

Update on Jubilee Campaign's 2015 report
'Don't Turn them Back!'



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Abbreviations

AAT - Asylum Access Thailand
 APRRN - the Asia Pacific Refugee Rights Network
 CAP- Center for Asylum Protection
 CURN - Core Urban Refugee Network
 IDC – Immigration Detention Center
 IOM - International Organization for Migration
 RSD – Refugee Status Determination
 UNHCR - United Nations High Commissioner for Refugees

Introduction

Thailand is not a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. The UNHCR based in Bangkok undertakes refugee status determination (RSD) for asylum seekers and recognizes some as refugees. The Thai authorities, however, do not officially recognize a person's status as asylum seeker or refugee as indicated by the UNHCR identity papers which such persons carry. The Thai government views anyone who has overstayed his or her visitor visa as an "illegal alien" and subject to being arrested and fined. Persons can be placed in the Immigration Detention Center (IDC) where conditions are degrading and inhumane.¹

In April 2015, Jubilee Campaign published a report regarding Pakistani asylum seekers in Thailand entitled 'Don't turn them back!'.² Based on field research conducted in April 2019 in Thailand, Jubilee Campaign presents this follow-up report which outlines the developments since 2015 and the current situation of Pakistani asylum seekers and refugees in Thailand.

1. Number of Pakistani Christians in Thailand

Before 2015, there was a steady number of asylum seekers arriving in Thailand. There were relatively short waiting periods of mere months between submitting applications for refugee status and the Refugee Status Determination (RSD) interview conducted by the UNHCR. Some people were resettled to countries such as Canada or the Netherlands. At that time, the UNHCR Thailand only had three RSD eligibility officers deciding refugee cases.³

News about the process of application for refugee status in Thailand and subsequent resettlement diffused, causing an upsurge in numbers of people arriving in Thailand. Obtaining visas for Thailand was less strenuous than obtaining visas for countries such as the United States. People were able to travel to Thailand with all of their family members.

The amount of arrivals peaked in 2014 when there was a 400% increase of asylum seekers. The UNHCR struggled to manage the work load, so it took a very long time to process all of the applications. Eligibility officers had to work under considerable pressure with a heavy caseload. Between 2012 and 2014, a large backlog accumulated of pending asylum applications.

In January 2015, statistics published by the UNHCR showed that Thailand was a country of temporary refuge to approximately 7,600 Pakistani asylum seekers and 400 Pakistani refugees.⁴ Approximately 4,000 of these asylum seekers were Pakistani Christians. In December 2015 they had increased by 11,500 Pakistani asylum seekers and 700 refugees. Waiting periods from their application to their RSD interview could be 3 and a half years or more.

Providentially, the UNHCR received funding to hire additional staff. They managed to process most of the backlog in 2017, including appeals. Currently, an application is processed swiftly and without delay. At the moment, however, hardly any new applications from Pakistani Christians arrive.

¹ Human Rights Watch, Two Years with no Moon, September 2014.

² <https://www.jubileecampaign.online/rapporten>

³ Asylum Access, Boat People SOS and Conscience Foundation, UNHCR Protection Challenges for Urban Refugees in Thailand: Report and Recommendations, April 2009, p. 2.

⁴ <https://www.unhcr.org/5461e60b17.pdf>

At present there are about 5,000 urban refugees and asylum seekers from over 40 countries.⁵

Most of these are refugees. Conversely, in the past, the group consisted mostly of asylum seekers, demonstrating that the majority of applications, including their appeals, have been decided. Jubilee Campaign was not able to confirm how many within this group are Pakistani Christians.

It should be noted that these figures do not include the people still residing in Thailand who have been denied refugee status and had their cases closed. Pakistani Christians have been predominantly denied refugee status and thus their presence is not reflected in the previously mentioned figures provided by the UNHCR. Jubilee Campaign interviewed numerous Pakistani Christian families in Bangkok and almost all had their appeals rejected and their files closed. Jubilee Campaign could not obtain confirmation regarding the amount of persons this would pertain to.

