

# Evaluation Report

## “DNA Testing Project to Solve the Statelessness Problem in Thailand”

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# Table of Contents

## Contents

<b>1. Executive Summary .....</b>	<b>1</b>
<b>1.1 Introduction .....</b>	<b>1</b>
<b>1.2 Program Description.....</b>	<b>1</b>
<b>1.3 Evaluation Findings .....</b>	<b>2</b>
<b>1.4 Lessons Learned .....</b>	<b>2</b>
<b>2. Introduction .....</b>	<b>4</b>
<b>2.1 Purpose of the Evaluation.....</b>	<b>4</b>
<b>2.2 Approach and Methods.....</b>	<b>5</b>
<b>2.3 Indicators and Tools.....</b>	<b>5</b>
<b>3. Project Description.....</b>	<b>6</b>
<b>3.1 Background, Importance of the Problems, Challenges, and Objectives .....</b>	<b>6</b>
<b>3.2 Target Groups .....</b>	<b>8</b>
<b>3.3 Implementation.....</b>	<b>9</b>
<b>4. Evaluation Findings .....</b>	<b>11</b>
<b>4.1 Achievement of Project's Objectives .....</b>	<b>11</b>
<b>4.2 Policy and Legal Dimensions.....</b>	<b>11</b>
<b>4.3 Dimensions of Management and Transparency .....</b>	<b>12</b>
<b>4.4 Dimensions of the Target Group.....</b>	<b>13</b>
<b>4.5 Impact of the Project on Social, Security and Economic Dimensions .....</b>	<b>13</b>
<b>4.6 The Satisfaction of Stateless People who participated in the Project: Outputs by Case Study.....</b>	<b>13</b>
<b>5. Conclusions and Recommendations .....</b>	<b>14</b>
<b>5.1 Main Findings .....</b>	<b>14</b>
<b>5.2 Lessons Learned .....</b>	<b>15</b>
<b>5.2.1 The Success Factors in Project Implementation.....</b>	<b>15</b>
<b>5.2.2 Problems and obstacles from project implementation.....</b>	<b>15</b>
<b>5.2.3 Innovation and Knowledge Transfer.....</b>	<b>15</b>
<b>5.3 Recommendations.....</b>	<b>16</b>
<b>6. References .....</b>	<b>18</b>
<b>Appendix 1: Summary of Order letters, the Memorandum of Cooperation, and Other Relevant Official Documents.....</b>	<b>19</b>
<b>* The Department of Provincial Administration's Officer Letter title "The Usage of DNA Test Results to Fill in Thai Nationality Record" issued on August 31 2015 (B.E.2558) to Provincial Registrars and Bangkok Registrar .....</b>	<b>20</b>

<b>** “The Department of Provincial Administration’s Urgent Officer Letter titled “DNA Testing Project to Solve Registration Status and Rights of Thai people Who Were Missing from the Registration Process, Fiscal Year 2020 (B.E.2563)” issued on February 20, 2020 (B.E.2563) to Provincial Registrars, District Registrars, and Bangkok Registrar .....</b>	<b>21</b>
<b>*** Memorandum of Understanding on the Collaboration to Provide DNA Testing Services to Support Civil Registration Related Work Between The Department of Provincial Administration, Ministry of Interior, and Central Institute of Forensic Science, Ministry of Justice .....</b>	<b>22</b>
<b>****Memorandum of Understanding on the Collaboration to Authenticate and Certify Displaced Thais Between The Department of Provincial Administration, Ministry of Interior, and Thaksin University, Rangsit University, Office of Social Health Development Collaboration, ChumchonThai Foundation, and National Human Rights Commission of Thailand.....</b>	<b>28</b>
<b>***** Invitation to participate in a pilot project to assess civil registration for hard-to-reach and marginalized population groups by the Regional Support Office of the Bali Process, dated June 12, 2018.....</b>	<b>29</b>
<b>Appendix 2: News, VDO Clips and Publications Relevant to the Project .....</b>	<b>31</b>
<b>A. The DNA test to prove Thai Nationality .....</b>	<b>31</b>
<b>B. Proving Registration Status: DNA Testing of the Heritage .....</b>	<b>32</b>
<b>C. DNA Test and Solution of Statelessness Problem.....</b>	<b>34</b>
<b>D. The Result of Aliens Nationality Management .....</b>	<b>35</b>
<b>E. Thailand’s Problem of Nationality Law and Citizenship .....</b>	<b>38</b>
<b>F. Acquisition of Thai Nationality .....</b>	<b>40</b>
<b>G. How should Displaced Thai do to apply for citizenship? .....</b>	<b>42</b>
<b>H. DNA Test .....</b>	<b>44</b>
<b>I. Legal Problems Related to Nationality and Rights of People Residing in Thailand.....</b>	<b>46</b>
<b>J. Statelessness situation and Thailand’s solutions.....</b>	<b>47</b>
<b>K. Dissertation by Miss Siwanoot Soitong: Justice Management on Legal Personality .....</b>	<b>61</b>

# **1. Executive Summary**

## **1.1 Introduction**

The “DNA Testing Project to Solve the Statelessness Problem in Thailand” is one of the outstanding initiatives suggested by the Department of Provincial Administration. This project incorporates the use of forensic methods to facilitate the nationality verification process and the acquisition of Thai nationality and ID cards. As a result of this project, those with civil registration problems can exercise their legal rights and access state welfare, affirming the morality of bringing together people-centred communities and leaving no one behind. Consequently, the DNA testing project aligns with two of the United Nations’ Sustainable Development Goals (SDGs), namely SDG10: reducing inequalities, ensuring no one is left behind and eliminating discrimination, and SDG 16: promoting justice, peaceful environment and inclusive societies.

## **1.2 Program Description**

The project aims to help Thai people who were undocumented and people with civil registration status problems who are low-income earners or disadvantaged people to voluntarily receive DNA testing. A person who applies for Thai nationality can voluntarily choose to take a DNA test if they lack substantial evidence to prove their status, and the government will subsidize the testing fee. As stated above, the DNA testing method provides useful results that can be utilized as evidence in the investigative process to report a birth after a designated period, add names to the house registration, and acquire a Thai identification card to access rights provided for under Thai laws.

Additionally, the use of DNA testing reflects confidence in the accuracy of science. Both policymakers and registrars deemed DNA test results to be scientific and accurate. It is also perceived as morally unbiased, although some academics might argue otherwise and question the motivation of the technology’s inventor and user, including its usage in the political perspective, especially the Social and DNA Relation. Using DNA testing for ethnic minorities and people without a registration status who are allowed to stay in the Kingdom temporarily to

await the status development according to the government's policy may serve as an example to other countries facing similar situations.

### **1.3 Evaluation Findings**

The DOPA realized its project objectives in quantitative ways, facilitating one hundred per cent of the population's required DNA testing. In addition, since the project's inception, 289,300 stateless persons have been granted Thai nationality. 14,267 stateless persons were assisted in fiscal year 2020, accounting for 109.97 per cent of the 13,300 person target.

The qualitative evaluation findings are significant in three aspects. Firstly, the security aspect: all groups of Thai and non-Thai citizens can access their rights because their statuses were verified and they received identification documents to get public services. The government can also provide security services to protect those people from non-traditional threats, such as human trafficking and drugs. Secondly, the social aspect: to successfully solve the statelessness problem, a sense of belonging, harmony, and indivisibility in Thai society had to be nurtured, which leads to the sustainable development of the nation. Lastly, the economic aspect: government agencies can plan for economic development by using more accurate figures on stateless persons entering the labor sectors, especially in an aging society.

### **1.4 Lessons Learned**

A key factor contributing to our work's sustainable development is law amendment and law enforcement, which lead to sustainable and effective implementation in the fight against statelessness. Secondly, the officials comprehend laws and regulations, and devote themselves to working on the statelessness problem. Most importantly, the DOPA's vision on Flagship 2021 for a person's nationality and personality, the use of technology in DNA testing, and the online operating system can shorten the procedures, especially in the application process and in terms of legal discretion/research.

### **1.5 Recommendations**

1.5.1 There should be a strategy to pursue a policy to resolve nationality problems for people who have fallen from the civil registration system and Thais who are continuously

experiencing problems in identifying themselves and focusing on the national problems that must be dealt with urgently and properly.

1.5.2 The DOPA should improve the district's working structure to have a specific agency responsible for nationality and immigration status. The host is directly responsible, proposing an urgent action plan to obtain budgetary and human resources support.

1.5.3 The government should support a budget for DNA proof to ensure the individual status and nationality of the indigent Thais and continuously cover the affected groups in all areas.

1.5.4 When problems related to the performance of DOPA staff arise, a hotline should be set up to provide advice to officers, coordinate with relevant departments, enforce the law, and have a surveillance system to monitor the DOPA operations. Work in each step should be completed within a specified time frame.

1.5.5 DOPA should promote a continuous process for personnel development in registrations and nationalities by building a systematic and constant understanding of the law, regulations, and staff guidelines.

1.5.6 Most of the target groups who come to receive services must walk into government offices. DOPA should create a network of local people, civil society, or community volunteers to lead the role of introducing and mediating between government agencies and people in the area, providing continuous coordination and opportunities for public sector involvement. This network should be involved in resolving individual status and rights issues to assist in obtaining necessary evidence and information.

1.5.7 The DOPA must regularly monitor staff performance to prevent corruption and promote target participation processes to monitor and assess staff performance.

## **2. Introduction**

### **2.1 Purpose of the Evaluation**

This document is an evaluation of the “DNA Testing Project to Solve the Statelessness Problem in Thailand”, initiated by the Department of Provincial Administration (DOPA), under the auspices of the Ministry of Interior. DNA testing provides scientific evidence that is commonly recognized and legally confirmed in many legal contexts. The success of using DNA testing to identify deceased people in the 2004 Thailand and Southeast Asia Tsunami served as inspiration for DOPA to develop DNA testing innovations to certify nationality. It is a very reliable and unequivocal instrument making discretion not necessary. Therefore, DOPA has developed and launched the “DNA Testing Project for certifying Nationality”, which is very useful for both people and officers, and will be very helpful for addressing the statelessness problem in Thailand.

This project was launched in 1996 as a pilot project at the Huay Nam Aun community, Vavee hill, Maesuary district, Chiangrai province, under scholars' cooperation from the Legal Center of law faculty Thammasat University. In 2009 -2010, this project also was a pilot project in the 11 provinces of: Chiang Mai, Chiang Rai, Mae Hong Son, Phayao, Tak, Nan, Ubon Ratchathani, Udon Thani, Nakhon Si Thammarat, Kanchanaburi, and Ratchaburi. The Senate supported this pilot project for verifying genetic material to certify the registration statuses of people missing from Civil Registration and House Registrations under the auspicious of His Majesty King Rama IX. From fiscal year 2013 until now, the DOPA has conducted and developed the project nationwide.

This evaluation covers the full program with a focus on the fiscal year period 2013-2020 by internal audit Special Policy Section, Technical Service and Planning Division, Department of Provincial Administration. They assess the process of DOPA in addressing the statelessness problem, particularly in the dimensions of law and policy constraints, officials’ performance, the limitation of the target group and statelessness management. Moreover, the evaluation report also describes the project performance to date (in terms of relevance, effectiveness, efficiency, and sustainability) and determines the project's likelihood of achieving its intended objective. It also analyses the problems and challenges the project is encountering and what corrective actions are required.

This evaluation has two primary purposes: (1) to provide evidence of results to meet accountability requirements, and (2) operational improvement, learning, and knowledge sharing through lessons with strenuous commitment, through which the DOPA has improved the life quality and wellbeing of many Thai people. Therefore, the evaluation identifies the project's lessons and operational relevance for future projects and formulation and implementation. The evaluation analyses the output to impact relations within the project to define the case studies, generating the overall findings.

## **2.2 Approach and Methods**

Using desk research, the approach adopted is based on evidence in the six core project evaluation dimensions as follows:

1. Achievement of project's objectives
2. Policy and legal dimensions
3. Dimensions of management and transparency
4. Dimensions of the target group
5. Impact of the project on the dimension of social, security, and economic aspects
6. The satisfaction of stateless people who participate in the project: outputs by case study.

A design element was used in the case study to evaluate the satisfaction of the stateless people who participated in the project. The Bureau of Registration Administration (BORA), under the Provincial Administration Department, presented the case study selected from the list of outputs. The evaluation has also consequently adopted a more descriptive approach based on the chains of objectives.

## **2.3 Indicators and Tools**

A quantitative indicator is one hundred per cent of DNA testing applications must be completed in each fiscal year. Also, All Thai persons who (1) failed to be recorded in house registration and (2) stateless persons who had their nationality applications approved must be added to the household registration following the international obligations of the "I Belong Campaign to



End Statelessness (2014 - 2024)". In addition, public hearings and precise data-keeping assure accountability and legitimacy in government processes.

### **3. Project Description**

#### **3.1 Background, Importance of the Problems, Challenges, and Objectives**

The Department of Provincial Administration (DOPA) is the leading agency developing a system linking the integrated civil registration database to government services (Linkage Center). The registration work is an important event affecting social order and is the basis for overall national development. First of all, as a legal document, a registration document serves as useful legal evidence in preserving the rights and duties of citizens, which must be held forever. Secondly, the registration document is a record of statistical data to be analyzed, used in various fields of country development planning.

Since 1917, Thailand had been conducting its population census once every decade in years ending in the number '0'. Later in 1958, Thailand switched to the Civil Registration System. This system established the house registration system, with householders acting as the reporters of changes to the registrars. However, record-keeping in the system was done manually, therefore, some people were missing from the civil registration record and became undocumented. In 2003, the civil registration database which connected country-wide registration offices was put in place. Nevertheless, some civil registration records were still missing, due to the lack of reliable witnesses and documentation evidence to prove people's statuses to the competent officer. In this regard, if the person's record was not kept in the civil registration system, he or she risked becoming stateless. That person may also be obstructed from social and economic systems, victimized by human trafficking networks, and forced to relocate, creating national security dangers. With the aforementioned causes in mind, the DOPA was motivated to introduce a personal record-keeping system to enhance the government's capacity to administer the overall population. The system would improve the government's understanding of a person's identity and residence and support the problem-solving process; such as repatriation and statelessness prevention.

Many stateless people in Thailand were undocumented people who did not possess a civil registration document and stateless people. Due to their lack of status, these people cannot

access basic rights, provisions, and welfare from the government, including rights to healthcare, education, travel, and work.

DOPA's Civil Registration Database stated that there were 2.3 million foreigners registered in the database and who possessed 13-digit identification numbers (Seesuk, <sup>1</sup>, 2015). There were 480,163 people from ethnic minorities and people without a registration status that were allowed to stay in the Kingdom temporarily to await the person's status development according to the government's policy. The essential causes of such problems were the limitations of the civil registration law and nationality law, which has no provision for those who lack evidence to prove their birth status and nationality, to report their births, or add their names to the house registration. This situation was especially common for abandoned children. It was challenging to seek evidence that certified these children's stories. Furthermore, stateless people often lacked comprehension about the documentation's importance; such as overlooking the child's birth and the foreigner registration report. When the official documentations were lacking, officers often opted to use personal discretion and requested multiple pieces of evidence to prove their status, which led to arduous and time-consuming investigative processes to certify birth status and nationality.

The DOPA has improved and developed projects to solve such problems by using DNA testing methods, along with the interrogation process. From the public administration perspective, the efficiency of the DNA testing method reduces costs. To explain further, the testing method speeds up the process or enables fast decision-making by lessening the need to submit multiple piece of evidence. The results from the DNA testing method were accepted internationally as accurate and reliable scientific evidence. The results can decrease the use of the competent officer's discretion, increase the reliability of the interrogation, and legally confirm one's status in reporting a birth after a designated period, or name addition to the house registration, leading to the acquisition of Thai nationality.

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<sup>1</sup> Former Deputy Director-General, Department of Provincial Administration Department of Registration and Information Technology, Thailand's Ministry of Interior.

