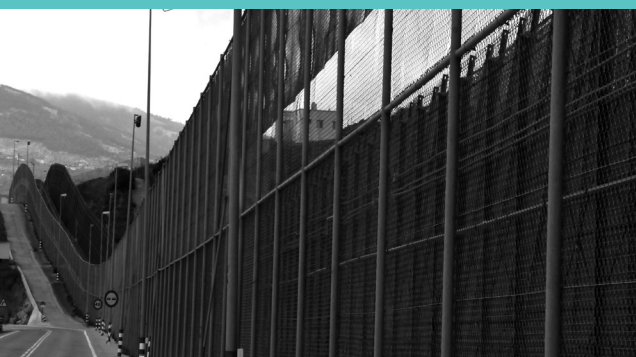


THE INVOLUNTARY IMMOBILITY OF BANGKOK'S URBAN REFUGEES

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MIGRATION & CRISES

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At a time of unprecedented mass displacements across the world, migrants and refugees have come to occupy a central place on the international agenda, as well as in the media and public sphere. This research programme focuses on the relationship between migration and crises, both in terms of conflict and disaster-induced displacements that are occurring in the short and long-term; as well as the crises that have been newly introduced by particular migration, border and integration policies that have fallen short in terms of protecting the human rights and dignity of those on the move. The project focuses on displacement in different geographical regions across the world, with an understanding that these contemporary crises have not emerged out of a vacuum, but are located within particular historical, geopolitical, environmental and cultural contexts. The programme examines the human costs of these crises, as well as the new forms of solidarity that have developed.

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Summary

This report examines the experiences of involuntary immobility of urban refugees living in Bangkok, Thailand. Thailand has not ratified the 1951 Convention or the 1967 Additional Protocol and lacks the legal and administrative mechanisms to identify and protect refugees. As a consequence, Bangkok's refugees are criminalized and regarded as irregular migrants as a matter of Thai law. Caught between an inability to return home and settle in a third country, they live with circumscribed political and legal rights, limited agency, and restricted mobility within the city. This report has three objectives: (1) to conceptualize immobility as a state of being that shapes the rights, agency, and mobility of urban refugees, (2) to broadly describe the immobility experiences of Bangkok's urban refugees, and (3) to explore some of the ways UNHCR, non-governmental organizations, and civil society groups help refugees navigate Thailand's restrictive immigration framework.

Introduction

1. UNHCR defines a protracted refugee situation as one in which 25,000 people or more from the same country have been in exile for five or more years.

2. UNHCR recognizes three durable solutions for refugees, namely: safe and voluntary return, local integration, or resettlement. Less than one percent of refugees are submitted for resettlement.

Urban refugees and asylum seekers often arrive in contexts fraught with neglect and insecurity. While cities theoretically offer significant advantages over rural camps – work is more readily available, services are easier to access, and diaspora communities can be valuable sources of support – in practice, refugees frequently lead clandestine lives in cities.

The growing number of urban refugees and the increasingly protracted nature of refugee crises¹ pushes us to look more closely at the experiences of refugees living in cities like Bangkok. Indeed, recent figures indicate that 60% of refugees and 80% of internationally displaced persons now live in cities (UN Habitat, 2015: 2). And in 2015, UNCHR noted that 6.7 million refugees came from protracted situations, with estimates suggesting that protracted refugee situations last on average twenty-six years (UNHCR, 2015: 20).

This policy report argues that the lives of urban refugees, and urban refugees in Bangkok, Thailand in particular, are best characterized in terms of indefinite and involuntary immobility. Thailand's restrictive immigration framework leaves Bangkok's refugees with limited political and legal rights, constrained agency, and restricted mobility within the city. Many become trapped between an inability to return home and a struggle to integrate locally, and the prospect of moving or being resettled to a third country slim for most². As a consequence, basic livelihoods are impossible to maintain without assistance from UNHCR, non-governmental organizations (NGOs), and civil society groups operating in the city.

This report begins by outlining a general framework for involuntary immobility. Refugees and asylum seekers contend with what the anthropologist Stephen Lubkemann terms a 'multifaceted package of losses'. Social and economic networks, political and legal rights, agency, and cultural moorings are radically transformed because of war. By distilling this 'package of losses,' the report argues that the involuntary immobility entails (1) circumscribed political and legal rights, (2) limited agency, and (3) restricted mobility in urban areas.

