



Urgent report

Pakistani Asylum Seekers in Bangkok;

Don't turn them back!

April 2015



A report by Human Rights organisation **Jubilee Campaign**,
in cooperation with **Farukh Saif Foundation**

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Key Issue

Asylum seekers in Thailand have to wait up to 3,5 years for their case to be processed by the UNHCR. For some time the government has been arresting and incarcerating asylum seekers in the Immigration Detention Centre where circumstances are inhumane, however due to these delays, new problems have arisen.

The delays cause the visas of the asylum seekers to expire, making their stay in Thailand illegal. Unfortunately most of the asylum seekers have insufficient funds to continuously renew their visa. However because the asylum seekers are staying in the country illegally, the government has commenced with arresting asylum seekers under the criminal law.

The circumstances in the Central Jail are more heinous and the asylum seekers are vulnerable to extortion and bribery. No exceptions or special treatment is given to women or children.

1. Examination Pakistani Asylum Seekers in Thailand



Thailand is a country of temporary refuge to approximately 7,600 asylum seekers, according to January 2015 statistics published by the U.N. High Commission for Refugees (UNHCR). Approximately 4,000 of these asylum seekers are Pakistani Christians. The UNHCR expects the group to expand to 11,500 asylum seekers by December 2015. For some time asylum seekers have been arrested by the Thai government and taken to the Immigration Detention Centre (IDC).

The IDC is a place where people, including men and children are being treated inhumanly, according to the Human Rights Watch report from 2014.¹ However recently the Thai police has started arresting asylum seekers and penalizing them under the criminal penal law of Thailand as well, incarcerating them together with criminals in the Central Jail while making no exceptions for women and children. The circumstances here are even more worrisome in comparison with the IDC, making the asylum seekers victim of more insecurity and fear.

Several years ago there had been a steady number of asylum seekers to Thailand with relatively short waiting periods of mere months between submitting their applications for refugee status and their Refugee Status Determination (RSD) interview conducted by the UNHCR. Currently, an estimated 4,000 Pakistani Christian asylum seekers await interviews with the UNHCR office in Bangkok, and the waiting period from their application to their RSD interview can be 3 and a half years or more. Due to these delays the asylum seekers are facing the expiration of their visa, making their visit illegal. As a consequence these asylum seekers are vulnerable for arrests under criminal law and they have to find financial resources in order to extend their visa, which for many is impossible. It also makes them vulnerable for extortion and bribery.

1 HRW, Two Years with no Moon, September 2014.

At this moment, the prevailing atmosphere amongst the asylum seekers is one of fear, particularly since March 13 when the Thai government conducted a mass raid and arrest of 121 Pakistani Christian asylum seekers from their apartments.

Global Overview of the Situation

On March 2, 2015, two Pakistani Christian asylum seekers were suddenly arrested by Thai police. Sporadic arrests seem to be taking place nearly every day since then, with a report from the Farrukh Saif Foundation listing the arrests of 54 adults and 8 children from March 2 -11. During our visit on March 25, Thai police raided the kitchen and arrested three of the volunteer staff members of the Pakistani Christian NGO, the Farrukh Saif Foundation, who cook meals for the asylum seekers held in the Immigration Detention Center (IDC). Many of the asylum seekers arrested in the police sweeps are Pakistani Christians.

The consensus view is that the crackdown and arrests are targeting all of the asylum seeker communities, although they seem to have rounded up primarily Pakistani Christians because of the ease in identifying them by their features, the large numbers of them amongst the asylum seeker population and the fact that the Pakistanis live together in the same housing units. It also appears that the government wants to discourage future Pakistani asylum seekers to come to Thailand.² One man we interviewed stated, “They are trying to arrest us and to oppress the refugees as an example.”



*Ann Buwalda (Jubilee Campaign - left) and Prof. Dr. Rainer Rothfuß (Internationale Gesellschaft für Menschenrechte - right) listen to the stories of asylum seekers from Pakistan, some of them with family members who have recently been jailed.
© Christian Asylum Seekers Association, Thailand.*

² Note that in August 2014, Sri Lankan authorities suddenly began arresting and forcibly returning to Pakistan Christian and Ahmadiyya asylum seekers. This deterrent has reduced the number of Pakistanis who have fled to Sri Lanka, and may explain the increased number of Pakistanis who have come to Thailand in recent months.



