THAILAND, ENSURE REFUGEE RIGHTS AND PROTECTIONS THROUGH REFUGEE REGULATION

On the occasion of World Refugee Day on June 20, the Asia Pacific Refugee Rights Network (APRRN) welcomes the Thai government’s commitment to implement a legal framework that recognizes and protects refugees. Thailand has a significant number of refugees, including thousands of Rohingya refugees and asylum seekers from other countries. The government has taken some steps to improve the legal status of refugees, but more needs to be done to ensure their rights are protected.

Problems with Detention

Many refugees, including a 16-year-old Rohingya girl who died in Sadao IDC in November 2017 after inhumane conditions, have been kept in immigration detention facilities or in shelters run by the Ministry of Social Development and Human Security. Despite the authorities conducting raids to identify, arrest, detain, and deport migrants, including refugees, the risk of detainment and separation remains high, especially for women and children. According to the U.N. Human Rights Committee, these policies and practices contravene the principle of non-refoulement and greatly endanger the lives of refugees.

Refoulement or Forced Return

Refugees are at risk of being forcibly returned to countries where they may face torture or other serious human rights violations. While Thailand has been reluctant to settle refugees, it has also conducted official deportations. In 2017, 1,481 people were returned by sea, including 1,342 Rohingya, contrary to international law and the principle of non-refoulement.

Access to Asylum

Refugees have no legal status in Thailand and are at risk of inhumane detention. In addition, the country’s immigration law and the Nationality Act of 1979, which criminalizes illegal entry into the country, are often used to denaturalize refugees and deport them without due process. Thailand has not acceded to the 1951 Refugee Convention and its 1967 Protocol, which provide for international protection for refugees. However, the Thai government has been working on a draft regulation to implement the Convention.

Draft Regulation

The Thai government has proposed a draft regulation to implement the 1951 Refugee Convention, which creates a “Committee for the Management of Undocumented Migrants” by Cabinet Resolution 10/01, B.E. 2560, to protect refugees in Thailand. The Prime Minister has also committed to ensuring that refugee returns to Myanmar would be voluntary and to increase refugee-screening mechanism. The draft regulation will provide refuge to all applicants that articulate the basis for seeking refuge.

Conclusion

Refugees, on implementing this resolution since the time of its enactment, has been little to no progress or consultation with civil society, including Fortify Rights, APRRN, and migrant communities. More than 13 civil society organizations working with refugee and migrant communities in Thailand have undertaken a legal expert workshop on refugee and Thai law. The workshop identified the need for an internationally recognized definition of refugees and a legal framework that recognizes and protects refugees. To further protect refugees, the Thai government should accede to the 1951 Refugee Convention and its 1967 Protocol, the Convention on the Protection of All Migrant Workers and Members of Migrant Workers and Members of Migrant Communities, and other international human rights instruments.

End detention, forcible returns, and establish durable solutions

END DETENTION, FORCIBLE RETURNS AND ESTABLISH DURABLE SOLUTIONS

Refugees must be provided with an internationally recognized legal status that ensures their rights to freedom of movement and protection from persecution. The draft regulation that we are submitting to the Government of Thailand seeks to provide a constructive contribution towards implementing the 1951 Refugee Convention in Thailand. In particular, we are concerned by the continued forced return of individuals to the border and forcing them into a neighboring country where they may face torture or other serious human rights violations. Thailand’s immigration law and the Nationality Act of 1979, which criminalizes illegal entry into the country, are often used to deport refugees without due process.

Access to Asylum

Thai authorities have also conducted unofficial deportations by transporting refugees by sea. These policies and practices contravene the principle of non-refoulement and greatly endanger the lives of refugees. Thailand has not acceded to the 1951 Refugee Convention and its 1967 Protocol, which provide for international protection for refugees. However, the Thai government has been working on a draft regulation to implement the Convention.

Draft Regulation

The Thai government has proposed a draft regulation to implement the 1951 Refugee Convention, which creates a “Committee for the Management of Undocumented Migrants” by Cabinet Resolution 10/01, B.E. 2560, to protect refugees in Thailand. The Prime Minister has also committed to ensuring that refugee returns to Myanmar would be voluntary and to increase refugee-screening mechanism. The draft regulation will provide refuge to all applicants that articulate the basis for seeking refuge.

Conclusion

Refugees, on implementing this resolution since the time of its enactment, has been little to no progress or consultation with civil society, including Fortify Rights, APRRN, and migrant communities. More than 13 civil society organizations working with refugee and migrant communities in Thailand have undertaken a legal expert workshop on refugee and Thai law. The workshop identified the need for an internationally recognized definition of refugees and a legal framework that recognizes and protects refugees. To further protect refugees, the Thai government should accede to the 1951 Refugee Convention and its 1967 Protocol, the Convention on the Protection of All Migrant Workers and Members of Migrant Workers and Members of Migrant Communities, and other international human rights instruments.

Refoulement or Forced Return

Refugees are at risk of being forcibly returned to countries where they may face torture or other serious human rights violations. While Thailand has been reluctant to settle refugees, it has also conducted official deportations. In 2017, 1,481 people were returned by sea, including 1,342 Rohingya, contrary to international law and the principle of non-refoulement.