the final version of the Bangkok Principles, yet the Principles are nonbinding and have not made their way into Thai law (Moretti 2018: 7). However, Thailand has adopted the Global Compact for Safe, Orderly and Regular Migration and endorsed the Global Compact on Refugees (Amnesty International et al. 2019). Under Thai law, refugees are governed by the 1979 Immigration Act B. E. 2522, which considers refugees and asylum seekers to be illegal migrants; a legal designation that makes refugees and asylum seekers vulnerable to exploitation, detention and deportation.<sup>3</sup>

Thailand’s approach to refugees and asylum seekers has been described as haphazard (Palmgren 2016), although in practice, it has offered temporary refuge to thousands of displaced persons, mainly along its borders, which has sometimes led to a more permanent status (see Chapter 2: Map 2.1). Thus, as in several other Southeast Asian states, there is recognition that ‘refugees and asylum seekers must be treated differently from other irregular migrants when it comes to enforcing immigration law’ (Moretti 2018: 24). While such recognition from the Thai government meant that thousands of displaced persons were granted some form of protection from the 1940s to the 1970s (see Chapter 2), between 2012 and 2015, at least 155 persons were subject to refoulement from Thailand or prevented from entering the country (Chotinukul 2020: 5). Thai refugee governance thus oscillates between temporary protection and exacerbating refugee precarity, not

only through the 'interplay of formal law with informal negotiations of law by ordinary people' but also in the 'higher levels of informality ... within a multilayered governance context' (Palmgren 2020: 213).

The distinction between camp and urban refugees is a very important factor in Thailand's response to refugees.<sup>4</sup> Thailand's urban and camp refugees face very different administrative contexts. Around 95,000 refugees from Myanmar live in shelters along the Thailand–Myanmar border and another 6,000–9,000 refugees from other countries (primarily Pakistan, Vietnam, Somalia, Syria and Iraq) who are known as 'urban refugees' and live in urban areas in Thailand. Furthermore, Thailand has an additional 5,000 Rohingya refugees and human trafficking survivors (Amnesty International et al. 2019). Refugee populations have ever-changing relationships with the Thai government and the UNHCR, a relationship that fits Kirsten McConnachie's description of 'diffuse and negotiated authority between multiple sovereign or quasi-sovereign actors' (McConnachie 2014: 80). In 1998, the UNHCR gained access to the refugees in the Thailand–Myanmar border camps, joining a network of donor organizations known as the Border Consortium, which began administering the camps in 1984 (McConnachie 2014). While UNHCR leads registration and international resettlement efforts in the camps, refugee leaders perform most of the camp management (McConnachie 2014). Prior to 1998, RSD procedures for refugees in camps were administered by the Provincial Admission Boards (PAB), which were then staffed by Thailand's Ministry of the Interior. In 1998, the UNHCR first became an observer in this process, but over time the relationship between the PAB and UNHCR has become strained (Muntarbhorn 2005).

Outside of the camps, UNHCR's agreements with the Thai government are less formalized: for instance, on prior occasions, the UNHCR had screened Burmese asylum seekers as 'persons of concern', whereas since 2021, it has not been permitted to assess the claims of persons fleeing Myanmar who are seeking asylum outside of the border camps (Muntarbhorn 2005). Meanwhile, the UNHCR does assess the claims of urban refugees. Although refugees who are labelled by the UNHCR as 'persons of concern' (UNHCR 2021b) are formally permitted to stay in the country, in practice, they report that low-level police harassment and detention are common, despite having UNHCR protection (Coddington 2018; Shum 2020). The UNHCR has noted that its decisions are not legally binding upon states and asylum remains a state-level decision (see the discussion in the Introduction; the granting of asylum is an exercise of state sovereignty), an arrangement that gives the Thai government the discretion to deal with different asylum seekers in different ways (Muntarbhorn 2005).

The ad hoc approach to refugee governance can be partially understood through the changing practices involved in RSD. The interactions between

asylum seekers and authorities during the RSD process are of critical legal importance, as they ‘affirm or challenge notions of who gets to be considered a refugee and who is entitled to humanitarian protection’ (Saltsman 2014: 457). Yet, in addition to determining the possible protection outcomes for asylum seekers, the RSD process is also a space where a more general idea of refugee protection is produced, maintained or challenged (Saltsman 2014). The RSD becomes a mechanism ‘to contain and manage empathy’ through differential access to knowledge (Häkli and Kallio 2020: 692). RSDs thus function as governmental projects, where the different rationalities that drive different actors ‘actively construct and assert knowledge and information concerning the existence of refugees, or to conceal, deny, if not altogether dispense of the presence of refugees’ (Lego 2018: 183).