The men have their heads shaved and their legs are chained with to shackles that have been bent around their ankles. In the pictures an out of focus shot of the leg shackles and the heavy chains that the asylum seekers are forced to wear.

Several asylum seekers we interviewed reported that in December 2014 and February of this year, Thai authorities raided two Nigerian, English-speaking churches in the Bangkok area while the congregations were worshipping on Sunday morning. During the February raid of Christ Favors Church, the authorities arrested and jailed 10 Pakistanis and 40-45 Nigerian Christians. This information indicates that although the March arrests of asylum seekers is larger in scale and in apprehending numerous Pakistani Christians, the policy of arresting asylum seekers was being implemented even earlier.

The general pattern for asylum seekers from Pakistan who enter Thailand seems common for many other nationalities. Either individuals or often entire families enter Thailand with a legal visit visa. All of them receive the visas from the Thai Embassy in Pakistan or through a travel agency. From our random interviews of numerous asylum seekers, there appears to be no evidence of human trafficking or the use of brokers for these Pakistani people to come to Thailand. Most of the arrivals promptly go to the UNHCR office to register that they will submit a refugee application. Shortly after registering, the UNHCR issues a registration paper which contains the name, short biographical information, and photograph of the applicant.

However, the asylum seekers report that the Thai authorities who undertake the raids and arrests refuse to acknowledge any value or status conferred by these documents. When we met with the UNHCR staff, we were told of a plan to issue cards instead of the paper documents to asylum seekers. The Thai authorities are unlikely to honor cards either. The Thai government points out that their legal framework as a country which has not signed the 1951 Convention Relating to the Status of Refugees does not provide recognition to any UN-issued documents, at least until the UNHCR has approved an asylum seeker's case. The Thai government views anyone who has overstayed his or her visitor visa as an "illegal alien" and subject to being arrested and fined. Also, since Thailand is not a signatory to the 1951 Refugee Convention or the subsequent 1967 Protocol, it has no legal framework in which an asylum seeker is allowed to remain in Thailand for protection.

Legal Procedure for Arrested Asylum Seekers:

The Thai government seems to arrest asylum seekers with the intention to either detain them in an IDC or to detain them in the Central Jail under the criminal judicial law. Most worrisome are the arrests under the criminal judicial law because they are tried and seen as criminals and not as asylum seekers. Their crime constitutes their illegal stay in Thailand due to the expiration of their visa. Waiting for an interview at the UNHCR and having documents to prove this does not cease the police from arresting them. The asylum seekers are being criminalized due to circumstances they cannot influence (the delays at the UNHCR), and now making them vulnerable for incarceration with criminals, under circumstances worse than those in the IDC.

After the arrests the apprehended refugee seekers are first held in the Central Jail of Bangkok, where conditions are degrading and inhumane. Overcrowding seems to be a rampant problem in that jail, and adding the asylum seekers to the general prison population makes the human suffering even worse. Some whom we interviewed reported that men and women are separated. Sometimes children go with their mother, but some children have been separated and given to relatives on the outside or even lost. We learned about one story of a mother forced by the Thai police to sign a Thai language document which she could not read or understand. When she asked why her baby was taken away, she was told that she had signed a document giving her child to the Thai authorities. When she said that she did not know what she signed, she was told that this did not matter or change how her baby would be treated.



Jubilee Campaign had the opportunity to be present at the court case against 40 asylum seekers who have been jailed. These women have been separated from their husbands who have been imprisoned as well. Some of them are unaware of the whereabouts of their children who were taken away almost 3 weeks before this picture was taken in the courts jail.

We learned in our interviews that at the Central Jail, the asylum seekers are placed in cells with people being held for serious crimes. The men have all of their hair shaved off, and at night they are forced to remove all of their clothes. The men sleep in small cells, some of them are 4 by 4 meters in size, with 80 or more prisoners in the cell. The men have to lie down like sardines, or take turns standing and sleeping on the ground. The conditions for the women are not much better, except that their hair is not shaved off or their clothes removed. Mothers incarcerated with babies or small children are separated from them from 4:00 pm at night until 7:00 am, even if they are breast feeding.

While incarcerated at the Central Jail, although it is not clear how quickly, the asylum seekers are allowed to be presented before a Thai judge. The criminal charges as an illegal alien are for overstaying the visa, and the judge requires that a fine be paid. The fines range from 2,000 to 4,000 Thai Bhat, depending upon how long the person has overstayed.

