

8. PROBLEMS OF EVIDENCE, EVIDENCE OF PROBLEMS

EXPANDING CITIZENSHIP AND REPRODUCING STATELESSNESS AMONG HIGHLANDERS IN NORTHERN THAILAND

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I *must* believe them. If I do not believe them,
or if there is a problem, I ask for [more evidence].

—The lead district official explains his decisions
in adjudicating citizenship, 2010

Everyone in my family is a citizen. My mother, my father, my grandparents,
my brothers, my sisters. Everyone. The officials do not believe me. I gave them pictures.

I showed them my household registration. I took a DNA test with my father,
and it shows that I am his son. But still I am not a citizen. [The district official]
asked me, “If you are a child of citizens, where is your proof?”

—Aqcha, aged twenty, describes applying for citizenship in Thailand,
the country of his birth, January 2011

In the discourse of the Global North, actual experiences notwithstanding, statelessness receives attention as an anomaly (see Price and Rosenbloom, this volume). But across the Global South, Aqcha’s story resonates (see Sadiq, this volume). In Nepal, the Dominican Republic, Myanmar, Thailand, and beyond, millions of people cannot acquire recognition of citizenship despite sometimes generations of residence in the country of their birth (Berkeley 2009; Türk 2014; chapters by Sadiq, Lawrance, and Price, this volume). Lacking citizenship, they

also lack the rights ostensibly afforded to citizens in any country in the world. In Thailand alone, hundreds of thousands of highlanders—popularly known as “hill tribes”—collectively represent one of the largest stateless populations in the world.

How do we come to understand the case of protracted statelessness among people like Aqcha? Generally acknowledged causes of statelessness in the Global South, such as state succession and state failure, do not apply to Thailand. Other causes of statelessness, like legal loopholes (Phuntip 2006; Van Waas 2008; Manly and Van Waas 2010) and discrimination by Thais against highlanders (Thongchai 1994, 2000a, 2000b; Renard 2000; Pinkaew 2003; Toyota 2005; Chutima 2006, 2010; Jönsson 2006; Mukdawan 2009) explain in part why highlanders like Aqcha have been disproportionately denied citizenship status relative to other minorities in Thailand. Yet these theories fail to explain why hundreds of thousands of highlanders have successfully acquired citizenship while he and so many others in their communities lack it, despite possessing legal claims. Nor can these theories explain why conferral rates vary widely across and within regions, ethnic groups, and even households like Aqcha’s (see Flaim 2015). Drawing on intensive ethnography and extensive survey research in highland communities, I argue in this chapter that protracted statelessness among highlanders persists, paradoxically, as a result of the bureaucratic practices and procedures that have been enacted to address it. Specifically, my research reveals that the ostensibly rational evidentiary procedures deployed to register and recognize highlanders reproduce contingencies and discrimination in the application of otherwise progressive nationality law. This chapter reveals that much of the problem lies in the forensic or evidence criteria used for assessing claims to belonging—a self-referential cycle of call-and-response (see introduction and Stevens, chapter 12, this volume) upon which the state’s claim to sovereignty is ultimately founded. Seen in this light, “problems of evidence” that arise in the citizenship adjudication process reflect a critical gap between the fictions of rule by the state and an applicant’s subversive history or ethnic identity. As the district official asserts and Aqcha himself laments, no matter how strong the “evidence” to a citizenship claim may be, citizenship conferral ultimately requires the conferral of belief. As a consequence, citizenship adjudication—a process that has been devised to resolve cases of statelessness like Aqcha’s—funnels through individual-level determinations the accretion of political biases that ultimately reproduces and reinforces the condition of statelessness.

A Note on Data and Methods

Arguments in this chapter draw on mixed-methods research conducted during two years of fieldwork in Thailand (2009–11). Unless otherwise noted, stories and quotes derive from intensive ethnographic research among kin networks of highlanders (mostly Akha), highlander advocacy groups, Thai government officials, and staff at various agencies of the United Nations. Statistics reported in this chapter derive from analysis of the 2010 UNESCO Highland Peoples' Survey II (hereafter referred to as the HPS), a survey of 292 villages located along Thailand's northern and northwestern international border. The survey includes more than fifteen thousand households comprising more than seventy thousand people who collectively represent more than twenty ethnicities. While neither survey nor ethnographic data are representative of all highlanders' experiences in Thailand, the survey and ethnographic findings presented are emblematic of the barriers to citizenship that highlanders and other noncitizens in Thailand continue to face (see Flaim 2015).