At times, the Thai government has screened refugees itself – for instance, in 1998, Thailand created the PAB to screen Burmese asylum seekers arriving at border camps that were composed of officials from the Thai Ministry of the Interior and UNHCR observers – yet Human Rights Watch described the PAB process as ‘partial and interrupted’ (Human Rights Watch 2012: 20). The Thai government has permitted the UNHCR to operate in the country since 1975, but the latter is only allowed to process the asylum claims of specific migrant populations; Burmese refugees along the Thailand–Myanmar border have been intermittently processed by the UNHCR, whereas North Korean and Rohingya individuals must seek an alternative claims process. Additionally, the ability of certain populations to access UNHCR RSD processes fluctuates; for instance, Lao Hmong refugee claims have not been heard since 2009 and the UNHCR stopped hearing Montagnard Christian and Vietnamese Hmong claims in 2017 (Amnesty International 2017: 16).

Without the legal recognition of refugees, the UNHCR operates in Thailand at the behest of the government, meaning that constant change has become the norm for registration and RSD practices. As Terence Shum notes, ‘uncertainty is the certainty’ for the UNHCR screening mechanism (Shum 2020: 98). This fluctuation in RSD practice is partially caused by the differing political agendas of the Thai government and the UNHCR. In the past, ‘rationaliz[ing]’ the refugee population numbers was important for UNHCR’s protection mandate, whereas the Government of Thailand often had a competing political aim, preferring to ‘minimize the number of refugees on record, whether through suspending registration, or conducting spot checks and deportations’ (Lego 2018: 195). For example, Burmese migrants were only registered if they entered the camps along the Thailand–Myanmar border, but efforts that were working towards the universal registration of refugees at the Thailand–Myanmar border camps ceased in 2005, after Thai officials became concerned that registration served as a draw for new arrivals (Lego 2018: 193). Since 2006, the PAB has registered very few

new refugee claims and some asylum seekers who were registered previously became trapped in a 'bureaucratic feedback loop' after their cases were deregistered (Human Rights Watch 2012; Saltsman 2014: 464).

Particularly during the Indochinese refugee crisis of the 1970s, Thailand has tended to frame refugee arrivals as an issue that demanded a temporary response (Mathew and Harley 2014; Nah 2019), but historically it has given incremental statuses leading to nationality for many displaced persons (see Chapter 2). One point is clear: Thailand has never (even now) used the term 'refugee' to describe displaced persons who are in need of protection (Malaver 2016: 1; Chapter 2; cf. Yacoub 2023). As a result, the Thai government recognizes persons who were granted refugee status through the UNHCR in urban areas as 'persons of concern to the UNHCR' and, despite the lack of formal recognition, the Thai government has also allowed the UNHCR and other NGOs to provide support to urban refugees. The UNHCR issues an asylum seeker certificate once an urban refugee in Thailand registers with the UNHCR, and a different certificate upon granting refugee status; however, the whole process takes more than five years (Malaver 2016: 8). The certificates do not allow refugees to work and are of limited value if refugees are arrested, detained or harassed (Mathew and Harley 2014; Coddington 2018; Shum 2020). These practices work to 'trap asylum seekers in limbo', increasing asylum seeker and refugee precarity and vulnerability (Shum 2021: 2).

The ambiguous role of the UNHCR in processing the claims of Thailand's urban refugees mirrors its role in Malaysia (see Chapter 6), where the UNHCR undertakes RSD processes despite Malaysia's unspoken quotas and the UNHCR's restricted access to refugee claimants (Lego 2018; Nah 2019). These issues are becoming increasingly relevant around the world as the UNHCR's role in assessing refugee claims has increased (Kagan 2006). Issues have arisen as resettlement has not kept up to speed with the increasing pace of displacement. In 2020, for instance, the UNHCR estimated that there were 1.4 million people in need of resettlement globally, yet only about 22,000 refugees were formally resettled (UNHCR 2021a: 16). Given issues with formal recognition, the pressures on the UNHCR and the changing state of global refugee resettlement, a Thai RSD process could result in significant changes.

## **The 2019 National Screening Mechanism**

The new screening procedures that were promised by Prime Minister Chan-o-cha in 2016 should have officially been implemented on 22 June 2020, but were delayed until September 2023, likely due to the COVID-19 response and possible concerns about 'balancing national security,



humanitarian aims, and foreign policy with neighbouring countries' (Asia Pacific Refugee Rights Network and the Coalition for the Rights of Refugees and Stateless Persons 2021: 6). The overall response has been cautiously optimistic; the NSM has been described as a 'positive development' that shows 'intense state involvement in refugee issues' when compared with neighbouring countries. Yet there are significant issues with the terms of the NSM (Dewansyah and Handayani 2018: 478, 481; Chapter 10). A Fortify Rights Briefing Note of March 2023 describes 'problematic eligibility criteria that discriminatorily excludes certain applicants from accessing the mechanism' (Fortify Rights 2023).

