

HUMAN
RIGHTS
WATCH

STATELESS AT SEA

The Moken of Burma and Thailand



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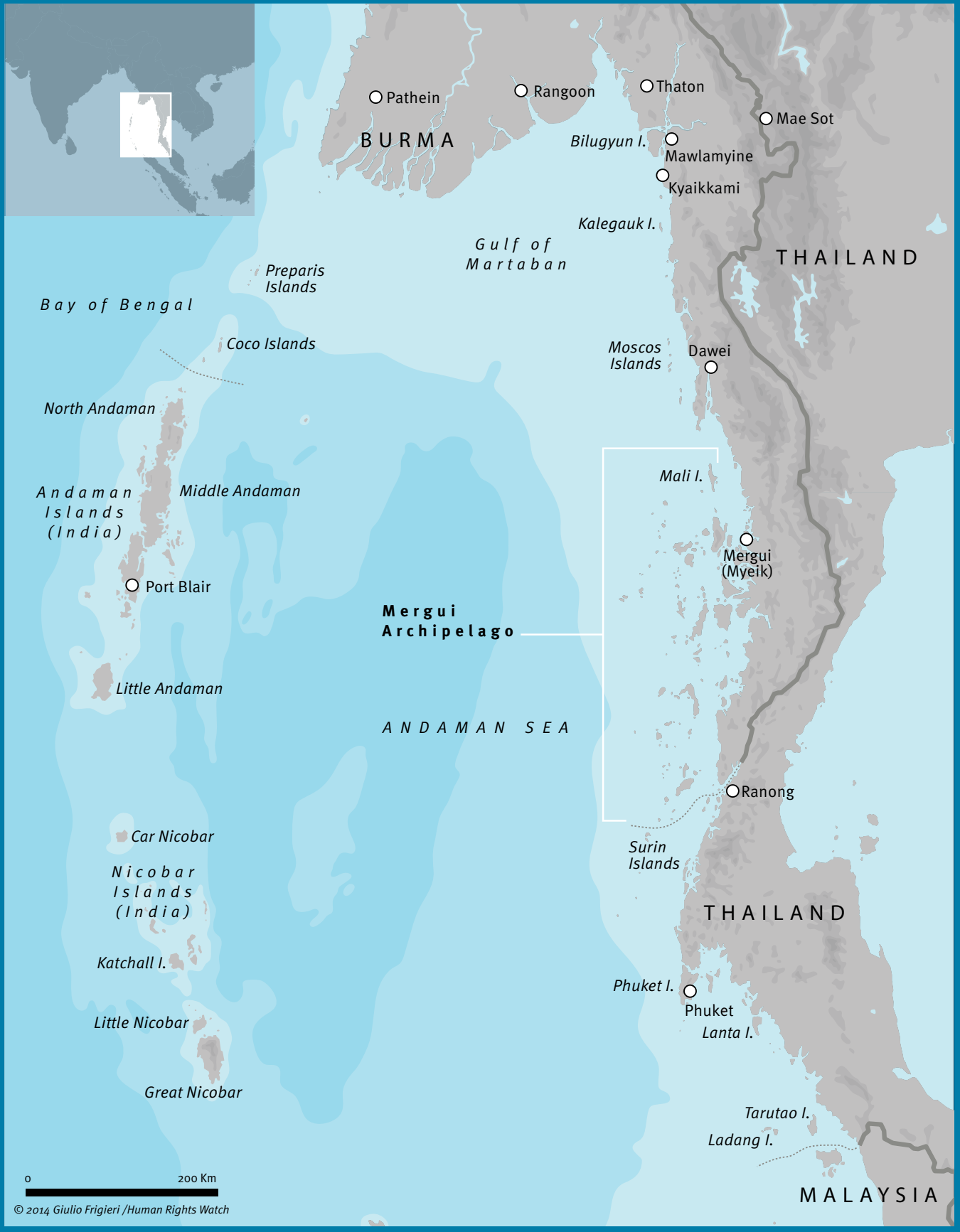
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One of the few remaining hunter-gatherer populations in Southeast Asia, the Moken have made the sea their home. Foraging food from oceans and forests, trading fish and shells for other necessities, and traveling by boat across the waters of southern Burma and Thailand, the Moken have maintained a self-sufficient, nomadic way of life along the Andaman coast for hundreds of years.¹



The Moken use the ocean as their natural habitat and have exceptional knowledge about the ocean and marine life. Surin Islands, Thailand. © 2011 Sofie Olsen



Moken women return to Lao Island, Thailand, from collecting small shellfish and oysters from the shores of another island. © 2009 Dominique Chambless/Human Rights Watch

Approximately 3,000 Moken live around and on the 800 islands of the Mergui Archipelago along Burma's southern coast, while an estimated 800 Moken are currently settled in Thailand.

