

Provision of Legal Aid for Asylum-Seekers,
Refugees, and Others Forcibly Displaced in Asia

Country-Level Memorandum: Thailand



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BACKGROUND

Before addressing the matter of state and non-state funded legal aid, it is worth noting at the outset the framework of statelessness and refugees in Thailand. Thailand is not a party to either the statelessness or refugee related conventions. Therefore, there are no specific domestic legal frameworks or international legal obligations imposed on the Thai governments to provide protections for the Target Group.¹ Consequently, refugees, asylum-seekers, and stateless persons who do not have a legal right to stay in Thailand are treated as illegal migrants and are subjected to arrest and detention under the Immigration Act B.E. 2522 (1979), which regulates all foreigners entering the State's territory, including the Target Group.²

However, many of the rights and protections enumerated in these conventions are now a part of international human rights law and featured in many other treaties and conventions, such as the International Covenant on Civil and Political Rights ("ICCPR") to which Thailand is a party member. Hence, Thailand nevertheless has some obligations under international human rights and customary international law principles to protect the rights of the Target Group to some extent. For example, there is an obligation to preserve the principle of non-refoulement, which prohibits the removal of persons to states where there is a substantial risk of persecution or irreparable harm. In this sense, the Thai government cannot simply push back members of the Target Group once they have entered Thailand to seek shelter. However, in practice, this obligation is still not in full conformity with international standards.

Overall, it can be said that the Thai government has regarded refugee situations as "temporary humanitarian issues to be handled from the purview of foreign affairs, with protection being the responsibility not of Thailand but of the international community" and Thailand is only contributing ad hoc assistance as a member of that community.³ Nevertheless, there has been a major development on this issue in Thailand as the Royal Thai Government and the Cabinet approved the long-awaited National Screening Mechanism ("NSM") for refugees on 24 December 2019, by which the Cabinet established the committee to consider and prescribe the terms and conditions of screening mechanism. This NSM is regarded as Thailand's commitment to improve refugees protection in the country following the pledge made by Prime Minister Prayut Chan-o-cha at the September 2016 UN Summit for Refugees and Migrants.

¹ The Target Group consists of asylum-seekers, refugees and stateless persons.

² Thailand Immigration Act, chapter 6, section 54 states that "any alien who enters or comes to stay in the Kingdom without permission or when such permission expires or is revoked, the competent official will deport such alien out of the Kingdom."

³ [The Human Rights of Stateless Rohingya in Thailand\(small\).pdf \(equalrightstrust.org\)](#)

STATE-FUNDED LEGAL AID

Eligibility, Nature and Scope

Eligibility of Asylum-Seekers, Refugees and Stateless Persons⁴

There are no laws in Thailand pertaining to legal aid for asylum-seekers, refugees, and stateless persons. Thailand is also not a party to conventions or treaties relating to this issue.⁵ Therefore, strictly speaking, the Target Group is not protected under Thai law and, as a consequence, legal aid and the access to legal aid for the Target Group may be quite challenging. Whether segments of the Target Group are covered must be determined on a case-by-case basis.

Scope of State Funded Legal Aid

There are no specific details or public records on legal aid actually provided to the Target Group. Based on our research, we note that the legal aid which can be provided by the Office of the Attorney General and Lawyers Council of Thailand covers general legal advice, such as providing information on relevant laws, procedures, systems, and necessary documentation, as well as court procedures, such as assistance at in-court hearings for the Target Group, which would be determined only on a case-by-case basis. The Ministry of Justice also provides legal aid in the form of legal fees, court fees, lodging fees, and transportation fees. Additionally, the Ministry of Justice also provides assistance in relation to detention, including requests for temporary release and bail.⁶

Regarding coverage for non-asylum related matters, the Office of the Attorney General, the Lawyers Council of Thailand, the Court of Justice, and the Ministry of Justice provide general legal advice (in-person or remotely) and services on matters relating to civil rights, criminal cases (including custody, witness/victim support, criminal defence), general legal transactions (e.g., contract-related matters), court proceedings, dispute resolutions, and other types of assistance, which may be provided on a case-by-case basis.⁷

In addition, we understand that the Thai authorities have been working with the United Nations High Commissioner for Refugees (“UNHCR”) to provide legal support to stateless persons in applying for nationality and preventing statelessness in three districts of the Chiang Rai Province, namely Mae Fa Luang district, Mae Sai district, and Mae Chan district. The project involves government officials at the district level, school principals, community leaders, as well as local civil society.⁸

⁴ Target Group consists of asylum-seekers, refugees, and stateless persons.

