

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review:

2nd Cycle, 25th Session

THAILAND

I. BACKGROUND INFORMATION

Thailand is not a party to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*). In addition, Thailand is not a party to either the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) or the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*). Thailand is a party to several instruments with direct and indirect impact on refugees, asylum-seekers and stateless persons including, among others: the *Convention Against Torture* (the *CAT*); the *International Covenant on Civil and Political Rights* (the *ICCPR*); the *International Covenant on Economic, Social and Cultural Rights* (the *ICESCR*); and the *Convention on the Rights of the Child* (the *CRC*) (albeit with a reservation to Article 22 concerning refugee children).¹

As of June 2015, there were approximately 109,000 refugees from Myanmar in nine refugee camps along the border (officially referred to by the Government as “Temporary Shelters”). In addition, Thailand also hosted an “urban refugee” population, including 1,685 refugees and 7,420 asylum-seekers as of June 2015. Urban refugees come from over 50 countries of origin, the majority of whom originate from Pakistan, Viet Nam and Palestine. The Rohingya population of concern to UNHCR in urban settings was almost 2,000 in 2013 and early 2014, but as of end June 2015, stood at 531, including 60 women and 232 children, and the number varies considerably at any given time.

Thailand does not have a specific law with respect to the rights and obligations of refugees and asylum-seekers, and the Royal Thai Government (RTG) does not undertake formal refugee status determination (RSD). For the 109,000 refugees from Myanmar along the border, Thailand does have a process of registration, and permits refugees to reside in the temporary shelters and be protected from *refoulement*, pursuant to a long-standing Ministerial Order. However, broad access to this mechanism ceased in 2005. “New” cases may be considered for formal registration based upon concepts of family unity and flight from

¹ The text of the reservation reads: “The application of articles 22 of the Convention on the Rights of the Child shall be subject to the national laws, regulations and prevailing practices in Thailand,” see: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en#EndDec.

immediate conflict. UNHCR's mandate RSD² for urban asylum-seekers is "tolerated," primarily as a necessary prerequisite for resettlement to a third country, which is generally the only solution available for refugees, particularly the urban and Rohingya populations given the absence of a legal protection framework. The current 1979 *Immigration Act* does not distinguish between refugees and asylum-seekers on the one hand and "illegal aliens" on the other. The 1979 *Immigration Act* imposes criminal penalties for illegal entry/stay by refugees and asylum-seekers, and provides for arrest and detention in Immigration Detention Centres (IDCs), without periodic judicial review. In some cases, the detention lasts years owing to an inability to return home and a lack of resettlement opportunities (see Issue 3 below).

The "illegal status" of urban refugees and asylum-seekers and subsequent lack of access to legal employment creates a heightened risk of exploitation and abuse.³ The absence of an overall legal framework for such persons means that they are effectively denied enjoyment of many basic rights, as noted by the Committee on Economic, Social and Cultural Rights in the 2015 *Concluding Observations* on Thailand.⁴ Furthermore, refugees from Myanmar who are permitted by long-standing Ministerial action to remain in "Temporary Shelters" in border areas (many of whom have been in Thailand for 10 to 30 years), are subject to both work and movement restrictions. While a party to the CAT, Thailand has no formal screening mechanism to ensure *non-refoulement*, although there are reports of draft legislation to "domesticate" the CAT. While generally, if apprehended when already in the territory (as opposed to at a border entry point), persons of concern are not *refouled*, there have been numerous cases of *refoulement* recorded from 2012 to date (see Issue 2 below).

There are, however, certain provisions of various laws that can, potentially, benefit urban refugees and asylum-seekers despite their lack of legal status, as well as Ministerial actions and other Government policies that permit (or can permit without revision of existing Thai law) certain groups of refugees to remain in the country, albeit with restrictions. For example, Rohingya persons are, at least informally, subject to an as yet unwritten "temporary protection" regime, which tolerates their stay while UNHCR seeks solutions. They do not, however, enjoy basic rights, such as the right to work. Rohingya men are typically detained in IDCs, while in some cases women and children may be assigned to less restrictive Ministry of Social Development and Human Security (MSDHS) shelters. Of the 531 Rohingya persons of concern to UNHCR in urban settings in Thailand as of June 2015, 176 were held in IDCs (including boys 15 and over) and the remainder in MSDHS shelters and other facilities. All Rohingya persons are considered by UNHCR for rapid RSD and resettlement processing, but the population varies depending on migration flows, informal deportations and "escapes." Many are primarily interested in reaching Malaysia and most are subject to financial extortion/exploitation and kidnapping in the course of being "smuggled" (or trafficked) to Malaysia. Some have been determined to be victims of trafficking, in theory entitling them to temporary stay and work permits, as well as non-detention, under the *Anti-Trafficking in Persons Act* (the ATPA), although consistent application of this well-drafted Thai law has been a challenge.

² Mandate refugees are recognized as refugees by UNHCR acting under the authority of its *Statute* and relevant UN General Assembly resolutions. Mandate status is especially significant in States that are not parties to the 1951 *Convention* or its 1967 *Protocol*.

³ Refugees from Myanmar along the border do not have the right to work and are restricted in their movements, although passes and permissions may be obtained.

⁴ Committee on Economic, Social and Cultural Rights, *Concluding Observations*, 19 June 2015, E/C.12/THA/CO/1-2, para. 15, available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=967&Lang=en.

In December 2011, the RTG officially reported some 506,197 persons considered stateless. These are primarily persons with long physical links to Thailand and since 2005, Thailand has had a policy framework to regularize their status and there is strong political will to see the policy implemented.⁵ It is believed, therefore, that this number has reduced but a new official number has not, as of August 2015, been released. UNHCR applauds the efforts of the RTG in these regards and looks forward to significantly increased efforts to further reduce statelessness within the framework of the policy. In addition to these persons, there are other categories of stateless persons or persons at risk of statelessness including, for example, foundling children and others of uncertain nationality.

In July 2014, a coup d'état replaced the elected Government after months of sometimes violent civil unrest. While the situation "on the streets" is largely calm, it remains unpredictable as to impacts on longer term policy relevant to persons of concern. Generally, overall economic conditions are challenging, although progress on ASEAN "integration" continues. Thailand has significantly increased efforts to combat human trafficking over the last year, including through increased identification and non-detention of victims. Efforts to address irregular labour migration have included the implementation of a well-received Migrant Worker Scheme, which has resulted in the regularization of some 1.6 million persons from Cambodia, Lao People's Democratic Republic (Lao PDR) and Myanmar. This scheme could potentially benefit some persons of concern to UNHCR in terms of access to at least a temporary legal status in Thailand.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 1st cycle UPR recommendations

Trafficking

Linked to 1st cycle UPR recommendations 88.1, 88.2, 88.44, 88.45, 88.46, 88.47, 88.48, 88.49, 88.50, 88.51, 88.52 and 88.53 [see Annex for text of these recommendations].

In relation to these 1st cycle UPR recommendations calling for improvement in the human trafficking situation, UNHCR welcomes the increased application of the *ATPA*, particularly in the context of Rohingya populations. Approximately half of the Rohingya population known to UNHCR have been recognized by RTG as victims of trafficking. Nevertheless, UNHCR still hopes to see a broader and more systematic application of the *ATPA*. In particular, the analytical decision-making process remains in many instances unclear, such that it is difficult to assess why in one case a person is recognized as a victim of trafficking, while in a very similar case another person is not so recognized. Moreover, the process for accessing associated social protections (temporary stay and/or work permits) are not well systematized and UNHCR is not currently aware of any cases where persons of concern to UNHCR who have been determined to be victims of trafficking have actually been issued such temporary permits, although some have benefited from an informal relaxation of deportation provisions and all persons determined to be victims of trafficking are permitted to stay in MSDHS shelters as opposed to IDCs.

It should be noted that the majority of asylum-seekers enter Thailand irregularly through networks of smugglers and in some instances can be characterized as being victims of trafficking. In particular in Rohingya cases, persons "smuggled" are detoured prior to their

⁵ See: *2005 National Strategy for Solving Problems Concerning Legal Status and Exclusion from Receiving Fundamental Rights of Non-Thai Individuals in Thailand*.

final destination, and essentially held captive (kidnapped) by smugglers until they pay additional sums of money (extortion). Lack of legal status and lack of legal access to rights in Thailand also put such persons at greater risk of being exploited by smugglers and traffickers as they seek alternatives, also thereby actually increasing the activities of smugglers and traffickers and associated corruption. These risks may make many refugees and asylum-seekers, especially Rohingya persons of concern, eligible for protections under the *ATPA*. The *ATPA* has provisions for issuance of temporary stay/work permits and access to various basic services (health, education, etc.) for persons determined to be victims of trafficking. Broader application of the *ATPA* would thus lead to more regular access to legal status and rights, such as the right to work, which is not otherwise available to refugees and asylum-seekers *per se*.

Accordingly, use of the *ATPA* as a protection tool that may benefit refugees and asylum-seekers in Thailand, especially Rohingya persons of concern, is welcome and should be further enhanced. Emphasis on consistency of analysis in the determination process should be stressed, as was also recently recommended by the Committee on Economic, Social and Cultural Rights.⁶ Improved/streamlined processes and timely access to the associated social protections (especially temporary stay/work permits) should also be prioritized by the Government. Consideration should be given to use of the *ATPA* as a “model” for a specific, formal Temporary Protection Framework for Rohingya persons (as already proposed by UNHCR Thailand), but may also be used to guide the creation of an overall temporary protection framework for all urban refugees and asylum-seekers in Thailand (as also already proposed by UNHCR Thailand).