2. Rejection of asylum applications

Jubilee Campaign estimates that the UNHCR rejected more than 80% of the asylum applications from Pakistani Christians who arrived between 2012-2014. Several reasons could be the cause of that:

1. A portion of Pakistani Christian asylum seekers arrived for economic reasons and fabricated evidence and a flight story in order to obtain refugee status and resettlement to Western countries. After careful consideration, Jubilee Campaign estimates that 80% of flight stories have been fabricated and a mere 20% of asylum seekers should justly be accorded refugee status. The UNHCR interviews the asylum seekers and, in most cases, other family members, and assesses any submitted evidence. Through careful assessment, the UNHCR justly perceives that certain stories lack credibility and, as a consequence, rejects a high percentage of applications.
2. The majority of Pakistani Christians arrived in 2014. Their interviews, however, were taken more than 3 years later. For some, these interviews were conducted during periods when frequent raids were taking place. For others, interviews were conducted in the situation that family members had been detained in the IDC and there were hardly any means to survive. Some Pakistan Christians shared that they found it difficult to remember exact details of events that happened 3 or 4 years earlier and that the interview was taken during a stressful time. Some families consist of 6-9 people and often statements of different family members would vary from each other. As a result, their asylum applications would be rejected due to a lack of credibility.
3. Most of the Pakistani Christian people in Thailand are not educated and found it difficult to narrate their story using timeliness, names, and places. It is difficult for them to discern relevant information from irrelevant information and they are not always able to clearly convey their reasons for fleeing.
4. After the rejection of an application, people are given 30 days to submit their appeal. The majority of people whom Jubilee Campaign interviewed had written their own appeal even though their English was lacking, and they did not comprehensively understand the reason for their rejection.

⁵ <https://www.unhcr.or.th/en/about/thailand>

Jubilee Campaign studied the dossiers of approximately 20 families. Almost all of them received a rejection because of a lack of credibility. Most people were unable to submit (relevant) evidence. The UNHCR also stated frequently in rejection letters that people or family members were giving contradicting statements regarding certain elements of the flight story.

3. Arrests

Arrests occur mostly in waves when several raids are taking place within a small amount of time. During those periods, asylum seekers and refugees are afraid to leave their house to work or even to buy food.

Pakistani Christians live in a general fear of arrest, however during the periods where no arrests are taking place, they are able to work, attend church meetings, go to school and travel around Bangkok.

There is a large population of Indians in Thailand, making it easier for Pakistani people to travel around without drawing unwanted attention.

The Thai government is not able to apprehend considerable amounts of people simultaneously since the IDC quickly becomes overcrowded.

The decision to conduct mass arrests depends on the policies of the immigration authorities and can change from one time to another.

For example, the mass arrests in October 2018 occurred the day after Deputy Prime Minister General Prawit Wongsuwan reportedly ordered Thai immigration authorities to arrest and deport within one month all migrants in Thailand without documentation or authorization.⁶

After several raids which amounted to over 200 detainments, the arrest rate subsided again and transitioned into another peaceful period.

4. Immigration detention center

Since 2015 there have been no reports of improvement of the IDC facility. The arrested asylum seekers are incarcerated in the Immigration Detention Center (IDC), where they have to live in inhumane circumstances with no medical facilities and in crowded cell rooms. This was reported by Human Rights Watch in 2014.⁷

The IDC is not a prison but it is the last barrier for non-Thais awaiting deportation back to their home countries, after finishing their prison sentences or paying court-imposed fines.

Refugees and asylum seekers are given the option to go back to their country or stay in the IDC. Another possibility is that a third country offers them resettlement.

The IDC has very few medical facilities. Jubilee Campaign was informed that both the male and female section have a medical employee appointed. The medical care, however, often does not

⁶ <https://www.fortifyrights.org/publication-20181012.html>, Bangkok Post, 27 October 2018, <https://www.bangkokpost.com/opinion/opinion/1565498/refugee-raids-show-fundamental-policy-rethink-need>, News Release Fortify Rights, 12 October 2018.

⁷ HRW, Two Years with no Moon, September 2014 <https://www.hrw.org/report/2014/09/01/two-years-no-moon/immigration-detention-children-thailand>.

succeed the gesture of offering a paracetamol even though large portions of the Pakistani people suffer from diabetes and high blood pressure.

Jubilee Campaign has seen elderly, sick, and blind people being detained in the IDC. Some are imprisoned for years without any prospect of release.

Recently, the government halted the detention of minors in its facility, which is a significant improvement. Mothers with minor children are eligible for bail.

Although not often, it has occurred that people have died during their detention period in the IDC. Jubilee Campaign interviewed Faisal Mustaq, whose wife died in the IDC in December 2015. His wife had miscarried and was physically weak. Shortly after her miscarriage, she was arrested and was detained in the IDC. Within a few days' time, she passed away. Their son of only a few years old was with his mother in the IDC and the son was given back to Faisal Mustaq with the announcement that his wife had passed away.