The Moken have lived in this area since at least the 18th century, though over time they have traversed the entire Andaman Sea.² Most Moken spend their daily lives on small, covered wooden boats, called kabang. The Moken's hunter-gatherer lifestyle relies on men, women, and children each playing roles in community subsistence, taking only the resources they require for survival and making minimal impact on the natural environment. Usually catching enough for their consumption and trade, Moken men use harpoons and, more recently, nets to catch fish. Moken women and children collect crustaceans and shells during low tide on beaches.³ When trading goods with land-based communities, the Moken

usually work through middlemen operating in port towns along the Andaman.⁴

The Moken face deepening poverty, marginalization, and discrimination. Most are stateless, making them more vulnerable to human rights abuses and depriving them of access to other rights, including the medical care, education, and employment opportunities that Thai and Burmese nationals enjoy. Tightening immigration and maritime conservation laws restrict the Moken's freedom of movement, threatening their traditional lifestyle. In addition to government distrust and discrimination, the Moken often face exploitation from land-based communities, but are unable to seek redress through national laws and policies. In recent years, more Moken have decided to reside permanently in Thailand and Burma. Both governments should act to protect and promote the Moken's basic rights, including taking steps to provide them with citizenship.⁵



Moken boys from Chang Island, Thailand, help out the village chief by tying live crabs to prepare them for sale in the marketplace. © 2009 Dominique Chambless/Human Rights Watch

STATELESS AND VULNERABLE

Moken in Burma

The Moken living on Burma's islands and waters are largely unregistered and, because of their nomadism, many are not considered citizens by the Burmese government.⁶

After the 1982 Citizenship Act was passed, the Burmese government issued national ID cards to a number of Moken leaders in charge of small communities living on islands near the port city of Mergui.⁷ Functioning largely as travel permits, the ID cards allowed Moken leaders' flotillas to sail freely. Since then, however, the government has been inconsistent in issuing ID cards to Moken.⁸

Moken and other stateless people in Burma must request government permission to travel outside the district where they reside and cannot work legally without a work permit. As a result, they often must work in the informal sector, with wages and conditions below legal standards. As stateless persons, Moken are unable to receive benefits under national healthcare and welfare schemes.

The Moken in Burma are vulnerable to human rights violations and exploitation by state authorities, particularly the Burmese navy, without any means to seek protection, redress, and justice. Human Rights Watch found that the navy committed a pattern of abuses, including extortion, bribery, arbitrary arrest, and confiscation of property.

Several Moken told Human Rights Watch that when they are foraging on an island and hear the engine of a patrol boat they run inland and hide because they fear robbery and other abuses by Burmese sailors.¹⁰ As a result, many

Moken people emerging from the sea. © 2004 Andrew Testa

I have met Burmese navy men before and they always ask us for money or food. They always show us their guns, ... Mostly we have no money so can only give them fish.⁹

—Moken woman from Ply Island, Thailand





A Moken man standing on the tip of a *kabang*, a boat carved out of a single tree trunk. Mergui Archipelago, Burma. © 2011 Sofie Olsen

Moken say they no longer travel the length of the archipelago. Tok, a Moken man, said:

When we see the Burmese navy we dive in the water and abandon our boat. We swim to an island, sometimes it is dark at night, and we swim sometimes five to six kilometers. I have done this four times. The soldiers would always shoot at us.¹¹

Gamat, a Moken man from Dung Island in Burma, told Human Rights Watch about being repeatedly shot at by the Burmese navy:

The Burmese soldiers sometimes shoot at our boat while we are fishing. They have done this to me many times. My older brother was shot by a Burmese navy officer while fishing with other Moken and died. Those other Moken who

were on the boat just jumped into the water and swam away. One of them who made it back here [Lao Island, Thailand] told me.¹²

According to Gamat, Burmese sailors sometimes commandeer their boats if they are filled with fish and force the Moken to swim:

They point their guns at us so we just jump into the water. If we show them that we have money then sometimes they stop bothering us and don't take anything else. If we decide to stay on an island, or fish around it, then we have to pay the island head—and these are also Burmese soldiers.¹³

Won, a Moken woman, said that, “Whatever the Burmese navy wants, we have to give it to them.”¹⁴

Moken in Thailand

As of January 2014, there were an estimated 506,000 stateless people in Thailand, primarily consisting of ethnic minorities.¹⁵

In 2008, the Thai government changed its nationality law to permit stateless children and adults to register and acquire Thai citizenship, but bureaucratic obstacles and difficulties continue to plague the procedure.¹⁶

To qualify for Thai citizenship, stateless persons must present a birth certificate, prove they have resided in Thailand for at least 10 years,¹⁷ or, through DNA testing, show a blood relationship to a Thai citizen. However, most Moken are unable to trace their blood lineage to any ethnic Thais in Thailand. Because most Moken children are born in villages with the assistance of local midwives or on boats, many do not have an official birth certifi-

cate. And most cannot meet the residency requirement because their nomadic lifestyle results in their spending long periods of time outside of the country.

