

Policy Brief for the Consultation Session on Thailand's Candidature for the Human Rights Council (HRC) for the 2025-2027 Term June 7, 2024, at the Ministry of Foreign Affairs

As Thailand is set to apply for membership of the Human Rights Council, Asylum Access Thailand (AAT) sees this as a great opportunity for Thailand to use this occasion to elevate human rights issues in the country and the Southeast Asian region to the global community. We would like to present issues regarding refugee rights as follows:

The Refugee Rights Network in Thailand, comprising civil society organizations working on refugees, including the Asia Pacific Refugee Rights Network, Asylum Access Thailand, Community Potential Foundation, and the Refugee Rights Litigation Project, jointly prepared and submitted a report for [Thailand's 3rd cycle Universal Periodic Review](#) in 2021. This report highlighted key issues such as Thailand's legal framework and refugee screening mechanism, as well as the right to work for refugees, where the Thai government has not fully complied with its international obligations. The report also provides policy recommendations for the Thai government to comprehensively protect refugee rights in line with international human rights principles, as follows:

Right to Work for Refugees

- Thailand does not comply with its international obligations to grant the right to work for refugees.
- Refugees are treated as illegal immigrants and not allowed to work, making them vulnerable to exploitation by employers.

Recommendations:

- Enforce Section 63 of the Royal Ordinance on Management of Foreign Workers' Employment on refugees to allow the right to work.
- Amend the Prime Minister's Office Regulation on National Screening Mechanism to grant the right to work while asylum claims are being processed.
- Provide protection for refugees to file complaints against exploitative employers.

The intensifying political situation in Myanmar since the 2021 coup has forced many to flee to neighboring countries, with Thailand being a major destination. This poses significant challenges across multiple dimensions, including refugee labor. [The Report on Thai Legislation and Policies Review Relating to New Arrivals from Myanmar](#) by the Myanmar Response Network (MRN)

highlights that Thailand's existing legal and policy frameworks are inadequate to accommodate and protect refugees, hindering their access to basic rights such as education, healthcare, and legal employment. There are also risks of arrest, detention, harassment, or refoulement.

Although Thailand is not a party to the Refugee Convention, it is bound by other international human rights laws and conventions that can be applied to protect and assist refugees. The report recommends that the Thai government demonstrate political will to address the refugee issue, develop appropriate legal and policy frameworks, and collaborate across sectors to comprehensively protect the rights and safety of these refugees, following these guidelines:

1. For Displaced Persons Affected by the Coup, Armed Conflict, and/or Residing in Conflict Areas:

- a. Allow humanitarian access to provide food, medical supplies, and essential utilities.
- b. Assign the Ministry of Interior to manage and control safe areas, including decentralizing screening authority to border areas.
- c. Promote cross-border assistance and temporary shelters to prevent inflows into Thailand, except when necessary.
- d. Coordinate with countries of origin and local areas to provide safe zones for those affected by conflict.
- e. If conflicts prolong (highly likely), adapt basic assistance delivery based on lessons from past temporary shelter management.

2. For Individual/Family Refugees and Developing a Refugee Management and Protection System:

- a. Protection Aspects:
 - i. Recognize the refugee definition and "well-founded fear of persecution", promoting understanding through guidelines emphasizing non-refoulement.
 - ii. Recognize legal stay before asylum claim through: 1) Immigration Act Section 17 or 2) Ministerial Regulation allowing stay due to displacement or issuing Protection Visas (Sections 34, 35).
 - iii. Enforce existing laws/policies to allow self-reliance, community economic participation for refugees.
 - iv. Provide affordable health insurance schemes for refugees.
- b. Management System:
 - i. Review the National Screening Mechanism through inclusive consultations.

- ii. Develop a refugee management system, screening, and protection by: 1) Amending the Immigration Act or 2) Enacting dedicated legislation and establishing a responsible agency.

This refugee crisis not only tests Thailand's responsibility as a neighbor, ASEAN member, and part of the global community, but presents an opportunity to demonstrate leadership in human rights. Providing assistance to refugees should be viewed not as a "burden" but an "investment for the future" - when given opportunities, refugees can contribute significantly to driving the nation forward. With Thailand's rapidly aging population projected to reach 20% over 60 by 2035, the diverse skills and experiences of refugees in Thailand could fill crucial labor gaps, boosting self-reliance, incomes, economic productivity, and state revenues. If Thailand can properly integrate refugees into the labor market, they will become an essential driving force for the country's economy and development.