

2009 Annual Report
A Situation of
Personality Status
and the Rights of
Stateless Persons/
Persons without Nationality



Stateless Watch
for Research and
Development
Institute of Thailand-
SWIT

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January 2010

1. Four years and the strategy to address personal status and rights issues

Though it may be just a concern, but it is not too much to say that the strategy to address personal status and rights issues (cabinet resolution of 18 January 2005) has played an important role in solving problems faced by stateless persons/persons without nationality. It is guided by the concept that "it is a approach to solve national security issues in a new way with consideration of the balance of basic rights and national security."

In the realm of statelessness, key words include *survey, determination and enhancement of personal status*. It starts with the desire of stateless persons to get set surveyed and the need to develop profile record and determine the 13-digit ID number and then to classify their personal status as "persons without civil registration records" (those holding ID cards and the number begins with "0"). According to the Department of Provincial Administration's civil registration procedure, these people are no longer considered "stateless" but "aliens" in Thailand.

1.1 Four years on the path to eradicate statelessness and being without nationality

220,626 stateless persons are divided into six groups under the strategy and they are supposed to be covered by the survey and assigned with the ID numbers begun with "0".

They include Group 1 those migrants in Thailand who have not been surveyed yet, but are related to those who have been registered as belonging to minority groups, 150,113 of them; Group 2 students in educational institutes, 66,937 of them; Group 3 rootless persons, 3,553 of them; Group 4 those who have made great contribution to the nation, 23 of them; Group 5 migrant workers and Group 6 other aliens who have not been surveyed (As of 22 December 2009, Bureau of Registration Administration, Ministry of Interior)

The number does not look so high, compared to the figure of two millions persons said to have personal status problem, according to the National Security Council (NSC)'s estimate made during the beginning of the strategy implementation. According to our field survey, it was found that attempts to survey and conduct profile registration have been plagued with delay. For example, in the district of Sam Roi Yot, Prachuap Khiri Khan, it was found that three surveys have been carried out by the district authorities during 16 December 2006-August 2008.

Though the duration exceeds 90 days, but no efforts have been made to have the villages/communities to verify and certify statuses of the surveyed persons to see if those migrants have relations with the original Thai minorities who have not been covered in the previous survey. No survey was made to develop profile and for Making ID cards to be provided for students in higher educational institutes. The three surveys conducted in two years have caused much confusion among people who are supposed to benefit from the strategy and regulations. In area where the Catholic Commission for Social Development (CCSD)'s Department of Ethnicity, SWIT's partner organization, is operational, there still exist as many as 800 people who have no papers to prove their identities, such as those in Tambon Mae Khong and Tambon Saohin, Maesariang district, Mae Hong Son. One of the causes is the geographical difficulties as the villagers live in dozens of village clusters situated far away from each other.

Meanwhile, the Bureau of Registration Administration, Department of Provincial Administration, has this reflection toward our observation.¹

1) Concerning the survey of Group 1 or those who have resettled in Thailand for a long time

(1.1) According to criteria for the survey under the strategy for persons in Group 1, they have to be people who migrated into Thailand before 18 January 1995 (10 years before the strategy came into force). Meanwhile, the largest survey took place on 30 September 1999 (under Miyazawa loans, a.k.a. as the green card with red rim survey). As the criterion was set for surveying those getting into Thailand before 1995, there are people who have to miss the opportunity including those migrating into Thailand during 18 January 1995 -29 September 1999. As a result, their personal status problems remain unsolved. Currently, the Department of Provincial Administration deems it necessary to have the survey criterion changed before the new survey.

(1.2) Corrupt practice has been found extensively in many areas including Mae Sot district, Tak province, Wiang Haeng district, Chiang Mai, and Sam Roi Yot district, Prachuap Khiri Khan province causing the beneficiaries fail to be surveyed. Also, some of those surveyed were in fact not the target audience. Evidence was abundant that both the Sub-district Headmen and Village Headmen were engaged in extorting money from people, otherwise they will not submit the surveyed information to the district. The overall survey was then disrupted due to this malpractice.

¹ A seminar on preparation for the extension of survey on stateless persons according to the new round implementation of the strategy to address personal status and rights issues on Wednesday 23 December 2009 at Prathan Duangrat meeting room, Lawyers Council of Thailand (LCT)'s Subcommittee on Ethnic Groups, Stateless Persons, Migrant Workers and Other Migrants and SWIT

(2) Group 2: students in educational institutes

The survey of these people was conducted not just in light of the current strategy, but the cabinet resolution dated July 2005 concerning “draft Ministry of Education Regulation concerning birth dates and the enrollment of students B.E..... (the education provided for those having no civil registration records or having no Thai nationality). The Department of Provincial Administration was supposed to take the lead in the survey. But due to a lack of resources, the process has been redundant.

In addition, the deadline was set for the survey to be completed within two months and no process was laid out to help the teachers understand the overall process as far as the survey of the target groups is concerned. Therefore, it was found that in the beginning of the survey, some children without Thai nationality which had already been assigned the ID numbers have been included in this survey. Until now, it is believed that there is much overlapping of the groups.

During the process to determine personal status, there should be problem with following the criteria if the students have dropped out from school. Should these dropouts still be included?

(3) Group 3: the rootless persons

The efforts are under the charge of Ministry of Social Development and Human Security. In the first survey, too few people were covered since the survey was carried out only among children adopted in child care centers under the Ministry, those under the charge of the Department of Corrections and those under the care of the Department of Juvenile Observation and Protection. Some people might have been missing including those living outside the social welfare homes or private shelter which fails to get registered. In the new round, some criteria have to be developed for conducting the survey on these people.

(4) Group 4: those who have made contributions to the nation

It could be the last group for the survey carried out by Ministry of Interior. Some vagueness is highly involved, i.e., what “making contributions” exactly means? Will it have to be “contributions to the state sector” only?

The opinion put forwarded by NSC seems to clarify the issue. To them, it means contributions made either to state or private sector and in the interest of the nation.

Some vague definition hangs in there as to “in what fields are the contributions applied?” In the strategy, it is mentioned briefly about contributions in the fields of science, arts, culture among others as provided for by the Ministry of Interior. But until now, MOI still fails to come up with the precise detail of the criteria causing the survey of the target groups to face uncertainty.

It makes outreach to the target groups even more difficult. It could be possible that the target group in this category has to approach the government by themselves in order to get surveyed.

Though some guidance has been set out for the determination of status of persons who have problems with the status and rights, but concrete measures to make the determination possible have not been meted out. Both people who have been surveyed, and those waiting for the survey still have to wait for concrete steps from the government making their access to various rights not completed.

In January 2010, it is expected that some criteria for the survey of Group 1 (those having resettled in Thailand for a long time and having some relations with existing Thai citizens) and then Group 4 (those having made contributions to the nation), Group 2 (students in educational institutes) and Group 3 (the rootless persons) shall be developed respectively.