After outlining the framework, the report explores the immobility experiences of urban refugees in Bangkok. While more work remains to be done, research suggests that Thailand's restrictive and

criminalizing immigration framework has adversely impacted the rights, agency, and mobility of refugees. While UNHCR and NGOs continue to work on behalf of refugees, their efforts are not enough to provide refugees and asylum seekers with a dignified existence.

Ultimately, this report seeks to answer three key questions: How can we conceptualize the immobility experiences of urban refugees? What are the immobility experiences of Bangkok's urban refugees? And how do UNHCR, NGOs, and civil society groups help Bangkok's refugees navigate Thailand's restrictive immigration framework?

Immobility

Refugees are people who flee against their will because their lives are in danger. They are uprooted from their economic, social, and cultural moorings because of threats to their physical safety, dignity, and liberty. Indeed, disruptions and changes to existing social capital and networks, economic goods and power, political rights, and agency are the “inevitable by-product of wartime migration” (Lubkemann, 2008a: 188).

The international refugee protection regime is concerned with restoring—at least partly—the losses refugees suffer because of conflict. The cornerstones of refugee law, the 1951 Refugee Convention and the 1967 Additional Protocol, enshrine the rights to work, access to education and medical care, as well as the right to access courts in host countries. The 2016 New York Declaration for Migrants and Refugees similarly underscores the right of refugees to access labor markets, as well as the right to quality education and healthcare. Regional instruments, such as the 1974 Organization of African Unity Convention on Refugees and the 1989 Cartagena Declaration, emphasize the rights for refugees and asylum seekers to gainful employment, housing, education, and medical care.

But while these disruptions are usually associated with wartime migration, the anthropologist Stephen Lubkemann reasons that they are also the by-product of war's immobilizing effects. War and conflict can cause detrimental changes to baseline livelihoods by, for example, throwing into disorder existing patterns

of mobility of seasonal migrants (Black & Collyer, 2014: 52). Involuntary immobility has also been linked to the social and economic capabilities of households. Some households lack the social connections needed to support someone's migration aspirations, or lack the financial resources to pay for such a journey (Carling, 2002; Jónsson, 2008; Clemens, 2014). As a consequence of war's destructive and transformative effect on social and economic power, a number of individuals become unable to flee and become trapped. They experience the same multifaceted package of losses as the more visible forced migrants (Lubkemann, 2008b: 455).

Lubkemann's conceptualization of displacement invites us to consider how urban refugees can become "displaced in place". Urban refugees become trapped in cities; they are unable to return home and unable to integrate locally. For them, involuntary immobility entails (1) circumscribed political and legal rights, (2) restricted agency, and (3) limited mobility within urban spaces.

Political and Legal Rights

The political and legal rights of refugees are intrinsically linked to the processes of the nation-state. Although the international refugee protection regime is broadly concerned with defending the rights of refugees and asylum seekers, the burden of upholding and protecting those rights ultimately falls to national governments. As Hannah Arendt observed, individuals become refugees when they occupied spaces devoid of law and lack the fundamental citizenship rights that a state was meant to provide for them (Arendt, 1985: 294). The central presumption of refugee protection is that host government assumes the responsibilities of another.

However, a growing number of refugees fail to find those protections other states. These individuals, Chatty and Marfleet argue, are considered "liminal" because "they fall outside the system of nation tied to territory" (Chatty & Marfleet, 2013: 11). Instead, refugees and asylum seekers occupy zones of exception and indistinction. They exist in quasi-legal spaces like detention centers where they are subject to physical and symbolic violence, even in countries that purport to support human rights and democracy (Diken, 2004: 88; Turner, 2007: 300). Refugee camps for instance, segregate refugees from the broader population

through an official policy of encampment. And while camps might uphold the principle of non-refoulement³, other legal protections and rights remain elusive (Hyndman, 2013: 11).

In Kenya, for example, Somali refugees have largely been confined to the large complex of camps called Dadaab in the north-west of the country. Living in other parts of the country, like the capital Nairobi, results in the loss of refugee status and as a consequence the assistance and protections linked to it. Nevertheless, a growing number of Somali refugees are moving from Dadaab to the Eastleigh neighborhood in Nairobi in search of new opportunities and to escape chronic poverty (Campbell, 2008; Amrith, 2017). Moving to Eastleigh has its risks, however. Even though the presence of Somali refugees in the neighborhood is generally tolerated, they are often harassed by police. Despite Eastleigh's impressive entrepreneurial wealth, it also a site of failing infrastructure and crime (Lindley, 2011: 38).