Background

The highlands of northern Thailand are a part of the foothills of the Himalayas, a zone stretching across South Asia, mainland Southeast Asia, and southern China. The vast numbers of cultural minorities who reside in the highlands constitute one of the most ethnolinguistically diverse populations in the world (Scott 2009). Until the early twentieth century, highlanders largely evaded incorporation into lowland kingdoms and polities to varying degrees (Jonsson 2006; Scott 2009), but they have been increasingly incorporated into, and participate in, the nation-states in which they have resided since World War II (Safman 2007; Scott 2009). States' practices of including highland minorities as citizens have varied considerably across both time and context, yet only in Thailand have highlanders been systematically excluded from citizenship in their own country of birth and residence (Safman 2007).

The dynamic sociocultural and historical context of exclusion of highland minorities in Thailand is well documented (see, e.g., Thongchai 1994; Jonsson 2006). An extended discussion of this history lies beyond the purview of this chapter, but a few explanations for Thailand's unique situation warrant mention here. First, although the first Nationality Act granted citizenship through *jus soli*, highlanders were not included in early state cadastral surveys. Consistent with pre-nation-state cosmological views of power and the polity, the early state existed in the lowlands, where paddy rice cultivation long required

a relatively stable and taxable population (Wolters 1982; Scott 1998, 2009). Highland spaces—and, by extension, highland peoples—remained peripheral from the perspective of early administrators in Bangkok (Wolters 1982; Thongchai 1994; Vanderveest and Peluso 1995; Scott 2009).

Not only did the state from its inception fail to recognize highlanders as citizens, but over the course of the twentieth century, the imagined identity of Thai nationality grew increasingly exclusive as well. Through the early twentieth century, rising tides of xenophobia directed initially at urban Chinese crystallized a belief in “Thainess” (*kwambpenthai*), an identity limited to Thai-speaking Buddhists who were loyal to the king (Thongchai 1994; Renard 2000; Pinkaew 2003). By definition, “Thainess” did not apply to highlanders.

For decades, effective statelessness among highland villagers posed few problems for their day-to-day lives (Feingold 2002; Scott 2009). After World War II, however, growing state concerns over perceived threats of communist insurgency in the region and mounting international pressures to eradicate the country’s opium economy (of which some highland groups were key suppliers) propelled the state apparatus to its remote borders and brought the question of citizenship for highlanders to the fore. In the charged context of the Cold War, highlanders, who had been effectively deemed non-Thai under the narrow definition of “Thainess,” were increasingly seen as anti-Thai (Renard 2000; Pinkaew 2003). During the 1960s, the state initially attempted to register highlanders, but as tensions in the region grew in the 1970s, “hill tribes” (*chaokhao*), including Lua, Karen, Lahu, Hmong, Akha, Khamu, and Lisu, were scapegoated for issues ranging from communist insurgency to drug trafficking to deforestation (Renard 2000; Pinkaew 2003). Derogatory narratives of highlanders were regularly invoked to justify their exclusion from citizenship, as well as to justify a range of “development” interventions in the highlands that all but decimated local livelihoods by the 1990s (see McKinnon and Vienne 1989; Chupinit 1994; McCaskill and Kampe 1998; Pinkeaw 2003; Ahlquist 2015). The process embodies the characteristics of citizenship apologies described by Stevens (this volume): the national narrative constituted some groups as legitimate members and not others, pursuant to which government officials dutifully interpellated and excluded from the Thai political community individuals based on their kinship narratives of ethnic lineage and not individual-level characteristics. That this is a matter of ascription, or official writing, is evident by its operationalization as described later.

By the 1990s, the political context had shifted dramatically, and effective statelessness presented serious problems for highlander families and communities. With diminished livelihoods in the village, growing numbers of highland-

ers left home to find work in Thailand's booming economy (Feingold 2000, 2003). Facing pervasive social discrimination and lacking advantages of education and social networks within cities, many highlanders were able to find work only in the most exploitable conditions, however (Feingold 2000). Moreover, because the state increased restrictions on the internal movement of noncitizens throughout the country in the 1990s, highland minority women and girls who lacked documentation of citizenship became particularly vulnerable to trafficking by smugglers, employers, and authorities at internal checkpoints (Feingold 2000, 2002; Chutima 2006, 2010). In this particular context, acquisition of the national identity card (*baht bprachaachon*) for citizens became a vital priority for highlanders seeking to secure their livelihoods and futures (see Sadiq, this volume). In 1999 and 2000, leaders of a burgeoning pan-highland movement mobilized thousands of villagers of all ethnicities to march in the northern city of Chiang Mai and demand recognition of their citizenship (McKinnon 2005; Chutima 2010).

