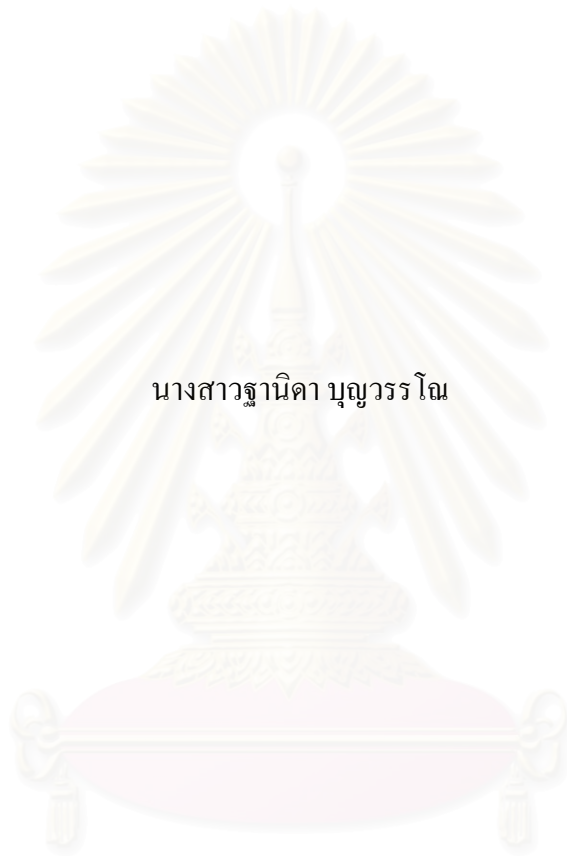


การกลายเป็นคนชายขอบอันเนื่องมาจากการไร้สัญชาติของชาวบ้านหมู่บ้านร่มไทย  
อำเภอแม่เมาะ จังหวัดเชียงใหม่



นางสาวฐานิดา บุญวรรณ

สถาบันวิทยบริการ

จุฬาลงกรณ์มหาวิทยาลัย

วิทยานิพนธ์นี้เป็นส่วนหนึ่งของการศึกษาตามหลักสูตรปริญญาศิลปศาสตรมหาบัณฑิต

สาขาวิชาเอเชียตะวันออกเฉียงใต้ศึกษา (สหสาขาวิชา)

บัณฑิตวิทยาลัย จุฬาลงกรณ์มหาวิทยาลัย

ปีการศึกษา 2550

ลิขสิทธิ์ของจุฬาลงกรณ์มหาวิทยาลัย

MARGINALIZATION AS A RESULT OF THE STATELESSNESS OF ROM THAI  
VILLAGERS, MAE AI DISTRICT, CHIANG MAI PROVINCE

Miss Thanida Boonwanno

สถาบันวิทยบริการ  
จุฬาลงกรณ์มหาวิทยาลัย

A Thesis Submitted in Partial Fulfillment of the Requirements  
for the Degree of Master of Arts Program in Southeast Asian Studies

(Interdisciplinary Program)

Graduate School

Chulalongkorn University

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STATELESSNESS OF ROMTHAI VILLAGERS, MAE AI  
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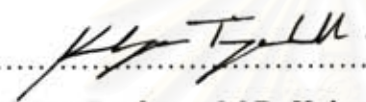
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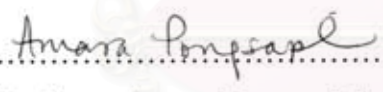
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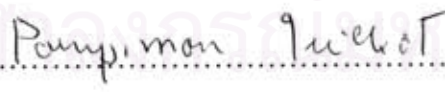
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ฐานิดา บุญวรรณ: การกลายเป็นคนชายขอบอันเนื่องมาจากการไร้สัญชาติของชาวบ้าน  
หมู่บ้านร่มไทย อำเภอแม่ฮ้อย จังหวัดเชียงใหม่ (MARGINALIZATION AS A RESULT OF  
THE STATELESSNESS OF ROM THAI VILLAGERS, MAE AI DISTRICT, CHIANG MAI  
PROVINCE) อ.ที่ปรึกษา: ศ.ดร. อมรา พงศาพิชญ์, 144 หน้า

วิทยานิพนธ์ฉบับนี้มุ่งเน้นศึกษากระบวนการกลายเป็นคนชายขอบของชาวบ้านหมู่บ้านร่ม  
ไทย อำเภอแม่ฮ้อย จังหวัดเชียงใหม่เนื่องมาจากการไม่มีสัญชาติไทย โดยสาเหตุของการไม่มีสัญชาติ  
ไทยนั้นเป็นผลมาจากการที่ชาวบ้านตกหล่นจากการสำรวจสำมะโนประชากรและการทำทะเบียน  
ราษฎร ในการศึกษาครั้งนี้ ได้แบ่งกลุ่มตัวอย่างออกเป็นสองกลุ่มคือ กลุ่มคนไร้สัญชาติที่ตกหล่นจาก  
ทะเบียนราษฎรซึ่งปัจจุบันถือบัตรผู้พลัดถิ่นสัญชาติพม่าเป็นบัตรประจำตัว และผู้ที่เคยได้สัญชาติไทย  
จำนวน 1,243 คนซึ่งเคยถูกถอนสัญชาติไทยในปี พ.ศ.2545 และได้รับสิทธิในสัญชาติไทยคืนมาแล้ว  
ในปี พ.ศ.2548 ผลการศึกษาพบว่า กลุ่มตัวอย่างทั้งสองกลุ่มยังคงประสบกับภาวะการเป็นคนชาย  
ขอบอันเนื่องมาจากการกลุ่มตัวอย่างทั้งสองกลุ่มถูกจำกัดการเข้าถึงสิทธิขั้นพื้นฐานหลักที่จำเป็นต่อ  
การดำรงชีวิตสามประการได้แก่ ประการที่หนึ่ง คนไร้สัญชาติถูกจำกัดสิทธิในการประกอบอาชีพทั้ง  
เนื่องจากตัวบทกฎหมายและความรู้ความสามารถของคนไร้สัญชาติเอง ประการที่สอง คนไร้สัญชาติ  
ถูกจำกัดสิทธิที่จะได้รับทุนการศึกษาตามระเบียบคณะกรรมการกองทุนเงินให้กู้ยืมเพื่อการศึกษา  
แม้ว่าในระเบียบของกระทรวงศึกษาธิการว่าด้วยหลักฐาน วัน เดือน ปี เกิดในการรับนักเรียนเข้าเรียน  
ในสถานศึกษาจะระบุว่าบุคคลที่ไม่มีหลักฐานทะเบียนราษฎรหรือไม่มีสัญชาติไทยสามารถเข้าถึงสิทธิ  
ดังกล่าวได้ ประการที่สาม คนไร้สัญชาติไม่มีสิทธิที่จะได้รับบัตรประกันสุขภาพและต้องจ่ายค่าบริการ  
สาธารณสุขในราคาเต็ม นอกจากนี้ยังพบว่าชาวบ้านผู้ไม่มีสัญชาติไทยบางส่วนยังโดนจำกัดสิทธิที่จะ  
ได้รับการบริการสาธารณสุขขั้นพื้นฐานจากอาสาสมัครสาธารณสุขประจำหมู่บ้านเนื่องจากชาวบ้านไม่  
มีสัญชาติไทยและถือบัตรประจำตัวผู้พลัดถิ่นสัญชาติพม่าอีกด้วย

สาขาวิชา เอเชียตะวันออกเฉียงใต้ศึกษา  
ปีการศึกษา 2550

ลายมือชื่อนิสิต .....  
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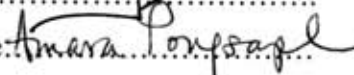
# # 4989507620: MAJOR SOUTHEAST ASIAN STUDIES

KEY WORD: MARGINALIZATION/ STATELESSNESS

THANIDA BOONWANNO: MARGINALIZATION AS A RESULT OF THE  
STATELESSNESS OF ROM THAI VILLAGERS, MAE AI DISTRICT,  
CHIANG MAI PROVINCE. THESIS ADVISOR: PROF. AMARA  
PONGSAPICH, Ph.D., 144 p.

This thesis aims to study marginalization as a result of the statelessness of Rom Thai villagers, Mae Ai district, Chiang Mai province. The statelessness of Rom Thai villagers results from having missed the population census and house registration surveys. This study divides the population studied into two groups: the stateless villagers who missed the population census and house registration and who still hold cards for displaced Burmese nationals as their identity cards; and the 1,243 formerly Thai nationals whose nationality was revoked in 2002 and reinstated in 2005. The research finds that both populations studied are still marginalized because they are denied access to the basic rights which are indispensable for human livelihood in three aspects. The right to occupation of the stateless people is restricted by law as well as knowledge and competence of stateless people. The stateless people are not restricted in the right to education and scholarships according to regulations; but in practice, stateless children still do not have access to scholarships as a result of conflicting regulations. Finally, the stateless people are denied national health insurance and have to pay their medical fees in full. Moreover, the stateless people are denied basic health care services from the public health volunteers of the village because they do not have Thai nationality and hold cards for displaced Burmese nationals.

Field of Studies Southeast Asian Studies  
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Student's signature:   
Advisor's signature: 

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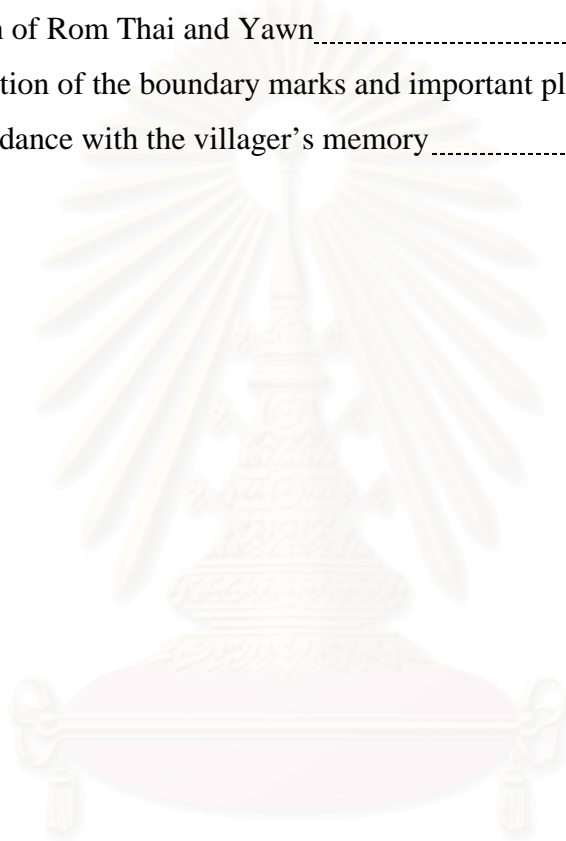
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# CHAPTER I

## INTRODUCTION

### 1.1 Statement of the problem

Rom Thai is the village located in Thaton subdistrict, Mae-Ai district, Chiangmai province. The villagers consist of many ethnic groups such as Thai, Tai Yai or Shan, Tai Lue and hill people. Most of Rom Thai villagers have descended from ancestors born in Mae-Ai and can be categorized into two groups which are:

1) Ancestors born in the Thaton area before B.E. 2424 (1881 C.E.), these group of people have a blood relationship with the Shan 2) Ancestors evacuated from outside the area such as Mae-rim, Mae-taeng, Praow, Fang, Chiangsaen, Vientaine, Yunnan and Chiangtung and gradually moved to settle down in this village. Furthermore, there are other hill people who have lived in this village as well. Nearly half of the village inhabitants are identified as non-Thai citizens.<sup>1</sup> Some of them were born in this area but have no evidence to identify that they were born in Thai territory. Some of them missed registration when the population census took place because they went for seasonal work at Sobyawn\*. At that time, it was not clearly identified which country Sobyawn belonged to.

In B.E.2499 (1956 C.E.), the Local Administration Department carried out a population census for the first time. The Thaton villagers at Sobyawn were not informed about this survey. As a result, they missed the population census. In 1963, it was the year when identification cards were issued. Similarly, many Thaton villagers missed the chance to have their identification cards made. Some of them stayed in Sobyawn and did not commute to Thaton. Since most of them did not realize the importance of identification cards, they did not come to get their cards made.

---

<sup>1</sup> Phunthip Kanchanachitra Saisoonthorn, "Nationalitylessness of Thaton villagers: Problems and Solution (in Thai)", 2002, Article for verifying the legal status of Thaton villagers. Available from [www.archanwell.org](http://www.archanwell.org).

\* Before B.E 2499, Thaton villagers went to Sobyawn for seasonal work. At Sobyawn the people could grow their plants and earned a good living. Sobyawn is a plain where the Kok river flows to join with the Yon river which helps create a soil that is quite productive. In the past there was no clear evidence that this place belonged to Thai or Burmese territory. However, nowadays Sobyawn belongs to Burma starting 10 kilometers outside from Thaton village.



As a result of a fighting between the minority groups and the Burmese army at Sobyawn, many villagers took refuge back in Thaton while some of the Burmese minority groups migrated to this place as well. Unfortunately, both villagers and refugees made requests for the displaced Burmese national card to the district official. In 1999-2000, a lot of Rom Thai villager holding the displaced Burmese national card had an opportunity to get Thai nationality through their documented evidence and community evidence. However, in 2002, Mae-Ai district withdrew Thai nationality from 1,243 villagers. These people were accused of having obtained an identification card and house registration illegally<sup>2</sup>. Moreover, the district officers claimed that the displaced Burmese nationality cards of the villagers means that the villagers are Burmese not Thai. Thus, the district official withdrew Thai citizenship and deprived the villagers of Thai nationality. As a result, many villagers lost their jobs and their rights as Thai citizen. Nevertheless, those accusations might be true for just some groups of people, not all 1,243 villagers. Even though the 1,243 villagers have been given Thai nationality back, they were stateless for more than two years. Even though the 1,243 villagers have had their Thai nationality reinstated, some of them are still feel marginalized because they do not have access to the basic rights. Thus, gaining back their Thai nationality does not mean that they do not face marginalization. Moreover, the deprivation of nationality did not affect only the 1,243 villagers, the children born during the period when their parents were non-Thai citizen were affected also. Furthermore, the case of 1,243 villagers are not finished yet. The Local Administration Department is re-investigating to prove the villager's nationality again.

Besides the case of 1,243 villagers, nearly half of Rom Thai villagers still do not have Thai nationality because they missed out on the census, house registration, and also lack of birth certificates. Some of them insist that they are Thai-born citizen but they have no proof. Moreover, they have held the displaced Burmese nationality card (pink card) which indicated to the district officer that they are non-Thai citizens. Without the identification card, some of the Rom Thai villagers lost their basic rights and do not have access to basic services from the government. For example, stateless persons do not have the right to vote, the right to travel and move out of the area, having less opportunity to education or the right to apply for jobs.

---

<sup>2</sup> "866 get citizenship back", The Nation, Thursday, April 29, 2004.

Moreover, stateless villagers are stigmatized as marginal people who both live in a marginal area of the country and do not have their basic rights like Thai citizens

The people are stigmatized by society outside the village, particularly the government officials, as illegal migrants who are dangerous to national security. This thesis will study how the villagers adjust to their stateless condition and the process which stateless villagers were granted Thai nationality.

## **1.2 Thesis Hypothesis**

1. The stateless people in Rom Thai village become marginalized because they lack rights to Thai nationality.

2. Rom Thai villagers still face the condition of being marginalized after obtaining recognition of Thai nationality due to limited access to social services not different from the marginal poor.

## **1.3 Thesis Objectives**

1. To analyze the process of marginalization of stateless people in Rom Thai village, Mae-Ai District, Chiangmai Province.

2. To study the status and condition of marginal people in Rom Thai village.

## **1.4 Scope of study**

In this study, I will describe the history of Rom Thai villagers including their livelihood along the Thai-Burma border. The stateless condition of Rom Thai village occurred from errors of both the Thai and Burma civil registration systems. However, the scope of study will depict only the marginalization process and status and condition of stateless persons caused by errors of the Thai civil registration system according to studies of the following populations:

1. Undocumented people who were born on Thai soil but shifted their workplace to Sobyawn which is now part of Burmese territory. They missed the population census and house registration system. These people still hold cards for displaced Burmese nationals (pink cards) as legal aliens.

2. Case studies of some of the 1,243 formerly stateless villagers who were also born on Thai soil and once faced the same situation as the first group.

The latter group were granted the right to Thai nationality in 1999, which was revoked in 2002, and reinstated in 2005.

Illegal Burmese migrants are not included in this study.

### **1.5 Conceptual framework**

1. The concept of marginalization is adopted in the analysis of my study.
2. The general principles of international nationality law and the Thai Nationality Act will be used for analysis in this study.
3. Other related conceptual definitions are: majority/minority group, ethnicity, social inclusion and exclusion.

### **Conceptual Definition**

According to John Scott and Gordon Marshall in Oxford Dictionary of Sociology, marginalization is a process by which a group or individual is denied access to important positions and symbols of economic, or political power within any society.<sup>3</sup>

In Wikipedia, the Free Encyclopedia, marginalization refers to the overt or covert trends within societies whereby those perceived as lacking desirable traits or deviating from the group norms tend to be excluded by wider society and ostracized as undesirables. The idea was amply expressed by Louis Wirth speaking of a minority group as: “a group of person who, because of their physical or cultural characteristics, are singled out from the others in the society in which they live for differential and unequal treatment, and who therefore regard themselves as objects of collective discrimination.”<sup>4</sup>

Within the developed world, racial or ethnic minority groups, stand out as being the most marginalized social groups. This also includes the poor, the elderly, the sick, the disabled, the obese, teenage mothers, homosexuals and lesbians. All these groups tend to suffer from some form of marginalization and a typical host of

---

<sup>3</sup> John Scott and Gordon Marshall, Oxford Dictionary of Sociology, 2005, p.380.

<sup>4</sup> Louis Wirth, The Problem of Minority Groups, 1945, pp. 347-372. Quoted in “Marginalization”, Available from [www.wikipedia.org](http://www.wikipedia.org).

social ills; poverty, unemployment, poor education and poor health. Each of them tends to be ostracized and so suffer various forms of social exclusion.<sup>5</sup>

### **Operational Definition**

**Marginalization -** In my study, marginalization is a process which the dominant group in one society tries to define themselves as a majority group and define other ethnic groups who have less power as a minority group. Marginalization is a process which creates the concept of “us” and “them” or builds the idea of “otherness” for the subordinate group. This minority or subordinate group becomes the marginal group who is denied resources or any right equal to the majority or dominant group. In the case of some of Rom Thai villagers, they have become the marginal group which can be depicted in two main dimensions.

**Geographical dimension-** Rom Thai village is situated in Thaton subdistrict, 173 kilometers from Chiangmai province and 900 kilometers from Bangkok. In the north, Rom Thai village is adjacent to Burma. Therefore, we can say that Rom Thai villagers are a marginal group who live far away from the center and live at the margins of the country. Being at the margins of the country, the villagers have less opportunity to access basic services from the central government.

**Nationality dimension-** Located at the margin of the country, some of Rom Thai villagers missed a good opportunity to be Thai legally. Nearly half of Rom Thai villagers did not have their identity cards because they were not counted in the national census. Some of them had been deprived of Thai nationality by the district officer. Some of them still do not have an identification card because they cannot prove that they are Thai. Without the identification cards, Rom Thai villagers have lost every right which they should have as Thai citizens. To gain Thai nationality seems to be hard in Rom Thai villagers’s eyes because they must try to prove themselves to be Thai while the government officials have rigidly classified them as displaced Burmese. Thus, some of Rom Thai villagers in this case are members of a marginal group without Thai nationality. Without the nationality, the villagers lose their rights which are equal to Thai citizens such as the right to get health insurance, the right to vote or the right to employment.

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<sup>5</sup> “Marginalization”, Available from [www.wikipedia.org](http://www.wikipedia.org).

## 1.6 Methodology

This thesis has adopted a qualitative research method. Research techniques include the review of relevant literatures and documents both in Thai and English language. In addition, indepth interviews and focus group discussions were used to collect data on the nationality problem in Rom Thai village. Informants, include villagers who still do not have Thai nationality regardless of their sex, age or level of education. The stateless key informants are divided many categories base on reason for lack of nationality. Government officials who are involved in civil registration and nationality issues were also interviewed.

## 1.7 Expected outcome

1. To provide better understanding on the cause of statelessness of villagers.
2. To understand the marginalization process of villagers who are stateless.
3. To document the process in which stateless villagers demand Thai nationality.
4. To give policy recommendations on stateless people.



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## CHAPTER II

### MARGINALIZATION: THEORETICAL OVERVIEW

#### 2.1 Definition of Marginalization

Marginalization refers to “the overt or covert trends within societies whereby those perceived as lacking desirable traits or deviating from the group norms tend to be excluded by wider society and ostracized as undesirables.”<sup>1</sup> The idea was amply expressed by Louis Wirth speaking of a minority group as: “*a group of person who, because of their physical or cultural characteristics, are singled out from the others in the society in which they live for differential and unequal treatment, and who therefore regard themselves as objects of collective discrimination.*”<sup>2</sup>

John Scott and Gordon Marshall in the Oxford Dictionary of Sociology explain that “*marginalization is a process by which a group or individual is denied access to important positions and symbols of economic, religious, or political power within any society*”. In Scott and Marshall’s definition, persons who have undergone a process of marginalization are called marginal groups. However, a marginal group is not necessarily a minority group. A marginal group may actually constitute a numerical majority, as in the case of Blacks in South Africa, and should perhaps be distinguished from a minority group, which may be small in numbers, but has access to political or economic power.<sup>3</sup>

Scott and Marshall analyzed that “marginalization became a major topic of sociology research in the 1960s, largely in response to the realization that while certain developing countries demonstrated rapid economic growth, members of these societies were receiving increasingly unequal shares of the rewards of success. The process by which this occurred became a major source of study, particularly for those influenced by dependency Marxist, and World-systems theories, who argued that the phenomenon was related to the world capitalist order and not just confined to particular societies. Anthropologists, in particular, have tended to study marginal

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<sup>1</sup> “Marginalization”, Available from [www.wikipedia.org](http://www.wikipedia.org).

<sup>2</sup> Louis Wirth, The Problem of Minority Groups, 1945, pp. 347-372. Quoted in “Marginalization”, Available from [www.wikipedia.org](http://www.wikipedia.org).

<sup>3</sup> John Scott and Gordon Marshall, Oxford Dictionary of Sociology, 2005, p.380.

groups. This stems in part from the idea that, by looking at what happens on the margins of a society, one can see how that society defines itself and is defined in terms of other societies, and what constitute its key cultural values.”<sup>4</sup>

Terms related to marginalization include marginal area, marginal group and marginal man. According to George A. Theodorson and Achilles G. Theodorson in *A Modern Dictionary of Sociology*, marginal area refers to territory at the periphery of a ‘culture area’ where two or more cultures meet, and where culture traits of the neighboring cultures are to be found. Marginal areas are the farthest areas one can possibly include within a particular culture area. **Marginal group** means a culture group that has relinquished some of its traditions and separate identity and partially accepted the values and way of life of a culture it is in the process of adopting. And marginal man is a concept first formulated by Robert E. Park and later revised by Everett C. Hughes<sup>5</sup>. **Marginal man** is a person in a dilemma, or state of mental conflict, by reason of his participation in two different, distinct cultural groups. He is not fully loyal and committed to the values and standards of either, nor is he fully acceptable to either of the groups with which he identifies. Moreover, the two groups may have certain conflicting values or norms, both of which the individual accepts to some degree.<sup>6</sup>

In geographical terms, the marginal man or the marginal person must often move from their place of origin for natural, economic, political, cultural or social reasons. They are always denied access to limited resources and they are always excluded by the majority who has lived in that society before. In socio-cultural terms, the marginal person’s culture is not accepted by the people in the cultural mainstream. Thus, marginal persons must adapt and fight for survival in a marginal context.<sup>7</sup>

In many successful developing countries, economic development excludes some groups from the economic system. The modern industries and economic development of developing societies mean that they must depend on the importation of much modern technology or machinery from developed nations.

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<sup>4</sup> John Scott and Gordon Marshall, *Oxford Dictionary of Sociology*, 2005, p.380.

<sup>5</sup> *Encyclopedia of Sociology*, 1974, p.165.

<sup>6</sup> George A. Theodorson and Achilles G. Theodorson, *A Modern Dictionary of Sociology*, pp.242-243.

<sup>7</sup> Surichai Wun’Gaeo, *Marginalization: A Conceptual Survey*, 2001, p.10.

Sometimes developing countries reduce the importance of other forms of productions such as agricultural production so that both the rural and urban poor are finally ostracized to the margin of the economic system.<sup>8</sup>

## 2.2 Dimensions of Marginalization

In fact, the process of marginalization can be seen in many dimensions. Margin is translated to the edge of a place or thing. Marginal is defined as something/someone is not considered important or relevant. Marginalize or marginalization is explained as the process of making someone or something seem not important or relevant or preventing someone from having power or influence. In this study, the process of marginalization is categorized along three dimensions - geographical, economic, and socio-cultural. Often, those identified as marginal people would be excluded in all three dimensions. In some cases marginalization occurs only on the economic dimension, such as those who are in poverty. The hill peoples of Thailand may be a marginal in all three dimensions. Even though they live within national boundaries, they may be seen as living in the hinterland far from central authority and services. Their culture may be seen as a subordinate or inferior. Besides, they are denied to access to national resources unless closely stay with forest.

### 2.2.1 Geographical Dimension

The marginalization may occur on the geographical dimension. The term marginalization itself refers to the existence of something or someone in an area in the edge/border of a political or geographic entity. In political geography, the concept of border combines two phenomena: boundary and borderland. In “Refugees and the border”, Hazel J. Lang explains that boundaries are political territorial lines dividing two contiguous states.<sup>9</sup> In Ladis K. D. Kristof’s definition, “the boundary indicates certain well established limits (the bounds) of the given political unit” and as

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<sup>8</sup> Surichai Wun’Gaeo, Marginalization: A Conceptual Survey, 2001, p.8.

<sup>9</sup> Hazel J. Lang, “Refugees and the border”, Fear and Sanctuary: Burmese Refugees in Thailand, 2002, p.127.

such functions to exert an arbitrary limit separating two jurisdictions.<sup>10</sup> In addition, in “Coexistence: Borderlands and Intra-state Conflicts in Mainland Southeast Asia”, Carl Grundy-Warr denotes borderlands as zones or territories flanking and straddling international land boundaries, are a more fluid ecumene, encompassing a confluence of political, military, cultural, and economic interactions.<sup>11</sup>

The map of bounded Siam appeared for the first time after the Paknam crisis of 1893 with the cooperation between Britain, France, and Siam. **Thongchai Winichakul** shows how Siam escaped colonization by accepting European mapping practices and the colonial alignment of boundaries. In his analysis, both Siam and France tried to include overlapping areas in their territories. For example, the upper Mekong and the entire Lao region was a loss and a gain of Siam’s territory. However, the real losers were those tiny chiefdoms along the routes of both Siamese and French forces.<sup>12</sup> Once these boundaries were defined, the notions of *chat* (people) and *prathet* (territory, country) were combined (*prathetchat*) to signal a common people living together within the defined geographical space of the nation. In 1911, the government passed the Nationality Act to classify those born within the national boundaries as Thai.<sup>13</sup>

Thus, map-making is the identification of the realm of our space. It is not only to demarcate where our territory is, but also identifies who is our group or the others. The distinction between Siam and the others was not confined to only language, culture, or religion, but also the space that separated Siam from Burma, Laos, Vietnam and Cambodia. Nevertheless, the process of identity creation was also built when Siam was demarcated on the map. The Thai state tried to gather people on its territory to establish itself as a nation. Those people did not have the same origins. Some of them had their own kingdoms and their original traditions and languages

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<sup>10</sup> Ladis K. D. Kristof, “The Nature of Frontiers and Boundaries”, *Annals of the Association of American Geographers* 49,3, 1959, pp.270-273. Quoted in Hazel J. Lang, “Refugees and the border”, *Fear and Sanctuary: Burmese Refugees in Thailand*, 2002, p.127.

<sup>11</sup> Carl Grundy-Warr, “Coexistence: Borderlands and Intra-state Conflicts in Mainland Southeast Asia”, *Singapore Journal of Tropical Geography* 14,1, 1993, p.45. Quoted in Hazel J. Lang, “Refugees and the border”, *Fear and Sanctuary: Burmese Refugees in Thailand*, 2002, p.127.

<sup>12</sup> Thongchai Winichakul, *Siam Mapped: A History of the Geo-Body of a Nation*, 1994, pp.128-129.

<sup>13</sup> Pasuk and Baker, *Thailand: Economy and Politics*, 1999, p.234.

such as the Muslims in the south. However, the Thai state was undaunted and attempted to eliminate this difference by integrating these peoples into a homogeneous state.

The map is the most powerful tool to identify the sense of Thai-ness, or We-self, as opposed to otherness. **Edmund Leach** suggests how a boundary violently and arbitrarily, divides ethnic peoples into different nationalities from long ago.<sup>14</sup> Along the frontiers of Siam, there are many ethnic peoples who are considered as Thai nationals as opposed to Burmese, Laotian, Cambodian, or Malaysia or as opposed to being Mon, Karen, Shan, Kayah, Lao, Hmong, Lue, Phuan, Khmer, or Malay. To demarcate boundaries also brought a sense of enemy to Siam. In fact, it comes from the identification process as to who is our group who is not. The Burmese had been identified as Siam's enemy since the conquest of Ayutthaya in 1767. **Sunait Chutintaranond** argues that with the emergence of Thai nationalism in the mid-nineteenth century, Burma was constructed as a hostile and threatening neighbor. However, this perspective still influences modern Thai foreign policy towards Burma.<sup>15</sup>

The internal and external dichotomy is one of the most effective strategies to differentiate We-self and otherness. However, this demarcation sometimes is obscure. Even the geo-body, which should be the most obvious and solid identification of the Thai nationhood, has limits at those locations where its boundary is not coterminous with the boundary of Thainess.<sup>16</sup> In some border areas, the boundary of Thai nation was clearly demarcated on the map, but the sense of Thainess had not still accessed there. For example, many ethnic minority groups in hinterland villages have to be taught the central Thai language and introduced to the Thai flag, Buddha images, and pictures of the King and the Queen by the Border Patrol Police. It shows that the "external" may not really be external; the "internal" can be made alien or external. In every situation, the discursive domain of Thainess

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<sup>14</sup> Edmund Leach, "The Frontiers of Burma", pp.49-51. Quoted in Thongchai Winichakul, Siam Mapped: A History of the Geo-Body of a Nation, 1994, p.164.

<sup>15</sup> Sunait Chutintaranond, On Both Sides of the Tenasserim Range: History of Siamese-Burmese Relations, 1995, p.5. Quoted in Hazel J. Lang, "Refugees and the border", Fear and Sanctuary: Burmese Refugees in Thailand, 2002, p.139.

<sup>16</sup> Thongchai Winichakul, Siam Mapped: A History of the Geo-Body of a Nation, 1994, p.169.



remains homogenous and unified. In turn, moreover, in the terminology of the geographical discourse, terms such as border become ambiguous. The border of Thainess is more limited than its geo-body. The Thai geo-body is not necessarily equal to Thai nationhood.<sup>17</sup>

As we know, many minorities who are inside the Thai geo-body but are on the edge of Thainess, ethnically, religiously, or ideologically, are not well accepted into the domain of Thainess.<sup>18</sup> Therefore, marginalization may occur in the dimension of geography. To demarcate the territory on a map is equal to dividing those who are “we” from those who are “they”. Sometimes, even peoples inside the geo-body of a nation may become marginal by accident. The terms Thai-Isan or Thai-Muslim are used to identify people who come from a different origin. However, those people passed through an assimilation process to be completely Thai by learning the central Thai language.