⁵ <https://www.amnesty.or.th/our-work/refugees/>

⁶ <https://jfo.moj.go.th/page/people.php>

⁷ https://www.laf.org.tw/ifla2014/en/download/Report_Thailand.pdf (page 3)

⁸ <https://www.unhcr.org/th/en/unhcr-in-thailand>

Eligibility Criteria

Legal aid recipients are determined by the relevant organization on a case-by-case basis. Generally, an applicant wishing to obtain legal aid must establish that he or she is of low income and cannot afford a lawyer, and that the applicant has suffered an injustice.⁹ Based on publicly available information, we are unable to confirm whether legal aid has in fact been provided to the Target Group.¹⁰

Structure and Procedures

Process of Obtaining State Funded Legal Aid

There is no clear process for obtaining state funded legal aid (except for legal aid provided by the Ministry of Justice, as discussed below). Generally, in the first instance the applicant would contact the respective organizations (i.e., the Ministry of Justice, the Office of the Attorney General, the Office of Judicial and Legal Affairs, and the Lawyer Council of Thailand) to discuss their circumstances and assistance required. Then the relevant organizations will proceed as appropriate.

Any person wishing to obtain legal aid from the Ministry of Justice may:

- 1) Contact the Ministry of Justice in person or via post at the Office of Justice Fund;
- 2) Apply online via the Office of Justice Fund's website at www.jfo.moj.go.th; or
- 3) Call the hotline 1111-77, which is available 24/7.¹¹ The application will be considered within 21 days from the date that the application is received. The applicant may check the status of their application to receive legal aid via the Office of Justice Fund's website.¹²

Other channels for seeking legal aid include:

- 1) For legal aid provided by the Office of the Attorney General: due to the present COVID-19 pandemic, the Office of the Attorney General has 7 channels available for application of legal aid, which include via its official website (www.ago.go.th), email (lawaid@ago.go.th), LINE application, FaceTime, Facebook, Cisco WebEx Meeting, and the hotline 1157;¹³

⁹ Although broad, this is the eligibility criteria stipulated by the Lawyers Council of Thailand to open for interpretation to provide legal aid. "Suffering an injustice" should include all sorts of injustice that the applicant may have faced, including but not limited to matters on civil rights, criminal cases, and legal transactions, for example contract-related matters, transactional matters, court proceedings, and dispute resolution. The legal aid also covers law, custody, witness/victim support, criminal defence, and other matters on a case-by-case basis. The Lawyers Council of Thailand as well as other organizations do not have criteria that expressly exclude refugees.

¹⁰ https://www.laf.org.tw/ifla2014/en/download/Report_Thailand.pdf; <https://jfo.moj.go.th/page/people.php>

¹¹ <https://www.governmentcomplex.com/detail.php?p=2815>

¹² <https://jfo.moj.go.th/page/people.php>

¹³ <https://www.lawyerscouncil.or.th/2019/2020/04/02/4-2-1/>

- 2) For legal aid provided by the Office of Judicial and Legal Affairs, the Court of Justice: By calling 02 541 2297; and
- 3) For legal aid provided by the Lawyer Council of Thailand: the applicant may go directly to the Lawyer Council of Thailand or the applicant may seek legal aid via LINE application or hotline 1167.¹⁴

Given that there is no specific law pertaining to the provision of legal aid to the Target Group, there are no clear stated obligations for individuals once they are found to be eligible for legal aid. Because legal aid is provided on a case-by-case basis it is within the authorities' discretion to decide what steps are to be taken following the consideration of the applications for legal aid.

Based on our discussion with some of the organizations, exceptions are made for the Target Group on a case-by-case basis and it is within the discretion of such organizations providing legal aid.

Process of Providing State-Funded Legal Aid

Legal aid in the state sectors is provided through the Court of Justice, the Office of the Attorney General, the Lawyer Council of Thailand, and the Ministry of Justice. However, there are no records or information as to whether legal aid has been provided to the Target Group.¹⁵ The legal aid is provided through the personnel of these organizations; however, there may also be volunteers in some cases, such as the Court of Justice partnering with volunteer lawyers and non-profit organizations to provide volunteer lawyer services.

Funding of State-Funded Legal Aid

The majority of the legal aid funding is from the government's fiscal budget, which is overseen by the Ministry of Justice. In addition, legal aid is also state-subsidized.¹⁶

¹⁴ <https://www.lawyerscouncil.or.th/2019/2020/04/02/4-2-1/>

¹⁵ Ibid; <https://www.lw.com/admin/Upload/Documents/Global%20Pro%20Bono%20Survey/pro-bono-in-thailand.pdf>

¹⁶ https://www.parliament.go.th/ewtadmin/ewt/parbudget/download/article/article_20191213151406.pdf, pg 79
https://www.parliament.go.th/ewtadmin/ewt/parbudget/download/article/article_20191213154803.pdf, pg 9
https://www.parliament.go.th/ewtadmin/ewt/parbudget/download/article/article_20191213155126.pdf, pg 1

Barriers

Availability of Interpretation/Translation Services

The availability of interpretation/translation services depends on the specific organization that is providing the legal aid. For instance:

- 1) The Ministry of Justice and the Lawyer Council of Thailand have interpretation services. We note that these services are not always provided free of charge.
- 2) There have been records of free interpretation services being provided by the Office of the Attorney General, such as for the Yawi language in the Southern region of Thailand.¹⁷
- 3) The Court of Justice has standby court interpreters or volunteer interpreters in various languages, such as English, French, Japanese, Chinese, etc. that provide interpretation services in court proceedings and hearings.