Two of our investigative team members attended one of these court sessions on Wednesday, March 25, during which the cases of 40 of Christian Pakistani asylum seekers had their cases heard. They observed that the men were brought into the holding cells with shackles around their ankles and wrists. The shackles were hammered together in the style of ancient slavery restraints. The men and women remained in separate holding cells. Upon a man being brought before the judge, he remains shackled in the holding cell area, and he is presented by video to the judge. The court provides no official interpreter from Thai language to English or to Urdu, the language most Pakistanis speak. A type of negotiation takes place with the judge



The investigative team at the UNHCR. From left to right; Prof. Dr. Rainer Rothfuß, Ann Buwalda (with bag), Andrea Tokaji, Peter Bronsveld and two team members of the Farrukh Saif Foundation on the right.

and an unofficial representative from the Pakistani Christian community who “interprets” to the prisoner in front of the video. Our team members even observed a Thai lady, “Wendy,” who seemed to be negotiating with the judge the terms of the fines, and also seemed to be collecting bribes.

Once the fine is paid, the prisoner is transferred to the Immigration Detention Center (IDC) where he or she is placed back into the asylum circuit instead of being criminalized under the Penal Code. We learned of no exceptions to this process of transferral to the IDC by Thai authorities. Once at the IDC, the detentions of the asylum seekers can be lengthy, often extending beyond one year. The UNHCR does give priority to providing interviews to asylum applicants held in the IDC, and in the past the interviews waited two months to be scheduled. However, due to the volume of applicants being held in the IDC, interviews are taking place in an extended timeframe. No one wants to be in these centers just to have an accelerated interview, since the conditions are only slightly improved from those of the Central Jail. There are reportedly 70-80 people held in cells which are 15/15 meters.

The UNHCR interview which the asylum seeker need is known as the Refugee Status Determination or RSD interview. Due to an increasing influx of cases to Thailand in the course of the past few years, the UNHCR is now understaffed with RSD officers to handle cases in a timely manner. Cases are now taking three and a half years for the interview date.

After the interview, the decision will take another 90 days to be issued. Some of the delay is due to efforts by the UNHCR to verify the claims of the asylum seeker. The 90-day period also applies to interviews of detainees at the IDC. After a RSD approval for refugee status, it would normally take another one year or more for resettlement to take place. For those denied the RSD there is an appeals process taking years more.

During that one year period, approved refugees are permitted by Thai authorities to obtain release of up to 18 months from the IDC through the payment of a bail bond, which reportedly is 50,000 Bhat (approx. 1,600 USD). Some of the bailed asylum seekers whose 18 months are expired must renew this. Upon the refugees departure from Thailand, that bail bond is returned. Independently obtaining the bond is difficult because the refugees have most likely expended their savings long before that point, will have no access to income since they are not allowed to work, and will be restricted from communicating with relatives to borrow the bond sum.

Subsequently the very small number of Christian Pakistani refugees who are resettled has been noted. This is in contrast to the apparent shorter timeframe for Ahmadiyya asylum seekers from Pakistan, who reportedly receive interviews and resettlement arrangements more quickly. Some of the local NGOs working with the refugees told us that it is rare that Christians are approved and resettled.

Since the Thai government is not a signatory to the 1951 UN Convention Relating to the Status of Refugees, it can deport these apprehended asylum seekers. It can also deport asylum seekers whose cases have been denied. To our knowledge and based upon extensive interviews, there have not been any deportations so far. However, we were warned by a knowledgeable source that the Thai government was planning to deport 100 refugees from the IDC.



At the Immigration Detention Center.



During these long waiting periods, asylum seekers are not allowed to work. Only a small number of churches and NGOs provide assistance to the asylum seekers. One of the newer groups providing such assistance is the Farrukh Saif Foundation.

The perception amongst the Christian Pakistani asylum seekers is that the UNHCR is treating Ahmadiyyas better than Christians but worse than Syrians and Somalis. The Ahmadiyyas simply need to say that they are viewed in Pakistan as irreligious, and they are granted an interview. We need data to prove that this is a problem, but the UNHCR staff told us that they were unable to provide this type of data. Some Urdu interpreters within the RSD are Pakistani Ahmadiyyas, and the Christian applicants believe that the interpreting often is in error. Asylum seekers claim that denials are very shallow and without sufficient evidence.