Additional achievements and positive developments

Thailand should be congratulated for continuing to provide protection to the refugees from Myanmar in the nine temporary shelters along the border – one of the world’s longest standing refugee situations. In this regard, UNHCR notes with great appreciation the collaboration with the RTG on completing a “joint verification” exercise (including both “registered” and “unregistered”) of persons residing within the nine temporary shelters. UNHCR also notes the positive developments in Myanmar and the strong collaboration with RTG on assessing possibilities for durable solutions, including voluntary repatriation in safety and dignity in line with international standards, of which the verification is among the key elements.

UNHCR wishes to note that the *2014 Health Policy Announcement*, while yet to be enshrined in a formal *Cabinet Resolution* or official policy, represents an important step toward ensuring access to health for all persons, irrespective of legal status or nationality, based upon

⁶ “While noting the measures taken to combat trafficking in persons, the Committee is concerned at the persistence of trafficking in persons, including women and children, for purposes of sexual exploitation and forced labour in the State party. The Committee is particularly concerned at the limited identification of victims of trafficking by law enforcement officers (art. 10). The Committee recommends that the State party intensify its efforts to prevent and combat human trafficking, including of women and children, for purposes of sexual exploitation and forced labour, inter alia, by ensuring adequate training of law enforcement officers and the judiciary, with a view to improving early identification of victims. In that regard, the Committee calls on the State party to fully implement the recommendations of the Special Rapporteur on trafficking in persons, especially women and children, contained in the report of her mission to Thailand (A/HRC/20/18/Add.2).” Committee on Economic, Social and Cultural Rights: *Concluding Observations on Thailand*, 19 June 2015, E/c.12/THA/CO/1-2, para. 26, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=967&Lang=en.

public health principles. The *Announcement* is not limited to nationals but it remains unclear whether refugees and asylum-seekers will also benefit. A move earlier in 2014 to enroll some refugees and asylum-seekers in the health insurance scheme for migrant workers was initially permitted on the occasion of the opening of the scheme to unregistered migrants. However, this decision was later reversed and the scheme was narrowed to only cover migrants from three neighbouring nationalities (namely, Cambodian, Myanmar and Laotian). Persons in detention have some access to health care, childcare and other services, but access and services vary from location to location. While commending the announcement of a *10 Point Policy* by the Public Health Minister in September 2014, which seeks to, *inter alia*, strengthen health services systems to be widely accessible by all people in Thailand, in line with Article 12 of the *ICESCR*, we wish to further encourage Thailand to pursue this policy announcement formally, and to guarantee access to health care for refugees and asylum-seekers.

Thailand's overall efforts at "regularization" of irregular migrants from Cambodia, Myanmar and Lao PDR (and potentially for Viet Nam, which is currently under consideration) should be welcomed. As a result, from July 2014 until the present, some 1.6 million migrant workers who contribute significantly to Thailand's economy and who were previously considered "illegal" have obtained work/stay permits and also have access to, *inter alia*, health insurance. These efforts underscore the importance of having safe and effective labour migration schemes (both domestically and regionally) and also suggest a possible way forward for dealing with the "legal gap" related to persons in need of international protection. The success of the RTG in formulating and implementing policy measures to regularize 1.6 million migrant workers demonstrates the existence of ample capacity to do the same for a mere 9,500 urban refugees and asylum-seekers. UNHCR Thailand has proposed in writing a way forward both in terms of existing Thai law, as part of having a systematic *CAT* "screening" mechanism to prevent *refoulement*, and/or as part of a new policy or law.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 1st cycle UPR recommendations

Issue 1: Lack of a national legal and institutional framework for refugee protection

Linked to 1st cycle UPR recommendations 89.5, 89.15, 89.16 and 89.70 (calling for accession to the *1951 Convention*) and to recommendations 89.66, 89.69 and 89.72 (calling for the protection of refugees' and asylum-seekers' rights in Thailand) [see Annex for text of these recommendations].

UNHCR wishes to note that the lack of a national legal and institutional framework on international protection has continued to place refugees and asylum-seekers in Thailand in a precarious situation as they are at heightened risk of violations of their basic rights. In this respect, it should be noted that owing to the relative ease of obtaining visas and visa on arrival and given Thailand's status as a popular tourist destination, with hundreds of international flights arriving each week, Thailand is always likely to receive persons in need of international protection. Therefore, Thailand should have some process to address these needs in a responsible and humanitarian fashion, especially as Thailand emerges as an upper

middle-income country and a leader in ASEAN, whose *Human Rights Declaration* also includes the right to seek asylum.⁷

UNHCR takes note, in these respects, of the concerns set forth by the Committee on Economic, Social and Cultural Rights during its 55th Session on the continued "...absence of an overall legal framework protecting the rights of asylum-seekers and refugees and lack of a formal national refugee status determination procedure, which hinders the full enjoyment ..." of rights under the *ICESCR*, as well as the Committee's recommendation to "...adapt its legal framework with a view to ensuring due protection of asylum-seekers and refugees..."⁸.

Thailand agreed during the 1st cycle UPR to study the possible accession to the *1951 Convention*,⁹ which would build upon achievements that Thailand has already made in the area of human rights. By formalizing the right to seek and enjoy asylum, accession to the *1951 Convention* and the establishment of a national legal framework would serve to considerably enhance the protection and well-being of the growing number of asylum-seekers and refugees in the country. The initiative would also be in line with Thailand's continued efforts and pledges to address and ensure formally and informally the rights of refugees, asylum-seekers, stateless persons and persons at risk of statelessness, and in particular ongoing efforts to implement related elements of the *2005 National Strategy for Solving Problems Concerning Legal Status and Exclusion from Receiving Fundamental Rights of Non-Thai Individuals in Thailand* and the *2012 Amended National Strategy on the Administration of Rights and Personal Legal Status of Persons*.

Furthermore, Thailand maintains a reservation with respect to Article 22 of the *CRC*, (related to refugee and asylum-seeking children), such that the Government generally, although perhaps not correctly or formally, considers that refugee and asylum-seeking children are not covered by the *CRC* and key provisions of the *2003 Child Protection Act* (the *CPA*). Withdrawal of Thailand's reservation to Article 22 of the *CRC* would ensure enjoyment of basic rights for children, irrespective of their legal status, including, *inter alia*, the full range of economic, cultural and social rights set forth in Thailand's comprehensive *CPA*. Being a leader in the ASEAN region, the Government of Thailand would be setting a vital example for other States through acknowledging the importance of upholding the human rights standards embodied in the abovementioned international instruments.

Recommendations:

UNHCR recommends that the Government of Thailand:

- a. Accede to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* and/or adapt its domestic legal framework and/or immigration policy in order to ensure legal protection for refugees and asylum-seekers, whether through:
 - 1) adoption of a national refugee law;
 - 2) appropriate amendments to the *1979 Immigration Act*; or

⁷ Association of Southeast Asian Nations (ASEAN), *ASEAN Human Rights Declaration*, 18 November 2012, para. 16, available at: <http://www.refworld.org/docid/50c9fea82.html>.

⁸ Committee on Economic, Social and Cultural Rights, *Concluding Observations on Thailand*, 19 June 2015, E/c.12/THA/CO/1-2 (unedited advanced version), paras. 15-16, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=967&Lang=en.

⁹ "Thailand will consider the possibility of becoming a Party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. However, we are unable to accept recommendations for us to become a Party to the said instruments at this time, which will prejudice the outcome of the consideration process..." Addendum replies to recommendations 89.15 and 89.16, Addendum, A/HRC/19/8/Add.1, 6 March 2012, available at: <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/THSession12.aspx>.

- 3) establishment of either a formal or informal temporary protection framework at least permitting stay or ensuring non-detention during the period of UNHCR's status determination review and search for solutions on some temporary and/or humanitarian basis; and
- b. Withdraw its reservation to Article 22 of the *CRC*, thereby ensuring that all refugees and asylum-seekers, and children in particular, have formal access to legal status.

Issue 2: Non-refoulement

Linked to 1st cycle UPR recommendations no. 89.70: “Become a party to the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol; ensure respect for the principle of non-refoulement with respect to asylum seekers and refugees; avoid a premature move to close camps on the Western border while conditions for voluntary, safe and dignified return do not exist; and meet the protection needs of vulnerable peoples, such as the Rohingya, in accordance with international law (Canada);” **and no. 89.71:** “Refrain from the refoulement of asylum-seekers (Brazil).”¹⁰

UNHCR wishes to encourage the Government to redouble efforts to prevent *refoulement* of refugees and asylum-seekers as required by, *inter alia*, Article 3 of the *CAT* and customary international law. UNHCR is aware of at least 8, 16 and 22 cases of *refoulement* in 2012, 2013 and 2014, respectively. Most cases of *refoulement* occur as a result of “denial of entry” at Thailand’s main international airport, despite specific UNHCR intervention with both Immigration and Ministry of Foreign Affairs officials. Given the nature of these *refoulement* cases, however, details and tracking of the consequences are challenging. In one such case, a Syrian child was denied entry in February 2015, despite a specific intervention by UNHCR highlighting both conditions in Syria and the status of the child as a minor. He was, nevertheless, put on a plane for Lebanon and, UNHCR learned subsequently, ended up back in Syria. His current fate is unknown.

