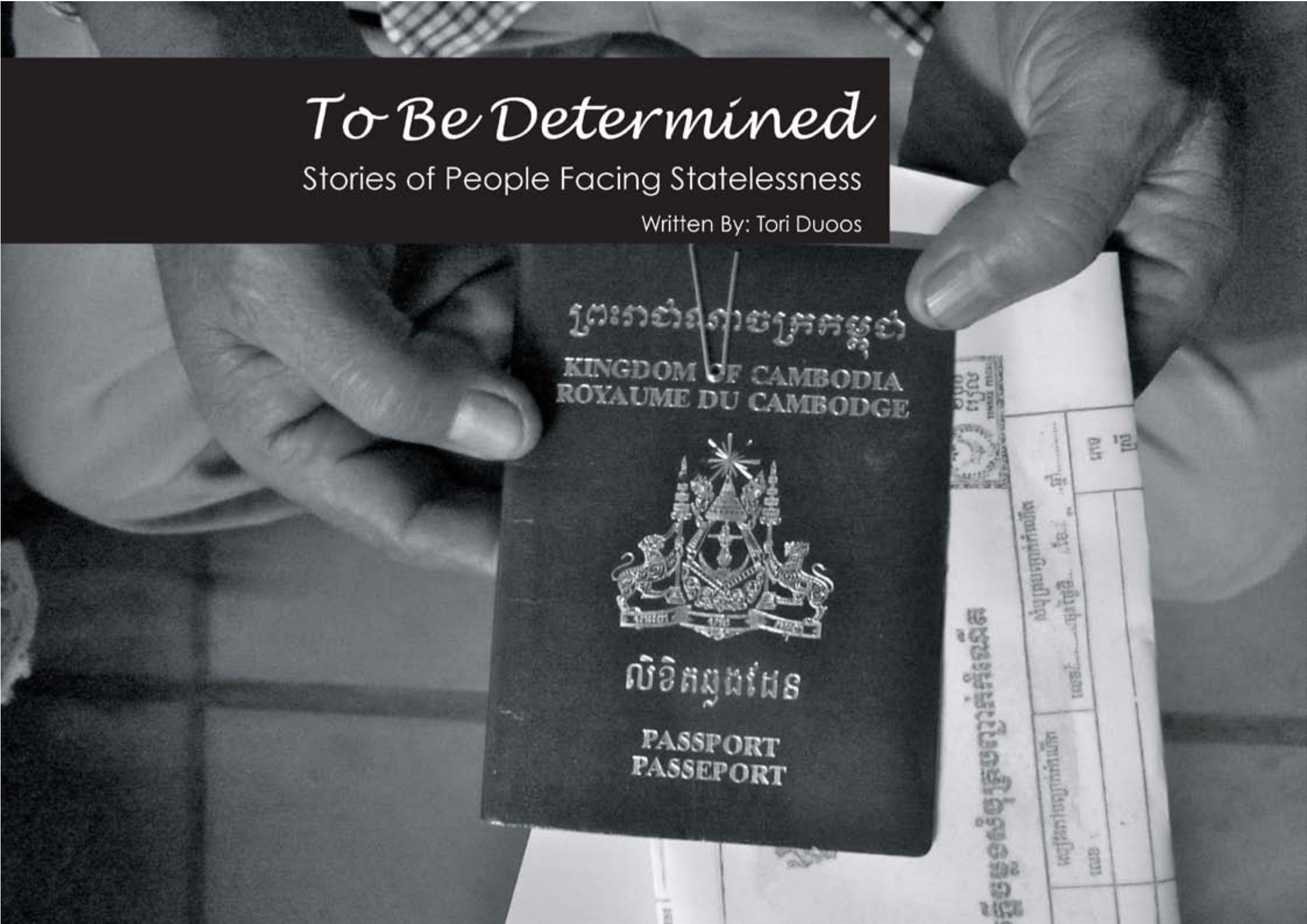


To Be Determined

Stories of People Facing Statelessness

Written By: Tori Duoos



ព្រះរាជាណាចក្រកម្ពុជា
KINGDOM OF CAMBODIA
ROYAUME DU CAMBODGE

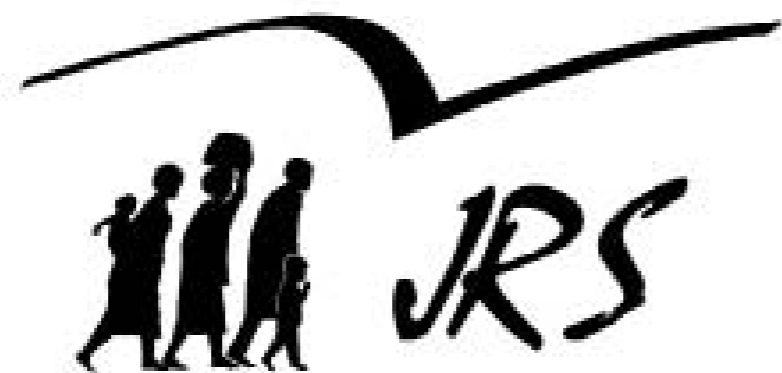


លិខិតឆ្លងដែន
PASSPORT
PASSEPORT



រដ្ឋប្បវេណីសំបុត្របញ្ជាក់ស្ថានភាពស្ថិតិ

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ថ្ងៃខែឆ្នាំ	ថ្ងៃខែឆ្នាំ	ថ្ងៃខែឆ្នាំ



Jesuit Refugee Service of Cambodia accompanies, serves and advocates for refugees and other forcibly displaced persons. It is concerned about understanding issues related to statelessness because of the suffering it causes people. Previous publications that JRS has been involved in include: *The Search*, *The State of Migration*, and *A Boat Without Anchors*. Each focuses on aspects of the legal and social analysis of displacement, including statelessness. The stories in this book convey real life situations in which individuals are affected by statelessness. They demonstrate the necessity of citizenship as a basic human right. These are the stories of voices that have not been forgotten.

Note: Names used in this book have been changed for purposes of confidentiality.

About



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Top: A Rohingya refugee makes roti.
Bottom: Kampong Chhnang
Photos By: Tori Duoos



Map By: © Stephane De Greef

250 500 1,000 Kilometers

The Stateless Dilemma

What does it mean to be forgotten? How does it feel to identify with a nation or a country that does not recognize you as one of its own? Stateless populations are frequently referred to as “forgotten people.” It is estimated that there are over 12 million stateless people internationally.