Asylum seekers are sometimes perceived as “economic migrants,” an idea vehemently rejected by Pakistani Christians. They say that they not only entered Thailand legally, but that they had jobs, homes and cars in Pakistan which they left behind, provoked to flee after being singled out in a blasphemy case or other types of attacks by Muslim extremists. Pakistan is rated as number eight in a persecution index of religious minorities. PEW research ranks Pakistan as the second worst in societal persecution.



We interviewed one eyewitness who described one of the raids. On March 13, 2015, the Thai police came with military personnel and with fire arms to raid Pakistani Christian apartments in the Samrong area of Bangkok. These personnel kicked in the doors of the small apartment. The eyewitness’s brother showed a document indicating a valid student visa. However, his wife, his two year old child and four year old child were arrested and taken away because they could show no visa status. The police and military rounded up approximately 140 people in this raid, and authorities took half of them to the Bangkok Central Jail and half to the IDC.

By the time of our visit at least 29 who had been in the Central Jail were already brought to the judge for review of their criminal cases and sentencing of fines. The representatives we interviewed told us the story of an elderly Pakistani Christian lady with high blood pressure who was only given sleeping pills in the jail. The food in the Central Jail is dirty and unhygienic. In the jail cells, there is no privacy when using the toilet. Men are shackled. So far many of the detainees in the Central Jail had not been given any case numbers. The detainees do not know the Thai language. The one organization which provides legal support is Asylum Access Thailand. The Jesuit Refugee Service (JRS) formerly provided legal assistance but does not do so anymore in Bangkok. Regrettably, we were unable to meet with representatives of either of these organizations during our short stay in Bangkok.

Another NGO which pays for local Thai lawyers to assist the asylum seekers is the Farrukh Saif Foundation. It became legally registered to operate in Bangkok in 2014. This Foundation also pays fines and detention center bails for many of the asylum seekers. This foundation is funded by a Christian Pakistani businessman. Its staff in Bangkok assisted our team in attending the court hearing on the 25th of March, as well as visiting with detainees at the IDC.



The staff of the Foundation reported to us that on the 13th of March, 121 people were arrested from Samrong area of Bangkok. Members of the Foundation who are themselves Pakistani Christian asylum seekers called the UNHCR requesting help because they do not know the Thai language. Initially, the UNHCR declined to come and assist. The Foundation staff asked the police to release women with babies, and they rescued 24 children of the 44 children being held in the Central Jail. The UNHCR staff called the police authorities and obtained information, but did not go and visit the detainees.

Pakistani asylum seekers reported that there are no Christian interpreters for the UNHCR interviews. They have no opportunity to request a replacement for a potentially biased interpreter because doing so will cancel the interview date and cause the applicants to wait longer for an interview.

All asylum seekers take daily risks by traveling outside their apartments because they may be found on the street and arrested. Some churches and NGOs are distributing food to the doorsteps of the asylum seekers' homes. They are too fearful under the current circumstances to go to the markets and purchase food or other necessary items. The asylum seekers we met with noted that Pakistanis are accused of being too loud, especially at night. Neighbors have complained about them, and the police came to arrest them.

The UNHCR reportedly has 5 field offices in Thailand, with 153 national staff, and 36 international staff who need to process all general refugee and asylum issues in Thailand, which is not sufficient to handle the workload. More staff should be hired to process the backlog.

Incentive of arrests

Why the government commenced with arresting asylum seekers remains uncertain. However we did receive information from a local NGO stating that in late 2014, Thailand was shamed by the United States Department of State Trafficking in Persons Report, which placed Thailand at the lowest Tier possible for Human Trafficking. In response, the Prime Minister of Thailand has vowed to crack down on human trafficking, announcing various policy initiatives to do so. One consequence we might be seeing on the ground in Thailand, is that the authorities are locking up anyone they perceive are part of trafficking.