### **2.2.2 Economic Dimension**

In the era of globalization, every country, particularly developing countries tries to adopt modern technology to become developed countries. It believes that globalization led to rapid industrialization and economic convergence in the world economy during the late nineteenth century. While globalization stimulates a volatile growth of economy and more affluence in the developed countries, it also increases poverty and inequality in many developing countries. This pattern of development has led to an increase in the economic distance between the industrialized world and much of the developing world. It has also led to an increase in the economic distance between the newly industrializing countries at one end and the least developed countries at the other. Poverty, inequality, and deprivation still persist in the world of globalization even though the economic development has brought economic growth to many peoples, many regions and many countries. It can be argued that globalization accentuates disparities within and between countries. It

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<sup>17</sup> Thongchai Winichakul, Siam Mapped: A History of the Geo-Body of a Nation, 1994, p.170.

<sup>18</sup> Thongchai Winichakul, Siam Mapped: A History of the Geo-Body of a Nation, 1994, p.170.

also causes an increase in cross-border migration and urbanization which gradually dismantle the rural livelihoods and traditions.<sup>19</sup>

There is poverty everywhere. One-eighth of the people in industrial societies are affected by and live in poverty. Almost one-third of the people in the developing countries live in poverty and experience absolute deprivation in so far as they cannot meet their basic human needs. As many as 830 million people suffer from malnutrition, while 1.2 billion people do not have access to clean water, and 2.7 billion people do not have adequate sanitation facilities. More than 250 million children who should be in school are not. Nearly 300 million women are not expected to survive to the age of 40. And 850 million adults remain illiterate. Most of them are in developing countries.<sup>20</sup>

As mentioned above, many parts of the world are scapegoats of the development. They are excluded from the benefits of development. While economic development leads some people to affluence, better communications, better sanitation or other advantages, some people still suffer malnutrition, unemployment, a lack of education, poverty, marginalization and human rights violations. There is an inclusion for some and exclusion or marginalization for many. There is affluence for some and poverty for many. There are some winners and many losers. Many people in poor countries, particularly in rural areas or in the informal sector, are marginalized if not excluded. Too few share in the benefits. Too many have no voice in its design or influence on its course. There is a growing polarization between the winners and the losers. The gap between rich and poor countries, between rich and poor in the world's population and between rich and poor people within countries, has widened.<sup>21</sup> Therefore, the marginalization process comes about with economic development. Particularly in the era of globalization, volatile economic growth pushes a lot of countries and people to the margin of society.

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<sup>19</sup> UN Inter-Agency Project on Trafficking in Women and Children in the Mekong Sub-region, Globalization, Migration and Trafficking: Some Thoughts from the South-East Asian Region, 2001, p.1.

<sup>20</sup> Deepak Nayyar, "Development through Globalization?", WIDER Thinking Ahead: The Future of Development Economics, Research Paper No.2006/29, March 2006, p.3.

<sup>21</sup> Deepak Nayyar, "Development through Globalization?", WIDER Thinking Ahead: The Future of Development Economics, Research Paper No.2006/29, March 2006, p.4.

### 2.2.3 Socio-cultural Dimension

A minority group itself is in a marginal position. Its culture is a subordinate culture or may sometimes be described as inferior. Culture constitutes material culture (car, house etc.) and non-material culture (beliefs, values, and social institutions). So culture consists of the physical or material objects and values, attitudes, customs, beliefs, and habits shared by members of a society and transmitted to the next generation. However, culture is realized in a social structure where organized patterns of behavior form the basic components of the social system. Social structures establish predictable social relationships among individuals in society. Normally, the distinctions between culture and social structure are important to the assimilation process. For example, cultural orientations of both minority and dominant groups shape expectations about how a minority group should fit into the society.<sup>22</sup> The culture of marginal people is a subculture. The people in subculture may experience problems of marginality, they live under stress in two cultures simultaneously. The older generation may seek to preserve its traditions and heritage while the younger generation may be impatient to achieve full acceptance within the dominant society.<sup>23</sup>

Marginalization on the socio-cultural dimension is the effect of development. It seems that Western culture is the model of superior culture which oriental countries should use as their pathway. In the era of globalization, the heart is to seize and annihilate like the war in ancient time. However, annihilation in globalization does not mean the extermination of people but of culture. The war of culture is to damage and destroy the beliefs or religion of some ethnic groups. The result of cultural wars is not dead people but cultural degeneration. Mass media, film, religion, propaganda and education have become the significant instruments of the developed countries to instill Western culture in developing countries.<sup>24</sup> At the international level, western countries are representatives of modernity and central civilization of the world whereas the other hemisphere is defined as the

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<sup>22</sup> Vincent N. Parrillo, Understanding Race and Ethnic Relations, 2002, p.27.

<sup>23</sup> Vincent N. Parrillo, Understanding Race and Ethnic Relations, 2002, p.36.

<sup>24</sup> Thienchai Wongchaisuwan, "Globalization 2000: The Death of Thai Culture and Strategy for the World Cultural Revolution", 1995, pp.9-11.

underdeveloped world. The oriental peoples themselves feel that their cultures are inferior to occidental cultures. At the intra-national level, the indigenous culture may be destroyed and replaced by the dominant culture.

In society, social stratification classifies the members of society based on the unequal distribution of resources, power, and prestige. Social stratification divides people into the haves and the have-nots, into minority and majority groups, and into dominant and subordinate groups. At the same time, social stratification also creates the cultural differentiation. This cultural differentiation itself demarcates the difference and similarity between two cultures. If one group has more power than another, this group has more chance to be a superior culture. The culture of the powerless is lost in exchange for a new pattern of culture which come with the industry system.

### 2.3 Marginality

Marginality refers to the condition of a person in a marginal status. In Thai, marginality is translated as *pa-va-chai-korb*.

**Robert E. Park** gave a new label of marginality to the phenomenon. Park suggested that members of many racial and ethnic groups suffer from the ambivalence of values created by their longing for the old and their desire to participate in the new. Park and Everett Stonequist described such persons as “cultural hybrids.”<sup>25</sup> One result of their marginality, Park and Everett suggested, was personal maladjustment; another was the tendency to engage in deviant behavior.<sup>26</sup>

Charlotte Seymour-Smith states that “marginality in its economic, political and socio-cultural dimensions is an important element in most anthropological research, and the different dimensions have been explored in ethnography and anthropological theory to varying extents. On the one hand, it has been pointed out that in fieldwork the anthropologist is a kind of ‘marginal native’, who while not fully incorporated into the host community, is nevertheless somewhat

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<sup>25</sup> Robert E. Park, Race and Culture, 1951, p.354, Quoted in Peter I. Rose, They and We: Racial and Ethnic Relations in the United States, 1990, p.136.

<sup>26</sup> Quoted in Peter I. Rose, They and We: Racial and Ethnic Relations in the United States, 1990, pp.136-137.

detached from his or her 'native' culture. The consequences of this marginality have been explored within ethnographies influenced by critical anthropology. On the other hand, the vast majority of the populations studied by anthropologists are to a certain extent marginal ones: often doubly marginal, as in the case of ethnic minority groups existing within Third World nations which are themselves marginal to the world capitalist system. Anthropological research within Western nations also tends to focus on groups which are in some way marginal to the dominant national society, whether they are ethnic minorities or groups that are in some other way set apart from the mainstream. In spite of anthropologists' clear preference for marginal populations, the profession tends at times to shy away from the possible consequences of this choice, and few would define the discipline generally in terms of 'the study of marginal groups', though it has often been defined as the study of 'small-scale' or 'pre-industrial' societies, definitions which ignore the crucial common feature of marginality which unites the vast majority of anthropological host communities. In fact, as studies within diverse areas of Critical Anthropology, Applied Anthropology, Marxist Anthropology and theories such as Dependency Theory and World System Theory have shown, the processes and structures which create, define and maintain marginality are in themselves essential and legitimate areas of anthropological enquiry. It is the function of the ethnographer not only to document the distinctive socio-cultural features which exist within the apparently closed universe of a marginal group, but also to document the experience and process of marginalization itself, thereby revealing the links between the marginal group and the wider socio-economic and political system".<sup>27</sup>

Marginality in political economy means to the powerless, the subordinate and the have-nots. Most of these are ethnic minority groups with low position in the society. In brief, we call persons who are in marginality '*others*'. Such people always are multiply excluded or are in multiple marginality. We can say that their dignity equals zero. The marginal person is always ostracized in the context of economics, society, culture, politics and the environment particularly ethnic minority groups who have been called the Fourth World in the discourse of development.<sup>28</sup>

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<sup>27</sup> Charlotte Seymour-Smith, Macmillan Dictionary of Anthropology, 1986, pp.177-178.

<sup>28</sup> Surichai Wun'Gaeo, Marginalization: A Conceptual Survey, 2001, p.10.



## 2.4 The emergence of Marginalization.

In fact, marginalization does not have a single cause. Everybody may find himself/herself some day marginalized. The marginalization process can occur on many dimensions. In the political dimension, people may become marginalized because they have no chance to participate in political activity, and in the economic dimension, when they are denied to access national resources. In rural areas, villagers earn their living in the sustainable economy which sometimes is seen as an ineffective economy because it does not use modern technology and industry. In the socio-cultural dimension, the culture of the minority group may be seen as a subordinate culture. The cultures of people with different race, ethnicity, religion or nationality, are viewed as the outsider's culture or inferior. This thesis attempts to show that the emergence of marginalization is the consequence of four main factors: nation-state building, prejudice and discrimination, stigmatization, and modernization and development.

### 2.4.1 Nation-state Building

**James G. Kellas** notes '*Nation is a group of people who feel themselves to be a community bound together by ties of history, culture and common ancestry*'.<sup>29</sup> The term 'nation' is also commonly applied to states, as in the United Nations, consisting of the 'nations' of the world. **Benedict Anderson** says 'The nation is often the social grouping which represents the boundary for mobility, both geographic and economic. This may be a matter of sharing a common language, or of being the object of differential treatment by the state. If an individual is identified as the member of a particular nation, this may give access to power and wealth, or conversely, discrimination and deprivation'. The state may decide who the members of the nations are. It does this to protect the interests of the powerful, and to keep other groups in a subordinate position.<sup>30</sup> **Chusak Wittayapak** argued that the marginal people are the result of nation-state building as the following idea: "*Marginalization is a consequence of the process of building a nation and the process of Thai-ization which is undertaken with the idea of exclusion and nationalism,*

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<sup>29</sup> James G. Kellas, *The Politics of Nationalism and Ethnicity*, 1998, p.3.

<sup>30</sup> James G. Kellas, *The Politics of Nationalism and Ethnicity*, 1998, p.46.

leading to the Thai people becoming the majority group. As a result, the minority groups who are non-Thai become marginal groups from that time”,<sup>31</sup>

**Almond and Powell** have pointed out that **state-building** involves the creation of new structures and organizations designed to ‘penetrate’ the society in order to regulate behavior in it and draw resources from it. **Nation-building** is the building up of loyalty and commitment to the central state authority through a common culture.<sup>32</sup> **Likhit Dhiravegin** said that the promotion of nationalistic sentiments for Thai nation building occurred in three stages<sup>33</sup>; the formation of the modern nation-state during the reign of King Chulalongkorn, to be followed by anti-Chinese nationalism during the reign of King Vajiravudh and nation-building and cultural revolution under Field Marshal Phibulsongkram.<sup>34</sup> It can be shown that the idea of nation (*chat*) had begun to develop within the elite educated circle of Thais during the reign of King Chulalongkorn. Because Siam was threatened by colonialism, King Chulalongkorn thought it necessary to develop Siam as a modern country. The first urgent task was to define the state geographically and gather all ethnic groups in this territory to be Thai, or build the nation. King Chulalongkorn started state-building by political reform. The process was long and painful but peaceful, involving a number of courageous and astute policies. Such policies include a centralized national administrative system, a fiscal system, military organization and most important of all for a modern nation-state, a centralized educational system.<sup>35</sup>

Nevertheless, nation-building through the inculcation of nationalistic feeling became serious after world war 1 during the reign of King Vajiravudh and after world war 2 during Phibulsongkram’s government. The sense of Thai citizenship was instilled in all Thai people while creating a sense of otherness toward non-Thai ethnic group. P.Phibulsongkram was an ultra-nationalist who had a strong desire to build the nation. Phibul’s nation-building program was aimed at a new and

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<sup>31</sup> Translated from Chusak Wittayapak, “Introduction: Sang kom sart kup karn suk sa khon chai korp”, 1998 p.18.

<sup>32</sup> Prudhisan Jumbala, Nation-building and Democratization in Thailand: A Political History, 1992, pp.10-11.

<sup>33</sup> Likhit Dhiravegin, Nationalism and the State in Thailand, 1985, p.27.

<sup>34</sup> Likhit Dhiravegin, Nationalism and the State in Thailand, 1985, p.27.

<sup>35</sup> Likhit Dhiravegin, Nationalism and the State in Thailand, 1985, pp.1-2.

greater Thailand for the Thais who ‘would possess good culture, good etiquette, good health, good clothing, good accommodation and good profession’.<sup>36</sup> The heart of the nation was defined by Phibul on the basis of ethnicity or race (khon Thai or *chuea chat Thai*).<sup>37</sup> In his mind, the Thai majority group must be dominant. For this reason, he tried to pull the economic power back from the hands of the Chinese and promulgate policies excluding Chinese and other ethnicities from Thai professions. As a result, all minority groups become marginal groups who were denied to access to civil service and had difficulty in earning their living in Thailand.

Moreover, Phibulsongkram increased the sense of otherness by changing the country’s name from Siam to Thailand. Phibul and Luang Wichit argued that the word ‘Siam’ could be used by ‘others’ such as Chinese, Khmer, Malays, Portuguese and all other Caucasians rather than ‘us’ which refers to Thais.<sup>38</sup> Thus, the word ‘Thailand’ would help to demonstrate that this country belongs to the Thai race, not to other ethnic groups.

In conclusion, the nation-state building attempted to create homogeneity. All were categorized as the same group of people through the sense of citizenship. However, the nationality did not create conflict between Thais and non-Thais in the reign of Vajiravudh because His Majesty opened the opportunity to all people to obtain Thai nationality. However, some groups cannot obtain Thai nationality due to Thai nationality law. The people identified as others or non-Thais by their race, ethnicity, religion, or nationality are marginalized at the margin of society. Those people are always seen as outsiders or the other. Often, they are discriminated against by government laws, policies and state officials’ attitudes. Thus, nation-state formation is the main factor which marginalizes minority groups, subordinate groups or the powerless. They involuntarily become marginal because they have no or less power to access basic rights such the right to an occupation, the right to education and right to health.

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<sup>36</sup> Department of Publicity, “Pramuan Kham Prasai Khong Phanathan Jompon Paw Pibulsongkram(Pibul’s Speech Collections).” Quoted in Thamsook Numnonda, Pibulsongkram’s Thai Nation-Building Programme during the Japanese Military Presence, 1941-1945, 1976.

<sup>37</sup> Charnvit Kasetsiri, What’s in a Nation’s name?, 2000, p.2.

<sup>38</sup> Charnvit Kasetsiri, What’s in a Nation’s name?, 2000, p.2.

## 2.4.2 Prejudice and Discrimination

Prejudice is another factor leading to marginalization. The concept of prejudice is related to the concept of discrimination because most prejudicial attitudes are found in the dominant group which uses its superiority to the subordinate group through discrimination.

Louis Wirth describes prejudice as “an attitude with an emotional bias”. Prejudice comprises negative ideas regarding subordinate ethnic groups and ideas expressing the superiority of the dominant group. These beliefs may come together with an ideology of racism. Prejudicial attitudes may be either positive or negative. However, only negative attitudes lead the dominant and subordinate group to turbulent social relations.<sup>39</sup> Thus, the sociologists usually concern themselves with negative prejudice. The status of the stranger is an important factor in the development of a negative attitude. Prejudicial attitudes exist among members of both dominant and subordinate group. In the dominant and subordinate relations, reciprocal antipathy is felt. The prejudice may come from many causes. It may result from the similarity or dissimilarity of beliefs, difference of characteristics, or difference of race and ethnicity.<sup>40</sup>

**Bernard Kramer** suggested that prejudice should be understood in three dimensions: cognitive, emotional, and action orientation. At the cognitive level, it encompasses a person’s belief and perceptions of a group as threatening or non-threatening, inferior or equal particularly in terms of intellect or social status. At the emotional level, it refers to the feelings that a minority group arouses in an individual. These feelings are based on stereotypes of the cognitive level which will be presented in many forms of personal expression. These attitudes may be both negative and positive, such as fear, envy, distrust, disgust, admiration, contempt or empathy. At the final level, action-orientation is the positive or negative pre-disposition to engage in discriminatory behavior.<sup>41</sup>

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<sup>39</sup> Martin N. Marger, Social Inequality: Pattern and Process, 2005, p.277.

<sup>40</sup> Vincent N. Parrillo, Understanding Race and Ethnic Relations, 2002, pp.65-66.

<sup>41</sup> Bernard M. Kramer, “Dimensions of Prejudice”, Journal of Psychology, 27 April 1949, pp.389-451. Quoted in Peter I. Rose, They and We: Racial and Ethnic Relations in the United States, 1990, p.86.

Discrimination is actual behavior, the practice of differential and unequal treatment of other groups of people, usually along racial, religious, or ethnic lines.<sup>42</sup> Discriminatory action can be divided into five levels. The first level is verbal expression, a statement of dislike or the use of a derogatory term. The second level is avoidance, in which the prejudiced persons try avoiding social interaction with a group. At third level, the subordinate group will be excluded from certain jobs, housing, education, or any social organizations. The fourth level of discrimination is physical abuse. The disliked group faces violent attack from the majority. Finally, the most extreme level of discrimination is extermination such as massacre, genocide, or pogroms.<sup>43</sup>

For example, discriminatory practices were used against ethnic minority groups, particularly the Chinese and Malay-Muslims, during Phibulsongkram's government. These discriminatory actions were based on the personal attitudes or prejudice or ethnocentrism of the national leader. Vincent analyzes that "prejudice and ethnocentrism are not similar. Ethnocentrism is a generalized rejection of all outgroups on the basis of ingroup focus, whereas prejudice is a rejection of certain people solely on the basis of their membership in a particular group".<sup>44</sup> In the case of the Chinese, discrimination was practiced at the third level, where the Chinese were excluded from certain professions and confined to restricted areas. In the case of Malay-Muslims, Phibulsongkram promulgated a Ratthaniyom policy, based on nationalism and ethnocentrism, which believed that the Thai race is superior to other ethnic groups. In Ratthaniyom policy No.10, everybody was persuaded or indirectly forced to dress in western style, with hats. As we know, Malay-Muslims wear traditional dress, sarong and tarboosh for men and hijab for women, and their dress is linked to the Islamic practice. The discriminatory practices against this ethnic group occurred because they could not change their way of life

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<sup>42</sup> Vincent N. Parrillo, Understanding Race and Ethnic Relations, 2002, p.86.

<sup>43</sup> Allport, The Nature of prejudice, Quoted in Vincent N. Parrillo, Understanding Race and Ethnic Relations, 2002, p.87.

<sup>44</sup> Vincent N. Parrillo, Understanding Race and Ethnic Relations, 2002, p.67.



according to the leader's policy. Some of them suffered discrimination at the level of physical abuse, being caught, kicked, and beaten by the police.<sup>45</sup>

In brief, prejudice is the beginning point of discriminatory practice. The dominant group applies negative prejudice to discriminatory action against the subordinate group that creates disadvantages for them in many forms of social, economic, and political life. Discriminatory actions lead the minority or subordinate or powerless group to a condition of marginalization. In this condition, the powerless or subordinate groups face the denial of access to various life opportunities such as jobs, housing, health-care, education, justice, and political participation. The majority group is the group accessing the advantage management process. They exert their authority to discriminate against subordinate groups through public policy or law.

### 2.4.3 Stigmatization by Social Construction

Stigmatization or social stigma is severe social disapproval of personal characteristics or beliefs that are against cultural norms.<sup>46</sup> Social stigma often leads to marginalization. Stigmatization comes in three forms: First, overt or external deformation. For example, the person has a negative physical manifestation such as leprosy. Second, personal traits deviate from social norms. For example, drug addicts, alcoholics, and criminals are stigmatized in this way. Third, tribal stigmata are traits of a race, nation, or religion that constitute a deviation from the normative race, nationality or religion, for example Jewish people in Nazi Germany.<sup>47</sup> Stigmatization is equal to the process of devaluation. It is a process of discrediting an individual in the eyes of others. Stigmatization is necessary to depend on the interaction. In interactions between stigmatized and non-stigmatized people, it will create who is the "good guy" and who is the "bad guy", who is the victim, and who is the perpetrator.<sup>48</sup>

**Erving Goffman**, an American sociologist, states that the stigmatized individual is a

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<sup>45</sup> Piyanart Bunnag, The Administrative policy of the Thai Government towards the Thai Muslims in the Southern Provinces (1932-1973), 1991, pp.86-87.

<sup>46</sup> "Social stigma", Available from [www.wikipedia.org](http://www.wikipedia.org).

<sup>47</sup> "Social stigma", Available from [www.wikipedia.org](http://www.wikipedia.org).

<sup>48</sup> Shana Levin and Colette van Laar, Stigma and Group Inequality: Social Psychological Perspectives, 2006, p.299.

person with a “spoiled identity” who is “rendered unworthy” in the eyes of others.<sup>49</sup> Stigmatized persons may come to devalue themselves as a deviant in turn.\*

Generally, stigmatization is the production of social construction. Societal norms or standards are the criteria for deciding what is normal or deviant. A social stigma is similar to the concept of labeling. “In social terms, labels represent a way of differentiating and identifying people that is considered by many as a form of prejudice and discrimination. The most common method of “labeling” people derives from a general way of perceiving members of a certain nationality, religion, ethnicity, gender, or some other group. When a majority of people hold a certain point of view towards a certain group, that point of view becomes a stereotype. That stereotype affects the way other people perceive the groups in question and the result is a “label” that is metaphorically imposed on the members of the group in question. A member of a targeted group is thus “labeled” by the larger society.”<sup>50</sup>

There are many stigmatized individuals in Thailand. HIV/AIDS infectors are always linked with negative thoughts. People with HIV are often believed to have deserved what has happened by doing something wrong. HIV-infected men may be seen as homosexual, bisexual or having had sex with prostitutes. Women with HIV are viewed as having been promiscuous or having been sex workers.<sup>51</sup> Those infected with HIV are stigmatized and face discriminatory actions from the surrounding society. Most sex workers in Thailand come from the North and Northeastern regions. Most of them come from tribal societies forced to work as prostitutes. In the ethnic minorities themselves, they are seen as marginal people who live near the country’s borders or in mountainous areas far from the central

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<sup>49</sup> Quoted in UNAIDS, World AIDS Campaign 2002-2003—A Conceptual Framework and Basis for Action: HIV/AIDS Stigma and Discrimination, 2002, p.8.

\* This is called self-stigmatization. The people will be ashamed of themselves when they internalize the negative responses and reactions of others. Self-stigmatization can lead to depression, withdrawal and feelings of worthlessness. It silences and saps the strength of already-weakened individuals and communities, and causes people to blame themselves for their predicament. UNAIDS, World AIDS Campaign 2002-2003—A Conceptual Framework and Basis for Action: HIV/AIDS Stigma and Discrimination, 2002, p.10.

<sup>50</sup> “Label (sociology)”, Available from [www.wikipedia.org](http://www.wikipedia.org).

<sup>51</sup> UNAIDS, World AIDS Campaign 2002-2003—A Conceptual Framework and Basis for Action: HIV/AIDS Stigma and Discrimination, 2002, p.8.

development. When they are infected with HIV, they become stigmatized falling in the marginalization contexts.

Stigmatization is a process of devaluation which in most cases the dominant group conducts towards the subordinate group. Strictly speaking, “a stigma is linked to power and domination throughout society. A stigma creates and is reinforced by social inequality. It plays a key role in producing and reproducing relations of power. Stigma seeps in the structure of society, norm, values that govern the people’s way of life. Thus, it causes some groups to be devalued and ashamed, and others to feel that they are superior”.<sup>52</sup> Social stigmatization or the labeling process comes from negative attitudes or prejudice which finally will cause discriminatory practices. The people identified as deviant, the physically, and mentally ill and unwanted persons would become marginalized. Stateless people are stigmatized or identified as aliens or undocumented people. They are defined as outsiders, as members of risk groups and as threats to national security. They experience marginalization with no rights to access power and resources. Often, they live in fear of discriminatory practices of government officials.

## 2.5 Social Exclusion

Social exclusion is another concept related to marginalization. “Social exclusion relates to the alienation or disenfranchisement of certain people within a society. It is often connected to a person’s social class, educational status and living standards and how these might affect their access to various opportunities. It also applies to some degree to the disabled, to racial minorities, women and to the elderly. Anyone who deviates in any perceived way from the norm of a population can become subject to coarse or subtle forms of social exclusion.”<sup>53</sup>

According to the Oxford Dictionary of Sociology, “social exclusion is a process by which individuals or households experience deprivation, either of resources such as income, or of social links to the wider community or society. Social

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<sup>52</sup> UNAIDS, World AIDS Campaign 2002-2003—A Conceptual Framework and Basis for Action: HIV/AIDS Stigma and Discrimination, 2002, p.10.

<sup>53</sup> “Social exclusion”, Available from [www.wikipedia.org](http://www.wikipedia.org).

exclusion is used to refer to the cluster of social problems associated with unemployment, low income, poor housing, deficient health, or social isolation.”<sup>54</sup>

In *Challenging social exclusion: Rights and livelihood in Thailand*, Pasuk Phongpaichit states that “The term “social exclusion” was first used in France in the mid-1970s and became more widely deployed in the EEC in the late 1980s to describe the situation of the long-term unemployed. The word “exclusion” was used to talk about long-term unemployment as a cause of the deprivation of social rights to the powerless. The excluded people are not only led to poverty and loss of personal dignity, they also are brought to deep rifts in society which threaten to lead to political disorder. However, the term “social exclusion” has been applied to developing countries to analyze problems of poverty and inequality. In many developing countries, people still have to struggle to get their rights established and then struggle again to have their rights enforced. Thus, the concept of exclusion may be a good weapon for their struggle.”<sup>55</sup>

The process of social exclusion has both humanitarian and economic consequences for the denial of equal opportunity which is not only unjust but also inefficient because it deprives society of excluded people’s contributions. Social exclusion is opposite to social inclusion which is the process of promoting equitable access to the economic and social benefits of development regardless of nationality, ethnicity, gender, or other characteristics.<sup>56</sup>

Among the mechanisms of exclusion, there is social exclusion which results from traditional exclusions and modern economic/social development exclusions. “Traditional exclusions were the outcome of socio-cultural and structural factors in a multiethnic society based on caste, ethnic division, religion, gender and structure of land ownership. Modern economic and social forces have resulted in unemployment and underemployment; those affected by structural adjustments and economic reforms are disabled persons, drug addicts, migrant workers and slum

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<sup>54</sup> Scott and Marshall, *Oxford Dictionary of Sociology*, Oxford University Press, 2005, p.204.

<sup>55</sup> Pasuk Phongpaichit, *Challenging Social Exclusion: Rights and Livelihood in Thailand*, International Institute for Labour Studies, United Nations Development Programme, 1996, pp.1-3.

<sup>56</sup> Kazi F.Jalal and Co-Chair, *Social Exclusion or Inclusion Development Challenges for Asia and Europe*, Asian Development Bank, 2000, p.1.

dwellers who have poor governance, inequitable distribution of income and wealth, lack of access to education especially job-oriented education and lack of access to political and administrative power.”<sup>57</sup>

In term of social disadvantage, social exclusion affects women, manual laborers, and ethnic or religious minorities. In term of economic disadvantage, “social exclusion expands its meaning to the unemployed and underemployed, rural unskilled workers comprising marginal farmers and landless labor; urban workers (casual labor, poor self-employed, slum dwellers, homeless people and street dwellers and domestic servants).”<sup>58</sup> Social exclusion is also applied to child labor, disabled persons, prostitutes, the aged and drug addicts.

The mechanism of social exclusion is not only related to people’s lives when they cannot keep up with rapid economic development, but also when the national economy is stagnant. “The low growth economy and inadequacies in state provide infrastructure have excluded people from access to basic needs which comprise food, clothing, health and sanitation, basic education, a clean environment and basic transportation and communication facilities.” In terms of human rights, when people are excluded from social mechanisms, they will face a lack of protective legal provision. They have insufficient opportunity to enter in law enforcement. Particularly, stateless people are excluded to be at the furthest place from the center. They have no citizenship rights and are denied political rights. Moreover, they face extra constitutional interventions by the State.<sup>59</sup> In the global dimension, “the process of social exclusion should not be overlooked. There were discriminatory practices, trade barriers and restrictions on labor migration by the developed industrial countries against developing countries. Those discriminations are equivalent to social exclusion for the developing countries in the global context.”<sup>60</sup>

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<sup>57</sup> International Labour Office, Asian Subregional Symposium on Social Exclusion and Extension of Social Protection, 1995, pp.4-5.

<sup>58</sup> International Labour Office, Asian Subregional Symposium on Social Exclusion and Extension of Social Protection, 1995, p.4.

<sup>59</sup> International Labour Office, Asian Subregional Symposium on Social Exclusion and Extension of Social Protection, 1995, pp.11-12.

<sup>60</sup> International Labour Office, Asian Subregional Symposium on Social Exclusion and Extension of Social Protection, 1995, p.13.



In Thailand, the people who are excluded from social mechanisms are not only the poor who cannot keep up with development, but also other marginal people such as prostitutes, AIDS patients, child labor, hill people, disabled people or homosexuals. In the case of stateless people, they are directly excluded from Thai society because they lack any proof identifying them as Thai citizens. Thus, stateless people not only suffer from severe economic deprivation, but also lack many basic civic rights such as a clear claim to citizenship and nationality.<sup>61</sup>

The term “social exclusion” of Thailand may have occurred since nation-state building. **Pasuk Phongpaichit** presented states that “the process of nation-state building was begun by the King himself in response to the inroads of western imperialism, the need to centralize the administration, and the heterogeneity of the population. There are two consequences to this process. First, there has been an ambiguity inherent in the term “Thai”, between the connotation of “Thai” as referring to membership in a group, such as nation and the connotation of the term as referring to citizenship in a state. Hence the term Thai may exclude certain groups of people, such as hill people, the Malays, the Chinese. Thus, the process of gaining Thai nationality or acquiring Thai citizenship even among the people who were born in Thai territory can become an instrument of exclusion and inclusion.”<sup>62</sup>

In the case of the Chinese in Thailand in the past, we have an experience of social exclusion which was created by policy-making based on ultra nationalism. The idea of “nationalism” was introduced in Thai society in the reign of the King Rama VI. His Majesty used nationalism to promote all Thai people by composing a book about the nation to rouse the sense of Thai-ness as the ‘Jews of the Orient’. However, the idea of nationalism was revived in a more powerful form in the period of P. Phibunsongkram, an ultra-nationalist, who tried to build the Thai nation and a sense of Thai citizenship under the idea of popular nationalism. As nationalism emerged, minority groups appeared. Because the Thai people were identified as those who have the same race, language, culture, and traditions, those who could not

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<sup>61</sup> Pasuk Phongpaichit, Challenging Social Exclusion: Rights and Livelihood in Thailand, International Institute for Labour Studies, United Nations Development Programme, 1996, p.7.