### 3.2 Target Groups

This project is to provide convenient assistance to Thai people who failed to be recorded in house registration including stateless persons who were surveyed by the state. Now some of them have already been recorded and are pending for status of persons in accordance with state policies, such as 19 minorities and ethnic groups.

**Ethnic minorities and former undocumented/unregistered stateless persons (known in the Thai context as “Persons without (Civil) Registration Status”):** these people are the target group of the Royal Thai Government’s “legal status and statelessness solution”. Based on the solutions, the ethnic minorities were classed into 19 different groups, while the former undocumented/unregistered stateless persons were classed into 3 groups. The former undocumented/unregistered groups include students, “Rootless Persons<sup>2</sup>” who were abandoned or whose parents are unknown and persons who have rendered distinguished services to Thailand (Boonrach<sup>3</sup>, 2017). The ethnic minorities were classified as follows:

- (1) Displaced Persons from Viet Nam
- (2) Former Kuomintang members (KMT) or Chinese Nationalist Party
- (3) Haw or Yunnanese Chinese Displaced Persons
- (4) Independent Haw Chinese
- (5) Former Malaya Communists of Chinese ethnicity
- (6) Thai Lue
- (7) Displaced Persons from Lao PDR
- (8) Displaced Persons from Nepal
- (9) Displaces Persons from Myanmar

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<sup>2</sup> According to the explanation in the 2005 Strategy on the Administration of Legal Status and Rights of Persons, “Rootless Persons” are orphans who were abandoned by their (unknown) parents since early childhood. “Rootless Persons” cannot research their own personal history such as parents, birthplace, or provide any identification papers.

<sup>3</sup> Former Permanent Secretary, Thailand’s Ministry of Interior, and former General-Director of DOPA. This article was written on 14 June 2017 aiming to provide information on the current statelessness situation in Thailand and share Thailand’s experiences and practices to solve statelessness. It was translated by Bongkot Napaumporn, Protection Associate, UNHCR Regional Office for South-East Asia.

- (10) Illegal Migrants from Myanmar
- (11) Displaced Thais formerly living in Myanmar (immigrated before March 9 1976)
- (12) Displaced Thais formerly living in Myanmar (immigrated after March 9 1976)
- (13) Highlanders or hill tribes (immigrated before October 3 1985)
- (14) Displaced Thais formerly living on Kong Island, Cambodia
- (15) Illegal Migrants from Cambodia
- (16) Highlanders or Persons from Highland Communities (immigrated after October 3 1985)
- (17) Hmong from Thamkrabok, Sara Buri Province
- (18) Displaced mountain persons from Lao PDR
- (19) Mokens

These people are considered aliens permitted to stay in Thailand temporarily pending the determination of their legal status pursuant to Section 17 of the Immigration Act B.E. 2522 (1979)<sup>4</sup> and relevant Cabinet Resolutions. According to the database, this group includes:

- (1) Persons who immigrated to and have resided in Thailand for a long period and their children who were born in Thailand;
- (2) Students in the Thai education system;
- (3) “Rootless Persons”

### **3.3 Implementation**

According to the Nationality Law, some undocumented people had been through investigative and interrogation processes from the district registrar or local registrar, but the evidence obtained by such processes did not suffice to prove their birth status and Thai nationality. The DOPA brought forward the DNA testing method to support name addition and personal status improvement. It has evolved from the age of understanding DNA technology by scholars, which has been in operation since 1996 and continue to develop cooperation with various sectors. In

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<sup>4</sup> Section 17 of the 1979 Immigration Act provides that “In a particular case, the Minister, by Cabinet approval, may permit any alien or any group of aliens to enter and stay in the Kingdom under certain conditions, or may consider exemption from being in conformity with this Act.”

B.E.2556 (2013), DOPA set aside approximately 10 million Baht in one fiscal year to subsidize the project. The registrar will interrogate the person submitting an application for Thai nationality as well as witnesses, such as local leaders, and assess the financial situation of the individual. If the registrar finds that the person lacks financial means to pay for DNA testing, the registrar can refer the person for DNA testing and use the fund provided by DOPA.

Additionally, DOPA worked to facilitate cooperation between various factions to solve the problems of undocumented Thai persons, including support for DNA testing institutions. DOPA and The Central Institute of Forensic Science (CIFS) signed a Memorandum of Cooperation on May 15, 2015, detailing their cooperation on the DNA Testing Project to support Civil Registration. It is an agreement to address the status and rights problems of Thai people missing from Civil and House Registrations. Four government health agencies support free DNA testing: Ramathibodi Hospital, the Faculty of Medicine Chiang Mai University, Faculty of Medicine Khon Kaen University, and the Faculty of Medicine Prince of Songkla University. DOPA received some budgeting support from the Southern Border Provinces Administrative Center (SBPAC) to run the project in 5 southern Thai border provinces. The National Human Rights Commission of Thailand, Rights and Liberties Protection Department (Ministry of Justice), and National Health Security Office are also involved in the process of solving people's status problems. Moreover, the DOPA has signed MoUs with Rangsit University and Thaksin University, forming a cooperation to provide educational staff and students supporting area-based government agents in legal advising, receiving applications, and collecting necessary evidence. Finally, the DOPA has been supported by the ChumchonThai Foundation, a group of formerly stateless persons who were granted Thai citizenship, to help promote the project.

The project lacked continuity due to the lack of personnel and expertise (especially since the number of officers in the registration and nationality sections of the districts was disproportionate to the amount of work and the number of service receivers), coupled with the frequent rotation of officers. Therefore, the personal status and nationality operation system – a DNA testing computer program- was developed in B.E.2561 (2018). All processes are conducted online; including the application submission, evidence checking with the Registration Bureau's database and related organizations' databases, data analysis with the computer system, and application and documentation storage in the database. The system solves the time consumption problem, helps lessen the use of the competent officer's discretion,

provides initial qualification inspection, administers the budget, and facilitates the processes for both the officer and the applicant. It was first fully utilized in fiscal year B.E.2562 (2019) and has been in place since then.

## **4. Evaluation Findings**

### **4.1 Achievement of Project's Objectives**

#### **The Project Outputs, Outcome, and Impacts**

To solve the statelessness problem in Thailand, the DNA testing project assists Thai people who have missed the registration process or people without a registration status and stateless people, especially those earning a low income by entering the DNA testing process to confirm the relative relationship freely and willingly. The DNA testing project is the right of the person applying to acquire Thai nationality and is only offered to people who lack sufficient evidence or any evidence to prove their claim to Thai nationality. In addition, the government is responsible for the cost of the testing. A positive DNA test result will serve as the key piece of evidence to report overdue births, add names to household registration in the status of a Thai citizen or obtain an ID card, considered a key for accessing social welfare.

The Department of Provincial Administration reaches one hundred per cent of DNA testing applications completed in each fiscal year, leading to the DOPA approving Thai nationality for more than 289,300 stateless persons, among them 105,456 minors under 18 years of age. The DOPA plans to assist 480,163 more stateless persons (241,081 men and 239,082 women).

The project's process improved and developed a database of Thai nationals. The government sectors and the relevant government agencies can access this database to enhance the social welfare management processes to be complete, flexible, quick, and comprehensive as per the slogan "leave no one behind".

### **4.2 Policy and Legal Dimensions**

The project implementation to solve the statelessness problem was initiated after the Department of Provincial Administration (DOPA) enforced the Civil Registration Act B.E.2534 (1991) on March 22, 1992. Afterwards, 2.3 million stateless people were surveyed

and received 13-digit identification numbers. Among them were 480,136 people of ethnic minorities and people without a registration status that were allowed to stay in the Kingdom temporarily to await their status development according to the government's policy. Subsequently, DOPA revised the Civil Registration Act (N0. 2) B.E.2551 (2008) which declared the method by which the person could obtain a civil registration document and a 13-digit identification card number. The intention of this law was to certify that any child born in Thailand shall receive a birth certificate, regardless of their parents' nationality, whether the parents entered the Kingdom legally or illegally, or whether the child was abandoned or not.

Thailand has reduced restrictions on obtaining Thai citizenship. Thailand's laws and policies have guaranteed the right to identification documents for stateless people. The DOPA has issued a written order titled "Building a Cooperation Agreement" to serve as a guideline for implementing the project in the same way across the country, as shown in Appendix 1.

#### **4.3 Dimensions of Management and Transparency**

Statelessness problems persist due to practical reasons, and officers' lack of knowledge of the right to legal status and the development of the rights process. This affects the fulfillment of duties and discretion, and most importantly, government officials have not grasped the scale of the problem. In addition, the lack of standardization in the performance of the work on the type of evidence that the public has to show to the registrar in each case: the duration of work responding to public requests, notifying the results of each office officer's actions in the same direction. In some cases, the process took a very long time without giving a reason, which leads to the gap for registration fraud problems.

Therefore, the DOPA developed the status and nationality operation system – the DNA testing computer program in B.E.2561 (2018). All processes were conducted online; including the application submission and evidence checking. The system solved the time consumption problem, helped lessen the use of the competent officer's discretion, provided an initial qualification inspection, administered the budget usage, and facilitated processes for both the officer and the applicant.

#### **4.4 Dimensions of the Target Group**

The people needing DNA tests are generally low-income earners. DNA testing sites are limited in number, there are currently 4 locations that provide prefectural services. Travelling to the sites to receive the service proves to be difficult and often expensive, many people missed or delayed their DNA testing appointment. In order to solve the situation, it is essential to increase the number of DNA testing locations to cover every district in Thailand and enhance cooperation between the civil society section and the international section, to support the target group in their reception of DNA tests as appointed.

#### **4.5 Impact of the Project on Social, Security and Economic Dimensions**

The findings of the evaluation are significant in three aspects. Firstly, the security aspect: all groups of Thai and non-Thai citizens are able to access their rights because their statuses were verified and they received identification documents to get public services. The government can also provide the security services to protect those people from non-traditional threats, such as human trafficking and drugs. Secondly, the social aspect: successfully solving the statelessness problem requires the nurturing of a sense of belonging, harmony and indivisibility in Thai society, which leads to the sustainable development of the nation. Lastly, the economic aspect: the government agencies can plan for economic development by using the accurate figures of stateless persons entering the labor sectors, especially in an aging society.

#### **4.6 The Satisfaction of Stateless People who participated in the Project: Outputs by Case Study**

DOPA organized multiple conferences in Chiang Rai province, Kanchanaburi Province, Prachuab Khiri Khan Province, and Ubon Ratchathani Province, for the people and competent officers to share problems, obstacles, and suggestions to solve any recurring difficulties regarding personal statuses and rights. The target group included undocumented Thai people who were not in the house registration system, stateless people surveyed by the government awaiting their status development according to the government's policy, people of ethnic minorities, and persons without a registration status. The government has continuously implemented policies to solve people's statuses and provide nationality to people with low



incomes and took feedback from the conferences to further improve the project's implementation.

The villagers' impression in Pong Nam Ron District Chanthaburi province, of more than 200 people who fall through the civil registration survey without an ID card, said “they were previously limited in rights, like second-class citizens of the country. Today, they are undergoing DNA tests from the Department of Provincial Administration program with the Institute of Forensic Science to prove their individual status and that they are Thai. Some had been fighting for an ID card for more than 30 years. They are happy to have the ID card, as if they were born again.”

## **5. Conclusions and Recommendations**

### **5.1 Main Findings**

The DOPA's performance achieved project objectives in quantitative ways, facilitating one hundred per cent of the population's required DNA testing. In addition, since the project's inception, 289,300 stateless persons have been granted Thai nationality. 14,267 stateless persons were assisted in fiscal year 2020, accounting for 109.97 per cent of the 13,300 target amount.

The findings of the evaluation are significant in three aspects. Firstly, the security aspect: all groups of Thai and non-Thai citizens are able to access their rights because their statuses were verified and they received identification documents to get public services. The government can also provide the security services to protect those people from non-traditional threats, such as human trafficking and drugs. Secondly, the social aspect: successfully solving the statelessness problem requires the nurturing of a sense of belonging, harmony and indivisibility in Thai society, which leads to the sustainable development of the nation. Lastly, the economic aspect: the government agencies can plan for economic development by using the accurate figures of stateless persons entering the labor sectors, especially in an aging society.

## **5.2 Lessons Learned**

### **5.2.1 The Success Factors in Project Implementation**

A key factor contributing to our work's sustainable development is law amendment and law enforcement, which leads to sustainable and effective implementation in solving statelessness. Secondly, the officials comprehend the laws and regulations, and devote themselves to working on the statelessness problem. Most importantly, the DOPA's vision on Flagship 2021 for a person's nationality and personality, the use of technology in DNA testing and the online operating system can shorten procedures, especially in the application process and legal discretion/research

### **5.2.2 Problems and obstacles from project implementation**

The project's obstacles stem from a lack of living expenses, economic issues, and the rural locations of the service receivers. DNA testing sites are limited in number, there are currently 4 locations that provide prefectural services. Traveling to the sites to receive the service proves difficult and often expensive for service receivers. Additionally, people needing DNA tests are generally low-income earners. Due to the aforementioned reasons, most people missed or delayed their DNA testing appointments. In order to solve the situation, it is essential to increase the number of DNA testing locations to cover every district in Thailand and enhance cooperation between civil society and international society sections, to support the target group in receiving their DNA tests as appointed.

### **5.2.3 Innovation and Knowledge Transfer**

Although solving the statelessness problem in Thailand using DNA testing is a small project, it has a large impact on the society, especially in terms of project sustainability. The project had been continuously developed; as seen through the revision of related laws and regulations and the invention of a computer-based system, which facilitates the pre-application process, the application submission, efficient evidence checking with the Registration Bureau's and related organization's database, nationality and result analysis, and the storage of the application and documentation. This process allows the competent officer to manage the applications easily and ensures that the procedures are fast, transparent, fair, and leave no room for corruption.

DOPA has continuously put effort into implementing the project and objectively solving the statelessness problem. The department received an invitation from the Regional Support Office of the Bali Process (RSO) and was selected as a pilot project to assess civil registration systems

of remote populations in order to develop a handbook on the civil registration system assessment of the remote population. According to the Fundamental Rights Protection stated in the declaration of the ministerial conference of the Bali Process, a collaborative effort was made. As a member country, Thailand adopted a functional and constructive representation of the principles of the Bali Process.

### **5.3 Recommendations**

5.3.1 There should be a strategy to drive a policy to resolve nationality problems for people who have fallen from the civil registration system and Thais who are continuously experiencing problems in identifying themselves and focusing on the national problems that must be properly and urgently dealt with.

5.3.2 The DOPA should improve the district's working structure to have a specific agency responsible for nationality and immigration status. To have the host responsible directly, including proposing an urgent action plan to obtain budget and human resources support.

5.3.3 The government should support a budget for proof DNA to ensure the individual status and nationality of the indigent Thais and continuously cover the affected groups in all areas.

5.3.4 When problems related to the performance of DOPA staff arise, a hotline should be set up to provide advice to officers, coordinate with relevant departments, enforce the law, and have a surveillance system to monitor DOPA operations. Each step should be completed within a specified time frame.

5.3.5 DOPA should promote a continuous process for personnel development in registrations and nationalities by building a systematic and constant understanding of the law, regulations, and staff guidelines.

5.3.6 Most of the target groups who come to receive services must walk into the government offices. DOPA should create a network of local people, civil society, or community volunteers to lead the role of introducing and mediating between government agencies and people in the area, with continuous coordination and opportunities for public sector involvement in resolving individual status and rights issues to assist in obtaining necessary evidence and information.

5.3.7 The DOPA must regularly monitor staff performance to prevent corruption and promote target participation processes to monitor and assess staff performance.

