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THAILAND

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Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people.
2. This submission examines national laws that undermine Thailand's obligations to uphold freedom of religion and expression, including the rights of religious asylum seekers. It also addresses the rights implications for women and children arising from the regulation of surrogacy.

(a) Rights of Religious Asylum Seekers

Background

3. Thailand is a major destination for persons fleeing religious persecution. According to the UN High Commission for Refugees (UNHCR), as of June 2025, the country hosts around 84,000 refugees, the majority having fled targeted violence in Myanmar.¹
4. This number does not include about 3,500 unregistered 'urban refugees' and over 2,700 asylum seekers, many also belonging to religious minorities. Roughly half of the applicants (49%) are from Vietnam, followed by 30% from Pakistan.² Residing mostly in Bangkok, these persons lack legal status and are therefore excluded from work and essential services, while also facing risk of arrest and repatriation.³

Legal Framework

5. Section 27 of the 2017 Constitution of the Kingdom of Thailand establishes equality before the law and prohibits 'unjust discrimination against a person on the grounds of differences in', *inter alia*, origin or religious belief.⁴
6. Section 31 guarantees freedom of religion, namely that,

'A person shall enjoy full liberty to profess a religion, and shall enjoy the liberty to exercise or practice a form of worship in accordance with his or her religious principles, provided that it shall not be adverse to the duties of the Thai people, neither shall it endanger the safety of the State, nor shall it be contrary to public order or good morals.'⁵
7. While section 67 obligates the State to 'support and protect Buddhism and other religions', it also establishes special duties towards Buddhism in particular, including 'measures and mechanisms to prevent Buddhism from being undermined in any form.'⁶
8. In September 2023, the government launched the 'National Screening Mechanism' to identify individuals who may qualify as 'protected persons'.⁷ First adopted in 2019, the regulation established a 'Protected Person Screening Committee', tasked with screening foreign individuals to determine 'Protected Person' status, as well as to 'promote cooperation and coordination with relevant foreign governments,

¹ UNHCR 'Refugee Data Finder' (June 2025) <https://www.unhcr.org/refugee-statistics/download/?v2url=291eb5> – disaggregated by year.

² UNHCR 'Refugee Data Finder' (June 2025) <https://www.unhcr.org/refugee-statistics/download/?v2url=772f69>. – 2025, disaggregated by country of origin.

³ UNHCR 'Where we work - Thailand' (2026) <https://www.unhcr.org/where-we-work/countries/thailand>.

⁴ Constitution of the Kingdom of Thailand (2017), sec. 27.

⁵ Id., sec. 31.

⁶ Id., sec. 67.

⁷ UNHCR 'Asylum in Thailand' (2026) <https://help.unhcr.org/thailand/asylum/>.

international organizations, and private sectors regarding the administration of Protected Persons in line with international obligations and policies adopted by cabinet resolutions.⁸

9. A Protected Person is defined as ‘any alien who enters into or resides in the Kingdom and is unable or unwilling to return to his/her country of origin due to a reasonable ground that they would suffer danger due to persecution as determined by the Committee.’⁹
10. Government officials are required to defer repatriation if an alien claims to have reasonable grounds to be a Protected Person, ‘except when national security is threatened.’¹⁰ Once a claim has been dismissed, the alien has 15 days to appeal, and otherwise is subject to immigration laws.¹¹ Protected Person status can be revoked if the subject fails to comply in any way with government authorities.¹²