An absence of local government outreach to the Moken communities has contributed significantly to the low number of Moken birth registrations. In addition, Thai civil servants and healthcare providers in areas where the Moken reside frequently fail to follow the directive under the nationality law to issue birth certificates to any child born in Thailand, including children of stateless persons.¹⁸

Perhaps because other tribes have given up their nomadic lifestyle while the Moken remain relatively mobile, the Moken have the most difficulty among Thailand's three “Sea Gypsy” tribes in obtaining citizenship or Thai government ID cards providing them access to government welfare, labor, and education services.¹⁹



Three generations of Moken sit in the shade of their stilted hut on Thailand's South Surin Island. © 2010 Dominique Chambless/Human Rights Watch



Nimi, a middle-aged Moken woman, looks out of her stilted hut on Chang Island, Thailand, with the islands of Burma in the distance. She and her children were born in Thailand but do not have citizenship. © 2009 Dominique Chambless/Human Rights Watch

On August 18, 2010, Thailand's National Security Council approved Mokens to apply for and receive a card commonly known as the "zero card."²⁰ Holders of the zero card must request prior permission in writing from the governor's office to travel outside the district, which is difficult for nomadic sea-dwellers whose livelihoods depend on traveling far and freely. These restrictions hamper communication with other Moken groups and families living in different provinces, and obstruct the organizing of traditional group ceremonies.



Bien, a young Moken woman living on Chang Island, Thailand, said that her two eldest children died from dysentery because she could not take them to a hospital in Thailand without an identity card or money. © 2009 Dominique Chambless/Human Rights Watch

When not at sea during the rainy season, the Moken usually return to the same islands each year. They have generally not tried to assert land ownership rights on the islands because most believe that land and water should not be owned or controlled by one person, but rather shared by many. And under Thai law, without citizenship, Moken families cannot own land in any case, even if for decades they have returned each year to the same otherwise uninhabited land. In recent years, more and more Moken have decided to reside permanently on Phuket Island where they are now facing eviction by local businessmen.²¹

Bulai, a Moken woman from Rawai Beach on Phuket, told Human Rights Watch about her ongoing struggle against eviction:

There are 14 of us in this house, from age 60 to a 1-year-old. We were all born here in this village. But the document [official land deed] said the land where we have lived for generations belongs to someone else. It said a Thai businessman owns the land. Now he wants to kick us out and sell it. Where are we going to live now? I do not know. One by one, Moken families

have been taken to court and told to leave this village because they do not have ownership of the land. We are trying to prove that we came here first and should have the right to stay. We have showed government officials that our ancestors are buried here in this house. Their bones are old and that should be good evidence to back us up even though I am not really confident the court will rule in our favor. But I will keep fighting.²²

Nim, a Moken man from the same village, said:

The landowner wants to sell this land. But we get in his way. So, he filed lawsuits to evict us. The court only looks at documents. The court said, "No document, you will have to leave no matter how long you have lived here.... Three of my neighbors were ordered to leave their houses. How long can we fight? We do not have much money. It is already very difficult for many of us to pay for a ride to town to attend court hearings."²³



A sick Moken woman is treated by the local shaman. © 2004 Andrew Testa

INADEQUATE ACCESS TO HEALTH CARE

The Moken face enormous obstacles in gaining access to adequate health care. The healthcare system in Burma, where the government spends only 2.2 percent of the country's Gross Domestic Product on health and education combined,²⁴ is poor and well below the standard of care in Thailand. Not surprisingly, many Moken prefer to receive care in Thailand when they need medical treatment.

Costs for medical care under the universal healthcare scheme in Thailand are as low as 30 Thai baht (approximately US\$1 per medical visit), but undocumented persons are not eligible for such affordable treatment. Thailand's Universal Healthcare Act of 2001 provides that only Thai nationals are entitled to the government-subsidized treatment. Stateless persons such as the Moken are not covered. Because they usually cannot afford the fees, many do not seek treatment at hospitals or clinics until their condition becomes a medical emergency.²⁵

One Moken woman explained how she failed to get prompt medical treatment for two of her children in Thailand because she was discouraged by the high cost: "I had five children but two of them died after having very bad diarrhea. They were both infants when they died. At that time I didn't have any money to take them to the hospital even though they were sick."²⁶

SHORTFALLS IN CHILDREN'S RIGHTS TO EDUCATION

Thailand and Burma have each ratified the Convention on the Rights of the Child (CRC), which obligates states to provide all children with access to education without discrimination, including on the basis of nationality.²⁷ But Moken children face significant challenges getting a formal education.