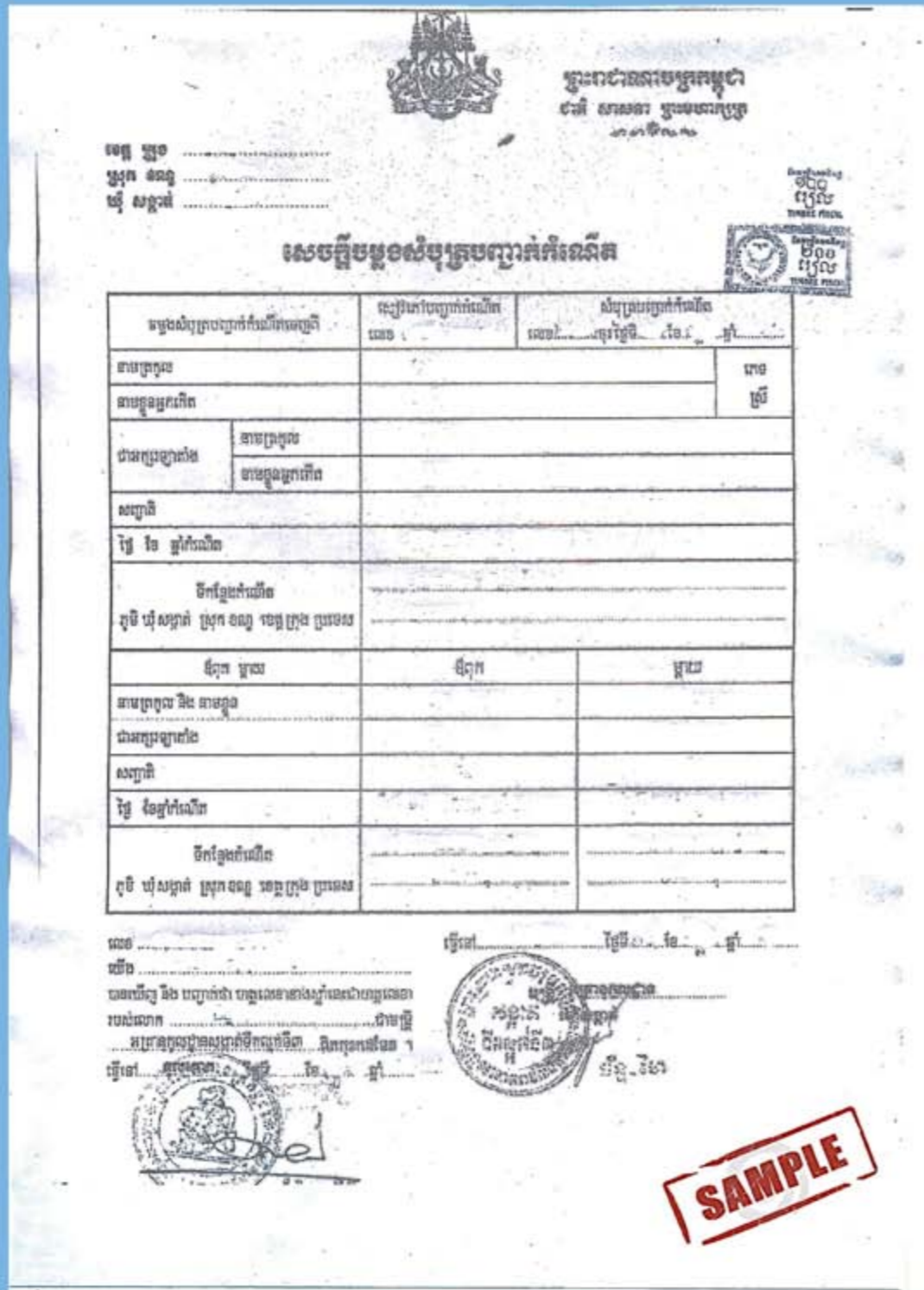
As stated by UNHCR, “Nationality is a legal bond between a state and an individual, and statelessness refers to the condition of an individual who is not considered as a national by any state. Statelessness occurs for a variety of reasons including discrimination against minority groups in nationality legislation, failure to include all residents in the body of citizens when a state becomes independent, state secession, and conflicts of laws between states.”¹ This problem is frequently encountered in developing countries; particularly nations without strong legal framework. Poorly implemented nationality laws and a lack of transparent procedures can leave some groups without a state to call home for decades.

Statelessness becomes crippling when it leads to a violation of basic human rights, including access to health-care, education, employment, identity cards and legal documents. Some people find themselves in such a position where there is no clear path towards citizenship. This can cause inheritance of statelessness through generations. The United Nations’ 1961 Convention on the Reduction of Statelessness is a step in the right direction to reducing the issue. Only 45 countries, including Vietnam are States Parties to the convention; unfortunately more than 140 countries still need to make the commitment.

In Cambodia the nationality laws have no measures towards the prevention of statelessness. Cambodia is a signatory of the 1954 Refugee Convention, which shows a commitment to protection of refugees. However, as of yet, the country is still anticipating clear procedural guidelines towards the process of naturalization. Without such structures people become defacto stateless.²

1 UNHCR, “Stateless People.” <http://www.unhcr.org/pages/49c3646c155.html>. Accessed 08 December 2012.
2 Gleeson, Maddie. *The State of Migration*. Jesuit Refugee Service Cambodia. July 2012.

This is a Cambodian birth certificate. Birth registration is not only an issue for children of immigrants and refugees, but also for Cambodians in general across the country. Many people do not realize the importance of a child's birth certificate and may not understand the process necessary to obtain one.



Mr. Phuoc: Inheriting Statelessness

Mr. Phuoc, a tall, handsome man with a face that has known hardship all too well, has been living in Cambodia since the 1990's. He is from Vietnam and fled his country in search of protection from political persecution. Mr. Phuoc and his wife have since been recognized as refugees and started a life, and a family in Phnom Penh.

Several years ago, the family grew with the birth of their son Van. He was born in the hospital, in Phnom Penh, and was given a letter verifying the birth. The family was denied a true birth certificate due to their ethnicity and status as refugees. This is reflective of authorities and registrars in Cambodia who are unaware of laws regarding birth certificates. In 2012 the family was able to receive a birth certificate from the government, stating the child's ethnicity and nationality as Vietnamese.