Situation of Religious Asylum Seekers

11. By July 2025, only seven individuals had attained Protected Person status after 18 months of operation.¹³
12. Simultaneously, since October 2023, the military has carried out mass forced deportations of thousands of Myanmar nationals, many of whom had fled severe religious persecution.¹⁴ Additionally, in February 2025, the government forcibly repatriated 40 Uyghurs to China who had been prevented from seeking UNHCR protection since arriving in Thailand years earlier.¹⁵
13. Other minorities fleeing persecution have been detained without due process, their future remaining uncertain. In April and May 2025, Thai Police in Nonthaburi Province arrested 13 Hmong Christians, including Pastors and members of the organization Hmong for Human Rights, who continue to be in detention as of April 2026. Similarly, in October 2025, police raided a neighborhood in Bang Yai Province, arresting 73 refugees, mostly Montagnard, the majority of whom remain incarcerated.¹⁶
14. Civil society and international human rights experts have raised alarm at the condition of apprehended asylum seekers in immigrant detention centers and prisons, including allegations of torture and cruel, inhuman or degrading treatment.¹⁷

⁸ Regulation On the Screening of Aliens who Enter into the Kingdom and are Unable to Return to the Country of Origin (25 December 2019), art. 9.

⁹ *Id.*, art. 3.

¹⁰ *Id.*, art. 15.

¹¹ *Id.*, art. 17.

¹² *Id.*, art. 21.

¹³ K. Coddington ‘Thailand’s refugee system puts publicity over protection’ (10 July 2025) *East Asia Forum*, <https://eastasiaforum.org/2025/07/10/thailands-refugee-system-puts-publicity-over-protection/>.

¹⁴ Human Rights Watch ‘Thailand: Recent Refugees Pushed Back to Myanmar’ (29 November 2023) <https://www.hrw.org/news/2023/11/29/thailand-recent-refugees-pushed-back-myanmar>.

¹⁵ BPSOS ‘Thailand’s gross violations of the human rights of refugees and asylum seekers’ (8 December 2025) <https://dvov.org/wp-content/uploads/2026/03/Submission-for-EU-Thailand-HR-dialogue.docx.pdf>, p.7.

¹⁶ *Id.*, p.8-9.

¹⁷ See e.g. Special Procedures ‘Allegation Letter to Thailand’ (22 February 2024) UN Docs AL THA 2/2024, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=28775>. Committee on the Elimination of Discrimination Against Women ‘Concluding Observations on the eighth periodic reports on Thailand’ (10 July 2025) UN Docs CEDAW/C/THA/CO/8, 45(d).

15. Thailand has also cooperated with Vietnamese officials to deport refugees who had escaped religious persecution in their country of origin.¹⁸ Most recently, in November 2026, Y Quynh Bdap, a religious minority rights advocate, was extradited after a lengthy judicial process despite serious risk of persecution and torture, on the basis of spurious allegations of terrorist activity.¹⁹ The case received significant international attention, including by numerous Special Procedures mandate holders,²⁰ who also submitted an amicus curiae to the Supreme Court.²¹
16. In the previous UPR cycle, Thailand supported recommendations to ‘stop immediately the return of refugees from Myanmar in view of the severe risk that it implies for their lives and integrity in the current circumstances of that country’, as well as to ‘implement legal measures to ensure proper protection of refugees and asylum seekers’.²² As evidenced above, neither of these recommendations were implemented.

International law

17. The 1951 Convention relating to the Status of Refugees defines the principle as requiring that a state not ‘expel or return (*refouler*) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion’.²³
18. Thailand is not a signatory of the Convention nor its 1967 Protocol. However, the principle of non-refoulement may be regarded as constituting customary international law.²⁴ Respect for this principle was explicitly claimed by Thailand in the national report ahead of its previous Universal Periodic Review.²⁵
19. Furthermore, Thailand made a voluntary pledge to:
- ‘Take steps towards revising legislation to bring it into line with international human rights instruments, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention for the Protection of All Persons from Enforced Disappearance.’²⁶

¹⁸ Radio Free Asia ‘Vietnamese police track down Montagnards in Thailand’ (15 March 2024) <https://www.rfa.org/english/news/vietnam/montagnards-thailand-03152024165555.html>.

¹⁹ International Christian Concern ‘Thai Appeals Court Upholds Decision to Extradite Bdap to Vietnam’ (26 November 2025) <https://persecution.org/2025/11/26/thai-appeals-court-upholds-decision-to-extradite-bdap-to-vietnam/>.