<sup>62</sup> Pasuk Phongpaichit, Challenging Social Exclusion: Rights and Livelihood in Thailand, International Institute for Labour Studies, United Nations Development Programme, 1996, p.22.

assimilate to being a complete Thai became non-Thai. The non-Thai people therefore become marginal groups in Thai society, such as the Chinese, the hill peoples, the Mon or the Muslims. The Chinese at that time were an ethnic group who were extremely ostracized by government policy. The important reason why P.Phibunsongkram decided to ostracize this ethnic group is that the Chinese at that time had economic influence over Thai people. For example, the Phibunsongkram government formed and ran a Thai rice company with the avowed purpose of ending Chinese control of the rice industry. “In December 1938, the government formed the Thai rice company by buying out several Chinese mills in Bangkok. 51% of the companies’ shares were held by the government, it was given preferential rates by the state-owned railways for the transport of paddy and soon received heavy orders from Japan and Germany. Co-operative societies for the sale of rice were created in five localities, and in succeeding years the Company worked out close relations with co-operatives for the direct purchase of paddy. It was made explicit that the aim of the company was to free the Thai rice industry from Chinese control.”<sup>63</sup>

Moreover, Phibulsongkram’s government implemented a law restricting the driving of vehicles for hire to Thai nationals. This Act was directed against the Chinese in the form of important amendments to the Vehicles Act, Motor Car Act, and Land Traffic Act. In accordance with the new amendment, persons of non-Thai nationality were not eligible to secure licenses to drive taxis. Those who already held such licenses would be entitled to use them and to renew them in accordance with the law. The only relevant stipulation in the previous law was that taxi drivers had to have an adequate knowledge of the Thai language; but after the Act, if a Chinese wished to drive a taxi, he must first become a naturalized citizen.<sup>64</sup>

Pasuk Phongpaichit states that “nationality is represented by the term **“cultural doorway”** because nationality can act as both access or barrier. For the Chinese immigrants, it has provided access. The generation of Chinese whose parents or grandparents migrated from mainland China have succeeded in assimilating into Thai culture. They have an opportunity to acquire Thai nationality and every civic

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<sup>63</sup> G.William Skinner, Chinese Society in Thailand: An Analytical History, 1957, p.262.

<sup>64</sup> Kenneth Perry Landon, “The Chinese in Thailand”, 1973, pp.229-230. The Bangkok Times, April 4, 1939.

right as Thai citizens.” In the case of the Malay-Muslims, the State wanted forcibly to include them in the Thai nation. However, the doorway is difficult to open to some groups. Hill peoples or other ethnic minority groups find that it is difficult to enter the Thai cultural doorway of Thai nationality even though they were born in Thai territory. The State has several reasons to deny the hill peoples the opportunity to be completely Thai, most of which are based on national security. Muslims in southern Thailand who often try to represent themselves as Malay can easily be granted Thai citizenship while hill peoples who try to assimilate with lowland Thais find it difficult to get Thai nationality. Thus, the persons who acquire Thai nationality are included while persons who cannot be granted Thai nationality are excluded from social mechanisms.<sup>65</sup>

However, the social exclusion process are not finished yet even though those people have Thai nationality. In the case of hill peoples, the nature of their livelihood may be a basis for social exclusion. The indigenous nomadic or semi-nomadic lifestyle may be regarded as “inferior” by the rest of society. For this reason, their way of life causes them to be excluded from mainstream development. Even in cases where the hill peoples are integrated into Thai society, their opportunities and their life chances are much fewer than those of the lowland Thais. “The reliance of Hmong, Lisu, Akha or Lahu on swidden agriculture in upland forested areas is perceived to signify their “uncivilized” way of life, in contrast to the settled wet rice cultivation practiced by lowland Thais.”<sup>66</sup> “Highland men and women have to work as a labor in lowland towns with little education and relevant skills, so they can get only low-paid jobs. Some women become prostitutes both voluntary and forced.”<sup>67</sup> Some of them got HIV infection as a result. Moreover, the culture and way of life of

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<sup>65</sup> Pasuk Phongpaichit, Challenging Social Exclusion: Rights and Livelihood in Thailand, International Institute for Labour Studies, United Nations Development Programme, 1996, pp.23-27.

<sup>66</sup> Naila Kabeer, Social Exclusion and the MDGs: The Challenge of “Durable Inequalities” in the Asian Context, Asia 2015 Conference on Promoting Growth, Ending Poverty, held in London, 2006, p.9.

<sup>67</sup> Naila Kabeer, Social Exclusion and the MDGs: The Challenge of “Durable Inequalities” in the Asian Context, Asia 2015 Conference on Promoting Growth, Ending Poverty, held in London, 2006, p.9.

the hill peoples have been commercialized by tourism, which has led to the fragmentation of the hill people's cultures.<sup>68</sup>

Gaining Thai nationality or Thai citizenship is not the final answer. To have Thai citizenship does not mean an escape from the social exclusion process. The person are still excluded or marginalized when he/she cannot access resources or is denied of their rights.

## 2.6 Ethnicity

*“Man is separated from man, not only by real or assumed physiological traits, but by differences of group traditions, national or regional or religious, that may or may not be associated with biological distinctions”*<sup>69</sup> Groups whose members share a unique social and cultural heritage passed on from one generation to the next are known as “ethnic groups”. Ethnic groups are frequently identified by distinctive patterns of family life, language, recreation, religion, and other customs that cause them to be differentiated from others.<sup>70</sup>

According to **Scott and Marshall**, ethnic groups are “individuals who consider themselves or are considered by others, to share common characteristics that differentiate them from the other collectivities in a society, and from which they develop their distinctive cultural behavior form an ethnic group.” The term ethnicity is different from race which is often seen in biological terms. James explains that “members of an ethnic group may be identifiable in terms of racial attributes, but they may also share other cultural characteristics such as religion, occupation, language, or politics. Ethnic groups should also be distinguished from social class, since membership generally cross-cuts the socio-economic stratification within society, encompassing individuals who share common characteristics that supersede class. The Jews in the United States thus constitute a typical ethnic group, since they include

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<sup>68</sup> Pasuk Phongpaichit, Challenging Social Exclusion: Rights and Livelihood in Thailand, International Institute for Labour Studies, United Nations Development Programme, 1996, pp.26-27.

<sup>69</sup> Robert M. MacIver and Charles H. Page, Society: An Introductory Analysis, 1949, p.386. Quoted in Peter I. Rose, They and We: Racial and Ethnic Relations in the United States, 1990, p.6.

<sup>70</sup> Max Weber, Economic and Society, 1968, pp. 387-398. Quoted in Peter I. Rose, They and We: Racial and Ethnic Relations in the United States, 1990, p.6.

individuals of different racial origins, social classes, mother-tongues, political beliefs, and religious commitment, yet still consider themselves to share a common Jewish identity that distinguishes them from, while not necessarily placing them in opposition to, wider American society.”<sup>71</sup>

“Ethnicity is the state of being ethnic, or belonging to an ethnic group. While some nations may be called ‘ethnic nations’, there are ethnic groups who do not claim to be nations. The difference may be found in the character of ethnic politics compared with nationalist politics. Nationalism focuses on ‘national self-determination’, or home rule in a national territory. Ethnic politics in contrast are largely concerned with the protection of rights for members of the group within the existing state, with no claim for a territorial ‘homeland’.”<sup>72</sup>

To discuss further the concept of the ethnic group, the idea of **Ferdinand Tönnies** is relevant. He divided the character of ethnic groups into two concepts which are *gemeinschaft* and *gesellschaft*. He defines *gemeinschaft* as “relations are essentially relations of the heart; they are based on sentiment, kindness, and faithfulness.” In contrast, *gesellschaft* relations are “essentially those of the head; they are based on deliberation, calculation, and ambition in which individuals seek to achieve their own ends and purposes.” *Gesellschaft* is best represented by the city, special-purpose associations, the state, and the metropolis in which convention, contract, legislative law, and public opinion provide the bases for order, law, and morality. In contrast, *gemeinschaft* is governed by understanding, concord, custom, and belief or creed. Moreover, *gemeinschaft* is depicted into three kinds: that of blood, of place, and of mind. The *gemeinschaft* of blood is identified with kinship and the biological ties that bind human beings into a common genetic pool. The *gemeinschaft* of place results from the sharing of territory that produces “collective ownership of land”. The *gemeinschaft* of mind is reflected in common values, ideals, and bonds that come to be expressed through sacred beliefs and to be represented by sacred places and worshipped deities.”<sup>73</sup> Tönnies’s *gemeinschaft* provides a conceptual setting in which we can locate the ethnic group. As E. K. Francis says, “If

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<sup>71</sup> James G. Kellas, *The Politics of Nationalism and Ethnicity*, 1998, pp.5-6.

<sup>72</sup> James G. Kellas, *The Politics of Nationalism and Ethnicity*, 1998, p.6.

<sup>73</sup> Benjamin B. Ringer and Elinor R. Lawless, *Race-Ethnicity and Society*, 1989,



we adopt for the moment Ferdinand Tönnies' typological dichotomy *Gemeinschaft* and *Gesellschaft*, we would have to classify an ethnic group as a rather pure type of *Gemeinschaft*".<sup>74</sup>

**Max Weber** observed that "members of ethnic group who may or may not be racially different from the dominant group have a common cultural heritage and they share their sense of belonging based on national origin, language, religion, and other cultural attributes."<sup>75</sup> While ethnicity and race are related concepts, the concept of ethnicity is rooted in the idea of social grouping, marked especially by shared nationality, tribal affiliation, genealogical relationships, religious identification, language use, or specific cultural and traditional origins, whereas race is rooted in the idea of a biological classification. Moreover, "ethnic group" has been used more frequently to include the three elements of race, religion, and national origin.<sup>76</sup>

"An ethnic group may overlap or even coincide with a nation especially when national identity is defined primarily in terms of common origin. Members of nations may also identify with each other, often presuming common ancestry, and are generally recognized by others as a distinct group with a specific name. Nations tend to have a common identity: mostly cultural, usually linguistic, and sometimes religious. An ethnic group that is also a nation may be the titular nation of a nation-state. Some ethnic groups have no sovereignty. In the West, the notion of ethnicity, like race and nation, developed in the context of European colonial expansion, when mercantilism and capitalism were promoting global movements of populations at the same time that state boundaries were being more clearly and rigidly defined. In the nineteenth century, modern states generally sought legitimacy through their claim to represent "nations." Nation-states, however, invariably include populations that have been excluded from national life for one reason or another. Members of excluded groups, consequently, will either demand inclusion on the basis

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<sup>74</sup> Benjamin B. Ringer and Elinor R. Lawless, Race-Ethnicity and Society, 1989, p.3.

<sup>75</sup> Vincent N. Parrillo, Understanding Race and Ethnic Relations, 2002, p.13.

<sup>76</sup> Milton Gordon, Assimilation in American Life, 1964, p.27. Quoted in Vincent N. Parrillo, Understanding Race and Ethnic Relations, 2002, p.14.

of equality, or seek autonomy, sometimes even to the extent of complete political separation in their own nation-state.”<sup>77</sup>

“Sometimes ethnic groups are subject to prejudicial attitudes and actions by the state or its constituents. In the twentieth century, people began to argue that conflicts among ethnic groups or between members of an ethnic group and the state can and should be resolved in one of two ways. Some, like Jürgen Habermas and Bruce Barry, have argued that the legitimacy of modern states must be based on a notion of political rights of autonomous individual subjects. According to this view the state ought not to acknowledge ethnic, national or racial identity and should instead enforce political and legal equality of all individuals. Others, like Charles Taylor and Will Kymlicka argue that the notion of the autonomous individual is itself a cultural construct, and that it is neither possible nor right to treat people as autonomous individuals. According to this view, states must recognize ethnic identity and develop processes through which the particular needs of ethnic groups can be accommodated within the boundaries of the nation-state.” This is the nationalist viewpoint.<sup>78</sup>

The concept of ethnicity lets us think about the concept of boundary which draw a line divided territory of us and the others. Thus, to identify who is our group creates the sense of the same group while at the same time it creates the image of our enemies or the others who are not like us. “The boundary around an ethnic group separates a “*we*” on one side from a “*they*” on the other.”\* Benjamin and Elinor identify four kinds of we-ness and they-ness situations that characterize relations between an ethnic or racial group and the larger society. These four situations are summarized in the following table<sup>79</sup>

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<sup>77</sup> “Ethnic group”, Available from [www.wikipedia.org](http://www.wikipedia.org).

<sup>78</sup> “Ethnic group”, Available from [www.wikipedia.org](http://www.wikipedia.org).

\* In an article entitled, “The We-They Character of Race and Ethnicity”, Benjamin B. Ringer and Elinor R. Lawless described that it shall henceforth use the term *They* as the label outsiders bestow on an ethnic group, and it shall use the term *Them* as the label an ethnic group gives to outsiders. Benjamin B. Ringer and Elinor R. Lawless, Race and Ethnicity and Society, 1989, p.19.

<sup>79</sup> Benjamin B. Ringer and Elinor R. Lawless, Race and Ethnicity and Society, 1989, p.25.

Table 1: Types of ethnic situations as defined by internal and external definitions of distinctiveness.

Ethnic group definition of We-ness	Societal designation of They-ness	
	yes	no
High	- First and second generation national origin groups - Religious groups (1)	-Secret societies: Marranos of Spain -Jews in Nazi Germany (3)
Low	-Racial groups in early days of colonial conquest by White Europeans (2)	-“National Identity”: Fourth-generation Irish (4)

Source: Benjamin B. Ringer and Elinor R. Lawless, Race and Ethnicity and Society, 1989

In cell (1), we find agreement over the distinctiveness of the ethnic group; to the ethnic group, a clear sense of we-ness to the larger society, a clear-cut designation of they-ness. The examples in cell 1 would be the immigrant national origins groups and religious ethnic groups. In cell (2), we find that society clearly designates this category of people as a they, though the group itself may have no real sense, at least initially, of being a we. The most significant examples for this cell would be non-White racial groups in the early days of colonial conquest by White Europeans. In time many of these groups, as in the case of the black and the American Indian in the New World, developed a strong sense of we-ness and took on the other internal characteristics of an ethnic group. As a result, their defining features today are virtually indistinguishable from those that characterize the national-origin and religious groups of cell (1).

In cell (3), we find a more deviant type of situation in which, despite societal efforts to make a non-they of an ethnic group, the group nevertheless persists in trying to maintain its cohesion and we-ness. In cell (4), it takes us outside of an ethnic situation; for neither society nor the ethnic group retains a sense of

distinctiveness about the group. The ethnic group has ceased to exist as a distinctiveness entity and has become absorbed into a larger national identity.<sup>80</sup>

Thailand is a society of cultural diversity. Thailand constitutes many ethnic groups. Some of them are assimilated into Thai society both by their culture and their biology such as the Chinese in Thailand. Others try to assimilate into Thai society but still lack absolute acceptance by the Thais, such as hill peoples. This acceptance not only means perception, but also expands to acceptance in law concerning nationality which will guarantee those hill peoples becoming complete Thai citizens. It is true that the majority or the dominant group is the decide that who is appropriate to be assimilated. To grant nationality is the good choice for the assimilation process. However, it depends on the perspective of the dominant group to enforce the law to regulate it.

Nevertheless, pointing out who will be labeled as the stranger or in the inferior position relies on “*ethnocentrism*”. Ethnocentrism is “a view of things in which one’s own group is the center of everything, and all others are scaled and rated with reference to it”.<sup>81</sup> Ethnocentrism often suggests that the way something is done in other societies is inferior to the way it is done in one’s own society. As a result of ethnocentrism, people usually view their own cultural values as somehow more real than and therefore superior to those of other groups, and they prefer their own way of doing things. The people of the past civilization is the ample evidence to consider their cultures as inferior, incorrect and immoral. The concept of “we” and “they” is created by ethnocentrism; the assumption that *we* are better than *they* are generally results in outgroups or outsiders who become an objects of ridicule, contempt, or hatred. Such attitudes may lead to stereotyping, prejudice, discrimination, and even violence.<sup>82</sup>

‘Ethnic group’ and ‘ethnocentrism’ are comparable to ‘nation’ and ‘nationalism’ respectively. “The difference between them is that ‘ethnic group’ is more narrowly defined than ‘nation’, and ‘ethnocentrism’ is more rooted in social

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<sup>80</sup> Benjamin B. Ringer and Elinor R. Lawless, Race and Ethnicity and Society, 1989, p.26.

<sup>81</sup> William Graham Sumner, Folkways, 1906, p.13. Quoted in Vincent N. Parrillo, Understanding Race and Ethnic Relations, 2002, p.14.

<sup>82</sup> Vincent N. Parrillo, Understanding Race and Ethnic Relations, 2002, pp.14-16.

psychology than is 'nationalism', which has explicitly ideological and political dimensions. Ethnic groups are generally differentiated from nations on several dimensions: they are usually smaller; they are more clearly based on a common ancestry; and they are more pervasive in human history, while nations are perhaps specific to time and place. Ethnic groups are essentially **exclusive or ascriptive**, meaning that membership in such groups is confined to those who share certain inborn attributes. Nations on the other hand are more **inclusive** and are culturally or politically defined. However, it is often possible to trace the origins of nations and nationalism to ethnic groups and their ethnocentric behavior.”(Kohn, 1944; Smith,1986)<sup>83</sup>

Ethnocentrism is also an important factor determining majority and minority groups in society, which will be demonstrated in the next section.

## 2.7 Majority and Minority Groups

The term 'ethnicity' is related to determining the majority-minority relations because within the ethnic group, there is a hierarchical arrangement. “In this linear relationship, ethnic groups emerge in which one establishes itself as the dominant group, with maximum power and prestige. Other, subordinate, ethnic groups exert less power and receive less of the society's rewards, corresponding to their place in the hierarchy, extending down to the lowest-ranking groups, which may wield little power and receive little in the way of rewards.”<sup>84</sup> Culture and physical appearance are the criteria which determine the group ranking between the dominant and subordinate groups. Generally, the dominant group is in a high-ranking position while the subordinate is on lower ranking. A system of ethnic stratification is a rank order of groups, each made up of people with presumed common cultural and physical characteristics, interacting in patterns of dominance and subordination.<sup>85</sup> What is the ruler measuring the majority (dominant) and minority (subordinate) group? **John E. Farley** suggested that “firstly, the majorities and minorities are frequently determined by race and ethnicity, but they can also be determined by many other factors such as sex, physical disability, lifestyle, or sexual orientation

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<sup>83</sup> Quoted in James G. Kellas, *The Politics of Nationalism and Ethnicity*, 1998, p.6.

<sup>84</sup> Martin N. Marger, *Social Inequality: Pattern and Process*, 2005, p. 255.

<sup>85</sup> Martin N. Marger, *Social Inequality: Pattern and Process*, 2005, p. 255.



(homosexuality or heterosexuality).”<sup>86</sup> Secondly, majority and minority are determined by arithmetic. It is quite possible for a group to be a numerical majority but still a minority group in the sociological sense. For instance, in South Africa, over eighty percent of the population is black but the political system was completely under the control of a White minority.

What groups should be called dominant or subordinate?

**R. A. Schermerhorn** suggested that to understand best what he calls “dominant-subordinate relationships”, it is necessary to think about two main issues: relative size and relative power. Schermerhorn divided the dominant and subordinate groups into sub-categories. First, there are mass subjects and minorities. These are portrayed in the following table:<sup>87</sup>

Table 2: Dominant groups

<b>Dominant groups</b>			
	<i>Size</i>	<i>Power</i>	
<b><u>Group A</u></b>	+	–	<b>Majority</b>
<b><u>Group B</u></b>	–	+	<b>Elites</b>

Source: Peter I. Rose, *They and We: Racial and Ethnic Relations in the United States*, 1990, p.9

Table 3: Subordinate groups

<b>Subordinate groups</b>			
	<i>Size</i>	<i>Power</i>	
<b><u>Group C</u></b>	+	–	<b>Mass subjects</b>
<b><u>Group D</u></b>	–	–	<b>Minority</b>

Source: Peter I. Rose, *They and We: Racial and Ethnic Relations in the United States*, 1990, p.9

From the table above, within the dominant group, it is divided to the majority and elites. The dominant groups that have power and can exert their power even are small group are the so-called elites. It can be argued that size alone cannot

<sup>86</sup> John E. Farley, *Majority-Minority Relations*, 2000, p.12.

<sup>87</sup> R. A. Schermerhorn, *Comparative Ethnic Relations: A Framework for Theory and Research*, 1970, pp.12-13. Quoted in Peter I. Rose, *They and We: Racial and Ethnic Relations in the United States*, 1990, p.9.

determine who the dominant group is; that group's power has to be considered as well.

According to the Encyclopedia of Sociology, a majority group is “a group comprising more than fifty percent of a social unit or population. Sometimes, however, the term is used to refer to the largest of three or more discrete groups within one unit. When the distinctions between majority and minority groups are readily identifiable on the basis of physical characteristics, problems of racial and ethnic relations may arise, and the majority group may be tempted to take advantage of its position to secure a privileged status for its members.”<sup>88</sup>

“The dominant is the majority group, the group at the top of the ethnic hierarchy, with maximal access to the society's power resources, particularly political authority and control of the means of economic production. Of course, this does not mean that all of the majorities will be classified as the dominant ethnic group who enjoy equally great wealth and power advantages. There are some members of the dominant ethnic group who occupy disproportionately such positions.”<sup>89</sup> For example, Thais form the major ethnic group in Thailand, constituting a majority. But this does not mean that all Thais are members of the dominant group with access to resources or authority. We can argue that within the majority group, there are both dominant and subordinate groups. In addition to greater economic and political power, the dominant group has much cultural power: “Its norms and values prevail in the society as a whole and become the society's standards and the minority groups are expected to acculturate to the dominant group's customs and ideals.”<sup>90</sup>

An ethnic stratification system creates the criteria identifying who is appropriate to be a dominant group. At the same time, the sense of the otherness happens. The opposite of the dominant group is the subordinate group who has less power or authority. A subordinate group, mostly, is a minority group whose physical and cultural traits exert less power and receive fewer of the society's rewards than does the majority group (dominant group). In a classic definition, sociologist Louis Wirth defined a minority group as “*a group of people who, because of their physical*

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<sup>88</sup> Encyclopedia of Sociology, 1974, p.163.

<sup>89</sup> Martin N. Marger, Social Inequality: Pattern and Process, 2005, p.258.

<sup>90</sup> Martin N. Marger, Social Inequality: Pattern and Process, 2005, p.258.

*or cultural characteristics, are singled out from the others in the society in which they live for differential and unequal treatment, and who therefore regard themselves as objects of collective discrimination.”*<sup>91</sup>

According to Martin N. Marger, the members of minority groups occupy poorer jobs, earn less income, live in less desirable areas, receive inferior education, exercise less political influence, and are subjected to various social indignities. These inequalities are the result of the social mark which is distinguished by the physical and cultural features. Wirth also pointed out that the minority group members themselves are conscious of the fact that they are differentially treated. As mentioned above, the meaning of minority group does not depend on an arithmetical definition. There is no necessary relation between numbers and a group's minority status. For example, the eighty percent Black population in South Africa is defined to be a minority group even though they are the numerical majority. Essentially, minority groups are afforded unequal treatment because they lack the power to negate or counteract discriminatory practice. Thus, the status of minority or majority is a result of differences in societal power not quantity.

Stateless people are not officially recognized as citizens of any country. They face with discriminatory practices and prejudice from the majority group like other minorities. Therefore, stateless people are recognized as a minority. Their opportunities are less than those of other minorities. Stateless people are called a doubly marginal group in Thai society because they lack both nationality and basic civic rights.

The relationship of majorities and minorities can be realized in many ways. As mentioned already, most reactions of the majority are expressed by discriminatory practices through prejudicial attitudes. Minority groups are always treated as inferior. Nevertheless, the majority group express not only hostility, , but also welcoming tolerance, indifference or condescension .

According to “Dominant-Minority Relations” of Vincent N. Parrillo, the dominant group may take action against the minority group as follows<sup>92</sup>:

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<sup>91</sup> Martin N. Marger, Social Inequality: Pattern and Process, 2005, pp.255-256.

<sup>92</sup> Vincent N. Parrillo, Understanding Race and Ethnic Relations, 2002, pp.110-113.

## **Dominant-Group Responses**

### **1. Legislative Controls**

The majority group may react to the minority group through controlling the law. Mostly, legislative controls are used against the influx of immigrants. The host may enact measures to regulate and restrict their entry. These laws or regulations are released to exclude or curtail the number of immigrants. Generally, the dominant group frequently restricts the subordinate group's educational opportunities. This denial assures the dominant group of maintaining its system of control. For example, of educational opportunity for the Chinese was restricted to in the administration of Phibulsongkram. The Thai culture program was extended to areas of language use, requiring all Thai nationals to know and use the Thai language. It was aimed specifically at local-born Chinese (and Malays) who had never learned or did not habitually use Thai. Skinner states that "the ninth Rattaniyom was the signal for a mass closure of Chinese schools, on one pretext or another, throughout the country. By the end of 1940, there were no Chinese schools as such in operation outside Bangkok. In the capital itself, the number was reduced to two by 1941."<sup>93</sup>

### **2. Segregation**

Segregation is "the policy of containment avoiding social interaction with members of a minority group as much as possible and keeping them "in their place." This containment policy can create both spatial and social segregation. Spatial segregation is the physical separation of a minority group from the rest of society. Mostly, it takes place in residential patterns, but also in education, in the use of public facilities, and in occupations. The majority group may institutionalize this policy by law (de jure segregation) or through practice (de facto segregation)."<sup>94</sup> For example, the Chinese in Phibulsongkram's government were barred from Lopburi, Prachinburi, Nakornrachasima, Ubon Ratchathani, Warinchamrap (across the river from Ubon) and the district of Sattahip in Chonburi province, as strategic 'prohibited areas'. Coughlin's book states that "aliens were forbidden to enter, and those already residing

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<sup>93</sup> G. William Skinner, Chinese Society in Thailand: An Analytical History, 1957, p.269.

<sup>94</sup> Vincent N. Parrillo, Understanding Race and Ethnic Relations, 2002, p.111.

in these areas were forced to leave within ninety days. As a result, the Chinese might to sell out or at least close up shop before evacuating.<sup>95</sup>

“Social segregation involves confining participation in social, service, political, and other types of activities to members of this ingroup. The outgroup may be excluded from any involvement in activities by the ingroup. Segregation, whether spatial or social, may be voluntary or involuntary. Minority group members may choose to live by themselves rather than among the dominant group. On the other hand, minority groups may have no choice about where they live because of economic or residential discrimination.”<sup>96</sup>

### **3. Expulsion**

Expulsion is a method which will come after other methods fail. Sometimes expulsion is not even a last resort. When the dominant group feels intolerant, they may persecute the minority group or eject it from the territory where it resides.

### **4. Xenophobia**

Xenophobia takes place when the dominant group has a suspicion and fear of the minority group. The dominant group may produce volatile, irrational feelings and actions. This almost hysterical response is reflected in print, speeches, sermons, legislation, and violent actions which simultaneously begin with ethnocentrism. It encourages the creation of negative stereotypes which invite prejudice and discrimination and can escalate through some catalyst into a highly emotional reaction in turn.

### **5. Annihilation**

Annihilation is the practice of killing all members of a particular group. Annihilation brings to the term genocide such as the Nazi extermination of more than six million Jews.

On the contrary, the minority group has many responses to the majority's action as follows:

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<sup>95</sup> Richard J. Coughlin, Double Identity: The Chinese in Modern Thailand, 1960, pp.24-26.

<sup>96</sup> Vincent N. Parrillo, Understanding Race and Ethnic Relations, 2002, pp.111-112.



## **Minority-Group Responses**

### **1. Avoidance**

Vincent states that avoidance is a process that “the minority groups create a miniature version of their familiar world in the strange land. They establish a safe place where they can live, relax, and interact with others like themselves who understand their needs and their interests. This approach insulates them from antagonistic actions by the dominant group, but it also promotes charges of ‘clannishness’ and ‘non-assimilation’.”<sup>97</sup>

### **2. Deviance**

Deviant conduct of minority group takes place by reference to the dominant group’s norms. The norm, standards or law of majorities are defined by dominant group’s conduct which make other behavior deviant. Deviant behavior among subordinate group occurs not because of race or ethnicity, but also because of poverty and lack of opportunity. Lack of nationality is also an important factor leading people to an absolute deviance.

### **3. Defiance**

Defiance is the reaction when the minority group defies and struggles against the majority’s discriminatory practices. In defying discrimination, the minority group takes a stance regarding its position in the society such as by challenging laws in court.

### **4. Acceptance**

The acceptance of the majority’s order may cause consternation to the minority group. Sometimes minority groups have to accept involuntarily. Sometimes they accept it through false consciousness which is “a consequence of the dominant group’s control over sources of information. Acceptance is the best reaction which can diminish the open tensions and conflicts between the two groups even if this reaction maintains the superior position in society of the dominant group and the inferior position of the minority group.”<sup>98</sup>

In addition, according to Vincent, the inferior position of the minority groups leads to four possible consequences:

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<sup>97</sup> Vincent N. Parrillo, Understanding Race and Ethnic Relations, 2002, p.100.

<sup>98</sup> Vincent N. Parrillo, Understanding Race and Ethnic Relations, 2002, pp. 99-105.

## **Consequences of Minority-Group Status**

### **1. Negative Self-Image**

Negative self-image or self-hatred is “a common consequence of prejudice and discrimination. Continual treatment as an inferior encourages the minority groups to lose their self-confidence. A person will easily become apathetic if they work with low pay, stay in substandard housing, face the hostility of others, and are denied assistance from government officials. The pervasiveness of dominant group values and attitudes which include negative stereotypes of the minority group may cause the minority group member to absorb them. A person’s self-image includes race, religion, and nationality. The individuals thus may feel embarrassed and inferior if they see that one or more of the attributes they possess are despised within the society. As a result, the minority group members begin to negatively perceive themselves as the dominant group did.”<sup>99</sup> Negative self-image causes people to accept their fate passively. However, the minority group members may attempt to overcome their negative self-image by changing their name, religion or nationality.

### **2. The vicious circle of continued discrimination**

Sometimes the relationship between prejudice and discrimination is circular. It refers to the cumulative causation in which prejudice and discrimination perpetuate each other. In this consequence, the dynamics of the relations between dominant and minority groups set in motion a cyclical sequence of reciprocal stimuli and responses. For example, the minority groups have to work in inferior positions because of the dominant group’s discriminatory practices. They work in low paying jobs, which leads them to poverty. This reinforces the attitude that the minority groups are inferior, in turn leading more discrimination.

### **3. Status as middleman minorities**

Hubert Blalock suggested that the minority group is not always in a low-status position. He suggested that the middleman minorities are minority group members “who are in an intermediation between the dominant and subordinate. Middleman groups often serve as buffers, and hence experience hostility and conflict

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<sup>99</sup> Vincent N. Parrillo, Understanding Race and Ethnic Relations, 2002, pp.105-106.

from above and below. Sometimes, they become scapegoats for the economic turmoil in those societies.”<sup>100</sup>

#### 4. Marginality

Frequently, minority group members find themselves caught in a conflict between their own identity and behaving in the way to gain acceptance by the dominant group. In this situation, marginality usually arises when a member of minority group is passing through a transitional period. Marginality occurs in the attempt to enter the mainstream of society. The marginal persons feel that they do not belong to the dominant group’s society or are not accepted by the dominant group’s cultural patterns. According to Robert E. Park, this situation causes “the marginal person whether an adult or child, to suffer anxiety over a conflict of values and loyalties. Adults may leave the security of their cultural group, and thereby risk being labeled renegades by their own people. They try to contact members of the dominant group despite realizing that they will be viewed as the outsiders. Marginal adults often have an experience with the feeling of frustration, hypersensitivity, and self-consciousness.”<sup>101</sup> Immigrant children are completely marginalized. They find themselves caught between two places, the old place they left and the new place where they are staying. They quickly learn that the dominant group views their parent’s way of life as inferior.<sup>102</sup>

#### 2.8 The marginal person: The victims of social exclusion

The marginalization term is interchangeable with the euphemism of social exclusion. The marginal people are defined by social construction or sometimes because of their livelihood. Marginal people are denoted as victims because they are stigmatized in an inferior position without any voice and fight. Some of them do not lack economic power but are not fully accepted by society because their behavior is outside social norms. Some of them are constructed declared to be risks to national

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100 Vincent N. Parrillo, Understanding Race and Ethnic Relations, 2002, pp.106-107.

101 Quoted in Vincent N. Parrillo, Understanding Race and Ethnic Relations, 2002, p.107.

102 Vincent N. Parrillo, Understanding Race and Ethnic Relations, 2002, pp.105-108.

security despite their efforts to assimilate into the dominant group by sometimes abandoning their traditions in exchange for acceptance by the majority.