In Burma, education is compulsory for all children through age nine, and children who pass a comprehensive examination have the option of continuing to secondary school.²⁸ In the Mergui Archipelago, an estimated 100 to 150 Moken children attend informal ethnic Karen Catholic schools located on islands near their villages.²⁹ But the majority of Moken children living in Burma do not attend school at all.³⁰

Under Thailand's 2007 Constitution, "a person"—not just a citizen—has the right to receive 12 years of free education.³¹ Moreover, under the National Education Act, children must attend nine years of compulsory education.³² Despite these legal protections, access to education for migrant children in Thailand remains poor. Relatively few children of registered migrants attend Thai schools, and even fewer children of stateless parents or unregistered migrants go to school.³³

There is currently one informal, Moken-only school, where children study Moken culture. Although the United Nations Educational, Scientific and Cultural Organization (UNESCO) designed the curriculum, Thailand's Ministry of Education has yet to formally recognize the school, therefore denying children who attend formal certificates verifying completion of primary school and leaving them ineligible to continue on to secondary school.³⁴



A Moken child swimming. © 2004 Andrew Testa

RESTRICTED, DANGEROUS, AND EXPLOITED LIVELIHOODS

The Moken have subsisted for generations on fishing and foraging, building shelter from materials found in the surrounding environment. Ironically, the Thai government's creation of national parks in the Andaman Sea, ostensibly aimed at protecting the environment the Moken have helped to preserve, is seriously affecting the Moken lifestyle due to new laws and regulations that restrict their traditional practices.³⁵

For example, the Surin Islands Marine National Park's regulations prohibit the Moken from chopping wood to build or repair their kabang boats and stilted huts.³⁶ While they are allowed to gather several types of fish for their own consumption, they are prevented from collecting sea products to trade with land-based communities to earn money.³⁷

The yearly arrival of thousands of tourists to the Surin islands allows some Moken to find jobs working as tourist boat drivers or garbage collectors at campsites. While some Moken expressed satisfaction with this work, many Moken remain unemployed.

Jui, a Moken man who survives on begging, expressed his frustration:

I used to be a diver. When I was a teenager, there was no limit for Moken fishermen. We could go anywhere from Phuket to Surin Islands, and beyond to catch fish, shrimps, lobsters, and shellfish. We brought our catch ashore to the middlemen, who would sell them in downtown markets or to beachside restaurants. I only



A Moken village, Surin Islands, Thailand. © 2004 Andrew Testa



A Moken woman chopping up a log to be used to make charcoal for their clay ovens. Surin Islands, Thailand. © 2014 Sofie Olsen

received a small amount of money from those middlemen. Life was not comfortable, but we had freedom to go wherever we wanted to go.

But then around 16 years ago, government officials told us that we could not fish around Surin Islands anymore. We could not catch turtles, sea cucumber, or giant clams. They said those animals are protected. They set so many rules and restrictions on our ways of life. More and more areas have become restricted. Fuel is expensive. My family now cannot earn enough from fishing. I come out on the beach, talking to tourists and begging money from them. I can speak Thai. Some tourists wanted to know my stories and took pictures of me. They gave me money. It is embarrassing. But at least I could bring cash back to my family.³⁸

Thai middlemen frequently hire the Moken for their exceptional marine skills, but sometimes exploit their vulnerable status or coerce them into illegal and dangerous fishing practices.

Through generations of gathering and hunting from the sea, the Moken have developed the unique ability to stay underwater for extended periods while diving without oxygen tanks or other equipment (free diving).³⁹ When they are recruited to work on dynamite fishing boats or hired to dive for sea cucumber or abalones, the Moken are sent under water with air running through thin plastic tubes hooked up to a diesel-run compressor so they can stay longer on the seabed to harvest their catch.

Many Moken divers die or suffer from permanent injury and disability derived from decompression sickness (“the bends”), caused by ascending too quickly. When dynamite fishing, many middlemen provide homemade

bombs that can explode without warning, killing or injuring the Moken using them.⁴⁰ Moken who are injured performing the dangerous fishing work have little opportunity to receive compensation for their injuries.⁴¹

Tui, a Moken man who was permanently disabled by decompression sickness, recalled the incident:

I was 17 years old then. On that day, I went on a boat with six other men from my village. It was just another dive. I did not expect any bad thing to happen to me. We were hired by a Thai middleman to harvest sea cucumber. I dived, breathing air through a tube, to the seabed. Then suddenly, there was something wrong with the air pump. No air came through the tube. I rushed to the surface to breathe. My friends dragged me back on the boat. And I passed out. I woke up again in a hospital bed in downtown

Phuket. The doctors said I would not be able to walk again. My left leg was crippled. The middleman, who hired me, did not pay for my hospital bill or give me any compensation. My family had to borrow money to pay for my treatment.