## 6. References

- Boonrach, G., 2017. *Statelessness situation and Thailand's solutions* [online] Available at: < <http://www.nhrc.or.th/getattachment/News/Activity-News/news25600710-2%E0%B8%AA%E0%B8%A1%E0%B9%80%E0%B8%94%E0%B9%87%E0%B8%88%E0%B8%9E%E0%B8%A3%E0%B8%B0%E0%B9%80%E0%B8%97%E0%B8%9E%E0%B8%A3%E0%B8%B1%E0%B8%95%E0%B8%99%E0%B8%A3%E0%B8%B2%E0%B8%8A%E0%B8%AA%E0%B8%B8%E0%B8%94%E0%B8%B2%E0%B8%AF%E0%B8%AA%E0%B8%A2%E0%B8%B2%E0%B8%A1%E0%B8%9A%E0%B8%A3%E0%B8%A1%E0%B8%A3%E0%B8%B2%E0%B8%8A%E0%B8%81/Grisa-da-Boonrach.pdf.aspx> > [Accessed October 19, 2020].
- Seesuk, V., 2015. *Solving the problem of stateless people living in Thailand*. Supporting documents for the appraisal for appointment as a specialist in the registration management. Bangkok: DOPA

## Appendix 1: Summary of Order letters, the Memorandum of Cooperation, and Other Relevant Official Documents

DOPA has prepared and compiled six clear and easy-to-understand order letters, the cooperation of memorandum, and other relevant official documents on the rehearsal of the project and the registration of citizens, nationality, and individual statuses by law and government policies as follows:

Content	Order letters, Cooperation Memorandum, and Other Relevant Official Documents
The project-specific	<p data-bbox="405 663 853 707"><b>Order letters</b></p> <p data-bbox="405 730 1102 768">1. <u>No. MOI 0309.1/V 30 Dated August 31, 2015</u> *</p> <p data-bbox="405 786 1358 824">Subject: The Usage of DNA Test Results to Fill in Thai Nationality Record</p> <p data-bbox="405 842 1114 880">2. <u>No. MOI 0309/V 3993 Dated February 28, 2017</u></p> <p data-bbox="405 898 1493 1043">Subject: Practice in considering the granting of Thai nationality under Section 7 bis paragraph two of the Nationality Act B.E. 2508 Amendment (No. 4) B.E. 2551 and Cabinet Resolution on December 7, 2016.</p> <p data-bbox="405 1061 1134 1099">3. <u>No. MOI 0309.1/V 63 Dated February 20, 2020</u> **</p> <p data-bbox="405 1117 1493 1263">Subject: The “DNA Testing Project to Solve Registration Status and Rights of Thai people Who Were Missing from the Registration Process, Fiscal Year 2020 (B.E.2563)</p> <p data-bbox="405 1319 847 1364"><b>Cooperation Memorandum</b></p> <p data-bbox="405 1391 1493 1592">4. <u>Dated May 15, 2015</u>, the CIFS and the DOPA, the Ministry of Interior, had endorsed the Memorandum of Cooperation in which both parties agree to support and promote cooperation and coordination to enhance equality and improve the wellbeing of stateless people through DNA testing technology. ***</p> <p data-bbox="405 1666 1493 1980">5. <u>Dated January 16, 2016</u>, the DOPA has signed MoUs with Rangsit University and Thaksin University, forming cooperation agreements to provide educational staff and students supporting area-based government agents in legal advising, receiving applications, and collecting necessary evidence. The Chumchon Thai Foundation, a group of formerly stateless persons who were granted Thai citizenship, helped promote the project. ****</p>

Content	Order letters, Cooperation Memorandum, and Other Relevant Official Documents
	<p><b>Invitation letter</b></p> <p>6. Invitation to participate in a pilot project to assess civil registration for hard-to-reach and marginalized population groups by the Regional Support Office of the Bali Process, dated June 12, 2018 *****</p> <p>7. <u>No. MOI 0309.1/ 14006 Dated August 24, 2018</u> Subject: Participate in a pilot project to assess civil registration for hard-to-reach and marginalized population groups</p>
<b>Protection of civil registration information</b>	<p><b>Order letters</b></p> <p>8. <u>No. MOI 0309.1/V 29 Dated September 6, 2019</u> Subject: Practice about requesting a copy of the civil registration document</p>

**\* The Department of Provincial Administration’s Officer Letter title “The Usage of DNA Test Results to Fill in Thai Nationality Record” issued on August 31 2015 (B.E.2558) to Provincial Registrars and Bangkok Registrar**

The official letter summarized the frequently occurred difficulties stemmed from lack of understanding of the DNA testing process and usage of such test’s result. The Bureau of Registration Administration, DOPA, affirmed that the competent officers should thoroughly check related documents and witnesses before requesting for the person’s DNA test results. The person should only be eligible to enter the DNA Testing Project if the test results can be used as supporting evidence for their acquisition of Thai nationality. If the DNA test result confirms the relationship of such person with a Thai person, the officer shall not request for further acquisition of witness to prove their blood ties. Additionally, the officers shall always use appropriate and lawful discretion to request for witnesses on the basis of law and regulation.

**\*\* “The Department of Provincial Administration’s Urgent Officer Letter titled “DNA Testing Project to Solve Registration Status and Rights of Thai people Who Were Missing from the Registration Process, Fiscal Year 2020 (B.E.2563)” issued on February 20, 2020 (B.E.2563) to Provincial Registrars, District Registrars, and Bangkok Registrar**

The Department of Provincial Administration, Ministry of Interior of Thailand, issued an official document on February 20, 2020 (B.E.2563) titled “DNA Testing Project to Solve Registration Status and Rights of Thai people Who Were Missing From the Registration Process, Fiscal Year 2020 (B.E.2563)” to all District registrars, Provincial registrars, and Bangkok registrar. The project aimed to help Thai people whose names were missing from the registration process and lack essential evidence to prove person’s status and nationality.

The document explained in detail the qualification of the eligible participants, online application procedures to request for DNA test, and the DNA test fees' disbursement. The manual on the online DNA testing system was attached along with the document.”



**\*\*\* Memorandum of Understanding on the Collaboration to Provide DNA Testing Services to Support Civil Registration Related Work Between The Department of Provincial Administration, Ministry of Interior, and Central Institute of Forensic Science, Ministry of Justice**

**Principles**

This memorandum of understanding is created on May 14, 2015 (B.E.2558) between the Department of Provincial Administration (DOPA), Ministry of Interior, by Mr.Kritsada Boonrat, the Director-General of DOPA, and Khun Ying Pornthip Rojjanasunand, Director of the Central Institute of Forensic Science (CIFS), Ministry of Justice. Both parties had reached an agreement to create this memorandum of understanding as followed.

**Objectives**

The Department of Provincial Administration, Ministry of Interior, and the Central Institute of Forensic Science, Ministry of Justice, agrees to initiate collaborative effort to resolve registration status and rights of Thai people who were missing from the registration process

**Responsibilities**

The Department of Provincial Administration (DOPA) and the Central Institute of Forensic Science (CIFS) agreed to act as followed:

**The Department of Provincial Administration (DOPA), Ministry of Interior,** is in charge of

- (1) Verification the eligibility of the person requesting for DNA test, whom submitted the request via district registration office or local registration office, that the person holds Thai nationality according to Nationality Law and in accordance with Civil Registration Act B.E.2534 and Central Registration Regulation on Civil Registration B.E.2535 (and related amendments)
- (2) Forwarding the name list of eligible participants to the Central Institute of Forensic Science or related agency to conduct DNA tests. The result of which will be used as supporting evidence to report for the birth after designated period and the name addition to house registration (Tor. Ror. 14) as person with Thai nationality
- (3) In the area with multiple people who have problem with their registration status and are missing from the registration process, the Department of Provincial

Administration can request for the Central Institute of Forensic Science to employ mobile service unit to facilitate the DNA testing process for such group of people

**The Central Institute of Forensic Science (CIFS), Ministry of Justice,** is in charge of

- (1) Conducting DNA Testing Services according to the name list of eligible participants given to the Central Institute of Forensic Science by the Department of Provincial Administration. The result of which will be used as supporting evidence to report for the birth after designated period and the name addition to house registration (Tor. Ror. 14) as person with Thai nationality
- (2) The Central Institute of Forensic Science will be solely responsible for the cost of DNA Testing Service
- (3) In the area with multiple people who have problem with their registration status and are missing from the registration process, the Central Institute of Forensic Science can employ mobile service unit to facilitate the DNA testing process for such group of people via if requested by the Department of Provincial Administration
- (4) The Central Institute of Forensic Science will issue documents for the publicity of the project and other related documents and placed them in appropriate location provided by the Department of Provincial Administration in order to give and share this information with people who have problem with their registration status and are missing from the registration process

### **Coordinators**

In order to facilitate the implementation of this Memorandum of Understanding, the coordinators between the Department of Provincial Administration, Ministry of Interior, and the Central Institute of Forensic Science, Ministry of Justice, are assigned as followed:

The Department of Provincial Administration, Ministry of Interior, assigned the people as followed:

- (1) Director of the Bureau of Registration Administration
- (2) Director of the Civil Registration Division

The Institute of Forensic Science, Ministry of Justice, assigned the people as followed:

- (1) Director of Forensic Science Services Division
- (2) Head of the Clinical Forensic Group

### Signature and Adoption

This Memorandum of Understanding had been issued in 2 copies with the same content. The authoritative figures of both parties had read and understood the agreements in the Memorandum of Understanding, and deemed that the content align with the objectives of the initiation. Therefore, both parties hereby signed the Memorandum of Understanding in front of witnesses from both agencies and each keep one copy of the document. The Memorandum of Understanding is henceforth effective on the day both parties had signed the document.

Signature

.....

(Mr. Kritsada Boonrat)

Director-General of the Department  
of Provincial Administration

Signature

.....

(Khunying Pornthip Rojjanasunand)

Director-General of the Central Institute  
of Forensic Science

Signature

.....

(Mr. Viroj Sisawat)

Registration administration Senior  
Specialist

Signature

.....

(Mr. Sakya Chumai)

Deputy Director-General of the Central  
Institute  
Of Forensic Science

Signature

.....

(Mr. Veenus Sisuk)

Director of the Bureau  
of Registration Administration

Signature

.....

(Mr.Suranarong Sisuwan)

Senior Professional Medical Practitioner  
Acting  
Director of Forensic Science Services  
Division



#### บันทึกข้อตกลง

ว่าด้วยความร่วมมือด้านการให้บริการตรวจสอบพันธุกรรมเพื่อสนับสนุนงานทะเบียนราษฎร

#### ระหว่าง

กรมการปกครอง กระทรวงมหาดไทย กับ สถาบันนิติวิทยาศาสตร์ กระทรวงยุติธรรม

#### หลักการ

บันทึกข้อตกลงนี้ทำขึ้น ณ สถาบันนิติวิทยาศาสตร์ เมื่อวันที่ ๓๕ เดือน พฤษภาคม พ.ศ. ๒๕๕๘ ระหว่าง กรมการปกครอง กระทรวงมหาดไทย โดย นายฤทธิชัย บุญราช อธิบดีกรมการปกครอง ฝ่ายหนึ่ง กับ คุณหญิงพรทิพย์ โรจนสุนันท์ ผู้อำนวยการสถาบันนิติวิทยาศาสตร์ อีกฝ่ายหนึ่ง ทั้งสองฝ่ายได้ตกลงร่วมกันจัดทำบันทึกข้อตกลงนี้ ปรากฏเป็นลายลักษณ์อักษรดังต่อไปนี้

#### ความมุ่งหมาย

กรมการปกครอง กระทรวงมหาดไทย และสถาบันนิติวิทยาศาสตร์ กระทรวงยุติธรรม มีความเห็นร่วมกันที่จะประสานความร่วมมือในการดำเนินการแก้ไขปัญหาสถานะและสิทธิของคนไทยที่ตกหล่นทางทะเบียนราษฎรซึ่งไม่มีชื่อและรายการบุคคลในทะเบียนบ้าน (ท.ร. ๑๔) ประกอบกับเป็นผู้มีรายได้น้อยหรือรายได้ไม่เพียงพอเป็นค่าใช้จ่ายในการตรวจสอบสารพันธุกรรม (DNA) ซึ่งเป็นหลักฐานสำคัญที่จะสนับสนุนให้ได้สัญชาติไทย จึงเป็นปัญหาทำให้ไม่สามารถเข้าถึงสิทธิประโยชน์และสวัสดิการต่างๆ ตามสิทธิและไม่ได้รับการปฏิบัติอย่างเท่าเทียมกันได้ ดังนั้น การให้บริการตรวจสอบสารพันธุกรรม (DNA) เพื่อพิสูจน์สถานะบุคคลและการยืนยันความสัมพันธ์ทางสายโลหิต จึงเป็นการอำนวยความสะดวกให้กับประชาชนสำหรับใช้เป็นหลักฐานประกอบการพิจารณาในการแจ้งเกิดแจ้งกำหนดหรือขอเพิ่มชื่อในทะเบียนบ้านในสถานะผู้มีสัญชาติไทยได้

#### ความรับผิดชอบ

กรมการปกครอง และสถาบันนิติวิทยาศาสตร์ ตกลงที่จะปฏิบัติภารกิจร่วมกัน ดังนี้

**กรมการปกครอง กระทรวงมหาดไทย รับผิดชอบในเรื่อง**

(๑) ตรวจสอบสมบัติของผู้ขอรับการตรวจสอบสารพันธุกรรม (DNA) ซึ่งยื่นเรื่องผ่านสำนักทะเบียนอำเภอหรือสำนักทะเบียนท้องถิ่น ว่าเป็นผู้มีสัญชาติไทยตามกฎหมายว่าด้วยสัญชาติ และการปฏิบัติเป็นไปตามพระราชบัญญัติการทะเบียนราษฎร พ.ศ. ๒๕๓๔ และระเบียบสำนักทะเบียนกลางว่าด้วยการจัดทำทะเบียนราษฎร พ.ศ. ๒๕๓๕ (รวมฉบับแก้ไขเพิ่มเติมถึงฉบับที่ ๕ พ.ศ. ๒๕๕๑) หรือไม่

(๒) พิจารณาแจ้งรายชื่อผู้มีคุณสมบัติครบถ้วนให้สถาบันนิติวิทยาศาสตร์ หรือหน่วยงานที่เกี่ยวข้อง เพื่อดำเนินการตรวจพิสูจน์สารพันธุกรรม (DNA) สำหรับใช้เป็นหลักฐานประกอบการพิจารณาแจ้งเกิดแจ้งกำหนด และการเพิ่มชื่อในทะเบียนบ้าน (ท.ร. ๑๔) ในสถานะผู้มีสัญชาติไทย

/(๓) กรณีพื้นที่...