Lately, according to the cabinet resolution dated 3 November 2009, it was proposed that a survey be carried out for those who have missed out on the previous rounds of survey.² It is possible that it is an effort to develop profile of all the remaining stateless persons and to determine their personal status according to the strategy.

In addition, according to NSC, though some progress has been made as to the solving of the problems, but the strategies seem to be dissipative. NSC is developing a new strategy claiming it to be *an overall strategy to solve the problems of personal status*. The new strategy is about 80% done and we have to wait and see if implementation under the new strategy can effectively and systematically root our problems of personal status.

According to SWIT, based on the previous implementation of the strategy, the government should learn from lessons and make genuine efforts to make the strategy practical. All sectors in society should be given the chance to get informed about the issues and help to provide solutions. This will make the implementation more effective and sustainable as well as help to streamline all the initiatives and ensure its transparency. It is hoped that within the next two years, problems of statelessness/being without nationality shall be effectively solved.

² The resolution goes "1. Approve an extension of the timeframe for the implementation of the strategy to address personal status and rights issues which is supposed to end on 17 January 2009 for another two years counting from the date of resolution was approved by the cabinet. It means to accelerate efforts to have problems of the target groups solved as per the strategy and four major actions shall be taken including survey of those missed out on previous rounds of survey, acceleration of status determination, possibility to grant temporary rights while awaiting the final solutions and attempts to block new immigration as proposed by NSC."

1.2 The strategy and the rights that have not been realized after four years

Under the strategy to address personal status and rights issues, strategies have been developed to guarantee basic rights of persons having personal rights and status problems including *(1) For those whose profiles have been documented by the state, but have not yet obtained any official status, or those who have submitted their applications pending the consideration, the government is mulling a policy which shall be forwarded to all relevant agencies to help those people to attain basic rights and be able to survive; (2) For those whose profiles have not been documented by the state, their profiles shall be registered initially in order that their basic rights shall be guaranteed according to humanity principle and should the domiciles of the persons in the sending countries can be verified, efforts shall be made to have them repatriated. If the repatriation is not possible, or while awaiting the determination of their status, or while awaiting coordination with the sending countries to verify their statuses and domiciles, their basic rights shall be guarantee similar to the first case.*

SWIT notes that under the strategy to recognize basic rights of persons having personal rights and status problems, insofar, the only right that has been practically realized is the right to education (please see cabinet resolution dated 5 July 2005 and Ministry of Education Regulation concerning birth dates and the enrollment of students B.E. 2548 (2005) (education provision for those without civil registration paper or those without Thai nationality). Practical problems are still found at the operational level partly due to a lack of awareness among persons having personal status problems and concerned agencies and attitudes of law enforcement officials. Lately, Ministry of Interior has developed guidelines for determining the domiciles and permission for going outside the restricted area (please see Ministry of Interior Regulation concerning the permission for some groups of aliens to reside temporarily in the Kingdom pending the repatriation and the determination of their shelter area dated 1 October 2009). Nonetheless, other basic rights such as the right to universal health care, the right to work, etc., have not been realized according to the current strategy.

Therefore, it is urgent that from now on the Thai state should accelerate efforts to have basic rights comprehensively protected according to the strategy to enable persons having personal status problems to live their life properly while having no nationality. Also, efforts should be made to instill understanding and awareness regarding the legal enforcement to protect the rights.

2. One year and 11 months of the new law >> strengths and weaknesses

In February 2008, two new laws came into force including the Civil Registration Act (No. 2) of 2008 (effective since 25 February 2008) and the Nationality Act B.E. 2508 (1965), fourth revision in 2008 (effective since 28 February 2008). The two laws can be said to have contributed chiefly to efforts to solve statelessness and being without nationality among hundreds of thousands of people in Thailand. Nonetheless, looking back to the one year and 11 months since the laws came into force, we have found many goals that have yet to be achieved.

Regarding nationality law

2.1 A child of a Thai father is not recognized as a Thai citizen due to that the Ministerial Regulation to be issued by the virtue of Section 7 (2) has not been developed

Though there has not been an estimate of the number of children (or adults) falling in this category, the case of “Noi Banbahai” is an example of a child born of a Thai father and a foreign mother and he is not recognized as a Thai citizen, simply because his parents are not legally married (as a result of which his father is not his “lawful father”). Noi Banbahai thus becomes a stateless person and he has to help himself by registering himself as a migrant worker. Should he fail to extend his work permit; he shall be vulnerable to the arrest as per making illegal entry. He shall lack the opportunity to develop his life in different ways even the chance to work and earn his life.³

Section 7 (2) of the new law stipulates that a child born of a Thai father and a foreign mother shall derive his or her citizenship from his father (based on the principle of *jus sanguinis*) regardless if the marriage is official or not. But in practicality, the relationships between the father and the child have to be established and it is not possible to do so pending the issuance of the Ministerial Regulation.⁴

³ Please see detail of the case <http://gotoknow.org/blog/new-act/325855>

⁴ Meanwhile, on 17 November 2009, the cabinet endorsed the draft Ministerial Regulation to determine the methods and fee for verification of relationships with a father who is a Thai citizen in order for the applicant to obtain Thai nationality B.E....., which has been proposed by MOI and read by the State Council already. It shall become effective after being published in the Book of Gazette.

While working with the network to advocate the implementation of the Ministerial Regulation, SWIT has submitted letters to the Governor of Ubon Ratchathani, Provincial Prosecutor of Ubon Ratchathani, Khong Chiam Police Station, Khong Chiam Immigration, and made copies to relevant regular independent organizations to explain the personal status and legal rights of Noi Banbahai and asked them to uphold his rights while pending the verification of this Thai status. Since according to the revised law, a child of a Thai father shall not be subject to the arrest for making illegal entry and shall not be subject to deportation though the Ministerial Regulation is yet effective (SWIT 12/2009 dated 30 July 2009).

2.2 A child born in Thailand to parents who have made illegal entry and denied the right to temporary residency is considered "an illegal migrant since born" due to Ministerial Regulation issued by the virtue of Section 7 bis (2) is not yet issued

A child born in Thailand to parents who have made illegal entry and either his or her parent has been granted a temporary right to stay shall be granted a right to stay temporarily, but shall not be granted Thai citizenship (Section 7 bis (1) of Nationality Act B.E. 2508 with second revision in 2535 (1992)). The child is considered "an illegal migrant since born" (Section 7 bis (3))

Though Section 7 bis (3) revised in Nationality Act, fourth revision in 2009 proposes that "personal status and the existence of a child (a person) shall be considered in light of security and human rights concern, but the new criteria to consider the personal status is still pending the Ministerial Regulation.