Despite initial resistance by the state, the movement has proved successful in several ways. In immediate response to local pressure, the government decentralized citizenship adjudication to the local level. And, in 2008, the government expanded the law to include noncitizens who could prove that they were born in the country prior to February 26, 1992. In addition to extending the boundaries of citizenship, the state has also expanded the rights of noncitizens. Non-citizen residents were variously included in the country's health care program (Harris 2013; Koning 2014), and in 2005, the Ministry of Education extended compulsory schooling rights to noncitizen children. As recently as 2011, Thailand removed its Reservation on Article 7 of the Convention of the Rights of the Child, and it now guarantees birth registration to all children born in the country. The clearest result of these progressive changes can be seen, however, in citizenship conferral rates, which jumped in the first few years of the millennium (Flaim 2015). Yet, while the majority of highlanders surveyed in the HPS had acquired recognition of their citizenship by 2010, thousands of stories like Aqcha's raise questions about whether bureaucratic reforms can ever resolve persistent effective statelessness in Thailand, or indeed elsewhere (Flaim 2015).

Expanded Citizenship, Persistent Effective Statelessness

Today, hundreds of thousands of highlanders have overcome past effective statelessness and are now newly recognized citizens of Thailand. But rates of conferral and prevalence vary considerably across and within ethnic groups, districts, and even households like Aqcha's (Flaim 2015). Whereas some districts

report high rates of citizenship among residents, others report extremely low rates of citizenship. One might conclude that residents of districts with low rates of citizenship are simply ineligible to be recognized as citizens. To be sure, Thailand has experienced waves of undocumented immigration from neighboring states for decades, yet migration alone does not account for variation in rates across districts and ethnic groups (see Flaim 2015). As the rest of this chapter reveals, much of the variation in citizenship conferral is attributable to variations and contingencies in civil registration practices that have unequally shaped the state's access to and interpretations of highlanders, as well as highlanders' access to and interpretations of the state.

Evidence of Problems

UNEVEN TERRITORIALIZATION OF THE HIGHLANDS AND HIGHLANDERS

Throughout the past fifty years, highlanders in Thailand have been targeted by, caught up in, and caught between the state's various attempts to identify those who "really belong" and to exclude those who do not—that is, to create and re-create congruency between territory and nation through the identification, monitoring, and enforcement of identity among peoples at the margins. This, as Keyes (2002, 1194) argues, is the ongoing work of the nation-state (see also Vandergeest and Peluso 1995). Asserting congruency between identity and territory in the highlands is not only a highly political activity but also an extremely complex administrative undertaking (Vandergeest and Peluso 1995). First and foremost is the challenge of asserting a territorially and culturally bounded identity onto a population that is famous among anthropologists for being historically mobile and ethnolinguistically diverse (Leach 1964; Keyes 2002; see also Scott 1998, 2009; Jonsson 2006). Following Leach (1964), many anthropologists of highland peoples argue that conceptions of bounded identities are incongruent to many highlanders' views of themselves and others. Scott (1998, 2009) has furthered this work to argue that their diverse political systems and historically mobile practices of swidden agriculture historically rendered them difficult to integrate and transform into permanently settled, countable and accountable, taxable citizens of the modern nation-state. Reflecting both the historical mobility of many highlanders and the state's project to permanently settle highland villages, more than 60 percent of villages surveyed in the HPS reported dates of first permanent settlement after 1960.

Barriers to accessing highlanders have also been exacerbated by the mountainous jungles in which they reside: "Beyond the last [lowland] village [the

roads] end in some bushy field where the hills rise steeply. At this point the main trails take over, serving only man and his pack animals. . . . Beyond the main trails lie secondary ones where the grade is too steep or the clearing of jungle too haphazard to risk going even with a sure-footed mule” (Hanks, Sharp, and Hanks, 1964, 8–9). The preceding sentiment reflects the precariousness of travel during early stages of state expansion in the highlands as recently as the mid-1960s.