-๒-

(๓) กรณีพื้นที่ที่ประชาชนมีปัญหาสถานะและมีข้อบกพร่องทางทะเบียนราษฎรเป็นจำนวนมาก กรมการปกครองสามารถพิจารณาให้สถาบันนิติวิทยาศาสตร์ กระทรวงยุติธรรม ดำเนินการในลักษณะการออกหน่วยบริการเคลื่อนที่ให้บริการประชาชนที่ได้รับความเดือดร้อนเพื่อเป็นการอำนวยความสะดวกได้

#### สถาบันนิติวิทยาศาสตร์ กระทรวงยุติธรรม รับผิดชอบในเรื่อง

(๑) ดำเนินการให้บริการด้านการตรวจสอบสารพันธุกรรม (DNA) ตามที่กรมการปกครอง แจ้งรายชื่อให้ เพื่อเข้าสู่กระบวนการพิสูจน์สถานะบุคคลและยืนยันความสัมพันธ์ทางสายโลหิต สำหรับใช้เป็นหลักฐานประกอบการพิจารณาแจ้งเกิดเกินกำหนดและเพิ่มชื่อในทะเบียนบ้าน (ท.ร. ๑๔) ในสถานะผู้มีสัญชาติไทย

(๒) สถาบันนิติวิทยาศาสตร์ กระทรวงยุติธรรม จะเป็นหน่วยงานรับผิดชอบด้านงบประมาณ สำหรับการตรวจสอบสารพันธุกรรม (DNA) ทั้งหมด

(๓) กรณีได้รับการแจ้งจากกรมการปกครอง สำหรับพื้นที่ที่ประชาชนมีปัญหาสถานะและมีข้อบกพร่องทางทะเบียนราษฎรเป็นจำนวนมาก สถาบันนิติวิทยาศาสตร์ สามารถดำเนินการในลักษณะการออกหน่วยบริการเคลื่อนที่ให้บริการประชาชนที่ได้รับความเดือดร้อนเพื่อเป็นการอำนวยความสะดวกได้

(๔) สถาบันนิติวิทยาศาสตร์ จะจัดทำเอกสารเผยแพร่ประชาสัมพันธ์ และเอกสารที่เกี่ยวข้อง มาวางไว้ ณ สถานที่กรมการปกครองจัดให้ เพื่อให้ความรู้และเผยแพร่ประชาสัมพันธ์ สำหรับประชาชนที่มีปัญหาสถานะและมีข้อบกพร่องทางทะเบียนราษฎร

#### ผู้ประสานงาน

เพื่อให้การปฏิบัติงานตามบันทึกข้อตกลงฉบับนี้มีความคล่องตัวและมีประสิทธิภาพ จึงมอบหมายให้มีผู้ประสานงานระหว่างกรมการปกครอง กระทรวงมหาดไทย และสถาบันนิติวิทยาศาสตร์ กระทรวงยุติธรรม ดังนี้

กรมการปกครอง กระทรวงมหาดไทย มอบให้บุคคลต่อไปนี้ เป็นผู้ประสานงาน

(๑) ผู้อำนวยการสำนักบริหารการทะเบียน

(๒) ผู้อำนวยการส่วนการทะเบียนราษฎร

สถาบันนิติวิทยาศาสตร์ กระทรวงยุติธรรม มอบหมายให้บุคคลต่อไปนี้ เป็นผู้ประสานงาน

(๑) ผู้อำนวยการกองนิติวิทยาศาสตร์บริการ

(๒) หัวหน้ากลุ่มนิติเวชคลินิก

#### การลงนามและการใช้บังคับ

บันทึกข้อตกลงฉบับนี้ได้จัดทำเป็นคู่ฉบับมีข้อความตรงกัน ผู้มีอำนาจลงนามของทั้งสองหน่วยงานได้อ่านและเข้าใจความในบันทึกข้อตกลงเป็นอย่างดีแล้ว เห็นว่าถูกต้องตรงตามความประสงค์

/จึงได้ลงนาม...

-611-

จึงได้ลงนามไว้เป็นสำคัญต่อหน้าพยานของทั้งสองหน่วยงาน และเก็บรักษาไว้หน่วยงานละหนึ่งฉบับ โดยกำหนดให้มีผลบังคับใช้ตั้งแต่วันที่ผู้มีอำนาจลงนามของทั้งสองหน่วยได้ลงนามในบันทึกข้อตกลงเป็นต้นไป

ลงชื่อ.

(นายกฤษฎา บุญราช)  
อธิบดีกรมการปกครอง

ลงชื่อ.

(คุณหญิงพรทิพย์ โรจนสุนันท์)  
ผู้อำนวยการสถาบันนิติวิทยาศาสตร์

ลงชื่อ.

(นายวิโรจน์ ศรีสวัสดิ์)

ผู้เชี่ยวชาญเฉพาะด้านการบริหารงานทะเบียน

ลงชื่อ.

(นายตั๊กยา ชูใหม่)

รองผู้อำนวยการสถาบันนิติวิทยาศาสตร์

लगभग

(นายวินัส สีสุข)

ผู้อำนวยการส่วนการทะเบียนราษฎร

สงขลา.

(นายสุรณรงค์ ศรีสุวรรณ)

นายแพทย์ชำนาญการพิเศษ รักษาราชการแทน

ผู้อำนวยการกองนิติวิทยาศาสตร์บริการ

**\*\*\*\*Memorandum of Understanding on the Collaboration to Authenticate and Certify Displaced Thais Between The Department of Provincial Administration, Ministry of Interior, and Thaksin University, Rangsit University, Office of Social Health Development Collaboration, Chumchonhai Foundation, and National Human Rights Commission of Thailand**

The Department of Provincial Administration (DOPA), along with the aforementioned agencies, agree to collaborate in order to facilitate the authentication and certification of displaced Thais' status.

DOPA's responsibilities are to facilitate the process related to person's status and nationality, provide knowledgeable officers to train and share understandings of legal measures and regulations on nationality, and coordinate with the provinces and districts to support participations of the aforementioned agencies' officers in requested areas

Thaksin University, Rangsit University, Chumchonhai Foundation and the Office of Social Health Development Collaboration are responsible for publicizing and sharing knowledge regarding legal measures and regulations on nationality to displaced Thais, and providing the provinces and districts with student support under the laid framework

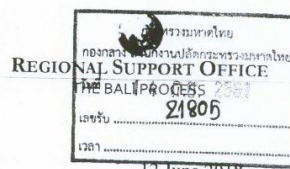
National Human Rights Commission of Thailand is responsible for sharing understandings regards person's status to displaced Thais, following and evaluating the process of solving the problem related to displaced Thais' status, and suggesting policies and essential legal amendments to related agencies



**\*\*\*\*\* Invitation to participate in a pilot project to assess civil registration for hard-to-reach and marginalized population groups by the Regional Support Office of the Bali Process, dated June 12, 2018**



**UNHCR**  
United Nations High Commissioner for Refugees  
Haut Commissariat des Nations Unies pour les réfugiés



Re: **Invitation to participate in a pilot project to assess civil registration for hard-to-reach and marginalized population groups**

Dear Khun Chatchai,

At the Sixth Ministerial Conference of the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime in Bali, Indonesia, on 23 March 2016, the Royal Thai Government, together with representatives of other member states adopted the Bali Declaration on People Smuggling, Trafficking in Persons, and Related Transnational Crime. The Declaration affirmed political commitments of the members to address the challenges associated with smuggling, trafficking and transnational crime in the region. The Declaration acknowledged the importance of civil registration in providing identity and basic protection for individuals, as well as helping states track migration flows. The Declaration also recalled the 2014 Ministerial Conference on Civil Registration and Vital Statistics in Asia and the Pacific, which proclaimed a shared vision that by 2024, all people in Asia and the Pacific should benefit from universal and responsive civil registration and vital statistics systems. States committed to work towards the target to enable them to better track and protect migrant populations from smuggling, trafficking and transnational crime.

Taking this into account, the Regional Support Office of the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime ("RSO") convened a Technical Advisory Group ("TAG") constituting officials from Bangladesh, Malaysia, Pakistan, the Philippines, Thailand and the UNHCR Regional Office for South-East Asia ("UNHCR RO") to develop the Bali Process Civil Registration Toolkit. The Toolkit targets hard-to-reach and often marginalized population groups such as refugees, asylum-seekers, stateless persons, persons of undetermined nationality and undocumented persons due to their vulnerability to violation, exploitation and irregular migration. The Toolkit aims to help states in assessing and improving their national civil registration systems in order to incorporate and provide basic protection for these individuals. In addition, the Toolkit could enhance an understanding of a state's population, and thus improve national security. The TAG is now in the process of 'testing' the relevance and applicability of the Toolkit.

During the last meeting of the TAG on 18-19 January 2018, it was agreed that a pilot project should be conducted to evaluate the Toolkit and draw lessons for its implementation. In light of its progress on civil registration, including reforms of its legislative framework and use of information and communication technology (ICT) to strengthen the well-functioning civil registration system, Thailand was deemed ideal for the piloting of the Toolkit.

.../2-

Khun Chatchai Promlert  
Permanent Secretary  
Ministry of Interior  
Asdang Road  
Bangkok

cc. Khun Kanchana Patarachoke  
Director-General, Department of International Organizations  
Ministry of Foreign Affairs





We therefore write to invite you as the competent ministry on civil registration to participate in the pilot project to assess civil registration for hard-to-reach and marginalized population groups. We would like to request for your kind cooperation to call for the establishment of a working group ("WG") to lead the assessment and act as a coordinating body for the project. Apart from the Ministry of Interior, the WG could include representatives from relevant government bodies such as the National Security Council, Ministry of Social Development and Human Security, Ministry of Education, Ministry of Justice, Ministry of Public Health, National Human Right Commission and appropriate civil society organizations.

We would like to inform you that the RSO and UNHCR RO stand ready to extend technical and material support to the Ministry of Interior for the collaborative discharge of this project.

We look forward to your kind consideration and cooperation.

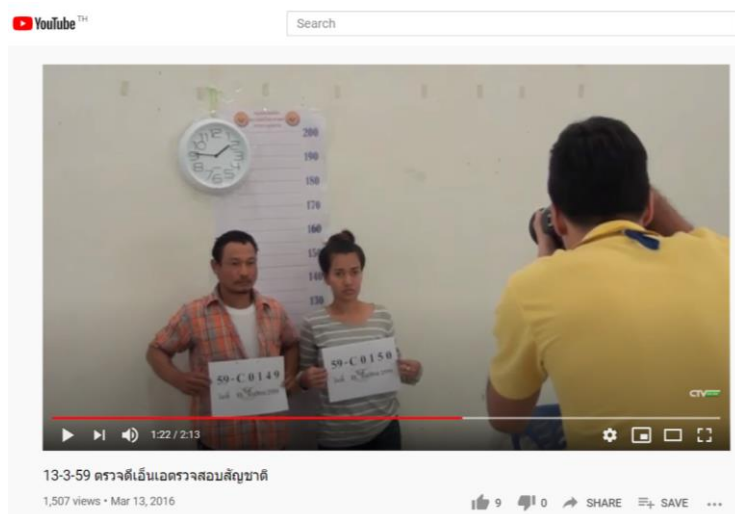
Yours sincerely,

James Lynch  
UNHCR Regional Representative  
and Regional Coordinator for South-East Asia

Michael Odgers  
Co-Manager (Australia)  
the Regional Support Office of the Bali Process

## Appendix 2: News, VDO Clips and Publications Relevant to the Project

### A. The DNA test to prove Thai Nationality



( March 13, 2016, <https://youtu.be/x99w5dMdAZU>, 2.13 minutes)

Department of Provincial Administration (DOPA), Ministry of Interior and Central Institute of Forensic Science (CIFS), Ministry of Justice addressed Chanthaburi as a pilot province organizing a genetic material or DNA testing project to resolve the status and rights problems of Thai people who have been recorded in civil registration in 2016. At Pong Nam Ron District Auditorium, Chanthaburi Province. Under the command of Police Lieutenant Colonel Suphot Nakngernthong, Director of the CIFS, Dr. Khunying Pornthip Rojanasunan, Advisor to the CIFS, is welcome Mr. Peeranat Ratanaworopas, Pong Nam Ron Chief District Officer. In this regard, Mr. Peeranat leads people who desire DNA genetic testing from missing from civil registration. 120 people attended the DNA testing service from two districts, namely Pong Nam Ron District and Soi Dao District. There are currently approximately 200,000 people who are missed and not recorded in the civil registration in 20 provinces across the country. With no evidence of being Thai, those people lose their rights to access in public services provided by Thai Government. The DOPA and CIFS agreed to cooperate and enhance in resolving the status and rights of Thai people who have been missed from civil registration and does not have particulars of registration records in the house registration; such documents are important evidence to acquire Thai nationality. On this occasion, Mr. Phiranath Ratanaworopas, Pong Nam Ron Chief District Officer, led a DNA tests working-team to operate on a special case; the Nuchaphong's family, which has two persons of disabilities and could not mobile to the district office to attend the DNA testing. Through the procedure, Mr. Thanin Nuchaphong, the elder son could get the first ID card; also Mr. Phitsanu, the younger one with intellectual disability, was waiting for the

result of DNA testing. This project is a pilot project, and Chanthaburi is the first province to organize the DNA testing service, which takes two days to operation.

## B. Proving Registration Status: DNA Testing of the Heritage



( March 27, 2016, <https://youtu.be/EWqtpqMIfAg>, 22.42 minutes)

Although they were born and had lived their whole life in Thailand, over 200,000 people are still undocumented in the civil registration database.

More than 200 villagers from Pong Nam Ron District, Chanthaburi Province, were excluded from the civil registration database and did not possess Thai Identification card. Due to this, their basic rights were strictly limited. However, they can now request to have DNA tests from the Central Institute of Forensic Science (CIFS), in collaboration with the Department of Provincial Administration (DOPA), without any cost to prove their registration status.

Ms.Nonglak, age 40, and her daughter, age 14, were people who did not possess Thai national ID card. Ms.Nonglak brought her mother, whom possess Thai ID card, with her to receive the DNA tests. She lamented that she had been living a difficult life; unable to freely move, get permanent job that requires national ID card, gain access to insurance, or apply for subsidized healthcare from the government.

Dr. Pornthip Rojanasunand, advisor of the CIFS, expressed that the problem of undocumented person in Thailand is in severe condition. To date, over 200,000 people are still facing this problem.

To conduct DNA tests; there are 2 tiers of relationship pairing with whom possess national ID card; (1) pairing with direct relative and (2) pairing with indirect relative. The cost of each test types are 3,000 and 10,000 THB respectively. It is costly, but DOPA and CIF tried their best to provide free services and lower related costs.

DNA mouth swab method was utilized to collect DNA sample from over 200 villagers in Pong Nam Ron District. The CIFS officers would collect DNA samples by swabbing both parties with cotton bud, take personal information and document, and send the swabs and data to their Bangkok laboratory. It would take around 1 month for the test results, which would be sent to District office as supporting document of nationality application. The report would, then, be sent to DOPA for approval. The initiation to mobilize mobile units from CIFS and DOPA in various districts is largely beneficial to undocumented person, as most of which are low-income earners who lack travel expense.

Mr.Thanin, a disabled person without national ID card, was also affected by his lack of status. He waited over 30 years to finally receive his ID card; the success which happened due to the DNA testing initiative. Although Mr.Thanin successfully received his ID card, over 3 million others are still waiting for their application approval.

Children are the future of the country. However, many children still lack their registration status, depriving their chances to higher education and rights. The DNA testing project to solve statelessness is a collaborative project between the Ministry of Justice and the Ministry of Interior under the government's policy to decrease inequality and close economic gap. In 2016, the pilot project was launched in Chanthaburi Province and the focus was stressed onto children, in order to grant them access to education.

Mr.Amporn, villager from Pong Nam Ron District, Chanthaburi Province, heard of the news that CIFS would conduct free DNA tests for all needed people, so he rode 40 kilometers on his motorbike to the location.

From the educator's perspective, the director of "Ban Nen Din Daeng" school also expressed his thoughts and worries of his students' lack of civil registration status. He stated that his students who lack registration status, also known as "G-children", are of Thai descends.

However, they are deprived of their basic rights and may never be able to gain higher education, which greatly limit their dreams and potentials. The director also mentioned that there are many obstacles to the process to gain Thai nationality. First of all, the district registration offices are often far away from their residents. Secondly, the child's family must bring government official(s) or trusted person(s) as guarantor of the child's status.

The Director-General of the Department of Provincial Administration, Ministry of Interior, which is the direct agency in charge of the inquisition and evidence checking process, explained that there are 2 scenarios that lead to one not having registration status. Firstly, the guardian of the person had reported that person's birth, but did not report the name addition to house registration. The other case is that the person's birth was not reported at all, although that person had Thai parents. People who were affected due to these 2 causes should contact the registrars at any of over 2,000 registration offices nearby.

Representative from the AMNESTY Thailand also expressed their concerns regarding children who lack registration status, and hope for the improvement of this situation.