The case of Phon has given impetus to campaign for revision of policy concerning personal status of children of the same predicament. They are children of migrant workers who have been issued with work permits.

Phon is a son of migrant workers who have been issued with work permits. He was arrested on 20 July 2009 and arrangement was made to push him outside the country as per cabinet resolutions dated 9 December 2008 and 26 May 2009, since Phon is not considered a "dependent" and therefore not granted a right to temporary stay.

Due to advocacy by academic sector and civil society organizations for the revision of laws concerning personal status and the case of Phon (and children of the same predicament), Phon could avoid being sent back and later was released.⁵ On 3 November 2009, the cabinet endorsed a resolution to determine the status of migrant workers' children as "dependents".

⁵ Legal recommendation and opinion to protect the rights of Phon (aka Abdullah) and all children born in Thailand by parents who have made illegal entries into the country help them to get the

It is necessary, however, to keep a vigil of the enforcement of Section 7 bis (3) which strives to strike a balance between national security and human rights.

2.3 Being Thai by the virtue of Section 23: Pros and Cons

Section 23 of Nationality Act B.E. version 4 (2008) aims to help those affected by Announcement of Revolutionary Party No. 337 (in other word, those born before 14 December 1972 and used to be granted Thai nationality, would see the revocation of their nationality, and those born after 14 December 1972, shall not be granted Thai nationality. The law became effective from 13 December 1972-25 February 1992) by reinstating their Thai nationalities. But the persons eligible to be granted Thai nationality by the virtue of Section 23 have to be able to produce a document to prove their birth in Thailand and any document issued by the Civil Registration Authority (to prove that they have been living in Thailand), or may have to cite a witness in their applying to be registered as Thai citizens. If they can produce those documents or witness successfully, they shall be issued with 13-digit ID number (begun with 8), have their name registered in the central civil registration and be given Thai ID cards.

Pros: The Council of State (first team) states that a person having Thai nationality by the virtue of Section 23 becomes a Thai because of their birth in Thailand. Therefore, that person is eligible to be elected as a village headman (please refer to the completed case no. 226/2009).

Cons: There are still practical obstacles to obtain Thai nationality by the virtue of the law. On one hand, it is due to a lack of awareness among those eligible to apply for Thai nationality. On the other hand, the civil registration authorities at the municipality or district level have no understanding in how to verify a person who wants to apply for Thai nationality by the virtue of Section 23. They may fail to put in date of receiving the application (fearing that it can be cited as the commencement date of the application and can be used as evidence in administrative litigation). They have been slow in processing the applications in several districts including in Chiang Dao district, Chiang Mai, Muang district, Nakhon Phanom, Sangkhla Buri, Kanchanaburi, and Mae Sot district, Tak.

right to temporary stay in Thailand (a child born in Thailand as per Section 7 bis (1) of Nationality Act B.E. 2508 with second revision in 2535 (1992) dated 2 August 2009, briefing prepared by SWIT, HRDF, and Bangkok Clinic Project to provide counseling on personal status and rights and other NGOs, please see <http://gotoknow.org/blog/new-act/325771>

In the past two years, NGOs working on personal status and rights including SWIT and Mirror Foundation, Mae Ai Folk Law Clinic, etc. and the Project to Acquire Knowledge in Enforcement of New Laws to Address Statelessness and Being Without Nationality of Human Beings in Thailand, Faculty of Law , Thammasat have produced legal opinions to help change the attitude and understanding to facilitate the registration of Thai persons obtain their nationality by the virtue of Section 23. It has led to issuance of five directives.⁶ Despite that, there has still been slow and retarded action by civil registration authorities in several provinces.

2.4 Obtaining Thai nationality by birth (Jus Sanguinis): Discrimination against persons of the same predicaments (Thai nationality acquired as per Section 23 and Section 7 bis (2))

While a person obtaining Thai nationality by the virtue of Section 23 is considered a Thai person by birth (Jus Sanguinis) and therefore enjoy political rights (to run as political candidates, to vote, etc.), but many people continue to suffer as a result of the Announcement of Revolutionary Party No. 337. The latter, though having Thai nationality, are barred from having political rights, since they had obtained their nationalities before Section 23 became effective. In other word, they were granted Thai nationality by the order of Minister of Interior as per Section 7 bis (2) of the Nationality Act B.E. 2508 with second revision in 2535 (1992).

Some Thai citizens who have obtained their nationality by way of Section 7 bis (2) have complained to the Administrative Court to demand their rights.

Mr. Suksan, a candidate in a local election, was announced “unqualified” by the Election Committee which claims that he has not obtained his Thai nationality by birth, but by the order of Minister of Interior. Mr. Suksan has complained against the Election Committee with the Nakhon Ratchasima Administrative Court. The Court ruled that he has obtained his nationality by birth (Black case no. 282/2007 Red case no. 162/2008). The appeal motion of the Election Committee is pending consideration of the Supreme Administrative Court.

While waiting for the final verdict, SWIT finds it a discrimination of persons of the same predicaments are to be treated differently, particularly on matter favorable to the person.

⁶ Directives No. 1 Mor Tor 0309.1/Wor 1587 Lor Wor 22 May 2008 ,No. 2 Mor Tor 0308.4/Wor 7840 Lor Wor 26 May 2008 ,No. 3 Mor Tor 0309.1/Wor 9489 Lor Wor 18 June 2008 ,No. 4 Mor Tor 0309.1/Wor 19895 Lor Wor 17 December 2008 , No. 5 Mor Tor 0309.1/Wor 5527 Lor Wor 30 March 2555

The case of civil registration laws

2.5 "1,243 villagers in Mae Ai" >> Four years past, problems remain

5 February 2004 was the day 1,243 villagers in Mae Ai district, Chiang Mai, saw their names taken out of the civil registration. All of a sudden, they lost their Thai nationalities. With support from the Subcommittee on Human Rights of the Ethnic People, Stateless Persons, Migrant Workers and Migrants, Lawyers Council of Thailand (LCT), the villagers has sought justice in this case through litigating at the Administrative Court.

On 30 August 2005, the Supreme Administrative Court (Black case no. Or 299/2004, Red case no. Or 117/2005) ruled that the order of the Mae Ai District Authority (to revoke Thai nationality) was unlawful since it had failed to comply with procedures stipulated in Section 30 of the Administrative Procedure Act B.E. 2539 (1996) since the affected villagers had not been given a chance to explain their case, to object the accusation or to produce any counter-evidence to the Mae Ai District Authority.

It could be said that the litigation in Mae Ai case has led to revision of the Civil Registration Act B.E. 2534 (1991). Section 10 (4) has been added to authorize the civil registrant to freeze any civil registration action should there be any credible suspicion that the process to have a name included in the civil registration has been made indecently.

