

Legal Status, Land, and Labor: the Gendered Dimensions of Citizenship and Agrarian Transformation  
in Highland Communities in Northern Thailand

By

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## ABSTRACT

Denial of legal status has long been an obstacle for highland Indigenous communities in northern Thailand in forging meaningful, land-based livelihoods. As such, drawing from 8 months of multi-sited ethnographic fieldwork, this project examines the gendered dimensions of citizenship law and practice in the Thai highlands. Specifically, through the use of ethnographic data and analysis of primary documents and secondary literature, this project highlights the gendered dimensions of citizenship administration, conferral, and adjudication in the highland context. Moreover, it situates these dynamics in an agrarian context, illustrating not only how rural subject positions have been implicated in the production of statelessness, but also the ways that citizenship has become increasingly necessary to forge productive and profitable agrarian livelihoods. As the project illustrates, an analysis of citizenship in agrarian and rural contexts is justified because of the centrality of land and property in both conceptions of citizenship, and in agrarian life. Moreover, specific attention to gender is warranted given the disproportionate role highland women play in securing citizenship for their kinship networks, but also their disproportionate roles in agricultural labor. As such, while considerable programmatic efforts by governmental, non-governmental, and international governmental organizations alike variously portray and purport to address deprivations created by statelessness and insecure legal status, this paper illuminates how highland Indigenous women have forged agrarian livelihoods and futures in the Thai highlands against mounting political, ecological, and social odds.

## INTRODUCTION

In June of 2023, I returned to the mountains of Chiang Rai province for a second round of fieldwork. Late one morning, my research assistant and I rode to a neighboring village where a friend, A-Do, owned a coffee shop, where we often went for a caffeinated respite. As she translated prior interviews and I wrote up my field notes, we came to discuss plans for future interviews and she raised the possibility of conducting interviews in this village. A-Do, the owner of the coffee shop, was a man in his early thirties who had just recently returned from working in South Korea for three years before opening the shop. He had become familiar with my research after our many visits, and listened casually to our conversation as it meandered between Thai, English, and an occasional exasperated Akha expression as he stood behind the counter rinsing coffee cups. In making her assessment of whether the village would be a productive place to continue interviews, my research assistant turned to A-Do, a native of the village himself, and asked if there were women in the village who didn't have citizenship. He replied, "There are, but they are all married to men who have citizenship."

Initially, I was confused by the response, uncertain of why women's marital status was relevant, or would be framed as a caveat to their legal status. Knowing that A-Do was part of a younger generation, the first to have spent more of their childhood and adolescence outside of the village than within it, and that he himself had never been stateless, I worried that his perspective might be skewed. Still, I was intrigued that this arrangement was apparently so commonplace and so relevant to discourse about citizenship in the village that it constituted a discernable pattern he would think to

mention offhandedly.<sup>1</sup> Amid my skepticism, I moved forward with my time in the village trying to triangulate this point.

Just a few weeks later, my research assistant and I sat on the porch of the village headman's house. In seeking to conduct interviews in a "new" village,<sup>2</sup> my research assistant and I first needed to approach him, not only to ask for permission to conduct research in his village, but also for his introduction to individuals we might interview. We arrived in the late afternoon and were invited to sit at a long, wooden table on his back porch. Taking a seat on the stool across from him, I stumbled through an explanation of my research project in a stilted, central Thai dialect. I told him that I was, in part, also hoping to speak to women in the village who do not have Thai citizenship, as I was beginning to take notice of the ways that legal status affected the forms of agricultural labor they engaged in within the village. He thought for a moment, before telling me that his village might not be a good place to do research on such questions. He explained that there were not any women in the village who did not have citizenship. Somewhat incredulous that in a relatively large village, there was not a single woman without Thai citizenship, I repeated this back to him as a question, seeking his confirmation. He clarified that while there might be some women in the village who didn't have citizenship, they had all married men who did.

In the eyes of this headman, and evidently, at least several other residents, marrying a Thai national resolves the problem of statelessness for many of the women in his village, such that he did not initially think of them as stateless, even when asked directly. In this view, women's legal status collapses

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<sup>1</sup> Notably, none of my interlocutors ever indicated the presence of an inverse arrangement, wherein stateless men married citizen women at such a rate that it was a discernible pattern in the village.

<sup>2</sup> This village was near the village that was my initial and primary fieldsite, although I had visited it many times in prior rounds of fieldwork before ever conducting formal interviews or participant observation.

under their husbands’, such that to make the distinction that women themselves do not have citizenship, is seemingly to belabor details. Such a statement is especially significant given that as the village headman, he is responsible for accounting for every non-national resident in his village through district-level reporting procedures.