Due to the vague nature of the Cambodian Nationality Law, the child's state of citizenship is at question. If the birth certificate indicates ethnicity, rather than nationality, to what extent is a birth certificate determinate of nationality at all? What document or combination of documents would be necessary to establish one's nationality? Lawyers assisted in the analysis of both Cambodian and Vietnamese nationality laws in search of answers to these questions. The search continues.

According to the new Vietnamese Nationality Law, Mr. Phuoc would lose his Vietnamese citizenship in July 2014 unless he registers with the Vietnamese government in Cambodia prior to this date. The irony is that as a refugee, it is not possible for him to engage with the government of his former country. With such an ambiguous nationality law, and no set procedures for naturalization Mr. Phuoc may not have the opportunity to become a Cambodian citizen in his lifetime. Not only is it likely that Mr. Phuoc will be considered stateless, but there is also a risk that this inheritance will be passed on to his son.





Isolated by Water and Ethnicity

JRS Cambodia, in collaboration with ECCC Civil Party Lawyers representing the ethnic Vietnamese survivors of genocide, and sponsored by the Open Society Foundation, presented the findings of a research project on a group of people at risk of statelessness in Cambodia. A legal analysis of both Cambodian and Vietnamese nationality laws and the history are included in the book *A Boat Without Anchors*.

The study highlighted an ethnic Vietnamese community living in Kampong Chhnang Province, in central Cambodia. The group is unique due to their long term past in Cambodia. Certain families have lived in Kampong Chhnang Province, for up to four generations, yet currently have no recognition as Cambodian citizens. Due to their extended history of residence in Cambodia, their status in Vietnam is unclear, possibly rendering them stateless.

Most of these people have never lived voluntarily in Vietnam—Cambodia is their home, and has been for generations. They were forcibly deported to Vietnam by the Khmer Rouge in 1975 during the genocide. During this period, any ethnic Vietnamese who obtained citizenship documents were required to dispose of them or turn them over to officials.


The Kampong Chhnang Vietnamese community live in floating villages on the Tonle Sap. The Village has been described as ‘the Venice of Cambodia’ — streets of water are formed by separate rows of homes tied together, bobbing on the surface of the fresh water lake.

Residents, relying on wooden boats with paddles for daily transportation, effortlessly push the long, narrow vessels through the water. Children swim by, waving, using empty plastic fuel tanks as a float toys. Although this description sounds romantic— a simple life on the water— the poverty runs deep and the challenges of daily life are apparent. The homes are not only isolated by water, they are isolated by ethnicity.

A Boat Without Anchors analyzes nationality laws in both Cambodia and Vietnam to discern their civil status, and any procedures for their recognition. Unfortunately, the laws as they are written are not implemented in local situations, for example, registering birth in Cambodia is a difficulty.



Boats are tied up to the dock in Kampong Chhnang, dominant ethnic Vietnamese community.
Photo By: Tori Duoos



In outreach visits, visual handouts about the Cambodian Nationality Law and a diagram of the documents that Cambodian citizens and residents may obtain were given to villagers. about their rights and possible pathways to recognition of previously-acquired citizenship or naturalization. Small group discussions were conducted so villagers could share stories, daily concerns, and remonstrate about the ways that legal status (or lack thereof) impedes their lives, as it has for generations. We also had the opportunity to discuss legal documents that individuals and their family members had acquired over the years and identified ways in which they were obtained. As researchers, it allowed us to gain a clearer perspective of how official documentation and registration processes occur in regular practice. Unmistakably, the aspiration of all participants is to be recognized as citizens of Cambodia. As a group, their biggest desire is to be treated equally and share the same enjoyment of human rights as others.

Children swim near their homes in the Tonle Sap Lake
Photo By: Tori Duoos

Ibrahim: Status Undetermined

Ibrahim, a young man of 32, has been in Cambodia for nearly three years. His home is Myanmar, more specifically Arakan (Rakhine) state—he is Rohingya. He is part of a Muslim minority from Myanmar, which has faced persecution for decades. Many consider this population to be stateless, as Myanmar does not recognize people of this ethnicity as citizens. Within Myanmar, Rohingya are often viewed as illegal immigrants from neighboring Bangladesh. Towards the end of 2008, Ibrahim faced extreme hardships that led him to flee his homeland. “The main problem is forced labor,” he explained. Due to specific events, he was faced with the hardest decision of all: leaving his family and home behind for the safety of himself and his loved ones.