In October 2009, the Mae Ai District Authority became the first district in Thailand to invoke Section 10 (4) against the 1,243 villagers.

The order to freeze civil registration by Mae Ai District Authority has raised questions to the legitimacy of the order. The order has been issued without efforts to verify the facts (Ministerial Regulation No. 1 provides for the procedures for the affected persons to argue against the order of the civil registrant in 2008). NGOs working on personal status and rights and SWIT have made legal opinions and ask for explanation as to procedure to enforce the Section.⁷

Collaboration with academic sector and Mae Ai Folk Law Clinic has been made and Department of Provincial Administration issued a letter to explain the reasons behind the freezing of civil registration as per Section 10 (4) of the Civil Registration Act B.E. 2534 (1991) (No. 2) issued in 2008.⁸

⁷ A letter asking for explanation as per the enforcement of Section 10 (4) of the Civil Registration Act B.E. 2534 (1991) (No. 2) issued in 2008 and a letter to ask for explanation of the action no. 2/2009 Lor Wor 14 October 2009, Please see <http://gotoknow.org/blog/new-act/325774>

⁸ Mor Tor.0309.1/ Wor 61 Lor Wor 14 October 2009 , please see <http://gotoknow.org/blog/new-act/325774>

As of now, the Mae Ai villagers have not considered to use the administrative order to revoke the order this time.

The Subcommittee on the Rights and Personal Status of Stateless Thais, Diaspora Thai, Migrants and Indigenous Persons, National Human Rights Commission, of which SWIT is a member, has invited officials from Mae Ai district, Chiang Mai and Department of Provincial Administration to testify twice. The officials from Mae Ai district promised to have the order revoked within early December 2008.⁹

Until now, the order still remains effective.

2.6 Birth registration for all >> 2010 the year of collective advocacy by academic sector and NGOs for birth registration for all

Birth registration is a process whereby the state in which a child is born recognizes his/her birth and it may lead to issuance of identification paper by the hospital or Tor Ror1/1 or by the village headman. It is difficult to estimate the exact number of those persons born without birth registration. (In 2006, it was found that about 51,000,000 children worldwide were born without birth registration per annum (UNICEF 2007¹⁰). Children who are denied birth registration include those stateless and persons without nationality in more than 20 cases in Ranong, Phuket and Phang-nga (October 2008- September 2009)¹¹, Ban Saohin, Maesariang district, Mae Hong Son, Khon Chiam district and Po Sai district, Ubon Ratchathani, etc. The lack of birth registration could be attributed to an ineffective enforcement of laws (a lack of awareness among state officials) and a lack of awareness among people.

Children without birth registration have often been assumed aliens or illegal migrants and may face denial of basic rights including the right to education (being denied enrollment into school, being denied certification), the right to public health, the right to have identification paper including ID card, the right to have their names included in the civil registration, the right to mobility, to work, and may be vulnerable to become victims of human trafficking, etc.

⁹ Meeting minutes, Subcommittee on the Rights and Personal Status of Stateless Thais, Diaspora Thai, Migrants and Indigenous Persons, National Human Rights Commission, No. 4/2008

¹⁰ <http://plan-international.org/birthregistration>

¹¹ See for detail of each case at <http://gotoknow.org/blog/papermoon>

On the contrary, should a child get registered for his/her birth, it means the existence of the person is recognized legally.¹² Instantly, the person exists as a legal person and it implies that Thailand accepts to become his/her personal state,¹³ either as its own nationals or aliens with civil registration in Thailand (recorded in the civil register by the applicable government authority). The recognition is developed to record the genuine link between the child and Thailand (as per the *jus soli* principle). The child is then no longer treated as stateless.

However, recognition of a child's birth does not guarantee her or him a Thai nationality. The chance will vary from case to case. In some cases, the child birth certificate may indicate him or her for obtaining the citizenship by way of birth (*Jus Sanguinis*).

Birth registration is there important as evidence which can help to determine personal status of the child later. This is essential given the influx of migrations from neighboring countries and for Thailand being a member of ASEAN as we share the border with Lao, Burma and Cambodia.¹⁴

Birth registration is a basic human right (No. 7 of the Convention of on the Rights of the Child, No. 15 of Universal Declaration of Human Rights, and No. 24 of International Covenant on Civil and Political Rights (ICCPR). It is an essential guarantee to the child rights including the right to personal status, and other basic rights including the right to have name, nationality, basic health services, education, to be prevented from human trafficking, from sex work/sexual abuse, child labour, etc.

It is estimated there are one million children in Thailand who have not received birth registration (Project to Develop Quality of Life of Migrant Workers and Those Having Personal Status Problems, 2009). The actual number should be higher since there are many adults who have to birth registration, too.

¹² Under international and domestic laws, three major steps are required to develop personal status including (1) recognition of the genuine link of the person born (birth paper or Tor Ror1 and child delivery paper); (2) recognition of personal status (various kinds of birth certificate); and (3) civil registration (personal data profile, various kinds of house registration forms), more detail, please see <http://learners.in.th/blog/human-right-and-archanwell/257821>

¹³ Otherwise, the child will become unregistered person or undocumented person, or stateless person or have to face statelessness and is treated as an unlawful person, please see <http://gotoknow.org/blog/my-work-on-birth-registration/56506>

¹⁴ Darunee Paisanpanichkul, (Draft) Doctoral Dissertation "Legal Concepts for Determination of Personal Status", Faculty of Law, Thammasat University, as of 22 October 2009 (revised from March 2009)

In 2010, SWIT and partner organizations with support from Thai Health Promotion Foundation (under the project to develop knowledge and working mechanisms and network of personal status and rights to advocate birth registration for all) Action Aid Thailand and network for the enforcement of Civil Registration Act B.E. 2534 (1991) No. 2 will develop a guideline to facilitate birth registration for all.

3. A lack of transparency in nationality verification of the three nations >> Questions for the management of statelessness and being without nationality across the border

Nationality verification of migrant workers of three nationalities (Burmese, Laotian and Cambodian) has led to questions about the management of migrant workers and sincerity of the government to address the issues of migrant workers. A lack of transparency of the overall process and potential corruption as seen by the emergence of agents to process this application of nationality verification has raised questions that have yet been answered by concerned authorities.

NGOs and academic sector recognize the existence and importance of migrant workers and use this to develop an approach to manage migrant workers systematically and fairly with respect of their rights and dignity. Our efforts have begun since 1992 when Thailand adopted a policy to intake workers from the three nations (Lao, Burma and Cambodia) and to allow these illegal migrants to have the right to temporary stay and to work (cabinet resolution by the virtue of Section 17, Immigration Act B.E. 2522 (1979)). Later in 2004, as per the cabinet resolution dated 27 April 2004, Thailand made an attempt to legalize the personal status of illegal migrant workers. The Department of Provincial Administration was instructed to perform civil registration and issue 13-digit ID numbers to the migrant workers. Basically, the workers were to be given a paper to guarantee that they are residents in Thailand or Tor Ror38/1. And they are able to ask for work permits from Ministry of Labour. Meanwhile, negotiations have been done with neighboring countries including Lao, Burma and Cambodia and MoUs have been developed to set guideline on employment and set out nationality verification process in the sending countries.