Refugee vulnerability is also shaped by the effectiveness of public institutions and the dominant ethos of host countries (Jacobsen, 2006: 280). For instance, although South Africa's 1998 Refugee Act guarantees refugees the right to live and work in cities, access services, and compete in the housing and job markets, refugees struggle to access them. Migrants and refugees are increasingly made the scapegoats of social ills and harassed by politicians. These circumstances, coupled with slow and ineffective bureaucracy that makes obtaining the proper documentation a slow process and consequently makes it difficult for refugees to access key services (Landau, 2006).

Agency

Because of the limited political and legal rights that refugees often hold in countries of asylum, they are forced develop sophisticated strategies to survive. Refugees develop new social networks and learn new occupations in order to adapt to new surroundings. They find creative ways to circumvent structural barriers that prevent them from accessing key services. Informal institutions are an important part of the organization of socio-political life of refugee communities.

Refugee communities in cities have a rich legacy of developing informal mechanisms to carry out basic governance functions in

3. The principle of non-refoulement broadly refers to the prohibition from expelling an asylum seeker from a country if their life and freedom might be threatened if they return.

the absence of formal channels. Using local powerbrokers, NGOs, or patronage networks, refugee communities often develop informal replacements for local government (Haysom, 2013: 11). In Maashouk in Southern Lebanon, Palestinian refugees have developed sophisticated self-help strategies and informal institutions to access otherwise inaccessible basic urban services, such as electricity, water, and waste management (Yassin et al, 2016: 356).

There has been a noticeable trend in recent years to consider refugees as purposeful actors rather than passive victims in need of aid. Refugees and “forced migrants” make their decision to migrate in response to complex circumstances. Even the most reactive refugee can choose when, where, and how they will migrate (Turton, 2002). The research suggests that agency is as much about transforming the “exceptional” into the “ordinary” as it is transforming the “ordinary” into the “exceptional”. All in all, it implies that agency requires a degree of control to transform social relations (Sewell, 1992: 20).

Not all instances of agency, however, reflect a capability to transform local conditions in a substantial way. Rather, many forms of agency are ad hoc mechanisms for coping with daily life (Palmgren, 2012). Although these can, over time, result in transformations to locales or social relations, they are not guaranteed, and when these changes do happen, they are often piecemeal. Structural factors such as poverty can negatively affect one’s ability to contribute to the community and development processes (Clarke, 2009: 1067). Informal institutions like the ones described above are only successful because of the limited resources they capture from refugee communities, not because they successfully petitioned formal governance actors (Haysom, 2013: 12).

Access to Urban Spaces

Like the lack of political and legal rights and restricted agency, urban refugees also confront limited mobility in urban spaces. Migrants, internally displaced persons, and refugees tend to occupy underdeveloped spaces in cities, often living in slums and shantytowns that are difficult to access and “socially distant” from the rest of the city.

But in many respects, the lack of official status is what hampers mobility within cities the most. As highlighted above, most countries of first asylum in Africa and Asia require refugees to live in designated refugee camps. Only refugees that are granted special

permission are allowed to live outside of camps (Jacobsen, 2006: 274). As a consequence, urban refugees and asylum seekers are often forced to live clandestinely in urban areas. They lack an official legal status in the country, which leaves them vulnerable to arbitrary arrest and detention.

Expired or invalid documents increase the risk of arrest and detention, and potentially deportation. This forces refugees to develop strategies to avoid police and government officials, usually by exploiting uneven enforcement. Heidi Haugen, for instance, describes how undocumented Nigerian migrants in Guangzhou strategies to avoid certain neighborhoods where movement controls are more strictly enforced (Haugen, 2012: 73). Somali refugees in Eastleigh in Nairobi use similar tactics. Because of their undocumented status, refugees keep a low profile. They avoid leaving home, avoid leaving Eastleigh, and avoid interacting with the police and members outside of the community (Lindley, 2011: 35).

In other cases, refugee mobility is restricted because of the refugees' inability to find formal accommodation. The lack of proper documentation, such as visas and passports, makes it difficult for refugees to find homes. As such, refugees often occupy fringe and informal spaces in large cities. In Calcutta, refugees laid claim to spaces in the city by squatting on absentee land, often because they had nowhere else to go (Sanyal, 2013).