In the beginning of 2010, Ibrahim reached Cambodia, in search of protection. After arriving, he was distraught to hear that in order to seek asylum he would need to register at the Immigration Office. “I don’t have any documentation, passport or visa. If I go to the immigration office, it must be that they will arrest me.” Hesitant to test Cambodia’s new system for refugee status determination, Ibrahim sought further assistance. He discovered the JRS office in Phnom Penh and went to meet with the social worker and lawyer. Ibrahim’s voice lightens a bit, recalling the help he found, “JRS decided to support me and I got some advice and financial assistance. Phirum brought me to register at the immigration office. For two days we could not eat proper food. This time was very difficult.” He cracked a smile, “When I came to JRS, Sony made some noodles for me to eat.” Ibrahim is one person in a longer list of asylum seekers who have been awaiting status determination for more than two and a half years. “We were told that the decision would be made within 90 days, I don’t know what happened, it has been nearly 3 years and I don’t have a decision.”

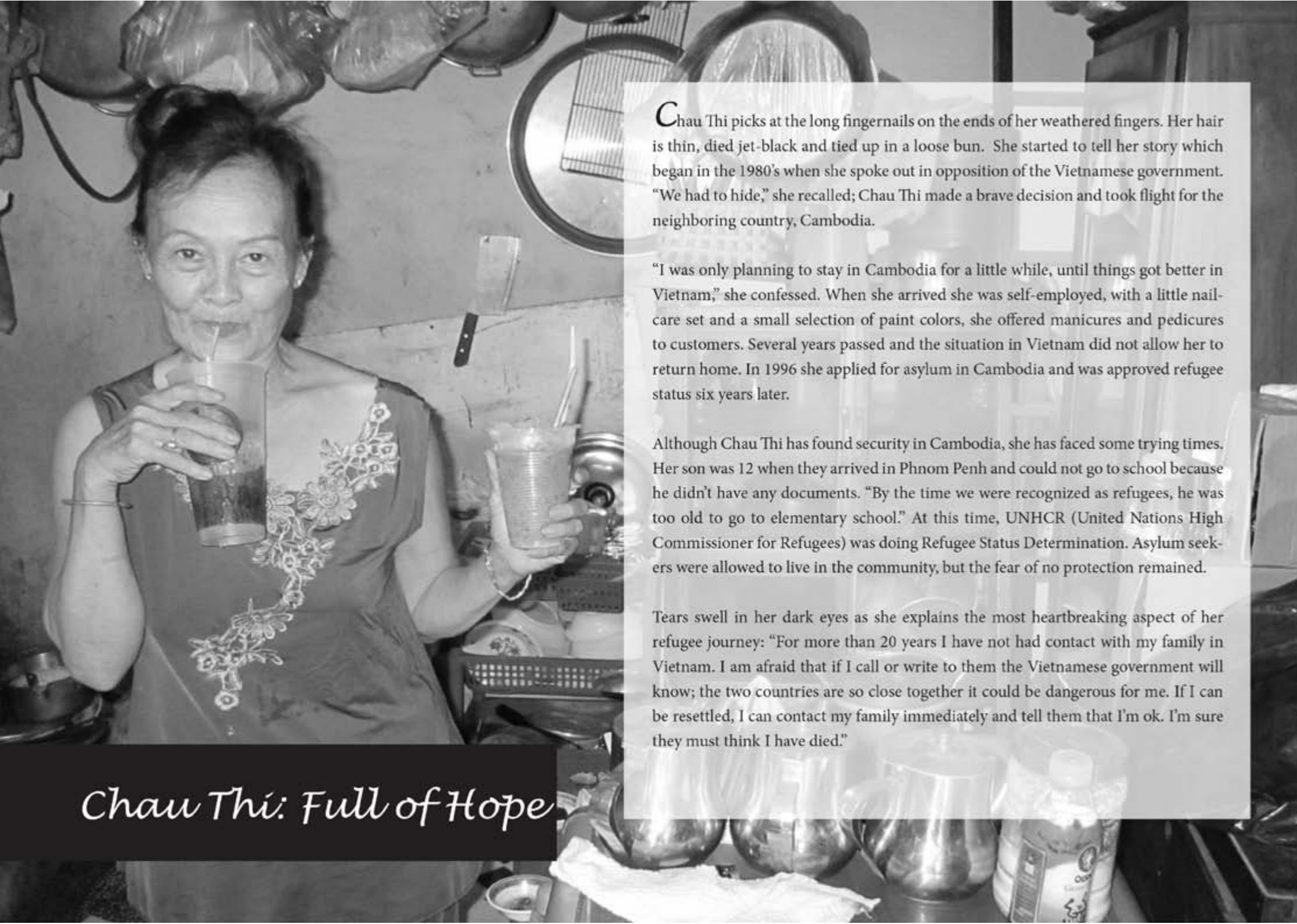
A pinstriped button down shirt and dark grey slacks are Ibrahim’s attire for the day. He is well groomed with a clean-shaven face framed by long, neatly combed, black hair. He is extremely presentable, dressed like a businessman. “For one year I survived on JRS support and arranged a small loan to make my business. My business is selling roti. With the loan I was able to get a roti cart. My business is going well.” Roti is a flat bread, similar to a thin pancake usually filled with chocolate or sardines. Selling roti is a trend among the Rohingya asylum seekers in Cambodia, and Ibrahim’s business is arguably the most successful. He fell silent for a moment when I asked him what is the most challenging part about life in Cambodia, “Everything is hard.” There was no further elaboration.