In 2014, there were also two clear cases of *refoulement* of persons already within the territory (as opposed to “non-admission” cases such as those described above), despite specific UNHCR interventions. In one case, a political activist from a Gulf State country was returned to that country in December 2014, despite having a valid visa in Thailand which was summarily revoked by the Thai authorities. A first attempt at “deportation” failed and a second attempt reportedly succeeded after the individual was sedated and beaten, allegedly by the police authorities of the country of origin who had come to Thailand in search of the individual. Subsequent unconfirmed reports suggest that immediately upon his return he was further detained and subject to physical abuse in his country of origin, together with some members of his family. In another case, a well-known activist from a country within the region was *refouled* to that country in June 2014, resulting in a very rare UNHCR public statement of concern.¹¹ UNHCR has been unable to access the individual in his country of origin despite several attempts and, hence, his fate is unknown.

Finally, in a much reported incident in July 2015, some 109 individuals of Turkic origin who had been detained for over a year and a half following conviction on illegal entry/stay charges were forcibly deported to China purportedly on the grounds that a “nationality verification” concluded that they were Chinese nationals. These individuals had clearly

¹⁰ “Report of the Working Group on the Universal Periodic Review: Thailand,” A/HRC/19/8, 8 December 2011, available at: <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/THSession12.aspx>. [See Annex below for Thailand’s views and replies].

¹¹ See: <http://www.unhcr.org/53bbc65b9.html>.

indicated their fear of being sent to China and UNHCR is not aware that any formal analysis concerning *non-refoulement* in the context of the *CAT* was undertaken by the RTG. UNHCR is unable to find any provision of the *Immigration Act* requiring a nationality verification process in the context of deportation. Rather, pursuant to the Article 12 of the *ICCPR*, the Human Rights Committee opined that in the context of immigration deportation, individuals are free to choose the deportation country provided that country is willing to receive them.¹²

These cases in particular underscore the possible tragic consequences of the absence of any national legal framework or policy concerning the protection of refugees, asylum-seekers and persons who may be at risk of torture or other, cruel, inhuman or degrading treatment, as noted in Issue 1, above.

Recommendations:

UNHCR recommends that the Government of Thailand:

- a. Take all measures necessary, whether in law or in practice, to prevent *refoulement*, in order to fulfil its obligations under the *CAT* and vis-à-vis customary international law;
- b. Establish, at a minimum, a formal screening mechanism (and appropriate training of officials) both at border entry/exit points and within the territory, in order to ensure that people are not returned to a country where they may face torture or other cruel, inhuman or degrading treatment;
- c. Allow temporary stay, without detention, of persons pending the outcome of any Government screening process and/or UNHCR status determination and solutions process; and
- d. Consider including refugees and asylum-seekers documented by UNHCR within the existing Migrant Worker Scheme, adjusted appropriately as concerns “nationality verification” requirements in the case of refugees, asylum-seekers and/or stateless persons who are constrained in approaching the authorities of their country of origin or their former place of habitual residence.

Issue 3: Statelessness

Linked to 1st cycle UPR recommendations no. 89.5: “Consider ratifying the conventions on refugees and on stateless persons, *OP-CAT* and the *Rome Statute (Brazil)*,” and no. 89.15: “Accede to the *United Nations Convention on the Status of Refugees* and the *1967 Protocol* as well as to the *1954 Convention on the Status of Stateless Persons (France)*.”¹³

As mentioned above, in December 2011, the RTG officially reported some 506,197 persons considered stateless. These are primarily persons with long physical links to Thailand and since 2005, Thailand has had a policy framework to regularize their status and there is strong political will to see the policy implemented.¹⁴ It is believed, therefore, that this number has reduced but a new official number has not, as of August 2015, been released. UNHCR applauds the efforts of the RTG in these regards and looks forward to significantly increased efforts to further reduce statelessness within the framework of the policy. Meanwhile there

¹² UN Human Rights Committee (HRC), *CCPR General Comment No. 27: Article 12 (Freedom of Movement)*, 2 November 1999, CCPR/C/21/Rev.1/Add.9, para. 8, available at: <http://www.refworld.org/docid/45139c394.html>.

¹³ “Report of the Working Group on the Universal Periodic Review: Thailand,” A/HRC/19/8, 8 December 2011, available at: <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/THSession12.aspx>. [See Annex below for Thailand’s views and replies].

¹⁴ See: *2005 National Strategy for Solving Problems Concerning Legal Status and Exclusion from Receiving Fundamental Rights of Non-Thai Individuals in Thailand*.

are other categories of stateless persons or persons at risk of statelessness including, for example, foundling children and others of uncertain nationality.

Despite positive developments in access to education for refugees and asylum-seekers, stateless children continue to face barriers in accessing upper secondary and/or tertiary education. Thailand's *2005 Policy and Cabinet Resolution (Education Policy)* ensures access to education for all children in Thailand, irrespective of their nationality or legal status. The *Education Policy* has allowed refugee and asylum-seeking children to access formal education, although they still face risks of arrest/detention and language barriers. Children recognized as stateless by RTG generally have access to primary education on par with Thai nationals, however, access to scholarships and educational grants is restricted to nationals, which *de facto* excludes many stateless children from access to upper secondary and/or tertiary education.

In 2008, the Government introduced important amendments to the *Nationality Act* (which provided that all persons born in Thailand before 1992 were entitled to Thai nationality) and the *Civil Registration Act* (which allowed for all children born in Thai territory to have their births registered irrespective of their nationality and/or legal status prospectively and retrospectively). The combined effect of these provisions has led to a reduction in the number of stateless persons in Thailand. The amendment to the *Civil Registration Act* has also generally ensured that refugee and asylum-seeker child births are registered and certified, which is an essential first step in ensuring their enjoyment of legal rights and access to documentation of their link to the State of their parents' nationality. However, there remains the potential for further significant reductions in the stateless population.

UNHCR also wishes to commend amendments to the *Nationality Act* and the *Civil Registration Act*, and Thailand's multiple efforts to address and reduce statelessness. However, despite these positive developments, gaps still remain in the *Nationality Act*. This includes an absence of safeguards to ensure that children who are born on the territory, as well as foundlings, and who would otherwise be stateless should automatically acquire Thai nationality without a lengthy waiting period. The inclusion of such safeguards would be consistent with Articles 1 and 2 of the *1961 Convention on the Reduction of Statelessness*. This would also be in accordance with Thailand's obligations under Article 7 of the *Convention on the Rights of the Child* to ensure that every child has a right to a nationality. Further, the *Nationality Act* does not include safeguards that ensure that renunciation, loss and deprivation of nationality do not lead to statelessness.

According to the Bureau of Registration Administration Department (BORA) of the Ministry of Interior (MOI), since 2005, 9,151 persons have been surveyed, recorded and issued identity documents as "rootless foundlings" residing in Thailand. Moreover, there are various groups of people who do not have any nationality, who have been residing in Thailand for a long time. Therefore, definitions of "rootless persons" and "stateless persons" should be added to the *Nationality Act*, in order to identify and provide protection for such persons.

In light of the above, we wish to note that accession to the *1954 Convention relating to the Status of Stateless Persons* ensures minimum standards of treatment regarding the legal status stateless persons enjoy in their country of residence. These include, but are not limited to, freedom of movement (Article 26), the right to education (Article 22), employment (Article 17 to 19), housing (Article 21) and public relief (Article 23). Importantly, the *1954 Convention* also guarantees stateless persons a right to identity and travel documents (Article 27) and to administrative assistance (Article 25).

Accession to the *1961 Convention* and the implementation of its provisions in Thai nationality legislation would ensure the right of every person to a nationality by establishing further safeguards to prevent statelessness at birth and later in life. Stateless persons are often discriminated against in their enjoyment of rights. Accession to the two statelessness instruments is essential to strengthen international efforts to prevent and reduce statelessness and to ensure the full enjoyment of a range of other fundamental rights.

Recommendations:

UNHCR recommends that the Government of Thailand:

- a. Further its important initiatives to reduce statelessness consistent with the *2005 National Strategy* and the *2008 Nationality Act* and *Civil Registration Act* reforms;
- b. Ensure that stateless children have access to upper secondary and/or tertiary education, by *inter alia* amending the *2005 Policy and Cabinet Resolution (Education Policy)* to guarantee stateless children's access to scholarships and educational grants, in line with Articles 2, 4 and 28 of the *CRC*;
- c. Consider amending the *Nationality Act* to include safeguards to ensure that children who are born on the territory and would otherwise be stateless, as well as foundlings automatically acquire Thai nationality. Further, this provision ought to be made retrospective in effect to facilitate the acquisition of nationality for the pre-existing population (9,151 cases already identified), and in the meantime, ensure that those affected are guaranteed access to economic, social and cultural rights, in compliance with Article 2(2) of the *ICESCR* and paragraph 30 of the Committee's *General Comment No. 20*.¹⁵ Further, revisions to the *Nationality Act* to include safeguards that ensure that renunciation, loss and deprivation of nationality do not lead to statelessness may also be considered; and
- d. Accede to the *1954 Convention relating to the Status of Stateless Persons* and to the *1961 Convention on the Reduction of Statelessness*.