Thailand's Immigration Framework

Urban refugees and asylum seekers in Bangkok, Thailand are part of a diverse group of migrants that are rendered illegal because of the country's immigration framework. With the exception of individuals displaced by conflict in Myanmar - most of whom live in 'temporary shelters' along the border - the Royal Thai Government (RTG) does not have a formal government commitment to refugees (Hedman, 2008: 358). Thailand is not party to the 1951 Refugee Convention or the 1967 Additional Protocol, nor does it have the legal and administrative mechanisms to protect and recognize refugees.

Thailand's stance is reflective of the broader protection landscape in Southeast Asia. To date only Cambodia, the Philippines, and East Timor have acceded to the 1951 Convention and the 1967 Protocol.

Furthermore, Southeast Asia lacks a counterpart to regional instruments for refugees such as the 1974 African Union Convention on Refugees or 1989 Cartagena Declaration on Refugees. And while the ASEAN Human Rights Declaration enshrines a right to seek and receive asylum, ASEAN member states are known for controversial pushbacks of asylum seekers and cases of refoulement (Amnesty, 2017).

Thailand, like many of its neighbors, believes that acceding to the conventions entails financial obligations they are not equipped to meet, and would result in an increase in the number of refugees arriving in their territories (Davies, 2006: 565). Refugees are frequently regarded as security risks and scapegoats by the Thai public (Mathew & Harley, 2014: 1; Muntarbhorn, 2004). Attitudes towards unregistered migrants tend to be more negative in urban areas because of minimal contact, which inflames perceptions that unregistered migrants are economic competitors, even though they fill an important labor gap (Sunpuwan & Niumosipla, 2012: 56).

Bangkok's refugee population has grown over the past decade. In 2012, UNHCR estimated that the city hosted some 2,000 refugees. By 2016, Bangkok was home to some 8,000 refugees and 2,000 asylum seekers (Interview, 2017). The majority of asylum seekers arrive in Thailand through regular channels. Many arrive with passports and valid visas, which they subsequently overstay, and generally end up without a lawful immigration status as a matter of Thai law (Mathew & Harley, 2014: 10). In 2012, Pakistanis, Sri Lankans, and Somalis represented the largest groups of refugees recognized by UNHCR, while Sri Lankans, Vietnamese, and Pakistanis comprised the majority of asylum seekers (UNHCR, 2013). All in all, Bangkok is home to a diverse refugee population from over a dozen countries.

Urban Refugee Experiences in Bangkok

Bangkok is an environment of insecurity for refugees and asylum seekers as they are under constant threat of arrest, detention, and deportation. Without valid documentation, they face significant challenges in finding work and housing, and struggle to access services like medical care. UNHCR and NGOs have largely stepped in to step in to fill the protection gap left by the government, operating at the discretion of the Thai government to provide refu-

gees with some support. UNHCR plays a significant role in assisting recognized refugees, providing them with financial assistance and other forms of support through its implementing partners. But while the assistance UNHCR and NGOs provide is needed, it is not nearly enough to meet all the basic needs of refugees.

By far one of the biggest challenges refugees and asylum seekers face is finding work. Refugees and asylum seekers are not legally permitted to work in the country. While there are opportunities to work informally, informal work is easier for some to find than others. Refugees from outside Southeast Asia tend to have an easier time finding work because they can “disguise” themselves as Thai laborers (de Otter, 2007: 48; Interview, 2017).

Finding adequate housing is also challenging. Without proper documentation, refugees and asylum seekers are forced find informal accommodation. Accommodation is often overcrowded, small, and relatively costly. In most cases, large families share single room apartments that offer little privacy (Interview, 2017). The lack of Thai language skills also makes contract and rent negotiations difficult (Jesuit Refugee Service, 2012: 59). Evictions are a constant threat as well, and often happen on short notice. Housing insecurities are exacerbated by the limited work opportunities, which makes it difficult for refugees to pay rent. Ultimately, refugees rely on the financial assistance they receive from UNHCR and NGOs to pay rent. In fact, nearly all of the financial assistance refugees receive from UNHCR goes towards housing since losing housing puts refugees into a precarious position (Interview, 2017).