Although Myanmar has made notable political and developmental progress in the past year, the situation for Rohingya has worsened. In the past year there have been remarkably more violent outbreaks in the region. Ibrahim’s demeanor is very gentle and calm, “When I called my family for Eid [Islamic Holiday], they are all crying and being forced to leave their homes. They are threatened that their homes will be set on fire. I stopped calling them because it is too sad.” He is aware of the reality that much of his family has been killed or gone missing in the past six months. He looked down and fidgeted with the folded piece of paper in his hands, “Maybe one day there won’t be any Rohingya people anymore.” We both became visually saddened by this thought, trying to be optimistic that there is a brighter future ahead.

Ibrahim hopes that the international spotlight will assist in relief of the population’s prolonged suffering. His desire is to be resettled to a Western country. “I want to continue studying. I want to complete a bachelor’s degree and complete my MBA.” He is ambitious and eager to find a way to support his family and the Rohingya community. With an uncertain stability in Cambodia, he works hard every day to support himself and continues to wait for a response on his refugee status, constantly wondering what his future holds if he remains stateless.



Rohingya refugees in Phnom Penh sell roti in from small street carts.
Photos By: Tori Duoos



Chau Thi: Full of Hope

Chau Thi picks at the long fingernails on the ends of her weathered fingers. Her hair is thin, died jet-black and tied up in a loose bun. She started to tell her story which began in the 1980's when she spoke out in opposition of the Vietnamese government. "We had to hide," she recalled; Chau Thi made a brave decision and took flight for the neighboring country, Cambodia.

"I was only planning to stay in Cambodia for a little while, until things got better in Vietnam," she confessed. When she arrived she was self-employed, with a little nail-care set and a small selection of paint colors, she offered manicures and pedicures to customers. Several years passed and the situation in Vietnam did not allow her to return home. In 1996 she applied for asylum in Cambodia and was approved refugee status six years later.

Although Chau Thi has found security in Cambodia, she has faced some trying times. Her son was 12 when they arrived in Phnom Penh and could not go to school because he didn't have any documents. "By the time we were recognized as refugees, he was too old to go to elementary school." At this time, UNHCR (United Nations High Commissioner for Refugees) was doing Refugee Status Determination. Asylum seekers were allowed to live in the community, but the fear of no protection remained.

Tears swell in her dark eyes as she explains the most heartbreaking aspect of her refugee journey: "For more than 20 years I have not had contact with my family in Vietnam. I am afraid that if I call or write to them the Vietnamese government will know; the two countries are so close together it could be dangerous for me. If I can be resettled, I can contact my family immediately and tell them that I'm ok. I'm sure they must think I have died."