During previous decades, ideas to legalize stateless persons have been abound in Thailand including to legalize the migrant workers. The policy has been guided by national security concern, however.

This policy may benefit stateless persons and persons without nationality in Thailand. To address the problem of stateless persons and persons without nationality does not mean the permission for them to have Thai nationality. It is simply an attempt to determine their personal status through various applicable laws.

Previously, Thailand has surveyed and given 13-digit ID numbers and included these personal data of these people in the civil registration database. (as per the strategy to manage the personal status and rights, the cabinet resolution dated 18 January 2005, Civil Registration Act B.E. 2534 (1991) No. 2 2008). Therefore, these people are not longer stateless, but remain without nationality.

The determination of personal status starts from exploring genuine links of each person with the country which becomes a personal state by probing the birthplace (genuine link by birth), domicile (genuine link by domicile), where their families live (genuine link by family), etc. Then, the process to verify if the person belongs to Thailand, or Burma, or Lao, or Cambodia, can begin.

In reality, there are people who will miss out on the opportunity because of their fear of the fatal risks or that they may not pass the verification process. They will remain stateless persons and under the strategy, they belong to *Group 6 (other groups)* and other methods have to be explored to deal with them.

Questions regarding a lack of transparency of the nationality verification process happen during the time the efforts are made to manage statelessness and without nationality across the border. Concerned authorities have to answer the questions in order to keep the efforts to manage statelessness and without nationality across the border in shape.

4. The right to freedom of movement of stateless persons >> Momentum from folded planes

Though there has not been any specific guidelines regarding the travel outside the country of stateless persons, there had not been any problem for several stateless persons who had travelled outside the country and returned. A case in point is Ms. Aryu Namthep, a lecturer in classical music at Payap University, who has travelled abroad to compete internationally several times (China in 2006, Vienna 2008, and South Korea 2009). Denial of Muang Thongdee, a child, from travelling to Japan to compete in folded plane contest, therefore, surprised many, particularly when considering the verbal rejection which goes “Ministry of Interior may not allow Muang Thongdee to travel outside the country since it may become a threat to national security.”¹⁵

The right to freedom of movement is a basic right recognized by the 2007 Constitution which provides for any person without discrimination and restriction except by virtue of provisions of the law specifically enacted for the purpose determined by this Constitution (Section 3, 4, 5, 6 and 30 of the Constitution). In addition, since Muang Thongdee is regarded as a stateless person in Thailand’s civil registration, by virtue of Section 17 of the Immigration Act B.E. 2522 (1979), the Minister of Interior is authorized to allow the boy to travel outside and return to the country.

The Subcommittee on Human Rights of the Ethnic People, Stateless Persons, Migrant Workers and Migrants, LCT, with academic support from SWIT and experts in international law concerning personal status have drafted a complaint against Minister of Interior to be filed with the Administrative Court asking the Minister to allow the boy to travel outside and return to the country. And with collaboration from academic, NGO and political sector, Muang Thongdee was allowed to travel to Japan on 4 September 2009, and LCT decided to drop the complaint.

¹⁵ Account on legal aid provided for Muang Thongdee, prepared by Atchara Sutthisuntharin, Bangkok Clinic, Faculty of Law, Thammasat University, 1 September 2009

On 1 October 2009, Ministry of Interior issue a notification regarding the permission for some aliens to have the right to temporary stay in the kingdom while awaiting repatriation and to determine the designated area and set out procedures concerning the movement outside the designated area (outside the district, the province and the country) of stateless persons. It could be said that the notification helps to clarify among officials the right to freedom of movement of stateless persons.

It is possible that the Ministry of Interior has been working on the procedure, and the case of Muang Thongdee simply made the announcement of the notification come out sooner.

5. Migrant workers and justice system >> The case of Nang Noom Maisaeng and circular No. Ror Sor 751 ...A gap in justice process¹⁶

Economically speaking, with intensive labour economy, It is necessary for Thailand to hire cheap migrant labour for "3 L" work (Lowest payment, Low productivity Long working hours). This comes at the expense of good health and quality of life of migrant workers. It has led to questions about standards to protect the rights of migrant workers in Thailand in the past couple of years. The case of "Nang Noom Maisaeng" has made the vulnerability of migrant workers before justice system more acute.

There have been a couple of reasons that explain why Nang Noom has been denied access to Workmen's Compensation Fund.

"Personal status" of Nang Noom Maisaeng and "Tor Ror38/1": A matter never understood

Nang Noom Maisaeng is a Shan person who came to Thailand to work as an employee in Chiang Mai. Though she has made illegal entry, she has obtained the legal status of migrant worker and has her name included in Thailand's civil registration. The Department of Provincial Administration, Ministry of Interior issued her Tor Ror 38/1 to recognize her official existence.

For international law experts and under the existing policy in Thailand, it could be said that Nang Noom has been given Legal Personality as "an illegal migrant granted with the right to temporary stay and to work in Thailand" (as per the cabinet resolution dated 27 April 2004 and Section 17 of Immigration Act B.E. 2522 (1979)), or an alien resident included in Thailand's civil registration. And according to Section 4, Section 30 and 38 of the 2007 Constitution and Section 8

¹⁶ Please view the full report at <http://gotoknow.org/blog/stateless-right/327668>

of the Civil Registration Act B.E. 2534 (1991) No. 2 2008 and the Regulation of the Central Registration Bureau regarding the registration of aliens granted the right to temporary stay (2004), the personal status of Nang Noom is official recognized. It could be said that the recognition is an act in compliance with Thailand's obligation regarding Section 16 of the ICCPR.

Nang Noom not "right holder" and have no access to Workmen's Compensation Fund: An ignorant discrimination

According to the Workmen's Compensation Fund Act B.E. 2537 (1994), the Workmen's Compensation Fund managed by Social Security Office (SSO) aims to provide compensation for an employee in behalf of an employer who is required to make contribution to the Fund (Section 44). The contribution made by the employer shall vary to the chance to get injured by each enterprise. The Fund guarantees that the injured worker receives compensation for treatment promptly. It helps to prevent the injured worker from having to suffer further due to retarded action of the employer.