Additional Protection Challenges

Issue 4: Detention

Absent a national asylum/protection framework, refugees and asylum-seekers without a valid visa are treated as "illegal aliens" subject to arrest and detention for illegal entry/stay under the *1979 Immigration Act*. Despite being issued pursuant to UNHCR's mandate, which was established by the General Assembly, UNHCR refugee and asylum-seeker documentation (certificates) are not recognized by the Thai authorities. The lack of an overall legal framework limits the space for legal protection of refugees/asylum-seekers and/or persons who should be protected by the *CAT*, *ICCPR* and/or the Thai *ATPA*. Detention of children continues, including minors not legally liable or with diminished liability for criminal violations as detailed below. As of June 2015, there were 51 refugees and 163 asylum-seekers, including 36 children, detained in IDCs.

The number of detainees fluctuates owing to a "bail process" based on the *1979 Immigration Act* (which is entirely discretionary and revocable) and departures on resettlement to third countries. Release from detention is currently possible only through bail, and assumes only resettlement or deportation as a solution. Those who cannot be resettled or bailed face indefinite detention and there appears to be no legal review mechanism following the issuance

¹⁵ Committee on Economic, Social and Cultural Rights, *General comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights)*, 2 July 2009, E/C.12/GC/20, available at: <http://www.refworld.org/docid/4a60961f2.html>.

of a deportation order. In one case, UNHCR is aware of a UNHCR-recognized refugee who has been in immigration detention for over 12 years. In addition to this case, as of June 2015, among refugees and asylum-seekers detained, there were two who have been detained for more than five years; one detained for more than three years; 13 for more than two years; and 24 for more than a year. In addition, there are 14 persons currently detained with serious medical conditions, which are exacerbated by detention conditions.

Article 9(1) of the *ICCPR* provides that “no one shall be subjected to arbitrary arrest or detention” and this provision is applicable to immigration detention.¹⁶ If detained, detainees have the right to “periodical review” of the “necessity of detention” and its duration.¹⁷ According to the UN Human Rights Committee:

“Court review of the lawfulness of detention ... which must include the possibility of ordering release, is not limited to mere compliance of the detention with domestic law. While domestic legal systems may institute differing methods for ensuring court review of administrative detention, what is decisive ... is that such review is, in its effects, real and not merely formal. By stipulating that the court must have the power to order release ‘if the detention is not lawful,’ [the *Covenant*] ... requires that the court be empowered to order release, if the detention is incompatible with the requirements in article 9, paragraph 1, or in other provisions of the *Covenant*.”¹⁸

Pursuant to *ICCPR* Article 9, the Human Rights Committee has determined that persons who claim refugee status may not be detained beyond the period for which there is appropriate justification.¹⁹ Immigration detention “...may be considered arbitrary, even if entry was illegal,” absent factors such as risk of flight or lack of cooperation²⁰ and if the State has not demonstrated that there were “no less invasive means of achieving the same ends.”²¹ In this regard, having no options to return, refugees are known to cooperate well with the authorities with minimal likelihood of absconding if not detained.²² Some States have imposed a regular reporting requirement as an acceptable alternative to detention.

Domestic law may, in principle, provide for review of detention orders issued following conviction for illegal entry/stay, pursuant to Article 90 of the *Criminal Procedure Code*. In practice, however, persons of concern have difficulty in accessing this right and in at least one recent case related specifically to a person of concern, the Criminal Court concluded that the detention was lawful pursuant to the *1979 Immigration Act* and, therefore, there was no basis

¹⁶ See: Human Rights Committee, *General Comment No. 35: Article 9 (Liberty and security of the person)*, CCPR/C/GC/35, 6 December 2014, para. 18, available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=8&DocTypeID=11.

¹⁷ *Shafiq v Australia*, CCPR/C/88/D/1324/2004, UN Human Rights Committee, 13 November 2006, para. 7.2, available at: available at: <http://www.refworld.org/docid/47975af921.html>; *A. v. Australia*,

CCPR/C/59/D/560/1993, UN Human Rights Committee, 3 April 1997, para. 9.4, available at:

<http://www.refworld.org/docid/3ae6b71a0.html>; *Ali Aqsar Bakhtiyari and Roqaiha Bakhtiyari v. Australia*, CCPR/C/79/D/1069/2002, UN Human Rights Committee, 6 November 2003, para. 9.2, available at:

<http://www.refworld.org/docid/404887ed0.html>.

¹⁸ *A. v. Australia*, para. 9.5; *Shams and others v.*

Australia, CCPR/C/90/D/1255,1256,1259,1260,1266,1268,1270&1288/2004, 2007, para. 7.3.

¹⁹ *A v. Australia*, para. 9.4.

²⁰ *A. v. Australia*, para. 9.4.

²¹ *C v. Australia*, CCPR/C/76/D/900/1999, 2002, para. 8.2; *Shams and Others v. Australia*, para. 7.2.

²² Edwards, A. (2011) “Back to Basics: The Right to Liberty and Security of Person and ‘Alternatives to Detention’ of Refugees, Asylum-Seekers, Stateless Persons and Other Migrants,” Division of International Protection, UNHCR, available at: <http://www.refworld.org/pdfid/4dc935fd2.pdf>.

for the release from detention. It remains unclear what the result might be if there was a specific challenge to the illegal entry/stay conviction. Moreover, there is in principle access to legal aid. In practice, however, an accused does not have the right to be informed unless the accused is a minor or the accused is charged with a capital offence pursuant to Articles 7/1 and 134/1 of the *Criminal Procedure Code*. Further, there are both resource and experience constraints that limit practical application of this provision.

The Government of Thailand has stated that it does not have a policy of detaining refugees and asylum-seekers, let alone children, but there is no affirmative policy to prevent such detentions. In addition to international commitments, a strong argument exists that the *1979 Immigration Act*, as currently drafted, does not actually require detention but rather that detention is discretionary and could be substituted with a regular reporting requirement, even if a person is under a deportation order. Article 19 (addressing border entry points) and Article 54 (addressing persons who have already entered) of the *1979 Immigration Act*, both provide for detention as only one alternative for administrative control in the context of pending deportation proceedings.²³ In view of this, there is clear scope within existing Thai law and practice to make further use of both practical and/or compassionate grounds for applying alternatives to detention.

Especially worrying in the case of children in detention is the absence of a formal (or even informal) “best interest determination” conducted by the Thai authorities, as required not only by the *CRC* but also by the Thai *CPA*. Officials have indicated that children are in detention primarily because their parent/caregivers request not to be separated from them. Some parents have been asked to sign a waiver, requesting the detention of their children. States parties to the *CRC* have special responsibilities towards children, especially in the context of detention. Article 37(b) requires that children be detained, if at all, “only as a measure of last resort and for the shortest possible period of time.” Moreover, “in all actions concerning children” States parties must make the “best interests” of the child the primary consideration in their actions (*CRC*, Article 3). Article 22 of Thailand’s *CPA* also stipulates that, *inter alia*, treatment of the child in any case shall give primary importance to the best interests of the child and any discrimination of an unfair nature shall not be allowed. Furthermore, Articles 73 and 74 of Thailand’s *Penal Code* make clear that children aged 0-14 have no criminal liability, and that children aged 15 and above have diminished liability. Linking responsibilities under the *ICCPR* and the *CRC* with the Thai *Penal Code* and *CPA*, a strong argument exists that while detained parents may be compelled for lack of options to request that their children be detained with them, the best interest of the child requires that children be released from detention, along with a parent, in order to minimize the harm to children. In this regard, the Committee on the Rights of the Child stated that: “Children should not be criminalised or subject to punitive measures because of their or their parents’ migration status. The detention of a child because of their or their parent’s migration status constitutes a child rights violation and always contravenes the principle of the best interests of the child.”²⁴

UNHCR appreciates the fact that UNHCR, NGOs and other international organizations are given regular access and permission to distribute material assistance to detained refugees and asylum-seekers. UNHCR also acknowledges that various efforts have been made to improve

²³ See generally, *Immigration Act*, B.E. 2522, Articles 19 and 54 (also incorporating by reference Article 19), available at: <http://www.refworld.org/docid/46b2f9f42.html>; *Order of the Immigration Bureau No. 16 / 2554 [2011] On Assignment on Deliberating Bailing an Alien Awaiting Deportation Under Section 54 of the Immigration Act B.E. 2522 [1979] and Bail Criterion (2554)*.

²⁴ Committee on the Rights of the Child, “Report of the 2012 Day of General Discussion: The Rights of All Children in the Context of International Migration,” 28 September 2012, recommendation no. 72, available at: <http://www.ohchr.org/EN/HRBodies/CRC/Pages/Discussion2012.aspx>.

the detention conditions including a small “day-care” facility operated by IOM and monthly outside activities for children under 15. We wish to note, however, that detention conditions remain below standard in many aspects, due to, *inter alia*, lack of appropriate, regular access to physician-recommended medical care and medications; overcrowding (dozens and in some cases as many as 100 persons in a cell, keeping in mind that IDCs are not designed for long-term stay); limited outdoor activities; poor sanitation; lack of education for children; and risks to the physical safety of detainees. In addition to the decision whether and how long to detain, Article 10(1) of the *ICCPR* stipulates that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.²⁵

Recommendations:

UNHCR recommends that the Government of Thailand:

- a. Apply existing Thai law permitting non-detention with a regular reporting requirement in favour of refugees and asylum-seekers who have been documented by UNHCR and are awaiting solutions;
- b. Clarify and reinforce the availability pursuant to Article 90 of the *Criminal Procedure Code* of a systematic review mechanism for detention orders and/or underlying charges of illegal entry/stay in the case of individuals claiming a need for international protection based upon existing Thai law, the *CAT* and/or the customary international law, and also provisions related to right to legal counsel;
- c. Consider appropriate amendments to legislation or policy in order to institute alternatives to detention, including regular reporting requirements and bail possibilities;
- d. Undertake “best interest determinations” pursuant to the Thai *CPA* in connection with the initial or ongoing detention of refugee and asylum-seeking children;
- e. Institute a formal policy prohibiting the detention of refugee and asylum-seeking children and release all detained refugee and asylum-seeking children, together with at least one parent or caregiver;
- f. Make further efforts to ensure that conditions of detention, where detention is necessary and unavoidable, meet international standards; and
- g. Where a physician recommends release from detention or access to certain medications or treatments, ensure that a mechanism for prompt release (without bail) and/or access to recommended treatment is provided.