Today, an extensive network of roads into and throughout the highlands renders the area generally accessible by car or motorcycle. Nonetheless, highland villages located off the main roads remain difficult to access, particularly in the rainy season. In 2010, just over half the villages surveyed were accessible by paved roads, and 14 percent were entirely inaccessible during the rainy season. In short, conditions of travel in the highlands remain prohibitively difficult and time-consuming for many highlanders. Some must travel for as many as six hours to apply for citizenship papers. Complicating matters, Thailand operates a vast network of internal checkpoints to surveil noncitizen residents. All noncitizens are prohibited from crossing district borders without permission. As a result, even if highlanders are traveling to government offices to apply for citizenship papers, they risk detention, extortion, or arbitrary deportation by border police.

COMPLEXITY OF THE PROCESS

In Thai nationality law, no distinctions are made with regard to the presumed functioning of evidentiary procedure. Each person is assumed to undergo the same application process regardless of one’s ethnic background or one’s district of residence. Nevertheless, data from the HPS reveal considerable variation in application experiences across individuals and households by district (Flaim 2015).

Variations in application experience are widespread at the individual level. Among the 4,806 effective noncitizens in the survey who had applied for Thai citizenship, 71 percent were still waiting for determinations, 22 percent had been rejected, and 7 percent did not know what had happened to their application. Among 1,812 household respondents who lacked citizenship, 72 percent had applied more than once, and 15 percent had submitted applications more than five times. On average, they had been waiting for resolution to their cases for 4.5 years, but 15 percent of respondents had been waiting between 10 and 44 years for resolution. Data from the HPS also reveal that registration has not been a uniform experience for successful applicants either. Similar to the experiences of noncitizen applicants, more than 74 percent of the 2,723 respondents who acquired citizenship through application reported applying more than twice, with 30 percent applying between three and six times. Additionally,

they reported waiting an average of 4 years before citizenship was conferred, with 30 percent waiting between 4 and 35 years.

VARIATIONS IN STATE-HIGHLAND RELATIONSHIPS

Rates of application and application experiences are also significantly associated with ethnic identity (see also Flaim 2015). Specifically, Karen, Hmong, and Khamu applicants reported significantly longer waiting times than Lahu, Lisu, and Akha applicants. Detected differences by ethnicity do not suggest that claims to citizenship by Lahu applicants are stronger than those of Hmong or Karen people, however. Rather, these differences reflect divergent historical relationships with Thai state authorities (see also Renard 2000), differential rates of literacy and education (indices of social capital), and variations in leadership across ethnic groups. Indeed, a few of the most outspoken leaders in the highland citizenship movement are Akha, a group that has close historical, cultural, and geographic ties with Lahu and Lisu people (see Feingold 2002; McKinnon 2005).

Reported variations in application experiences also reflect significant differences in the profiles of applicants by ethnic group. Whereas the majorities of Akha, Lahu, and Lisu noncitizens had applied for citizenship at the time of the HPS, the Karen or Hmong citizenship applicant is relatively unique among his or her ethnic group: only 14 percent of Karen and 24 percent of Hmong noncitizens reported ever applying for citizenship despite reporting the highest rates of citizenship among all minority groups in the HPS. This is not to suggest that Karen and Hmong people do not apply for citizenship. Rather, these findings likely reflect the varying circumstances under which different groups have actually acquired Thai citizenship. Specifically, because Karen historically lived closer to lowland Thais and have been more integrated into lowland life, it is likely that fewer Karen in the northernmost provinces ever needed to apply for citizenship than did ethnic Akha, Lisu, or Lahu—groups that had relatively fewer historical and cultural ties to lowland society (McKinnon and Wanat 1983). By extension, Karen applicants for citizenship do not reflect the more general experience of Thailand-born Karen who were registered as citizens in civil registration campaigns, and thus never had to formally apply.

A similar logic may be applied to understand the high rates of citizenship among the Hmong relative to other groups. However, unlike Karen people, Hmong people were scapegoated by the state and media as sources of communism and drug smuggling, and because of this, the Thai government targeted Hmong villages in particular for programs that would ensure both legibility and loyalty to the state—programs such as permanent settlement, military

training, and citizenship conferral (McKinnon and Vienne 1989). State initiatives to trade citizenship for loyalty and legibility date as far back as the 1930s, with the powerful urban Chinese in Bangkok (Skinner 1957), and the 1970s, when Haw Chinese nationalists pledged to disarm in exchange for citizenship and settlement in the highlands (Thin 1986).

The point is not to confuse or belabor the issue of variation in application procedure and experience but rather to illuminate the highly divergent situation of citizenship conferral to diverse groups that were nonetheless uniformly categorized in nationality law and registration policy as “hill tribes.”