What happened to me is called nam neeb (“compressed by water”). Many men in my village have been injured or even killed by it.⁴²

Arrangements for dynamite fishing vary, but usually the middleman will provide the Moken with a large boat, money and goods for bribing government officials, and dynamite.⁴³ Lebi, a 15-year-old from Chang Island, told Human Rights Watch about an accident in which he and his companions were severely injured:

I was fishing on a boat with other Moken; there were three of us on the boat. At that time I was



This Moken man on Chang Island, Thailand, was victim to a dynamite fishing accident in Burma that blew off his arm. Several years later he was shot in the leg by a Burmese Navy officer and needed to have a metal plate put in his leg. Both of these injuries required that he travel great distances by boat to reach a hospital for care that he ultimately was unable to afford.

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about 9-years-old. One of the other Moken lit the end of a piece of dynamite that had a very short fuse. We were in a rowboat and could not get away fast enough so all of us got hurt. One person was blinded, another person lost an arm, and I got these scars on my face....

They took us to the hospital in Ranong and my mother had to pay for everything. The owner of the boat did not pay anything for us. ... He ran away and we could not find him.⁴⁴

Moken told Human Rights Watch that they dislike this type of work, but many feel they lack alternative labor opportunities to support themselves and their families.



The Moken are exceptional divers, using simple equipment such as bamboo spears, to hunt for fish on the ocean bed. Surin Islands, Thailand. © 2011 Sofie Olsen

RECOMMENDATIONS

To the Government of Burma

- End abuses of Moken by government officials and the Burmese navy, including arbitrary detention, unnecessary restrictions on movement, and unlawful confiscation of property.
- Issue national identity cards to all Moken entitled to Burmese citizenship and accept alternative forms of proof for citizenship claims such as oral testimony.
- In accordance with the Convention on the Rights of the Child (CRC), ensure that all children born in Burma, regardless of their nationality, are registered at birth and provided with birth registration documents. Ensure that all Moken children lacking birth registration are retroactively provided with such documents, and establish effective birth registration systems.
- Provide equal access for the Moken to social welfare, education, health care, and other essential services available to Burmese citizens.
- Allow United Nations agencies and international and national humanitarian organizations unfettered access to all areas of the Tenasserim region and the archipelago, and encourage effective provision of assistance, with the participation, consultation, and coordination of the Moken, to economically and socially disadvantaged communities in the region.

To the Government of Thailand

- Proactively review all applications for citizenship by Moken in Thailand and grant citizenship to all Moken with legitimate claims to nationality. Conduct outreach and awareness raising activities for the Moken about how to file a nationality claim and appeal against adverse decisions.
- Issue ID cards to all Moken considered ineligible for Thai citizenship and ensure that they are accorded the rights to freedom of movement, expression, association, and employment.
- Establish accessible, effective complaint mechanisms and rigorously investigate complaints of abuse made by Moken, irrespective of the complainant’s citizenship status.
- Cease threats of forced resettlement of Moken communities and other “Sea Gypsy” populations at Rawai beach, Phuket province.
- Establish an easy-to-access, low-cost system for Moken who are not citizens to obtain work permits and take all necessary steps to ensure the effective protection of the labor rights of the Moken in accordance with Thai law. Fully comply with Thailand’s obligations under International Labour Organization Conventions No. 111 on Discrimination (Employment and Occupation) and No. 182 on the Worst Forms of Child Labor.
- Consider endorsing the curriculum produced by Chulalongkorn University’s Andaman Pilot Project that includes lessons in Moken culture and tradition in addition to other core school subjects.