Yet, through much of my fieldwork, this sentiment was regularly reaffirmed, even by stateless women themselves. The village headman was not even the first in this village to make such a comment to me. In this village and beyond, women expressed that many of their problems related to legal status had ostensibly been resolved by marrying men with citizenship— they could cultivate land belonging<sup>3</sup> to their husband, their children born within these marriages were likely to obtain citizenship, and they often found themselves marrying into familial and kinship networks that afforded them varying degrees of belonging and access to resources that would remain otherwise unavailable. Conversely, the unmarried stateless women I encountered were especially likely to encounter hardship, as they are limited only to cultivating land that others rent to them, often rely heavily on wage labor performed on other villagers’ fields, cannot confer citizenship to their children, and can rely only on their own kinship networks for support.

In both instances, citizenship, a lack thereof, or a proximity to it, informs women’s ability to forge meaningful livelihoods and relationships in their communities, and on the land. These dynamics raise important questions about the gendered production and experiences of statelessness in the Thai

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<sup>3</sup> Despite the presence of highland groups in northern Thailand for generations, only 5% of upland households had legal land titles (*chanot*), while 22% had usufruct rights as of 2010 (Ahlquist and Flaim 2018). Since the late 19th century, most land in the country’s northern province, where most highland villages are located have been variously classified as “state” or “reserve” forests, most often under the jurisdiction of the Department of National Parks, Wildlife and Plant Conservation, or the Royal Forest Department (Peluso and Vandergeest 2001).

highlands, where statelessness remains a protracted struggle for tens— perhaps hundreds— of thousands of people seeking to sustain agrarian livelihoods.

This intervention seeks to illuminate the state and social forces that structure highland women’s ability to acquire and confer recognition of Thai citizenship. Beyond, and in concert with presiding legalistic framings of statelessness, legal status, and other related exclusions, how are citizenship law and practice gendered in the Thai highlands? Specifically, how are practices of conferring, applying for, and adjudicating citizenship gendered, and how are they experienced by highland women? And, what are the consequences of these gendered practices for highland women, their children, and their livelihoods?

In answering these questions, this intervention focuses on four dimensions of citizenship in the highlands and draws attention to their gendered dimensions. First, the thesis illustrates how histories of conflict in Thailand’s borderlands, as well as particular cultural conceptions of kinship and belonging, have informed women’s recognition or deprivation of legal status and citizenship, and are thus implicated in a “matrilineal transmission” (see Petrozziello, 2018) of statelessness. Second, it offers an analysis of the gendered dimensions of Thai citizenship law and policy, notably the ways that it treats the legal status (or lack thereof) of the biological mother as a default. Third, this intervention examines the gendered dimensions of citizenship conferral in the highlands, attending to the ways that the bureaucratic procedures it entails remain particularly inaccessible to women and mothers. Fourth, it turns to state practices of citizenship adjudication, notably its increasing reliance on DNA testing and other biometric data, and its fixation on evidence from mothers. Together, these policies, practices, and

procedures come to structure both a gendered burden of proof of identity, and,— by extension— gendered barriers to citizenship in the lives of highland women.

Extant interventions in agrarian and peasant studies with a focus on citizenship have most often employed a broader definition of citizenship as a metric of social and political belonging, even developing theoretical lenses of “agrarian citizenship,” “ecological citizenship,” and “eco-agrarian citizenship” (Navarro-Olmedo et al., 2016; Opera et al. 2023; Torvikey, 2022; Wittman, 2009a, 2009b, 2010). However, analyses of *legal* citizenship have historically not factored meaningfully into inquiries in rural, agrarian, or peasant studies. Indeed, several have suggested that legal citizenship has historically not been of particular concern to rural and agrarian populations given their peripheral location and relationship to ruling bureaucratic centers, with some having gone as far to suggest that highlanders have actively and strategically avoided legal citizenship and other reifications of national belonging in a subversive effort to maintain their autonomy from the nation-state (see Scott, 2009).<sup>4</sup> While some such claims have had historical merit, today, citizenship is increasingly necessary for highlanders, and indeed, other rural and peasant populations seeking to forge land-based livelihoods amid ongoing dispossession and expropriation. Not only is citizenship prerequisite to any form of legal recognition of land claims or ownership, it is also necessary to access loans and credit, as well as crop insurance and benefits offered by the state (Ahlquist, 2015; Ahlquist and Flaim, 20218). More pressingly, legal citizenship and recognition is exceedingly necessary for younger generations as the possibilities of

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<sup>4</sup> This point, made in Scott’s influential, yet controversial, *The Art of Not Being Governed*, has been contested by highland activists in Thailand amid concerns that such claims would be weaponized by the Thai state to undermine highlanders’ claims to citizenship, and in fact, further justify their exclusion.

forging land-based livelihoods are threatened and rendered untenable, and migration to domestic and international urban capitals has become ubiquitous.