**Human Rights Liaison Unit
Division of International Protection
UNHCR
September 2015**

²⁵ The UN Human Rights Committee has determined that *ICCPR* Article 10 was breached when, for example, an individual was returned to immigration detention contrary to expert medical advice (*Madafferi v. Australia*, 2004, para. 9.3). The UN Human Rights Committee also found a violations of the *ICCPR* where a detained person was forced to sleep on the floor of a small cell without medical attention or family contact (*Luyeye v. Zaire*, CCPR/C/19/D/90/1991, 1983), as well as in the case of a detainee given only five minutes per day for personal hygiene and five minutes per day of outside exercise (*Parkanyi v. Hungary*, CCPR/C/45/D/410/1990, 1992).

ANNEX

Excerpts of Recommendations from the 1st cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedure mandate holders

THAILAND

We would like to bring your attention to the following excerpts from the 1st cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Thailand.

I. Universal Periodic Review

Recommendation ²⁶	Recommending State	Position ²⁷
Refugee and Statelessness Conventions/ International protection		
89.5. Consider ratifying the conventions on refugees and on stateless persons, OP-CAT and the Rome Statute.	Brazil	Supported "in part" ²⁸
89.15. Accede to the United Nations Convention on the Status of Refugees and the 1967 Protocol as well as to the 1954 Convention on the Status of Stateless Persons.	France	Noted ²⁹
89.16. Ratify the Convention on the Status of Refugees and its Optional Protocol.	Switzerland	Noted ³⁰
89.66. Strengthen the legal rights framework and enforcement of	Canada	Supported ³¹

²⁶ All recommendations made to Thailand during its 1st cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review: Thailand," A/HRC/19/8, 8 December 2011, available at: <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/THSession12.aspx>.

²⁷ Thailand's views and replies can be found in the Addendum, A/HRC/19/8/Add.1, 6 March 2012, available at: <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/THSession12.aspx>.

²⁸ **Addendum 89.5:** "Thailand will consider ratifying the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, given that a mechanism to review our position periodically is already in place. Regarding the OP-CAT, this will depend on the results of the study as mentioned in Paragraph 4. On stateless persons, a mechanism to further study the related convention is still needed. In the meantime, Thailand places priority on addressing statelessness issues through the implementation of the Management Strategy on the Problem of Status and Rights of Persons. Also, Thailand is unable to consider becoming a Party to the Rome Statute at this stage, for the reason already mentioned."

²⁹ **Addendum 89.15, 89.16:** "Thailand will consider the possibility of becoming a Party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. However, we are unable to accept recommendations for us to become a Party to the said instruments at this time, which will prejudice the outcome of the consideration process. On the 1954 Convention relating to the Status of Stateless Persons, please refer to Paragraph 5."

³⁰ **Addendum 89.15, 89.16:** "Thailand will consider the possibility of becoming a Party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. However, we are unable to accept recommendations for us to become a Party to the said instruments at this time, which will prejudice the outcome of the consideration process. On the 1954 Convention relating to the Status of Stateless Persons, please refer to Paragraph 5."

³¹ **Addendum 89.66:** "Migrants, asylum seekers and victims of trafficking are protected under the Constitution and other laws, the enforcement of which we are determined to strengthen in line with our UPR pledges. Regarding asylum seekers, although there is no specific law in place, Thailand has implemented policy measures

these rights for migrants, asylum seekers and victims of trafficking.		
89.68. Ensure migrants found at sea are afforded the full measures of protection they are entitled to under international law.	New Zealand	Supported ³²
89.69. Reverse current practices regarding the rights of refugees, asylum seekers and migrant workers.	Slovakia	Noted ³³
89.70. Become a party to the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol; ensure respect for the principle of <i>non-refoulement</i> with respect to asylum seekers and refugees; avoid a premature move to close camps on the Western border while conditions for voluntary, safe and dignified return do not exist; and meet the protection needs of vulnerable peoples, such as the Rohingya, in accordance with international law.	Canada	Supported “in part” ³⁴
89.71. Refrain from the <i>refoulement</i> of asylum-seekers.	Brazil	Supported ³⁵
89.72. Facilitate the access to asylum procedures as well as to UNHCR in order to guarantee an international protection to asylum seekers.	Switzerland	Supported in part ³⁶
Cooperation with UNHCR		
88.98. Continue to strengthen cooperation with the High Commissioner for Refugees as well as donors and non-governmental organizations in order to provide necessary humanitarian aid and fundamental rights’ protection to the displaced people hosted by the Kingdom of Thailand	Qatar	Supported
Trafficking in persons		
88.1. Ratify the United Nations Convention against Transnational Organised Crime and its Protocols to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and Against the Smuggling of Migrants by Land, Sea and Air.	Australia	Supported
88.2. Accede to the Palermo Protocol and continue improving its implementation of policy and legal framework related to human trafficking.	Norway	Supported

to provide assistance and protection for these persons, based on humanitarian principles and with the involvement of relevant international organizations.”

³² **Addendum 89.68:** “Thailand adheres to international standards concerning rescue at sea and the principle of *non-refoulement*.”

³³ **Addendum 89.69:** “Thailand is committed to protecting the basic rights of all persons, including refugees, asylum seekers and migrant workers. Our current practices on displaced persons are also in line with international standards, and have been recognized by the international community. We cannot agree with this recommendation, which is unclear and seems to have an unfair negative connotation on Thailand’s practices toward these persons.”

³⁴ **Addendum 89.70:** “Thailand agrees with the parts to respect the principle of non-refoulement, avoiding premature closure of camps on its Western border and meeting the protection needs of vulnerable persons, which are in line with our policies and practices. However, we are unable to accept the part to become a Party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol for the reason mentioned in Paragraph 6.”

³⁵ **Addendum 89.68, 89.71:** “Thailand adheres to international standards concerning rescue at sea and the principle of non-refoulement.”

³⁶ **Addendum 89.72:** “Thailand facilitates access of asylum seekers on its Western border to the Provincial Admission Board, which is our internal asylum procedure. However, while asylum seekers may readily access the UNHCR, we do not have a policy to facilitate their access to it. Therefore, we are unable to accept this part of the recommendation.”

88.44. Continue with its on-going efforts to address its human trafficking situation which has implications beyond Thailand's borders.	Singapore	Supported
88.45. Continue cooperating closely with neighbouring countries in combating and suppressing trafficking in persons, particularly women and girls and in addressing the situation of irregular migrants, refugees and asylum-seekers.	Malaysia	Supported
88.46. Step up the fight against trafficking to which some foreign populations have fallen victim and ensure that no measures which are contrary to human rights are taken against them.	France	Supported
88.47. Continue to strengthen its efforts to combat trafficking and abuses of labour rights, particularly against vulnerable migrants.	New Zealand	Supported
88.48. Continue its efforts in combating trafficking as well as in the rehabilitation of victims of trafficking.	Pakistan	Supported
88.49. Take capacity-building measures to strengthen the response of law enforcement authorities on human trafficking, including, inter alia, through the increase of budget and the appropriate training of personnel.	Japan	Supported
88.50. Consolidate the enforcement of the law concerning human trafficking, particularly in cases of sexual and labour exploitation, which are two very sensitive issues in the country.	Nicaragua	Supported
88.51. Increase efforts to effectively prevent trafficking in human beings for purposes of sexual exploitation and forced labour, including child prostitution.	Republic of Moldova	Supported
88.52. Adopt all necessary measures to tackle the root causes of the problems of child prostitution, sexual tourism, use of children in pornography and trafficking in women, stepping up its efforts to improve the economic situation.	Uruguay	Supported
88.53. Seriously address the issues of child pornography and human trafficking in girls and boys for sexual purposes, including by encouraging police and border forces to strengthen efforts at fighting these phenomena as well as seeking accountability where lack of state efforts at prosecution could amount to human rights violations.	Sweden	Supported

II. Treaty Bodies

Committee on Economic, Social and Cultural Rights

Concluding Observations, 19 June 2015, [E/C.12/THA/CO/1-2](#)

Stateless persons

14. The Committee notes the efforts of the State party to reduce statelessness, including amendments to the Nationality Act and the Civil Registration Act, establishing universal birth registration. However, it is concerned that a large number of persons remain stateless, particularly among ethnic groups, migrants, refugees and asylum-seekers, which consequently leads to a denial of their economic, social and cultural rights. The Committee is also

concerned that a large number of births are not registered in practice and that gaps remain in the Nationality Act, including with regard to the right to nationality for children found abandoned (arts. 2, 9-10 and 12-14).