2. Legal Framework

General Legal Overview

This information is abstracted from three reports:

- HRW, *Two Years with no Moon*, September 2014
- UNHCR, *Analysis of Gaps in Refugee Protection Capacity Thailand*, November 2006
- *Asylum Access, Boat People SOS and Conscience Foundation, UNHCR Protection Challenges for Urban Refugees in Thailand: Report and Recommendations*, April 2009

Thailand is not a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and thus has no procedure for determining refugee status for urban asylum seekers, and has made no commitment to provide permanent asylum. Consequently UNHCR undertakes refugee status determination (RSD) for asylum seekers in the absence of a government mechanism and recognizes some as refugees.³ UNHCR however has no authority to grant asylum. For the last two decades NGOs have been the prime providers of assistance to refugees in Thailand.⁴ Due to budgetary constraints, in 2009 only three UNHCR Thailand RSD eligibility officers were deciding refugee cases. Eligibility officers are still working under considerable pressure with a heavy caseload.⁵

Because Thailand does not have specific legislation or administrative mechanisms governing asylum and refugee affairs, the policies that impact refugees are formulated by different executive bodies concerned with national security such as the National Security Council (NSC), the Ministry of the Interior (MOI) and the military. These policies tend to be adopted in an ad hoc manner in response to specific circumstances.⁶

According to the provisions of Thailand's Immigration Act, persons entering the country without proper authorization are in breach of the law and therefore subject to arrest, detention and deportation. These provisions may be applied against refugees and asylum seekers, and no distinction is made between the two groups, except those for whom specific executive decisions apply.⁷ Due to this fact the group continuously risks being detained either while attempting to cross the border into Thailand or once within Thailand. Those arrested from countries that border Thailand frequently are informally deported back to their countries of origin. Detained refugees from countries that do not border Thailand must remain in detention until resettlement is secured, which can mean indefinite detention.⁸ In Bangkok the Pakistani asylum seekers were taken to the Immigration Detention Centre where they had to wait until the UNHCR handled their case. This would take about 2 months. After that, the decision of the UNHCR would take another 90-days to be issued. After a RSD approval for refugee status it would normally take another one year or more for resettlement to take place. During that one year period, approved refugees are permitted by Thai authorities to obtain release of up to 18 months through the payment of a bail which reportedly is 50,000 Bhat (approx. 1,600 USD). Some of the bailed refugees whose 18 months are expired must renew this release. Upon the refugees departure from Thailand, that bail bond is returned.

³ HRW, *Two Years with no Moon*, September 2014, p. 8.

⁴ UNHCR, *Analysis of Gaps in Refugee Protection Capacity Thailand*, November 2006, <http://www.unhcr.org/457ed0412.pdf>

⁵ *Asylum Access, Boat People SOS and Conscience Foundation, UNHCR Protection Challenges for Urban Refugees in Thailand: Report and Recommendations*, April 2009, p. 2.

⁶ UNHCR, *Analysis of Gaps in Refugee Protection Capacity Thailand*, November 2006, p. 8, <http://www.unhcr.org/457ed0412.pdf>

⁷ UNHCR, *Analysis of Gaps in Refugee Protection Capacity Thailand*, November 2006, p. 8, <http://www.unhcr.org/457ed0412.pdf>

⁸ UNHCR, *Analysis of Gaps in Refugee Protection Capacity Thailand*, November 2006, p. 4, <http://www.unhcr.org/457ed0412.pdf>

Even asylum seekers who voluntarily repatriate or who are approved for resettlement, if they are illegal immigrants under Thai law, must pay an overstay fine, or spend time in immigration detention. This creates a challenging operating environment for UNHCR and makes it very difficult for UNHCR to fulfill its protection mandate.⁹

“The police have arrested me three times. Each time I show them my UN certificate, but they don’t care. They tied my hands behind my back and took me to the police station, and then took all my money.”¹⁰

“If the police arrest us and we bribe them, they might release us or they might take us to immigration detention anyway. Some people have had to give their necklaces, earrings and bracelets to the police.”¹¹

Most urban asylum seekers in Thailand live a precarious existence: unable to work or send their children to school, financially stressed, dependent on ad-hoc charity to survive, at risk of exploitation and constantly worried about being arrested and detained indefinitely in abysmal conditions in immigration detention. Many asylum seekers, particularly Africans, face discrimination, as well as harassment and extortion from Thai authorities.¹²

Applicable International Rights

ICCPR:

Thailand is party to the ICCPR which states in articles 7 and 10:

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 10

All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

The Thai government should adhere to its responsibilities under the ICCPR which it is a signatory to. Specifically articles 7 and 10 should be adhered to, stating that no one shall be subjected to inhuman treatment or shall be deprived of their liberty without being treated with humanity and respect for the inherent dignity of the human person.