At the same time, the current situation of uneven citizenship in the highlands is also indicative of the contingent and uneven civil registration process. Surveys, household registrations, and birth registrations play an important role in citizenship outcomes, as these events produce the requisite evidence of residence, blood, and birth upon which identity cards are issued and status determinations are ultimately made. As the subsequent sections of this chapter reveal, political intuitions of agents crystallize gaps, inconsistencies, and flaws in evidence into determinations and documentation of citizenship.

CONTINGENCIES IN EVIDENTIARY PROCEDURE

Stories of complexity, confusion, and inequalities associated with registration procedures and experiences provide only a surface picture of the problems associated with uneven inclusion in the highlands. Contingencies associated with the leadership in one’s village and district of residence and even ethnic identity are also significantly associated with registration experiences (Flaim 2015). Specifically, the prescribed path to citizenship—from registering residence, to acquiring permissions from village leaders, to submitting papers at the district office—is not contingent; yet the capabilities, personal proclivities, and priorities of the various headmen, district office staff, and district officials who must participate in the application process, vary considerably. At the village level, the personal priorities, standards of integrity, and leadership capabilities of village headmen and assistant village headmen make a significant difference for the rates and success of villagers’ applications (Mukdawan 2009; Chutima 2010; Flaim 2015). Because the structure of evidentiary procedure elevates the authority of village headman in individual applications for citizenship, the process is replete with opportunity for corruption and extortion, of which there are many stories (Feingold 2002; Sturgeon 2005; Mukdawan 2009; Chutima 2010).

During my fieldwork, I never encountered the levels of corruption that are well documented in other studies, yet I regularly encountered ineffective village leaders. Examples include one headman who simply disregarded his

responsibilities and was rarely in the village at all. In the words of the villagers, “He does not take to heart the needs of the villagers at all.” Another albeit well-intentioned headman unwittingly allowed con men posing as state survey registrants to survey his village at the price of several hundred baht per person. When villagers attempted to file copies of their “official surveys” as proof of residence at the district office, they were accused of attempting fraud. On the other side of the same coin, however, effective leaders can make an enormous difference in the application process by taking the initiative to be well-informed of the process, to inform villagers of their rights to register, to advocate for applicants at the district office, and to assist villagers throughout the application process by translating documents and conversations, and even driving them to and from the office.

The influence of village headmen on the experiences and outcomes of applying for citizenship is ultimately limited, however, by the capabilities and attitudes of staff and officials at the district office. At the district level, the extent to which staff and officials prioritize highlanders, or understand the challenges of the particular highland context, varies considerably. The following two quotes by two different officials reflect extreme differences in attitudes toward highlanders among officials unto whom the power of adjudicating citizenship rests.

District Official 1: Chiang Rai Province, 2011

The situation is very complicated [in the hills]. This is an issue of national security. It is my responsibility to make sure that people do not cheat the system. The law requires it. Even DNA cannot always be trusted. I can only really trust DNA tests with a person’s mother. Why? Because you are born from your mother. We are not born of fathers. When someone submits a DNA test with their father without other proof, how can I know this is not the bastard child of a Burmese prostitute?

District Official 2: Chiang Rai Province, 2010

I want to issue citizenship as much as possible before I leave this district. If the [official who succeeds me] has no experience with the hill tribes, there will be a lot of confusion [when I leave my post]. For instance, each villager must submit documents to the district office, but this takes time. My staff are collecting all of the necessary documents in each village [in my district] so that I can go to a single village and certify applications for all of the applicants in one day. We are trying to visit three villages per day when we go up the mountains. . . . [Resolving citizenship problems for highland minority people] is my responsibility. I do this work for the

king. If the case is clear and accurate according to the law, and it is a case that I can address, I will do it.

The statements reflect starkly contrasting perspectives from officials who are tasked with the same responsibilities of conducting status determinations within their respective jurisdictions. Despite clear differences between the two officials, neither perspective is particularly unique among the number of officials who rotate on appointed bases through highland districts (see also Chutima 2006, 2010; Mukdawan 2009).

Attitudes toward highlanders range from extremely discriminatory and distrustful to open and sympathetic, and various practices initiated by district officials to resolve citizenship in their jurisdictions range from exploitative and corrupt (see Mukdawan 2009), to those that are closed and opaque (e.g., official 1), to those that are inclusive and relatively transparent (e.g., official 2). Some officials welcome the support of nongovernmental organizations as a measure of enhancing productivity, as well as insurance against potential corruption charges.