To Both the Burmese and Thai Governments

- In accordance with the CRC, establish an outreach system for effective birth registration of all Moken children born in Thailand through mobile birth registration units targeting Moken communities, proactive actions by public health officers and health care providers, collaboration with organizations working with the Moken, and effective awareness-raising activities in Moken communities.
- Meet obligations under the International Covenant on Economic, Social and Cultural Rights and the CRC by ensuring that stateless persons and undocumented migrants have equal access to basic health care. Encourage medical care providers and public health officials to undertake regular health outreach activities to Moken villages. Ensure that the Ministry of Public Health staff issue birth certificates and provide immunizations to Moken children.
- As people indigenous to the Mergui Archipelago and Thailand’s Andaman sea coast, the Moken are protected by the Declaration on the Rights of Indigenous Peoples.⁴⁵ Consistent with the declaration:
- Ensure the Moken are not subjected to forced assimilation or destruction of their culture. This includes providing mechanisms to ensure prevention and redress regarding any action that aims to, or has the effect of, depriving them of their integrity as distinct peoples or dispossessing them of their lands, territories, or resources (art. 8).
- Ensure the Moken are able to establish and control their educational systems and institutions providing education in their own language, in a manner appropriate to their cultural methods of teaching and learning (art. 14).
- Ensure that Moken are able to fully enjoy all rights established under applicable international and domestic labor laws, including by protecting them against any discriminatory conditions of labor, and by taking specific measures to protect Moken children from economic exploitation and hazardous or harmful work (art. 17).
- Ensure that Moken are secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities, and that those deprived of their means of subsistence and development are entitled to just and fair redress (art. 20).
- Ensure the Moken have the right to the lands, territories, and resources they have traditionally occupied or used and that these rights are given legal recognition and protection (art. 26). Where such lands, territories, or resources are confiscated without their consent, the Moken should have the right to redress, by means that can include restitution or, when this is not possible, just, fair, and equitable compensation (art. 28).
- Consult and cooperate in good faith with the Moken to obtain their free and informed consent before approving any project affecting their territories or resources, including water use, and provide effective mechanisms for just and fair redress for activities to mitigate adverse environmental, economic, social, cultural, or spiritual impact (art. 32).

(Endnotes)

1 This report was authored by Dominique Chambless with contributions from Julia Bleckner, senior Asia Division associate. It was researched by Dominique Chambless and Sunai Phasuk, senior researcher in the Asia Division. The report was edited by Phil Robertson, deputy director of the Asia Division; Brad Adams, director of the Asia Division; James Ross, legal and policy director; and Danielle Haas, senior editor in the Program Office. Production assistance was provided by Fitzroy Hepkins, copy manager. Human Rights Watch expresses its sincere thanks to the Moken who shared their stories with us. Human Rights Watch also gratefully acknowledges the expertise and assistance of Dr. Narumon Hinshiranan of the Andaman Pilot Project; and Jacques Ivanoff and Maxime Boutry of the Research Institute on Contemporary Southeast Asia (IRASEC) in Bangkok, Thailand. Human Rights Watch also thanks our many Thai NGO colleagues and others along the Andaman coast who provided information and support for this research.

2 Jacques Ivanoff, “Sea Gypsies of Myanmar: The world is closing in on the Moken way of life,” National Geographic, <http://ngm.nationalgeographic.com/2005/04/sea-gypsies/ivanoff-text> (accessed May 1, 2010).

3 The word “child” is used in this report to refer to anyone under the age of 18. The Convention on the Rights of the Child (CRC), G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, art. 1, states: “For the purposes of the present Convention, a child means every human being below 18 years old unless under the law applicable to the child, majority is attained earlier.” Thailand’s Child Protection Act of 2003 (B.E. 2546) also defines a child as a person under 18 years of age. Burma’s Child Law, enacted on July 14, 1993, provides in section 2 that “child” means a person who has not attained the age of 16 years; and “youth” means a person who has attained the age of 16 years but has not attained the age of 18 years. The Committee on the Rights of the Child has expressed concern that youth as defined by the law do not have the same rights as children, and recommended in 2004 that Burma “recognize that all persons below the age of 18 are entitled to special protection measures and specific rights.” Committee on the Rights of the Child, “Concluding Observations: Myanmar,” June 30, 2004, CRC/C/15/Add.237, paras. 25-26.

4 Jacques Ivanoff, Moken, Sea-Gypsies of the Andaman Sea (Bangkok: White Lotus, 1997).

5 This report is based on interviews conducted in Thailand in February 2009, September 2010, and October 2013. Human Rights Watch conducted 28 detailed individual interviews with Moken in Thailand and 11 local and international nongovernmental organization (NGO) staff members, legal advocates, United Nations officials working with stateless populations, and Thai Ministry of Interior officials. The restricted nature of Burma’s Mergui Archipelago meant that all interviews were carried out in Bangkok, Lao Island, Chang Island, the Surin Islands, and Phuket Island of Thailand. Interviews were conducted privately and individuals were assured that they could end the interview at any time or decline to answer any questions without consequence. The identity of some interviewees has been withheld to protect their privacy and safety. Interviews were generally conducted in Thai or Burmese with English translation.