### 2.8.1 Hill tribes in northern Thailand

The hill tribes of northern Thailand were isolated from the Thai state and its institutions up to a decade or so after the Second World War. However, at that time, the hill tribes were not marginalized by the Thai state. “Marginalization as a process set in only when from the 1960s onward, steps were taken by the Thai authorities to incorporate the hill tribes, and the mountainous region into the Thai state.”<sup>103</sup> Many governmental institutions were established in tribal villages and the ‘*Thaiification*’ of the population was attempted by converting them to Buddhism and teaching them the Thai language. Some hill tribe groups were forced by the Thai state to move from the watersheds of the major rivers and settled in unoccupied, mainly marginal land in the lowlands. They came to lose their tribal culture because they adopted many of the ways of life of their Thai neighbors. They became culturally marginalized. Furthermore, hill tribe cultures are gradually destroyed by Thai lowlanders through Thai schools and tourism. Ken states that “the Thai school system erodes highlanders’ traditions and leads to a kind of ‘internal colonialism’ where tribe people become ashamed of their roots.”<sup>104</sup>

However, the hill tribes were apace being in the marginalization process from the 1970s onward because they became a popular touristic attraction. Hill tribe craft products became one of the most popular commercialized ethnic arts in Thailand and hill tribe tourism became a major and widely advertised business. It seems to be good for the hill tribes but in fact “the tribes are gradually deprived of the habitat in which their culture flourished and become socially and economically marginal, deculturated appendages of the national society, the glorified hill tribe image presented to the tourists becomes an ironic reversal of their pathetic predicament.”<sup>105</sup>

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<sup>103</sup> Ken Kampe, “Development, Bureaucracy and Life on the margins”, Marginalization in Thailand: Disparities, Democracy, and Development Intervention, 1992, p.162.

<sup>104</sup> Ken Kampe, “Development, Bureaucracy and Life on the margins”, Marginalization in Thailand: Disparities, Democracy, and Development Intervention, 1992, p.163.

<sup>105</sup> Erik Cohen, “The growing gap: Hill tribe image and reality”, Marginalization in Thailand: Disparities, Democracy, and Development Intervention, 1992, pp.166-167.

Actually, the hill tribe's identity has its definition. They are the ethnic groups who live in the mountains. Some of them are the indigenous people of Thailand while some of them migrated from neighboring countries. However, the hill tribes are also known as dirty, opium producers, the cause of natural disasters or drug dealers. These are ethnic stereotypes or myths constructed by the Thai majority based on the nationalistic sentiments, racism and discrimination and belong to the discourse of marginalization created by the dominant group in the country. The hill tribes always are the scapegoats of the discourse of marginalization. Moreover, this discourse is popularized by the mass media which increasingly emphasize to Thais that the hill tribes are ethnic minorities who destroy Thai natural resources, plant opium poppies, illegally smuggle timber and heroin and are a threat to national security. The presentation of a negative hill tribe identity is to emphasize and reproduce "*the otherness*" of the hill tribes which the Thai majority trusts is true.<sup>106</sup>

The hill tribes themselves are not only economically, socially and culturally marginalized, but they are also legally marginalized by Thai nationality law. Most of them lack the identity cards. They cannot gain Thai nationality because their parents are not Thai citizens, even though they are born in Thailand.

Furthermore, when the powerless hill tribes come into contact with the Thai lowlanders, the Thai lowlanders always react by looking down on the hill tribes. However, most of hill tribes choose to conceal their identity instead of fighting and present a positive side of their ethnic identity. Or they eventually try to assimilate to the lowland culture.<sup>107</sup>

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<sup>106</sup> Arunya Siripol, Opium and Hmong: Dynamical Diversity and Complexity of Marginal People's Identity, 2001, p.9.

<sup>107</sup> Prasit Leeprecha and Yanyong Trakarnthamrong, Concealment of Ethnic Identity: Impact of Ethnic Discrimination on Highland Ethnic Groups in Urban Chiang Mai, 2005, pp.17-18.



### 2.8.2 Stateless people: Doubly marginal persons

“A stateless person is someone who, under national laws, does not have the legal bond of nationality with any state.”<sup>108</sup> According to the UNHCR, “a stateless person is someone who is not recognized by any country as a citizen”.<sup>109</sup> A person may lose citizenship or nationality “because the state that gave their previous nationality has ceased to exist and there is no successor state, or their nationality has been repudiated by their own state, effectively making them refugees. People may also be stateless if they are members of a group which is denied citizen status in the country on whose territory they are born, if they are born in disputed territories, if they are born in an area ruled by an entity whose independence is not internationally recognized, or if they are born on territory over which no modern state claims sovereignty. Individuals may also become stateless voluntarily, by formally renouncing their citizenship while on foreign soil”.<sup>110</sup> “More than 11 million people around the world are stateless. These are individuals who do not have a legal bond of nationality with any state and includes people who have never acquired citizenship of their birth country or who have lost their citizenship and have no claim to citizenship of another state.”<sup>111</sup> Stateless people cannot vote, they cannot get jobs in most professions, they cannot own property or obtain a passport. These “stateless” persons face discrimination, sexual and physical violence and socioeconomic hardship. Often they are denied access to health care and education.<sup>112</sup>

The 1948 Universal Declaration of Human Rights asserts that “*everyone has the right to a nationality.*” But statelessness remains a reality in all regions of the world. “The exact numbers are not known, but a conservative estimate is 11 million stateless people around the world. They include groups whose situation is relatively well recognized, like Europe's Roma, the Palestinians and the Kurds, and groups whose plight is virtually unknown, like people from the former Soviet bloc,

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<sup>108</sup> Lynch, M., Lives on Hold: The Human Cost of Statelessness, 2005, p.3.

<sup>109</sup> “Stateless person”, Available from [www.unhcr.org](http://www.unhcr.org).

<sup>110</sup> “Stateless person”, Available from [www.wikipedia.org](http://www.wikipedia.org).

<sup>111</sup> “Stateless person”, Available from [www.refugeesinternational.org](http://www.refugeesinternational.org).

<sup>112</sup> Maureen Lynch, “The people who have no country”, Available from [www.globalpolicy.org](http://www.globalpolicy.org).

some of Thailand's ethnic groups, the Bhutanese in Nepal, Muslim minorities in Burma and Sri Lanka, and ethnic minorities of the Great Lakes region of Africa like the Batwa 'Pygmy' and the Banyamulenge."<sup>113</sup> A stateless person must face a plethora of problems. A stateless person falls into a condition of double marginality. Statelessness not only means that the person is not a citizen of any country, but also is denied the basic civic rights which are important for their livelihood. Moreover, the stateless people are rebelled that they are risks to national security. Thai law does not easily grant Thai nationality because of national security reasons. Therefore, most stateless people in Thailand fall into a marginalized condition because they have no basic rights of life.

A stateless person is marginal person due to their condition and the social discourse.

1. Stateless persons are the marginal persons in terms of geography. Normally, most of displaced persons settle near the border of a country far from the central power of state and people do not have access to government services.

2. Most stateless persons in Thailand came from Burma and settled in the northern region in ethnic minority villages. These ethnic groups practice and preserve their traditions, cultures and languages and their cultures are considered subcultures in Thailand.

3. Stateless persons are seen as marginal because they have no right to be the citizens of any country. They are denied get some basic rights as to meet their needs.

4. Stateless persons are labeled as risk groups and threats to national security. For example, displaced Burmese and hill tribes in Thailand are stigmatized by the Thai government as destructive to natural resources. The Hmong have been accused by Thai government officials as opium growers and the Karen are connected to a negative image of forest destruction.

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113 Maureen Lynch, "The people who have no country", Available from [www.globalpolicy.org](http://www.globalpolicy.org).

## CHAPTER III

### NATIONALITY, CIVIL REGISTRATION AND STATELESSNESS

#### 3.1 Nationality

The idea of nationality did not originate in Thailand but was imported from western countries. The word “Thai nationality” is found for the first time in the Nationality Act B.E. 2456 (1913 C.E.) in the reign of King Vajiravudh. This act was promulgated on April 10, 1913 by His Majesty the King with respect to all people on Thai territory. The first nationality act of Thailand therefore was not the result of a decision made by Parliament which was not established until 1932.<sup>1</sup> The Encyclopedia Americana defines nationality by culture and law. In its cultural definition, nationality refers to the culture, race, language and an ideology of individual or group of person. A person may be classified as Chinese or German regardless of her/his legal citizenship or nationality. Nationals can be identified by mutual characteristics of identity, such as language. In legal definition, nationality refers to the relationship between an individual and her/his state.<sup>2</sup>

In this legal sense, nationality affords the state jurisdiction over the person, and affords the person the protection of the state. Moreover, nationality is an instrument creating a sense of homogeneity, with respect to the group of same nationality, and at the same time a sense of heterogeneity or “the otherness” with respect to groups of different nationality. Individuals who hold a different nationality are classified as having a different race and characteristics and are treated in ways different from Thai citizens. Nationality is therefore a powerful tool to ostracize people who are different from the homogenous group. The Thai concept of nationality is often complicated. Some persons holding Thai nationality may have no ‘natural’ qualification such as race, skin color, language, or experience. For example, even though the Muslims in three southern provinces hold Thai nationality, their race, language, culture, and religion are similar to ethnic Malays in Malaysia. In the case of

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<sup>1</sup> Phunthip Kanchanachittra Saisoonthorn, “Nationality developments in Thailand and efforts engaged by the Thai government to reduce statelessness”, 25 May 2006, p.2.

<sup>2</sup> Encyclopedia Americana, Volume 19, p.787. Quoted in Somchai Preechasilpakul, Nitisart Chaikhob, 2005, pp.13-14.

Americans who have acquired Thai nationality by naturalization, this process cannot erase differences of skin color, or race.<sup>3</sup>

### 3.1.1 The principle of Jus Soli

*Jus soli* is the right by which nationality or citizenship can be claimed by any individual born in the territory of the related state. “At the turn of the nineteenth century, nation-states commonly divided themselves between those granting nationality on the grounds of *jus soli* (France, for example) and those granting it on the grounds of *jus sanguinis* ("right of blood") (Germany, for example).”<sup>4</sup> *Jus soli* refers not only to the territory of a country, but also ships and aircraft registered under its flag.<sup>5</sup>

Thai nationality law adopts the principle of *jus soli* but with a restriction that not everyone born on Thai soil will gain Thai nationality. According to Revolutionary Decree No. 337 of B.E. 2516 a person born within the Kingdom of an alien father or alien mother or whose father or mother, at the time of the person’s birth, was:

- (1) a person having been granted temporary residence in the Kingdom as a special case;
- (2) a person having been given permission to stay temporarily in the Kingdom;
- (3) a person having entered and resided in the Kingdom without permission under the immigration law;

would be deprived of their Thai nationality if born before this decree came into force and would be not granted Thai nationality after this decree came into force.<sup>6</sup>

Similarly, the Nationality Act B.E. 2508 (1965 C.E.) as amended by Acts B.E. 2535 (1992 C.E.) No. 2 Section 7 bis, adapted this Revolutionary Decree and stipulated the granting of Thai nationality to people born on Thai soil as follows:

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<sup>3</sup> Somchai Preechasilpakul, Nitisart Chaikhob, 2005, pp.11-12.

<sup>4</sup> “Jus Soli”, Available from [www.wikipedia.org](http://www.wikipedia.org).

<sup>5</sup> Ian Brownlie, Principles of Public International Law, 2001, p.393.

<sup>6</sup> Translated by the writer according to Revolutionary Decree No. 337 of B.E. 2516 in Thai original version.

A person born within the Thai Kingdom of alien parents does not acquire Thai nationality if at the time of her/his birth, her/his lawful father or her/his father who did not marry his mother, or his mother was:

- (1) a person having been granted temporary residence in Kingdom as a special case;
- (2) a person having been given permission to stay temporarily in the Kingdom;
- (3) a person having entered and resided in the Kingdom without permission under the immigration law.

In cases where the Minister deems it appropriate, s/he may consider an order for each particular case granting Thai nationality to any person under paragraph one, in conformity with the rules prescribed by the Cabinet.

A person who is born within the Thai Kingdom and has not acquired Thai nationality under paragraph one shall be deemed to have entered and resided in the Thai Kingdom without permission under the law on immigration unless an order is given otherwise according to the law on that particular matter.

However, the Nationality Act B.E. 2508 (1965 C.E.) as amended by Acts B.E. 2535 (1992 C.E.) No. 2 is more flexible than Revolutionary Decree No. 337 because a person will be not granted Thai nationality when her/his parents are aliens. Moreover, it also opens an opportunity to the Minister to make a decision to grant Thai nationality for each particular case.

### 3.1.2 The principle of *Jus Sanguinis*

*Jus sanguinis* is the right by which nationality or citizenship can be recognized to any individual born to a parent who is a national or citizen of that state. It contrasts with *jus soli*.<sup>7</sup>

Thailand adopted both principles of *jus soli* and *jus sanguinis* to identify Thai citizens.

According to the principle of *jus sanguinis*, Thai nationality will be given to a person born to a father or mother who has Thai nationality. This principle is not limited to births on Thai territory. It is not necessary that the Thai father and mother have registered their marriage.

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<sup>7</sup> “Jus sanguinis”. Available from [www.wikipedia.org](http://www.wikipedia.org).



According to the principle of *jus soli*, persons born on Thai territory will be granted Thai nationality as those persons are attached to their place of birth. Nevertheless, not everyone born in Thai territory will be granted Thai nationality. Children born of Burmese refugees in Thai territory are not granted Thai nationality because they were born to illegal aliens. Moreover, the principle of *jus soli* in Thailand does not easily give Thai nationality. Restrictions on the application of *jus soli* in Thailand are based on issues of national security.

However, Thai law accepts as Thai citizens all persons qualified in terms of both *jus soli* and *jus sanguinis*, Thai law, believes that *jus sanguinis* can prove Thai nationality better than *jus soli*.<sup>8</sup>

### 3.1.3 Naturalization

A person can get nationality by birth on the principle of *jus soli* and/or *jus sanguinis*. After birth, a person can also obtain nationality by naturalization. The word “naturalization” first appeared in Thai law in the reign of King Vajiravudh in Naturalization Act B.E. 2454 (1911 C.E.). Naturalization is defined as “*an act whereby a person acquires a citizenship different from that person’s citizenship at birth.*”<sup>9</sup> A person not born in a particular country can become an official citizen of that country through naturalization. Naturalization is commonly associated with migrants or refugees who have immigrated to a country and resided there as aliens. Most naturalization is voluntary but can be involuntary when the borders of a country is adjusted or a territory is annexed.

According to the Naturalization Act B.E. 2454 (1911 C.E.), naturalized citizens can get the same basic civic rights as Thai-born citizens. Nowadays, Thai state permits aliens to gain Thai nationality by naturalization, which requires the following five qualifications:

1. becoming *sui juris* in accordance with Thai law and the law under which s/he has nationality.
2. having good behavior.
3. having regular occupation

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<sup>8</sup> Phunthip Kanchanachittra Saisoonthorn, The Collection of Thai law in accordance with Thai Nationality Law from the past to the present, 2001, p.82.

<sup>9</sup> “Naturalization”, Available from [www.wikipedia.org](http://www.wikipedia.org).

4. having a domicile in the Kingdom for a consecutive period of not less than five years up to the day of filing the application for naturalization.
5. having knowledge of Thai language as prescribed in the regulations

### **3.1.4 The evolution of Thai nationality law**

The political system of Thailand before 1932 was an absolute monarchy. The King used his power and authority to govern the people loosely. National territory was not clearly demarcated. The people in Thailand were classified into many ethnic groups such as Laotians, Laogao, Malayu, or Karen without considering nationality. Ethnic diversity did not affect the existence of the Thai state. On the contrary, it was a symbol of the greatness of the leader.<sup>10</sup>

Thai nationality law was first established in the Naturalization Act B.E. 2454 (1911 C.E.) in the reign of King Vajiravudh. The definition of “nation” was much changed after the political revolution of 1932. The definition of nationality transformed to a relationship between a person and the state, rather than emphasizing only on the institution of the monarchy. Therefore, nationality is a concept which was created simultaneously with the nation-state. In the beginning, nationality was an instrument to merge the people of diverse ethnicity under state power by reducing cultural diversity. Nevertheless, at present, nationality has become an important tool for identifying who is different from the majority in the state.<sup>11</sup>

#### **3.1.4.1 First era: Naturalization Act B.E. 2454 (1911 C.E.)**

Thai nationality was first established by the Naturalization Act in B.E. 2455 during the reign of King Vajiravudh. Nationality was linked to the political ideology of absolute monarchy, as is clearly seen in the Naturalization Act B.E. 2454 (1911 C.E.). In Thai customary law, the Thainess of people could occur in three ways: 1. to be Thai by father’s blood; 2. to be Thai by mother’s blood; 3. to be Thai by the King’s command.

The Naturalization Act was created at the King’s initiatives. King Vajiravudh considered that there were many aliens who wished to become Thai. His Majesty thus granted the Ministry of Foreign Affairs the duty to permit an alien to

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<sup>10</sup> Somchai Preechasilpakul, Nitisart Chaikhob, 2005, p.19.

<sup>11</sup> Somchai Preechasilpakul, Nitisart Chaikhob, 2005, p.27.

become Thai through a naturalization process. However, the aliens who had the right to acquire Thai nationality were the persons who were already assimilated to Thai society or had the potential to be assimilated in the future. Notwithstanding, there was no law or policy which gave special protection to Thais or aliens. There was no a problem concerning statelessness or stateless people in the period before the promulgation of naturalization act.<sup>12</sup>

### **3.1.4.2 Second era: Nationality Act B.E. 2456 (1913 C.E.)**

The Nationality Act B.E. 2456 (1913 C.E.), also enacted by King Vajiravudh, came into force on 10 April 1913 and was repealed on 12 February 1952. Under this law, a person obtained Thai nationality under five conditions: 1. from a lawful Thai father. 2. from a lawful Thai mother. 3. by birth on Thai territory. 4. by marriage. 5. by naturalization.

The Naturalization Act B.E.2454 (1911 C.E.), and Nationality Act B.E.2456 (1913 C.E.), may have resulted from the King's experience of traveling in Europe during the reign of King Chulalongkorn. His Majesty considered the violent conflicts between ethnic groups in European society which finally brought about the collapse of Russia. King Chulalongkorn analyzed his experience and developed many ideas to prevent ethnic conflict in Thai society, which finally led to the development of the concept of nationality. Thai nationality law of 1913 granted Thai nationality to a person born of alien parents regardless of their status with respect to manner of entry into the country or their right of residence. In conclusion, the 1913 Nationality Act had no restrictions on granting Thai nationality even to aliens. Both the 1913 Naturalization Act and the 1911 Nationality Act led to the assimilation of aliens into Thai society and allowed aliens and their children to obtain Thai nationality for a period of forty years.<sup>13</sup>

With respect to statelessness, the 1913 Nationality Act gave Thai nationality to any child born on Thai territory and the 1911 Naturalization Act permitted the aliens to acquire Thai nationality including those who might be

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<sup>12</sup> Phunthip Kanchanachittra Saisoonthorn, "Nationality developments in Thailand and efforts engaged by the Thai government to reduce statelessness", 25 May 2006, pp.3-4.

<sup>13</sup> Phunthip Kanchanachittra Saisoonthorn, "Nationality developments in Thailand and efforts engaged by the Thai government to reduce statelessness", 25 May 2006, pp.5-6.

stateless. Thus, under these nationality laws statelessness would not occur. For example, Chinese born in their motherland without civil registration would be stateless in their own country. When they migrated to Thailand, they had the opportunity to be naturalized which removed their statelessness. However, many Thai people born under the 1913 Nationality Act still face statelessness as a result of a lack of civil registration for themselves or their parents. Thailand passed the first Civil Registration Act in 1956. However, there are people with no civil registration which may result from; 1. temporary absence at the time of a census or 2. residence in a remote area where no census was taken.<sup>14</sup> Many Thai-born stateless people can be found today, particularly in the northern areas. Those people are an original Thai people born on Thai soil who missed out on civil registration even though they were born under of the 1913 Nationality Act.

### **3.1.4.3 Third era: Nationality Acts B.E. 2495 (1958 C.E.), 2496 (1959), 2499 (1962) and 2503 (1966)**

The Nationality Act B.E. 2495 (1958 C.E.) replaced the 1913 Nationality Act retaining the same conditions for gaining Thai nationality. In the third era, the idea of nationalism began to appear in nationality law. The idea of ethnic discrimination was manifested by restricting the use of Thai nationality on the principle of *jus soli*. For example, a person born of a mother with Thai nationality can get Thai nationality by the *jus soli* principle. This meant that a child of alien parents could not get Thai nationality even if they were born on Thai territory. However, this act opened the opportunity to all aliens to become Thai by naturalization.<sup>15</sup>

The 1958 Nationality Act was revised in 1959, 1962 and 1966 and finally annulled by the Nationality Act B.E.2508 (1971 C.E.).

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<sup>14</sup> Phunthip Kanchanachittra Saisoonthorn, "Nationality developments in Thailand and efforts engaged by the Thai government to reduce statelessness", 25 May 2006, pp.7-9.

<sup>15</sup> Phunthip Kanchanachittra Saisoonthorn, "Nationality developments in Thailand and efforts engaged by the Thai government to reduce statelessness", 25 May 2006, pp.9-10.

**3.1.4.4 Fourth era: Nationality Act B.E. 2508 (1971 C.E.), Revolutionary Decree No. 337, Nationality Act B.E. 2508 (1971 C.E.) as amended by Acts B.E. 2535 (1992 C.E.) No.2, and Nationality Act B.E. 2508 (1971 C.E.) as amended by Acts B.E. 2535 (1992 C.E.) No.3**

The 1971 Nationality Act replaced the nationality laws of 1958, 1959, 1962 and 1966. This act contained the same conditions for obtaining Thai nationality as the 1913 and 1958 nationality laws for persons who have a genuine link with Thai state from 5 October 1965 to the present day. The 1971 Nationality Act has had an impact on the giving the opportunity of aliens to obtain Thai nationality. The act has solved the problem of statelessness of some groups while creating other stateless people.

To understand the stateless problem in Thailand, it is important to consider Revolutionary Decree no. 337 which result in creating many stateless persons in Thai society since it came into force on December 14, 1972. Revolutionary Decree 337 had two results:

1. Thai nationality was withdrawn from any person born on Thai territory before 14 October 1972 of an alien father who had temporarily entered the Kingdom, or with no lawful father and of an alien mother who had temporarily entered the Kingdom.
2. A person born within Thai kingdom between 14 December 1972 and 25 February 1992 with alien father who temporarily entered to the Thai kingdom, or with no lawful father, and alien mother who temporarily entered to the Thai kingdom would not be granted Thai nationality.<sup>16</sup>

Revolutionary Decree no. 337 was enacted in the context of a fear of communism spreading throughout Southeast Asia, particularly Indochina. The objective of the decree was to prevent people migrating from communist countries and their children from obtaining Thai nationality. However, the revolutionary decree affected all aliens whose situation might not be related to the spread of communism.<sup>17</sup>

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<sup>16</sup> Translated by the writer according to Phunthip Kanchanachittra Saisoonthorn, "Nationality developments in Thailand and efforts engaged by the Thai government to reduce statelessness", 25 May 2006, pp.10-11.

<sup>17</sup> Phunthip Kanchanachittra Saisoonthorn, "Nationality developments in Thailand and efforts engaged by the Thai government to reduce statelessness", 25 May 2006, pp.10-11.



The 1992 amendments 2 and 3 to the 1971 Nationality Act replaced the 1971 Nationality Act and Revolutionary Decree no. 337. These amendments adopted and adapted the discrimination of Revolutionary Decree no. 337 concerning the acquisition of Thai nationality by aliens in section 7 and section 7 *bis*:

Section 7. The following persons acquire Thai nationality by birth:

1. a person born of a father or a mother of Thai nationality, whether within or outside the Thai kingdom.
2. a person born within the Thai kingdom except the person under section 7 *bis* paragraph one.

Section 7. *bis*. A person born within the Thai kingdom of alien parents does not acquire Thai nationality if at the time of his birth, her/his lawful father and her/his father who did not marry her mother, or his mother was:

1. a person having been given leniency for temporary residence in Kingdom as a special case.
2. a person having been permitted to stay temporarily in the Kingdom.
3. a person having entered and resided in the Thai kingdom without permission under the law on immigration.

The Minister may consider and give an order to grant Thai nationality to any person under paragraph one, in conformity with the rules prescribed by the Cabinet, on a case-by-case basis as deemed appropriate.

The person who is born within the Thai Kingdom and has not acquired Thai nationality under paragraph one shall be deemed to have entered and resided in the Thai Kingdom without permission under the law on immigration unless an order is given otherwise according to the law on that particular matter.<sup>18</sup>

Therefore, the 1971 Nationality Act and the 1992 Amendments No. 2 and 3 are in principle prejudicial and discriminatory. Firstly, they refer to the principle of *jus sanguinis* by stating that a person born of Thai parents, whether within and outside Thai kingdom, has the right to Thai nationality. Secondly, it refers to the principle of *jus soli* in granting Thai nationality for particular cases under section 7

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<sup>18</sup> “Thai nationality act”, Available from [www. ibiblio.org](http://www.ibiblio.org).

*bis*. The only persons gaining Thai nationality are persons of alien parents who having been granted permanent residence in the Kingdom.<sup>19</sup>

Table 4 shows all possible combinations of conditions (nationality of each parent and their marital status) for children born within Thailand, and the resulting nationality, and Table 5 for those born outside Thailand:<sup>20</sup>

Table 4: Born within the Territory of the Kingdom of Thailand

Case	Nationality of father	Nationality of mother	Matrimonial status	Nationality of child
1	Thai	Thai	Registered	Thai
2	Thai	Thai	Not registered	Thai
3	Thai	Legal alien	Registered	Thai
4	Thai	Legal alien	Not registered	Thai
5	Thai	Illegal alien	Registered	Thai
6	Thai	Illegal alien	Not registered	Thai
7	Legal alien	Thai	Registered	Thai
8	Legal alien	Thai	Not registered	Thai
9	Illegal alien	Thai	Registered	Thai
10	Illegal alien	Thai	Not registered	Thai
11	Legal alien	Legal alien	Registered	Thai
12	Legal alien	Legal alien	Not registered	Thai
13	Legal alien	Illegal alien	Registered	Cannot acquire Thai nationality
14	Legal alien	Illegal alien	Not registered	Cannot acquire Thai nationality
15	Illegal alien	Legal alien	Registered	Cannot acquire Thai nationality
16	Illegal alien	Legal alien	Not registered	Cannot acquire Thai nationality
17	Illegal alien	Illegal alien	Registered	Cannot acquire Thai nationality
18	Illegal alien	Illegal alien	Not registered	Cannot acquire Thai nationality

Source: [www.thaicongenvancouver.org](http://www.thaicongenvancouver.org)

<sup>19</sup> Veerachai Naewboonnien, Policy for granting the Thai nationality to the third-generation Vietnamese refugees, 1992, p.41.

<sup>20</sup> “Thai citizenship information”, Available from [www.thaicongenvancouver.org](http://www.thaicongenvancouver.org).

Table 5: Born outside the Territory of the Kingdom of Thailand

Case	Nationality of father	Nationality of mother	Matrimonial status	Nationality of child
1	Thai	Thai	Registered	Thai
2	Thai	Thai	Not registered	Thai
3	Thai	Other	Registered	Thai
4	Thai	Other	Not registered	Cannot acquire Thai nationality
5	Other	Thai	Registered	Thai
6	Other	Thai	Not registered	Thai

Source: [www.thaicongenvancouver.org](http://www.thaicongenvancouver.org)

### 3.2 Civil Registration

Civil registration constitutes fifteen categories of registration documents and identification cards which are issued by the Department of Local Administration. District and Branch District Registration Offices provide civil registration services such as house registrations, birth and death certificates, change of residence forms, copying and authentication of personal records, addition and removal of names on house registrations, revision of registration information. They also issue identification cards, and copy and authenticate identification card documents. Moreover, they register marriage and divorce certificates, and name and family registrations.<sup>21</sup>

In most cases, a child born of Thai national parents has no problem concerning civil registration. Such children can be registered and get birth certificates when they are born without conditions and their names are also recorded in the house registration. In the case of aliens, the civil registration must conform to the Ministerial Regulation B.E. 2535 (1992 C.E.) issued in accordance with the Civil Registration Act B.E.2534 (1991 C.E.) which indicates that only aliens permitted by the Minister of Interior to reside in the Kingdom on particular grounds, and those permitted to reside temporarily in the Kingdom according to the Immigration Law, have to conform to the 1991 Civil Registration Act.

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<sup>21</sup> Opas Kaewkao, "Thailand Civil Registration in Thailand", 17-20 November 1999.

There are three categories of aliens whose birth, death, notification of move, and addition of names into the census can be registered:<sup>22</sup>

1. the aliens with a residence certificate or an alien certificate.
2. the aliens with the permission of the Minister of Interior approved by the Cabinet to reside in the Kingdom on particular grounds according to Article 17 of the Immigration Act B.E.2522 (1979 C.E.). Ethnic minorities in Thailand registered by officials with an identity card issued as a proof are in this category. This category of aliens is granted by the Cabinet temporary residence in the Kingdom or the status of legal immigrant, such as 1945-1946 Vietnamese arrivals, pre-March 1976 Burmese arrivals, and post-March 1976 Burmese arrivals.<sup>23</sup>
3. the aliens permitted to reside temporarily in the Kingdom according to the Immigration Law, for example, foreign visitors or investors residing in the country with a valid passport.

Aliens in first and second categories have to conform to the Civil Registration Law while those in the third category are not subject to this law. Other aliens are illegal migrants and illegal migrant workers who are not registered and granted a work permit according to the conditions and terms of the Ministry of Labor and Social Welfare, and are not subject to the Civil Registration Law. Hence, the registrar will not be able to proceed with any civil registration concerning them, except only for the notification of death which document are required for handling the dead body.<sup>24</sup>

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<sup>22</sup> Bureau of Registration Administration, “Conformity to the Civil Registration Law for Aliens”, Reference No. Mor Tor 0310.1/Wor 8.

<sup>23</sup> Refer to the Regulations of the Bureau of Registration Administration concerning Civil Registration B.E.2535 and its amendments. ‘Illegal immigrant’ means aliens who have been permitted to reside in the Kingdom on particular grounds according to the Immigration Act B.E.2522; aliens of the second category have this qualification.

<sup>24</sup> Bureau of Registration Administration, “Conformity to the Civil Registration Law for Aliens”, Reference No. Mor Tor 0310.1/Wor 8.

### 3.2.1 Birth registration

Thailand signed the Convention on the Rights of the Child (CRC), which provides protection to children born to Thai and non-Thai parents. However, Thailand made reservations with respect to Articles 7 and 22 of the Convention. Article 7 states “*the child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality...*” Thailand’s reservation with respect to this Article is motivated by its unwillingness to give birth certificates to children of illegal migrants for fear of giving Thai nationality to the children of aliens.

According to the Act for Registration of Inhabitants B.E. 2534 (1991 C.E.), it is the duty of the owner of the house (where the child is delivered), father or mother of a child born in Thailand to notify the birth to the district/local registrar (Article 18). In cases where the child is delivered at a hospital or medical center, a delivery certificate will be issued and given to the person who has a duty subsequently to notify the birth to the registrar (Article 23). The district/local registrar will then register the birth and issue a birth certificate to the notifier (Article 20). In 1992, the Minister of Interior issued a Ministerial Regulation (B.E. 2535) providing that immigrants with permission to reside temporarily in Thailand by virtue of Article 17 of the Immigration Act B.E. 2522 (1979 C.E.) also have the duty to, among others, notify births to the civil registrar.<sup>25</sup>

Article 6 of the Universal Declaration of Human Rights states that “*everyone has the right to recognition everywhere as a person before the law.*” Therefore, everyone has the basic right to have their existence accepted in legal terms that he has a personal status by his territorial state. A territorial state can accept the newborn’s existence by issuing a birth certificate. Refusal by the state to issue a birth certificate is equal to refusal of the newborn’s existence or personal status, resulting in the child becoming an undocumented person. Without a birth certificate, no country in the world recognizes his/her status. S/he is not a national of any country. The child becomes a stateless person with no basic civic rights and vulnerable to human rights violations. “Without a birth certificate, children can be denied many of their rights.

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<sup>25</sup> Kam Sermchaiwong, “Birth Registration of Migrant Children Born in Thailand”, March 16, 2005.