The new Aliens Regulation does not define the people in need of protection (Lewis and Davies 2020). The terms 'refugee' and 'asylum seeker' are not used within the text and people seeking protection are referred to as 'aliens' within Thailand, which bars persons from seeking the international law protections that are afforded to refugees (Chotinukul 2020: 10). Instead, and consistently with historical policies (see Chapter 2), the Regulation uses the terms 'displaced person', 'evacuee' and 'those fleeing fighting', which simultaneously provides no eligibility criteria for protection and dodges the international legal ramifications of formal refugee protection (Severson 2020). While the 2021 standard operating procedures note that successful applicants will receive temporary protection, access to basic healthcare and public schools, and will not be subject to deportation, Thailand continues to avoid promising applicants protection in the form of permanent local integration (Asia Pacific Refugee Rights Network and the Coalition for the Rights of Refugees and Stateless Persons 2021). The Regulation also discusses their protection in reference to 'resettlement countries' and 'third countries', framing refugee protection as 'resettlement elsewhere', rather than protection within Thailand (Chotinukul 2020: 11). This continues a trend in Thailand of prioritizing flexibility of enforcement over human rights-based approaches (Dawansyah and Handayani 2018; Severson 2020).

The timeline for screening also raises concerns for refugees. The Aliens Regulation describes a two-stage application process where applicants are screened and only allowed to proceed after the initial screening, yet provides few concrete details about the screening process and its rationale. Jittawadee Chotinukul writes that 'one cannot avoid being sceptical that this first-step application process appears to serve as an initial stumbling block that hinders an asylum claimant from accessing the right to a satisfactory refugee status determination procedure' (Chotinukul 2020: 16). This first stage screening process is, in fact, a status determination step and the 2021 standard operating procedures indicate that unsuccessful applicants would be subject to detention or deportation if a first stage appeal is not granted (Asia Pacific Refugee Rights Network and the Coalition for the Rights of Refugees and Stateless Persons 2021; Chotinukul 2021).

Finally, the Aliens Regulation allows officials to reject protection claims without providing an explanation. While appeals will be allowed for thirty days after a first stage rejection, the 2021 standard operating procedures prohibit asylum seekers from appealing rejected claims at the second stage (Asia Pacific Refugee Rights Network and the Coalition for the Rights of Refugees and Stateless Persons 2021). Indeed, 'Thailand's failure to guarantee the right to appeal or to have the merits of rejected asylum claims reviewed by a competent, independent and impartial body is a flagrant violation of human rights standards concerning due process guaranteed under the ICCPR' (Chotinukul 2020: 19).

In general, the development of the NSM through the Aliens Regulation has been criticized for doing nothing to address the lack of legal status for asylum seekers and refugees in Thailand, even if their claims are recognized. The Aliens Regulation continues to frame Thailand's obligations to refugees in terms of temporary protection, which, at best, leads to resettlement in third countries. The ongoing refusal to acknowledge the legal category of 'refugee' and the rights associated with that status continues to permit longstanding ad hoc and arbitrary approaches to refugee governance (Rungthong and Stover 2020; Severson 2020). Indeed, the 'substantive provisions on refugee rights and protection are so meagre that it questions whether this legal milestone is truly a step forward for refugee protection' (Chotinukul 2020: 27).

## **Producing Affective Impressions**

The proposed Aliens Regulation has significant issues with definitions, the process for applying and the opportunity for appeals, putting the NSM in conflict with refugee screening processes maintained by the UNHCR and those employed by many other states who are signatories to the 1951 Refugee Convention. Given these concerns, how can we understand the possible motivations of the Thai government for moving forward with this flawed screening mechanism?

I argue that there are many possibilities for interpreting why and how the Thai government has approached the creation of an NSM, from the wholehearted support of migrants and the human rights to which they are entitled, to employing the NSM as a façade behind which the Thai government will be able to reject refugee claims with impunity. When I interviewed representatives from Bangkok humanitarian organizations about the proposed NSM in 2017, scepticism dominated. Most interviewees noted that Thailand's understanding of its obligations to refugees has always been framed in terms of temporary protection and that the new NSM seemed to gesture towards refugee status, while allowing the government to assert

more control over who enters the country and for how long they are permitted to stay. As one human rights advocate described, ‘administrative ease is winning over refugee safety – the refugee status determination sounds like a disaster!’ Yet adopting an approach that highlights the affective governmental possibilities of the NSM allows for another interpretation. Rather than framing the NSM as ‘working’ or ‘not working’, considering the affective governmental possibilities of the NSM allows us to think about ‘working’ differently. I argue that the likely result of the NSM is to produce new *affective impressions* of both competence and humanitarian protection that are directed at humanitarian agencies, NGOs and the international community, while simultaneously allowing for the increased securitization of migration and dependence on ad hoc migration enforcement.