²⁰ UN Special Procedures ‘Allegation Letter to Thailand’ (24 July 2025) *UN Docs LA THA 8/2025*, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=30110>.

²¹ B. Saul, ‘Amicus Curiae Submission’ (12 August 2024) *Black case number Por Dor 8/2567*, <https://www.ohchr.org/sites/default/files/documents/issues/terrorism/sr/court-submissions/202408-Amicus-SRCT-Thailand-en.pdf>.

²² UNHRC ‘Report of the Working Group on the Universal Periodic Review’ (21 December 2021) *UN Docs A/HRC/49/17*, 58.78-79.

²³ Convention relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137 (Refugee Convention), art. 33.

²⁴ See e.g. B. Saul, ‘Amicus Curiae Submission’ (12 August 2024) *Black case number Por Dor 8/2567*, <https://www.ohchr.org/sites/default/files/documents/issues/terrorism/sr/court-submissions/202408-Amicus-SRCT-Thailand-en.pdf>, 28.

²⁵ UNHRC ‘National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 - Thailand’ (17 August 2021) *UN Docs A/HRC/WG.6/39/THA/1*, 108.

²⁶ *Id.*, 54(a).

20. Thailand has ratified both the Conventions, which, in addition to prohibitions on these violations within the country, include explicit prohibitions against refoulement or extradition of an individual 'where there are substantial grounds for believing that he would be in danger of being subjected to' torture or enforced disappearance respectively.²⁷
21. Thailand must be called upon to uphold these obligations by immediately ceasing the detention and extradition of those fleeing religious persecution, and safeguarding the rights of those legally detained, including investigating allegations of torture or ill treatment.
22. Furthermore, Article 18 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the right to the 'freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching'.²⁸
23. Article 26 further mandates States Parties to 'prohibit any discrimination and guarantee to all persons equal and effective protection from discrimination' including on the ground of religion or national origin.²⁹ Relatedly, Article 27 ensures that minorities 'shall not be denied the right, in community with other members of their group, [...] to profess and practice their own religion'.³⁰
24. As noted by the Human Rights Committee,
- 'The fact that a religion is recognized as a State religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the Covenant, including articles 18 and 27, nor in any discrimination against adherents of other religions or non-believers.'³¹
25. Thailand's constitutional provision limiting freedom of religion or belief according to 'the duties of the Thai people' must not be interpreted as exceeding the scope of permissible limitations articulated in international law. Likewise, section 67 which calls for 'measures and mechanisms to prevent Buddhism from being undermined in any form', must in no way be employed to discriminate against believers of any other religion or none. This includes guaranteeing the right to freedom of religion or belief of those having fled religious persecution.

(b) Surrogacy

Legal Framework

26. Since the early 2000s, Thailand has increasingly emerged as a destination for so-called 'reproductive tourism,' becoming a hub for the international commercial

²⁷ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85 (ICAT), art. 3; International Convention for the Protection of All Persons from Enforced Disappearance (adopted 20 December 2006, 23 December 2010) 2716 UNTS 3 (ICPPED), art. 16.

²⁸ International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art. 18.

²⁹ *Id.*, art. 26.

³⁰ *Id.*, art. 27.

³¹ Human Rights Committee 'General Comment No.22 – Article 18: Freedom of Thought, Conscience or Religion' (30 July 1993) UN Docs CCPR/C/GC/22, 9.

surrogacy market. This growth was driven by its reputation for relatively high medical standards combined with comparatively low costs. By 2015, government officials estimated that several hundred surrogate births were taking place each year, facilitated by a large network of private surrogacy agencies. This expansion was accompanied by numerous public scandals involving human trafficking, exploitation of surrogate mothers, as well as child abandonment.³² The surrogate women themselves were often engaged in recruiting others, thereby reinforcing and perpetuating the underlying system of exploitation and abuse embedded in the practice.³³