People who can show valid identification papers are able to visit the IDC to see family members or provide support to the detainees. Since most Pakistani people do not have valid identification, they are not able to visit their detained relatives. However, there are NGOs that visit regularly and bring food and other necessary items to the prison.

5. Bails

On several occurrences, different categories of detainees were able to obtain release on bail. Currently, however, that opportunity has ceased and is now only available for mothers with minor children. Minors are no longer detained in the IDC.

A bail bond for detained mothers needs to be paid by a guarantor, and costs about 50,000 bhat (1430 USD). Several charity organizations have been active in paying bail bonds for those who are eligible.

If someone is released on bail, the bond is refunded when the person in question returns to jail or leaves Thailand. There have been no registered instances where people did not receive their bond back.

Getting people released on medical bail is challenging and is requested only in life-threatening situations. A considerable number of Pakistani Christians are diabetic and/or suffer from high blood pressure. This, however, normally does not constitute sufficient reason to obtain bail on medical grounds.

When people are released on bail, they have to report back to the IDC regularly. Traffic, however, is very dense and these visits are time-consuming and costly.

6. Returning to Pakistan

The International Organization for Migration (IOM) in Thailand assists people that wish to return to Pakistan. The IOM assists them with purchasing flight tickets and obtaining documents. People who have overstayed their visa additionally are obligated to pay a fine at the airport or stay in the IDC for a period of time before they can leave Thailand. The IOM does have a waiting list for applicants. More information regarding the programs which IOM offers can be found on their website.⁸

⁸ <https://thailand.iom.int/migrant-assistance>

Upon arrival in Pakistan, people can be questioned by the authorities. They can face strenuous questions and are pressured to pay bribe money. Although the experience is unpleasant and stressful, there have been no registered cases of persons being detained, tortured or harmed otherwise. People who have travelled back to Pakistan have reportedly been able to leave the Pakistani airport safely.

7. Legal Aid

The few organizations that provide legal support to asylum seekers are Asylum Access Thailand (AAT)⁹ and Center for Asylum Protection (CAP)¹⁰. AAT was established in 2007 and helps asylum seekers with their proceedings conducted by the UNHCR in Bangkok. The organization works in coalition with other Thai and southeast Asian organizations, including the Core Urban Refugee Network (CURN) and the Asia Pacific Refugee Rights Network (APRRN).

The primary mission of CAP is to support and advocate for the rights of asylum seekers and refugees, to provide advice, representation, and protection for people applying for asylum from UNHCR Thailand, and to help empower asylum seekers and refugees to realize their rights in Thailand. CAP works primarily with the urban refugee population in Thailand.¹¹

8. Education

Children who do not have legal status do have access to Thai schools.¹² The problem, however, is that the children do not understand the Thai language. In addition, Pakistani families do not see Thailand as their future home country and wait for an opportunity to be resettled abroad. They did not find it worth the effort to bring their children to a Thai school and so only a few of the Pakistani children were attending.

There were few English schools that allowed Pakistani children to enter. Some people were able to afford the fees, while others were supported by NGOs for their school fees.

9. Finding work in Thailand

Refugees and asylum seekers are not allowed to work.¹³ People find illegal work, which makes them vulnerable for extortion. In addition, they risk being arrested. Jubilee Campaign has learned that people have been arrested while working illegally, but their employers have paid a fine and they were swiftly released. These arrests scare people, and Jubilee Campaign has interviewed a man who was arrested four times and did not want to return to work.

Pakistani people can find work relatively easily due to the presence of a large Indian population in Thailand. These Indian people speak the same language and share a similar culture. Some of them

⁹ <https://asylumaccess.org/program/thailand/>

¹⁰ <https://www.caphailand.org/>

¹¹ https://www.caphailand.org/about_us

¹² <http://thailand.worlded.org/wp-content/uploads/2016/04/MESR-Policy-Brief.pdf>

Pathways to a better future: A review of Education for Migrant Children in Thailand, 2014, Save the Children.

¹³ <https://www.hrw.org/news/2012/09/13/thailand-refugee-policies-ad-hoc-and-inadequate> and <http://www.khaosodenglish.com/featured/2018/06/17/refugees-in-thailand-optimistic-but-yearn-for-acceptance-solutions/>

own construction companies or restaurants, and a lot of Pakistani people are hired as construction workers, cleaners, cooks, and waiters. Pakistani people are hired on a daily basis and have no steady means of income.