Chau Thi currently lives with her son and grandson in an apartment complex comprised primarily of ethnic Vietnamese. She has recently set up a new business selling coffee and has a breakfast menu consisting of rice and pork. One day, her shop lay idle and the row of houses in front was gone. They were evicted by the landlord due to concerns of occupying land along the riverfront. Her business has come to a halt because all of her customers have disappeared.

Now she worries about supporting her family and paying her bills. Her rent is only about \$40 a month, but since UNHCR no longer has offices in Cambodia, there is no subsistence allowance to support her—something she has relied on for more than a decade. Chau Thi is quite uncertain of her future in Cambodia. She doesn't have a family book or residence card, only a single piece of printer paper stating she is a refugee, legally residing in Cambodia. Her grandson has a birth certificate issued in Cambodia which states he is a Vietnamese national.

True to her nature, Chau Thi is optimistic of opportunities for resettlement. She is learning English in preparation and is full of hope. "I would be happy to go anywhere so that my grandson will have a better future. I have been waiting for many years to be resettled and am still hopeful." Chau Thi expresses her concern with raised eyebrows and a tone of secrecy, "I still worry that any day the government could decide to send the Vietnamese refugees in Cambodia back to Vietnam." Without a clear pathway to citizenship her fear may be real.



Left: Chau Thi enjoys a coffee in her home.
Above: The apartments on the left side, closest to the river, have been visibly destroyed. She continues to serve her coffee.
Photos By: Tori Duoos

In a part of the country with distinct ethnic divisions, the Bassac River serves as a 10 km wide liquid border dividing Cambodia from its eastern neighbor Vietnam. A unique enclave of ethnic Vietnamese exists in Kandal Province, where Vietnam and Cambodia meet—a commune that is 85% ethnic Vietnamese. Some Vietnamese have been living in Cambodia for generations, others are more recent migrants—many of them maintain economic and social ties to their homeland because of its proximity and the quality of services provided by their native country.

A complex and tumultuous history between these two countries has led to searing prejudices that are apparent across generations. One common belief that Vietnamese people live in Cambodia to exploit the soil and coveted resources of the land feeds animosity. One NGO, headquartered in Phnom Penh, The Khmer Community Development organization (KCD) is dedicated to peace building and strengthening relationships in shared communities of ethnic Vietnamese and Khmer. KCD has taken a creative approach to bridge ethnic gaps amongst the commune's youth.

Confronted with the challenge of addressing ethnic tensions in the community, KCD designed a children's book to reach out to communities of such particular mixed backgrounds. Through beautifully colored illustrations, a story is told of two best friends, one Vietnamese and one Khmer, who encounter unspoken prejudices based on ethnicity. This story is used as a tool to educate children about the strength of friendship and importance of peace building within multiethnic communities.

The Peace Club is another component of KCD's efforts in building solidarity within the community. The club consists of both ethnic Vietnamese and Khmer children between the ages of 12-18 who attend school and speak Khmer. Members of the Peace Club do voluntary work to address issues in the community. They also help organize activities and classes for younger children to participate. Chan Sokha, executive director of KCD, felt inspired by seeing the Peace Club grow from when it began in 2008. Some of the kids are now young adults and attend conferences and meetings in Phnom Penh based on peacekeeping and youth advocacy.

The community has also been united through a shared love of soccer, which serves as a starting point for unity. Due to varying legal statuses and documents, some children lacking birth certificates are not able to attend local Khmer schools but can enjoy participating in extra activities organized by the Peace Club. KCD stepped up to establish an organization of soccer teams for kids to play together regardless of ethnicity or paperwork. Consisting of boys and girls, Khmer and Vietnamese, 88 school-aged children get together every weekend to play some serious soccer. KCD wanted to take the league to the next level—to compete in national competitions. They tried to register several groups with the Cambodian Football Federation in Phnom Penh but some children were denied access due to lack of birth certificates and unclear national identity. "Who should we register? Only those who have birth certificates? That would be against the integrity of the organization," Chan Sokha explained, a bit distressed that this barrier was not overcome. The teams were not registered, but KCD does not give up the hope of one day being able to register all team members.

Tactfully cooperating with local authorities and maintaining strong relationships with both the Khmer and Vietnamese ethnicities in Kandal is KCD's way of working. In the future, they hope to include more villages in their programs and are making strides to a more peaceful understanding and coexistence of the multiethnic community.