A number of enterprises are not required to make contribution to the Fund. But for construction work, Section 44 of the Workmen's Compensation Fund and No. 2 of the MOL Notification on 12 September 2537, it is required that the employer has to contribute to the Fund (Section 45 and 46). Therefore, Nang Noom's employer has to contribute to the Workmen's Compensation Fund and all workers, regardless of their having Thai nationality or not, or their personal status, enjoy the rights as employees by the virtue of Section 5 of Workmen's Compensation Fund. Therefore, they should be entitled to compensation should they get injured while working.

It is just a question from migrant workers

The requirements set forth for the entitlement to the Workmen's Compensation Fund as appeared in the SSO circular no. Ror Sor 0711/Wor 751 dated 25 October 2001 or Wor 751, are a statement that may be tolerable for some Thai people and state agencies such as SSO. But according international law experts on personal status and officials of Department of Provincial Administration, Ministry of Interior, the requirements made for an eligible worker to produce his/her passport, or alien identification paper, are not correct.

The SSO circular and the letter of the Workmen's Compensation Fund may coincide with the opinion of some public law experts. But other experts think otherwise. They tend to take the orders as a "rule" which is not lawful and in breach of the principle of equality that ensures that a person shall be treated indiscriminately by the state as provided for by Section 30 of the Constitution, and in breach of legal principle, and in breach of international obligations that Thailand has (No. 26 of ICCPR, No. 5 of Convention on the Elimination of All Forms of Racial

Discrimination (CERD) (1965), ILO Convention concerning Equality of Treatment for National and Foreign Workers as regards Workmen's Compensation for Accidents (1925) and Article 5, 7-9 of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers).

As for the letter no. Wor 751, the Administrative Court may be the body to give the final verdict. But for Nang Noom Maisaeng, it is a big challenge for her and fellow migrant workers who have the hope to seek justice from judicial review.

4 cases in two courts for Nang Noom Maisaeng

Efforts to seek justice are common for migrant workers of any nation. It has raised the question why Nang Noom is not entitled to Workmen's Compensation Fund.

On 4 December 2006, Nang Noom Maisaeng, a 37 year Shan migrant worker, who has obtained her work permit since 2004, was severely injured in an accident while constructing Shangri-La Hotel in Chiang Mai. Despite her disability caused by the work, her application for compensation from SSO in Chiang Mai was turned down.

SSO simply ordered her employer to give her 425,568 baht (the actual sum received was 326,729.72 baht) to cover the treatment of semi-paralysis. She lost about 70% of her physical ability. Also, she was fired from work immediately after the mishap.

With help from the Migrant Justice Program (MJP) under HDRF, on 24 August 2007, Ms. Nang Noom authorized her lawyer, Mr. Sumitchai Huttasan from Center for Protection and Recovery of Local Community Rights (CPRLCR) to appeal the order of the SSO and the Workmen's Compensation Fund Committee and ask the Fund to provide her 435,240 baht as compensation to help her live her life after getting semi-paralyzed. The Committee turned her application down and instead asked the employer to provide the compensation to Nang Noom. On 24 November 2007, it discharged her application claiming that she already received the compensation from her employer.

First case (Labour Court)

On 3 December 2007, Nang Noom filed the case against Mr. Wirat Mankhong, the first defendant, Link Innova Properties Co., the second defendant, and War Hub Co. (Thailand), the third defendant, with the Labour Court Region 5 in Chiang Mai for their violation of labour protection laws concerning employment and asked for 753,209 bah as compensation. Through negotiation process, the defendants agreed to pay 200,000 baht and Nang Noom agreed with the amount. The Court therefore discharged the case on 13 May 2009.

Second case (Labour Court)

HDRF's lawyers filed a complaint against the Workmen's Compensation Fund Committee with the Labour Court Region 5 asking the Court to revoke the directive of the Committee and for the Committee to provide compensation to Nang Noom or for Nang Noom to be entitled to compensation as per Section 18(1) for another five months, or the sum of 12,045.25 baht. The directive of the Committee was deemed as unlawful as far as the 2007 Constitution is concerned.

On 15 July 2008, the Labour Court Region 5 ruled in favour of the Workmen's Compensation Fund Committee in three issues (Black case no. 33/2008 Red case no. 124/2008). First, the directive Wor 751 is a guideline agreed to in the meeting of the Committee (as per the meeting minutes) and therefore is lawful. Second, the Committee has set out a guideline for migrant workers who have entered the country legally and those entering the country illegally and failing to produce necessary evidence or in case the employer failing to contribute to the Fund. And third, and third, due to the fund will pay to the employee in case of getting the contribution from the employer, only, therefore, there is no ground to be consider in this point, so the court ordered dismiss.

The case is pending in the Supreme Court, after Nang Noom submitted the motion of appeal on 29 August 2008.

Third case (Administrative Court)

On 11 April 2008, Nang Noom, an injured person with Mr. Saw Lungkaw and Mr. Teng (no last name), who may be affected by the directive no. Wor 751 filed a complaint against SSO in Chiang Mai with the Chiang Mai Administrative Court asking the Court to revoke any order that is in breach of the laws.

On 25 April 2008, the Chiang Mai Administrative Court ruled that "...though the dispute is a matter between an administrative body or state officials v. a an individual who is injured by the administrative order, but the dispute is concerned with the rights and obligations as per the Compensation Fund Act B.E. 2537 (1994), which is a labour protection law, therefore, the case should fall under jurisdiction of the Labour Court" (Black case no. 102/2008 Red case no. 97/2008).

The ruling of the Administrative Court was not beyond expectation. The lawyers therefore decided to appeal with the Supreme Administrative Court.

On 18 September 2008, the Supreme Administrative Court seconded the ruling of the Administrative Court to discharge the complaint (complaint no. 412/2008, ruling no. 586/2008).

Fourth case 4 (Labour Court)

On 7 January 2009, Nang Noom Maisaeng with Mr. Saw Lungkaw and Mr. Teng (no last name) asked the Central Labour Court to revoke the directive no. Wor 751. The complaint was accepted and the first hearing was scheduled on 30 March 2009.

On 21 September 2009, the Labour Court Region 5 dismissed the complaint by Nang Noom Maisaeng and other two migrant workers which asked the Court to revoke the circular. The Court claims that "issues concerning legality of the circular are pending the consideration of the Supreme Court and the second and third plaintiffs therefore have no legal standing" (Black case no. 164/2522 Red case no. 232/2009).

Initial remarks

- In the labour case, Nang Noom sued the Workmen's Compensation Fund Committee asking the Court to order the Committee to discharge compensation to her claiming that the directive no. Wor 751 was unlawful since it constitutes a discrimination against foreign workers.

- A gap in justice process is the Labour Court Region 5 claims that the second and third plaintiffs therefore have no legal standing. The issue is debatable since before this, the Administrative Court refused to consider the case claiming it outside of its jurisdiction. And now the Labour Court says that the plaintiffs have **no legal standing**.