6 Email correspondence with Jacques Ivanoff, Moken ethnologist, October 6, 2010.

7 Ibid.

8 Email correspondence with Maxime Boutry and Jacques Ivanoff, Research Institute on Contemporary Southeast Asia, September 12, 2010; Maxime Boutry, “Nomads versus Fishermen: Economic Structures and Inter-ethnic relations in Southern Burma and Thailand,” Program on Borders and Mobility among the Burmese populations of South Burma and South Thailand, IRASEC, 2009.

9 Human Rights Watch interview with Gamti, Chang Island, Thailand, April 26, 2009.

10 Human Rights Watch interview with Elang, Chang Island, Thailand, April 24, 2009; See also, Jacques Ivanoff, Sea-Gypsies of the Andaman Sea: Post-war Chronicles (Bangkok: White Lotus, 1997).

11 Human Rights Watch interview with Tok, Chang Island, Thailand, April 25, 2009.

12 Human Rights Watch interview with Gamat, Lao Island, Thailand, March 18, 2009.

13 Ibid.

14 Human Rights Watch interview with Won, Chang Island, Thailand, April 24, 2009.

15 United Nations High Commissioner for Refugees (UNHCR), Thailand 2014 Country Profile, <http://www.unhcr.org/pages/49e489646.html>

16 Thailand, Nationality Act (No. 4) B.E. 2551, February 2008, <http://www.unhcr.org/refworld/docid/4b8654292.html>.

17 “Towards Effective Management of Stateless Persons in Thailand,” Kritaya Archavanitkul, Mahidol Migration Centre newsletter (2ed ed.), Bangkok, July 1, 2011.

18 Human Rights Watch interview with Narumon Hinshiranan, Bangkok, June 30, 2009; email correspondence with CPPCR, Mae Tow Clinic, April 25, 2010; Tom Vater “Servants of the Sea Engulfed by Politics,” Asia Times, April 22, 2005, http://www.atimes.com/atimes/South-east_Asia/GD23Aeo3.html (accessed October 28, 2014).

19 The other two “Sea Gypsy”tribes are the Moklen and the Urak Lawoi. Nonetheless, this “second class” citizenship can be revoked for violation of national laws or official orders. Nationality Act (No. 4) B.E. 2551, February 2008, <http://www.unhcr.org/refworld/docid/4b8654292.html>.

20 Referred to this way because the card’s 13-digit ID number begins with the numeral zero. “Zero cards” are given to Moken and other groups while they are waiting for their legal status to be approved by officials. This is based on national strategies regarding legal status for people in Thailand adopted in 2005.

21 Devid Rajah, “Fighting to Keep their Land,” May 12, 2010, South East Asian Press Alliance, <http://www.seapa.org/fighting-to-keep-their-land/>

22 Human Rights Watch interview with Lubai, Phuket Island, Thailand, September 3, 2013.

23 Human Rights Watch interview with Nim, Phuket Island, Thailand, September 3, 2013.

24 Unicef, Final Budget Allocations and Spending in Myanmar, 2013, http://www.unicef.org/myanmar/Final_Budget_Allocations_and_Spending_in_Myanmar.pdf (accessed: October 28 2014)

25 In addition, many Moken lack basic health information that could spare them easily preventable or treatable illnesses, including health problems related to sanitation and lack of clean water that are common in Moken villages.

26 Human Rights Watch interview with Bien, Chang Island, Thailand, April 25, 2009.

27 CRC, articles 1 & 7. The CRC was ratified by Thailand on March 27, 1992, and by Burma on July 15, 1991. CRC, article 28(1), provides that states shall recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all; (c) Make higher education accessible to all on the basis of capacity by every appropriate means; (d) Make educational and vocational information and guidance available and accessible to all children; and (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates. The Declaration on the Rights of Indigenous Peoples, in article 14(2), likewise provides that “[i]ndigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.”

28 Burma’s Ministry of Education online, last updated 2002, http://www.modins.net/myanmarinfo/health_edu/.

29 Human Rights Watch email correspondence with Maxime Boutry, IRASEC, September 8, 2010.

30 Moken children in Burma do not attend school for many reasons, including individual or cultural lack of interest in land-based formal education, insufficient money and resources, and the insecurity of island life due to frequent interference by local authorities with children’s education. See Karen Human Rights Group, “Field Reports: Mergui-Tavoy District,” July 29, 1995, <http://www.khrg.org/khrg95/khrg9525.html>; see also, Martin Smith “Our Heads Are Bloody But Unbowed: Suppression of Educational Freedoms in Burma,” Censorship News No. 18, December 10, 1992, <http://www.article19.org/pdfs/publications/burma-educational-freedoms.pdf>.