Peace Building Ethnic Divisions



PHOTO BY: TORI DUOBS



Top: Khmer and ethnic Vietnamese kids make a soccer team.
Center: A team of Khmer and ethnic Vietnamese play a team of mixed Khmer and Cham in Kampong Chhnang.
Bottom: Khmer and ethnic Vietnamese children welcome guests for the annual Celebration of Children's Day.
Photos by: Khmer Community Development Organization

An Dai: Struggling with Land Security



An Dai makes coffee at her stand in the market.
Photo By: Tori Duoos

Thick, condensed milk sits at the bottom of the flimsy plastic cup as a syrupy coffee oozes in, topped off with a generous helping of crushed ice. A delicious, dessert-like (not to mention extremely caffeinated) coffee is served, Vietnamese style. This is how An Dai makes a living as a makeshift barista operating a small stand at a local Siem Reap market. The single mother came to Cambodia in 2000 in hopes of a better future and job opportunities. Shortly after arriving, she made a home along the river in the center of Siem Reap, buying one of the many houses crafted of corrugated tin, cardboard, wood and any other materials that potentially protect from the elements. Now the family has grown, and Trung Nguyen, Dai's son, has four young boys of his own with his Khmer wife.

At the end of 2011, the Cambodian government moved forward with a plan to 'clean up' the riverside. Nearly 600 families were evicted from their homes along the mucky, and at times hazardous, river. Under the current Cambodian land law, the riverside is considered State Public Land, not to be inhabited by private families. In terms of compensation, most Khmer families received a cash amount in addition to a piece of land at the resettlement site, Sambour. Unfortunately, because Trung Nguyen is not a citizen he and his family were not given land at the new location, but were provided \$1000 for their home. With land grabbing and forced evictions, non-citizens are left vulnerable to losing their homes. An Dai says she wishes to have a piece of land at Sambour, so that she does not need to worry about unstable living conditions.

Trung explained that his most important document is a family book, which is proof of his life in Cambodia as a legal immigrant. After nearly 13 years of legal residence in the country, working hard and contributing to society, he wishes he could be recognized as a Cambodian citizen. "I have asked for a Cambodian ID and tried to apply for citizenship, but local authorities tell me I cannot because I am Vietnamese." Although, Trung would be eligible to apply for naturalization according to legal requirements, the set back is that the country has no process in place for people to obtain citizenship. It is likely that An Dai and Trung Nguyen will never be naturalized in Cambodia, regardless of how long they legally reside in the country.

Recently, Trung Nguyen successfully registered his children at the commune office and received birth certificates for all four of his sons. Thanks to their mother's Khmer ethnicity, all of the boys are recognized as Cambodian. With this verification, the children will not face the same difficulties as their father and will enjoy full rights of citizenship.



Homes on the Siem Reap River that still risk eviction.
Photo By: Tori Duoos



The Khmer Krom (a.k.a. Kampuchea Krom) are ethnic Cambodians living in the lower Mekong Delta in Vietnam. Land-grabbing which has devastated opportunities for livelihoods, restrictions on religious expression of Buddhist beliefs and Cambodian culture and language have resulted in the disenfranchisement of many Khmer Krom and sent them seeking asylum in the region. The Cambodian government has repeatedly made public statements that Khmer Krom are recognized as Cambodian citizens and entitled to the same rights as nationals. In reality, the Khmer Krom are often excluded from exercising their rights as nationals given the arbitrary and ad hoc treatment they are subject to from local authorities in relation to the issuance of identity documents and other civil registration procedures.

The Khmer Krom have been identified by some human rights groups as effectively stateless. This issue has complicated asylum claims for Khmer Krom both in Cambodia and for those in Thailand. As nationals of Cambodia, they are entitled to state protection and not eligible to be determined as refugees. In Thailand, asylum claims are frustrated by the availability of nationality in Cambodia with no regard given to its ineffectiveness. As a result, in order to claim asylum, fear of persecution must be proven in both countries: Cambodia and Vietnam.

Extract from *The Search*



Many Khmer Krom work in the rice fields of the Mekong Delta
Photo From: *People We Met Along the Way*, JRS Cambodia



Sambour, the relocation site of those evicted from the Siem Reap Riverside.
Photo By: Tori Duoos