They may be denied access to education, health care and inheritance rights. Without a birth certificate to prove their age, many children also fall victim to early marriage, child labor, and use in combat. The implications of birth registration also extend long into adulthood. A birth certificate is often a prerequisite to the right to vote and be elected, to work, to open a bank account and inherit, to receive welfare benefits, and to move freely within and between countries.”<sup>26</sup>

There are only two categories of children born in Thailand who are not entitled to birth registration and birth certificates:

1. If the child’s parent is an illegal migrant according to the Immigration Act, including undocumented Thais (persons who claim to be entitled to Thai nationality but who have not yet been officially granted Thai nationality)
2. If the child’s parent is an illegal migrant from Burma, registered by the Ministry of Interior, who for humanitarian reasons has permission to stay temporarily in 9 official temporary shelters along the Thai-Burma border pending repatriation to Burma (officially referred to as “persons fleeing fighting”).<sup>27</sup>

However, many people in Thailand have no birth certificate. In the case of indigenous hill peoples or Thai people who reside along the border, many have no document identifying their personal status. Some of them have no birth certificate because they were not born in a hospital with the right to issue a Tor Ror 1/1 certificate\* which guarantees the newborn’s existence. They may have insufficient knowledge of the law and procedures to notify the birth of their children to officials.

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<sup>26</sup> “Birth Registration”, Available from [www.planusa.org](http://www.planusa.org).

<sup>27</sup> Karn Sermchaiwong, “Birth Registration of Migrant Children Born in Thailand”, March 16, 2005, Available from [www.statelessperson.com](http://www.statelessperson.com).

\* Tor Ror 1/1 merely certifies the occurrence of birth delivery at a medical care centre. The issuance of a delivery certificate shall not be interpreted as the notification or the registration of birth. With respect to the law concerning civil registration, those holding such duty of birth notification are the house owner, father or mother. In order to obtain a birth certificate, a delivery certificate (Tor Ror 1/1) together with a birth notification must be brought to the attention of a registrar. The registrar will have the birth officially recorded as appears in the delivery certificate at the discretion of the registrar in accordance with conditions and regulations provided by the law. In addition, in terms of procedure to input information in the deliver certificate, it is vital to fill out the information accurately. As to information pertaining to the nationality of new born children, there are two options on the deliver certificate: Thai and Others. In cases where father and mother are illegal immigrants or aliens residing temporarily in the Kingdom such as; tourists, illegal migrant workers, be certain to put a mark on “others” alternative. Ministry of Interior, “Issuance of Delivery Certificate (Tor Ror 1/1) to Children born to Aliens”, Reference No. Mor Tor 0310.1/6984.

In the case of children of aliens who are officially allowed temporary residency in Thailand, officials interpret the civil registration law such that these children are not eligible for registration on birth certificates because their parents are unregistered illegal workers. In fact, Thai civil registration law provides for the registration for every child born in the country. But in practice, the officials interpret and implement the law in a different way.<sup>28</sup> All aliens have the right to receive a birth certificate and a delivery certificate; otherwise civil registration law is infringed, and also the moral and human rights of the child. Somchai Homla-or of the Law Society expressed his opinion that the misinterpretation or misunderstanding of officials concerning birth registration is due to ethnic prejudice which emphasizes the justification of national security.<sup>29</sup> This legal interpretation occurs because officials believe that granting a birth certificate means granting Thai nationality, when in fact they are two separate issues.

A lot of officials understand that birth registration of every child born on Thai territory creates an opportunity for aliens to get Thai nationality in the future. In fact, although birth registration or a birth certificate is valuable in obtaining Thai nationality, because it is evidence of a relationship between the child and the state, birth registration does not automatically give Thai nationality, nor can alien parents request Thai nationality purely because of the fact that the child is born on Thai territory. It is not the case that anyone with a birth registration can obtain Thai nationality. Moreover, birth registration is not related to immigration law. A person who enters Thai kingdom illegally but obtains a birth registration for her/his child cannot escape punishment nor can the child become a legal alien. In addition, registration of all births on Thai territory can help the state to keep track of population numbers and categories of the population; as a result the state can improve its administration. Birth registration and birth certificates are also important evidence for access to basic civic rights. Through birth registration, the child of illegal migrants

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<sup>28</sup> Sanitsuda Ekachai, Outlook: "You don't exist", Bangkok Post, Wednesday 23 October 2002.

<sup>29</sup> Sanitsuda Ekachai, Outlook: "You don't exist", Bangkok Post, Wednesday 23 October 2002.

also has an identification document facilitating their return to the country of their parents.<sup>30</sup>

### 3.2.2 House registration

In Thailand, the population and housing censuses and the registration of people are closely related. According to the People's Registration Act B.E 2499 (1956 C.E.), the district or local registrar are required to every house and inhabitant within their jurisdiction. In practice, these two documents, the house certificate and the register of persons, are used as basic documents in preparation for the planning of population and housing censuses.<sup>31</sup>

House registration is a process of recording the name of people in a house certificate. It is a document issued by officials to identify the location of a house, the name of the persons residing in that house, the thirteen digits of their identification cards, the names of their parents and their original domicile. House registration is one part of civil registration. Since 1956, Thailand has conducted population censuses. At that time this was the first formal house registration. The second type of birth registration began in 1972 under Revolutionary Decree no. 234 which was revised by the first house registration. In 1983, house registrations included the thirteen-digit code of each resident. House registration certificates were last changed in 1996.

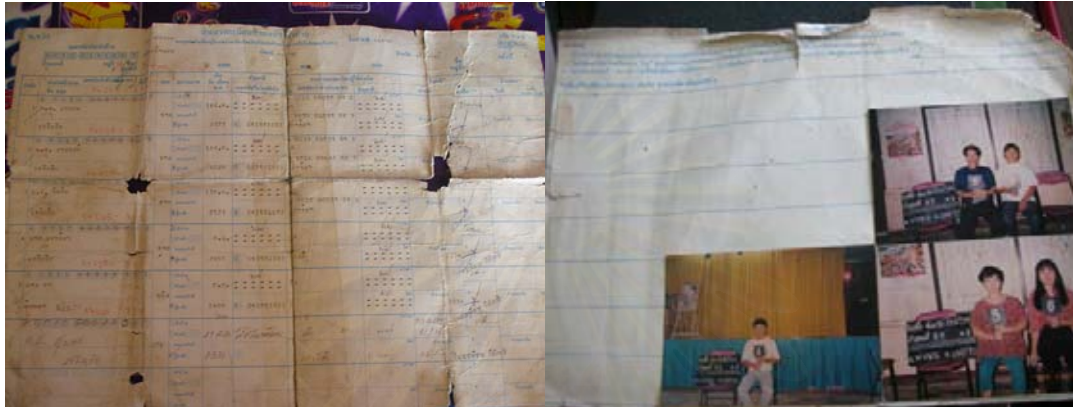
Tor Ror 14 is a house registration certificate for persons with Thai nationality and legal aliens with an alien certificate and residence certificate. To be registered on a house registration certificate, basic evidence must be provided to show the Thai nationality of that person or her/his status as a legal alien with permanent residence. Registration on the house registration certificate occurs after a child has been given a birth certificate. In the case of a child born of Thai parents, no problem occurs unless the birth of a child is not notified to the officials; as a result the child's existence will not be recognized because s/he lacks a birth certificate and cannot have her/his name added to the house certificate. The child will become stateless. The

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<sup>30</sup> Chutimas Suksai, "Why we have to register birth", Plan Organization, 2006, pp.16-17.

<sup>31</sup> Department of Local Administration, "People's Registration System in Thailand", Ministry of Interior, November 23, 1967.

name of a child with Thai nationality and with birth registration will be added to the house registration certificate or a Tor Ror 14 form. The names of children born of aliens will be added to a Tor Ror 13 document, which is a house registration certificate for persons without Thai nationality who are permitted to reside temporarily in the kingdom and aliens who entered the kingdom illegally according to the Immigration Law.<sup>32</sup>



Picture 1: Tor Ror 13 ( front page)

Picture 2: Tor Ror 13 (back page)

### 3.2.3 Personal registration

Personal registration is a process which the state records a person's name in the civil registration system. It is not restricted to persons born on Thai territory. Aliens migrating from outside the country can be recorded. It is a registration process for identifying the personal status of everyone in Thailand. Personal registration identifies a person's name, origin or birth place, and address. Personal registration can help to identify personal status, which is helpful for undocumented people in proving their personal status and gaining nationality in the future. Therefore, personal registration is helpful process in recognizing the existence of persons who have failed to be registered, undocumented persons, or aliens. Personal registration establishes what basic rights they can access from the Thai state.

The personal registration process firstly surveys undocumented people in a community through the village head. The village head (*phu yai baan*) and subdistrict chief (*kamnan*) vouch for these people. This record is passed to the district office for verification and recording on the appropriate application form. The District Office will classify the personal status and grant a 13 digit identification number.

<sup>32</sup> Catholic Commission for Ethnic Groups, A handbook for helping people to have a right legal status, 2001, pp.40-41.



Initially, an identification number beginning with zero is granted, identifying the holder as an alien. The person's name is recorded on the house registration certificate. In the case of legal aliens who are permanent residents in Thailand, the person's history is recorded on the Tor Ror 14 house registration certificate for legal aliens. For illegal aliens who are temporary residents in Thailand, the person's history will be recorded on the Tor Ror 13 house registration certificate for aliens. Aliens holding color cards (see next section) are defined as illegal aliens with temporary permission to reside in Thailand. Therefore, their history is also recorded on the Tor Ror 13 house registration certificate.<sup>33</sup>

### 3.3 Colored cards

Colored cards are an instrument to identify the status of people who cannot get or have failed to get an official Thai identification card. Colored cards are identity cards which are given mostly to immigrants and hill minorities. Different categories correspond to different colors. Each colored card indicates the year of issuance and type of recipient. However, from interviews, it is found that people requested for identity cards were given colored cards as available at the year requested. Classification on type of recipient was not done accurately. For example, white cards with blue edges for Vietnamese migrants were issued on B.E. 2540 and identify Vietnamese migrants who took refuge in Thailand between B.E. 2488-2489 (C.E. 1945-6) in thirteen northeast provinces along Thai-Laos border, and legally entered Thailand. Orange cards for Thai Lue were issued in B.E. 2535 (C.E. 1992). Pink cards for displaced Burmese nationals were issued to Burmese refugees who entered Thailand before 9 March 2519. A Cabinet Resolution approved legal alien status for these people in B.E.2544 (C.E. 2001). Blue cards for hill minorities were issued in B.E. 2533-2534 (C.E. 1990-1) by dividing the hill people into indigenous hill people and migrant hill people. Green cards with red edges for members of highland communities were issued in B.E.2542 (C.E. 1999) to Thai people who missed the population census or may be hill people or the legal or illegal aliens. Orange cards for illegal Burmese migrants who have residence were issued in B.E. 2535 (C.E. 1992). Purple cards for illegal Burmese migrants who reside with their

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<sup>33</sup> Interview with Mae-Ai Deputy District Officer, Sawaeng Kasrivijaya, 13 July 2007.



employer were issued in B.E. 2535 (C.E. 1992). However, today the colored cards were changed to pink-colored smart cards identifying holders as people without Thai nationality.

In the case of Rom Thai village, some villagers who do not have Thai nationality hold a color card as their identity card. Some of them held a color card before they got a Thai identification card. In Rom Thai village, some people hold orange cards which identify them as Thai Lue, some of them hold green cards with red edges which identify them as member of a highland community. Some of them hold blue cards which identify them as hill minorities. The newcomers hold orange or purple cards of Burmese illegal migrants. However, the majority hold the pink cards of displaced Burmese nationals.



Picture 3: Orange card of Thai Lue



Picture 4: Blue card of minorities



Picture 5: Green card with red edge of member of a highland community



Picture 6: Pink card of displaced Burmese national

Surprisingly, most villagers holding pink cards are not Burmese but Thai. Some of them are Thai by the *jus soli* principle while some of them are Thai by blood, with parents born at Thaton. A mistake was made when Rom Thai villagers went to earn a living at Sobyawn which at that time was recognized as Thai territory. Those villagers decided to come back to their home village because the many skirmishes at Sobyawn endangered their security. After they returned, they found they had missed the population census and house registration process. In that same year, there was a large number of displaced Burmese person influxing into Thailand. State officials solved the problem of the influx of Burmese immigrants by issuing them pink cards. Unfortunately, Rom Thai villagers who could not prove that they were originally Thai were forced to hold pink cards under threat of expulsion from the country if they refused. Therefore, the nationality problem of the Rom Thai villagers started with their forced acceptance of pink cards.

### 3.4 Statelessness and Stateless people

“Statelessness is the legal and social concept of a person not belonging to any recognized nationality”.<sup>34</sup>

Statelessness refers to the condition of being without a nationality or any identification card. Common ways people may become stateless and which are addressed by the 1961 Convention on the Reduction of Statelessness are: 1. Renunciation of nationality. 2. Deprivation of nationality. 3. Born to people whose citizenship status is not recognized in the country. 4. Born to stateless parents. 5. Born in disputed territory (e.g. Israel). 6. Born to an area ruled by an entity whose independence is not internationally recognized (e.g. Manchukuo in 1932-1945). 7.

<sup>34</sup> “Statelessness”, Available from [www.wikipedia.org](http://www.wikipedia.org).



Born in territory over which no modern state claims sovereignty (e.g. the unclaimed region of Antarctica). 8. Lack nationality due to conflict of law between two states (e.g. laws of countries of mother and father both deny nationality by descent to the child). 9. Transfer of territory or sovereignty which alters nationality status of persons in the territories so transferred.

*“Every person has the right to a nationality.”*<sup>35</sup> But some groups, for many reasons, have no right to claim nationality. Article 1 of the 1954 Convention Relating to the Status of Stateless Persons defines a stateless person as *“a person who is not considered as a national by any state under the operation of its law.”* The UNHCR identifies a stateless person as *“someone who is not recognized by any country as a citizen.”*<sup>36</sup>

To be stateless the persons must face with the plethora of problems. The stateless persons fall in the double marginality condition. Lack of nationality is not only meant that the persons are not a citizen of any country, but those persons also lack the basic rights which are important for their livelihood. The stateless persons cannot vote, they cannot get jobs in most professions, they cannot own property or obtain a passport. These "stateless" persons also face discrimination practice, sexual and physical violence and socio-economic hardship. Often they are denied access to health care and education.<sup>37</sup>

Who is stateless in Thailand? A person identified as stateless is not recognized as a national in any country. That person stays in Thailand but is 1. a person who is permitted to temporarily reside in Thai kingdom and 2. a person who is not permitted the right to reside which make that person a real stateless person. However, the stateless problem will be violent if a person is not given the right of residence. Statelessness in Thailand can be classified in two aspects; 1. *de facto* statelessness and 2. *de jure* statelessness. De facto statelessness can be exemplified by the experience of 1,243 Mae Ai villagers whose Thai nationality was revoked by state officials claiming that they obtained Thai nationality without any proof. As a result, those villagers do not have access to civil rights as Thai citizens. De jure

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<sup>35</sup> 1948 Universal Declaration of Human Right Article 15, Quoted in Lynch M, Lives on Hold: The Human Cost of Statelessness, 2005, p.1.

<sup>36</sup> Quoted in Lynch M, Lives on Hold: The Human Cost of Statelessness, 2005, p.7.

<sup>37</sup> Maureen Lynch, “The people who have no country”, Available from [www.globalpolicy.org](http://www.globalpolicy.org).

statelessness means that a person is not accepted as a national of any country as is considered illegal.

### **3.4.1 Conditions that create statelessness**

. Statelessness can occur as a result of many factors such as political change within the country which lead peoples to leave and take refuge in a neighboring country. Laws relating birth registration may also create statelessness. The child of illegal migrants may become a stateless child. According to the Civil Registration Law, the child of illegal migrants will not be eligible for any civil registration. However, Thai state issues delivery certificates to every child born on Thai territory. In this study, the major factor causing Thai people to become stateless is the result of civil registration particularly birth registration.

Membership of a state is recognized through different forms of registration and issuance of certificates. Civil registration is a process of recognizing the existence of people. Data of citizens are recorded in civil registration documents such as house registrations or birth and death certificates. Birth registration, recorded in a birth certificate, is the first process in which the state recognizes a new baby born on its territory regardless of the nationality of the parents. A person who has a birth certificate and whose name is listed in a house registration certificate has legal recognition. The registration documents entitled the person to access to basic civic rights and governmental services as a citizen. Without registration certificate the rights of the person cannot be recognized. In Thailand, there are many mistakes in the civil registration system. Many people born on Thai soil missed birth registration and have difficulty to earn a living and have access to civic rights as a normal citizen.

#### **3.4.1.1 Lack of civil registration**

Failures of civil registration mostly occur in remote areas where access to government services is difficult. Many factors lead to this failure.

1. People born in remote areas, such as the highlands, or border areas may miss the population census. Rom Thai villagers in the past went for seasonal work at Sobyawn in an area along the border of Thailand and Burma. The villagers insisted that the area is in Thai territory because they had never seen Burmese soldiers there. The best evidence that Sobyawn belonged to Thailand at that time was the Buddha images in

Chiang Saen-Fang style.<sup>38</sup> The people who worked and lived at Sobyawn therefore missed the population census and house registration, which made them stateless from then on.

2. Children whose parents did not register their birth do not have their names in house registration certificates or undergo civil registration. If this problem is not solved, it will persist from one generation to the next.

3. Children born outside a hospital or a health care centre do not get a delivery certificate which is the primary evidence of birth. If the parents are not aware of the requirement to notify their child's birth to officials, the children's existence is not recognized and they become stateless.

4. Births which are not registered lead to the children becoming undocumented even though they have Thai national parents.

5. Some people and village heads mistakenly understand that birth certificates are not necessary because they think that they have a community witness to confirm the birth of children.<sup>39</sup> However, a witness statement is a weak evidence because it cannot prove how the child is genuinely related to the Thai state. If the witness has died, it may later be argued that the child was not born on Thai territory.

#### **3.4.1.2 Exclusion of people from civil registration**

The outstanding example of excluding people from civil registration is the case of 1,243 Mae-Ai villagers. In the year 2002, 1,243 villagers had their names deleted from house registration certificates and of these 866 villagers also had their nationality withdrawn. Most of villagers whose Thai nationality was revoked come from Rom Thai village. The local authorities gave the reason for revoking villagers nationality that the villagers' house registration certificates were illegal. Their nationality was revoked after complaints from the Army about alleged corruption among Mae-Ai villagers in authorizing Thai citizenship.<sup>40</sup>

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<sup>38</sup> Phra Mahanikom Mahapinikkamano, *A Guarantee of The Case of Thai Missing People*, 2002, p.2.

<sup>39</sup> Pinkaew Ounkaew, "The fact of birth registration of ethnic groups in Northern areas", *Plan Organization*, 2006, p.40.

<sup>40</sup> "Chiang Mai: 866 get citizenship back", *The Nation*, Thursday, April 29, 2004.



In fact, problem stems from a failure of civil registration. After the Rom Thai villagers came back from Sobyawn, they were never surveyed or received house registration certificates. The head of village notified those who still had no identity cards to get pink cards as their identity cards. The villagers who insisted on refusing these pink cards were threatened with expulsion from the country. Out of fear, they were forced to accept pink cards. Due to their illiteracy, they did not understand that pink cards are for displaced Burmese nationals. Some of them still hold pink cards today. Many villagers tried to prove that their ancestors were Thai-born citizens. In 1999, many villagers who still have witnesses or other evidence to prove themselves as the offspring of Thai-born citizens obtained Thai nationality and Thai identification cards. These villagers had a chance to access basic civic rights which they lack for most of their lives. They held Thai nationality for just four years. In 2002, the 1,243 villagers living in the border district lost their citizenship because the local authorities doubted their claims of Thai nationality and asked the Local Administration Department (LAD) to issue an order revoking their citizenship.<sup>41</sup> Consequently, 1,243 villagers became stateless. Their names were deleted from house registration or Tor Ror 14 certificates and they became persons who have no domicile on Thai territory.

### **3.4.2 The rights of stateless people in Thailand**

It seems that the rights of stateless people are small. Stateless people are not recognized as national citizens, thus they have no duties such as the right to vote. However, stateless people have to respect and conduct themselves under the law of the country where they have a residence. Some rights are determined and reserved for Thai nationals only while some rights are expanded to include stateless people. Nevertheless, marginalization occurs when stateless people are denied access to basic rights that are necessary to their livelihood.

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<sup>41</sup> Supitcha Jantapa, "Judge urges citizenship reinstatement", The Nation, Saturday, April 3, 2004.

### 3.4.2.1 The rights to public health services

According to Article 2 of the 1997 Declaration of Patient's rights ,  
*“The patient is entitled to receive full medical services regardless of their status, race, nationality, religion, social standing, political affiliation, sex, age, and the nature of their illness from their medical practitioner.”* The Thaksin government implemented a health insurance project (30 baht for each illness). At first, the health insurance project issued gold cards (30 Baht card) to persons without Thai nationality who are permitted to reside temporarily such as holders of blue cards (highlanders) because those persons' names are included in house registration certificates for persons without Thai nationality (Tor Ror 13). Then, government cancelled the right of persons registered on Tor Ror 13 documents and determined that the right of health insurance by the 30 baht project is restricted to Thai nationals.<sup>42</sup> The National Health Security Office (NHSO) announced that persons eligible for health insurance services must have Thai nationality, do not include aliens. Alien in this case means 1.a person who is permitted to reside temporarily in the kingdom and 2. a person who has no right to reside. For this reason, stateless people do not qualify for governmental health insurance service; as a result, they have to pay for all medical treatment.

In the case of the 1,243 Mae-Ai villagers, when their Thai nationality was revoked, not only were their identification cards taken away, but also their gold cards (30 baht cards). Stateless people have trouble in getting medical treatment from government hospitals. Even at state hospitals, they have to pay all medical treatment fees. Most of them are poor and when it is necessary to get medical care, they have no choice except to be in debt to the hospital.

### 3.4.2.2 The rights to education

A Cabinet Resolution dated July 5, 2005, expanded the rights to education to include persons with no civil registration and persons without Thai nationality. In the past, Thailand limited the educational opportunity to Thais or allowed stateless people educational opportunity to a restricted level of education. However, nowadays children without Thai nationality have the chance to study regardless of level or areas of education. (except the children of illegal migrants who

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<sup>42</sup> Surapol Kongchantuek, “The right to get public health service of non-Thai people”, Available from [www.statelessperson.com](http://www.statelessperson.com).

reside in camps are limited to studying only in camps). Undocumented children and non-Thai children would be granted 13 digit identity number to categorize their status. Stateless children whose freedom of movement is restricted are given permission to go outside their restricted area to study as long as the period of study is determined. After the stateless children have completed their course of study, the educational institution has to issue them a transcript. The transcript is identified in red ink to identify that the student has no civil registration documentation. Moreover, undocumented and non-Thai children have the right to educational scholarships to the same degree as Thai students. Therefore, the educational institution cannot refuse the right to an education to a stateless child on the ground that the child has no Thai nationality or civil registration. Nevertheless, the regulation of the Ministry of Education in 2003 concerning the educational scholarship stipulates that the qualified grantee must be a Thai national. There is a contradiction here.

As we have seen, the Cabinet Resolution dated July 5, 2005 concerning educational opportunity for undocumented and non-Thai children is not relevant to the regulation of the Ministry of Education concerning the qualifications of grantees of educational scholarships. Furthermore, in practice, many stateless children still have no access to education particularly in 20 northern and western provinces. For example, some children are prevented from studying at higher levels.<sup>43</sup>

### **3.4.2.3 The rights to a profession**

Most stateless people in Thailand have no chance to study to a high level, which restricts their choice of profession. In Rom Thai village, the people without Thai nationality work as laborers in chili and garlic plantations. Parents tell their children who have no Thai nationality that even if they study to a high level, they cannot enter a good profession. Therefore, they should not study much because it is a burden on the family. Moreover, the government issued regulations reserving certain professions for Thai people, which limits the alien's right to work in Thailand.

According to the Alien Employment Act B.E. 2521(1978 C.E.), foreigners can be permitted to work in Thailand. Under the provisions of the Act, a foreigner cannot perform any work or service unless a work permit has been issued by

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<sup>43</sup> Surapol Kongchantuek, "The right to education of the people without civil registration and Thai nationality", Available from [www.statelessperson.com](http://www.statelessperson.com).

the Alien Employment Division of the Labor Department and Social Welfare Ministry, or unless the individual or the work performed falls within an exception to the Act.<sup>44</sup> The purpose of the Act aims at reserving the occupations for Thai people, controlling the employment of aliens in Thailand and promoting investment and employment in the country.<sup>45</sup>

According to the Act, aliens of the following 3 categories are qualified to apply for work permits:

- “1. Alien who resides in the Kingdom of Thailand or is allowed temporary stay in the kingdom, but not as a tourist or a transit traveller.
2. Alien who is allowed to work in the Kingdom according to the investment promotion laws or other laws.
3. Alien who has been deported but is allowed to work in certain location in replacement of deportation or while awaiting deportation; alien who has illegal entry into the kingdom or is awaiting a forced transfer out of the Kingdom; and alien who was born in the kingdom but not granted Thai nationality or was denaturalized, is eligible to work in 27 occupations as stipulated in the Ministerial Announcement.”<sup>46</sup>

The Ministry of Labor currently lists the following 27 occupations in which aliens under category 3 above can work in accordance with section 12 of the Alien Employment Act B.E. 2521. These comprise occupations involved in vehicle maintenance, house construction, dress-making and laundering, some forms of agriculture, sales (other than strategic goods such as weapons, communications equipment, etc.), food-making, shoe, clock, watch and glasses repair, knife-grinding, picture framing, metal-working, weaving (other than silk) and general laboring.<sup>47</sup> None of the listed occupations are high-paying.

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<sup>44</sup> “Foreign/Alien Employment”, Available from [www.thaigov.go.th](http://www.thaigov.go.th).

<sup>45</sup> “The Working of Aliens Act B.E.2521”, Available from [www.doe.go.th](http://www.doe.go.th).

<sup>46</sup> “Alien Employment Act”, Available from [www.mol.go.th](http://www.mol.go.th).

<sup>47</sup> A cope of the lost is available in Thai from [www.archanwell.org](http://www.archanwell.org). Interestingly, the list of occupations permitted to aliens under category 3 above are also listed as occupations prohibited to aliens under categories 1 and 2. See [http://www.boi.go.th/english/download/business\\_analysis/26/foreign-investment-laws.pdf](http://www.boi.go.th/english/download/business_analysis/26/foreign-investment-laws.pdf), Appendix 2.

#### 3.4.2.4 The rights to vote

The rights to vote is an important duty of a citizen. A person who is citizen of a country has a right to participate in political activity, particularly voting. Generally speaking, stateless people have no right to vote because voting is the duty of the citizen. In the case of the 1,243 Mae-Ai villagers, after Mae-Ai district office revoked their identification cards, they had no rights as Thai citizens to vote in any level of voting. Stateless people also have no rights concerning other political activity such as applying as a candidate for election.

#### 3.4.2.5 The rights to have a family

The right to form a family is another problem for stateless people. The district officials refuse to register marriages between aliens or between aliens and Thai citizens. Generally, the district officials give three main reasons for refusing marriage registration:<sup>48</sup>

1. Thai law forbids the registration of the marriage of aliens who have entered Thailand illegally.
2. There is no policy directing district offices to register the marriage of aliens who entered Thailand illegally.
3. The district officials mistakenly understand that to register the marriage of illegal migrants opens an opportunity to those aliens to get Thai nationality by marriage.

In reality, the right to marriage registration is the right to form a family which cannot be refused by district officials except when a couple is not qualified. For example, a person who wants to register a marriage must be at the age of not less than seventeen years and single. Thai law does not prohibit aliens from registering their marriage. This requires that the couple have identity cards or passports and the alien must have a personal status certificate from their Embassy translated into Thai .

In Rom Thai village, many Thai villagers want to marry aliens. In one interesting case, an alien couple wants to register their marriage in Thailand. Egon Friedrich Wiess, a Swiss man and Wongkum Yodsang, a Shan woman holding green card with red edges, asked for a marriage certificate. Both are aliens and divorced. According to Thai law, both have the right to register but they have to produce

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<sup>48</sup> Phuntip Kanchanachittra Saisoonthorn, “The right to set a family of marginal people”, Available from [www.statelessperson.com](http://www.statelessperson.com).



documents to affirm their single status. Weiss have these documents. But Wongkum was born in Shan State in Burma. She has no document identifying her birthplace. Mae Ai Legal Clinic found a solution and recommended them to bring the following documents to the district office: 1. Wongkum's identity card and life history document. 2. a marriage registration requirement in Thai. 3. Weiss's visa. 4. A Por Kor 14 document for witness statements. 5. A Por Kor 14 document to verify the couple's qualification. 6. a single status certificate.<sup>49</sup>

Weiss and Wongkum were able to register their marriage with help from the Mae-Ai Legal Clinic. In the case of 1,243 Mae-Ai villagers whose Thai nationality was revoked, villagers who wish to marry could not register their marriage because they lack important documents. This affected their ability to form a family legally.

The basic civic rights of stateless people seem to be restricted. Most basic rights necessary to their livelihood, are not offered to stateless people. A person who has no documents to identify her/himself will be refused access to almost all basic rights. For this reason births should be registered and illegal migrants should be registered to get permission to work. Stateless people are a marginal group denied access to national resources and basic civic rights. Birth registration would help reducing the severity of their marginalization, in that at least, their existence is recognized, and would help acquire nationality in the future. The rights of stateless people, it can be summarized in the following table:<sup>50</sup>

Table 6: Basic Rights

Type of rights	Thai citizens	Legal aliens	Alien temporary residents and color card holders	Alien laborers with work permits	Undocumented aliens
Permission to stay in	✓	✓	✓	✓	✗

<sup>49</sup> Boon Phongma, "The record of legal assistance to a stateless woman wishing to register marriage to a Swiss man (in Thai)", The Mae-Ai Legal Clinic in cooperation with the Faculty of Law, Payap University and UNICEF, Thursday 7 June, 2007.

<sup>50</sup> "Basic Rights", Siang khon rai pan din 1, 7 November 2005-January 2006, p.8.

the kingdom					
Right to leave designated area	✓	✓	✓ (with permission)	✓ (with permission)	✗
Right to work	✓	✓ (27)	✓(27)	✓(2)	✗
Right to education	✓	✓	✓	✓	✓
Right to health insurance	✓	✓	✓	✓	✗
Right to prove personal status	✓	✓	✓	✓	✓
Right to add name to house registration certificate	✓ Tor Ror 14	✓ Tor Ror 14	✓ Tor Ror 13	✓ Tor Ror 13	✓ Tor Ror 13/14
Right to form a family	✓	✓	✓	✓	✓
Right to birth registration	✓	✓	✓	✓	✓
Right to legal protection	✓	✓	✓	✓	✓

Source: Siang khon rai pan din 1, 7 November 2005-January 2006, p.8

### 3.5 Strategy and approach to reduce statelessness

Thailand today comprises many groups who do not have Thai nationality and have no legal status. The number of hill people, undocumented people, illegal migrants or other stateless people is increasing on Thai soil. The present Thai government led by General Surayud Chulanont has not ignored the stateless people's problem but has supported a draft amendment to the Nationality Act B.E.2535 (C.E. 1992) proposed by both the Department of Local Administration and the National Legislative Assembly's Extra-ordinary Commission on Non-legal Status and Rights of Individuals in Thailand.

The amendment to the current Nationality Act does not aim at giving Thai nationality to stateless people but rectifying the civil registration system and the process of deliberation in granting Thai nationality. Improvement of the civil registration system will help relieve the statelessness problem, at least by recording

who is born on Thai soil in the birth registration system. The Thai state will gain the advantage of recognizing the existence and history of every person born on its territory and controlling the population situation.