Nang Noom submitted a motion of appeal to the Supreme Court on 20 October 2009 and the case is pending in the Court.

6. Health insurance for all for stateless persons and persons without nationality >> An imminent victory?

In 2001, Thailand first adopted the "30 baht for all diseases" health scheme which paved the way for universal health care. The policy was received with jubilation that the treatment and care shall be delivered without any discrimination. Four years later, the right to treatment and care enjoyed by migrant workers has been taken back since it was officially interpreted that the "person" referred to in Section 5 of the Health Security Act means "Thai citizen" only.

It was claimed that during the drafting of the law, it was intended for the National Health Security Act to cover exclusively “Thai citizen”. SWIT thinks this claim represents just a half of the facts. There are three different opinions here. First, an opinion goes that the right of “all persons” should be recognized,¹⁷ not just merely Thai citizens. Second opinion states that the right should be provided for “Thai citizens” only.¹⁸ And third, it says that the right should be enjoyed by “Thai citizens who live in Thailand” only,¹⁹ excluding Thai citizens who live abroad.

It is noted by SWIT that there has not been any attempt to seek official interpretation as to the nature of right holder in health security laws at all. Therefore, the interpretation of Section 5 of the National Health Security Act that only covers Thai citizens is therefore an interpretation without understanding of Legal Personality Status of persons of all groups existing in Thailand.

First, there are Thai citizens who do not have Thai ID cards as they have missed out on survey or are in the process of verification. Second, though these people have no Thai citizenship, but their personal data is included in Thailand’s civil registration and have 13-digit ID numbers and some kind of identification paper as per Section 4 and 29 of the Civil Registration Act B.E. 2534 (1991) and Section 38 of the Civil Registration Act B.E. 2534 (1991) No. 2 2008 as well as No. 152 of the Regulation of the Central Registration Bureau concerning the conducting of civil registration B.E. 2535 (1992) and relevant cabinet resolutions²⁰ and No. 3 of Regulation of

¹⁷ A Bill proposed by Mr. Suwat Wansirikul, et al

¹⁸ A Bill proposed by Mr. Bhumin Leetheeraprasert, et al, a Bill proposed by Mr. Amnuay Klangpha, et al, a Bill proposed by Mr. Sitthichai Kittithanesuan, et al.

¹⁹ A Bill proposed by Mr. Preecha Musikul , et al.

²⁰ Previously, the cabinet has endorsed the legalization of aliens and nationality conversion for descendants of persons from the following groups shall be granted Thai citizenship including (1) migrant Vietnamese (cabinet resolution 17 March 1992, 26 August 1997) (2) former National Party army and Jin Hor (cabinet resolution 12 June 1984, 30 January 1989) (3) former Malaya Communist insurgents (cabinet resolution 30 October 1990, 24 December 2002) (4) Tai Lue (cabinet resolution 17 March 1992) (5) Thai descendants in Koh Kong, Cambodia (cabinet resolution 4 September 1984, 19 February 1991, 2 August 2004) (6) Thai diasporas in Burma (cabinet resolution 27 May 1997), (7) Jin Hor Issara (cabinet resolution 29 August 2000, 28 August 2001), (8) migrant Nepalese (cabinet resolution 29 August 2001, 28 August 2001), (9) migrants with Burmese nationality (cabinet resolution 29 August 2000, 28 August 2001), (10) hill trip people who entered the country before 3 October 1985 (cabinet resolution 3 October 1995), (11) Laotian illegal migrants who used to live in Thailand (cabinet resolution 24 December 1991), (12) people living on highland and communities on highland (cabinet resolution 29 August 2000, 28 August 2001, 4 January 2005, November 2005), (13) Hmong in Tham Krabok Monastery (cabinet resolution 4 March 2003), (14) Morken (cabinet resolution 18 September 2007)

Lately, the Ministry of Interior issued a notification regarding the permission for some aliens to have the right to temporary stay in the kingdom while awaiting repatriation and to determine the designated area and set out procedures concerning the movement outside the

the Central Registration Bureau regarding the registration of aliens granted the right to temporary stay (2004), and No. 3 of the Regulation of the Central Registration Bureau regarding the conducting of civil registration of persons having no civil registration record B.E. 2548 (2005). All of these laws affirm the principle that Thailand is the personal state of the person and the person is a "resident" of Thailand.

In addition, the interpretation is contradictory to and in breach of the 2007 Constitution as far as the principle of equality stipulated in Section 30 is concerned. In particular, it disrespects the principle of human dignity provided for in Section 4, in breach of Section 52 which guarantees rights and liberties of all these persons, and is obligatory to all state agencies to ensure respect of human dignity (Section 26) and in reach of Section 27.

Also, it violates obligations Thailand has as a state party to five international instruments including No. 25(1) of UDHR, No. 25 of ICCPR, No. 12 of International Covenant on Economic, Social and Cultural Rights (ICESCR), No. 5 (g) 4) of CERD, No. 12(1) of Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and No. 24 of CRC, since *all persons, all citizens, children or women, are right holders*.

On 20 December, SWIT submitted recommendations to NHSO via Thai Journalist Association (TJA) with the following detail²¹

- 1) It is aware in Thailand that health services are an essential system and in principle, they should be made available to people of all groups. In other word, the services should be provided to all communities with no discrimination. This will make the public health service system effective as far as efforts on health promotion and disease prevention are concerned.

Universal health care for stateless persons and persons without nationality should therefore be developed. It is based on the fact regarding the genuine link each person has in society including the indigenous people, Thai persons during the identity verification process, aliens granted with permanent residency, people who have settled in Thailand for a long time and have been assimilated to Thai society and Thailand offers them the chance to develop their personal status, etc. These people have made much contribution to Thai economy and society through

designated area (outside the district, the province and the country) to determine the status of Thai descendants in Burma who entered the country after 9 March 1976, Thai descendants in Koh Kong, Cambodia who entered the country after 15 November 1977, illegal migrants from Cambodia, Lao, and Burma

²¹ Read in detail the proposals at <http://gotoknow.org/blog/h4s/325270>

paying indirect taxes. It should not be required for them to always have to contribute 30 baht or zero baht at the Co-Payment.

- 2) NHSO should propose to the cabinet for a resolution to develop universal health care to protect the right to health of stateless persons/persons without nationality , similar to the previous policy to support educational opportunities for stateless children and children without nationality. The cabinet resolution dated 5 January 2005 guarantees the right to education of stateless children and children without nationality and later the Ministry of Education issued a regulation concerning documents needed for enrolling the children into school in 2005.
- 3) Concerning the issue of “right holder” in Section 5 of the National Health Security Act, to ensure clarity in the matter, NHSO may inquire the Council of State and ask for elaboration.
- 4) NHSO should join hand with civil society to set up “Alternative Health Insurance Fund” to provide for migrants whose genuine link to Thailand has not been well established to ensure that they access health security effectively.
- 5) To provide a basis for further legal development, all parties should concern themselves with acquiring knowledge and reviewing health situations to identify those populations left out from health security. The efforts may start from exploring specific contexts such as under the social security law, life insurance law, etc.