31 Constitution of the Kingdom of Thailand, 2007, sec. 49(1): “A person shall enjoy an equal right to receive education for the duration of not less than twelve years which shall be provided by State thoroughly, up to the quality, and without charge.”

32 National Education Act of 1999, secs. 10 & 17.

33 “Thailand: Burmese migrant children missing out on education,” IRIN, June 15, 2009, <http://www.irinnews.org/report.aspx?ReportID=84844>; “Thailand policies towards migrant workers from Myanmar,” Supang Chantavanich, 2007.

34 This school was established by Thailand’s Princess Maha Chakri Sirindhorn in 2001.

35 Thailand’s National Park Act B.E. 2504 (1961), <http://www.lawreform.go.th/lawreform/images/th/legis/en/act/1989/30059.pdf>; and the Fisheries Act B.E. 2490 (1947), http://thailaws.com/law/t_laws/tlawo399.pdf.

36 No longer permitted to chop wood from the forest for their kabang boats, the Moken now have to use plank-wood boats that need an

engine. But the cost of fuel is often too great for long distance fishing trips.

37 Traditionally the Moken captured, consumed, and sold sea urchins, lobsters, sea cucumbers, squid and other underwater life. When unable to trade these, the Moken have little to offer for necessities in Thailand.

38 Human Rights Watch interview with Jui, Surin Islands, September 2, 2013.

39 Their eye pupils contract instead of expand when they dive, allowing them to spot their catch among corals and stones at a great distances. It is also suggested that their spleen works more efficiently at producing red blood cells when diving. See, e.g., Media website to spread awareness about the Moken, 2010, <http://www.moken-projects.com/site/diving/> (Accessed October 28, 2014)

40 Ordinarily, the bomb is assembled inside a bottle and sealed with a cork. The detonator for the dynamite is then attached to a string threaded through the cork that the Moken hold, allowing them to row a safe distance away before detonating.

41 Moken men can each earn up to 2,000 baht (\$60) for one dynamite fishing expedition that typically lasts 7-14 days. If women and children are allowed on the expedition—depending on the size of the boat—they can earn up to 500 baht for the whole trip.

42 Human Rights Watch interview with Tui, Phuket Island, Thailand, September 5, 2013.

43 Human Rights Watch interview with Ta’au, Chang Island, Thailand, April 26, 2009; Human Rights Watch interview with Nimi, Chang Island, Thailand, April 24, 2009; Human Rights Watch interview with Douin, Lao Island, Thailand, March 17, 2009; Human Rights Watch interview with Jadiak, Lao Island, Thailand, March 18, 2009.

44 Human Rights Watch interview with Lebi, Chang Island, Thailand, April 24, 2009.

45 Declaration on the Rights of Indigenous Peoples, G.A. Res. 61/295, U.N. Doc. A/RES/47/1 (2007). There is no formal definition of indigenous people under international law. However, the Study of the problem of discrimination against indigenous populations, E/CN.4/Sub.2/1986/7, 1986 (known as the Martínez-Cobo Study), defines indigenous peoples as: “having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.” The UN and its specialized agencies, as well as certain regional intergovernmental organizations, consider self-identification as indigenous or tribal as a fundamental criterion. See also International Labor Organization, Indigenous and Tribal Peoples Convention, 1989 (No. 169), article 1(2).

STATELESS AT SEA

The Moken of Burma and Thailand

The approximately 3,000 Moken living in the Mergui archipelago along Burma's southern coast, and the 800 Moken currently settled in Thailand make up one of the few remaining hunter-gatherer populations in Southeast Asia. Effectively sea nomads, for hundreds of years they have survived by sailing around the region much of the year and living off the sea. The Moken face deepening poverty, marginalization, and discrimination. Most Moken are stateless, making them extremely vulnerable to human rights abuse and depriving them of access to medical care, education, and employment opportunities.

Stateless at Sea describes in words and photographs the increasingly hostile environment the Moken face in struggling to survive. The report describes exploitation by land-based communities and state authorities—particularly the Burmese Navy—including extortion, bribery, arbitrary arrest, and confiscation of property. It also examines tightening immigration and maritime conservation laws that threaten their freedom of movement and traditional lifestyle. Lacking resources and support, the Moken face many obstacles in seeking protection, redress, and justice.

In recent years, more Moken have given up their nomadic ways and decided to reside permanently in Thailand and Burma. Both governments should act to protect and promote their rights, including providing a pathway to citizenship and protecting them from economic exploitation that threatens their way of life. Both the Thai and Burmese governments should meet their obligations under international law to uphold the rights of the Moken and ensure that they can live free from abuse.

(front cover) A traditional way to lure fish from deep ocean reefs, a rope with palm leaves attached is moored at a depth of 70-80 meters.

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