Framing the NSM through a lens of affective governmentality stresses that the NSM may work to produce affective orientations among various audiences, aiming to influence their attitudes, beliefs and, ultimately, conduct. Migration enforcement is often pieced together through a network of different layers of practices, both formal and informal, that aim to produce very different kinds of affective responses. For instance, Ruben Andersson details how Senegalese police patrols were described by Senegalese police as exercises in visibility, to show potential migrants how their journey would be thwarted, but that they were also exercises in visibility to a very different audience of European funders and researchers, eager to document the externalization of European enforcement practices (Andersson 2014). In this case, part of the role of police patrols was to produce affective responses among potential migrants, such as fear, caution or anxiety about the possibility of getting caught. Yet the patrols were also about producing the affect of police competence vis-à-vis the regional funders, who were eager to document the success of externalization practices.

In the case of Thailand’s NSM, one of the affective responses that a screening mechanism could induce is the impression of humanitarianism. For instance, Min Jee Yamada Park wrote on the *International Detention Coalition* blog that ‘Thailand’s National Screening Mechanism paves the way for better refugee protection’ (Park 2020). The presence of the NSM orients the affective attachments of other national policymakers in the region, humanitarian organizations and advocates to reframe Thailand as a state interested in the protection of refugees, regardless of whether its effectiveness for protection is realized. Constructing an affective impression of Thailand as a humanitarian actor for international NGOs and the international community may be particularly important after the national humiliation that Thailand faced in being downgraded to the lowest tier in the *Global Report on Trafficking in Persons 2014* (UNODC 2014), which my interviewee respondents in 2015 and 2017 all noted had had a significant impact on the Thai government. After that report, Thailand adopted a string of anti-trafficking

measures, although, as Matt Riback noted, 'it is in Thailand's interest to superficially adopt stringent anti-trafficking measures while internally remaining passive' (Riback 2018: 57). The *appearance* of active engagement with humanitarian issues may similarly satisfy Thailand's need for external recognition, even as the provisions of the Aliens Regulation do not engender effective refugee protection.

Another affective response produced by the creation of a screening mechanism is the impression of competence, directed both internally and to the international community. Since the 2014 coup d'état that brought Prime Minister Chan-o-cha into power, the Thai government has faced a series of upheavals: a bombing in Bangkok in 2015, the death of King Bhumibol in 2016; contested elections in 2019 and student-led pro-democracy protests in 2020–21 that led to state crackdowns on the freedom of speech and increasingly restrictive states of emergency. The military government's response in the face of these social and political upheavals has been increasingly harsh, from the rising numbers of activists charged under *lèse-majesté* provisions of Thai law, which prohibit criticism of the monarchy, to the arrest and detention of protesters. Protests have exacerbated existing divisions in Thai society between different generations, ethnicities and political allegiances. In one example, which was documented by Saowanee Alexander, young people from the northeast of Thailand were quick to join the protests in 2020 due to the persistent sense of political inequality towards the Isan people (Alexander 2021). Achieving the impression of competence in one very visible area of governance could be a strong motivation for building an NSM, even if the actual effectiveness of the screening mechanism raises questions.

If impressions of competence and humanitarianism were the affective responses generated by the NSM, they create particular governmental impacts. If Thailand were framed as a competent, humanitarian actor, these affective impressions would generate new types of responses from other states and nongovernmental actors; the UNHCR would cease to be closely involved in processing refugee status claims and Thailand would be one of the only states in the region to have an effective NSM or RSD process. These affective impressions would eventually create the momentum for change in the conduct of these other actors, thereby creating governmental effects as well. Yet, some of the key governmental implications of these affective responses are the actions that Thailand will be allowed to *continue* doing rather than the types of changes that they promote. If Thai responses to refugee governance are viewed as competent and humanitarian (and thus not in need of challenge or reform), Thailand will have created the space to maintain two important parts of its migration governance regime: the increasing securitization of migration and the reliance on ad hoc, arbitrary and reactive practices to governing migrants.