Geographic Limitations

The organizations providing state-funded legal aid do not have offices in rural areas. Those in rural areas have to rely on other modes of communication, including telephone and mobile applications.

Other Barriers

There may be communication barriers for the Target Group as there is no centralized system or easy access to information on the availability of interpretation services in a particular language. Further and related to the geographical barriers, there may also be a barrier of access to legal aid if members of the Target Group do not have phones or mobile applications.

NON-STATE FUNDED LEGAL AID

Eligibility, Nature and Scope

Eligibility of Asylum-Seekers, Refugees and Stateless Persons

Asylum seekers, refugees, and stateless persons can access non-state funded legal aid for non-asylum related matters depending on the services provided by the relevant non-governmental organizations (“NGO”). These NGOs can be separated into 2 groups: the first group focuses on refugees along the borders (i.e., Committee for Coordination of Services to Displaced Persons in Thailand (“CCSDPT”) and International Rescue Committee (“IRC”)) and the second group focuses on urban refugees (i.e., Center for

¹⁷ <https://www.banmuang.co.th/news/politic/95176>

Asylum Protection (“CAP”), Refugee Rights Litigation Project (“RRLP”), Asylum Access Thailand (“AAT”), and the Coalition for the Rights of Refugees and Stateless Persons (“CRSP”). Examples of non-asylum services provided by the NGOs include the following:

- 1) CAP assists asylum-seekers or refugees experiencing arrest, domestic violence, sexual and gender-based violence, and other protection concerns;
- 2) CCSDPT provides support relating to education, food, livelihood, and psycho-social health;
- 3) RRLP mainly provides support on legal issues such as arrest, labour exploitation, detention, or bail issues for the Target Group;¹⁸
- 4) IRC provides, among other things, medical care of the Target Group, with particular focus on pregnant women, babies, and children;¹⁹
- 5) AAT primarily focuses on helping urban asylum-seekers or stateless persons in filing for refugee status with UNHCR and providing complimentary pathways for persons in need; and
- 6) CRSP as a working group of many NGOs working on urban refugee issue comes together to help raise the bargaining power of NGOs when negotiating with the Thai government in providing laws or protection to the target group. For example, the policy advocacy sub-working group has been working with the relevant government agencies to offer technical support and to ensure that the NSM to distinguish refugees in need of international protection from economic migrants is implemented in line with international standards.

Exceptions can be made on a case-by-case basis depending on each organization’s policy and the assistance required. Based on our research, given the nature and circumstances that the Target Group is in, these organizations are quite willing to make exceptions for the Target Group in order for the individuals to obtain the required assistance.

Scope of Non-State Funded Legal Aid

Asylum seekers, refugees, and stateless persons themselves can access non-state funded legal aid by contacting organizations such as UNHCR, AAT, CAP, Jesuit Refugee Service (“JRS”), CCSDPT, RRLP, IRC, CRSP, and other NGOs working directly for the benefit of the Target Group on asylum-related matters.

Other than the direct access to legal aid available to the Target Group, there is also indirect access to legal aid provided by most international law firms in Thailand who would mostly be contacted by the UNHCR and other NGOs to help conduct research for asylum-related matters. With respect to universities, there are also pro bono activities such as Thammasat University Pro-bono Club, Chulalongkorn LAW S.O. Society, and the

¹⁸ [RRLP - Refugee Rights Litigation Project - Home | Facebook](#)

¹⁹ [Thailand | International Rescue Committee \(IRC\)](#)

Asian Law Students' Association in Thailand, which organize workshops, seminars, and interviews on refugees, statelessness, and asylum-seekers in order to help raise awareness about the Target Group's issues in Thailand.

Structures and Procedures

Process of Obtaining Non-State Funded Legal Aid

The organizations listed above (e.g., UNHCR, AAT, CAP, JRS, RRLP, and IRC) are accessible by members of the Target Group by simply making a phone call or arranging a face-to-face meeting. Subject to the specific type of assistance required, generally speaking, there is no fixed procedure or requirement (e.g., documentation) for members of the Target Group to obtain access to these services.

Process of Providing Non-State Funded Legal Aid

There are no specific restrictions for providing legal aid services apart from general regulations for appointing lawyers in court under Thai Lawyers Act B.E. 2528 (i.e., lawyers representing a client in court must obtain a lawyer's license).