In fact, the statelessness problem is not a result only of the content of Nationality Act, but also the stateless people themselves, the practices of the relevant district officers, and policy. Thus, the Department of Local Administration of the Ministry of Interior recognizes statelessness in Thailand and has proposed a draft amendment to the Nationality Act to the Cabinet, based on the status and rights of individuals approved by the Cabinet Resolution on 18 January, 2005 according to the following two principles:

1. To survey and document people with no legal status.
2. To give legal status.

The National Legislative Assembly Extra-ordinary Commission on Non-legal Status and Rights of Individuals in Thailand has proposed a draft amendment to the Nationality Act B.E.2535 (C.E. 1992) which amends Nationality Act B.E.2508 (C.E. 1965) with reference to the following four main groups;

1. To help the children of Thai fathers and alien mothers.
2. To help the children of alien parents who enter Thailand temporarily.
3. An alien father can request Thai nationality for his children.
4. Stateless children are permitted naturalization.

Moreover, the National Legislative Assembly Extra-ordinary Commission on Non-legal Status and Rights of Individuals has also proposed an efficient mechanism to manage Thai nationality issues.

Nevertheless, both the Department of Local Administration and the National Legislative Assembly Extra-ordinary Commission on Non-legal Status and Rights of Individuals agree to give more power to the relevant officers responsible for considering permission to grant, revoke and reinstate Thai nationality.

The proposals of both organizations can at least reduce and control statelessness and the number of stateless people in Thailand. National security and human security issues thus must both be considered.

## CHAPTER IV

### PROBLEM OF STATELESSNESS IN ROM THAI VILLAGE

#### 4.1 Overview of Rom Thai Village



**Picture 7: Rom Thai village**

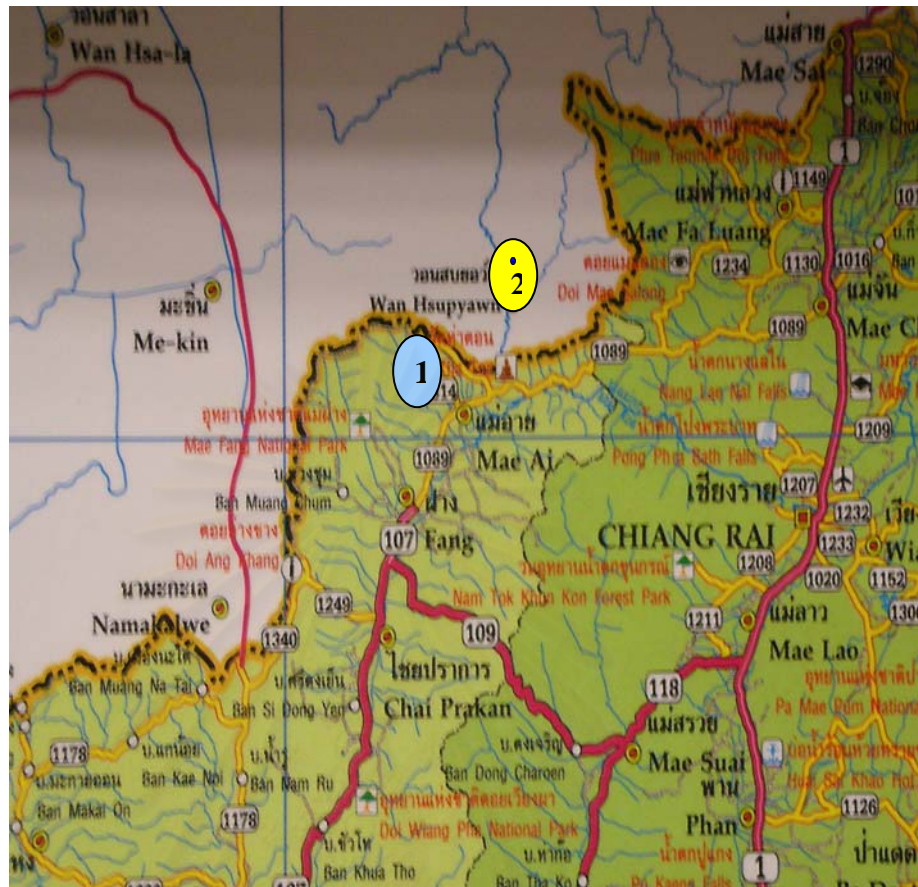
Rom Thai is located in Moo 14, Thaton subdistrict, Mae Ai district Chiang Mai province. In 2002, Thaton community was divided into three villages; Thaton village in Moo 3, Huay Mafeung village in Moo 2, and Rom Thai village in Moo 14. The former name of Rom Thai village is Nam Yawn because most of the villagers came back from Sobyawn where the Kok and Yawn rivers join. Sobyawn was previously called Nam Yawn when there had been a community in the Kok river basin. Sobyawn or Nam Yawn community is situated on both sides of the Kok and Yawn rivers. The Thaton villagers, in the past, went to set up home and farm at Sobyawn. Often, they floated rafts down the river to Thaton to trading with Thaton villagers. Sobyawn was assumed to be just a second home of Thaton villagers. The Kok river was the heart of the Thaton community, running through Sobyawn







Map 2: Location of Rom Thai and Yawn



Source: PN Map

Adapted from PN Map

Legend: 1 Rom Thai village 2 Sobyawn

It is assumed that Tatong or Thaton village was established since the age of Phrachao Phrommaharaj, the founder of Chai Prakan town. This hypothesis was supported by the objets d'art in the Fang style enshrined in the Sobfang Temple of Buddha's relic and Thaton Temple. Moreover, the communities along the Kok river have many old pagodas in the Fang style which are presumed to have been created in the same period as the Sobfang relic, Thaton relic, Puchae relic, Doi Lang relic, and Chom Chaeng relic.<sup>2</sup> The villagers of Rom Thai village are both local people and ethnic groups such as Lao, Hawka, Shan, and hill people. The majority are Shan who settled in Thaton since 1857 and whose population became denser in the period between 1892 and 1937 when Burma and Shan state were colonized by

<sup>2</sup> Phra Maha Boonlerd Dheranantho, Thaton: The Community of Kok River Basin, 2001, p.8.

Britain.<sup>3</sup> In his survey record, Carl Bock reports that the indigenous people of Thaton, which in his note is written ‘Tatong’, are the Ngiou people or the people of Shan ethnicity.

“The road to Tatong lay through a somewhat open forest, with a high mountain-chain, running north and south, rising abruptly to our left. Tatong itself is a small village, or rather a collection of little more than a dozen huts, scattered on both banks of the River Mekok, which is here very shallow, and, at least at this season, not more than 150 feet wide, and hemmed in on all sides by mountains of gneiss and granite. It was the first purely Ngiou village I had entered.”<sup>4</sup>

Thus, the original inhabitants of Thaton were people of Shan (Tai Yai) people, who occupied this area before Siam became Thailand. Thaton is appropriate for cultivation because it is situated in a good geographical position for a port for trade among a number of cities. Thaton has been used for trade and cultural exchange among Muang Chiang Saen, Muang Fang, Muang Yawn, and Muang Hsat.<sup>5</sup>

Nowadays, Sobyawn or Muang Yawn is occupied by the Wa. The United Wa State Army(UWSA) is expected to forcibly relocate more than 120,000 people to Muang Yawn from the northern and central parts of Shan State. The UWSA explains that the relocation will create better living conditions for the Shan people, and will provide them with an environment conducive to growing products other than the poppy. In reality, it appears the UWSA is consolidating some of its drug production facilities in this “drug manufacturing community.” Wa forces began a major development program in the Muang Yawn Valley in 1998. The build-up has involved the construction of new roads, dams, an electricity generating plant, underground fuel storage facilities, telephone lines, military command posts, barracks, schools and a 40-bed hospital. Work has also begun at a second Wa base

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<sup>3</sup> Ekachai Pinkaew, Politics on ‘Thai nationality’: The Controversies Across State and Human Rights Boundaries (The Case Study of Mae-Ai Villagers, Chiang Mai province), Master degree’s Thesis on Sociology and Anthropology (Anthropology), Faculty of Sociology and Anthropology, Thammasat University, 2005, p.47.

<sup>4</sup> Carl Bock, Temples and Elephants: Travel in Siam in 1881-1882, 1986, pp.296-297.

<sup>5</sup> Phra Maha Boonlerd Dheranantho, Thaton: The Community of Kok River Basin, 2001, p.8.

area at Wan Hong or 'Muang Mai' (New Village), set up by Wei Xue-gang and situated some 6 kilometers inside Myanmar, opposite Thailand's Chiang Rai province.<sup>6</sup>

Asst. Prof. Phunthip Kanchanachittra Saisoonthorn in “Nationalityless of Thaton villagers: Problem and Resolution”<sup>7</sup> states that the ancestors of the Thaton villagers can be classified into two groups:

1. The first group are Shan who have lived in Thaton since B.E.2424 (1881 C.E.).
2. The second group settled in Thaton since B.E.2440 (1897 C.E.), and moved in from outside in two groups: ethnic Thais migrating from other areas within Thailand such as Mae Rim, Mae Taeng, Phrao, and Fang districts and Chiang Rai province; and people migrating from places outside Thailand such as Vientiane, Yunnan, and Keng Tung.

Mae Ai District Office classifies Rom Thai villagers according to nationality as in the following table.<sup>8</sup>

Table 7: Rom Thai villagers categorized by nationality

Nationality	Male	Female	Total
Chinese	4	3	7
Other non-Thai nationalities	246	257	503
Thai nationality	637	617	1,254
Total non-Thai nationality	250	260	510
Total all	887	877	1,764

Source: Mae Ai Deputy District Officer, Sawaeng Kasrivijaya, 2006

<sup>6</sup> “Eastern Shan State Army(ESSA), Mong Tai Army(MTA), Myanmar National Democratic Alliance Army(MNDAA), United Wa State Army(UWSA)”, Available from [www.globalsecurity.org](http://www.globalsecurity.org).

<sup>7</sup> Phunthip Kanchanachittra Saisoonthorn, “Nationalityless of Thaton villagers: Problem and Resolution (in Thai)”, Wednesday 25 September 2002. Available from [www.archanwell.org](http://www.archanwell.org).

<sup>8</sup> Survey on May 2007 in Mu 14, Rom Thai village, Mae-Ai district, by the Mae-Ai Deputy District Officer Sawaeng Kasrivijaya.

#### 4.1.1 Historical Consciousness of Rom Thai Villagers

Rom Thai villagers claim that they are originally Thai people who missed the civil registration process. This claim is based on the local community oral history which affirms that their birthplace is in Thailand. Membership of the Shan ethnic group does not mean that they are not Thai. A full understanding of statelessness in Rom Thai village cannot ignore the historical consciousness of the villagers. The history of Rom Thai community explains why they missed the population census and house registration process which led them to the stateless condition. The 1,243 Mae Ai villagers were deprived of Thai nationality partly because state officials pay more attention to legal evidence or documentation than the history of the local community or community witnesses.

As mentioned above, Thaton community comprises many ethnic groups. Some of these migrated from other districts such as Chiang Saen, Phrao, and Fang, and from foreign locations such as Vientiane, and Keng Tung. However, the majority of Thaton villagers are Shan.<sup>9</sup> Before 1967, there was no evidence whether Sobyawn was in Thailand or Burma. However, the community witnesses affirm that Sobyawn was the workplace of Thaton villagers. Many Thai-born people in Thaton community went to use Sobyawn as a place of cultivation before the census and making house registration. This history accords with the community history of the Kok river basin that, “in 1943, the Thaton community, Ban Mae Laeng community and other Kok communities led by the monk of Ban Den temple and his disciples went to build and renovate Chomchaeng relic at Ban Luang temple of Muang Yawn.”<sup>10</sup>

Most Thaton villagers are Shan and have long lived on Thai territory. The question is where these Shan come from. James McCarthy in Surveying and Exploring in Siam: With Descriptions of Lao Dependencies and of Battles against the Chinese Haws writes that when he reached Muang Fang he found a village of Shan or Ngieu who had moved from Keng Tung, Muang Hang and Muang Tum. He states that because of the British occupation in Burma, many Shan moved from their birthplace and were scattered to parts of northern Thailand such as Chiang Mai or Mae Hong

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<sup>9</sup> Phra Mahanikom Mahapinikkamano, A Guarantee Community Witness of The Case of Thai Missing People, 2002, p.6.

<sup>10</sup> Quoted in Phra Mahanikom Mahapinikkamano, A Guarantee Community Witness of The Case of Thai Missing People, 2002, p. 13.



Son. McCarthy also mentions ‘Muang Yawn’ which may be the same city as ‘Sobyawn’. He states that Muang Yawn was a residential area of Shan people.

“The previous year P’ia Pap in his fight had taken this route; others had followed in his track, and had fired the wretched huts of Muang Yawn and Wieng Ke across the Nam Kok. The Shan of Muang Yawn may be regarded as very honest, if the character of a whole community may be learned from the behavior of one man.”<sup>11</sup>

Why did Thaton villagers go to Sobyawn? Boon Phongma, a barefoot lawyer of the Mae Ai Legal Clinic\* and former undocumented and stateless person who was deprived of her Thai nationality in 2002, explained why many Thaton villagers decided to leave their birthplace to earn their living at Sobyawn.

“My grandfather told me that at first he did not intend to work at Sobyawn. But he worked as a porter who carried provisions to Thai soldiers in World War II. He passed Sobyawn and found that it is in a good position for cultivation. Then, he came back to Thaton and told other villagers about Sobyawn. After that, many Thaton villagers went to work at Sobyawn and established their family at there.”<sup>12</sup>

Pan Jaikaew is another undocumented Thai person who went to Sobyawn. Pan got his Thai identification card in 2006. He held a pink card for almost thirty years. Pan was born in Thaton and his parents were born on Thai territory as well. Pan talks about his memory of Sobyawn.

“I got married to two girls at Thaton and got married again at Sobyawn. At Muang Yawn, I farmed and bred cows and buffalos. At that time, Sobyawn had no Marn (Burmese), or Muser who came later. There were

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<sup>11</sup> James McCarthy, Surveying and Exploring in Siam: With Descriptions of Lao Dependencies and of Battles against the Chinese Haws, 1994, p.135.

\* The Mae-Ai Legal Clinic was established on 27 August, 2006 with aim of upholding the right and status of the Mae Ai people. The Mae Ai Legal Clinic works in cooperation with the Faculty of Law, Thammasat University, the Faculty of Law, Payap University and UNICEF. Two barefoot lawyers, Boon Phongma and Saidaeng Kaewtham, survey, collect data, interview villagers and deal with district officials. The Mae Ai Legal Clinic is located at Moo 14, Rom Thai village, Thaton subdistrict, Mae Ai district, Chiang Mai province.

<sup>12</sup> Interview with Boon Phongma on Wednesday 20 June, 2007, at 10.25, Mae Ai Legal Clinic, Rom Thai village.



neither Thai or Burmese soldiers. At Sobyawn, there were only Thaton villagers.”<sup>13</sup>

Sangprom Noitha, an undocumented Thai, is 85 years old and has held a pink card for almost thirty years. His parents are Thai-born. Now, he has no relatives to testify about his birth on Thai soil.

“I earned my living at Sobyawn as a wood trader. I had been rafting logs down to Thaton for trading with the villagers. These logs are used for building rafts and houses.”<sup>14</sup>

Kum Noitha is an undocumented person who still holds a pink card. Neither she nor her mother has Thai nationality because they have never managed to do anything about their stateless condition. They say that they have no Thai relatives still living. However, the Mae Ai Legal Clinic is looking for a way to help end their statelessness. Because she was at Sobyawn, Kum missed the population census and house registration process.

“I was born in Mae Ai but I went to work at Sobyawn. It is a good place for farming. I grew corn. I always came back to Thaton for trading. At first, there were neither Thai nor Burmese soldiers. Around 1971, I began to see Burmese soldiers. My family’s property was looted by the Burmese minority groups which made me decide to come back to Thaton. After that, I heard that the Muser entered Sobyawn to replace the villagers”<sup>15</sup>

The Kum’s memory of Sobyawn corresponds to Prommin’s. Prommin, a former undocumented Thai, spent his life at Sobyawn when he was ordained as a novice. He also held a pink card from 1977 until 1999 when he got a Thai identification card. Prommin explains why many Thaton villagers became undocumented.

“The main reason is the Thai state itself. The state classifies its people. The state escapes and leaves the villagers. At Sobyawn, I saw the provincial police or border patrol police station around Sobyawn

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<sup>13</sup> Interview with Pan Jaikaew on Wednesday 20 June, 2007, at 17.45, Rom Thai village.

<sup>14</sup> Interview with Sangprom Noitha on Wednesday 20 June, 2007, at 14.40, Rom Thai village.

<sup>15</sup> Interview with Kum Noitha on Wednesday 20 June, 2007, at 14.30, Rom Thai village.

community. In 1957, both the Thai military and police withdrew from Sobyawn. But the villagers still lived there. At that time, there were no Burmese soldiers. After the Thai military retreated from Sobyawn, there was no ruler there. The villagers had autonomy. I first saw Burmese soldiers in 1968. They were soldiers so-called 'Ta-Kho'. Moreover, I saw the Haw and Muser soldiers. But they did not live with the villagers. They lived in the mountainous areas. In 1971, the villagers had autonomy again. The villagers governed themselves, no one controlled or patrolled the village so the villager's belongings were plundered. As a result, many villagers took refuge back in Thaton. However, some villagers decided to go back to Sobyawn again in 1973. At that time, there were many hill people migrating from Burma. Those villagers earned their living by trading with the migrants. Around 1974-1975, there was skirmish between the Burmese army and the minority group's army in Burma which made trouble for the Thaton villagers. So they decided to come back to Thaton and never went back to Sobyawn."<sup>16</sup>

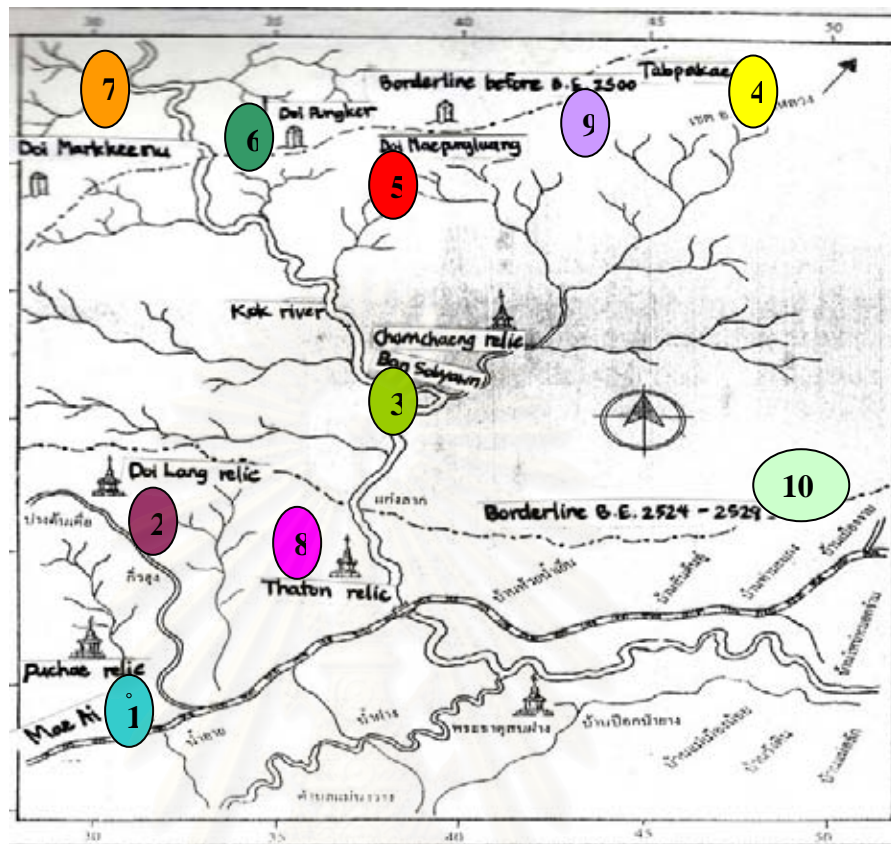
As we have seen, Thaton villagers insist that Sobyawn was their workplace and are confident that they worked on Thai soil because they never saw a Burmese soldier. The document of Phra Maha Boonlerd Dheranantho refers to the historical consciousness of Mae Ai villagers who went to Sobyawn and states that in the Second World War, the Thai border expanded to Muang Hsat in Burma. The witness was a veteran and had patrolled as far as Muang Hsat of Burma, and insists that he never saw Burmese soldiers there. The Buddha images found in that area are made in the Chiang Saen style. Moreover, Phra Maha Boonlerd refers to another Mae Ai villager's report that many boundary markers with English script dividing the Thai-Burmese border at Doi Changmoub, Tab-Pakae and Doi Maepungluang. The map below shows that these boundary markers were north of the area of Sobyawn.<sup>17</sup>

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<sup>16</sup> Interview with Prommin Indravijaya on Thursday 21 June, 2007, at 10.00, Rom Thai village.

<sup>17</sup> Phra Maha Boonlerd Dheranantho, Thaton: The community of Kok river basin, 2001, p. 23.

Map 3: The location of the boundary marks and important place in accordance with the villager's memory



Source: Phra Maha Boonlert Dheranantho, Thaton: The community of the Kok river basin, 2001. Adapted from Thailand highway map 1988 and Royal Thai Survey Department map 1981-1986.

Legend: 1 Mae Ai 2 Doi Lang relic 3 Sobyawn 4 Tabpakae 5 Doi Maepungluang  
6 Doi Pungker 7 Doi Markkeenu 8 Thaton relic  
9 Border line before B.E. 2500 (1957 C.E.) 10 Border line B.E. 2524-2529 (1981-1986 C.E.)

In the map above, the boundary line before B.E.2500 (1957 C.E.) based on the villager's report was drawn beyond Sobyawn community. The boundary markers were embedded around Doi Maepungluang, Doi Pungker. Therefore, according to the villager's memory, the area around Sobyawn before B.E.2500 (1957 C.E.) until B.E. 2523(1980 C.E.) belonged to Thailand.

According to the historical consciousness of the Rom Thai villagers, the villagers who went to cultivate and work at Sobyawn, were there only until B.E.2522 (1979 C.E.) when they left for Thaton and never returned. On the one hand,

if the historical consciousness of the villager concerning the boundary posts is accurate, Sobyawn in the period before 1981 belonged to the Thai state. On the other hand, the border line divided Thai and Burma may have never changed and Sobyawn may have belonged to Burma before the villagers had occupied there. But the villagers did not realize the existence of the boundary line on the map and did not perceive the international agreement concerning the boundary line demarcated Thai and Burma. However, only the villagers' historical consciousness may not be enough, we must look for additional evidence particularly the witnesses and documents.

#### **4.1.2 Problem of Statelessness in Rom Thai village**

The important problem for Rom Thai villagers is statelessness. Statelessness can arise from many factors, but in Rom Thai village it began with errors in civil registration. In 1956, the state carried out a population census and house registration throughout the country. Some Rom Thai villagers missed this census because they had gone to farm at Sobyawn, which the villagers understood to be Thai territory. The Rom Thai villagers at Sobyawn were not informed about the survey. As a result, they missed the population census. In 1963, the first identification cards were issued, and many Rom Thai villagers missed the chance to be issued with these. Since most of them did not realize the importance of identification cards, they did not come from Sobyawn to get their cards. In 1970, a second round of identification cards was issued. The Rom Thai villagers faced the same problem of missing the civil registration. Then, as a result of a skirmish between minority groups and the Burmese army at Sobyawn, the villagers felt insecure. Many villagers thus took refuge back to Thaton while some members of Burmese minority groups migrated to this place as well. In 1974-1976, many displaced Burmese nationality migrated into Thailand to escape the fighting between the Burmese army and minority groups. The Thai state solved the problem by issuing them with identity cards for displaced Burmese.

Unfortunately, the Thai villagers of Thaton with no identity cards were forced to take the cards for displaced Burmese (pink cards) by the District Office. The villagers were threatened with expulsion from the country if they did not accept the pink cards. Out of fear, they were forced to accept these cards. Because of their illiteracy, they did not understand that pink cards are for displaced Burmese. Should this error be attributed to the District Office or the villagers who accepted the pink cards? Missing the civil registration process not only made the villagers stateless, but



also resulted in their children becoming stateless. Even though these villagers have tried to prove themselves Thai-born citizen through the community witnesses, the pink card is official evidence identifying them as displaced Burmese and the state officials have accepted the pink card as the main evidence. Most Rom Thai villagers who still do not have Thai nationality hold a colored card as their identity card. Some people hold orange cards identifying them as Thai Lue; some hold green cards with red edges identifying them as members of highland communities; and some hold the blue cards of hill people. The newcomers migrating from Burma hold orange or purple cards of illegal Burmese migrants. However, the majority hold the pink cards of displaced Burmese.

The Thai-born people who missed the population census and house registration process held colored cards until Mae-Ai District Chief Krisda Boonrat opened the opportunity for villagers to prove their nationality through the community witness process in 1999. As a result, around 2,000 villagers obtained Thai nationality and the basic civic rights of Thai citizens. However, in 2002, Mae Ai District Office under a new District Chief, withdrew Thai nationality of 1,243 villagers. 866 villagers had their Thai nationality withdrawn and their names were removed from the house registration certificates; another 377 villagers only had their names removed from the house registration certificates. Most villagers who lost Thai nationality came from Rom Thai village. The revocation of nationality was because the Third Army alleged to the Department of Local Administration that there was corruption between the stateless villagers and the district officers. The Third Army believes that there are still many Thai undocumented people who face statelessness. The whole process should be reviewed to make sure that Burmese aliens are not included in Thai house registrations or be granted Thai nationality. Therefore, the Department of Local Administration decided to revoke all 1,243 names from Thai house registration certificates as “their [the villagers’] house registrations were illegal. Their nationality status was withdrawn after complaints from the Army about alleged corruption among Mae Ai officials when it came to authorizing Thai citizenship.”<sup>18</sup>

Although today the 1,243 villagers had had their Thai nationality reinstated, the problem of statelessness in Rom Thai village is not eliminated. There are still Thai-born people who missed the civil registration process, hold colored cards

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<sup>18</sup> “Chiang Mai: 866 get citizenship back”, *The Nation*, Thursday, April 29, 2004.



and have never proved their status because they have no relatives who can serve as witnesses.

Thai-born people who missed the population census and house registration process are not identified as Thai citizens. Although they hold pink cards, the Thai state cannot ignore the reality that those people have their origins in Thai territory. Moreover, the Thai state has no right to force Thai-born people to be considered as displaced Burmese. Marginal people in this study means people who have lived in Thailand for a long time but are not yet considered as Thai because they missed the population census and house registration process. They are not accepted as Thai citizens, not yet as Burmese because Burma does not recognize those people as its citizens. It is strange that Thai state has issued cards for displaced Burmese to Thai-born people.

#### **4.2 The Marginalization of Stateless People in Rom Thai Village**

In Citizenship and Social Class, T.H. Marshall explains that citizenship constitutes three elements; civil, political, and social rights. The civil element of citizenship is composed of the rights to freedom. It is related to the rule of law and a system of courts. The political element of citizenship consists of the rights to participate in political activity. The social element of citizenship is related to the right to live in that society. It also includes the right to access social services and the educational system.<sup>19</sup> Daniel Levy and Yfaat Weiss state that “citizenship legislation may thus be viewed as a pervasive system of classification, organization society into ‘us’ and ‘them’.”<sup>20</sup> Engin F. Isin and Patricia K. Wood explain that citizenship can be described as “both a set of practices (cultural, symbolic and economic) and a bundle of rights and duties (civil, political and social) that define an individual’s membership in a polity.”<sup>21</sup> Citizenship should be recognized both as practice and as status. Without the latter, modern individuals cannot hold civil, political and social rights.

The census is a process which emphasizes the people’s sense of citizenship. It is a process of systematic quantification. People living in a country are

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<sup>19</sup> T.H. Marshall and Tom Bottomore, Citizenship and Social Class, 1992, pp.18-25.

<sup>20</sup> Daniel Levy and Yfaat Weiss, Challenging Ethnic Citizenship: German and Israeli Perspectives on Immigration, 2002, p.1.

<sup>21</sup> Engin F. Isin and Patricia K. Wood, Citizenship and Identity, 1999, p.4.

counted to helping the state to administer its citizens. Then, the census is used for tax purposes and military conscription. The marginalization of stateless people in Rom Thai village may occur as a result of many factors. The census itself is a process of distinguishing people who are defined as Thai from people are identified as non-Thai. Although the state has the authority to gather information on people in a national census, it has no power and authority to judge that the people who are not counted in a population census lack Thai citizenship. In this topic, it will answer the first of my thesis objective that two groups of Rom Thai villagers have suffered marginalization: (1). undocumented Thai people and (2). 1,243 formerly stateless Mae Ai villagers.

#### **4.2.1 Undocumented Thai People**

The undocumented Thai people of Rom Thai village faced marginalization when the Thai state held a population census. Before the population census and house registration process, undocumented people had been not clearly classified as aliens. Thai-born people have a right to nationality without receiving an identity card or having their name in a house registration certificate. In the past, the first or second generation of Thaton villagers were not concerned about their legal status or legal evidence of their nationality. They just assumed that because they were born on Thai soil, they were Thai citizens. They could carry on their normal lives with no limitation of their civil rights. However, marginalization came to the Thaton villagers when the state held the first population census and house registration. It is not only nation-building which delineates and defines 'Thainess' from 'Otherness', but nationality distinguishes non-Thais from Thai citizens. Identity cards form an essential marker of nationality. Identity cards are not only necessary for identifying nationality, but also guaranteeing the civil rights of the citizen. There are Thai-born people in Rom Thai village who lack Thai identity cards. When the state conducted the population census and house registration, these people were not registered in the civil registration system. The failure to register has four causes leading to the marginalization of undocumented Thai people: 1. the people's former way of life; 2. errors in the civil registration system; 3. fire at Mae Ai District Office; 4. forced distribution of cards for displaced Burmese nationals.

1. The undocumented status of some villagers happened because of their way of life. The Thaton villagers, as mentioned above, went to work at Sobyawn, 10 kilometers from Thaton, which at that time was recognized as Thai territory by the villagers. Sobyawn is a fertile area which is good for agriculture. The villagers insist that Sobyawn did not belong to Burma. Sobyawn, at that time, was an uninhabited area where no one resided or earned the living. A formerly stateless villager, Prommin, states that in the villager's perception, Sobyawn belonged to Thailand; otherwise the villagers would not go to work there.

“In the past, the villagers understood that it was impossible that Sobyawn belonged to Burma. The Buddha image in the Chiang Saen style indicates that Sobyawn was in Thai territory.”<sup>22</sup>

The villagers occupied Sobyawn as their second residence. Often, they came back home to Thaton for trading and meeting their relatives. The majority of Thaton villagers had the experience of earning their living at Sobyawn. It can be said that shifting their farmland to a(n) overlapping area caused the villagers to become undocumented. However, this is not a mistake of the villagers who were not concerned about problems of locating the border. The villagers had a nomadic existence. Saidaeng Kaewtham, a formerly stateless person who was once an undocumented person, gives this explanation.

“Mostly, the villagers had their old residence in Thaton but they went to work at Sobyawn which was an overlapping area on the Thai-Burma border. I heard from my grandparents that the villagers, at that time, had no fixed residence. They often moved in and out of Thaton. Some people had been staying at Sobyawn for a long time and did not want to come back to Thaton any more. Some people had a second home at Sobyawn, sometimes they traveled back to their birthplace. For this reason, they missed out on the population census and became undocumented people. Also, their descendants' names were not included in the civil registration. Nowadays, Sobyawn is still an vacuum area. Neither Thailand nor Burma

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<sup>22</sup> Interview with Prommin Indravijaya on Thursday 21 June, 2007, at 10.00, Rom Thai village.

know where the exact border is; how could the villagers be concerned about an unclear boundary?”,<sup>23</sup>

2. Some people are undocumented because of three types of error in the civil registration system.

2.1 Some villagers became stateless people because they were not informed about the population census and house registration process. The source of the problem is that they left Thaton community to work in another place where the census did not reach them. Villagers in remote areas may be omitted from the civil registration process. It is difficult for people along the margin of the country to have access to central government services.

2.2 Some villagers were informed by the village head about the census but because of their illiteracy and lack of concern for the importance of the census, they did not come back to Thaton. However, some people came back to Thaton to get an identity card but were refused.