Given the circumstances of the detainees as described in the report, a violation of articles 7 and 10 could be identified. Health and medical care are very limited, as well as living conditions in the detention center. The treatment of the men, women and children inside the center is very unsettling as they are being locked up in small rooms often separated from their partners, parents or children. Subsequently the mental status of the detainees are being impaired due to the uncertainty and stress.

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

10 Ivory Coast refugee, community education session, November 2008. Taken from report: Asylum Access, Boat People SOS and Conscience Foundation, UNHCR Protection Challenges for Urban Refugees in Thailand: Report and Recommendations, April 2009, p. 3.

11 Sri Lankan extended mandate refugees, draft letter to UNHCR Thailand, December 2008. Taken from report: Asylum Access, Boat People SOS and Conscience Foundation, UNHCR Protection Challenges for Urban Refugees in Thailand: Report and Recommendations, April 2009, p. 3.

12 Documented by the UNHCR in Analysis of Gaps in Refugee Protection Capacity Thailand, November 2006 pp 5, 10, 11, 14, 18. Taken from report: Sri Lankan extended mandate refugees, draft letter to UNHCR Thailand, December 2008. Taken from report: Asylum Access, Boat People SOS and Conscience Foundation, UNHCR Protection Challenges for Urban Refugees in Thailand: Report and Recommendations, April 2009, p. 3.

Universal Declaration of Human Rights:

Article 14(1) of the Universal Declaration of Human Rights states that everyone has the right to seek and enjoy asylum from persecution in other countries.

In Thailand the asylum seekers are not able to obtain asylum except by provision through the UNHCR. However due to the delays in the RSD procedure and the (threat of) arrests and detention of the Thai government, it proves to be very difficult for asylum seekers to wait for a decision from the UNHCR. In combination with the fact that they are not able to work during their residence in Thailand and having to hide from the police, some have given up seeking asylum.

Children in Detention

Thailand is party to the Convention of the Rights of the Child (CRC). This treaty states that children have the right to family unity (inter alia, Articles 5, 8 and 16, CRC) and the right not to be separated from their parents against their will (Article 9, CRC). Article 20(1) of the CRC establishes that a child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State. Article 37 furthermore states that children are not detained except 'as a last resort and for the shortest appropriate period of time'. Conclusively article 2 provides the right for children not to be punished for the acts of their parents, legal guardians or family members.

Subsequently, in 2013, the Committee on the Rights of the Child, the body of independent experts charged with interpreting the Convention on the Rights of the Child, to which Thailand is party, directed governments to "expeditiously and completely cease the detention of children on the basis of their immigration status," asserting that such detention is never in the child's best interest.¹³

Furthermore the UNHCR Detention Guidelines¹⁴ state that all appropriate alternative care arrangements should be considered in the case of children accompanying their parents, not least because of the well-documented deleterious effects of detention on children's well-being, including on their physical and mental development. The detention of children with their parents or primary caregivers needs to balance, inter alia, the right to family and private life of the family as a whole, the appropriateness of the detention facilities for children¹⁵, and the best interests of the child.

Article 9

1. *States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.*
3. *States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.*

¹³ HRW, *Two Years with no Moon*, September 2014, p. 1.

¹⁴ UNHCR Detention Guidelines 2012, p.53, <http://www.refworld.org/pdfid/50348953b8.pdf>

¹⁵ *Popov v. France*, (2012), ECtHR, App. No. 39472/07 and 39474/07, available at: <http://www.unhcr.org/refworld/docid/4f1990b22.html>

Article 37

States Parties shall ensure that:

- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;*
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;*
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.*

Subsequently article 22 of the CRC is clear in defining that children who are seeking refugee status are given protection and humanitarian assistance in the enjoyment of applicable rights set forth in the CRC and in other signed treaties.

Article 24 of the Charter of Fundamental Rights states that (1) children's views must be taken into account on issues of concern to them in accordance with their age and maturity; (2) when public authorities or private institutions take measures that affect children, they must consider the best interests of the child; and (3) every child must have the right to maintain, on a regular basis, a personal relationship and direct contact with both of his/her parents, provided this is in the child's best interest.

Other important aspects of the CRC include the right to:

- protection from all forms of physical or mental violence (article 19)
- the highest attainable standard of physical and mental health (article 24)
- special care for children with disabilities (article 23)
- education (articles 28 and 29)
- rest, recreation and play (article 31)
- special assistance for children who have been separated from their parents (article 20)
- practise culture, language and religion (article 30)

Currently there are only few articles related to children that are being fully adhered to. The poor conditions of both the Central Jail and the IDC are seriously impairing the children's development and further prospects for life. We have heard about mothers who were being separated from their breast-feeding children as well as parents in jail who had lost their children during the arrests and were worried for the well-being of their children.