Given the discrepancies between these two officials in terms of their attitudes toward highland minority peoples, it is clear that one's place of residence can significantly affect the application experience and the outcome of a citizenship application. For instance, although DNA testing has been initiated by the state to resolve questions of parentage for cases in which birth certificates are lacking, district officials who discriminate against highlanders will weigh such evidence differently than officials who are more sympathetic to, or even patronizing of, highland minority peoples. In declaring his intention to resolve as many cases as possible prior to reassignment, the second official indicates his keen awareness both of variation in officials' attitudes and practices and of the consequences of such variation for the lives of people who are excluded as a result.

Problems of Evidence

In addition to navigating evidentiary procedure through village and district levels, applicants must present evidence of a link to the territory of Thailand through birth, blood, and/or residence. Such evidence of the link must be considered by officials to be both sufficient and reliable. However, the criteria for these indices are vague and, most important, depend on applicants' participation in, and interpretations of, previous events of registration and documentation. For example, the quantity of evidence refers to a range of documents

used for substantiating claims by birth, legal residence, and family relationships. Two of the most important documents are the birth certificate and the household registration that specifies family relationships of household members. The quality of evidence refers to, for instance, the legibility of handwriting on registration forms or the clarity of photos taken during household registrations. The deeply subjective experience of adjudicating citizenship in a context of widespread evidence gaps is readily apparent in the words of the district official who was quoted at the beginning of the chapter:

I am someone who studied law, and I think this nationality law is hard. I have read the procedures 100 times, but I had to start using these procedures in real situations to understand it. . . . In actuality, the law in Thailand is quite open. If a birth certificate is available, there is no question. The applicant is a citizen. But the biggest problem in the highlands is that highlanders do not have birth certificates. [Sighs]. Then I have to ask for other evidence. . . . [In addition to checking other documents], I compare old and recent pictures and compare these pictures to the real person, who must be present when I sign the documents for citizenship. I look at their eyebrows, nose, mouth . . . their face structure. Sometimes their pictures are not similar. In those cases, I ask the village headman, “is this person really the same person in the photograph?” I must believe them. If I do not believe them, or if there is a problem, I ask for a DNA test.

As the official indicates, when presented with an unclear case, he requests more evidence until he finds the case to be sufficiently and reliably defensible according to the standards of the Ministry of Interior. In a broad sense, this approach to citizenship adjudication is a process whereby a person’s biography gains legal significance based on the subjective view of an arbitrarily appointed official. This official, in turn, is establishing applicants’ *bona fides* as potential citizens when they, or their children, encounter similar inquiries later. (Applicants I interviewed received no actual DNA reports; it is not clear whether Thai officials withhold reports that are inconsistent with their beliefs.) As the following sections reveal, the mere availability or clarity of surveys, photos, and even birth certificates depends upon events that were variably experienced and interpreted by both highlanders and government staff in the production of highly variable evidence. In other words, these are literary events that generate other literary events.

Since the late 1960s, the Thai government has undertaken several waves of registrations of the highlands in order to count and account for the total population, and to attempt to understand which villagers “arrived” when. The documents used and produced during these registration campaigns thus provide a baseline of evidence of “being there” against which stateless highlanders can prove their claims to citizenship. The 1969 and 1990 hill tribe surveys carry the most weight in status determinations. In the first survey, the state registered 119,591 people over the course of two years, but it issued only about 65,000 mementos to highlanders to keep as proof (Chutima 2010, 15). Over the course of the following two decades, the government conducted various surveys of immigrant and refugee groups, some of whom are of a highland ethnicity, and issued identity cards that indicate tenuous claims to residency and rights (Toyota 2005; Pinkaew 2013). In 1990 and again in 1999, the government attempted censuses of “hill tribes,” during which people were issued “blue” and “green/red” cards, respectively, both of which grant cardholders semi-permanent residency but do not denote citizenship (Toyota 2005; UNESCO 2008; Chutima 2010; Pinkaew 2013). For applicants who lack proof of birth prior to February 26, 1992, and whose parents are not citizens, documented proof of participation in the 1990 or 1999 hill tribe survey (or an earlier survey) can provide crucial evidence of residence.