Increasing securitization of migration in Thailand has been an important aspect of Thailand's approach to migration since the 2014 coup. After the 2014 coup, the new administration emphasized order and security in all types of migration. Fears of a crackdown on migrant labour prompted 170,000 Cambodians to flee the country within two weeks and, in 2017, a new decree on migrant labour increased fines for employers who hire undocumented workers. Raids such as 'Operation X-Ray Outlaw Foreigner' in 2018 have increased the arrests and detention of undocumented migrants (Milton 2018). Meanwhile, in 2019, the Immigration Bureau began using new DERMALOG biometrics systems to track people who overstay on visas. This trajectory suggests that Thailand will prioritize securitization practices going forward; if the perception is that Thailand is promoting humanitarian goals with the NSM, then continued movement towards greater securitization of refugees and migrants may be less contested. Indeed, the majority of people on the PPSC developing the standard operating procedures for the Aliens Regulation in late 2021 had national security backgrounds, which demonstrates a continued focus on protection as a security issue (Asia Pacific Refugee Rights Network and the Coalition for the Rights of Refugees and Stateless Persons 2021). Similarly, if the NSM produces affective responses of humanitarianism and competence, Thailand's focus on maintaining the temporary status of migrants can continue. As Andrew Geddes writes, representations of migrants as temporary is an 'effect of governance that frames responses and establishes the cultural and empirical parameters of subsequent actions' (Geddes 2021: 84), which supports efforts to frame Thailand's responsibility for forced migrants as fleeting (Palmgren 2020) and Thailand as a transit space, rather than place of resettlement (Coddington 2020). Thailand has upheld its role as only a temporary safe haven for migrants through ad hoc and arbitrary approaches to migration enforcement, which pivoted from raids, arrests and detention to turning a blind eye to refugee transit and settlement in the country (Palmgren 2016; Coddington 2018; Lego 2018). The affective impressions of Thailand's refugee governance as humanitarian and competent created by the NSM allows the continuation of securitized approaches that rely on ad hoc, arbitrary practices, which create a sense of temporariness.

Affective impressions of humanitarianism and competence aimed at international NGOs, humanitarian organizations and the international community mirror Thailand's migration governance practices from the past. One of my interviewees, a representative of a migrant advocacy organization in Bangkok, explained that PAB was created to screen asylum seekers along the Thailand–Myanmar border in 1998. After their creation, my interviewee explained that the the PAB stopped screening new arrivals: 'the PABs have gone nowhere!' However, at the same time, the UNHCR found it politically unfeasible to send refugees back to Myanmar and, relegated to

observer status, could no longer screen new arrivals. Asylum seekers continued to arrive in the border camps, but entered a state of limbo where no screening, status determination or resettlement was possible. As my interviewer noted: 'PABs were used as an excuse. They gave political cover for the UNHCR to stop screening too!' Read through the lens of affective governmentality, the PAB is an echo of the current NSM development; to create affective impressions of humanitarian governance and competency, but, in reality, remove opportunities for refugee protection. History may repeat itself with the current Thai NSM.

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## Notes

1. For a discussion of the history of refugee protection in Thailand, see Chapter 2, this volume.
2. This observation is reinforced by a letter dated 12 December 2023, sent by Human Rights Watch on behalf of a number of civil society actors to the Prime Minister of Thailand, Mr Srettha Thavisin, requesting that he exercise the discretion under section 17 of the Immigration Act 1979, to exempt persons undergoing NSM from arrest, detention or prosecution. Section 17 is discussed in Chapter 2.
3. See above n 2.
4. See Chapter 1.

## References

- AALCC. 2001. Final Text of the 1966 Bangkok Principles on the Status and Treatment of Refugees as Adopted on 24 June 2001 at AALCC's 40th Session, New Delhi.
- Alexander, Saowanee. 2021. 'Sticky Rice in the Blood: Isan People's Involvement in Thailand's 2020 Anti-government Protests', *Critical Asian Studies* 53(2): 219–32.