### C. DNA Test and Solution of Statelessness Problem



( May 11, 2016, <https://www.youtube.com/watch?v=aR1mHSwyLD8>, 5.16 minutes)

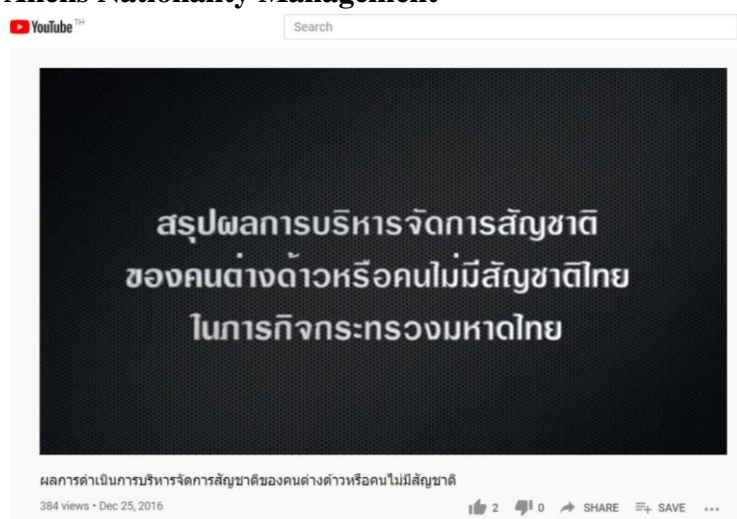
Statelessness has been a problem for a long time in Thailand. It mostly occurs within a group of elders and children, bringing them lost their legal rights, and for the children, unable to access the education system due to not holding proof of Thai nationality. However, the evidence to

solve this problem is “DNA Test” which is a scientific proof to help stateless persons to acquire Thai nationality.

In the past, the chief of district officer and the local registrar may consider issuing the certificate of legal status to Thai nationality by only inquiring applicants with their personal information and some affirmatives from their close contacts. However, the fraud identity card in Udom district, Ubon Ratchathani province, is an example problem showing that the consideration cannot verify personal legal status. In B.E. 2556 (2013), the examination showed that Udom district’s local registrar had granted 298 people with Thai nationality incorrectly and without any considerations from the chief of district officer. So the Department of Provincial Administration had asked the Central Institute of Forensic Science to help 298 people getting a DNA relationship *testing* with their fathers, mothers, or relatives of the same blood lineage identified as Thai to prove legal status and nationality, and to prevent the fraud identity card and discretion of the officers.

The leading cause of statelessness problem in Thailand is lacking knowledge and understanding by neglecting the importance of having a personal document such as not reporting the child's birth, not registering a profile with government officials, and frequent relocation. To end statelessness and fraud identity card, the Department of Provincial Administration need an internal audit and proper ways to solve.

#### D. The Result of Aliens Nationality Management



(December 25, 2016, <https://youtu.be/ilQp2DdLeuE>, 5.18 minutes)

The summary of the management of Aliens or people without Thai nationality in the Ministry of Interior's mission under General Anupong Paochinda, Minister of Interior.

The Ministry of Interior has organized a registration system of Aliens or non-Thai nationals residing in Thailand by assigning a 13-digit identification card number and issued an identification card as evidence for any aliens entering lawfully and minorities or ethnic groups. Currently, there are 242,783 general aliens, of which 199,040 are children who were born in Thailand. The minorities and ethnic groups in Thailand divided into 19 groups surveyed for registration of individual groups from 1984 until 1999. Nowadays, there are 459,995 minorities, with 379,995 of them entering the Kingdom of Thailand and 80,000 children born in Thailand.

The law process on the nationality of aliens entering to Kingdom of Thailand can lawfully apply for acquisition of Thai nationality by 2 principles;

- 1) Desiring to apply for naturalization as a Thai citizen.
- 2) An alien woman who married a Thai citizen. However, the children born in Thailand will not be permitted to acquire Thai nationality until they desire to acquire Thai nationality by submitting their filing of complaint to the Minister of Interior which will be considered by the cabinet under the Law administrative Procedure.

For the minorities who have been living in Thailand at least 10 years can acquire for Thai nationality by applying for naturalization as a Thai citizen or acquire for Thai nationality by marrying a Thai husband and the children who born in Thailand need to submit the filing of a complaint to the Minister of Interior. The cabinet will consider it under the Law administrative Procedure. Nowadays, the governors are in charge of approval.

Hill tribe's children and an ancestor who was born in Thailand or child of such person, whose nationality has been revoked by the Declaration of 1972 of the National Executive Council, can apply for Thai citizenship by birth, according to the nationality law which is within the authority of the Chief District Officer.

From 1992 to November 2016, the Department of Provincial Administration, Ministry of Interior considered the nationality of 252,196 aliens and minorities, consisting of cases in the Chief District Officer's authority, such as Thai hill tribe and children of those whose citizenship was revoked according to the declaration of 1972 of the National Executive Council (154,337



cases) . For the Minister of Interior's authority, there are requests for Thai naturalization and acquiring Thai nationality by a Thai husband also including cases where the Minister delegates powers to provincial governors, such as approving citizenship of 97,859 foreign children born in Thailand. Since 2014 to November 2014 government under General Prayuth Chan-O-Cha, prime minister of Thailand, there were 20,338 citizenship acquiring Thai nationality, an average of 10,109 cases per year, which is 5,489 cases in the Chief District Officer's authority and under the Minister of Interior's authority including cases that the Minister authorized power to the provincial governors is 14,840 people.

In addition, to resolve the problem of children born in Thailand but can't acquire Thai nationality. Especially students, who are children of minorities and ethnic groups and children of aliens, have completed their bachelor's degree. The Ministry of Interior proposed the criteria of acquisition of Thai nationality which the cabinet passed the criteria of resolution on December 7, 2016. This approving criterion will increase the number of stateless students to apply for Thai citizenship no less than 800,000 cases.

The series of resolutions not only respond to the government policy on the management of citizenship of aliens or non-Thai citizens, but also make a positive perception in the international level and are recognized as a role model in addressing stateless people which complies with international obligations on human rights, as well as tackling human trafficking, social issues and responding to national security policies. This is fundamental for development in all aspects to drive the country towards the goal of stability, prosperity and sustainability.



## E. Thailand's Problem of Nationality Law and Citizenship



(July 10, 2017, <https://youtu.be/09ETpg8jG1s>, 3.47 minutes)

Nationality Issue or Citizenship issue is one of the most important problem in Thailand, this is because Thailand shares borders with many countries so that numbers of migration to Thailand has been witnessed for a long time. Therefore, The National Human Rights Commission of Thailand cooperate with Ministry of Foreign Affairs and other concerned units organized a talk on the topic of Nationality Law problem and Thai Citizenship. Mr.Venus Seesuk, Registration Administration Senior Specialist, the Bureau of Registration Administration, Department of Provincial Administration, Ministry of Interior, explained that many cases of problems of people who was born in Thailand but has not received Thai Nationality have been solved recently, but there is an issue of internal security that Thailand has to still control about certifying Thai Nationality.

Mr.Venus Seesuk : “As you are asking if it is possible to give all people who was born in Thailand a Thai Nationality according to the Nationality Act B.E. 2508 (1965), in the opinion of DOPA, the current regulations of giving Nationality are pretty good and the intensity of law and regulation enforcement will depend on internal security of the country. If there is a big issue of internal security, the sovereignty might be able to reconsider about certifying Nationality.”

Pol.Maj. Apiwat Niyomkarn, Deputy Commissioner of the Immigration Bureau, suggested that the government should launch an obvious policy to solve with the migration problem.

Pol.Maj. Apiwat Niyomkarn: “I would suggest that the Prime Minister has to launch an obvious policy on migration problem, and if the Law was an obstacle then the government should make an amendment.”

The speakers suggested that another way to solve the problem is to centralized the process of solving Nationality and stateless problem to One Stop Service.

Pol.Maj. Apiwat Niyomkarn: “We should centralized the authority and process to One Stop Service.”

Mrs.Kanchana Patarachoke, “One Stop Service should be very useful and convenience for the people. A good example is our One Stop Service for foreign investors. Due to many Laws, Rules, and Regulations on migration, Nationality, and Stateless People together with the complexity of the process, it would be good if we could arrange One Stop Service.

It was reveled in the talk that Thailand has received an appreciation from UN and UNICEF to solve birth registration problems and Statelessness’s education rights.



2) Acquire Thai nationality by the law process “Applying and Considering” classified by 3 principles:

2.1 An alien woman, who married a Thai citizen.

2.2 An alien desiring to apply for naturalization as a Thai citizen.

2.3 An alien desiring to resume Thai nationality (Thai national renounces his/her nationality by marriage to an alien or Thai national who has and later lose his/her nationality by his/her father or mother before becoming *sui juris*)

The person who has the qualification and the right which desires to acquire Thai nationality has to do as following;

1. In case 1.2.2 applies and submits at the District Officer/Local Registration Office/Registration Administration Office and in case 2.1-2.3 applies and submits the filing an application to police station/Special Branch Bureau.

2. Checking the filing an application, evidences and the qualification of the alien who apply for Thai nationality.

3. In Case 1.2.2, for the applicant who is not over than 18 years old, the approval is Chief District Officer/District Director/Director of the Bureau of Registration Administration. In case the applicant for Thai nationality has the age over 18, the person who approves is the Provincial Governor/Director-General of the Department of Provincial Administration.

4. In case 2.1-2.3, the Ministry of Interior by the Review Committee on Nationality considers the application before submitting to the Minister of Interior for approving and issuing Notification of the Minister of Interior.

5. However, except the case 1.2.2, acquisition of Thai nationality will activated when have an announcement on the government gazette and will affected case by case.

For advance information please contact Call Center 1548 or the Bureau of Registration Administration, Department of Provincial Administration call 0-2791-7312-6 and every district office.

## G. How should Displaced Thai do to apply for citizenship?

Matichon, Service Corner Column: How should Displaced Thai do to apply for citizenship?

Saturday, June 8, 2019

<b>มติชน</b> Matichon Circulation: 950,000 Ad Rate: 1,100	<b>Section:</b> เสาร์ประชาชน/การศึกษา-ศาสนา-วัฒนธรรม <b>วันที่:</b> เสาร์ 8 มิถุนายน 2562 <b>ปีที่:</b> 42 <b>ฉบับที่:</b> 15063 <b>หน้า:</b> 17 (ล่างซ้าย) <b>Col.Inch:</b> 31.05 <b>Ad Value:</b> 34,155 <b>PRValue (x3):</b> 102,465 <b>คลิป:</b> ชาว-ค้า <b>คอลัมน์:</b> มุมบริการ: คนไทยพลัดถิ่นขอมีสัญชาติต้องทำอย่างไร
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**จากหลายกรณีที่ได้มีประชาชนยื่นคำขอ**  
**พิสูจน์และรับรองความเป็นคนไทยพลัด**  
**ถิ่น ตามพระราชบัญญัติสัญชาติ (ฉบับที่ 5) พ.ศ.**  
**2555 อาทิ กรณี มีภรรยาหรือมารดา และบุตรยื่น**  
**คำขอพิสูจน์และรับรองความเป็นคนไทยพลัด**  
**ถิ่นในคราวเดียวกันทั้งครอบครัว หรือบุตรของ**  
**บิดาที่ได้รับการรับรองความเป็นคนไทยพลัดถิ่น**  
**แล้วยื่นคำขอพิสูจน์ เช่นเดียวกับบิดา เป็นต้น**  
**กรมการปกครองจึงกำหนดแนวทางดำเนินการ**  
**สำหรับคนไทยพลัดถิ่นกลุ่มนี้**

คนไทยพลัดถิ่นที่จะต้องยื่นคำขอพิสูจน์  
 และรับรองความเป็นคนไทยพลัดถิ่นโดยการ  
 เกิด ต้องเป็นผู้ที่ได้รับการจัดทะเบียนราษฎร  
 ในกลุ่มผู้ที่สืบสายโลหิตซึ่งไม่ได้รับสัญชาติไทย  
 ไม่ว่าจะเป็นผู้ที่เกิดในหรือนอกราชอาณาจักร  
 โดยมีเงื่อนไข ดังนี้

- 1.ถ้าบิดา มารดา และบุตรในครอบครัว  
 เดียวกัน ทั้งไม่มีผู้ใดได้รับสัญชาติไทย ให้บิดา  
 มารดาเป็นผู้นำยื่นคำขอพิสูจน์และรับรอง  
 ความเป็นคนไทยพลัดถิ่น และเมื่อบิดาหรือ  
 มารดาได้รับการรับรองความเป็นคนไทยพลัด  
 ถิ่นแล้ว ให้บุตรยื่นคำขอทะเบียนตามทะเบียน  
 หรือนายทะเบียนท้องถิ่นเพื่อขอเปลี่ยนแปลง

### คนไทยพลัดถิ่นขอมีสัญชาติต้องทำอย่างไร

สถานะทางทะเบียนเป็นผู้มีสัญชาติไทยโดยการ  
 เกิด เว้นแต่บิดาหรือมารดาไม่ประสงค์จะยื่นคำขอ  
 พิสูจน์และรับรองความเป็นคนไทยพลัดถิ่น จึงให้  
 บุตรเป็นผู้ยื่นคำขอเฉพาะของตนเอง ซึ่งผลการ  
 พิจารณาให้การรับรองในกรณีนี้ จะไม่มีผลทำให้บิดา  
 มารดา และพี่น้องร่วมบิดามารดาของบุคคลดัง  
 กล่าวได้รับสัญชาติไทย

- 2.ถ้าบิดาหรือมารดาเคยยื่นคำขอพิสูจน์และ  
 รับรองความเป็นคนไทยพลัดถิ่น และยังไม่ได้รับ  
 แจ้งผลการพิจารณา ถ้าระยะเวลาที่พ้นจากวันที่ยื่น  
 คำขอพิสูจน์และรับรองความเป็นคนไทยพลัดถิ่น  
 ของบิดาหรือมารดาให้จังหวัดเป็นเวลามากกว่า 90  
 วัน ให้บุตรยื่นคำขอพิสูจน์และรับรองความเป็นคน  
 ไทยพลัดถิ่นของตนเองได้
- 3.ถ้าบิดาและมารดาเคยยื่นคำขอพิสูจน์และ  
 รับรองความเป็นคนไทยพลัดถิ่น แต่ไม่ผ่านการ  
 รับรอง บุตรย่อมไม่สามารถยื่นคำขอพิสูจน์และ  
 รับรองความเป็นคนไทยพลัดถิ่นได้ แต่ถ้าบุตรนั้น  
 เป็นผู้เกิดในประเทศไทย ย่อมสามารถขอมีสัญชาติ  
 ไทยได้ตามช่องทางอื่นที่มีคุณสมบัติ เช่น มาตรา 7  
 ทวิ วรสอง แห่งพระราชบัญญัติสัญชาติ พ.ศ.  
 2508 แก้ไขเพิ่มเติม (ฉบับที่ 4) พ.ศ.2551 หรือ  
 มาตรา 23 แห่งพระราชบัญญัติสัญชาติ (ฉบับที่ 4)  
 พ.ศ.2551 เป็นต้น

คนไทยพลัดถิ่นที่จะได้รับสัญชาติไทยโดย  
 การเกิดตามพระราชบัญญัติสัญชาติ (ฉบับที่ 5)  
 พ.ศ.2555 โดยยื่นคำขอต่อนายทะเบียนอำเภอ  
 หรือนายทะเบียนท้องถิ่นเพื่อขอเปลี่ยนแปลง  
 สถานะทางทะเบียน และไม่ต้องผ่านการรับรอง  
 จากคณะกรรมการรับรองความเป็นคนไทยพลัด  
 ถิ่น ได้แก่

- 1.บุตรของบิดาหรือมารดาที่ได้รับการรับรอง  
 ความเป็นคนไทยพลัดถิ่น ไม่ว่าบุตรจะเกิดในหรื  
 นอกราชอาณาจักร
- 2.คนไทยพลัดถิ่นที่ได้แปลงสัญชาติเป็น  
 ไทยหรือได้สัญชาติไทยแล้วก่อนวันที่ พระราช  
 บัญญัติสัญชาติ (ฉบับที่ 5) พ.ศ.2555 ไข้งตั้ง
- 3.บุตรของคนไทยพลัดถิ่นตามข้อ 2 ทั้งผู้  
 ที่เกิดในหรือนอกราชอาณาจักร ไม่ว่าจะเป็นผู้ที่  
 ไม่มีสัญชาติไทย

วิธีสัญชาติ หรือได้รับสัญชาติไทยแล้วจึง  
 ไม่ใช่นับเป็นการได้สัญชาติไทยตาม มาตรา 7 (1)  
 หรือ (2) พระราชบัญญัติสัญชาติ พ.ศ.2508  
 แก้ไขเพิ่มเติม (ฉบับที่ 2) พ.ศ.2535

โดยสามารถสอบถามข้อมูลเพิ่มเติม หรือ  
 บริการปัญหาทางทะเบียนที่สำนักบริหารการ  
 ทะเบียน กรมการปกครอง โทร 0-2791-  
 7329-32

รหัสข่าว: C-190608020095 (8 มิ.ย. 62/06:50)

หน้า: 1/1



บริษัท อินโฟนิวส์ จำกัด | 888/176 อาคารมหานคร 2 ชั้น 17 ถนนเพลินจิต แขวงลุมพินี เขตปทุมวัน กรุงเทพฯ 10330  
 ☎ 02-253-5000, 02-651-4700 📠 02-253-5001, 02-651-4701 📧 help@iqnewsclip.com

This Service Corner Column presents information and creates perception on How should Displaced Thai do to apply for citizenship?

