

# Stateless persons from Thailand in Japan

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## The difficulties faced by stateless persons from Thailand in Japan show only too clearly that the international legal framework for their protection is inadequate.

From around 1990 there have been people illegally entering Japan from Thailand. Though born and brought up in Thailand, they have no Thai nationality as their parents were 'Indochinese refugees' escaping the first Indochina War (1946-54).

As their parents were born in Vietnam or Laos – where nationality laws work on the principle of *jus sanguinis* – they should have the right to nationality there. But many of those who fled Vietnam and Laos in the confusion of wartime have now passed away in Thailand, having shared little information on their own birthplaces with their children. It is therefore tremendously difficult for the refugees' children to retrace their parents' footsteps or find relevant official documents. In addition, many official records were lost during the war and the post-war period, and naturally neither Vietnam nor Laos holds either official or unofficial records of the birth and existence of refugees' children born in Thailand.

In these circumstances it is almost impossible to expect that Vietnam or Laos should grant citizenship to them. They are *de facto* stateless persons whose situation is not dissimilar to that of *de jure* stateless persons. That is, for most of the Vietnamese and Lao refugees' children, it is often too difficult to prove their ties to Vietnam or Laos more than 50 years after their parents' flight.

In Thailand, which has not signed the 1951 Convention, 'Indochinese

refugees' (most of whom are anyway not 'convention refugees') and their children have very restricted freedom of movement, have limited access to education, cannot get permanent jobs at fair wages without Thai nationality and lack access to many of their basic rights. This is why some decide to enter Japan illegally in order to find work. As the Thai government will not provide the documentation which would permit them to travel abroad, they bought the assistance of illegal brokers who provided passports with false Thai names. With no legal residence status, they live in continual fear of arrest by the Japanese police or the Immigration Bureau. They work illegally for low wages with no access to welfare or even health services. Many of them mistakenly believed that, if arrested and deported from Japan, they would be able to return to Thailand despite not having Thai nationality.

The Immigration Bureau did indeed arrest and detain a number of them in preparation for deportation. However, they cannot be deported to Thailand or any other country as they have no state to which they belong. Without access to public records in Vietnam or Laos as evidence of their nationality there, the children have no way to prove that they are Vietnamese or Lao. And even if Vietnam or Laos did accept them, life would be very difficult; having been born and brought up in Thailand, almost all of their family members now live in Thai society and they have few, if any, links elsewhere.

While the Immigration Bureau slowly came to realise that there was nowhere to deport them to, many have wasted months or years in detention. After arrest they may be detained for months or years before there is any possibility of them being temporarily released. And even then they are still prohibited from working, which means they have to keep breaking Japanese law in order to work illegally to survive.

Thailand changed its nationality law in 1992 and decided to give Thai nationality to the children of Indochinese refugees if they apply for it in Thailand. However, the refugees' children who had come illegally to Japan are not able to return to Thailand in order to apply for Thai nationality. Many were not even aware of the possibility of doing so – and so lost the best chance they might have to gain an effective nationality.

## Recommendations

Japan should issue all such *de facto* stateless persons with a Special Permission for Residence (SPR); they would then be free to work legitimately for proper wages, access health services and bring up their children as they would hope to do.

UNHCR should work with the Japanese and Thai governments to help secure SPR for them in the short term and Thai nationality in the long term.

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