

THAILAND

Thailand has not ratified the 1951 Refugee Convention and does not recognize the status of refugees. As a result, asylum seekers are not distinguished from other immigrants, legal or illegal. The Thai government asserts that it applies humanitarian conditions and observes the 1951 Convention in practice.¹ Thailand is a state party to the International Covenant on Civil and Political Rights, and to its First, but not Second, Optional Protocol. According to a 2000 report by the U.S. Committee for Refugees, the Thai Foreign Ministry announced in July 1999 that it was studying the possibility of acceding to the 1951 Convention.² The Thai government asserted that, at the end of 2001, Thailand hosted 109,000 displaced persons, while an NGO reported that the country was host to more than 277,000 refugees and displaced persons, of which more than 276,000 were from Burma.³ At year's end, there were 175 Burmese with cases pending before UNHCR and 343 other with pending asylum claims.⁴ No information was available on the number of asylum seekers detained.

Jesuit Refugee Services has reported that in Thailand, all immigrants without valid documents are seized by the authorities and detained in immigration detention centers until they self-deport.⁵ The Thai government reported in early 2002 that it aims to avoid prolonged detention and, thus, to send illegal migrants back to their countries of origin as soon as possible after completion of appropriate legal processes.⁶ Asylum seekers from

¹ Diplomatic Note from Permanent Mission of Thailand to the United Nations Office, Geneva, Response to LCHR Questionnaire on Detention of Asylum Seekers (Feb. 22, 2002) (on file with Debevoise & Plimpton) [hereinafter Thai Response to LCHR Questionnaire (Feb. 22, 2002)].

² USCR WORLD REFUGEE SURVEY 2000, *available at* http://www.refugees.org/world/countryrpt/easia_pacific/2000/thailand.htm (last accessed Aug. 30, 2002)

³ Diplomatic Note from Permanent Mission of Thailand to the United Nations Office, Geneva, Response to LCHR Questionnaire on Detention of asylum seekers (Jan. 18, 2002) (on file with Debevoise & Plimpton) [hereinafter Thai Response to LCHR Questionnaire (Jan. 18, 2002)]; U.S. COMMITTEE FOR REFUGEES, WORLD REFUGEE SURVEY 2002 at 118, *available at* <http://www.refugees.org/WRS2002>. (Immigration and Refugee Services of America 2002) [hereinafter USCR WORLD REFUGEE SURVEY 2002].

⁴ USCR WORLD REFUGEE SURVEY 2002, *supra* note 3, at 118.

⁵ E-mail from Christine Bloch, Jesuit Refugee Service, to Jaya Ramji, Debevoise & Plimpton (Nov. 20, 2001) (on file with Debevoise & Plimpton) [hereinafter Jesuit Refugee Service Correspondence (Nov. 20, 2001)].

⁶ Thai Response to LCHR Questionnaire (Jan. 18, 2002), *supra* note 3.

bordering countries such as Burma, Cambodia and Laos are deported to the border.⁷ Those determined to be ‘displaced persons’ are sent to one of 9 temporary shelters, which the government describes as ‘open camps.’ Residents of the temporary shelters may seek permission to leave the camps for particular purposes, such as to seek specialized health care.⁸

Illegal migrants whom the UNHCR has recognized as “person of concern” will not be deported back to their countries of origin, according to the Thai government. Instead, the UNHCR will take responsibility for such persons, with a view to resettling them in third countries.⁹

Conditions in detention are reported to be critical. In one facility, over 1400 immigrants are reported to be cramped into a facility which houses and provides food and water for only 700. Immigrants rely on visits from NGOs for water and food¹⁰ to supplement that provided by the government.¹¹

Is there independent review of the detention decision? No.

There is no independent review of the administrative detention decision. Unless bail is posted pursuant to a criminal charge, there is no means of release from immigration detention into the territory.¹²

If criminal charges have been brought against asylum seekers for illegal entry, they are brought before a court and may be sentenced to two years imprisonment. If the offense of illegal entry is combined with other offenses, such as falsification of documents, the term may be longer.¹³ At this point, bail may be set.¹⁴ Jesuit Refugee Services has reported that many asylum seekers complain that although the Thai legal scheme makes provision for them to have state-appointed counsel to represent them in these instances, they are typically unrepresented and without the benefit of interpreters in the courtroom.¹⁵ The Thai government’s position is that many who have resided illegally in

⁷ Jesuit Refugee Service Correspondence (Nov. 20, 2001), *supra* note 5.

⁸ Thai Response to LCHR Questionnaire (Jan. 18, 2002), *supra* note 3; USCR WORLD REFUGEE SURVEY 2002, *supra* note 3, at 118.

⁹ Thai Response to LCHR Questionnaire (Jan. 18, 2002), *supra* note 3.

¹⁰ Jesuit Refugee Service Correspondence (Nov. 20, 2001), *supra* note 5.

¹¹ Thai Response to LCHR Questionnaire (Feb. 22, 2002), *supra* note 1.

¹² Jesuit Refugee Service Correspondence (Nov. 20, 2001), *supra* note 5.

¹³ Thai Response to LCHR Questionnaire (Feb. 22, 2002), *supra* note 1.

¹⁴ Jesuit Refugee Service Correspondence (Nov. 20, 2001), *supra* note 5.

Thailand, or have overstayed, have admitted their offenses and waived the possibility of having legal representation.¹⁶

Are there limits on the period of detention? No.

There is no limit on the time asylum seekers may spend in immigration detention. Unless bail is posted pursuant to a criminal charge, there is no means of release from immigration detention into the territory.¹⁷ Asylum seekers who reach the UNHCR and are subsequently granted refugee status by the UNHCR may then be moved to a special detention center to await resettlement to another country, which is also indefinite.¹⁸ There are known cases of families spending years in detention in Thailand.¹⁹

Is there periodic review of detention? No.

Is there access to government-funded legal aid? No.

There is no free legal aid in asylum cases. Asylum seekers depend on aid from NGOs. An NGO reported in June 2001 that access to these groups and private attorneys is limited as telephones are restricted to those with money and letters must often be taken out by visitors and volunteers.²⁰ The Thai government stated in early 2002 that NGOs have offices in the main detention center of the Immigration Bureau and that asylum seekers may thus contact such NGOs at all times.²¹

Vulnerable groups: In accordance with arrangements made with the International Organization for Migration, unaccompanied minors are permitted to stay at the state-run Ban Kred Trakarn Protection and Occupational Development Center near Bangkok, where training courses are available.

As of early 2002, women and children trafficked from neighboring countries who have been recognized as victims of transnational crime are also permitted to stay in the Ban Kred Trakarn Center, or at other center run by NGOs, while awaiting return or reunification with their families in their home countries.²²

¹⁵ *Id.*

¹⁶ Thai Response to LCHR Questionnaire (Feb. 22, 2002), *supra* note 1.

¹⁷ Jesuit Refugee Service Correspondence (Nov. 20, 2001), *supra* note 5.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ Thai Response to LCHR Questionnaire (Feb. 22, 2002), *supra* note 1.

²² Thai Response to LCHR Questionnaire (Jan. 18, 2002), *supra* note 3.