Aside from the significance of citizenship to agrarian life, this thesis also illustrates how highland women have been prevented from obtaining or conferring citizenship by virtue of their rural location. As this thesis will demonstrate, not only are highland women logistically prevented from engaging in the bureaucratic procedures necessary to obtain and confer citizenship because of the difficulties associated with reaching urban centers. Their rural location also means that they have likely not attended lowland Thai (or any formal) schooling, leaving them without the ability to speak Thai, which is necessary to interface with district officials who confer documentation and adjudicate citizenship claims.<sup>5</sup> Residence in the country's rural highlands is also implicated in the production of ethnic and racial categories that the state has long mobilized to exclude highlanders from citizenship and other forms of national belonging (see Vandergeest, 2003; Ahlquist and Flaim, 2018).

This thesis thus seeks to bring legal citizenship into an analysis of agrarian life, especially as a considerable portion of the global stateless population today is composed of rural farmers. Not only does this project call attention to the ways that legal citizenship is necessary in rural and agrarian contexts, it further illustrates how rurality, as a geographical location and social category, is implicated in exclusions from citizenship. Moreover, gender features as a central theme in this analysis, as it

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<sup>5</sup> The ability to speak Central Thai has long been a central pillar of "Thai-ness." The ability to speak Thai is even a prerequisite for foreigners attempting to obtain Thai citizenship through marriage. A lack of fluency in Thai thus also casts serious doubt on one's citizenship claim, as officials often interpret this as evidence that one was not born or has not long resided in Thailand, or that one is not deserving of citizenship for not having met this criteria of "Thai-ness." I was also informed of many instances where language barriers, in conjunction with other assumptions made by district officials, led to inaccurate reporting on identity documents in ways that rendered individuals ineligible for Thai citizenship (e.g. recording an individual's birthplace as Burma).



crucially informs the ways that statelessness is produced and endures. With this focus, this analysis thus builds from contributions in feminist political ecology that illustrate the significance of women's roles in the social reproduction of agrarian livelihoods, and the disproportionate barriers they encounter therein. In all, this intervention enriches our understanding of how land, labor, and legal status are uniquely tied in the making and remakings of agrarian livelihoods. Indeed, without dedicated attention to these factors and the relationships between them, our understanding of agrarian transformation in the highlands would remain severely limited.

#### METHODS:

##### *Knowing Gendered Citizenship and State-Making in the Highlands*

This project is based on nearly 8 months of independent ethnographic fieldwork across several sites in northern Thailand, from May to August of 2022 and again from June to August of 2023. Most of this time was spent living in Akha communities in Chiang Rai province, where I conducted participant observation and several in-depth interviews. This work was grounded in one, primary village where I lived with my research assistant, but was supplemented by regular, often extended visits to nearby Akha villages in the same district, or bordering districts. The initial round of fieldwork was primarily exploratory, as I spent most of this time shadowing women in my primary field site. As my fieldwork coincided with the rice planting season, I spent considerable time planting rice in terraced paddies surrounding the village and harvesting fruits that were in season, including persimmon, banana, and longan. When I was not in the *literal* field I was most often cooking with women in the village, or otherwise helping them prepare for one of the many village events that took place that summer.

I conducted two sets of interviews during this time, 1) oral history interviews with women in the village, and 2) interviews with men in the village who had recently registered their land with a recent titling project initiated by the Royal Forestry Department. These experiences, and a long period of reflection over the following academic year, provided me with the foundation to pursue a refined research agenda the following summer, from June to August of 2023. With the same village as a home base, my research assistant and I conducted interviews and participation with women primarily engaged in agricultural labor in 6 Akha villages in Chiang Rai, wherein legal status, access to land, and employment opportunities were recurrent themes.

Both rounds of fieldwork also involved sustained collaboration with Indigenous advocacy organizations in Chiang Mai, including the Inter-Mountain Peoples Education and Culture in Thailand (IMPECT) Association, the Asia Indigenous People's Pact (AIPP), and the Pgakenyaw Association for Sustainable Development (PASD). The time I spent in collaboration with these organizations not only socially connected me to, but further situated my work and understanding of questions of gender, citizenship, and agrarian transformation in relation, to the larger network of highland activists and communities across the north. As such, while the original ethnographic insights drawn from here come from experiences in Akha communities, several of the analytical insights about the gendered dimensions of citizenship (aside from the Akha-specific section I offer below) are also relevant to arrangements in other highland communities.