Owing to several cases of verification and recognition of Displaced Thai application, following Nationality Act (No.5) B.E. 2555 (2012), for example, the case of a whole family (including father or mother and children), at the same time, submits applications for verification and recognition of Displaced Thai, or the case of children of a father who has been recognized as a Displaced Thai submits a verification and recognition of Displaced Thai application following his father, the Department of Provincial Administration has set a guideline for the Displaced Thai to apply for verification and recognition.

The Displaced Thai who could submit verification and recognition of Displaced Thai by the birth application must have been verified and registered in the Civil Registration in the group of ethnic Thai, who has not received Thai Nationality and regardless to his birthplace, under the following conditions:

- 1.If none of family members, including father mother and children, has received Thai Nationality, father or mother has to submit verification and recognition of Displaced Thai application first. After father or mother has been verified and recognized as a Displaced Thai, then, the children can submit an application to district registrar or local registrar to change their registration status to “having a Thai Nationality by birth”. Unless, father or mother does not want to submit verification and recognition of Displaced Thai application, the children can submit the applications themselves, though, the result of the consideration will not help the father or mother or siblings of the same parents to get Thai Nationality.

- 2.If father or mother has submitted verification and recognition of Displaced Thai application but has not received the result of the consideration, and the duration of the submission (since the District Office send the application to the Provincial Administration office) has been more than 90 days, children can submit the application themselves.

- 3.If father or mother had submitted verification and recognition of Displaced Thai application but the result was negative, children will implicitly not be able to submit the application unless he was borne in Thailand, he would be able to apply for citizenship through other channels, for example; Section 7 bis. (2) of Nationality Act (No.4) B.E. 2551 (2008), or Section 23 of Nationality Act (No.4) B.E. 2551 (2008).

Displaced Thai who can be deemed as having Thai Nationality by birth according to Nationality Act (No.5) B.E. 2555 (2012), by submitting an application to District Registrar or Local

Registrar to change his Registration Status and without the recognition from the Committee on Recognition of the Displaced Thai, includes:

1.Children of a father or mother who has been recognized as Displaced Thai, no matter if he was borne in Thailand or outside of Thailand.

2.Displaced Thai who has been naturalization as a Thai or acquisition of Thai Nationality before the effective of Nationality Act (No.5) B.E. 2555 (2012).

3.Children of Displaced Thai in item 2 no matter if he was borne in Thailand or outside of Thailand, does not have Thai Nationality, stateless, or acquisition of Thai Nationality but not comply with Section 7 (1) or (2) of Nationality Act (No.2) B.E. 2535 (1992).

## H. DNA Test

Matichon, Service Corner Column: DNA Test. Saturday, March 14, 2020

<b>มติชน</b> <b>กรอบขาว</b> Matichon (Mid-Day) Circulation: 950,000 Ad Rate: 1,550	<b>Section:</b> เสาร์ประชาชน/- <b>วันที่:</b> เสาร์ 14 มีนาคม 2563 <b>ปีที่:</b> 43 <b>ฉบับที่:</b> 15343 <b>Col.Inch:</b> 29.59 <b>Ad Value:</b> 45,864.50 <b>คอลัมน์:</b> มุมบริการ: ตรวจพิสูจน์สารพันธุกรรม	<b>หน้า:</b> 18(ล่างขวา) <b>PRValue (x3):</b> 137,593.50 <b>คลิป:</b> 35
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## ตรวจพิสูจน์สารพันธุกรรม



**ก**กรมการปกครองได้จัดทำโครงการตรวจสารพันธุกรรมเพื่อการแก้ไขปัญหาสถานะและสิทธิของ คนไทยที่ตกหล่นทางทะเบียนราษฎรอย่างต่อเนื่องทุกปี เพื่อช่วยเหลือคนไทยที่ยังไม่มีชื่อและรายการบุคคลในทะเบียนบ้าน (ท.ร.14) และขาดพยานหลักฐานสำคัญที่จะพิสูจน์สถานะบุคคลและสัญชาติ อันได้แก่ สารพันธุกรรม (DNA) โดยใน พ.ศ. 2563 ผู้ประสงค์เข้าร่วมโครงการ สามารถยื่นคำร้องได้ โดยต้องมีคุณสมบัติประกอบ ดังนี้

1. เป็นบุคคลประเภทใดประเภทหนึ่งดังต่อไปนี้
  - 1.1 บุคคลที่ยังอ้างว่าเป็นคนไทยที่ยื่นคำร้องขอแจ้งการเกิดเกินกำหนดหรือขอเพิ่มชื่อในทะเบียนบ้าน (ท.ร.14) ตามระเบียบสำนักทะเบียนกลางว่าด้วยการจัดทำทะเบียนราษฎร พ.ศ.2535 หรือ
  - 1.2 ชาวเขาและบุคคลบนพื้นที่สูงที่ยื่นคำร้องขอของรายการสัญชาติไทย ตามระเบียบสำนักทะเบียนกลางว่าด้วยการพิจารณาของรายการสถานะบุคคลในทะเบียนราษฎรให้แก่บุคคลบนพื้นที่สูง พ.ศ.2543 หรือ
  - 1.3 บุคคลที่เป็นคำร้องขอเปลี่ยนแปลงสถานะในเอกสารทะเบียนราษฎรจากคนที่ไม่มีสัญชาติไทยเป็นผู้มีสัญชาติไทยโดยการเกิด โดยผลของกฎหมายว่าด้วยสัญชาติ
2. ต้องเป็นผู้ที่อยู่อาศัย อยู่ยากจน หรือตกยากไว้ และมีบิดามารดาหรือญาติร่วมสายโลหิตที่มีชื่อ และรายการบุคคลในทะเบียน

บ้าน (ท.ร.14) ระบุงบสัญชาติไทย ซึ่งสามารถตรวจพิสูจน์สารพันธุกรรม (DNA) เพื่อการมีสัญชาติไทยได้

3. บุคคลที่มีปัญหาสถานะทางทะเบียนราษฎร และบุคคลที่เป็นผู้ตรวจหาความสัมพันธภาพสายโลหิตของหน่วยงานให้บริการตรวจสารพันธุกรรม หรือหน่วยให้บริการตรวจสารพันธุกรรมสามารถหาความสัมพันธภาพสายโลหิตได้

ทั้งนี้ เมื่อนายทะเบียนอำเภอ/ท้องถิ่น นายอำเภอ/ผู้ช่วยการเขต พิจารณาคำร้องแล้วเห็นว่ามีคำร้องจำเป็นต้องใช้ผลการตรวจสารพันธุกรรมเป็นหลักฐานสำคัญประกอบการพิจารณา และมีคุณสมบัติตามที่แจ้งครบถ้วน เห็นควรทำการส่งตัวบุคคล และบุคคลอ้างอิง เข้ารับการตรวจพิสูจน์ ณ หน่วยงานที่ให้บริการได้แก่ โรงพยาบาลสนามอับดี คณะแพทยศาสตร์มหาวิทยาลัยเชียงใหม่/ขอนแก่น/สงขลา/นครินทร์

หากมีกลุ่มเป้าหมายเป็นจำนวนมาก ให้นายทะเบียนจัดลำดับความสำคัญของบุคคลที่มีปัญหาสถานะทางทะเบียนราษฎรที่จะต้องเร่งรัดการแก้ไขโดยด่วน โดยให้ความสำคัญกับกลุ่มเด็กนักเรียน กลุ่มผู้สูงอายุ คนพิการ คนป่วย และคนยากจน เป็นลำดับต้น

กรมการปกครองมีความมุ่งมั่นในการแก้ไขปัญหาสถานะและสิทธิของคนไทยตกหล่นทางทะเบียนราษฎรให้เป็นไปอย่างมีประสิทธิภาพ จัดตั้งปัญหาของประชาชนในพื้นที่ สอบถามเพิ่มเติมได้ที่ Call Center 1548 หรือส่วนการทะเบียนราษฎร สำนักบริหารการทะเบียน ถนนสามกษัตริย์ กรุงเทพมหานคร 12150 โทร 0-2791-7312-3

The Department of Provincial Administration (DOPA) has continuously proceeded “the DNA Tests Project for the Solution of Status and Rights of Stateless People in Thailand” to help people who are not registered in a House Registration (Thor.Ror.14) and lack of sufficient evidence proving their birth status and nationality such as Deoxyribonucleic Acid (DNA). In B.E. 2563 (2020) those persons wishing to enroll to the project with these following qualifications can submit their application form;

1. Being one of the following types of people;
  - 1.1 A person claiming to be Thai who has submitted an application for reporting birth registration after the destined period or adding a name to House Registration (Thor.Ror.14) according to the Regulation of the Central Registration Bureau on Civil Registration B.E. 2535 (1992) or
  - 1.2 A highlander who has submitted an application for registering legal status as Thai according to the Regulation of the Central Registration Bureau on Considering of Legal Status Registration Person in Civil Registration for Highlanders B.E. 2543 (2000) or
  - 1.3 A person born in Thailand who has submitted an application for naturalization as a Thai citizen according to nationality laws.
2. Shall be disadvantaged or impoverished, and has the father, mother, or relatives of the same blood lineage identified as Thai in a House Registration (Thor.Ror.14) and be able to get the DNA test for proving to acquire Thai nationality
3. A person with the problem of civil registration and a DNA comparator shall meet the DNA relationship testing qualifications of genetic testing service unit or relationship testing service unit.

In this case, when the district registrar, local registrar, or district director has considered the application and found it necessary to use the DNA test results as evidence for consideration, those persons and their DNA comparators may be asked for the DNA test at testing service units such as Ramathibodi Hospital, or Faculty of Medicine of Chiangmai University/ Khon Kaen University/ Prince of Songkla University; and in the case that there is plenty of targeted applicants, the registrar shall prioritize those persons on a rush and needed basis which firstly emphasizes on students, elders, disabled people, sick people, and poor people.



## I. Legal Problems Related to Nationality and Rights of People Residing in Thailand



(July 10, 2017,  
[https://drive.google.com/file/d/1OCPrdLRJY3OrN5hPWj\\_UCF2CI59sIZys/view?usp=drive\\_web](https://drive.google.com/file/d/1OCPrdLRJY3OrN5hPWj_UCF2CI59sIZys/view?usp=drive_web), 26.23 minutes)

The seminar **“Legal Problems Related to Nationality and Rights of People Residing in Thailand”** was held on July 10, 2017, at the Sukosol Hotel in Bangkok. The seminar was mainly organized by organizations which work on the area of statelessness issues, namely National Human Rights Commission of Thailand, Department of Provincial Administration under the Ministry of Interior of Thailand, the Thai Committee for Refugees Foundation, the French Embassy Bangkok, and the German-Southeast Asian Center of Excellence for Public Policy and Good Governance (CPG).

After Her Royal Highness Princess Maha Chakri Sirindhorn presided over the seminar and delivered the opening speech, Mr. Grisada Boonrach, Permanent Secretary of the Ministry of Interior<sup>5</sup>, then gave an inspirational presentation on the “Statelessness situation and Thailand’s solutions”, outlining the present legal framework of nationality and civil registration law in Thailand, and highlighting reform projects of the government.

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<sup>5</sup> Mr. Grisada Boonrach was a former Director-General of Department of Provincial Administration.

The speech was structured in seven parts; (1) definition of stateless persons, (2) cause of statelessness in Thailand, (3) groups of aliens or non-Thais who are residing in Thailand, (4) policies and solutions for legal status and stateless problems in Thailand, (5) protection of basic human rights of stateless persons and (7) conclusion: challenges and recommendations.

For full article of speech, please see the [“Statelessness situation and Thailand’s solution”](#).

## **J. Statelessness situation and Thailand’s solutions**

By Grisada Boonrach<sup>6</sup>

### **1. Definition of stateless persons**

The 1954 Convention relating to the Status of Stateless Persons (“The 1954 Convention”) sets out the definition of a stateless person that “For the purpose of this Convention, the term ‘stateless person’ means a person who is not considered as a national by any State under the operation of its law”<sup>7</sup>. In other words, a stateless person is one who is denied as a national by any country in the world. Persons who migrate and those who were born and have resided in their own country, such as children of ethnic groups born in Thailand, can both encounter statelessness. In the latter instance, these ethnic groups are also considered to have entered Thailand without permission under immigration law.<sup>8</sup>

In Thailand, the relevant terms are defined slightly different according to its context. An expert on statelessness and legal status<sup>9</sup> introduced these terms with an aim to practically addressing the problem: stateless person and nationalityless person. “Stateless person” mean of a person who is not registered in a civil registration system of any country while “nationalityless person” is a person who is without any nationality, but has been already registered in Thailand’s civil

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<sup>6</sup> Mr. Grisada Boonrach was Permanent Secretary, Thailand’s Ministry of Interior.

This article was written on 14 June 2017 aiming to provide current statelessness situation in Thailand and share Thailand’s experiences and practices to solve statelessness and translated by Bongkot Napaumporn, Protection Associate, UNHCR Regional Office for South-East Asia.

<sup>7</sup> The term defined in Article 1(1) of the 1954 Convention is considered as part of customary international law by the International Law Commission.

<sup>8</sup> Section 7 *bis* paragraph three as amended by the Nationality Act (No.4) B.E.2551 (2008) stipulates that “The person who is born within the Thai Kingdom and has not acquired Thai nationality under paragraph one shall reside in the Thai Kingdom under conditions stipulating in the Ministerial Regulation, but principles of national security as well as human rights have to be considered concurrently. The person shall be deemed to have entered and resided in the Thai Kingdom without permission under the law on immigration unless the Ministerial Regulation is formulated.”

<sup>9</sup> Associate Professor Phunthip Kanchanachittra Saisoonthorn, Faculty of Law, Thammasat University.

registration system. This categorization has resulted in appropriate solutions under the laws and policies for each group accordingly. 10

Similar to international standards, Thailand considers stateless persons as aliens. Section 4 of the Immigration Act B.E.2522 (1979) stipulates that “Aliens mean natural persons who are without Thai nationality”. Legal status and rights of stateless persons in Thailand are hence governed to the same extent that is enforced for aliens. However, details may be different according to connection that stateless persons have with Thailand. To determine whether statelessness arises in the migratory context, substantial facts of their migration and connection of their country of origin are to be considered. Thailand classifies that persons who fled persecution and conflicts are stateless immigrants and those born in Thailand are *in situ* stateless persons.

## **2. Causes of statelessness in Thailand**

Due to its many thousand-kilometer-long boundaries, both land and maritime, with neighboring countries and better prosperous economy, Thailand has attracted different types of migrants from these countries. Most of them entered Thailand illegally and could not return to their country of origin. Eventually, they became stateless. These people include irregular migrants, displaced persons fleeing persecution, oppression and conflicts such as ones fleeing during the Indochina War in 1975 and those escaping from hunger and poverty. Some of ethnic groups, such as Displaced Persons from Viet Nam, Former Kuomintang members (KMT), Haw or Yunnanese Chinese Displaced Persons, Displaced Persons from Lao PDR, Thai Lue and Displaced Persons from Myanmar, have resided in Thailand for many decades. Other groups living along the border, hill tribes and highlanders with Mon or Shan ethnicity, for instance, are relatives of the people who immigrated earlier. They finally came to live with their family in Thailand after the boundary delimitation.