There are a few people who work as extras in Indian movies which are shot in Thailand. On average, the asylum seekers earn about 10,000-12,000 baht per month, which is about 320-384 USD. In comparison, in Pakistan they would earn approximately 15,000-20,000 Pakistani rupees per month, which is around 90-122 USD.

During periods with a high density of raids, people remain at home. Families then struggle to obtain enough food and other necessary items.

10. Health Care

Health care in Thailand is of better quality than Pakistan. However, medical care is not free and a lot of people are not able to afford the medical bills. This is a similar situation to Pakistan, where medication and treatment are not free and is not accessible for a large portion of the Pakistani society.

11. Housing

The Pakistani refugees and asylum seekers often live with several families in the same building. Most Pakistani asylum seekers are from a poor background and the quality of the housing in Thailand for those people is better than housing in Pakistan. In Thailand they live with approximately 3-6 people in one room, which for certain families is more than they are accustomed to.

12. Charity

In times when there is no money for food, the asylum seekers can receive assistance from a small number of churches and other charities.

One of these organizations is Liferaft, which provides about 150 families with basic incomes and some families with English-medium education for their children.

13. Rumors

Rumors have been circulating that the interpreters used by the UNHCR, who are predominantly Ahmadiya Muslims, are purposely transmitting details of the interview of Pakistani Christians incorrectly which damage the credibility of their applications.

Asylum Access Thailand has accompanied several Pakistani Christian clients to their UNHCR interviews and have assisted them in their first application and appeal. They have relayed that no issues with translation have occurred.

A second rumor that has been circulating among the Pakistani Christians in Thailand is that the UNHCR is giving preferential treatment to Ahmadiya Muslims while Pakistani Christians are neglected. This would be caused by the Ahmadiya translators who influence the RSD officers and effect their final decision of applications.

However, what Pakistani Christians do not realize is that the burden of proof for an Ahmadiyya Muslim is different than that of a Christian from Pakistan. Ahmadiya's might qualify for asylum more easily since they are to a further extent restricted in practicing their faith in Pakistan.

The [Second Amendment to the Constitution of Pakistan](#) and [Ordinance XX](#) declare Ahmadis to be non-Muslims and further deprive them of religious rights. Ahmadiyas are not allowed to call themselves Muslims nor their prayer house a mosque. An Ahmadiya declaring themselves a Muslim would cause them immediate threat.

To an extent this makes it easier for an Ahmadiya Muslim to qualify as refugee as provided in the refugee convention article 1 which stipulates that a refugee is any person who has a well-founded fear of being persecuted for reasons of religion.

Christians in Pakistan on the other hand are not directly limited in the practice of their faith by law; however, they can face reprisals by the community, especially those who have a Muslim background. There is no prohibition in Pakistan against churches, church gatherings or being Christian. Pakistani Christian refugee therefore have to supply proof of individual circumstances to show why they fear persecution for reasons of religion.

14. Efforts of the Thai government

On September 20, 2016 in New York, the Prime Minister Prayut made a speech at the Leaders' Summit on the Global Refugee Crisis in which he committed to end the detention of refugee children in Thailand and to establish an effective refugee-screening mechanism.¹⁴

The result of that is that children are no longer detained in the IDCs and mothers with minor children are eligible for release on bail.

On January 10, 2017, Thailand's Cabinet approved in principle a proposal to finalize and implement a screening mechanism for undocumented immigrants and refugees. In a press conference that followed, the Deputy Spokesperson of the Prime Minister's Office said the process will be led by the Immigration Bureau of the Royal Thai Police, working with a newly-created inter-ministerial committee chaired by the Prime Minister or his deputy. Together they will build on an existing draft by the Council of State and finalize a detailed draft Regulation to be presented for approval by the Cabinet. He added that this would be done in collaboration and cooperation with foreign governments or foreign government agencies, international organizations, and relevant non-governmental organizations.¹⁵

Under Thailand's current Immigration Act, urban refugees and asylum-seekers can be considered "illegal aliens" and are subject to arrest and detention if they do not have valid documentation.¹⁶ A national screening mechanism, however, will prevent the arrest and detention of certain groups of people and will improve the situation for refugees in Thailand.