“My grandmother did not go to Sobyawn. She stayed at Thaton when the district officials came to make identity cards for the villagers. However, my grandmother was not given an identity card because the village head said that she should wait for other family members who were in Sobyawn. It was not convenient for the district officials to make identity cards one-by-one. When all our family members came back to Thaton, we still did not get identity cards because the district officials had left. In 1971, there was a house registration process making Tor Ror 14 forms. The district officials surveyed how many family members the villagers had. In 1977, identity cards were issued. The villagers who still did not have an identity card were threatened with expulsion from the country if they refused to

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<sup>23</sup> Interview with Saidaeng Kaewtham on Wednesday 20 June, 2007, at 10.25, Mae-Ai Legal Clinic, Rom Thai village.

accept the pink cards. The villagers misunderstood that those cards are Thai identity cards, so they agreed to accept the pink cards.”<sup>24</sup>

Another case was marginalization due to the district officer gave a Burmese card to replace the Thai card. Sukkaew Somwandee’s father came back to Thaton by chance in 1964, so he was granted a Thai identity card. Then, when the card expired, Sukkaew’s father asked the District Officer for a new card. However, the District Officer gave him a pink card instead of a Thai identity card. In fact, holding both a Thai card and a pink card does not cause Sukkaew’s father to lose the right to Thai nationality. Unfortunately, the District Officer decided that because Sukkaew’s father held a pink card, this meant that he is Burmese, causing Sukkaew to be the son of a Burmese.

2.3 The problem of civil registration system are not only due to the mistakes of the district officials, but should also be considered as due to the villagers’ knowledge on the importance of nationality. The villagers, in the past, were not concerned about identity cards. This is because the villagers are illiterate. In the past, people born on Thai soil became Thai citizens until the concept ‘nationality’ was emphasized and increasingly defined through legal evidence and documentation. Even though the people were born on Thai soil, if they were not surveyed and identified by having their names entered in the household registration certificates as Thais, they became non-Thais. The villagers, and particularly the elderly, are not concern about ‘citizenship’. As a matter of fact, many undocumented people in Rom Thai village still do not know what ‘nationality’ means, and cannot give a definition. They just assume that they are Thai because they were born on Thai soil. They perceive that Thai nationality and Thai identity cards are necessary to their livelihood. However, they could not reply to questions asking why Thai nationality and identity cards are indispensable for them. They do not understand how civil registration and birth registration is essential for their life. In the past, a lot of villagers were not registered with birth certificates, which led them to become undocumented people even though they have parents with Thai nationality.

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<sup>24</sup> Interview with Boon Phongma on Wednesday 20 June, 2007, at 10.25, Mae Ai Legal Clinic, Rom Thai village.



“The former generations of my family never had birth certificates. They do not know how birth registration is indispensable for them. When the parents held the colored cards and notify the village head of their child’s birth, he did not accept the notification because he understood that the child of parents with colored cards should not get birth notification and be registered on a birth certificate.”<sup>25</sup>

“The problem of undocumented Thai people happened because the villagers lost their identity cards. Those villagers were not enthusiastic to get new ones because, at that time, they had no opportunity to use the cards. No one was concerned about the boundary line which was drawn to mark one country from another.”<sup>26</sup>

3. Another reason for the statelessness of Rom Thai villagers is the destruction of Mae Ai District Office by fire in 1976. As a result, the legal evidence and documentation concerning birth certificates and house registration certificates were destroyed. The villagers thus lost the legal evidence to prove their personal status. The villagers who had their names in the civil registration system before 1976 became undocumented people after 1976. This is one reason that many villagers were forced to accept the cards for displaced Burmese in place to their Thai cards.

4. An important turning point which led to the marginalization of the villagers occurred in 1977 when many immigrants illegally entered Thailand from Burma. The district officials dealt with the influx of migrants by issuing them with pink cards identifying them as displaced Burmese nationals. Unfortunately, undocumented Thai people were also given pink cards as their identity cards, since then they became legally Burmese. Here are reports by the villagers of the day when the district officials came to make identity cards for them.

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<sup>25</sup> Interview with Boon Phongma on Wednesday 20 June, 2007, at 10.25, Mae Ai Legal Clinic, Rom Thai village.

<sup>26</sup> Interview with Phra Mahanikom Mahapinikkamano on Saturday 22 April, 2007, at 14.30, Maimokjam Temple.

“The village head said that the undocumented people have to make the cards because they missed the census. He did not tell us that it is a card for displaced Burmese.”<sup>27</sup>

“The village head just announced that those who did not have an identification card should come to get one. When we met the district officials, we had no chance to ask anything. They just asked us about our name, surname, parent’s name and date of birth.”<sup>28</sup>

“The district officials came to make identification cards at Thaton temple. I was not informed what kind of card I would be granted. But I got the pink card for Burmese. The district officials told me that I am Thai citizen but I wondered why my card is pink.”<sup>29</sup>

The villagers gave another reason why they got pink cards.

“Because of fear and intimidation, the villagers consented to take the pink cards. In reality, the state has no right to take away the villagers’ Thai nationality. But at that time, no one worried about this. The power is in only the leader’s hands.”<sup>30</sup>

On the other hand, the villagers who did not go to Sobyawn had the chance to have their names registered on the Thai household registration certificates and get identity cards. However, some of them reached a turning point which changed their lives from being Thai to being aliens, when their cards expired. They requested new cards, but the officials refused to issue Thai identity cards and issued the

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27 Interview with Kungna Noieye on Thursday 21 June, 2007, at 14.20, Rom Thai village.

28 Interview with Prommin Indravijaya on Thursday 21 June, 2007, at 10.00, Rom Thai village.

29 Interview with Pan Jaikaew on Wednesday 20 June, 2007, at 17.45, Rom Thai village.

30 Interview with Boon Phongma on Wednesday 20 June, 2007, at 10.25, Mae Ai Legal Clinic, Rom Thai village.

displaced Burmese cards instead. Similarly, villagers who lost their Thai cards were forced to take pink cards as replacements, as the case of Phra Mahanikom's mother.

“My mother lost her Thai identity card. The district official refused to make her a new identity card. Not only that, she was also given a pink card to replace her Thai identity card. Then, the officials immediately understand that villagers holding pink cards are Burmese without realizing concern that before they got pink cards, they had held Thai cards.”<sup>31</sup>

All key informants who were not surveyed in 1956 and 1970 held pink cards issued by the District Office until 1999. Some of them have held pink cards until today. They lack crucial evidence such as legal documents and relatives who can serve as witnesses to prove their legal status. Both former and current undocumented people face marginalized status. Because they are not Thai citizens, they are denied access to civil rights. They are excluded from the use of limited national resources. The professions in which they can work are restricted. For this reason, they can earn just a little money to live on.

The next section deals with the case of the 1,243 Mae Ai villagers whose Thai nationality was revoked in 2002. In fact, the problem began when undocumented Thai people received cards for displaced Burmese and requested the District Office for Thai nationality in 1999 and 2000, which in turn is a result of the time when people worked in Sobyawn and missed the census. The insistence by district officials that the villagers take cards identifying them as Burmese should be considered as the source of problem that led to the revocation of nationality of 1,243 Mae Ai villagers.

#### **4.2.2 The 1,243 Formerly Stateless Mae Ai Villagers**

Because they lived at Sobyawn, some Thaton villagers missed the population census and house registration process. As a result, they became undocumented Thai people and living in a stateless condition. In 1977, they were informed that identity cards would be issued. They did not know the details and understood that they would receive cards for Thai people. They held pink cards as their identity cards until 1999 when the District Officer gave them a chance for them

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<sup>31</sup> Interview with Phra Mahanikom Mahapinikkamano on Saturday 22 April, 2007, at 14.30, Maimokjam Temple.

to prove their status. Many Rom Thai villagers got Thai nationality through community witness evidence and legal documents. Some of them had to draw family trees to explain their relationship to relatives who had Thai identity cards. In 2002, the 1,243 Mae Ai villagers had their nationality withdrawn without notification.

In fact, the 1,243 formerly stateless Mae Ai villagers comprise not only undocumented people who were born on Thai soil, but also illegal Burmese or other cases who had chance to get Thai identification cards. However, some of the 1,243 villagers once faced the same situation as the undocumented people but they had chance to be granted Thai nationality. In this thesis, the population studied are chosen particularly the people who were born on Thai soil and lived in Rom Thai village. The main reason for nationality revocation was because they had once held pink cards. The reasons given by district officials for the revocation of nationality were: (1). the villagers had once held cards for Burmese and (2). the process of adding the villagers' names to the Tor Ror 14 house registration certificates was done illegally.

“In 1999, my family and I contacted the Mae Ai Deputy District Officer about the way to get Thai nationality. He suggested to me that Thai parents or Thai relatives can be a witness for me to prove and gain Thai nationality. After my Thai relatives affirmed our relationship and my origin, I was granted Thai nationality.”<sup>32</sup>

The case of Mee Maneewan, Phra Mahanikom's mother, is a good example of an undocumented Thai person who was given a card for displaced Burmese. This case came to the attention of district official, Krisda Boonrat, who was concerned that many undocumented Thai people who were forced to take cards for Burmese. He gave an opportunity to those people to prove their status to regain Thai nationality. Under a new district official, Chayan Yusawas, many more villagers requested the right to Thai nationality. As a result, almost 2,000 people gained Thai nationality. The Army were suspicious of the process of granting nationality and complained about corruption between officials and villagers in the process. The Department of Provincial Administration brought all the requests for Thai nationality back to Bangkok for review. As a result, the Thai nationality of 1,243 Mae Ai

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<sup>32</sup> Interview with Boon Phongma on Wednesday 20 June, 2007, at 10.25, Mae Ai Legal Clinic, Rom Thai village.

villagers was revoked by order of the Department of Provincial Administration on February 5, 2002. They became undocumented Thai people and returned to a stateless condition.

Mee Maneewan, Phra Mahanikom's mother, was born in Thaton. Her parents were Thai. She had chances to obtain a Thai identity card both in 1964 and 1970. In 1973, she lost her Thai identity card and house registration certificate, and requested a new one. The district official gave her the card for displaced Burmese instead of a Thai identity card. Thus, Mee Maneewan has had cards for both Thais and Burmese. However, the district official did not consider the fact that Mee Maneewan had a Thai card. The district official took the Burmese card as the crucial evidence in identifying her legal status, rather than the Thai card.

Finally, Phra Mahanikom presented a petition to the King. A letter was sent from the Office of the Bureau of the Royal House Hold to the Department of Local Administration to prove and rectify the error of Mee Maneewan's documentation. As a result, Mee's Thai nationality was reinstated and her children were granted Thai nationality as well. Therefore, the case of Phra Mahanikom's mother is a starting point to deal with the stateless problem of undocumented Thai people.

"My case may be a good solution to the problem which occurs in many dimensions. My mother has fought for her nationality since 1973. I have succeeded with my mother from 1977 until 1995, the year that my mother's Thai nationality was reinstated. My experience thus can respond to the problem of undocumented Thai people who hold the pink cards. I proved my mother's status by drawing the family tree of mother's relatives. The family tree consists of three hundred relatives. Two hundred of them have Thai identity cards and around one hundred are undocumented Thai people. If my mother is Burmese, it means that those two hundred people are Burmese too, right?"<sup>33</sup>

The villagers learned from Mee Maneewan's experience about the right to Thai nationality. The undocumented Thai people holding pink cards gathered to request Thai identity cards and to change their names from Tor Ror 13 to Tor Ror

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<sup>33</sup> Interview with Phra Mahanikom Mahapinikkamano on Saturday 22 April, 2007, at 14.30, Maimokjam Temple.



14 documents. However, the villagers could earn their living as ordinary Thai citizens for four years only. They then returned to a marginalized condition and were denied access to civil rights. Even though their Thai nationality was reinstated, some of them still face marginalization. Though they are Thai by law, if they are still poor and sick or are denied access to rights, they are still marginal people.

Nowadays, even though the Thai nationality of 1,243 Mae Ai villagers was reinstated, they are classified into five groups following the order of the Department of Local Administration to review their status.

1. Non-existence. Surveys by the District Office found no person corresponding to the name in the house registration certificate.

2. Untrustworthy evidence. The person has documents proving their personal status but the evidence is not strong enough to determine that they have Thai relatives or were born on Thai soil.

3. Indeterminate evidence. Status of the person has to be verified due to deficiencies in documentation and witness evidence.

4. Adequate evidence. The person has a right to request Thai nationality or the person is proved to be an alien who legally entered Thailand according to the cabinet resolution.

5. DNA evidence. The person has evidence, credible documentation and witness evidence to prove that they are Thai.

This order shows that despite the verdict of the Administrative Court to reinstate the Thai nationality of the Mae Ai villagers, the Department of Local Administration continues in its opinion that the villagers are not Thai and acquired Thai identity cards and house registration certificates illegally. The villagers who are not included in the fifth category again suffer disadvantages. People in the first four categories are waiting for a new examination by the Department of Local Administration of their personal status. For this reason, many villagers are waiting for the review process, which increases the burden on the villagers and keeps the villagers marginalized. In fact, the re-approval process of the Department of Local Administration can be done. But during the review process, the villagers ought not to be denied their rights. For example, Neng Naiyod was born on Thai soil with an undocumented Thai mother holding a green card with red edges. Her mother, Keng Naiyod got a Thai identity card in 2000 which was revoked in 2002. Even though Keng has now been given Thai nationality back, Neng's name is still not added to the

house registration certificate and has not been given Thai nationality in line with her mother's nationality because the District Officer considers that Keng's status is incredible and Neng has to wait until her mother's status is again verified by the Department of Local Administration.

#### **4.3 Status and Condition of Marginal People in Rom Thai Village**

Human beings can be differentiated in terms of biological characteristics such as gender, size, skin color, eye color or agility. And in every society, human beings are differentiated by social role, occupation, level of education, or social status. Nationality is another aspect differentiating people in society. Nationality can create social stratification and social inequality to people who are not identified as citizens or members of society. Harold R. Kerbo explains that social inequality often emerges from social differentiation for two reasons. (1). Human beings often judge and evaluate events and things as 'good' or 'bad'. Thus, individual characteristics and different positions or roles may be evaluated or ranked as superior or inferior. (2). Social inequality may emerge from social positions or roles. People with higher positions have more chance to access services.<sup>34</sup>

Stateless people in Rom Thai village are differentiated by nationality expressed by identity cards and Thai house registration certificates. Even if they are not evaluated as 'good' or 'bad', they are judged to be Thai citizens or non-Thais. Non-Thais face unequal conditions. They are also differentiated by social status, roles, or occupations. The social status of undocumented Thai people is equivalent to that of aliens. They cannot be granted a significant role in society such as village head or community leader. Their right to work is also restricted to certain occupations. Most of them do not have high levels of education. Most of them earn their living as laborers. With low wages, they dare not go to hospital because they do not have enough money to pay for medical fees. This section deals with the second thesis objective of how the stateless people of Rom Thai village are in a marginal status. The marginalization process in Rom Thai village is divided into two aspects; legal marginalization and real marginalization.

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<sup>34</sup> Harold R. Kerbo, Social Stratification and Inequality: Class Conflict in Historical, Comparative, and Global perspective, 2003, pp.11-12.

### 4.3.1 Legal Marginalization

Nowadays, there are still many people born on Thai soil who missed the civil registration process. As a result, they earn a living as non-Thais and do not have access to civic rights like ordinary citizen. Most failures of civil registration occur in remote areas where government services or state power cannot reach or are difficult to access.

People born in remote areas, such as the highlands or border areas, may miss population census. They earn their living from agriculture and it is necessary to find fertile areas to grow their crops. Rom Thai villagers in the past went for seasonal work at Sobyawn in a disputed area between Thailand and Burma. They missed out on the census and house registration. Legal marginalization, in this study, means that the villagers are marginalized as “the other” of society through a legal process which is expressed by such powerful tools as nationality law, identification cards and house registration certificates. The emergence of the nation-state led the Thai state to categorize who is a Thai citizen and who is not. However, in the past, Thai state authority was limited and did not reach people in remote areas. Besides, the sense of belonging to the Thai state did not affect people living along the Thai-Burma, Thai-Lao, and Thai-Cambodia borders. People shifted their residence and crossed the border regardless of the fixed borderline on the map.<sup>35</sup> The emergence of the nation-state had a deep impact on the relationship between the people and the state, particularly with respect to the definition of who is suitable to be a citizen and who is not. At first, as we have seen, Thai nationality law defined nationality broadly, including everybody born on Thai soil without exception. Then, as the state became more powerful, it expanded its power mechanisms to cover the marginal area, while restricting the right of marginal people to Thai nationality. Thus marginal people are excluded from the status of Thai citizens.<sup>36</sup>

Legal marginalization can be divided into three aspects.

#### 1. Legal myth

Somchai Preechasilpakul in his book, Nitisart Chaikhob, states that to define a person as a Thai citizen or not depends not only on his/her ancestors, but also

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<sup>35</sup> Somchai Preechasilpakul, Nitisart Chaikhob, 2005, pp. 41-42.

<sup>36</sup> Somchai Preechasilpakul, Nitisart Chaikhob, 2005, pp. 61-62.

on the social discourse pertaining to the meaning of Thai citizenship which is constructed and implemented by the state. Many hill people who have long lived on Thai soil still do not have Thai nationality. It is not because these people have no Thai relatives, but because nationality law and government policy excludes those people from becoming Thai citizens. The dominant group creates the discourse and myth through Thai nationality law by using identity cards and house registration certificates to classify a subordinate group as non-Thais. Often, the hill people or the indigenous people are viewed as non-Thais, thus they cannot be granted Thai nationality.<sup>37</sup> State officers create the discourse and legal myth through the pink cards that identify the holder as a displaced Burmese national. The legal myth and constructed discourse are thus the main factors to stimulate the occurrence of prejudice and discriminatory practices marginalizing the people by statelessness.

## 2. Limitation of Thai nationality law

The turning point in Thai nationality law limiting access to Thai nationality is Revolutionary Decree No. 337 which created many stateless persons in Thai society. Revolutionary Decree No. 337 mainly aims at restricting the opportunity to gain Thai nationality by people who illegally entered Thailand. However, this decree affected the children of illegal aliens who were born on Thai soil, but could not get Thai nationality. In practice, this decree also affected the indigenous people who had not yet registered with the civil registration. At present, even though Revolutionary Decree No. 337 has been annulled, the current Nationality Act adopted and adapted some of the discrimination of Revolutionary Decree No. 337 concerning the acquisition of Thai nationality by aliens in section 7 and section 7 *bis*. Thai nationality law marginalizes aliens, particularly the children of alien parents, who were born on Thai soil and who are classified as non-Thai. Especially, section 7 *bis*, paragraph 3 of the current Nationality Act states that the children of alien parents, even if born on Thai soil, are migrants who illegally entered Thailand.

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<sup>37</sup> Somchai Preechasilpakul, Nitisart Chaikhob, 2005, pp. 30-33.

### 3. Villager's perceptions of nationality law and rights

It is interesting that almost all key informants for this thesis have no basic knowledge of Thai nationality law. They do not recognize the significance of rights. Most are merely aware that they have held cards identifying them as Burmese, meaning they are not Thai by law although they were born on Thai soil. Sukkaew Somwandeew still holds a pink card although he has the Thai identity card of his father. Sukkaew has never contacted the District Office to change his card. Moreover, he does not know what 'nationality' means. He just knows that he is Thai but cannot explain what does non-Thai mean.

"I do not know the definition of nationality. I just know that I am Thai. I do not know what rights Thai citizens have."<sup>38</sup>

Similarly, Nae Somwandeew and Sangprom Noitha still hold cards for Burmese. They do not know the meaning of nationality. They just know that they wish to have Thai identity cards like other people. Sangprom Noitha states that getting Thai nationality and a card depends on the District Officer's decision.

"I am Thai, not Burmese. I hope to get a Thai identity card. To get a Thai card depends on the *chao nai* (referring to the District Officer). Whether I get a Thai card or not depends on the *chao nai*."<sup>39</sup>

Most of them have never fought for their right to have their Thai nationality reinstated. Boontip Kumdaeng was forced to take a pink card even though his parents were born on Thai soil. But they went to farm at Sobyawn, then his Thai nationality was revoked like other Mae Ai villagers. Boontip explains that he feels hurt not to become a Thai citizen but he has never gone to the District Office to fight for his right.

"I am so sad to be given the pink card and have my Thai nationality revoked despite being Thai. I have never thought that I can fight for my rights. I don't dare to do so because I have a low level of education. I have no power. I cannot contradict the officer because he has more power than

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<sup>38</sup> Interview with Sukkaew Somwandeew on Wednesday 20 June, 2007, at 15.30, Rom Thai village.

<sup>39</sup> Interview with Sangprom Noytha on Thursday 21 June, 2007, at 14.40, Rom Thai village.



me. I am just a humble citizen. Whatever the officer orders us to do, we have to do it.”<sup>40</sup>

Boon Phongma explains that the villagers believe that they are powerless and have to do everything following the governor’s order.

“Even my father teaches me that I should not have fought for Thai nationality. My father compares me with a dog looking at the airplane from below. He told me that the District Officer is at the top. We are just common villagers without power and knowledge. We surely lose. Powerless people should respect and obey to governor.”<sup>41</sup>

It can be explained that fear is another factor that leads the villagers to embed themselves in a marginal condition. This is an issue of power relations between the district officer and the villagers. Mostly, the villagers see themselves as subordinate or powerless, who have to prostrate themselves in front of the dominant power. It is not only their limited understanding of nationality which obstructs the villagers’ access to rights, fear is also an obstacle.

### 4.3.2 Geo-political Marginalization

Undocumented stateless people become marginal and are denied basic rights which are necessary to their livelihood. Undocumented people are not accepted as Thai citizens even though they insist that they are Thai-born. It is true that the Thai state believes the legal evidence or legal documents more than community evidence. In this study, at least, the undocumented people are marginal in a geographical perspective. The main reason for Mae Ai villagers being undocumented was their remoteness from central state power.

In Ladis K. D. Kristof’s definition, “the boundary indicates certain well established limits (the bounds) of the given political unit and as such functions to exert an arbitrary limit separating two jurisdictions.”<sup>42</sup> In addition, in “Coexistence:

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<sup>40</sup> Interview with Boontip Kumdaeng on Wednesday 20 June, 2007, at 16.00, Rom Thai village.

<sup>41</sup> Interview with Boon Phongma on Wednesday 20 June, 2007, at 10.25, Mae-Ai Legal Clinic, Rom Thai village.

<sup>42</sup> Ladis K. D. Kristof, “The Nature of Frontiers and Boundaries”, *Annals of the Association of American Geographers* 49.3, 1959, pp.270-273. Quoted in Hazel J. Lang, “Refugees and the border”, *Fear and Sanctuary: Burmese Refugees in Thailand*, 2002, p.127.

Borderlands and Intra-state Conflicts in Mainland Southeast Asia”, Carl Grundy-Warr defines borderlands as “zones or territories flanking and straddling international land boundaries, are a more fluid ecumene, encompassing a confluence of political, military, cultural, and economic interactions.”<sup>43</sup>

Thongchai Winichakul shows how Siam escaped colonization by accepting European mapping practices and the colonial alignment of boundaries.<sup>44</sup> The idea of people (chat) and territory (prathet) were created and linked to the people when the boundary of the nation was defined. Thus, map-making was not only a process which demarcated the area of country, but also identified who are its citizen or nationals and who are not. Moreover, maps also classified distinctions of culture, language, or religion between contiguous countries.

Therefore, it can be said that the Siamese or Thai identity was created when it was demarcated on a map. Also promoted among all people in the country was a sense of citizenship. This sense of Thai-ness was instilled in the people through the idea of nationalism. However, in some border areas, the boundary of Thailand was clearly demarcated on the map, but the sense of Thai-ness had still not pervaded there. Thongchai states that “the discursive domain of Thai-ness remains homogenous and unified. In turn, moreover, in the terminology of the geographical discourse, terms such as border become ambiguous. The border of Thai-ness is more limited than its geo-body. The Thai geo-body is not necessarily equal to Thai nationhood.”<sup>45</sup>

The Rom Thai villagers have resided near the border of Thailand and Burma. They are at the geographical margin of the country: in other words, they are marginal in terms of geography. As mentioned above, Thai-ness or citizenship which is expressed through the registration process and identification cards did not reach Rom Thai village while the Thai geo-body was already drawn on the map. The villagers did not know of the boundary on the map. They were not aware of the agreement setting the boundary between Thailand and Burma. They crossed the

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<sup>43</sup> Carl Grundy-Warr, “Coexistence: Borderlands and Intra-state Conflicts in Mainland Southeast Asia”, *Singapore Journal of Tropical Geography* 14,1, 1993, p.45. Quoted in Hazel J. Lang, “Refugees and the border”, *Fear and Sanctuary: Burmese Refugees in Thailand*, 2002, p.127.

<sup>44</sup> Thongchai Winichakul, *Siam mapped: A History of the Geo-Body of a Nation*, 1994, p.128.

<sup>45</sup> Thongchai Winichakul, *Siam Mapped: A History of the Geo-Body of a Nation*, 1994, p.170.

frontier to earn their living in Sobyawn. Because they missed the population census, they lack Thai identification cards which can help them to access basic rights. Often, the government services reach marginal villages slower than core villages. The geopolitical dimension is a marginalizing factor for people living far from central power and with limited access to social services.

### **4.3.3 Real marginalization**

Real marginalization in this study means that the stateless villagers, both the undocumented Thai people and the 1,243 formerly stateless people, face the denial of rights. It is real that the villagers are identified as non-Thais through the legal evidence such as Thai identity cards and Thai house registration certificates. It is real that villagers are still denied basic rights important for human livelihood. It is also real that the undocumented Thai people and the 1,243 formerly stateless people still face prejudice and the discriminatory practices by the dominant group, particularly the state officials who the villagers often have to contact.

Prejudice is another factor leading to marginalization. The concept of prejudice is related to the concept of discrimination because most prejudicial attitudes are found in the dominant group which uses its superiority to the subordinate group through discrimination. Discriminatory actions lead the minority or subordinate or powerless group to a condition of marginalization. In this condition, the powerless or subordinate groups face the denial of access to various life opportunities such as jobs, housing, health-care, education, justice, and political participation. However, prejudice and bias causes social stigmatization which is a social construct. Social stigmatization also leads to marginalization. The power group constructs a definition of Thai nationals through cards or house registration certificates. It constructs the definition of non-Thai national through pink colored cards which is equivalent to excluding these people and stigmatizing them as non-Thais or Burmese. Even though the powerless group tries to refuse the imposed status, the villagers' voice is not strong enough to counter the accusation.

Boon Phongma, a formerly stateless villager, said that even though her Thai nationality was reinstated, every time she contacts the district officials to help other villagers who still do not have Thai nationality, she is refused by the district officials if she explains the history of the community and how many villagers are undocumented Thai people.

“I tried to explain the history of the community, that the villagers in the past went to work at Sobyawn and missed the census, which caused them to receive pink colored cards. The official replied that he did not care about the history, but the legal evidence. He states that in any case, both the villagers and I are all Burmese. Some of the district officials told me that I should have the same status, displaced Burmese, because I once held a pink card regardless of my proved status.”<sup>46</sup>

Similarly, Suoy Kumdaeng, Yod Kumdaeng and Prom Yavijai, three siblings, are undocumented Thai people who once held pink cards. They have experienced discrimination by public health volunteers who provide health care services in their village. They requested medical treatment from the volunteers but were refused every time. Even the volunteers who live in the same village look down on them as Burmese.

“I feel hurt because I have been refused health care services. But the thing which makes me the most sad is the accusation of being Burmese.”<sup>47</sup>

It should also be noted that when the villagers are accused of being Burmese, they do not dare argue or respond. The villagers are afraid of arguing with or contradicting district officials. It can be assumed that because of their silence, they were forced to take pink cards without any argument. Boon Phongma explains that the villagers never dare to contact officials without an appropriate reason. Therefore, she uses her bravery to help other villagers claim restitution of their nationality in court and to act as a delegate of the villagers in contacting district officials. Kum Noitha has never contacted a district official by herself.

“I am afraid. Even if the district official does not act against me or speak loudly to me, I am afraid.”<sup>48</sup>

“I fear the District Officer. I fear the village head, police, soldiers, all of them. I am afraid they will arrest me.”<sup>49</sup>

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46 Interview with Boon Phongma on Friday 27 July, 2007, at 13.00, Rom Thai village.

47 Interview with Suoy Kumdaeng on Friday 27 July, 2007, at 14.00, Rom Thai village.

48 Interview with Kum Noitha on Wednesday 20 June, 2007, at 14.30, Rom Thai village.

In addition, real marginalization can be expressed in many ways. First of all, stateless villagers are marginal in terms of geography. They live in marginal areas of the country. The lack of Thai nationality is equal to the denial of basic civil rights. Thus, stateless villagers are also marginal in educational, professional, and health care aspects.

#### **4.3.3.1 Marginalization in Terms of Education**

Good news for stateless children is the cabinet resolution of July 5, 2005, stated that the right to education included persons with no civil registration and persons without Thai nationality. Non-Thai children now have the chance to study regardless of level or location of education (with the exception of the children of illegal migrants resident in camps, who can study only in the camps). Non-Thai children also have the same right to educational scholarships as Thais. Stateless children whose right to travel is controlled are given permission to leave their designated area to study as long as the period of study is determined. After stateless children finish their studies, their educational institutions have to issue them with transcripts, which will be marked in red ink to show that they are undocumented. Educational institutions cannot therefore refuse an education to stateless children for the reason that the children do not have Thai nationality or civil registration.

However, in practice, some non-Thai children cannot get educational scholarships. Educational institutions claim that scholarships are for Thai students only. Even though undocumented young people have the right to study, they still face marginalization with respect to the opportunity to scholarships. Neng Naiyod, for example, was born on Thai territory while her mother held a green card with red edges. When Neng was born, her mother did not register Neng's birth. Her mother, Keng Naiyod, was born on Thai territory, but missed the population census and as a result she was given a colored card as her identity card. In 1999, Keng Naiyod was granted Thai nationality and a Thai identification card and, in 2002, she was among the 1,243 Mae Ai villagers whose Thai nationality was revoked. Though her Thai nationality was reinstated in 2005, her daughter's name could not be put into the civil registration system. The Mae Ai official gave as a reason that there is no credible

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<sup>49</sup> Interview with Kungna Noieye on Thursday 21 June, 2007, at 14.20, Rom Thai village.



proof of Keng's Thai status. Keng's status must be reviewed by the Department of Local Administration.

Neng Naiyod is marginalized because she cannot get a scholarship for free education. The qualification for a scholarship is not only poverty and good grades, but also Thai nationality.

“I asked for a scholarship as a poor student with good grades but I could not get one because I'm not legally Thai. I am poor so I want to help my mother by getting this scholarship. I have the right to study just to Mathayom 6. I have never thought of a university education.”<sup>50</sup>

The qualification for scholarships appears to be another tool of nationality which classifies who is 'the other' and not qualified to access the right to free education. Nevertheless, Neng wishes to study to a higher level and get a good job.

“In the future, I want to be a doctor. My mother is always sick. I want to take care and cure my mother.”<sup>51</sup>

However, Neng's dream will not come true if she does not gain Thai nationality. Even if she has the chance of higher education in medical science, she cannot work as a doctor because she does not have Thai nationality. In reality, she was born to a Thai mother so she should have Thai nationality. In practice, state officials still do not accept her status though Neng's mother holds a Thai identification card. Undocumented people develop the attitude that they cannot study to a high level. Even if they study to a high level, they cannot get a good job. Moreover, parents tell their undocumented or stateless children that they should not study much because it is useless and is a burden to the family. Keng Naiyod gave her opinion on her daughter's education.

“Neng does not have to study much. It is useless to study to a high level as long as she still does not have Thai nationality. No Thai identity card

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<sup>50</sup> Interview with Neng Naiyod on Wednesday 20 June, 2007, at 17.00, Rom Thai village.