The Committee recommends that the State party continue strengthening its measures to facilitate the naturalization and integration of stateless persons, including by addressing remaining gaps in the Nationality Act, as well as to ensure the enjoyment of their economic, social and cultural rights. It also recommends that the State party consider acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

Asylum-seekers and refugees

15. While expressing appreciation of the State party's continued commitment to hosting a large number of refugees and migrants from neighbouring countries and its continued cooperation with the United Nations High Commissioner for Refugees (UNHCR), the Committee is concerned at the absence of an overall legal framework protecting the rights of asylum-seekers and refugees and lack of a formal national refugee status determination procedure, which hinders the full enjoyment of their economic, social and cultural rights (art. 2).

The Committee urges the State party to adapt its legal framework with a view to ensuring due protection of asylum-seekers and refugees in line with its international obligations and the full enjoyment of their economic, social and cultural rights. The Committee encourages the State party to re-examine its position with regard to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto and continue its cooperation with the UNHCR in this regard.

16. The Committee is concerned at reports that migrants and refugees, in particular Rohingyas, were left without access to emergency assistance after being denied the possibility to disembark their vessels, leaving them stranded at sea (arts. 2 and 10).

The Committee calls on the State party to redouble its efforts, including through strengthened international and regional cooperation, to ensure that the economic, social and cultural rights, including access to water, food and medical assistance, of all migrants and refugees arriving on boats are protected and to stop boat 'push-backs'. The State party should also engage with other countries in the region, as well as UNHCR, the Office of the High Commissioner for Human Rights and other international institutions to address the root causes of migrant and refugee flows.

Trafficking in persons

26. While noting the measures taken to combat trafficking in persons, the Committee is concerned at the persistence of trafficking in persons, including women and children, for purposes of sexual exploitation and forced labour in the State party. The Committee is particularly concerned at the limited identification of victims of trafficking by law enforcement officers (art. 10).

The Committee recommends that the State party intensify its efforts to prevent and combat human trafficking, including of women and children, for purposes of sexual exploitation and forced labour, inter alia, by ensuring adequate training of law enforcement officers and the judiciary, with a view to improving early identification of victims. In that regard, the Committee calls on the State party to fully implement the

recommendations of the Special Rapporteur on trafficking in persons, especially women and children, contained in the report of her mission to Thailand (A/HRC/20/18/Add.2).

Living conditions in detention centres

28. The Committee expresses concern at substandard living conditions and excessive overcrowding in detention centres, including immigration detention centres. It is particularly concerned at reports that asylum-seekers, refugees and migrants suffer from malnutrition and lack of health care, as a result of lengthy and, in some cases, indefinite immigration detention (arts. 2, 11 and 12).

The Committee recommends that the State party:

(a) Increase its efforts to remedy prison overcrowding, in particular by instituting alternatives to custodial sentences;

(b) Ensure that asylum-seekers, refugees and migrants be detained only when absolutely necessary and that the time of detention is limited to a strict minimum; and

(c) Ensure adequate living conditions in detention centres, provide adequate access to health care, including reproductive and sexual health, and combat malnutrition by increasing the resources allocated to this end, including through international cooperation and assistance.

Right to health

29. The Committee notes the achievement of the State party in implementing its universal health care scheme since 2002. However, the Committee is concerned that the scheme does not adequately cover disadvantaged and marginalized individuals and groups, including persons with disabilities and persons living in remote rural areas. It is further concerned that stateless persons, migrants, asylum-seekers and refugees still face obstacles in accessing basic health care services. The Committee is also concerned that the quality of health care is negatively affected by overcrowding in provincial hospitals, as recognized by the State party (art. 12).

The Committee recommends that the State party intensify its efforts to address the remaining obstacles in access to the universal health care scheme, in particular for disadvantaged and marginalized individuals and groups, and ensure good quality health care.

Right to education

33. The Committee notes the adoption in 2009 of the 15-year free education programme for all. However, the Committee is concerned at the overall low quality of education, the significant upper secondary school dropout rates and remaining obstacles in access to education for certain groups, including children with disabilities, ethnic groups and children living in remote rural areas, as well as for stateless children, children of asylum-seekers, refugees and migrants. The Committee is also concerned that despite pilot projects being carried out, access to bi-lingual education for ethnic groups remains limited in the State party (arts. 13 and 14).

The Committee recommends that the State party step up its efforts to ensure that all children under its jurisdiction effectively have access to free basic primary education. The State party should also address the causes for school dropout and improve the overall quality of education, including by ensuring that teachers are well-trained and

fully qualified. Moreover, the Committee encourages the State party to increase its efforts to provide bi-lingual education from the early years and continue to facilitate, including through allocating necessary resources, community-based education programmes in line with the cultures of ethnic groups.

Committee against Torture

Concluding Observations, 20 June 2014, [CAT/C/THA/CO/1](#)

Trafficking

17. While noting the efforts made by the State party to prevent and combat trafficking in persons, including the adoption of the Human Trafficking Prevention and Suppression Act, in 2008, the Committee is concerned at the numerous reports of trafficking in persons for the purpose of sexual exploitation or forced labour. The Committee shares the concerns raised by the Special Rapporteur on trafficking in persons, especially women and children, with regard to such issues as the lack of capacity and willingness of law enforcement authorities to properly identify trafficked persons, the arrest, detention and summary deportation of trafficked persons, the lack of adequate support for the recovery of trafficked persons in shelters and the low rate of prosecution and delays in prosecuting trafficking cases (arts. 2, 12, 13 and 16).

The State party should intensify its efforts to prevent and combat trafficking in persons, by providing protection for victims, including shelters and psychosocial assistance and by conducting prompt, impartial investigation of trafficking with a view to prosecuting and punishing perpetrators with penalties appropriate to the nature of their crimes. The Committee encourages the State party to take all necessary measures to fully implement the recommendations contained in the report of the Special Rapporteur on trafficking in persons, especially women and children, on her mission to Thailand (A/HRC/20/18/Add.2, para. 77).

Non-refoulement

20. While welcoming the State party's continued commitment to hosting refugees in need of international protection on its territory, the Committee is concerned at reports of refoulement of asylum seekers, as well as the absence of a national legal framework regulating expulsion, refoulement and extradition, consistent with the requirements of article 3 of the Convention. Moreover, noting the information about the State party's effort to provide humanitarian assistance to Rohingya refugees coming into the State party, the Committee expresses concern at reports of some potential refugees being turned back at sea. It also regrets the lack of information on the number of cases of refoulement, extradition and expulsion carried out and on the number of instances and types of cases for which the State party has offered and/or accepted diplomatic assurances or guarantees. (art. 3)

The Committee recommends that the State party adopt appropriate legislation and procedures to comply with the principle of non-refoulement and to protect refugees and asylum seekers, in line with article 3 of the Convention, in particular by:

- (a) Amending the Immigration Act and establishing a national asylum system to provide the legal framework required to address the situation of refugees and asylum seekers. Moreover, the State party should take the necessary measures, in cooperation with the United Nations High Commissioner for Refugees (UNHCR), to review its procedures for determining refugee status;**

(b) Providing protection and rehabilitation support to victims rescued from human smugglers' camps in southern Thailand and defining the temporary protection regime and related rights granted to Rohingya refugees and stateless persons, including protection from refoulement;

(c) Acceding to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

Immigration detention

21. The Committee is concerned at the use of lengthy and, in some cases, indefinite detention in immigration detention centres for asylum seekers and migrants who enter the State party undocumented, as well as at the lack of an independent and systematic review of such detention decisions and the restrictive use of alternatives to detention for asylum seekers (arts. 3, 11 and 16).

The State party should review its detention policy with regard to asylum seekers and give priority to alternatives to detention. The State party should end indefinite detention for asylum seekers and migrants and guarantee them access to independent, qualified and free legal advice and representation, in order to ensure that persons in need of international protection are duly recognized and refoulement is prevented.

Conditions of detention

22. While acknowledging that the State party has taken a number of measures to improve conditions in detention centres, including the allocation of additional resources to improve the situation of the immigration detention facilities in Songkhla province, the Committee remains seriously concerned at the extremely high levels of overcrowding and harsh conditions prevailing in detention facilities, including immigration detention centres. Such conditions include insufficient ventilation and lighting, poor sanitation and hygiene facilities and inadequate access to health care. The Committee expresses its concern at reports that the lack of medical care has contributed to the spread of diseases and deaths in custody, as in the cases of Rohingya and the Lao Hmong in immigration detention centres, which were raised by the Special Rapporteur on the question of torture and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Reports before the Committee indicate incidents of continuing violence in detention, including sexual violence by prison guards or other prisoners with the acquiescence of the authorities. The Committee also regrets the lack of information about the so-called "white prison" policy, which is alleged to result in further restrictions on the rights and freedom of detainees (arts. 11 and 16).

The State party should strengthen its efforts to improve prison conditions in order to end any cruel, inhuman or degrading treatment or punishment, in particular by:

(a) Taking all necessary measures to remedy the high rate of prison overcrowding, in particular by instituting alternatives to custodial sentences, in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);

(b) Ensuring the basic needs of persons deprived of their liberty with regard to sanitation, medical care, food and water. The State party should consider transferring responsibility for health issues in prisons from the Department of Corrections to the Ministry of Health;

(c) Taking measures to prevent violence in prison and to investigate all such incidents in order that the suspected perpetrators may be brought to trial and victims may be protected.