In addition, statelessness amongst those born in Thailand resulted from several changes to its nationality law in the past. With regard to acquisition of Thai nationality at birth, Thai nationality laws include both principles of *jus sanguinis* (i.e. nationality acquired by virtue of having a parent who is a Thai national) and *jus soli* (i.e. nationality acquired by virtue of being born in Thailand). Until 1972, the rules became more rigid due to fear of the spread of communist rule from some Southeast Asian countries to Thailand. The Government at that time enforced the Revolutionary Party Announcement No. 337 dated December 13 B.E.2515

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10 Please note that the term “statelessness” or “stateless persons” used later in other parts of this translation will be pursuant to the definition in Article 1(1) of the 1954 Convention which is considered as part of customary international law. This is to avoid confusion amongst non-Thai speakers.

(1972)<sup>11</sup> (or so-called “Por Wor 337”). The Por Wor 337 changed the criteria on the acquisition of Thai nationality according to *jus soli*, trying to prevent children born in Thailand to people who had migrated from communist countries from acquiring Thai nationality. However, it affected all aliens with temporary residence. As a consequence, many of children born in Thailand to alien parents did not acquire Thai nationality. Moreover, it had retroactive effect to revoke Thai nationality of children who were in the abovementioned circumstance. Under this Announcement, many were rendered stateless.

Although the Por Wor 337 was repealed by virtue of the Nationality Act No.2 B.E.2535 (1992), the criteria on the acquisition of Thai nationality at birth according to *jus soli* remain conditional. Children born in Thailand do not acquire Thai nationality at birth if their parents are aliens with temporary stay or entering Thailand illegally. These children can later acquire Thai nationality under Section 7 *bis* paragraph two<sup>12</sup> of the Nationality Act B.E.2508 (1965) as amended by the Act No.4 B.E.2551 (2008) in a circumstance where the Minister of Interior deems appropriate and it is in conformity with the rules prescribed by the Cabinet. Given all these, Thailand’s nationality law is one of the causes of statelessness in Thailand.

To summarize, there are two groups of stateless persons in Thailand:

- **Stateless persons who immigrated to Thailand** – These people entered Thailand illegally but could not return to their country of origin.
- **Stateless persons who were born in Thailand** – These people became stateless due to the changes to Thailand’s nationality law in the past.

### 3. Groups of aliens or non-Thais who are residing in Thailand

The Royal Thai Government (“RTG”) has developed many policies with an aim to sustainably and effectively solving statelessness. For the better identification, National Security Council and Ministry of Interior was at start tasked with surveying and recording every group of the displaced persons and migrants who were residing in Thailand. Civil registration law was amended to allow the registration and generation of identification number for these aliens.

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<sup>11</sup> According to Section 1 and 2 of the Revolutionary Party Announcement No. 337, Thai nationality of persons born in Thailand before 14 December 1972 to a legally recognised father with non-permanent residence, or an alien mother with non-permanent residence (in circumstances where the legally recognised father is absent) was revoked, while Thai nationality was not granted to persons born in Thailand from 14 December 1972 to 25 February 1992 to parents under the same circumstance, respectively.

<sup>12</sup> Section 7 *bis* paragraph two of the Nationality Act B.E.2508 (1965) as amended by the Act No.4 B.E.2551 (2008) stipulates that “In case the Minister deems it appropriate, he may consider and give an order for each particular case or in general granting Thai nationality to any person under paragraph one, in conformity with the rules prescribed by the Cabinet.”.

Later, computer technology has been adopted to systematize the records and quickly process such data according to any selected conditions. As of February 15 2017, Thailand's civil registration database of the Ministry of Interior (under Central Bureau of Civil Registration, Department of Provincial Administration) shows the record of 2,586,089 aliens who were given a set of 13-digit ID numbers. Based on their residence status, these people can be divided as follows:

- **Aliens who were given permission to stay permanently (holding a Certificate of Residence and Aliens ID paper)** – These people include aliens immigrating legally from other countries to Thailand and ethnic groups who in the first place entered Thailand illegally, but later were given permission to stay and issued the Certificate of Residence and Aliens ID paper. Prime Minister and the Minister of Interior are competent authorities to permit permanent residence for these people. The database shows that there are 65,559 people given permission to stay permanently in Thailand.
- **Aliens who were given permission to stay temporarily (holding a passport)** – These people entered Thailand legally and requested for a temporary stay in the country. However, they could possibly become illegal migrants if they overstay beyond the permitted date. This group of aliens are under supervision of the Immigration Bureau. Currently, there are 45,331 allowed to enter and stay temporarily in Thailand.
- **Ethnic minorities and former undocumented/unregistered stateless persons (or known in the Thailand's context as "Persons without (Civil) Registration Status")** – This group of aliens are the target of "legal status and statelessness solution" by the RTG. Based on the solutions, the ethnic minorities were recorded into 19 different groups while those former undocumented/unregistered stateless persons were divided into 3 groups. The former undocumented/unregistered groups include students, "Rootless Persons<sup>13</sup>" who were abandoned or whose parents are unknown and persons who have rendered distinguished services to Thailand. The ethnic minorities were classified as follows:
  - (20) Displaced Persons from Viet Nam
  - (21) Former Kuomintang members (KMT) or Chinese Nationalist Party
  - (22) Haw or Yunnanese Chinese Displaced Persons
  - (23) Independent Haw Chinese
  - (24) Former Malaya Communists of Chinese ethnicity
  - (25) Thai Lue

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<sup>13</sup> According to explanation in the 2005 Strategy on Administration of Legal Status and Rights of Persons, "Rootless Persons" are orphans who were abandoned by their (unknown) parents since early childhood. The "Rootless Persons" cannot search back for their own history such as parents, birth place, or any identification papers.

- (26) Displaced Persons from Lao PDR
- (27) Displaced Persons from Nepal
- (28) Displaces Persons from Myanmar
- (29) Illegal Migrants from Myanmar
- (30) Displaced Thais formerly living in Myanmar (immigrated before March 9 1976)
- (31) Displaced Thais formerly living in Myanmar (immigrated after March 9 1976)
- (32) Highlanders or hill tribes (immigrated before October 3 1985)
- (33) Displaced Thais formerly living on Kong Island, Cambodia
- (34) Illegal Migrants from Cambodia
- (35) Highlanders or Persons from Highland Communities (immigrated after October 3 1985)
- (36) Hmong from Thamkrabok, Sara Buri Province
- (37) Displaced mountain persons from Lao PDR
- (38) Mokens

These people are considered as aliens exempted to stay in Thailand temporarily pending determination of legal status pursuant to Section 17, the Immigration Act B.E. 2522 (1979)<sup>14</sup> and relevant Cabinet Resolutions. According to the database, there are altogether 488,105 persons in this group, including:

- (4) Persons who immigrated to and have resided in Thailand for a long period of time (290,269 persons) and their children who were born in Thailand (110,462 persons);
- (5) Students in the Thai education system (76,676 persons);
- (6) “Rootless Persons” (8,670 persons); and
- (7) Persons who have rendered distinguished service to Thailand (28 persons).

- **Migrant workers from Cambodia, Lao PDR and Myanmar** – According to Section 17 of the Immigration Act B.E.2522 (1979) and the relevant Cabinet Resolutions, this group of aliens has been exempted to stay in Thailand temporarily pending deportation or Nationality Verification with their country of origin. The database shows that there are 1,588,914 individuals, including their children under 15, registered as migrant workers in Thailand.
- **Refugees from Myanmar** – These people fled persecution and internal conflicts in the past and are currently residing in nine temporary shelters located in four provinces, Mae Hong Son, Tak, Kanchanaburi and Ratchaburi. This group is still considered as illegal immigrants, but exempted to stay in Thailand on a

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<sup>14</sup> Section 17 of the 1979 Immigration Act provides that “In a particular case, the Minister, by Cabinet approval, may permit any alien or any group of aliens to enter and stay in the Kingdom under certain conditions, or may consider exemption from being in conformity with this Act.”

humanitarian basis. Currently, there are 101,713 refugees in these shelters as well as 16,716 refugee children who were born in Thailand and whose birth was registered in the Thailand's civil registration system.

- **Children who were born in Thailand to aliens and did not acquire Thai nationality** – Due to the changed criteria of Thai nationality acquisition under the principle of *jus soli* from 1972, when the Por Wor 337 was in force, until now, there have been 316,748 persons who were born in Thailand but did not acquire Thai nationality (according to Section 2.2 of the Regulation). The right to reside in Thailand of these people is conforming to residence status of their parents<sup>15</sup>. These people exclude children born to migrant workers from the three counties and refugee children residing in the temporary shelters.

#### 4. Policies and solutions for legal status and statelessness problems in Thailand

Problems of stateless persons, particularly those 488,105 registered ethnic groups, are diverse. Some do not have civil registration documentation. Others have resided in Thailand for a long time, but are still without legal residence. Moreover, part of these populations has recently entered Thailand. As a result, they cannot fully exercise rights according to the laws or policies. The RTG has made efforts for addressing their various problems as follows:

- **Solving civil registration related issues:** In 2008, the Department of Provincial Administration, the Ministry of Interior introduced amendments to the Civil Registration Act B.E.2534 (1991) to allow following civil registration of stateless persons:
  - 1) Birth registration and issuance of birth certificate/document<sup>16</sup> for every person born in Thailand regardless of their parent's legal status or civil registration documentation.
  - 2) Profile registration for stateless persons in accordance with Section 38 paragraph two<sup>17</sup> and relevant Cabinet Resolutions.

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<sup>15</sup> According to Section 7 *bis* paragraph three of the Nationality Act B.E.2508 (1965) as amended by the Act No.4 B.E.2551 (2008), please see also footnote 3.

<sup>16</sup> Please see Section 18, 19, 19/1, 19/2, 19/3, 20 and 20/1 of the Civil Registration Act B.E.2534 (1991) as amended by the Act No.2 B.E.2551 (2008).

<sup>17</sup> Section 38 paragraph two of the Civil Registration Act B.E.2534 (1991) as amended by the Act No.2 B.E.2551 (2008) provides that "In accordance with the manner prescribed in the regulations set forth by the Minister, the Director of Central Bureau of Civil Registration shall set up profile registration for persons without Thai nationality apart from those prescribed under paragraph one." Please note that the "Persons without Thai Nationality apart from those prescribed under paragraph one" mean persons who entered Thailand legally and persons who were exempted to stay temporarily pending their return to the country of origin.

- 3) Issuance of an ID card for “Persons without Thai Nationality<sup>18</sup>” and “Persons without (Civil) Registration Status<sup>19</sup>”

➤ **Solving legal residence related issues:** To allow stateless persons who at the first place entered Thailand without permission to stay in the country legally, the RTG adopted Cabinet Resolutions by virtue of the Immigration Act B.E.2522 (1979). The implementations include that:

- 1) Stateless persons are exempted to stay in Thailand temporarily pending determination of proper solutions such as development of their legal status or return to their country of origin according to relevant bilateral agreements. While staying in Thailand, the Ministry of Interior restricts their movement within a designated province where the profile registration was recorded.<sup>20</sup> However, their right to reside in Thailand will be terminated if these stateless persons violate the law and are sentenced to imprisonment or have behavior which indicates possible danger to public security.
- 2) Stateless persons who meet the criteria and qualifications according to relevant Cabinet Resolutions are eligible for permanent residence (will be issued a Certificate of Residence). For instance, the Cabinet Resolution of December 7 2010 sets out the right to permanently reside for following groups of stateless persons:
  - (1) Ethnic groups who immigrated by January 18 1995, were surveyed and recorded by the year of 1999 and have their name listed in a household registration.
  - (2) Students who immigrated by January 18 1995, were surveyed and recorded as “Persons without (Civil) Registration Status” during 2005 – 2009 and graduated with a bachelor’s degree by January 18 2005.
  - (3) “Rootless Persons” who immigrated by January 18 1995, were surveyed and recorded as “Persons without (Civil) Registration Status” during 2007 – 2009 and must present a certification of being a “Rootless Person” issued by a relevant organization under Ministry of Social Development and Human Security

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<sup>18</sup> Please see the Ministerial Regulation on duty on civil registration of non-Thais and relevant fees B.E.2551 (2008) and the Regulation of the Central Bureau of Civil Registration on issuance of an ID card for Persons without Thai Nationality B.E.2551 (2008), announced on 23 September 2008.

<sup>19</sup> Please see the Regulation of the Central Bureau of Civil Registration on survey and record of Persons without Registration Status, B.E.2548 (2005), announced on 31 March 2005.

<sup>20</sup> According to the Ministry of Interior Regulation on designated areas and permission for specific groups of aliens who are exempted to stay temporarily to travel out of the areas, announced on 15 June 2016.



- **Solving nationality related issues for children of stateless persons born in Thailand:** According to the Nationality Act B.E.2508 (1965) as amended by the Act No.4 B.E.2551 (2008) and the Act No.5 B.E.2555 (2012), statelessness of these groups of persons is being solved:

- 1) Persons whose nationality was revoked or not granted according to the Por Wor 33721, including their children who were born in Thailand until February 27 2008, but did not acquire Thai nationality due to the revocation of their parents' nationality – These people can have their Thai nationality registered in the household registration by Section 23 of the Nationality Act No.4 B.E.2551 (2008)<sup>22</sup>. The District Chiefs are to only conduct the registration of these persons since they are considered as having Thai nationality according to the law.
- 2) Persons who were born in Thailand from February 26 1992 to alien parents with illegal or temporary stay – By Section 7 *bis* paragraph two of the Nationality Act B.E.2508 (1965) as amended by the Act No.4 B.E.2551 (2008)<sup>23</sup>, these people can be granted Thai nationality on general or case by case basis if the Minister of Interior deems appropriate and it is in conformity with the rules prescribed by the Cabinet. Recently, the RTG, by General Prayuth Chan-ocha, the Prime Minister, approved the criteria on acquisition of Thai nationality on a general basis of stateless persons (Cabinet Resolution of December 7 2016<sup>24</sup>). Eligible groups under the Cabinet Resolution include:
  - (1) Children born to parents who are members of the ethnic groups, have resided in Thailand continuously for not less than 15 years at the time of application submission of the children and were previously surveyed and

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<sup>21</sup> Please see also footnote 6.

<sup>22</sup> Section 23 of the Nationality Act No.4 B.E.2551 (2008) aims to provide legal remedy for statelessness caused the Revolutionary Party Announcement No.337. This provision stipulates that “A person of Thai nationality born within the Thai Kingdom, but his nationality was revoked by Section 1 of the Declaration of Revolutionary Party No.337 dated 13th of December, B.E.2535 and a person who was born within the Thai Kingdom, but did not acquire Thai nationality by Section 2 of the Declaration of Revolutionary Party no.337 dated 13th of December, B.E. 2535, including children of the said persons who were born within the Thai Kingdom before the date of enforcement of this Act and did not acquire Thai nationality under Section 7 *bis* paragraph one of the Nationality Act B.E.2508 as amended by the Act B.E.2535 no.2 shall acquire Thai nationality from the date of enforcement of this Act. The said persons shall have evidence on civil registration proving the domicile within the Thai Kingdom for a consecutive period till the present and shall have good behaviour or have done acts to the benefits of official service. Nonetheless, those who have already acquired Thai nationality with the discretion of the Minister before the date of enforcement of this Act are exempt.”

<sup>23</sup> Please see also footnote 7.