- Amnesty International. 2017. *Between a Rock and a Hard Place: Thailand's Refugee Policies and Violations of the Principle of Non-refoulement*. Retrieved 21 May 2021 from <https://www.amnesty.org/en/documents/asa39/7031/2017/en>.
- Amnesty International et al. 2019. 'Thailand: Ensure New Refugee Regulation Meets International Standards'. Press release. Retrieved 20 November 2021 from <https://reliefweb.int/report/thailand/ensure-new-refugee-regulation-meets-international-standards>.
- Anderson, Ben. 2006. 'Becoming and Being Hopeful: Towards a Theory of Affect', *Environment and Planning D: Society and Space* 24(5): 733–52.
- Andersson, Ruben. 2014. 'Hunter and Prey: Patrolling Clandestine Migration in the Euro-African Borderlands', *Anthropological Quarterly* 87(1): 119–50.
- Asia Pacific Refugee Rights Network and the Coalition for the Rights of Refugees and Stateless Persons. 2021. *The Overview and Situation Analysis of the NSM's Implementation. Assessment Report*. Retrieved 11 February 2022 from <https://www.ebooksflip.com/Ebook/NSM-EN>.
- Batréau, Quentin, and Leonie Tuitjer. 2021. 'Searching Refuge in Thailand or Brazil: Long-Distance Refugees and the Emergence of Global Asylum Hubs in Middle-Income Countries', *Journal of Refugee Studies* 34(4): 3752–70.
- Bigo, Didier. 2002. 'Security and Immigration: Toward a Critique of the Governmentality of Unease', *Alternatives: Global, Local, Political* 27(1S): S63.
- Bissenbakker, Mons. 2019. 'Attachment Required: The Affective Governmentality of Marriage Migration in the Danish Aliens Act 2000–2018', *International Political Sociology* 13(2): 181–98.
- Bissenbakker, Mons, and Lene Myong. 2019. 'The Affective Biopolitics of Migration', *Nordic Journal of Migration Research* 9(4): 417–24.
- Chotinukul, Jittawadee. 2020. *Thailand and the National Screening Mechanism: A Step Forward for Refugee Protection?* Global Migration Research Paper No. 25, Graduate Institute of International and Development Studies, Global Migration Centre, Geneva. Retrieved 3 March 2023 from <https://www.graduateinstitute.ch/library/publications-institute/thailand-and-national-screening-mechanism-step-forward-refugee>.
- Coddington, Kate. 2018. 'Landscapes of Refugee Protection', *Transactions of the Institute of British Geographers* 43(3): 326–40.
- . 2020. 'Producing Thailand as a Transit Country: Borders, Advocacy, and Destitution', *Mobilities* 15(4): 588–603.
- Convention on the Reduction of Statelessness. 1961. 989 UNTS 175, opened for signature 30 August 1961, entered into force 13 December 1975.
- Convention Relating to the Status of Refugees. 1951. 189 UNTS 137, opened for signature 28 July 1951, entered into force 22 April 1954. Retrieved 22 May 2024 from <https://treaties.un.org/doc/Publication/UNTS/Volume%20189/v189.pdf>.
- Convention Relating to the Status of Stateless Persons. 1954. 360 UNTS 117, opened for signature 28 September 1954, entered into force 6 June 1960. Retrieved 22 May 2024 from <https://treaties.un.org/doc/Publication/UNTS/Volume%20360/v360.pdf>.
- De La Ossa, Jessica, and Jacob C. Miller. 2019. 'The Face of the State on the US–Mexico Border', *Emotion, Space and Society* 31: 140–47.

- Dean, Mitchell M. 2009. *Governmentality: Power and Rule in Modern Society*. London: SAGE Publications.
- Dewansyah, Bilal, and Irawati Handayani. 2018. 'Reconciling Refugee Protection and Sovereignty in ASEAN Member States', *Central European Journal of International and Security Studies* 12(4): 473–85.
- Fortify Rights. 2023. 'Briefing Note: Ensuring Refugee Rights in Thailand'. Retrieved 22 May 2024 from <https://www.fortifyrights.org/tha-inv-stm2023-05-11-1>.
- Foucault, Michel. 1983. 'The Subject and Power', in Hubert L. Dreyfus and Paul Rabinow (eds), *Michel Foucault: Beyond Structuralism and Hermeneutics*. Chicago: University of Chicago Press, pp. 208–28.
- . 2003. 'The Subject and Power', in Paul Rabinow and Nikolas Rose (eds), *The Essential Foucault: Selections from Essential Works of Foucault 1954–1984*. London: New Press, pp. 126–44.
- Geddes, Andrew. 2021. 'Southeast Asia: The "Temporariness" of Migration', in *Governing Migration beyond the State*. Oxford: Oxford University Press, pp. 55–84.
- Guild, Elspeth. 2014. 'Conflicting Identities and Securitisation in Refugee Law: Lessons from the EU', in Susan Kneebone, Dallal Stevens and Loretta Baldassar (eds), *Refugee Protection and the Role of Law: Conflicting Identities*. London: Taylor & Francis, pp. 151–73.
- Häkli, Jouni, and Kirsi Pauliina Kallio. 2020. 'Bodies and Persons: The Politics of Embodied Encounters in Asylum Seeking', *Progress in Human Geography* 45(4): 682–703.
- Human Rights Watch. 2012. *Ad Hoc and Inadequate: Thailand's Treatment of Refugees and Asylum Seekers*. Retrieved 27 June 2019 from <https://www.hrw.org/report/2012/09/12/ad-hoc-and-inadequate/thailands-treatment-refugees-and-asylum-seekers>.
- Immigration Act B.E. 2522 [1979] (Thailand).
- Jeholm, Sofie, and Mons Bissenbakker. 2019. 'Documenting Attachment: Affective Border Control in Applications for Family Reunification', *Nordic Journal of Migration Research* 9(4): 480–96.
- Kagan, Michael. 2006. 'The Beleaguered Gatekeeper: Protection Challenges Posed by UNHCR Refugee Status Determination', *International Journal of Refugee Law* 18(1): 1–29.
- Lego, Jera. 2018. 'Making Refugees (Dis)Appear: Identifying Refugees and Asylum Seekers in Thailand and Malaysia', *Austrian Journal of South-East Asian Studies* 11(2): 183–98.
- Leser, Julia, and Rebecca Pates. 2019. 'On the Affective Governmentality of Anti-trafficking Efforts: An Ethnographic Exploration', *Journal of Political Power* 12(3): 339–57.
- Lewis, Themba, and Daniel Davies. 2020. 'A New Era for Refugee Protection in Thailand?', *Bangkok Post*, 19 March. Retrieved 1 September 2020 from <https://www.bangkokpost.com/opinion/opinion/1881970/a-new-era-for-refugee-protection-in-thailand->.
- Li, Tania Murray. 2007. 'Governmentality', *Anthropologica* 49(2): 275–81.
- Malaver, Angela María Carreño. 2016. 'Living in the Shadows: Urban Refugees in Thailand', *Current Politics and Economics of South, Southeastern, and Central Asia* 25(2): 1–14.