Committee on the Elimination of Racial Discrimination

Concluding Observations, 15 November 2012, [CERD/C/THA/CO/1-3](#)

Access to citizenship

14. While welcoming the setting of the target of granting of legal status to about 300,000 persons within a time frame of three years and measures such as the adoption of the 2008 Civil Registration Act (No. 2), the Committee is nevertheless concerned at the large number of persons in the State party eligible for citizenship but who are currently stateless. The Committee is further concerned at the subsequent denial of their civil and political rights as well as economic and social rights. Moreover, while noting that the State party's legislation allows for the registration of all persons born in the State party, the Committee remains concerned that a large number of births, particularly among ethnic groups and migrants, are not registered. The Committee reminds the State party that lack of birth registration is a contributing factor to statelessness (art. 5 (d)).

The Committee urges the State party to take effective measures to address the obstacles encountered in the acquisition of citizenship by those who qualify for it, including with regard to obtaining the required documentation from local authorities. Bearing in mind its general recommendation No. 30 (2004) on discrimination against non-citizens, the Committee also recommends that the State party strengthen its efforts to facilitate the registration of births, including by allowing late registration as well as registration through the health - care system. The Committee further encourages the State party to accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

Human trafficking

24. The Committee notes the information provided by the delegation on measures adopted by the State party to combat trafficking in human beings, but regrets the lack of information on the impact of these measures (art. 5 (e)).

The Committee requests the State party to provide in its next periodic report information on the impact of measures taken on the incidence of human trafficking, on how such measures address the root causes of trafficking, and on the prosecution of cases of trafficking .

Asylum seekers and refugees

25. While welcoming the State party's generosity in hosting a large number of refugees from neighbouring countries, the Committee is concerned that the State party's enactments, including the Provincial Admission Board screening procedures as well as those under the national Immigration Act, fall short of international standards for the protection and treatment of refugees and asylum seekers. Moreover, noting the information provided during the dialogue according to which humanitarian assistance is provided to Rohingyas coming into

the State party, the Committee expresses concern at reports of members of the group being turned back to sea (arts. 1 and 2).

The Committee recommends that the State party adopt appropriate legislation and procedures for the protection of refugees and asylum seekers, in line with international human rights standards. The Committee also urges the State party to take measures to prevent any further expulsion of Rohingyas seeking asylum, and to give them access to the United Nations High Commissioner for Refugees and registration through the Provincial Admission Board mechanism. Furthermore, the Committee encourages the State party to pursue the universal periodic review commitment to review its position on the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto.

Committee on the Rights of the Child

Concluding Observations, 17 February 2012, [CRC/C/THA/CO/3-4](#)

Name and nationality / Preservation of identity

41. The Committee welcomes the Nationality Act of 2008 which provided for remedies for those whose nationality was revoked in 1972, including their children, and for naturalization for specific categories of persons including children in foster care and adopted children as well as children of illegal immigrants born in Thailand before 1992. While noting efforts of the State party to reach bilateral agreements with neighbouring countries, the Committee nevertheless remains concerned that a significant number of people including children, especially children of indigenous and minority groups, and children of migrant workers, refugees and asylum-seekers remain stateless or potentially stateless.

42. The Committee urges the State party to further review and enact legislation in order to ensure that all children who are at risk of becoming stateless, including children belonging to the disadvantaged groups mentioned in paragraph 41, are provided with access to Thai nationality. The Committee recommends that the State party consider ratifying the 1954 Convention relating to the Status of Stateless Persons and its 19 67 Optional Protocol, and the 1961 Convention on the Reduction of Statelessness.

Birth registration

43. The Committee welcomes the Civil Registration Act of 2008 which provides late registration as well as numerous regulations, including on issuing registration cards to ethnic groups of highland people and abandoned infants. The Committee, however, is concerned that a considerable number of children, especially children living in poverty, children of indigenous groups and migrants remain unregistered. It also remains concerned that the State party maintains a penalty, however low it might be, for late registration of children.

44. The Committee recommends that the State party take measures to ensure birth registration for all children born on its territory especially those who are not registered due to the economic status of their parents, ethnicity and immigration status. It also recommends that the State party carry out public education programmes, including campaigns to provide birth registration to those children already born in the territory of the State party but remain unregistered, as well as remove any monetary penalties for late registrations and take alternative measures to ensure timely registration of new-born children.

Asylum-seeking and refugee children

70. While noting the State party information on the provision of some welfare services, the Committee is concerned about the reported inadequate conditions in the camps with temporary refugees (so-called “external displaced persons”), and that the refugees and asylum-seekers outside of the camps and in urban areas are deemed to be illegal and are subject to arrest, detention and/or deportation for unlawful entry and/or unlawful stay. Furthermore, the Committee is concerned that the State party has not registered the newly arrived asylum-seekers since 2009, as stated by the State party’s delegation.

71. The Committee urges the State party to take all necessary measures to improve the conditions in camps for temporary refugees by providing them with adequate basic needs. The Committee also recommends that the State party renew its registration of newly arrived asylum - seekers in order to keep account of their possible needs. Furthermore, the Committee recommends that the State party treat the asylum - seekers and refugees according to their status and do not subject them to detention or deportations to a country where their lives might be in danger. In this regard, the Committee encourages the State party to seek technical assistance from the Office of the United Nations High Commissioner for Refugees (UNHCR). The Committee also recommends that the State party ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and establish a national legal and institutional framework for protection of refugees.

Sexual exploitation and abuse

76. The Committee welcomes the Amendments to the Penal Code (Nos. 19 and 20) of 2007 establishing punishments for the crime of rape based on the age of the victim. It is, however, seriously concerned about widespread sexual exploitation and abuse of children, boys and girls, within the State party. It is further concerned about the lack of protection of child victims from perpetrators, especially in the family, a concern which is reinforced by the long duration of investigations and proceedings in criminal cases on sexual abuse. The Committee is also concerned at the increase of trafficking of foreign children from neighbouring countries into Thailand for sexual exploitation, contributing to the large child sex tourism industry in the country, while Thai children are often trafficked to foreign countries for sexual exploitation. Furthermore, the Committee expresses concern that children are trafficked internally within the country, especially children of poor families, undocumented migrants and ethnic minorities.

77. In light of its general comment No. 13 (2011), the Committee urges the State party to:

(a) Continue its efforts to raise awareness of the public and strengthen early detection and prevention mechanisms and ensure full protection for all children victims of sexual exploitation and abuse, including in the family and outside;

(b) Take the necessary measures to reduce the duration of investigation and proceedings in criminal cases regarding sexual abuse of children and ensure appropriate protection of child victims from perpetrators;

(c) Conduct comprehensive research on the root causes, nature and extent of sexual exploitation and abuse of boy and girl children in all settings, involving both Thai and foreign children in the State party, and provide data on the number of complaints, investigations and prosecutions conducted in this regard;

(d) In doing so, the Committee recommends that the State party implement its recommendations under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/THA/CO/1) as well as the recommendations of the Special Rapporteur on trafficking in persons, especially women and children, after her visit to the State party in August 2011. The Committee also recommends that the State party take into account the outcome documents adopted at the 1996, 2001 and 2008 World Congresses against Sexual Exploitation of Children held, respectively, in Stockholm, Yokohama and Rio de Janeiro.

Committee on the Rights of the Child

Concluding Observations, Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, 21 February 2012, [CRC/C/OPAC/THA/CO/1](#)

Measures adopted to protect the rights of child victims

21. The Committee is concerned about the lack of the protection of asylum-seeking and refugee children (so called “externally displaced persons”), including former child soldiers, who live in official and unofficial camps in Thailand, as well as the lack of mechanisms for identifying former child soldiers among refugees/asylum-seekers. The Committee is also concerned that in the absence of adequate identification and protection measures, child soldiers who have escaped from Myanmar could be among the populations forcibly returned to Myanmar, where they can face re-recruitment and/or detention on charges of desertion. It is particularly concerned that children in the camps are at risk of recruitment and re-recruitment by non-State armed groups from Myanmar operating inside the Thai border.

22. In light of its obligations under article 7 of the Optional Protocol, the Committee urges the State party:

(a) To put in place a national system of data collection and registration of all asylum-seeking and refugee children under its jurisdiction;

(b) To establish an identification mechanism for children, including asylum-seeking and refugee children, who have been or may have been involved in armed conflict abroad, and ensure that personnel responsible for such identification are trained on child rights, child protection and with interviewing skills;

(c) To provide children who have been or may have been involved in armed conflict with appropriate assistance for their physical and psychological recovery and their social reintegration;

(d) To immediately end any forcible returns of children who may have been, or are at risk of becoming victims of crimes under the Optional Protocol to their countries of origin;

(e) To prevent recruitment and re-recruitment of children by non-State armed groups from Myanmar in camps inside the Thai border;

(f) To seek technical assistance from United Nations High Commissioner for Refugees (UNHCR) and UNICEF in this regard.

Committee on the Rights of the Child

Concluding Observations, *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*, 21 February 2012, [CRC/C/OPSC/THA/CO/1](http://www.unhcr.org/refugees/crc/c/opsc/tha/co/1)

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

31. While noting that assistance to victims have been included in the Prevention and Suppression of Prostitution Act of 1996, the Measures in Prevention and Suppression of Trafficking in Women and Children of 1997 and the Anti-Trafficking in Persons Act of 2008, the Committee regrets the lack of information on measures taken to identify child victims of all offences prohibited under the Optional Protocol, and not only the victims of trafficking. It is further concerned that during the process of repatriation, child victims of trafficking are often held for very long periods of time against their will, which results in their providing false testimonies to the police in order to attain permission to leave shelters and return to their home countries. It is further concerned that despite the law which allows for early deposition of testimonies on video recordings, judges can be reluctant to accept such testimonies by child victims or witnesses and often request their physical presence in the court.