<sup>24</sup> On 7 December 2016, the Cabinet, following the proposal made by the Ministry of Interior, approved criteria and procedures on acquisition of Thai nationality for students and stateless persons who were born in Thailand. By virtue of Section 7 *bis* paragraph two, Nationality Act B.E.2508 (1965), as amended by Act No. 4 B.E.2551 (2008), the Minister of Interior shall have the power to grant Thai nationality on a general basis to children who were born in Thailand to alien parents and have not acquired Thai nationality.

registered (Please note that the Department of Provincial, the Ministry of Interior conducted a last survey and recorded these ethnic groups in the year of 1999 with a condition that they had to immigrate by September 30 1999).

- (2) Persons who were born to other groups of aliens and have already graduated with a bachelor's degree from educational institutions in Thailand. However, there are some additional conditions. In case of those who graduated with a bachelor's degree from educational institutions abroad, they must have been granted scholarship by the RTG. Or, in case of those who, due to necessity, need to apply for Thai nationality but have not yet graduated with a bachelor's degree, they must receive the approval from the Minister of Interior prior to submitting the application.
- (3) "Rootless Persons" or "Rootless students" who have resided in Thailand for not less than ten years at the time of submission and must submit a certification of being "Rootless Persons" issued by any relevant agency under Ministry of Social Development and Human Security.

In addition, the Minister of Interior has authorized the District Chiefs to approve the registration of Thai nationality for applicants who are under the age of 18 and the Governors to approve for those who are over the age of 18. This aims at contributing to expedite the consideration process for granting Thai nationality.

Altogether, there are 488,105 stateless persons residing in Thailand, including children of these stateless persons who were born in Thailand, but did not acquire Thai nationality.

## **5. Protection of basic human rights of stateless persons**

Stateless persons in Thailand do not encounter only legal status problems, but also basic human rights challenges. Because of the legal status problems, the stateless persons were often deprived of rights that were essential to their livelihood. However, the RTG, particularly since General Prayuth Chan-ocha started governing the country as the Prime Minister, has seriously taken the human rights issues of stateless persons into consideration. And as a member of the United Nations, Thailand has always been committed to the purposes and principles enshrined in human rights treaties. Following are samples of Thailand's policies developed to protect basic human rights of stateless persons:

- **Right to health:** The Cabinet has issued two resolutions on March 23 2010<sup>25</sup> and April 20 2015<sup>26</sup> to approve the proposals made by Ministry of Public Health. Both cabinet resolutions aim at providing free health services to stateless persons who are the target of the legal status and statelessness solutions and to those who are in the process of proving and registering Thai nationality in a household registration. Due to the policies, the RTG has annually provided per-head budget support on account of these groups of stateless persons since 2010.
- **Right to education:** On July 5 2005, the Cabinet has approved the proposals on education made by Ministry of Education<sup>27</sup>. Firstly, schools and educational institutions are obliged to admit every child regardless of their nationality and legal status to study and after graduation to provide them a transcript. Secondly, the RTG is to provide per-head budget support to allow their access to basic education. The subsidy has been granted since then and is equal to what is given to Thai children.
- **Right to work:** The Cabinet has approved on October 18 2016 the proposal made by the Committee Considering Working of Aliens<sup>28</sup>. The Cabinet allows stateless persons who are the target of the legal status and statelessness solution by the RTG to engage in every category of works in Thailand.
- **Right to reside and freedom of movement:** The RTG has exempted stateless persons to stay temporarily in Thailand pending determination of their legal status or return to their country of origin pursuant to relevant bilateral agreements. While

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25 The Cabinet has issued a resolution dated on 23 March 2010 on “Reinstatement of the basic rights to public health for persons with legal status and rights problems”. This basic rights cover health promotion, healthcare services, rehabilitation and disease control and prevention for persons with legal status and rights problems. National Health Security Office has been tasked with implementing this resolution since 1 April 2010.

26 On 20 April 2015, the Cabinet has acknowledged the resolution adopted at the meeting no.5/2015 on 16 April 2015 of the Committee for Ministers on Economy which was chaired by the Prime Minister. The resolution has in principle approved the proposal made by the Ministry of Public Health to reinstate the basic rights to public health for additional groups of 208,631 persons who still have legal status and rights problems, but were already issued a set of 13-digit ID numbers. For those who cannot be proved due to lack of proper evidence, the cabinet has required the Ministry of Public Health, Ministry of Interior and the National Security Council to assist in verifying their data and certifying their potential registration prior to making further proposal to the Cabinet.

27 The Cabinet Resolution of 5 July 2005 endorsed the issuance of The Ministry of Education Regulations on Proof for Admission of Students to Educational Institutions B.E. 2548 (2005). This is regarded as a measure to open opportunities toward Education for All, regardless of the status of those persons without civil registration proof or Thai nationality.

28 The Cabinet Resolution of 18 October 2016 approved in principle the Regulation of the Office of the Prime Minister Office on categories of works which aliens are eligible to engage and for work permit in accordance with Section 13(2) of the Working of Alien Act B.E.2551 (2008). The Cabinet allows the aliens as specified in the Regulation to engage in every category of works.

residing in Thailand, they have restricted movement within their designated provinces<sup>29</sup>. However, Thailand still grants permission to these people to travel out of their provinces on case by case basis. If necessary, according to the law, the stateless persons can be permitted to change the designated province of their domicile.

- **Right to family establishment:** Challenges around marriage registration and child adoption are often at implementation level. To address these issues, the Ministry of Interior has circulated its directives to provide guidance and ensure that the competent registrar can register marriage of all individuals regardless of nationality. However, this will be on condition that substantial facts can be presented as required by the provisions of the Civil and Commercial Code concerned. On child adoption, the Council of State has rendered its legal opinion<sup>30</sup> over three decades ago to affirm that the Child Adoption Committee is eligible to allow registration for the adoption of non-Thai children.

## **6. Progresses that have been made by the Ministry of Interior since 1992 to June 2017**

- **Granting Thai nationality to 255,893 stateless persons** amongst those ethnic minorities through following channels:
  - 1) Registration of Thai nationality for 106,461 indigenous people from hill tribe communities.
  - 2) Registration of Thai nationality for 48,914 persons whose nationality were revoked or who did not acquire Thai nationality according to the Por Wor 337.
  - 3) Approval of Thai nationality by the Minister of Interior in accordance with Section 7 *bis* paragraph two for 93,072 persons.
  - 4) Approval of Thai nationality for 7,446 Displaced Thais (particularly those who were formerly living on the Kong Island of Cambodia and in Thawai, Marid, Tanaosri of Myanmar).
- **Granting permanent residence for 30,881 stateless persons**

## **7. Conclusion: Challenges and Recommendations**

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<sup>29</sup> Please see also footnote 15.

<sup>30</sup> Please see the Council of State's legal opinion No.365/1986 on legal issues relating to child adoption (in accordance with Section 1598/22 of the Civil and Commercial Code and Section 14 of the Child Adoption Act B.E.2522 (1979)).

- Thailand has implemented strategies and passed legislative reforms which have resulted in the better identification and reduction of statelessness. Stateless persons in Thailand are also provided a wide range of basic human rights around education, healthcare, work, family establishment and other necessary livelihoods. Human dignity of stateless person in Thailand is well respected under Thailand's constitution and relevant acts and cabinet resolutions, with consideration based on a fine balance between human rights principles and national security concerns. Several hundred thousand of stateless persons have benefited from the RTG's policies, so that Thailand has been praised for its effort and its implementation is identified, by a number of United Nations organizations, as one of best practice examples on addressing statelessness.
- Statelessness remains in Thailand despite these continuous efforts due to irregular migration caused by ongoing conflicts in some countries as well as poverty. Rohingya, ethnic minorities from Myanmar, illegal immigrants from Bangladesh and illegal migrant workers are, for instance, amongst the group. Statelessness that arises in the context of migration cannot be solved by one country. International cooperation, the rule of law, human rights principles and national security must be all taken into consideration to develop sustainable solutions for reducing and preventing statelessness.
- **In addition, it is necessary for Thailand to enact a special law to address problems of another group of stateless persons who are residing in Thailand, but lack any evidence to prove whether they were born in Thailand or born abroad or so called “Rootless Persons”.** Under the existing laws and policies, every person should be able to identify their birth in order to develop their legal status accordingly. The immigration law is to initially solve problems of those identified as born abroad and immigrated to Thailand while the nationality law defines the right to Thai nationality for, amongst others, those born in the country. In other words, the legal gap remains for these populations whose birth cannot be proved, and residential duration cannot be determined if they are considered as immigrants. This group includes persons who were abandoned since early childhood and without any relatives, homeless people and persons with mental disabilities. A possible solution for this group is to recognize that they were born in Thailand and, with legal assumption beneficial to them, have the status of a Thai national. However, the status can be revoked and changed if there is evidence proving that they were born abroad or are not eligible for Thai nationality according to general principles under the law. Many countries in Europe, the Americas and Asia introduced such provision in their nationality law. For instance, Article 11 of Law for the Bulgarian Citizenship 1998<sup>31</sup> provides that “Considered born on the

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31 Bulgaria: Law for the Bulgarian Citizenship (last amended February 2013), 5 November 1998, available at: <http://www.refworld.org/docid/49622ef32.html>

territory of the Republic of Bulgaria is a child found on this territory, whose parents are unknown”. Canada’s Citizenship Act of 1985, Article 4(1)<sup>32</sup> affirms that “(1) For the purposes of paragraph 3(1)(a)<sup>33</sup>, every person who, before apparently attaining the age of seven years, was found as a deserted child in Canada shall be deemed to have been born in Canada, unless the contrary is proved within seven years from the date the person was found”. In the U.S., the Immigration and Nationality Act, 1952, Section 301(f)<sup>34</sup> stipulates that “a person of unknown parentage found in the United States while under the age of five years, until shown, prior to his attaining the age of twenty-one years, not to have been born in the United States”. The Nationality Act of Finland in 2003, Section 12 paragraph one<sup>35</sup> similarly provides that “A foundling who is found in Finland is considered to be a Finnish citizen as long as he or she has not been established as a citizen of a foreign State. If the child has been established as a citizen of a foreign State only after he or she has reached the age of five, the child retains Finnish citizenship, however”. Moreover, Lao PDR introduced in its Law on Lao Nationality of 2004, Article 13<sup>36</sup> that “Children found in the territory of the Lao People’s Democratic Republic and whose parents’ identity is unknown will be considered Lao citizens. In the event that, while such children are still under eighteen years of age, evidence [is found that] demonstrates that their parents are foreign citizens they will be considered foreign citizens from birth”. Lastly, Article 2(2) of the Law No.16 of the Republic of Korea in 1948<sup>37</sup> stipulates that “An abandoned child found in the Republic of Korea shall be recognized as born in the Republic of Korea”

- The Ministry of Interior, by General Anupong Paochinda, the Minister, realizes the importance and advantage to the country if the problems of the “Rootless Persons” are resolved. He has recently approved further amendments to the Civil Registration Act B.E.2534 (1991) as amended by the Act No.2 B.E.2551 (2008), partly to add a

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32 Canada: Citizenship Act R.S., 1985, c. C-29, 10 July 1985, available at: <http://www.refworld.org/docid/48106cf72.html>

33 Article 3(1)(a) provides that “Subject to this Act, a person is a citizen if the person was born in Canada after February 14, 1977”.

34 US: Immigration and Nationality Act, 1952, Title III, Chapter 1 – Nationality at birth and by collective naturalization, available at: <https://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-9696.html#0-0-0-375>

35 Finland: Nationality Act (359/2003), 359/2003, 1 June 2003, available at: <http://www.refworld.org/docid/3ae6b51614.html>

36 Lao PDR: Law on Lao Nationality, 2004, available at: [http://vientiane.thaiembassy.org/upload/pdf/law/01-protection/12\\_Nationality2004Eng.pdf](http://vientiane.thaiembassy.org/upload/pdf/law/01-protection/12_Nationality2004Eng.pdf)

37 Republic of Korea: Law No. 16 of 1948, Nationality Act (last amended 2010), 20 December 1948, available at: <http://www.refworld.org/docid/3fc1d8ca2.html>

legal assumption recognizing that the “Rootless Persons” were born in Thailand<sup>38</sup>. This proposal is in the process of submitting to the Cabinet for its consideration. It is expected to close the Thailand’s legal gap that renders this group stateless.

- To successfully and sustainably resolve statelessness as abovementioned, a State must combine governance of the rule of law and equitable and flexible policies according to changing circumstances. While the balance between human rights principles and national security concerns shall be considered, the relevant policies and measures should also facilitate the implementation of the competent authorities. The authorities should be ensured not to be accused of wrongfully exercising their functions if they have good and honest intention to solve the problems. In the meantime, the process shall not cause burden for the applicants and their rights shall be highly respected.

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<sup>38</sup> The amendment is made to Section 19/2 of the Civil Registration Act B.E.2534 (1991) adding that “Abandoned children, street children and children of unknown parentage who do not have any evidence to prove their birth shall be considered as born in the Kingdom if they have resided in the Kingdom for a consecutive period and meet the criteria prescribed by the Minister. The registrar acknowledging shall register their birth and issue civil registration document to the children as evidence. If there is evidence to the contrary, the registrar shall have a power to revoke the birth registration including related documents and issue new civil registration documentation according to their facts”.

## K. Dissertation by Miss Siwanoot Soitong: Justice Management on Legal Personality

Dissertation Title	JUSTICE MANAGEMENT ON LEGAL PERSONALITY : OFFSPRING OF THAI PARENTS
Author	Miss Siwanoot Soitong
Degree	Doctor of Laws
Major Field/Faculty/University	Law Thammasat University
Dissertation Advisor	Assistant Professor Somkiat Worapunyaanun, Ph.D.
Dissertation Co-Advisor	Associate Professor Phunthip Saisoonthorn, Ph.D.
Academic Years	2018

### ABSTRACT

This dissertation is the result of action research for legal aid to the offspring of Thai parents, under the social lab for legal aid in Bangkok Legal Clinic. There are lots of petitions from this group all along 7 years, since 2012. The research begins with knowledge of legal sociology by reviewing the petitions for legal aid from a person who has Thai father or Thai mother. They are vulnerable with 8 situations that cause them to be stateless/nationality-less/quasi-nationality-less and have obstacles to access human rights. The 5 vulnerable situations include (1) person who was born nowhere, hut has obvious ethnic identity (Maniq people) (2) person who was born inside or outside Thailand, but has parents to do DNA testing (3) person who has reliable witness, and does not need DNA testing (4) person who has obvious, but was denied by law of Thai nationality by blood, and (5) person who involved the corrupt civil registration. In addition, the vulnerable situations would be critical when happen with 6 human rights issues as (1) be no Thai ID for granting the welfare, (2) be severely ill, (3) be rejected to travel outside a limited area, (4) be rejected to return Thailand, (5) be rejected to apply for study or receive graduate certificate and (6) be rejected to apply for work. The results of legal sociology situation, is the beginning of research for development which create special concept and mechanism on justice



(4)

management of Thai state for parallel process of recognition on nationality and other human rights, for the vulnerable persons.

The research continues to review the concept of national verification process for Thai by blood. Thai state has an obligation to recognize Thai nationality for the offspring of Thai parents. This would be the exception on “right to have nationality” of a human - by nationality law, and on “duty to recognition on nationality” of Thai state - by civil registration law. The results reflect the procedural law on nationality for the vulnerable persons. There are 3 legal feasibility process as (1) verification process by obvious ethnic identity, (2) verification process by DNA, and (3) verification process by witness of whole blood. The significant concept for the vulnerable persons, is to be proactive, to be critical clear on proceeding, and to be simply understanding for stakeholders.

Furthermore, the research reviews the obligation on international law and Thai law for human rights management on 7 groups. There is legal feasibility process on human rights management during national verification process, for relieving the damage from stateless problem. In addition, there is a legal feasibility process on human rights management after national verification process, for maximizing quality of rights as a national person.

Finally, the results would lead to the conclusion and suggestion for Thailand development, and to improve cooperation on the vulnerable people management in ASEAN Community.

**Keywords:** nationality, human rights, personality, stateless, nationality-less, justice