Importantly, this work is built into, informed, and made possible only by a decades-long solidarity network with Akha women, highland activists, and activist scholars. Dr. Amanda Flaim, the leading academic expert on statelessness in the highlands, and my long-time advisor and collaborator,

has been central to organizing and facilitating much of my fieldwork, making crucial introductions without which this thesis project would be entirely infeasible. Her introduction to Chutima ‘Miju’ Morlaeku, a central figure in the Akha and larger highland rights movement, the staff of IMPECT, AIPP, and PASD, and the villagers in my primary field site made this work possible. Importantly, the ethnographic work described above has taken place in many of the same villages and within the same networks as Amanda conducted and continues to ground her work. This extends a meaningful longitudinal aspect to this project and ongoing academic collaboration, as well as an additional point of triangulation.

## THEMATIC & THEORETICAL FRAMING

### *Conceptualizing Gender, Citizenship, and Property*

#### ***Gender, Citizenship, & Statelessness***

Despite increasing rates of citizenship conferral in the past several years, statelessness remains a protracted struggle for many highlanders in northern Thailand. Thai state, United Nations, and NGO approaches to resolving statelessness have largely manifested as reforms to (inter)national law and agreements, the introduction of new bureaucratic procedures, and most notably, the proliferation of identification and documentation campaigns. Yet, these approaches fail to recognize or account for the diverse circumstances and barriers that preclude meaningful participation in such systems. There is, in fact, significant evidence that demonstrates how such bureaucratic approaches often intensify or produce new obstacles to legal recognition and citizenship (Flaim, 2015, 2017; Flaim and Nawyn, 2023; Manby 2021). As indicated through the interaction with the village headman described above, citizenship concerns are largely addressed and understood through a masculinist framework of law and

policy at the state-level, and framed as a gender-neutral issue, even among highland activists and leaders themselves, such that statelessness endures among particular classes of highland women in northern Thailand.

Extensive feminist scholarship illustrates how the modern State, owing to the patriarchal social, political, and cultural contexts in which it emerged, is a fundamentally masculinist institution that relies on the domination of women (Brown, 1992; Pateman, 1988). Women further play a central role in projects of nation-building, wherein their bodies, identities, and subjectivities are routinely mobilized in nationalist discourses and pursuits of power (Aretxaga, 1997; Das, 2006; Nagel, 1998). Within the context of modern nation-states, contributions to political and legal theory have further identified how citizenship has been and, in many ways, remains inaccessible to women. Not only are women denied citizenship as both a formal legal status, but they are often also excluded from citizenship as a broader conception of social, political, and communal belonging (Lister, 1997; Walby, 1994; Yuval-Davis, 1997).

Yet, most contributions on questions of gender, citizenship, and statelessness are limited to legal analyses of provisions of nationality laws and their exclusion of women and mothers. In many instances, these analyses highlight how nationality laws limit mothers' ability to confer citizenship to their children, as opposed to fathers (Peden 2021; UNHCR 2019). For instance, as Peden (2021) notes, Bahamian law prohibits mothers who give birth abroad from automatically passing down their nationality, while Bahamian fathers whose children are born abroad automatically inherit their father's citizenship. Nepal's citizenship laws have garnered significant attention for this feature as well. Violent protests followed the government's refusal to amend provisions in the country's constitution that only

allow mothers to confer citizenship to their children via an extensive naturalization process, of which there is no recorded successful case (Mulmi and Shneiderman, 2017; Peden, 2021).

Attention to the legalistic dimensions of citizenship and statelessness in the academic literature is consistent with the framing of these issues in (inter)national political arenas. For instance, the United Nations High Commissioner for Refugees (UNHCR), in its ten-year Global Action Plan to End Statelessness (2014-2024), names gender as a priority and significant space for reform, with the third mission of this plan aiming to, “Remove gender discrimination from nationality laws” (UNHCR, 2014). Yet, as ethnographically informed research illustrates, attending only to legalistic elements that create gendered barriers to citizenship is insufficient. Specifically, drawing from the critical feminist scholarship discussed above, these analyses reveal how the state itself, as the administrator of citizenship, is gendered, as well as how the larger social and political structures that women must navigate to engage with the state are gendered (McAuliffe, 2023; Petrozziello, 2018; Salcido and Menjívar, 2012). While attention to gender discrimination inscribed in law is undoubtedly significant in discourses on statelessness, attention to this facet alone belies the larger social and structural forces that also (*re*)produce gendered exclusions to citizenship.