32. The Committee recommends that the State party strengthen measures to protect the rights and interests of child victims of all offences under the Optional Protocol and, in particular:

(a) Establish mechanisms and procedures for the early identification of child victims of the offences under the Optional Protocol, including by establishing cooperation mechanisms between law enforcement agencies, relevant ministries and the Child Protection Committees;

(b) Ensure that children victims of trafficking are not subjected to long periods of time , waiting for their deportation;

(c) Strengthen laws to ensure that video recordings of testimonies by child victims or witnesses of offences under the Optional Protocol are always accepted as evidence.

Recovery and reintegration of victims

33. The Committee notes that the reintegration projects enumerated by the State party refer to projects funded by foreign donor agencies, the United Nations agencies and non-governmental organizations. The Committee regrets lack of information on the State-run rehabilitation and reintegration programmes, and shelters for child victims. The Committee notes the State party's information that it has secured a fund for compensation for victims of trafficking, but it regrets the lack of information on cases where victims of trafficking and other offences under the Optional Protocol received compensation.

34. The Committee urges the State party to:

(a) Strengthen the capacity of government agencies to ensure and coordinate assistance and support to children victims of offences under the Optional Protocol;

(b) Take all necessary measures to ensure that child victims of the offences under the Optional Protocol are provided with appropriate assistance, including for their full social reintegration and physical and psychological recovery;

(c) Guarantee that all child victims have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible, in accordance with article 9, paragraph 4, of the Optional Protocol, and establish a fund for compensation for victims, for those cases where they cannot obtain compensation from the perpetrator;

(d) Seek technical assistance from UNICEF and the International Organization for Migration (IOM) in the implementation of these recommendations.

III. Special Procedures Mandate Holders

Report of the Special Rapporteur on trafficking in persons, especially women and children, 2 May 2012 [A/HRC/20/18/Add.2](#)

77. On the basis of the above conclusions, the Special Rapporteur recommends that the Government of Thailand:

(a) Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, the International Convention on the Rights of All Migrant Workers and Members of Their Families and the recently adopted ILO Domestic Workers Convention, 2011 (No. 189);

(b) Develop and build capacity for systematic data collection, disaggregated by age and gender. There is a need to design human trafficking interventions on the basis of accurate data and evidence, as well as to closely monitor and evaluate their impact and effectiveness;

(c) Ensure that the national policy has specific targets, performance indicators and timelines for implementation, as well as a mechanism that is able to review and evaluate implementation. Trafficked persons should be consulted and involved in designing, monitoring and evaluating policies, measures and activities aimed at combating trafficking in persons and protecting their human rights;

(d) Review existing domestic memorandums of understanding to ensure they are in line with the Anti-Trafficking in Persons Act and take steps to improve their implementation with a view to maximizing their contribution to ensuring that the rights of trafficked persons are protected, respected and enforced;

(e) Allocate sufficient financial and human resources to allow the Ministry of Social Development and Human Security to perform its functions, including those relating to coordination, effectively and efficiently; alternatively, streamline existing multidisciplinary bodies in order to reduce the demands for coordinating these bodies.

(f) Commit to large-scale capacity-building for all relevant public officials, including law enforcement, the marine police, naval and immigration officials, judges, prosecutors and labour inspectors, with special focus on increasing the knowledge and skills of front-line officials to identify, protect and assist trafficked persons. ASEAN training materials and resources for criminal justice agencies should be integrated into current systems and institutions. The existing checklist for identifying trafficked persons should be revised with more simple language, and relevant officials should be adequately trained in its use through case studies and examples. Such case studies and examples should also illustrate the

differences between trafficking, migrant smuggling, illegal migration and prostitution, which are often confused;

(g) Strengthen the capacity of the Anti-Human Trafficking Division of the Royal Thai Police to undertake high-quality, ethical and effective investigations; and take steps to address problems within the Division, such as the current rotation policy, that prevent the accumulation of expertise and experience. The role of the Department for Special Investigations in investigating trafficking cases should be strengthened, and the Government should consider adding the Anti-Trafficking in Persons Act to the Department's mandated area of work, while establishing a clear and efficient division of labour with the Royal Thai Police;

(h) Strengthen the capacity of prosecutors to effectively prosecute trafficking cases with due attention to the rights of accused persons to a fair trial and the rights of victims/witnesses to protection and support; explore ways of enhancing cooperation between investigators and prosecutors in order to improve the criminal justice response; consider the introduction of a system to fast-track trafficking-related prosecutions in order to improve the trial process and reduce the burden on victims/witnesses; and consider the establishment of a specialist prosecutorial capacity aimed at delivering effective, coordinated and timely prosecution of cases of trafficking in persons;

(i) Further strengthen informal (police-to-police) cooperation with other countries with a view to improving the identification and protection of victims and the apprehension of suspects. The ASEAN Heads of Specialist Trafficking Units process is an important mechanism for such cooperation and should be actively supported. Thailand should also take the lead in promoting more effective legal cooperation arrangements (mutual legal assistance and extradition) with other countries in the area of trafficking in persons;

(j) Commit firmly to a policy of zero tolerance of trafficking-related corruption and complicity by public officials. The Government should prosecute and adequately punish offenders with a view to dissuade such practices;

(k) Extend protection under the Labour Protection Act to persons working in sectors known to often employ trafficked persons, such as agriculture, domestic work and fishing;

(l) Strengthen the role of labour inspectors in identifying trafficked persons in workplaces and preventing exploitative working conditions. Inspectors should be fully involved in the multidisciplinary team in detecting trafficking cases and protecting the labour rights of all workers;

(m) Specifically mandate the Marine Police to provisionally identify trafficked persons on fishing boats; initiate essential investigative and victim protection actions; and refer cases to the special units of the Royal Thai Police and/or the Department for Special Investigations, as appropriate. The Marine Police should be thoroughly trained on issues of trafficking in persons in the fishing industry and provided with adequate resources to carry out its mandate and ensure close cooperation with its counterparts in the Royal Thai Police and the Department for Special Investigations;

(n) Establish a national hotline dedicated to taking information on potential cases of trafficking. It should be staffed by personnel who are adequately trained in trafficking issues and able to speak languages commonly spoken by trafficked persons and those who are likely to be in contact with such persons, such as Cambodian, Laotian, Burmese and ethnic minority languages in Thailand and neighbouring countries;

(o) Ensure that the national referral mechanism is properly understood by all stakeholders, including law enforcement and the civil society organizations involved in Government anti-trafficking initiatives;

(p) Ensure that raids and rescue operations are victim-centred and do not cause any discriminatory impact on victims and those who are not victims of trafficking. Upon being rescued, trafficked persons should be provided with information about their rights and appropriate counselling in a language they understand. Furthermore, in accordance with the

Anti-Trafficking in Persons Act, victims should not be criminalized or penalized, including through detention for status-related offences such as violations of immigration laws and other crimes that directly result from their situations as trafficked persons;

(q) Ensure that shelters provide safe space for trafficked persons' recovery and reintegration, and that the Ministry of Social Development and Human Security provides comprehensive and individually tailored assistance, including language support, access to medical and psychological care and suitable educational and vocational opportunities. All victims in shelters should have access to independent legal advice, and to social workers, psychologists and interpreters who are trained to work with trafficked persons;

(r) Give trafficked persons the choice of remaining in a shelter. In the case of child victims of trafficking, the Government should make available alternative care arrangements, such as staying with foster parents;

(s) While seeking to fast-track trafficking-related prosecutions, encourage prosecutors to take pre-trial depositions so that trafficked persons are not required to stay in shelters for prolonged periods;

(t) Ensure that trafficked persons are provided with the necessary support and assistance to seek remedies, such as legal aid and interpretation assistance;

(u) Consider providing permanent or temporary residence as a form of remedy where there are risks that the trafficked person may be re-trafficked, face reprisals or be subjected to violations of human rights upon repatriation;

(v) Intensify efforts to raise awareness of trafficking in persons among journalists, and train them in accurate reporting and respect for the privacy of trafficked persons, so that the media do not disseminate information that distorts the realities of human trafficking and increases stigma for victims;

(w) In conducting awareness-raising activities, appropriately target specific groups at higher risk of being trafficked, such as migrants and ethnic minorities, as well as employers and brokers;

(x) Intensify its efforts to address the root causes of trafficking in Thailand. In particular, the Government should review its labour and migration laws to accommodate the demands for cheap, low- or semi-skilled labour and provide for safe migration options, as well as eliminate vulnerabilities of migrant workers and their families to all forms of human trafficking. In this regard, the Government should consider further extending the nationality verification process to irregular migrant workers without valid work permits and to those who did not complete the process before the previous deadline, and ensure that the process is efficient, transparent and cost-effective;

(y) Uphold the principles of equality and non-discrimination in all matters, including in the provision of support and assistance to trafficked persons, and ensure that the principle of the best interests of the child, enshrined in the Convention on the Rights of the Child, underlines every policy and individual decision relating to child victims of trafficking;

(z) Strengthen cooperation with neighbouring countries, in particular Cambodia, the Lao People's Democratic Republic, Malaysia and Myanmar, in preventing and eliminating clandestine movements that result in or contribute to trafficking in migrant workers and their families, while at the same time ensuring options for safe migration. The Government should ensure the effective implementation of any bilateral and regional memorandums of understanding that provide migrants with proper protection, prevent trafficking and ensure the recovery and reintegration of trafficked persons, including having specific targets, performance indicators and timelines to monitor implementation.