3. Recommendations

- The Thai government should be requested not to arrest asylum seekers on criminal grounds (expiration of visa) nor to detain asylum seekers including women and children in prisons together with criminals. It is important that the asylum seekers remain viewed as asylum seekers and solely are treated under asylum law.
- The deficiency and delays in the process of the UNHCR should be recognized and the Thai government should be asked to assist the UNHCR with its work. In this light they should adhere to article 14 UDHR, stating that asylum seekers have the right to seek asylum in another country. To enable this the Thai government should facilitate an environment which allows the asylum seekers to wait for their case to be processed in a safe environment. This might mean being able to work, security from arrests and detention and access to health care.
- The Thai government should be encouraged to adhere to its responsibilities under the ICCPR to which it is a signatory. Specifically articles 7 and 10 should be adhered to, stating that no one shall be subjected to inhuman treatment or shall be deprived of their liberty without being treated with humanity and respect for the inherent dignity of the human person.
- In light of the very insecure conditions in which the asylum seekers are struggling to survive, the UNHCR interview time for asylum interviews must be reduced. To achieve this, the UNHCR needs additional RSD officer staffing resources and capacity in Thailand. One suggestion is to rotate temporary staff into Bangkok in order to reduce the backlog.
- Given the poor conditions in the IDC as well as in the Central Jail, Thai authorities must be encouraged to utilize alternatives to detention. Alternatives used by countries including Turkey include regular, weekly or bi-weekly check-in with police.
- Consider that an asylum seeker bring a legal test case concerning the Thai detention policies in light of international conventions which Thailand is party to, as well as customary international law which prohibits refoulement (return) to a country of persecution.
- Obtain and review the Memorandum of Understanding between the UNHCR and the Thai government to determine whether additional avenues of cooperation with the Thai government can be gained through the current language in the MOU. Seek additional rights and protections outside of the MOU through new negotiations.
- Detained children are vulnerable to abuse and suffer traumatization with life-long effects from the deplorable conditions in the jail and in the detention center. As Thailand is a signatory to the U.N. Convention on the Rights of a Child, children must be offered an alternative to detention. Moreover, Thailand's detention practices pertaining to children currently violate several articles of the CRC including Articles 37(b), 9, 22, and 2(2). The international community must hold Thailand accountable for these violations, and must encourage Thailand to abide by this convention to which it is a signatory.
- The detention facilities in the IDCs and the Central Jail should be encouraged to abide to 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.

- Families must be kept together as much as possible and alternatives to detention must be provided.
- The Human Rights of Migrants is an important topic considered by mechanisms at the United Nations. Thailand has reportedly sought to regularize other migrant workers. Thailand should consider regularizing Pakistani asylum seekers or at least permit them to work.
- Some of the cases of detained Pakistani Christians could be raised to the U.N. Working Group on Arbitrary Detention in Geneva, particularly the most vulnerable.
- Fast tracking vulnerable cases of individuals and families to humanitarian special consideration processes.



The Farrukh Saif Foundation provides food for the asylum seekers in detention with the support of a network of volunteers

4. Brief summary of interviewed asylum seekers

Cyril has been in Thailand for 15 months and is awaiting an interview anticipated to take place in October 2016. His father is also in Thailand, and due to his health condition the UNHCR has given his interview an earlier date. Cyril is from Lahore and had worked in the NGO sector with HIV and drug addiction cases. He had work in Pakistani religious institutes and was targeted for this work.

Imran has been in Thailand for 14 months and is awaiting an interview anticipated to take place in August 2017. He has two brothers now held at the IDC; they have a family claim so he pleads to be interviewed more expeditiously. His NGO in Karachi was called Helping the Saints Ministry, based out of the USA. He was involved in publishing and printing religious books for Sunday school teachers and youths, and was targeted for his religious work.