Prior to undertaking registrations, the state produced aerial photographs of the region. Despite attempts to “see” every village prior to the surveys, however, scholars and advocates have long noted the incompleteness of highland surveys due to budgetary, time, or capacity constraints of implementing agencies (Mukdawan 2009; Chutima 2010). The following statement by Khun Sathorn, a former registration official, about conducting a highland survey points to a stark disjuncture between the claims of the state to complete knowledge of and access to highlanders, on the one hand, and the difficulties that officials faced in attempting to reproduce and uphold that claim through surveys of the hills, on the other:

We rode an elephant to the Karen village. The rainy season had started and there were no roads to the hill tribe villages at the time. We packed all of the surveys in bags and strapped them to the elephant’s back. Each team knew where to go based on aerial pictures taken by the Thai military, and we were each assigned several villages to survey. Sometimes we came across villages that were not on the map, though. Then we had to survey those villages too.

As Khun Sathorn's experience reveals, early registrations of highlanders were carried out in a context in which the state did not possess universal knowledge of, or easy access to, highlanders. While relying on maps that ostensibly documented every village in the highlands, his teams nevertheless encountered villages that they did not know existed. The number of villages that were never found or registered cannot be estimated, but the consequences of these gaps in official knowledge resonate today: excluded villagers lack evidence of residence, which renders their claims to citizenship, and those of their descendants, dubious in the eyes of officials. The risk of being missed or counted was not random, however. As noted previously, proximity to district centers, degrees of integration into lowland society, and the relative strategic importance of a village or ethnic group could influence the likelihood of being counted in order for one's "being" to count.

The messy implementation of civil registration in the highlands is not the only reason for current gaps in evidence. Several noncitizen villagers reported that they had missed opportunities to be counted because of the delayed process of data collection over time as well. Indeed, several surveys were implemented over the course of one or several years (see Mukdawan 2009). Buqyeuhr, an older Akha woman who was stateless until 2003, recalls the pivotal moment of her initial exclusion as follows:

When I got married . . . I left home and walked for two days across the mountain to live with my new family—with my husband and his parents. A few days after I left, some men arrived in my birth village and surveyed the households there. My parents did not include my name in their household register because I had already moved away to my husband's village. But the survey team had already interviewed my husband's village before I arrived there. His parents didn't include me in their household registration because I was not a "household resident" at the time of that survey. I was born in Thailand, and my villages were registered. But I was never included in the [1969] survey.

Buqyeuhr was eventually able to acquire recognition of her citizenship, but this required persistence, and even then she was only "naturalized." In the end, she was denied recognition of her status as a full citizen by both *jus soli* and *jus sanguinis*. Her status as a naturalized citizen remains a powerful reminder that highlanders are still perceived as outsiders or migrants whose belonging in the polity depends precariously upon recognition and belief from Thai state officials.

Buqyeuhr's story reveals that direct exclusion from state registrations undermines claims to legal status for highlanders and their children. But inclusion in state registrations has not guaranteed citizenship either. Stories abound of various misunderstandings, misrepresentations, and mistakes during village surveys that consequently generated gaps and inconsistent information about highlanders and their families. Both highlanders and officials remember the frustration and confusion that permeated interactions between survey teams and villagers, and many recall the misunderstandings and mistakes that produced problematic documents. The following statements from a stateless Akha woman and a former survey official are emblematic of these experiences:

I was working in the fields when a man came to my village to run a survey. He was drunk and he demanded food and whiskey when he would visit the houses. He interviewed my young daughter and my elderly mother-in-law about everyone in the house. When I came home from the field, I saw a piece of paper, but I couldn't read it and I didn't know what it was. My mother-in-law and my child did not understand what it was either. Then I let my children play with the paper, but they tore it up. (Miqbahr, Akha villager, stateless)

I remember clearly the day I first arrived in a Karen village. None of the villagers could understand us, and we couldn't understand them. We met with the village leaders . . . and tried to explain through translators and gestures what we needed to do. It was extremely difficult to communicate. We needed to identify . . . everyone in each house, collect accurate information about each person, and fill out a registration form for each household. We had to learn a few words in the local language to ask these questions, and we needed to collect the information fast. One day it was pouring rain, and some of the survey forms were soaked, making the ink run. My team did a great job, though. We dried the surveys by heating them in a frying pan over a fire. A few documents were ruined, but we saved most of them. In the end, my team finished the village survey faster than any other registration team. (Khun Jerun, former survey staff)

Reading these narratives back-to-back provides a crucial understanding of how complicated interactions between villagers and survey staff during twentieth-century registration campaigns can contribute to the delay or denial of citizenship in the twenty-first century. Both groups regularly reported feeling

confusion, frustration, and anxiety during these registrations, and several reported mistakes that have generated dire consequences for highlanders and their children. Given the backdrop of discrimination, armed conflict, and militarization in the hills in which many of these campaigns were implemented, two other survey staff discussed tactics of building alliances with villages during registration campaigns as they felt that their safety was often at risk in the field. Reflecting similar fears and distrust of state officials, several villagers related stories of deliberately refusing to participate in the surveys by hiding in the forest during registrations.