Funding of Non-State Funded Legal Aid

Both asylum-related and non-asylum-related services are mostly funded by donations, fundraisings, private contributors, and government grants. For example, Asylum Access Thailand is primarily funded by private grants, donations, and fundraising.²⁰

Barriers

Availability of Interpretation/Translation Services

The limited availability of translation and interpretation services is one barrier to accessing non-state funded legal aid.²¹

Geographic Barriers

Although most of the organizations that provide non-state-funded legal aid have offices located in Bangkok, members of the Target Group can seek help by consulting via telephone call. There are also nine refugee camps along the Thailand/Myanmar

²⁰ [Financial Information and Ratings | Asylum Access](#)

²¹ Although some NGOs can provide translators to help communicate with the Target group, the number is limited and insufficient to address all the Target group's issues in a timely manner. Other NGOs cannot provide translators and rely on Target group members bringing their own translators.

border²² in rural areas, which provide legal aid for asylum and non-asylum matters. However, sometimes members of the Target Group may need to travel to Bangkok by themselves for interview appointments or to obtain formal documentation from the relevant organizations' offices in Bangkok. For instance, an asylum-seeker who wishes to apply for refugee status with UNHCR must travel to Bangkok to submit the application by him- or herself.

Other Barriers

Some of the other key barriers limiting access to the non-state funded legal aid include:

- 1) Limited awareness/lack of recognition of asylum-seekers' and refugees' status by the local authorities such as the police.
- 2) In practice, Thai authorities do not distinguish between asylum-seekers, refugees, stateless persons, and illegal migrants,²³ which leads to inappropriate treatment and improper advice for the affected persons to access the right help from non-state funded organizations.
- 3) Lack of financial means resulting in members of the Target Group not having the required communication devices (e.g., phones and computers) or the ability to travel in order to seek help from the NGOs.
- 4) Lack of NGOs' capacity in representing the Target Group fully in legal proceedings – for instance, the lack of translators' capacity to help represent Target Group members in court, as the NGOs (such as UNHCR and AAT) are often rely on translators who are also refugees themselves, and who might fear arrest under immigration law charges if they appear in court.
- 5) Lack of NGOs' capacity in representing the Target Group fully in a special legal proceeding, such as in juvenile courts. NGO staffs would not have the required license (such as Child Legal Consult license) to help represent Target Group members in such courts, if they are minors.

SOURCES

- UNHCR Thailand
- The Equal Rights Trust, "The Human Rights of Stateless Rohingya in Thailand" (<https://www.equalrightstrust.org/ertdocumentbank/The%20Human%20Rights%20of%20Stateless%20Rohingya%20in%20Thailand%28small%29.pdf>)
- "Refugee Status Determination (RSD) Practices in Thailand," Ms Yonradee Wangcharoenpaisan (http://tiara-tu.ac.th/uploadFiles/143101_8c98a682e20facbd8b1db05542304500.pdf)
- Asylum Access Thailand (AAT)

²² [CCSDPT](#)

²³ [The New Humanitarian | Thailand refugee policies trap asylum-seekers in immigration detention limbo](#)

- Human Rights and Development Foundation (HRDE)
- Center for Asylum Protection (CAP)
- Jesuit Refugee Service (JRS)
- International Rescue Committee (IRC)
- Committee for Coordination of Services to Displaced Persons in Thailand (CCSDPT)
- Refugee Rights Litigation Project (RRLP)
- Coalition for the Rights of Refugees and Stateless Persons (CRSP)
- Court of Justice
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- Thailand National Report on Legal Aids
(https://www.laf.org.tw/ifla2014/en/download/Report_Thailand.pdf)
- Office of Justice Fund, Ministry of Justice
(<https://jfo.moj.go.th/page/people.php>,
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- Latham & Watkins, “Pro Bono Practices and Opportunities in Thailand”
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This document is part of a collaborative, multi-jurisdictional research project on the availability of legal aid to refugees in Asia for use by refugees, other displaced people, and the lawyers and organizations that work with them. It was compiled by Linklaters and provides information on both state and non-state funded legal aid in Thailand.

Law firms participating in this research are not liable toward third parties for the accuracy of the general information contained in this guide. The memorandum is not intended to provide, nor should it be relied on, as legal advice. Legal advice should be sought for any specific individual circumstance. If you find any inaccuracies in this document, please inform PILnet at grfpledge@pilnet.org.

If you are an individual seeking further information and contact details about legal aid providers in Thailand, please see the country page for Thailand on [Rights in Exile](#) or [UNHCR's Help](#) platforms.

If you are an organization seeking to be matched with free legal assistance for your organization or your refugee clients, please click [here](#) to learn more about [PILnet's Refugee Legal Assistance Matching Mechanism](#).