Sunny has been in Thailand for 22 months and is awaiting an interview anticipated to take place in May 2015. He worries that they will postpone it, as has been the case with many other asylum seekers before. He was a well-known journalist reporting from Karachi often on incidents of persecution of Christians in Pakistan. Therefore he encountered extremists' attempts to silence him. The attackers had already pointed their gun at his belly in a lively street when the police coincidentally came around the corner and the attackers fled. After he had fled with his wife Joyce and his mother to Bangkok also his brother Steve was threatened by Muslim extremists. Therefore, his brother Steve, together with his wife Sairah and their two children Tarsus (4 years) and Bernadett (2) also came to Bangkok. During the military raids on 13 March 2015 Sairah and her two children were put into prison. Steve was spared as he had a valid student visa in his passport. The following day he was able to get his children out of prison, however the two little ones were quite traumatized and obviously missed their mother. Sairah has been interviewed through the iron bars of the court cell where she had been brought after 12 days in Samrut Prakan Central Jail. She reported on extremely overcrowded cells where approximately two Christian asylum seeking women from Pakistan were kept together with up to 80 mainly Thai women. The cells were around 25 square meters without beds or sleeping mats.

Sonya and **Amber** have been in Thailand for 16 months since November 2013 with their three year old daughter *Princess*. They anticipated that their interview would take place in March 2016. They are from Lahore and she worked there as a nurse in an old age social welfare home. She was the only Christian and the only lady, and she was more educated than her colleagues and superiors on the staff. She was sexually harassed and targeted due to her religious background using fabricated allegations of blasphemy to threaten her. Mid 2014 the family went through a police raid. Both parents had valid visas but couldn't show any passport with a visa for their daughter. The police insisted to arrest the then two and a half year old girl for immigration offenses. When the police insisted father Amber decided to go to jail together with his daughter as he was not willing to leave her alone. Only after two days Sonya managed to free her husband and daughter with the help of a lawyer.

Wahab has been in Thailand for 11 months. He is likely to be scheduled for his RSD in February 2018. He has received no consideration for his quadriplegic handicap, nor was he accorded an earlier interview on the grounds of his need for physical therapy and medication which he cannot afford. He stated that many asylum seekers need medical attention and that some of them have died in Thailand due to the lack of care and medicine. He stated that Jarvis Jerry died because the UNHCR refused to pay for his medical needs. Wahab is from Gujranwala, and his claim is one of forced conversion towards himself and his wife who is with him in Thailand.

Stephen has been in Thailand for 14 months awaiting an interview sometime in 2017. He is from Lahore and said his case is based on conflicts with Muslim attackers .

Muneer has been in Thailand for 1 year and awaits his RSD interview which is scheduled in February 2018. He is also from Gujranwala, and he was taken to a forced conversion center in Pakistan from which he narrowly escaped, after which he fled to Thailand.

Kashif (34) and his wife **Gulshan** (30) are from Karachi. Kashif is a welder specialized on oil drilling platform construction and holds a valid working visa for South Africa where he stayed for a few years to earn money for his family. He had worked in five different countries so far and the family owned a little house in Karachi. Gulshan was a Polio worker in Karachi. Last year rumors were spread among Muslims that Polio vaccinations secretly intended to sterilize young Muslim women. As a Polio worker the mother of three children became seriously threatened by Muslim activists who surrounded her house several times. Therefore, Kashif decided to leave his work place in South Africa, sold the house in Karachi and took the family including the grandfather to Bangkok on 29 October 2013. Thailand is the only affordable place which can be rather easily reached from Pakistan. After several months in Bangkok all savings had been used up and no support was provided by UNHCR to the asylum seekers even though they are not allowed to work nor to send their children to school. The interview date for the family is scheduled for March 2017 which means waiting three and a half years. When the family was subjected to the police and military raids on 13 March 2015 the couple was detained in Samrut Prakan Central Jail. The grandfather who is 60 years old managed to get the 6 and 7 year old daughters out of prison. The remaining child, of around 3 years old was not fed properly and therefore the mother asked the guards to provide better care for him. She was given documents in the Thai language which she should sign, even though she didn't understand what they meant. Then her child was taken away. When she protested the guards told her she had given her permission through signature of the document. The parents met for the first time after 12 days in jail when they had to appear in court. The father had to wear heavy iron shackles with thick chains and without locks around his feet as if he was a dangerous criminal. The couple was very depressed as they didn't have any information about the whereabouts of their small boy, called Joel. The boy had lost 2 fingers when he was 1 year old and he was somewhat handicapped, speaking only a few words in Urdu. He could not be able to tell anyone who his father and mother were. The couple was interviewed through the iron bars of the court cell (audio recording available).

3. Contact details

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