27. In 2015, in response to these controversies, Thailand adopted the Act to Protect Children Born Using Assisted Reproductive Technology (hereafter 'ART Act').³⁴ This law prohibits all commercial surrogacy with a penalty of up to 10 years' imprisonment and a 200,000 baht fine.³⁵
28. The ART Act permits so-called 'altruistic' surrogacy only under the following criteria:
 - a. The request is made by a consenting, married husband and wife of Thai nationality (or one foreign spouse if married for at least 3 years),
 - b. The wife is unable to conceive naturally,
 - c. The surrogate woman is a blood relative and has had a child before, and has permission from her spouse, if applicable.³⁶
29. Acting as an intermediary or broker for surrogacy by accepting payment or other benefit, or advertising surrogacy services, even for non-commercial reasons, is punishable with up to 5 years' imprisonment and a 100,000 baht fine.³⁷
30. Despite these laws, many Thailand-based surrogacy agencies continue to advertise their services, raising concerns regarding enforcement.³⁸ Following the adoption of this legislation, many surrogacy agencies moved their operations to neighboring countries such as Cambodia, Laos and Nepal, establishing cross-border arrangements designed to circumvent Thailand's laws.³⁹
31. A proposed amendment by the Ministry of Health to the 2015 Act, currently pending, seeks to liberalize access to surrogacy, including to foreigners. While overt commercial surrogacy would remain prohibited, the expansion to foreign commissioning couples and surrogate mothers, as well as the export of embryos, effectively facilitate transnational arrangements.⁴⁰

³² E. Nilsson 'Thai Surrogate Mother's Experiences of Transnational Commercial Surrogacy: Navigating Local Morality and Global Markets' (September 2022) *Uppsala University*, <https://www.researchgate.net/publication/363567181>, 23-24.

³³ *Id.*, 76-77.

³⁴ Thai Business Law Firm 'Surrogacy Regulation in Thailand: Legal Restrictions for Foreigners' (2024) <https://www.thaibusinesslawfirm.com/articles-news/surrogacy-regulation-in-thailand-for-foreigners/>.

³⁵ Act to Protect Children Born Using Assisted Reproductive Technology (2015), sec. 24.

³⁶ *Id.*, sec. 21.

³⁷ *Id.*, sec. 27-28.

³⁸ Bangkok Surrogacy 'Find a surrogate' (2026) <https://bangkoksurrogacy.com/find-a-surrogate/>.

³⁹ E. Nilsson 'Thai Surrogate Mother's Experiences of Transnational Commercial Surrogacy: Navigating Local Morality and Global Markets' (September 2022) *Uppsala University*, <https://www.researchgate.net/publication/363567181>, 26.

⁴⁰ Bangkok Post 'Thai health ministry to overhaul law on surrogacy' (15 January 2025) <https://www.bangkokpost.com/thailand/general/2939872/thai-health-ministry-to-overhaul-law-on-surrogacy>.

32. According to the Director-General of the Department of Health Service Support, the new bill is intended to ensure greater accountability and reduce black-market activity, including human trafficking.⁴¹ However, the bill inevitably facilitates the expansion of transnational commercial arrangements, including those linked to trafficking and exploitation. Moreover, it ignores the human rights violations inherent in all forms of surrogacy, irrespective of their commercial or allegedly 'altruistic' form.

Incompatibility of Surrogacy with International Law

33. The Universal Declaration of Human Rights (UDHR) establishes the inherent dignity of all members of the human family as the foundation of human rights and related State obligations under human rights instruments.⁴²

34. At its core, surrogacy violates the human dignity of both women and children, as it entails the commodification of the human body and person. By requiring surrogate mothers to alienate themselves from their own bodies and reproductive capacities, and to submit those capacities to external control for the benefit of a third party, surrogacy reduces women to instruments of reproduction. At the same time, by predetermining the transfer of the child they bear, surrogacy treats the child as the outcome of a process designed to satisfy another's interests. In this way, women's reproductive functions are reduced to the means, and the children born through these arrangements to the product. Even in cases of so-called 'altruistic' surrogacy, where commodification may appear less overt, the child remains embedded within a transactional framework and is treated not as a rights-bearing human being, but as a disposable object.