Food and other amenities are usually purchased with what little can be earned through informal work or found through charity. Indeed, various communities of refugees rely on the support they receive from religious organizations, as well as temples, mosques, and churches. Churches especially have been a valuable source of support in that respect. However, this often results in a diet that consists mainly of rice, with little protein-rich nutrition (den Otter, 2007: 49). It is also clear that significant tensions exist within religious organizations where support should be directed, to urban refugees or the urban poor (Interview, 2017).

The lack of legal status also has shaped how refugees are able to access medical care. Even though Thailand has a near universal health coverage, refugees and asylum seekers cannot access basic coverage schemes. UNHCR and its implementing partners actively try to address this coverage gap. Altogether, UNHCR and NGOs provide refugees and asylum seekers a free monthly clinic, basic

psychological counselling for stress and post-traumatic stress disorder, as well as coverage to children under the age of five, and the first pregnancy in Thailand.

These challenges have been exacerbated because of recent legal developments. The recent Royal Ordinance on Foreign Workers Management has exacerbated insecurities by raising penalties for landlords and employers that are found hiring or leasing property to individuals without proper documentation. Reports indicate that employers can be fined for up to 800,000 Thai baht (approximately USD 23,800) for each undocumented worker (Auethavornpipat, 2017). Because of the increased penalties, refugees and asylum seekers are having a harder time finding work. The same is true for housing. Landlords are becoming hesitant to lease property to undocumented refugees (Interview, 2017). Even when landlords continue to lease property, limited work opportunities make it difficult for refugees to pay their rent.

Navigating Thailand's Immigration Framework

Because of Thailand's criminalizing immigration framework, refugee households often lack the means to independently support themselves. Instead, they rely on the assistance they receive from UNHCR, NGOs, civil society groups, and from other refugees. Medical care, financial assistance, and other forms of support are available, but scarce. For one, only those with refugee status that has been recognized by UNHCR have access formal assistance from the organization (Palmgren, 2012: 29). Some NGOs and civil society groups provide support for urban refugees and asylum seekers, but such support is neither extensive nor regular. In addition, most organizations have experienced budget cuts in recent years, forcing them to curb the assistance they provide.

While UNHCR has not experienced similar budget cuts, its resources have not been commensurate with growing refugee population in Bangkok (Interview, 2017). As a result, the assistance UNHCR has provided to households has effectively become smaller over time. A 2006 UNHCR report noted that refugees and asylum seekers are "entirely dependent on outside assistance, which is not only psychologically debilitating but also generally insufficient to meet their food and non-food needs" (UNHCR, 2006). Interviews in 2017 indicated that this was still largely the case: the assistance refugees received was still largely insufficient to meet all their food and non-food needs.

In order to address this shortfall, refugees develop intricate networks of support within specific communities. For instance, communities of Khmer Krom, Rohingya, and Vietnamese refugees and asylum seekers in the city use sophisticated networks of mobility, subsistence, and information to support members of their respective communities. For instance, during the 2011 floods that left many in the Khmer Krom unable to work, the community was successfully able to appeal to local civil society contacts to receive donations to pay their rent (Palmgren, 2012: 31-32). Other refugee communities appeal to local religious organization for assistance and help, though to various to degree of success (Interview, 2017).

Refugees and asylum seekers are also increasingly looking for work that can be completed online. Freelance work as graphic or web designers has been a popular option for a younger generation of refugees. Online work allows refugees to escape some of the scrutiny of local law enforcement, because payments can be made online as well (Interview, 2017). But like the networks being developed by some communities of refugees, online work is not an option for most refugees. The skills required to be a successful and productive graphic designer, for example, are notable.

However, agency in this way is more reflective of ad hoc coping mechanisms necessary to survive in Bangkok and remaining inconspicuous to the authorities (Palmgren, 2012: 21). Refugees invest significant time finding civil society groups and religious organizations that can provide food and basic amenities. Because of the constant risk of being arrested, refugees have limited opportunities for advocacy, and rarely have opportunities to petition the RTG directly for greater rights.

Poverty is one impediment to this kind of agency. Day-to-day survival for the poor requires enormous amounts of work, and active participation requires time and effort that the poor are unlikely to have (Easterly, 2002). The scholar Matthew Clarke has observed similar constraints for Burmese migrants in Bangkok; the lack of legal and political support they need to be “active citizens”. In fact, doing so increases their visibility and can result arrest and detention (Clarke, 2009: 1074).