It is not certain when the screening mechanism will come into force.¹⁷

¹⁴ <https://www.hrw.org/news/2017/07/06/thailand-implement-commitments-protect-refugee-rights>

¹⁵ https://www.unhcr.or.th/en/news/TH_refugee_screening_mechanism

¹⁶ <https://reliefweb.int/report/thailand/unhcr-welcomes-thai-cabinet-approval-framework-refugee-screening-mechanism>

¹⁷ World Report, p. 579, HRW https://www.hrw.org/sites/default/files/world_report_download/hrw_world_report_2019.pdf

15. UNHCR resettlement

Resettlement is not a right, and according to UNHCR figures, approximately 0,3% of refugees are resettled. Previously, the percentage was slightly higher; however, within the last few years the rates have dropped.¹⁸ Those that have been granted refugee status wait for resettlement although the chances are slim.

It is possible that there is a higher resettlement rate for Thailand due to the arrests and placement in the detention center of refugees. Jubilee Campaign heard of numerous people getting resettled, hinting that the chances for resettlement in Thailand are higher than 0,3%. Jubilee Campaign was not able to collect evidence in support of this estimation.

Most of the Pakistani families have had their application for asylum rejected and are not eligible for resettlement. The only hope they have at this point is to obtain a private sponsorship for Canada. Canada allows sponsors to invite someone to Canada. It is not required that that person has refugee status.

Several organizations and individuals have been working to resettle Pakistani Christians to Canada. Most of the Pakistani people Jubilee Campaign interviewed in Bangkok knew of people that had been resettled to Canada in the past. Several organizations and individuals had visited Pakistani families to obtain family documents, trying to search for sponsors in Canada for them. There have been rumors that some organizations are working to give opportunities to 50 families to travel to Canada in the near future.

Most Pakistani people in Thailand had hope they would be resettled to Canada.

Canadians offering sponsorship should preferably work with local organizations such as AAT or CAP to identify vulnerable families and individuals. It is not advised to work through people of Pakistani origin since there have been reported incidents of corruption and the acceptance of bribes in return for sponsorship.

16. Staying or leaving

Jubilee Campaign identifies several reasons why Pakistani people are staying in Thailand:

1. Fear of persecution. In 2019, Pakistan is the 5th country on the list of countries where Christians face most persecution.¹⁹ Jubilee Campaign estimates that approximately 20% of Pakistani Christians in Thailand have personal well-founded fear of persecution and qualify as refugees according to the UNHCR guidelines. However, Christians in Pakistan face general discrimination on a daily basis and the general security situation in Pakistan is alarming.
2. Economic reasons. People often sold their house in Pakistan to cover travel expenses for Thailand. If they would return they would have no accommodation, a situation which is especially difficult for people with several children. Coming from a poor background, their relatives often do not have the means to support them. Additionally, it is easier in Thailand to find work, even if it is illegal, and the salaries are higher than in Pakistan. The life standard in Thailand is also better than in Pakistan. Jubilee Campaign observed that Pakistani people enjoyed a better life in Thailand than in Pakistan, with the exception of the arrests and risk of detention in the IDC and the illegal status they were faced with in Thailand.

¹⁸ Information obtained from the UNHCR during a private meeting in Bangkok on 24 April 2019.

¹⁹ https://www.opendoorsusa.org/wp-content/uploads/2019/01/WWL2019_FullBooklet.pdf

3. People have hope to be resettled to Canada or another country. Even when people have been arrested and are placed in the IDC, they have hope of being resettled. People that are in the IDC are particularly vulnerable and it has happened that they are resettled to Canada directly from the IDC. These occurrences are known among the community.

17. Recommendations

- Based on the Royal Thai Government's 10 January 2017 Cabinet resolution, a mechanism should be developed for screening refugees and other undocumented foreigners, which includes a definition of a refugee consistent with international law;
- A robust administrative and legal framework should be created that enshrines protection of the rights of refugees and migrants;
- Refugees and asylum-seekers detained for irregular migration status should be released from detention and, pending their release, UNHCR should have prompt and unfettered access to anyone advancing asylum claims;
- Alternatives to detention for the purposes of immigration enforcement are sought, and detention is used only as an exceptional measure based on an individual assessment of humanitarian needs and risks if they remain at liberty, subject to regular review and for the least amount of time necessary;
- The detention facilities in the IDCs and the Central Jail should be encouraged to abide by the international guidelines pertaining to people in detention, including the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, the Standard Minimum Rules of the Treatment of Prisoners, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and The Guidelines on Applicable Criteria and Standards Relating to the Detention of Asylum Seekers. Although non-binding, these international standards provide an extensive list of guarantees for the protection of the human dignity of persons in confinement which the Thai detention facilities are currently violating.

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