35. The Optional Protocol to the Convention on the Rights on the Child on the sale of children, child prostitution, and child pornography, which Thailand has ratified, prohibits the sale of children as 'any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration.'⁴³

36. In surrogacy arrangements, all the elements of a transaction are present: a child is handed over ('transferred') from the surrogate mother who delivered him or her ('by any person or group of persons'), to the commissioning party ('to another'), and the surrogate mother receives payment for her labour ('for remuneration or any other consideration'). The phrase 'any other consideration' aims to prevent any loopholes that might allow for the sale of children without direct monetary exchange, as is claimed in the context of 'altruistic' surrogacy arrangements. Such considerations may include payments in-kind, such as accommodation, payment of household or grocery bills, medical care and medication bills, and others.

37. Article 25(2) of the UDHR states that, 'Motherhood and childhood are entitled to special care and assistance.'⁴⁴ Article 12 of the International Covenant on Economic, Social

⁴¹ Id.

⁴² Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR), preamble;

See also: Declaration on the Elimination of Violence Against Women' (1993) UN GA Res 48/104, Preamble; Committee on the Rights of the Child, 'General Comment No. 13: The Right of the Child to Freedom from All Forms of Violence' (2011) CRC/C/GC/13.

⁴³ Optional Protocol to the Convention on the Right of the Child on the Sale of Children, Child Prostitution and Child Pornography (adopted 25 May 2000, entered into force 18 January 2002), UN Docs A/RES/54/26, art 2(a).

⁴⁴ UDHR, art 25.

and Cultural Rights affirms the right to the enjoyment of the highest attainable standard of physical and mental health, including specific provision for the healthy development of the child.⁴⁵ Moreover, Article 4 of the Convention on the Elimination of Discrimination against Women requires States Parties to ‘adopt special measures aimed at protecting maternity’.⁴⁶

38. Whether ‘altruistic’ or ‘commercial’, surrogacy significantly undermines the physical and mental health of surrogate mothers and children.
39. Surrogate mothers involved in gestational surrogacy face a higher risk of complications than other pregnant women. They are at two to three times the risk of health problems such as postpartum hemorrhage, pre-eclampsia, and serious postpartum depression.⁴⁷ A study comparing non-surrogate pregnancies with gestational surrogate pregnancies shows that women were significantly more likely to experience postpartum depression following the delivery of surrogate children than after delivering their non-surrogate children.⁴⁸ Another study detected higher levels of depression among surrogates during pregnancy and post-birth.⁴⁹ Moreover, feelings of abandonment, loss, anger, and alienation are common consequences for surrogate women.⁵⁰
40. Perinatal research shows that the bonding process between mother and child begins in utero. A child learns to recognize the mother’s voice, scent, and heartbeat in the amniotic fluid—sensory inputs that aid post-birth adjustment.⁵¹ Hormonal bonding during labor further reinforces attachment. Moreover, surrogacy is associated with a significantly higher risk of premature birth.⁵² Longitudinal studies on child development indicate that by age seven, children separated from their gestational mothers are more likely to experience adjustment difficulties and to be vulnerable to the effects of maternal distress.⁵³ Other research shows that maternal separation—an inherent aspect of surrogacy—can even disrupt brain development.⁵⁴ The distress caused by

⁴⁵ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR), art 12.

⁴⁶ Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1989) 1249 UNTS 13 (CEDAW), art 4.

⁴⁷ M. P. Velez et al. ‘Severe Maternal and Neonatal Morbidity Among Gestational Carriers: A Cohort Study’ (24 September 2024) *Annals of Internal Medicine* 177(11), <https://www.acpjournals.org/doi/10.7326/M24-0417>.