- Mathew, Penelope, and Tristan Harley. 2014. *Refugee Protection and Regional Cooperation in Southeast Asia*. Fieldwork Report, Australian National University. Retrieved 15 May 2022 from <https://openresearch-repository.anu.edu.au/handle/1885/11662>.
- McConnachie, Kirsten. 2014. *Governing Refugees: Justice, Order and Legal Pluralism*. London: Taylor & Francis.
- Milton, Sansom. 2018. 'Arab Refugees in Bangkok Long for Home amid Immigration Crackdown', *Al Jazeera*, 12 November. Retrieved 27 June 2019 from <https://www.aljazeera.com/features/2018/11/12/arab-refugees-in-bangkok-long-for-home-amid-immigration-crackdown>.
- Moretti, Sébastien. 2018. 'Keeping up Appearances: State Sovereignty and the Protection of Refugees in Southeast Asia', *European Journal of East Asian Studies* 17(1): 3–30.
- Muntarbhorn, Vitit. 'Refugee Law and Practice in the Asia and Pacific Region: Thailand as a Case Study'. Retrieved 20 November 2021 from <http://www.refugeelawreader.org/en/en/english/section-v-asian-framework-for-refugee-protection/v1-protection-challenges-in-asia/core-readings-140/9456-muntarbhorn-refugee-law-and-practice-in-the-asia-and-pacific-region-thailand-as-a-case-study-1/file.htm>.
- Nah, Alice M. 2019. 'The Ambiguous Authority of a "Surrogate State": UNHCR's Negotiation of Asylum in the Complexities of Migration in Southeast Asia', *Revue européenne des migrations internationales* 35(1–2): 63–86.
- Nielsen, Asta Smedegaard and Lene Myong. 2019. 'White Danish Love as Affective Intervention: Studying Media Representations of Family Reunification Involving Children', *Nordic Journal of Migration Research* 9(4): 497–514.
- Palmgren, Pei. 2016. 'Refugees "in Limbo" and the Haphazard Asylum of Cities in Southeast Asia – Spotlight on the Urban Refugee "Crisis": Reflections on Cities, Citizenship, and the Displaced', *International Journal of Urban and Regional Research*, September. Retrieved 26 September 2019 from <https://www.ijurr.org/spotlight-on/the-urban-refugee-crisis-reflections-on-cities-citizenship-and-the-displaced/refugees-in-limbo-and-the-haphazard-asylum-of-cities-in-southeast-asia>.
- . 2020. 'Onward Pushes and Negotiated Refuge: Theorizing the Fluid National and Urban Regimes of Forced Migration in Southeast Asia', in Silvia Pasquetti and Romola Sanyal (eds), *Displacement: Global Conversations on Refuge*. Manchester: Manchester University Press, pp. 210–25.
- Park, Min Jee Yamada. 2020. 'Thailand Screening Paves Way for Better Refugee Protection', *International Detention Coalition*, 7 February. Retrieved 1 August 2022 from <https://idcoalition.org/news/thailands-national-screening-mechanism-paves-the-way-for-better-refugee-protection>.
- Pile, Steve. 2010. 'Emotions and Affect in Recent Human Geography', *Transactions of the Institute of British Geographers* 35(1): 5–20.
- Regulation of the Office of the Prime Minister on the Screening of Aliens Who Enter into the Kingdom and Are Unable to Return to the Country of Origin B.E. 2562 (2019) (Thailand).
- Riback, Matt. 2018. 'Uncertain Outcomes: Evaluating the Effects of the Trafficking in Persons Reports in South Africa and Thailand', *Global Societies Journal* 6(1): 41–68.