NEW OPPORTUNITIES FOR (MIS)RECOGNITION

Given the significant challenges for thousands of highlanders to produce sufficient or reliable evidence of residence from early civil registration campaigns, the clearest route to resolving a citizenship claim is with documented proof of birth in the country prior to February 26, 1992. This evidence is a birth certificate or delivery certificate, which was the official record of birth issued to noncitizen families prior to 2011. According to law, births must be registered at the district office within fifteen days after delivery. The child's name is then added to the household registry, and a birth certificate is issued (UNESCO 2008). Yet there are considerable challenges associated with proving place of birth in Thailand even today. Specifically, although the proportion of all children born at home is dropping to fewer than 40 percent in the youngest age cohorts, more than 80 percent of noncitizens were born at home by 2010. And, while nearly 90 percent of highland children under the age of eleven have birth certificates, only 14 percent of noncitizen youth possess these documents (Flaim 2015).

Although every family with which I spoke understood the importance of acquiring a birth certificate for their children, mothers in particular noted their reticence to travel to the district office on a motorcycle only a few weeks postpartum, even to conduct such important business. When mothers are single or in particularly difficult circumstances, they may not receive the necessary support and assistance required to travel for birth registration. When Aqcha was born, his father was working elsewhere, and no one could accompany his mother to register him at the district center. Given that his family members are all citizens of Thailand, his lack of a birth certificate was enough to render his assertion of Thai citizenship “unbelievable” to the officials who have adjudicated his case over the years, even though a nonhighlander Thai citizen would have faced no similar challenge.¹

Conclusion

In this chapter, I interrogate key moments and practices in civil registration to understand the reasons for uneven outcomes in legal status among highland minority people in Thailand, one of the largest stateless populations in the world. Rather than focus on the “plight of the stateless,” as is the general practice in studies of protracted, widespread statelessness, this chapter examines the historical and current interactions between government staff and highlanders that generate the requisite evidence (*lakthaan*) of birth, blood, and residence for substantiating, conferring, or denying a claim to citizenship in Thailand. Rather than decontextualizing nationality laws and policies from the historical conditions and social practices that produce and enforce them, this approach considers the dynamic and particular ways that laws and policies are understood and interpreted in determinations of legal status. My analysis of civil registration in northern Thailand reveals a rationalized bureaucracy that is founded on and reproduces contingency, arbitrariness, and discrimination in the application of otherwise progressive nationality law to the perpetual exclusion of thousands of people like Aqcha. Effective statelessness is partly produced and reinforced through the very registration mechanisms that have been deployed to resolve it.

In the global system of sovereign nation-states, recognition of citizenship derives from assumed links to territory by way of birth (*jus soli*), descent (*jus sanguinis*), and/or residence. This chapter shows that highlanders’ claims to citizenship in Thailand are often only as strong as the evidence they are able to marshal to prove the validity of their claims. Yet my analysis demonstrates that key moments of evidence production and interpretation during regularized civil registration procedures were problematically and variably implemented and interpreted by the state and also were inconsistently accessed and understood by highlanders themselves. As a result, these fraught moments of evidence production have generated—and continue to generate—inconsistent, flawed, and incomplete documentation of birth, blood, and residence. Yet it is this very “evidence” that nevertheless constitutes the standard against which highlanders must prove their claims to belong. In the end, the stories presented in this chapter reveal that no evidence, whether documents, data, or even DNA, can ever guarantee a place in the polity. In the case of citizenship conferral, even the smallest gap between (hi)story and evidence thereof must ultimately be bridged by the beliefs and thus the internalized national fantasies of the officials making these determinations.

NOTES

All names have been changed to protect the identities of participants, and exact dates are not given because they may reveal identities of officials who wished to remain anonymous.

1. This practice resembles that described by Rachel E. Rosenbloom (this volume), who points out that most home births in the United States are to families in the interior, a population whose evidence of citizenship is not interrogated, unlike that of births to Mexican Americans near the Mexican border.