

GLOBAL **NEXTGEN** INDEX

Protecting the liberty of our next generation, today.

End Child Detention Scorecard

THAILAND

Published August 2018 – The Thailand NextGen Index Committee completed the baseline assessment of Thailand's progress, but the scores and rankings have not been published at this stage. This report summarises the findings from each category.



Political will for change is building in Thailand.

In 2017, a Cabinet Resolution and policy provided processes for children under the age of 15 to be exempt from detention and able to live in the community with their mothers.

However, implementation of this order is unclear at this stage.

Treaties

Thailand has ratified three of the six Conventions and Protocols that assist in the protection of children in the context of migration.

Recommendation: The Government of Thailand is encouraged to ratify the Convention Relating to the Status of Refugees (the 1951 Convention), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

National laws

Thailand does not have a law that prohibits the detention of all children up to the ages of 18 years. Policy prohibits children under the age of 15 from being detained in Thailand, they are able to live in the community with their mothers. Article 22 of the Child Protection Act 2003 provides that in any matter, the best interests of a child should be prioritized and they should not be an incidence of discrimination.

Recommendation: The Government of Thailand is commended for their order prohibiting the detention of children under the age of 15 years. The government is encouraged to implement the order in line with the child's right to family unity. Additionally, the government is encouraged to implement a law that prohibits the detention of all children up to the ages of 18 years and their families. This would bring policy in alignment with international standards and obligations. Family unity is a fundamental child right.

Processing

Limited amounts of screening and Best Interest Determination procedures are available in Thailand for select populations of migrant children. No documentation is available for children awaiting migration status outcomes, limited legal aid and translation is available.

Recommendation: The Government of Thailand is encouraged to immediately implement child-centred policies and practices, especially for unaccompanied children. Additionally, the government is encouraged to urgently develop guardianship procedures.

Placement

A new order has been passed which enables children under the age of 15 and their families to be exempt from detention. However, the procedure to enact this policy is not yet defined. Thailand previously had a Bail Program which enabled conditional release from detention for children and their families, although this has been disbanded.

Recommendation: The Government of Thailand is encouraged to urgently develop policies and practices that uphold the liberty of children and their families. Additionally, the government is encouraged to utilise existing alternatives to detention in a robust and systematic fashion.

Rights

Very little social assistance and housing is provided to migrant children and their families. Education is extended to migrant children but there are challenges to accessing services that are appropriate for these populations.

Recommendation: The Government of Thailand must uphold the rights of migrant children to access indiscriminate education, housing, social assistance and health care. The government is strongly encouraged to introduce firewall legislation to ensure social welfare services are not impeded by migration control activities.

Oversight

Judicial oversight of immigration detention decisions is often focused on the legality of stay and associated penalties, rather than considering evidence to determine whether arbitrary detention is necessary. Thailand does not have any monitoring or reporting of immigration detention by independent bodies, nor are immigration detention statistics regularly published.

Recommendation: The Government of Thailand is encouraged to improve its statistics by disaggregating data about immigration detention, as well as developing National Preventative Mechanisms for Detention Monitoring.

Points off


It is estimated that 200 children were detained in Thailand last year, including children under the age of 15 who should be exempt from detention based on the government order. Those in detention can be held for periods beyond one month, with sub-standard living conditions.

Recommendation: The Government of Thailand is strongly encouraged to abolish the detention of all children, in law and in practice. The government is encouraged to take significant and immediate action to reduce the numbers of children detained for extended periods of time.

Bonus points

Political will for change is building in Thailand. On January 10, 2017, Thailand adopted Cabinet Resolution 10/01, B.E. 2560, which created a “Committee for the Management of Undocumented Migrants and Refugees” to develop policies concerning the screening and management of undocumented migrants and refugees. The government has also issued an order for children under 15 to be exempt from detention and able to live in the community with their mothers, although implementation of this order is unclear.

Recommendation: The Government of Thailand is strongly encouraged to urgently uphold the rights of children in compliance with international standards and legal obligations. The child’s rights to family unity must be respected. The government is encouraged to engage in collaboration with civil society agencies to ensure implementation is swift and effective.



This scorecard has been assessed by the Thailand NextGen Index Committee:

- Asia Pacific Refugee Rights Network (APRRN)
- Coalition for Rights of Refugee and Stateless Person (CRSP)
- Fortify Rights
- Save the Children

For further information regarding how this score was measured visit <http://next-gen-index.org/>

If you have any questions, please contact the Global Campaign:
media@endchilddetention.org

Additional Resources & Information

Treaties & National Laws

- [Thailand Anti-Trafficking Persons Act, 2008](#)
 - Immigration Detention: Article 29
- Fortify Rights: [A Work in Progress - Thailand's Compliance with the International Covenant on Civil and Political Rights](#)

Directives & Services

- [Thailand Juvenile and Family Court and Juvenile and Family Case Procedure Act, 2010](#)
 - Family Court Alternatives to Detention: Article 142, 154
 - Child Detention: Article 68
- [Thailand Child Protection Act, 2003](#)
 - Best Interests of the Child: Article 22
 - Child Guardianship: Article 24, 33
- [Thailand Criminal Code](#)
 - Child Punishment: Section 73, 74

Community Integration & Support

- Save the Children: [Unlocking Childhood - Current Immigration Detention Practices and Alternatives for Child Asylum Seekers and Refugees in Asia and the Pacific, 2017](#)
- Fortify Rights: [Everywhere is Trouble - A Briefing on the Situation of Rohingya Refugees from Myanmar in Thailand, Malaysia, and Indonesia](#)

Infrastructure & Oversight

- Human Rights Watch: [Thailand - Implement Commitments to Protect Refugee Rights](#)
- Fortify Rights: [Thailand - Investigate Death of Rohingya Girl in Immigration Detention Center](#)
- Fortify Rights: [Thailand - Release Asylum Seekers Detained in Raids Last Week](#)