In fact, because of the threat of arrest, refugees and irregular migrants seldom venture outside of their workplaces and immediate communities. The relationship UNHCR and NGOs have with local law enforcement continues to be highly complex because it operates unevenly at various levels and across multiple jurisdictions (Interview, 2017). In addition to regular law enforcement, immigration police, officials from the Ministry of Labor, and the Ministry of Social Development all play a role in policing and controlling migration.

The most flexible relationship is with local law enforcement. For example, police officers in these districts are more likely to call a member of UNHCR's protection team during an arrest because they recognize the UNHCR certificate a refugee might be holding, creating an opportunity for the refugee and asylum seeker to "negotiate" their release (Interview, 2017). These relationships are uneven across the cities, however. Successful "negotiations" depend largely on the district where the arrest was made. Districts with smaller refugee communities tend to be more problematic because local law enforcement is unfamiliar with the needs of refugees and asylum seekers.

Although the relationship between local law enforcement and these organizations is uneven, but in some cases amicable, immigration officials offer little leeway. Nearly all arrests by immigration officials result in almost immediate detention. The only support that UNHCR and NGOs can provide in those cases is legal support when a refugee or asylum seeker is detained at the Immigration Detention Center in Bangkok.

But while government institutions and actors are often a source of insecurity, they have been a crucial source of protection in cases of domestic abuse and Sexual and Gender Based Violence (SGBV). UNHCR and NGOs have called on the support of the RTG on several occasions. The government has in the past offered victims of domestic abuse and SGBV temporary shelters, as well as medical and psychological support when available.

Conclusion

Refugees and asylum seekers in Bangkok are vulnerable to insecurities rooted in their criminalization. Unable to return home or move to a third country, refugees are becoming 'trapped', in other words involuntarily immobilized, in the city. These circumstances of immobility cut deeper than being unable to leave Thailand; they entail circumscribed political and legal rights, limited agency, and restricted mobility within in the city.

Without a recognized legal status in the country, refugees are compelled to look for work in the informal labor sector (when it is available), seek out precarious accommodation, and attempt to

access restricted services. In order to do so, they develop sophisticated self-help strategies, finding ways to support each other and elicit the support of others in times of need. Even so, their agency in developing these networks is limited. As Pei Palmgren and Matthew Clarke highlight, the agency of Bangkok's urban refugees is reflective of ad hoc coping mechanisms for daily life and not indicative of an ability to transform local conditions (Clarke, 2009; Palmgren, 2012). The constant threat of arrest likewise limits the mobility of refugees who avoid parts of the city.

While UNHCR and other organizations have managed to address some of these protection gaps, it is clear that the lack of legal status continues to be main source of insecurity for Bangkok's refugees. It prevents them from working, finding adequate housing, and accessing services like healthcare. Funding and resource constraints make it impossible for UNHCR, NGOs, and other groups to provide refugees with more than a basic livelihood. The lack of a legal status is an impediment to self-reliance.

Using frameworks like the one outlined above makes it clear that displacement experiences are complex. Immobility is more than physical; it is the lack of fundamental rights, an inability to transform local conditions, and restricted access within urban space.

Policy Recommendations

Addressing the challenges of immobility requires a holistic approach: no single project or initiative can successfully address all the underlying causes. Therefore, this report offers the following policy recommendations:

- Collaboration across a range of actors and institutions is necessary. This report encourages continued efforts by UNHCR and NGOs to engage and collaborate with each other and the Thai government. Doing so will continue to raise awareness of refugees and asylum seeker issues in the city. In the face of budget cuts, greater cooperation should also ensure that efforts are not duplicated and allow organizations to implement projects that are larger in scope than they would be able to on their own.

- This report also encourages the Royal Thai Government to continue exploring new avenues of cooperation with UNHCR and NGOs to address the protection gaps that exist in Bangkok. Greater support from the government will go a long way in addressing these challenges. More specifically, the report encourages the Thai government to accede to the relevant international treaties that pertain to refugees and asylum seekers. There are some hopeful indications that the RTG is moving to implement a screening mechanism for urban refugees. Official recognition by the government should offer greater protection against arrest, detention, and deportation. Nevertheless, these efforts should not stop at simple recognition, they should also provide refugees with the right to access labor markets, finding housing, and access critical services.
- Consequently, the report recommends that Thailand accede to the 1951 Convention and the 1967 Protocol. At the very least, the government is encouraged to adopt provisions from these two treaties into national legislation.

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