Situation of stateless persons and persons without nationality along Thailand-Burma border (Mae Hong Son)

7. People with personal status problem in Tambon Saohin and Tambon Mae Khong, Maesariang district, Mae Hong Son: Over 800 persons

In the past two years, SWIT works in collaboration with its partner organization including Catholic Commission for Social Development (CCSD)'s Department of Ethnicity, Diocese of Chiang Mai and National Human Rights Commission in Tambon Mae Khong and Tambon Saohin, Maesariang district, Mae Hong Son, We have found that;²²

The case of Tambon Saohin, (including Moo 2 Mae Lor, Moo 6 Sala Chiang Tong (Ban Na Pa Pae, Ban Pae), Moo 5 Po Saw (Ban Mae Top, Ban Mae Jay)²³

Situation of personal status

1) Persons found not to have any kind of identification paper 150 of them were found in Ban Na Pa Pae and Ban Mae Phae (including those who are descendants of persons with Thai citizenships, but they might have missed out on previous survey)

2) Children found to have no birth certificate In Ban Na Pa Pae, children are found to have not been issued with Tor Ror 1 by the village headmen. Some parents failed to report the births. Some reported the births, but the officials claimed the parents were registered in Tor Ror13 civil registration and therefore could not proceed with reporting the births. In addition, in Ban Sala Tongjiang, the first public health post was only established in 2005, and therefore children born in the area prior to 2005 have no birth certificates issued by the village health post (Tor Ror1/1).

²² Please read full report: Meeting minutes of discussion with village representatives from Tambon Saohin and Tambon Mae Khong to listen to their problems regarding personal status and rights by the Task Force on Problems of Stateless Persons and Persons without Nationality led by the Catholic Commission for Social Development (CCSD)'s Department of Ethnicity, Diocese of Chiang Mai, Stateless Watch for Research and Development of Thailand (SWIT) and Office of National Human Rights Commission at Ban Na Pa Pae, Tambon Saohin, Maesariang district, Mae Hong Son in 2009

²³ From all households and clusters in Tambon Saohin including Moo 1 Saohin (Ban Mai, Ban Kew, Huaydua, Huay Poo), Moo 2 Mae Lor (Ban Khun Mae Lor, Mokojo), Moo 3 Maesong (Ban Mae Po, Watoo, Papohae, Khun Mae Song), Moo 4 Mae Jay (Ban Huay I-loo), Moo 5 Po Saw, Moo 6 Sala Chiang Tong (Ban Mae Top, Na Pa Pae, Ban Pae)

3) Taking of evidence The district authority does not give weight o oral witness and always asks for documentary evidence to prove the parent-child relationships. In other word, the authority demands the villagers take DNA test which cost too much expense for the villagers.

4) A lack of clarity in personal status of those issued with ID number begun with "0" Villagers in Na Papae think that people issued with ID number begun with "0" shall be repatriated after ten years.

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(5) Without any identification paper, the villagers fear to travel outside the village since the officials may ask for seeing their papers.

(6) The villagers have no documents to prove their ownership of the land since the land is situated in the Salween Wildlife Sanctuary, though the villagers have been living in the land longer that the declaration of the Sanctuary in 1984.

Tambon Mae Khong includes Ban Unu, Noo 4, Huay Hia (Khun Huay Hia, Unu, North Chawsidor, South Chawsidor), Moo 9 Paormua (Jorprakee pocket, Jor Kaw Kri)²⁴

Situation of personal status

1) Persons not having any kind of identification paper

In Ban Por Mue, Jorprakee pocket, Jor Kaw Kri Of 400 persons, the total population, 300 persons are found to have no identification paper (about 70 of them might have missed out on previous survey).

In Ban Unu Of 20 families, two have persons without any identification paper.

In Ban Chawsidor including North and South Chawsidor, of 400 persons, only 300 have Thai citizenships. The rest includes persons holding ID papers for those having no Thai nationality (2-3), persons not having any identification paper and persons assumed to have been left out for being included in the Tor Ror 14 civil registration.

In Ban Huay Hia Of 200 persons, 150 have Thai citizenships. The rest are those having no identification paper or having been left out for being included in the Tor Ror 14 civil registration.

²⁴ Tambon Mae Khong including Moo 4 Huay Hia (Ban Khun Huya Hia, Unu, North Chawsidor and South Chawsidor), Moo 5 Kongsoon and Moo 9 Por Mue (Ban Chawprakhi, Chaw Klor Khi and Unu)

2) Obstacles to having birth paper of children/adults including Tor Ror1/1 and birth certificate

Children not issued with Tor Ror1/1 found to happen because their parents did not seek prenatal care from the Sala Jiangtong village health post (Tambon Saohin) and Chawsidor village health post (Tambon Mae Khong) since they are too far away. Also, at the Chawsidor village health post, there has not been regular official.

For children having no birth certificate issued by Maesariang district authority, it happened because the village headmen brought Tor Ror1/1 and Tor Ror1 to report the births to the district in behalf of the parents, but the district officials insisted that the parents had to report the cases themselves. It is difficult for the parents to do so since it is a long distance between their villagers and Maesariang district.

Difficulty to travel to Maesariang district since the villagers live far away

- Ban Chawsidor From Ban Chawsidor to Po Saw, it takes the whole day to walk (or four hours by motorcycle) in order to get a ride with cargo truck to the town, which takes another five hours.
- Ban Chawprakhri To get to Ban Mae Samlaeb, the villager has to take the boat. 17 villagers are charged 27,000 baht in lump sum (one way) and then each has to pay 100 baht for another boat ride to Maesariang district.²⁵
- Ban Unu From Ban Unu to Ban Huay Hia, it takes about five hours by walk and another five hours to ride with cargo trucks to get to the district.
- Ban Por Mue From Ban Por Mue to Ban Na Pa Pae, it takes about two days to walk and then to get a ride with cargo truck to the district.

²⁵ The villagers decided to pay since the district officials asked them to come in haste for survey of people having ID numbers begun with "0". They decided to walk on way back.

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- 3) Villagers in all villages want to have a paved road for motorcycle.
 - 4) Huay Hia villagers want the motorcycle track to be repaired at the objection of the forestry officials.
 - 5) Villagers in all villages want to develop mountain tap water system.
 - 6) Since now children have to walk to take class in Huay Hia or Ban Chawsidor, villagers in Ban Unu wants to have a Mae Fah Luang Learning Center in their village.
 - 7) During winters, about 80% of villagers in the two Tambons are found to suffer from Malaria.
-