<sup>51</sup> Interview with Neng Naiyod on Wednesday 20 June, 2007, at 17.00, Rom Thai village.

means to no right to get a good job. Even if she graduates from school or university, she will have to work as laborer.”<sup>52</sup>

Nevertheless, Neng Naiyod still hopes to get Thai nationality. And she believes that Thai nationality will help her study at a higher educational level and get a good job. She also believes that Thai nationality will help her escape from poverty. All her hopes depend on the district officials’ decision and practice.

“I wish to have Thai nationality. I hope the district office will help poor stateless people.”<sup>53</sup>

Another interesting case related to the educational problems of stateless children is their opportunity for higher level education. Panida Sukjai’s personal status is unclear. She was born on Thai soil when her parents held pink cards. After her parents got Thai identity cards, her mother requested the District Office to add Panida’s name to the Tor Ror 14 certificate. However, Panida’s birth certificate is a Tor Ror 3 form for aliens. Her mother has requested to change Panida’s birth certificate to Tor Ror 1 or 2 but has been refused. Panida’s problem is that she holds conflicting documentation that identifies her as both Thai and alien. Panida is now being given help from the Mae Ai Legal Clinic to change her alien birth certificate to a Thai one.

“I do not understand why this problem happens to me. My other Thai friends have an identification number beginning with a 5\* while my identification number begins with a 7 although I am Thai as well.”<sup>54</sup>

She has no problem with the right to scholarship. But it is possible that she will face a problem studying at a higher level if her ambiguous status has not been clarified.

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<sup>52</sup> Interview with Keng Naiyod on Wednesday 20 June, 2007, at 17.00, Rom Thai village.

<sup>53</sup> Interview with Neng Naiyod on Wednesday 20 June, 2007, at 17.00, Rom Thai village.

\* 13-digit identification numbers beginning with a 5 indicate Thais and aliens with approval to add their names to house registration certificates. 13-digit identification numbers beginning with a 7 indicates children born in Thailand to alien parents who have legally entered Thai kingdom and who are permitted to reside temporarily, or to alien parents who have illegally entered Thailand.

<sup>54</sup> Interview with Panida Sukjai on Thursday 21 June, 2007, at 16.30, Mae Ai Legal Clinic, Rom Thai village.

#### 4.3.3.2 Marginalization in Terms of Occupation

Without a chance of higher education, undocumented people cannot get a good job to improve their livelihood. In Rom Thai village, the people without Thai nationality work as laborers in chili and garlic plantations. Although the undocumented people insist that they were born on Thai territory and have Thai relatives, their status is equal to that of aliens with the permission of the Minister of Interior approved by the Cabinet to reside in the Kingdom on special grounds according to the Immigration Act B.E.2522 (1979 C.E.), or to that of legal immigrants.

Sukkaew Somwandee, who is still physically fit for work, talks about his occupation.

“I am an employee in chili plantations. I am hired at 100-120 baht per day. If I can pick a lot of chilies, I will get around 200 baht per day. Someday no one hires me, I stay at home. My wife is an alien who migrated from Burma. She works as laborer in chili plantations as well.”<sup>55</sup>

Though Sukkaew was born on Thai territory and has a Thai father, he is permitted to work as an illegal migrant because he missed the census and holds a pink card. He does not have many alternatives for work. Laboring seems to be the best choice for him because he does not have to leave the restricted areas and it does not need a lot of knowledge.

Similarly, Prom Yavajai and Chalernpol Yavajai, father and son, are the undocumented Thais holding pink cards as their identity cards. Prom Yavajai was born to Thai parents on Thai soil but grew up at Sobyawn like other undocumented Thai villagers. Prom missed the census and house registration process. Both Prom and his wife have held pink cards. Chalernpol was born at home with a midwife. Prom's alien status makes Chalernpol stateless. and become the Thai documented person holding a Burmese card. The father and son help each other earn a living working as laborers in chili and garlic plantations. However, both have health problems. Prom is quite old making it difficult for him to work while Chalernpol has polio which makes it difficult for him to move his arms and legs. Moreover, his father said that Chalernpol's ability to learn is less and slower than other children of the same age.

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<sup>55</sup> Interview with Sukkaew Somwandee on Wednesday 20 June, 2007, at 15.30, Rom Thai village.

Prom understands that Chalernpol's learning ability is slower than normal because he suffered from convulsions and he was often beaten by his mother when young. However Chalernpol tries to help reduce his father's burden by working as laborer.

“It is difficult for me to work if I have to use a lot of energy. It is not convenient for me to walk. I can just pick garlic and chili. I cannot work hard. Now I do not work anymore because my legs are becoming smaller and weak. My father is the only one to work to look after me because my mother died.”<sup>56</sup>

Tip Sangsor, a formerly undocumented Thai person, once held a blue card until 2000 when he got Thai nationality and a Thai identity card. Then, with other Mae Ai villagers, his Thai nationality was revoked in 2002. He has had the experience of being stateless twice, which has made it hard for him to make a living. Tip wanted to earn a lot of money to pay for the medical fees for his mother. He needed to go outside the designated area to work for more money but he could not. However, Tip can compare the experience of being stateless when he held a blue card with the experience of having his Thai nationality revoked.

“Both when I held a blue card and when my Thai nationality was revoked, I could not leave Mae Ai to work at Chaiprakan. When I held a blue card, I felt sad but it was not as severe as when my nationality and identification card were revoked. When my nationality was withdrawn, I dreaded going back to the same condition. I do not want to be an alien or stateless person even though I was born on Thai soil to Thai parents. I suffer from being stateless person.”<sup>57</sup>

Because of the revocation of the Thai nationality of the Mae Ai villagers, Pongsri Inlu, Boon Phongma's sister, and Tip Yahong were dismissed from the military. Pongsri Inlu was dismissed from her Border Patrol Police position. She faced hardship because her income was lost. Now Pongsri has her Thai nationality and right to work in the same position reinstated. Conversely, the status of Tip Yahong is still vague. Tip Yahong is a formerly undocumented Thai person holding a pink card. In 2000, he was given Thai nationality and became a conscript. Then, his Thai nationality was revoked causing his early retirement from the military without

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<sup>56</sup> Interview with Prom Yavijai on Friday 27 July, 2007, at 14.00, Rom Thai village.

<sup>57</sup> Interview with Tip Sangsor on Friday 22 June, 2007, at 20.30, Rom Thai village.

any formal notification. Tip's problem is that he may be accused fleeing military duty. Tip Yahong now earns a living in orchard gardening. His military status is still not clear as to whether he has to go back to complete his conscription or not.

"I felt hurt and do not understand why my Thai nationality was revoked despite being a Thai citizen. The state acted like I am not its citizen. I was a soldier protecting national security but ended up as a laborer in orchard. Now I am waiting for an order from a recruiting officer to re-open my military position. If I can be formally discharged, I will get a reserve certificate and veterans' certificate and get my rights. I keep contacting the officer to work on my case. When I contact the District Officer, he passes the matter to the recruiting officer. When I contact the recruiting officer, he passes the matter to the District Officer. The district officials talk softly with me, but have made no progress with my case. They told me to wait for the order. How long do I have to wait?"<sup>58</sup>

A similar case concerns occupation marginalization. Keng Naiyod is among the 1,243 Mae Ai villagers whose Thai nationality was revoked. Though her Thai nationality was reinstated, Keng still cannot find a job. Neng Naiyod, her daughter, was born when Keng held a green card with red edges as her identity card. The District Officer did not agree to add her daughter's name to the house registration certificate after Keng regained her Thai nationality noting that the evidence of Keng's status was not credible. The official told her that Neng's name will be put in the house certificate if Keng's status is confirmed by the Department of Local Administration.

"I am a laborer in a chili plantation. I cannot go to work far from Mae Ai because I am worried about my daughter who has no legal evidence that identifies hers. I am poor. I want to get another job which will earn me more money. But I have no choice because I have to look after my daughter."<sup>59</sup>

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<sup>58</sup> Interview with Tip Yahong on Wednesday 20 June, 2007, at 18.15, Rom Thai village.

<sup>59</sup> Interview with Keng Naiyod on Wednesday 20 June, 2007, at 17.00, Rom Thai village.



Keng is not marginalized with respect to access to a job because of her alien status, but because Keng's status has been changed by the decision of the Department of Local Administration. Keng is the group waiting for the order of the Department of Local Administration to confirm her status as a Thai citizen. Neng is also waiting for permission from the relevant official to add her name to the Thai house registration certificate. Both are waiting for the decisions and orders of the Department of Local Administration. If the Department of Local Administration urgently proceeds with a decision on the legal status of the villagers among 1,243 who still do not have DNA test result, Keng and Neng will escape marginalization soon.

#### **4.3.3.3 Marginalization in Terms of Health Care**

Thaksin government introduced the idea of patient rights and implemented a health insurance project (30 baht fee for all illnesses). At first, the health insurance project issued gold cards (30 baht cards) to persons without Thai nationality but permitted to reside temporarily, such as persons holding blue cards (highland people) because such persons have their names in house registration certificates for persons without Thai nationality (Tor Ror 13). Then, the government cancelled this right for persons registered in Tor Ror 13 documents and determined that the right to health insurance must be restricted to persons with Thai nationality.<sup>60</sup> The National Health Security Office (NHSO) announced that those with the right to health insurance must be Thai nationals, and do not include aliens. For this reason, stateless people or undocumented people do not qualify for the governmental health insurance service; as a result, they have to pay all medical treatment fees. Sometimes, to obtain treatment and medicinal drugs, they have no other choice than to go into debt to the hospital.

The 1,243 formerly stateless villagers faced the marginalization in term of health care services when their Thai nationality was revoked and they became stateless. The revocation of Thai nationality impacted the villagers' access to many rights which are important for their livelihood. Kum Inlu, Boon Phongma's mother, has a heart disease. She has a health insurance card. After Boon Phongma and her

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<sup>60</sup> Surapol Kongchantuek, "The right to get public health service of non-Thai people", Available from [www.statelessperson.com](http://www.statelessperson.com).

sister Pongsri Inlu lost their Thai nationality, the District Office took Kum's health insurance card back for the reason that Pongsri, a military officer, had lost her Thai nationality, so the District Office had to take away mother's health insurance card. For this reason, Kum Inlu has no right to free health care services. However, Boon states that the main reason for the death of her mother is not heart disease, but because Kum heard that her children lost their Thai nationality. Moreover, Kum could not accept that her daughter, Pongsri Inlu, lost her job.

“My mother had heart disease and had to see a doctor every Sunday. After we lost our Thai nationality, we had to pay all the medical fees. The day our mother died, she went to market. I think that she maybe heard the villagers talk about her daughter losing her job. When she came back home, she died in the kitchen. I not only lost Thai nationality, but I lost my well-being. I am very sad. Nothing can compare with my mother's life. Even Thai nationality and a Thai identity card cannot replace my mother's life.”<sup>61</sup>

Supatra Soring, or Oil, is another person with no right to free health care services. She was born at Mae Ai hospital at the same time as her mother, Suda Soring, lost her Thai nationality in 2002. Her family is very poor. Suda works in a chili plantation where her earnings depend on her ability to pick chili. One kilogram of chili earns only four baht. Supatra has heart disease and shortness of breath. She cannot live in a confined and hot place. Every time her symptoms recur, Suda has to bring Supatra to hospital for oxygen. Moreover, every time Supatra goes to hospital, Suda goes into debt for the medical fees to the hospital. Supatra has been helped by Associate Professor Phunthip Kanchanachittra Saisoonthorn to gain Thai nationality and has been helped with her medical fees by a Catholic group in Chiang Dao district. Unfortunately, even though Supatra got Thai nationality, she could not survive her disease and finally died at home.

“On Oil's death, I had only thirty baht. I bought a reed mat for wrapping my daughter's corpse and carried it to the cemetery. I did not inform other

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<sup>61</sup> Interview with Boon Phongma on Wednesday 20 June, 2007, at 10.25, Mae-Ai Legal Clinic, Rom Thai village.

villagers. Someone told me that my daughter is young, so it is not necessary to have funeral.”<sup>62</sup>

Good health is important. However, good health is unequally distributed through the stratification system particularly the people in the bottom. Harold R. Kerbo explains that “like income and wealth, health care is in constant demand”. Health care constitutes two opposing methods of distribution. On the one hand, health care is distributed through a pricing mechanism. Those who can afford to pay for it get it; those who cannot afford to pay do without. On the other hand, health care distribution can be based on some principle of need. Those in greatest need get it first; those with less need must wait.<sup>63</sup> However, the distribution of health care in Thailand is based more on the ability to pay. Often, we will see patients with severe symptoms who need urgent treatment, must wait because they cannot afford to pay the medical fees. Because of low ability to pay medical fees, stateless villagers sometimes try to endure illness without treatment, or deny the symptoms of illness, or decide that their illness is not severe enough to warrant seeing a doctor. If they are sick and do need to see doctor, it is a burden to their family to pay medical fees. The majority of undocumented people in Rom Thai village are elderly and face health problems. Most of them are poor. If they are still strong enough to work, they work as laborers in chili and garlic plantations. They earn little money, not enough for medical fees.

Sukkaew Somwandee, an undocumented person, was shot near the right eye; as a result, the lens of the right eye was damaged and he became blind in that eye. He cannot hear anything clearly because of a sound like wind blowing in the ears. Sukkaew was once jailed for eleven years. After leaving prison, he married an illegal alien woman. He has no house. His present residence is an area which was once a pigsty. Sukkaew earns his living as a laborer in chili plantations. He gets only 100-120 baht per day. His damaged eye and ear have never been treated in hospital but by the community doctor. He gives the following reason for this.

“I want to see if a doctor can cure me. But I don’t have enough money. I have to pay all the medical fees if my eye and ear are treated by a doctor

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<sup>62</sup> Interview with Suda Soring on Thursday 21 June, 2007, at 12.00, Rom Thai village.

<sup>63</sup> Harold R. Kerbo, Social Stratification and Inequality: Class conflict in historical, comparative, and Global perspective, 2003, p.37.

in the hospital. My neighbors told me that it is not necessary to go to hospital. They told me that just the community doctor can cure me.”<sup>64</sup>

Sukkaew hopes that his eye and ear will recover. Even though he wants to see a doctor, money is the main problem preventing him from going to hospital. In reality, Sukkaew was born in Thaton. His father got a Thai identity card in 1964 when he came back from Sobyawn. In 1969, both Sukkaew and his father came back to Thaton. Sukkaew was granted a pink card by the District Office. In 1971, his father’s identification card expired, and he asked the District Office for a new one but was given a pink card. However, Sukkaew still has the Thai identity card of his father as crucial evidence for proving his status in the future. As we have seen, Sukkaew is a Thai citizen by birth. But he was unlucky enough to miss the population census and house registration process. Instead he was given the card for displaced Burmese, which classified him as ‘the other’ in Thai society. Though he is Thai by birth, he is not a Thai citizen by law. He cannot access free health care services like other Thai citizens. Furthermore, Sukkaew has no knowledge of his rights. He does not realize his rights and the significance of health. However, money is the main reason that forces him to forego health care.

Two other undocumented people face health problems. Nae Somwandee and Sangprom Noytha are elderly people who once lived at Sobyawn. Both of them faced the same problem as Sukkaew; they missed the population census and house registration process, and got cards for displaced Burmese which they still hold as their identity cards. Nae Somwandee and Sangprom Noytha have complaints of the old, such as muscle or knee pains.

Nae Somwandee tries to treat herself. She buys drugs at a pharmacy in Mae Ai district and will not go to hospital unless her pain is extremely severe.

“I have pains in my knee but I do not go to see a doctor because I have to pay all of the medical fees.”<sup>65</sup>

Sangprom Noytha is 85 years old and cannot work. He depends on money from his children and grandchildren. He has the same symptoms as Nae but

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<sup>64</sup> Interview with Sukkaew Somwandee on Wednesday 20 June, 2007, at 15.30, Rom Thai village.

<sup>65</sup> Interview with Nae Somwandee on Thursday 21 June, 2007, at 15.15, Rom Thai village.

more severely. However, unless it is necessary, Sangprom will not see a doctor because of concerns about the treatment fees.

“If the pain in my knee is not severe, I will not go to hospital. My grandchild, Phra Mahanikom, pays my medical fees for me.”<sup>66</sup>

Responsibility for their medical fees falls on their children or grandchildren. Therefore, both may forego health care because of a desire not to be a burden to their families.

It is interesting that almost all the elderly in Rom Thai village have a orthopedic problems. Ya Boontan, Yod Kumdaeng and Suoy Kumdaeng are undocumented Thai people who still hold pink cards as their identity card and having quite severe gout. Three of them cannot work due to senility. They assumed that their gout is a result of their hard work in the past. Ya Boontan was a boatman traveling along the Kok river to Chiang Rai. Now he tries to help his children by fishing for sale. However, he catches little, and his earnings are not enough for his medical fees. Ya Boontan states that sometimes his symptoms are so severe that he cannot walk. So he has to see a doctor for injections to relieve his pain. His children take responsibility for all of his medical fees.

“Every time my bones hurt, I cannot stand and have to see a doctor. My children pay 150-160 baht each time. It is expensive for me. Because I am not Thai by law, I have to pay more. I want to help my children but I have no money. I do not know how to earn money because I have no more energy to work.”<sup>67</sup>

Suoy and Yod Kumdaeng were born in Thailand to Thai parents. They became undocumented Thais because they grew up at Sobyawn and missed the census and house registration process. Suoy and Yod Kumdaeng have also musculoskeletal pains. Neither can work any more due to their age. All their medical fees are paid by their grandchildren. Yod Kumdaeng once had a gold card or thirty baht card, but not now. Suoy and Yod Kumdaeng have requested a check-up from the public health volunteer in the village but they were refused many times because they are non-Thais. Undocumented Thai people are refused basic public health services as well as hospital

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<sup>66</sup> Interview with Sangprom Noytha on Thursday 21 June, 2007, at 14.40, Rom Thai village.

<sup>67</sup> Interview with Ya Boontan on Friday 27 July, 2007, at 11.00, Rom Thai village.



treatment. The question is where undocumented Thai people can get health care services. The stateless people in Rom Thai village, particularly the undocumented Thai people, face the same problem of money. It is difficult to be treated in hospital because the patients are very worried about the medical fees. Undocumented Thai people are denied the right to medical services, which constitutes a violation of human rights.

Similarly, Prom Yavijai and Chalernpol Yavijai, face marginalization because they are very poor and sick as well. Prom Yavijai is the brother of Suoy and Yod Kumdaeng. The three of them missed the census and house registration process. Because Prom is an undocumented Thai, his son, Chalernpol, became an undocumented Thai. Prom Yavijai suffered an accident when he was young causing loss of sight in his right eye. When Chalernpol was six months old, he suffered convulsions. Prom brought him to the hospital in Chiang Mai. Then, Chalernpol had a poliomyelitis. Chalernpol can help his father a little in picking chili and garlic but he cannot work hard. Chalernpol works in chili and garlic plantations where he earns only 100 baht per day. Prom himself cannot work sometimes because he hurt his wrist. Blindness is another obstacle to his work. Neither have ever gone to see a doctor because of the problem of money.

“We have never seen a doctor because I have no money. I work in chili and garlic plantations which I am sometimes hired. I will stay at home if there is no chili to pick. I have no savings for illness. Even money for buying rice, I don’t have.”<sup>68</sup>

The stateless villagers of Rom Thai village have the right to health care services from the hospital but have to pay medical fees in full which puts them in debt at the hospital. Otherwise they choose not to be treated by a doctor. However, it is found that the villagers without Thai nationality are refused health care services from the public health volunteers of the village because of their non-Thai status.

Today, undocumented or non-Thai status is not a direct factor causing the denial of access to rights. To be denied access to rights means to be marginal. As we have seen, the Thai government sector has opened the right to education to undocumented and non-Thai children. They can escape marginalization to some degree. Statelessness and marginalization thus emphasize the ability of stateless

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<sup>68</sup> Interview with Prom Yavijai on Friday 27 July, 2007, at 14.00, Rom Thai village.

people to access rights. It depends on how much they are excluded and denied access to those rights and how much they can themselves get away or escape from marginalization.



สถาบันวิทยบริการ  
จุฬาลงกรณ์มหาวิทยาลัย

## CHAPTER V

### CONCLUSIONS AND RECOMMENDATIONS

Among Thai academia, marginalization has been used in many studies of Thai society. Each would present those who are excluded as the 'others' of society in various aspects. Marginal people in Thai society are not necessarily restricted to relate to those living in the marginal areas of the country. Persons whose conduct deviates from social norms, the poor, persons with socially unacceptable diseases, or persons with no rights, no voice and no power to express their demands are regarded as marginalized. Statelessness of people without Thai nationality is also a major cause of marginalization. In reality, stateless people are inherently marginalized. No country in this world accepts them as its nationals. And if no country recognizes their existence by birth, those people would have no territorial state to belong to.

The stateless people of Rom Thai village, Thaton Subdistrict, Mae Ai district, Chiang Mai province face marginalization as a result of the state's refusal to recognize them as Thai nationals. These people are also forced to accept card identifying them as displaced Burmese nationals. It is equivalent that they are totally denied that they are Thai and have a right to Thai nationality, Thai identification card, and Thai house registration certificate. Rom Thai's stateless people lack a crucial instrument to access basic rights and services which are indispensable for human life. They have no right to participate in political activity. They have no right to free health care services and sometimes are denied medical care. They have the right to work in restricted occupations. They have the right to study and get scholarships, but in practice, it is found that children with alien status are still denied scholarships. They are also required to stay in a restricted area which they can leave only with formal permission from District Officer.

#### **Villagers' Statelessness**

In Rom Thai village, many factors push the villagers to statelessness. Each reason makes them 'the others' of Thai society. They are marginalized in terms of geo-politics, health care, occupation, and education. The major factors resulting in the villagers' statelessness are:

1. In the past, the villagers moved across the border to earn a living. They temporarily left their homes at Thaton to farm and live at Sobyawn. In the villagers' understanding, Sobyawn is where Thai people worked. The villagers did not recognize the agreed boundary of Thailand. The area had been mapped, but central state authority still did not reach the villagers. The border on the map was not meaningful to the Rom Thai villagers. There is no difference between the people on the two sides of a river or mountain which divides the two states. Because of their work, they were not at home in Thaton on the day of the census and house registration. As a result, their names were not included in Thai house registration certificates and they have no Thai identification card.

2. Missing the census and house registration process may be analyzed in two ways: (1). The villagers had no access to the state. This means that the villagers were so far from the center that they were not officially informed about the census, house registration and issuance of identity cards. Moreover, Mae Ai District Office was established only in 1973. Villagers born before 1973 had to have their birth registered with the village head. The village head then had to travel to Fang District Office to register the births in the village. The long distance may have caused the villagers not to notify births, resulting in a lack of civil registration. (2). The state could not reach the villagers. This means that the census and house registration process did not cover the entire country. It was possible that some groups, particularly hill people, were not recorded on house registration certificates and in population census. Also the long distance and difficult access are major obstacles to officials access to remote areas. Mae Ai District Office was destroyed by fire in 1976 and legal documents were destroyed. The villagers thus lack legal evidence to prove their personal status. Because of the fire, villagers who had their names in the civil registration system before 1976 became undocumented people after 1976.

3. Villagers without any official documentation were given cards for displaced Burmese nationals. The villagers thus became totally "the others" of Thai society because they not only lack official documentation to prove their Thai nationality, but they also were excluded from being Thai citizens.

### **Review of National Identity Again**

Nowadays, even though the nationality of the 1,243 Mae Ai villagers was reinstated, the Department of Local Administration has issued a new order to confirm Thai nationality by dividing them into five groups. Statelessness is still a major problem in Rom Thai village because there are, at least, the following stateless people.

1. People who missed the census and house registration process who hold cards for Burmese nationals, or the undocumented Thai people. These people still do not have Thai nationality. They hold house registration certificates and identity card for aliens. Most are elderly so it is quite difficult for them to request Thai nationality because potential community witnesses to their Thai status have died.
2. Children born on Thai soil to undocumented Thai parents who had colored cards, and who did not request Thai nationality and the addition of their names to their Thai house registration certificates using legal and community evidence. Even though the parents now have Thai nationality and identification cards, some of the children still do not have Thai nationality and cannot add their names to their Thai house registration certificates. For example, Neng Naiyod was born while her mother held a green card with red edges. Though her mother now has Thai nationality, her name cannot be added to the Thai house registration certificate because the officer considered that the evidence of her mother's status is not credible.
3. Children born on Thai soil while their parents' names were deleted from the Thai house registration certificates or children of the parents numbered among the 1,243 individuals whose nationality had been denied. Their names have still not been added to the Thai house registration certificates. Some of them made requests to the District Office. The requests are being processed and the results are being awaited.

### **Marginalization as a result of Statelessness**

From this study, the writer found that these groups face marginalization as a result of statelessness which denies them the right and basic services of ordinary Thai citizens.

1. The right to public health services. Undocumented Thai people holding colored cards, particularly pink cards, are denied medical care from public health volunteers who provide treatment at the village. Besides, they are also verbally discriminated against by the volunteers as aliens or non-Thais. Moreover, villagers



without Thai nationality have to pay full medical fees. Due to their poverty, each time they go to see a doctor; they go into debt to the hospital. Normally, their medical fees are their children's or grandchildren's responsibility. Furthermore, the elderly rarely visit a doctor, especially if their illness is not so severe. They do not want to burden their children with payment of their medical fees. It is also interesting that all elderly informants have musculoskeletal illnesses such as gout, osteoporosis, lethargy and beriberi. This study found that the significant obstacle to employment concerns health problems which cannot be resolved due to financial problems. The villagers' ability to study, to work, and to get health service can be explained in the wicked cycle. Most of villagers are illiterate and have a little chance to study. They are limited to work in some occupations and earn little money for their survival. Villagers who are ill cannot work hard or expend a lot of physical energy. As a result, they do not earn enough money to make a living and pay medical fees.

2. The right to education. Children without Thai nationality have the right to education and scholarships in accordance with the cabinet resolution. This study found that even though children without Thai nationality have a chance to study, they have no chance to request scholarships. A contradiction is also seen when one child holds both a birth certificate designating her as alien and a house registration certificate showing her as Thai. This conflicting status may impede her opportunity to study at a higher level.

3. The right to occupation. Villagers holding colored cards as their identity cards can work in 27 restricted occupations according to Section 2 of the Alien Employment Act B.E. 2521 (1978 C.E.). The villagers with alien status can leave the restricted areas with permission from District Officer or the Assistant District Officer for Registration. Most stateless villagers in Rom Thai work as laborers in chili or garlic plantations or orange orchards or as general laborers. The villager's income depends on firstly seasonal production. Chili and garlic can only be gathered during certain seasons. In non-productive periods, the villagers are unemployed. Secondly, income depends on the working ability of the villagers. Villagers who can pick a large quantity of chili and garlic will get more money. Blindness, bone and muscle pains or lethargy reduce their working ability resulting in less income.

4. Other rights. Stateless villagers cannot participate in any political activity. They cannot have drivers' licenses. They cannot make legal contracts. If they want to

buy a motorcycle, they have to get help from Thai people to do so. They also cannot borrow money from the Bank for Agriculture and Agricultural Cooperatives.

5. This study found that the stateless villagers are reluctant to contact district officials. However, the villagers cannot explain their fear. Moreover, stateless villagers accept their condition rather than fight for their nationality and rights. These villagers have the attitude that district officials have the power to decide whether it is appropriate for them to gain Thai nationality, Thai identity cards and Thai house registration certificates or not. Furthermore, whatever the District Officer decides, the villagers will accept.

6. The basic reason why the villagers do not dare contact officials is the prejudicial attitude and discriminatory practices of the officials. It is true that one important impediment to the nationality process is bias. Some officers have a negative attitude and rigid belief that both the undocumented Thais and the 1,243 formerly stateless people are Burmese.

7. The inefficient data systems in the District Office also cause mistakes of the civil registration system. Firstly data are not updated. For example, names on birth notifications are not added to house registration certificates and names on death notifications are not removed. Secondly, data are lost.

8. Even though the Thai nationality of 1,243 Mae Ai villagers was reinstated, they have to re-confirm their nationality following the order of the Department of Local Administration. This order affects both undocumented Thais and the 1,243 formerly stateless people. Some children born to parents holding colored cards or parents whose nationality was revoked have unclear status. Children born to parents holding colored cards, cannot now have their names added to Thai house registration certificates even though their parents' names were added. Similarly for children born to parents whose nationality was revoked, although their parent's nationality was reinstated they have not been recognized as Thai citizen. In such cases, the district officials refer to the Department of Local Administration's order postponing all procedures with their nationality is being re-confirmed.

### **Recommendations**

The following recommendations are offered towards a resolution of the problems.

1. The basic rights to education, employment, and health care are indispensable for every human being. The stateless people in Thailand should have the same human rights as Thai citizens. It is not necessary that all the rights of Thai citizens should be granted to aliens. But the stateless people are likely to be given at least the opportunity to obtain health care services regardless of ethnicity or nationality and without any distinction between 'us' and 'them'. The government sector should separate between the human rights and the national security reason.
2. Prejudice and bias may lead officials to discriminate against villagers. The relevant officials should be informed about the community history, and not hold rigid beliefs that villagers holding pink cards are Burmese. If possible, the relevant officials should eliminate prejudicial or negative attitudes and consider the villagers' arguments before determining their status. Official work will then be more reliable and accurate. The advantages are not only to the villagers, but to the officials as well. , the Officials should be more understanding toward history of undocumented Thai people holding colored cards and the reasons why they missed the census and hold cards designating them as aliens. The process of confirming nationality will then be feasible. Officials should make distinction between other aliens holding colored cards and immigrants and solve the problem of true aliens holding Thai identity cards. When prejudice is neutralized, official discrimination will disappear; as a result, villagers' fear of contacting relevant officials may be reduced to some degree.
3. The data system of Mae Ai District Office should be made more efficient and must support the number of villagers who contact officials for birth or death notification and other affairs. Officials should at least take care with important documents proving the villagers' status such as birth certificates. As a result, the problem of missing or incorrect documents will not occur.
4. District officials should have enough knowledge pertaining to Thai nationality law and community history through training on nationality law and ethnic history.
5. Villagers should be given basic knowledge concerning Thai nationality law and the rights of aliens. This study found that most undocumented Thai people want to have Thai nationality but cannot explain why Thai nationality is important to their lives. Also they cannot define the meaning of Thai nationality and/or Thai citizenship. A better understanding of Thai nationality law will help villagers to realize their status and rights, and plausibly increase their confidence in contacting district officials.

6. The Mae Ai Legal Clinic aims at helping to solve the stateless villager's rights and status problems. A legal training project has been launched to give legal knowledge to stateless villagers. Barefoot lawyers conduct field studies and interviews to collect data and help stateless villagers contact district officials. The government sector can help Mae Ai Legal Clinic, at least by collaborating with the barefoot lawyers in solving the problem of the villagers' status.

7. The general idea of the Universal Declaration of Human Rights is that all human beings are born free and equal in dignity and rights without differentiation of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property ownership, birth or other status. The discrimination practice on ethnicity is equivalent to violation on human rights. The Constitution of the Kingdom of Thailand in B.E.2540 and B.E.2550 state that human dignity, rights and freedom must be protected. However, there is still violation of human rights problem concerning ethnic differentiation. This is because those whose rights have been violated have no lawful status in accordance with Thai law. Thus, it is important that a clear policy to solve the problem of people who do not have legal status should be established.

The National Legislative Assembly Extra-ordinary Commission on Non-legal Status and Rights of Individuals in Thailand led by Tuenjai Deetes was formed. The aims are to identify individuals with legal status problem, monitoring Thai law and related policies pertaining the legal status problems, survey existing support network, and explore possibilities to help people escaping from legal status problem. The target group is not only the hill people, but also composes of people living near the border, people who do not know their origin, people losing civil registration document, and people or refugee escaping from death. However, there are three major factors impede this working team to help the unlawful status and no legal status people in the present Nationality Act and related regulations and guidelines.

Therefore, if Nationality Act can be changed or annulled, many children born with the alien parents will not be aliens who illegally entered Thailand. The relevant officials should determine the obvious regulation or criterion of granting Thai nationality according to the strategy approved by the Cabinet Resolution on 18 January 2005. As a result, the unlawful status and non-legal status people may have more chance to get Thai nationality.

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