⁴⁸ J. Lahl et al. ‘A Comparison of American Women’s Experiences with Both Gestational Surrogate Pregnancies and Spontaneous Pregnancies’ (2022) *Dignity* 7(3), <https://digitalcommons.uri.edu/dignity/vol7/iss3/1/>.

⁴⁹ N. Lamba et al. ‘The psychological well-being and prenatal bonding of gestational surrogates’ (2018) *Human Reproduction* 33 (4), <https://pubmed.ncbi.nlm.nih.gov/29566176/>.

⁵⁰ H. L. Berk ‘The legalization of emotion: Managing risk by managing feelings in contracts for surrogate labor’ (2015) *Law and Society Review* 49 (1), <https://doi.org/10.1111/lasr.12125>, 170.

⁵¹ Sullivan et al. ‘Infant bonding and attachment to the caregiver: Insights from basic and clinical science’ (2011) *Clinics in Perinatology* 38(4), <https://pmc.ncbi.nlm.nih.gov/articles/PMC3223373/>, 644.

⁵² M. P. Velez et al. ‘Severe Maternal and Neonatal Morbidity Among Gestational Carriers: A Cohort Study’ (24 September 2024) *Annals of Internal Medicine* 177(11), <https://www.acpjournals.org/doi/10.7326/M24-0417>.

⁵³ S. Golombok et al. ‘Children born through reproductive donation: a longitudinal study of psychological adjustment’ (2013) *Journal of Child Psychology and Psychiatry* 54(6), <https://pubmed.ncbi.nlm.nih.gov/23176601/>, 653.

⁵⁴ S. Mejía-Chávez et al. ‘Maternal Separation Modifies the Activity of Social Processing Brain Nuclei Upon Social Novelty Exposure’ (November 2021) *Frontiers in Behavioural Neuroscience* 15, <https://pubmed.ncbi.nlm.nih.gov/34803620/>.

parental disputes in surrogacy can further compromise the health and well-being of the child.⁵⁵

41. Article 7(1) of the Convention on the Rights of the Child enshrines the right of a child to, as far as possible, know and be cared for by his or her parents.⁵⁶ The phrase 'as far as possible' implies that this right must be upheld as a general rule, with state interference justified only in exceptional cases involving parental loss, abuse and neglect.⁵⁷
42. Surrogacy arrangements, both commercial and 'altruistic', *a priori* deny this right by deliberately pre-determining, without necessity, the separation of a child from his or her mother. This subordinates the child's rights to the commissioning party's desire for parenthood, contravening the principle of the best interests of the child, which must be a primary consideration in all decisions concerning children.⁵⁸

(c) Recommendations

43. In light of the aforementioned, ADF International suggests the following recommendations be made to Thailand:
 - a. Guarantee full respect for right of everyone to freedom of religion or belief and expression without discrimination, including non-Buddhist minorities and those fleeing religious persecution;
 - b. Respect the principle of non-refoulement by immediately ceasing deportations of asylum-seekers facing demonstrable threats of persecution in their countries of origin;
 - c. Guarantee the rights of those detained under immigration law, including prompt and thorough investigation of all allegations of torture and cruel, inhuman or degrading treatment;
 - d. Review the National Screening Mechanism to bring it into line with international norms on the right to asylum, including by ensuring that assessments for Protected Persons status are conducted in an objective, individual, impartial, and consistent manner;
 - e. Prohibit surrogacy in all its forms;
 - f. Amend laws and adopt policies to decisively curb and eradicate the international surrogacy market in Thailand, including through enhanced cross-border cooperation;

⁵⁵ K. Wade 'The regulation of surrogacy: a children's rights perspective' (December 2017) Child Fam Law Q. 29(2), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5540169/>.

⁵⁶ Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (CRC), art 7(1).

⁵⁷ See e.g. CRC art. 9(1).

⁵⁸ *Id.*, art 3(1).



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