- Rungthong, Waritsara, and Caroline Stover. 2020. 'Thailand's National Screening Mechanism: Key Issues', *Opinio Juris*, 28 January. Retrieved 15 May 2021 from <http://opiniojuris.org/2020/01/28/thailands-national-screening-mechanism-key-issues>.
- Saltsman, Adam. 2014. 'Beyond the Law: Power, Discretion, and Bureaucracy in the Management of Asylum Space in Thailand', *Journal of Refugee Studies* 27(3): 457–76.
- Severson, Adam. 2020. 'Thailand's Changing of the Guard: Negotiating the Transition from UNHCR Refugee Status Determination to a National Refugee Screening Mechanism', *Refugee Law Initiative Blog*, 19 November. Retrieved 29 December 2020 from <https://rli.blogs.sas.ac.uk/2020/11/19/thailands-changing-of-the-guard-negotiating-the-transition-from-unhcr-refugee-status-determination-to-a-national-refugee-screening-mechanism>.
- Shum, Terence Chun Tat. 2019. *Asylum-Seeking Journeys in Asia: Refugees in Hong Kong and Bangkok*. London: Routledge.
- . 2021. 'Stuck in Transit: Asylum-Seeking Habitus and Onward Migration Aspirations of Sri Lankan Tamil Asylum-Seekers in Bangkok', *Migration and Development* 10: 1–20.
- Strong, Samuel. 2021. 'Towards a Geographical Account of Shame: Foodbanks, Austerity, and the Spaces of Austere Affective Governmentality', *Transactions of the Institute of British Geographers* 46(1): 73–86.
- UNHCR. 2019. 'UNHCR Welcomes Thai Cabinet Approval of National Screening Mechanism'. Press release. Retrieved 16 December 2019 from <https://www.unhcr.org/th/en/16791-unhcr-welcomes-thai-cabinet-approval-of-national-screening-mechanism.html>.
- . 2021a. *Projected Global Resettlement Needs 2021*. Retrieved 15 May 2021 from <https://www.unhcr.org/protection/resettlement/5ef34fb7/projected-global-resettlement-needs-2021-pdf.html>.
- . 2021b. 'Thailand Fact Sheet'. Retrieved 1 August 2022 from [https://www.unhcr.org/th/wp-content/uploads/sites/91/2021/04/UNHCR-Thailand-Fact-Sheet\\_31-March-2021.pdf](https://www.unhcr.org/th/wp-content/uploads/sites/91/2021/04/UNHCR-Thailand-Fact-Sheet_31-March-2021.pdf).
- . 2023. 'UNHCR Operational Fact Sheet, 30 September 2023'. Retrieved from [https://www.unhcr.org/th/wp-content/uploads/sites/91/2023/10/UNHCR-Thailand\\_Operational-Factsheet-July-September-2023.pdf](https://www.unhcr.org/th/wp-content/uploads/sites/91/2023/10/UNHCR-Thailand_Operational-Factsheet-July-September-2023.pdf).
- United Nations General Assembly. Global Compact for Safe, Orderly and Regular Migration, UN Doc. A/RES/73/195 (11 January 2019). Retrieved 22 May 2024 from <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N18/451/99/PDF/N1845199.pdf?OpenElement>.
- . Global Compact on Refugees, UN Doc. A/73/12 (Part II) (2 August 2018). Retrieved 22 May 2024 from <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/238/37/PDF/G1823837.pdf?OpenElement>.
- UNODC. 2014. *Global Report on Trafficking in Persons 2014*. Retrieved 22 May 2024 from [https://www.unodc.org/documents/data-and-analysis/glotip/GLO\\_TIP\\_2014\\_full\\_report.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/GLO_TIP_2014_full_report.pdf).
- Vammen, Ida Marie Savio. 2021. "When Migrants Become Messengers": Affective Borderwork and Aspiration Management in Senegal', *Geopolitics*.

- Williams, Jill. 2020. 'Affecting Migration: Public Information Campaigns and the Intimate Spatialities of Border Enforcement', *Environment and Planning C: Politics and Space* 38(7–8): 1198–215.
- Williams, Jill, and Geoffrey Alan Boyce. 2013. 'Fear, Loathing and the Everyday Geopolitics of Encounter in the Arizona Borderlands', *Geopolitics* 18(4): 895–916.
- Yacoub, Natasha. 2023. 'A New History of Refugee Protection in Post-World War Two Southeast Asia: Lessons from the Global South', *Asian Journal of International Law* 13(2): 220–43.