Yet, it is necessary to note that these concerns and critiques are nearly entirely located in relation to ethnic and gendered national centers. Indigenous, Native, and First Nations scholars Coulthard (2014), Audra Simpson (2014), and Leanne Betasamosake Simpson (2017) reject altogether the colonizing assumptions baked into frameworks of state recognition via formal, national citizenship. Leanne Betasamosake Simpson (2017), in particular, issues critiques of heterosexist projects of nation-state-making as located in the same logics that subsume Indigenous women’s bodies as “Other.”

Highland Indigenous activists in Thailand and across Southeast Asia have increasingly organized around “indigeneity” as a salient political identity in their advocacy, and are a critical part of a vibrant and growing global Indigenous movement (Leepreecha, 2019; Morton, 2023; Morton and Baird, 2019). While frameworks of settler colonialism as they have been enacted on Indigenous communities on Turtle Island cannot be uncritically mapped onto other contexts, scholars have further drawn attention to the settler colonial aspects of the Thai state and its modes of extraction in the highlands (Ahlquist, 2021). As such, attention to Indigenous critiques of legalistic approaches to citizenship, even those based on U.S. and Canadian settler colonial dynamics, are significant in the context of this study, even as citizenship and statelessness remain key concerns of highland Indigenous communities and activists in Thailand.

### ***Gender, Citizenship, & Property***

While statelessness, citizenship, and land (as property) rights in the Thai highlands have often been studied in isolation in the extant literature, there is a meaningful reason to analyze them in relation. Property (often land) ownership, has been central, if not requisite to formal, legal citizenship in Western, liberal traditions (Wallerstein, 2003). While such traditions persist throughout much of the world, as colonial legacies are especially enduring in legal systems and codes, more recent contributions have further illustrated how citizenship and property are not only co-constitutive of one another, but also come to constitute state power and authority in diverse contexts (Lund, 2016, 2022; Lund and Eilenberg, 2017). As Lund (2016) argues, “the ability to entitle and disenfranchise people with regard to property, to establish the conditions under which they hold that property—together with the ability to define who belongs and who does not, and to establish and uphold rank, privilege and social

servitude in its many forms—is constitutive of state power” (p. 1200-1201). With this, an analysis of the relationship between land (as property) and citizenship in the Thai-highland context is particularly warranted, given the prevalence of protracted statelessness and lack of legal land titles among highlanders.

Moreover, contributions of critical feminist scholars and political ecologists have highlighted the significance of gender as a category that informs access to land and property. Historical analyses have noted how women’s access to the commons, prior to enclosure, constituted the center of social life, wherein communal land not only provided women with a material benefit, but also became a place where women forged their own social and affective connections with one another, independently from men (Federici, 2004). Such dynamics are still shown to endure in diverse rural contexts, wherein particular agricultural areas or methods of cultivation are gendered and often seen as “women’s domain” (Rocheleau and Edmunds, 1997). Similarly, access to land has been a central concern to earlier interventions in feminist political ecology, which interpreted women’s direct access to land as an index of women’s autonomy, and closely correlated with “the economic and social wellbeing of women and their families” (Agarwal, 1988, p. 531; see also Agarwal 1994a, 199b).

Beyond more straightforward associations between women’s land ownership and their perceived agency, recent interventions have called into question the gendered, and more often, patriarchal characteristics of land and property regimes, especially in settler colonial contexts (Bhandar, 2016, 2018; Chung, 2017; Khalid et al., 2017; Ojeda, 2022; Roy, 2021). These interventions highlight “gender-property logics” (Roy, 2021) that have underpinned these regimes since their inception, noting how the construction of property, and property as a prerequisite for citizenship and meaningful

modes of rights-bearing, formed the foundation of “racial patriarchy” (see Harris 1996, 1993). In discussing how such logics apply to the construction of land as property, Ojeda (2022) argues, “The process of turning land into property created the landowner as a rational subject holding possession, the right of exclusion, and authority and simultaneously made land a static, exploitable, and available object. Land as property seals the production of land as feminine and the concomitant construction of the liberal subject as always already masculine.” With this, it becomes evident that gender is a salient dimension embedded within the hegemonic frameworks and regimes that govern land, property, and citizenship, warranting close ethnographic attention to women’s experiences and ability to navigate and derive benefits from them.

#### CONTEXTS:

##### *Understanding the Highlands in Thailand & Gender in the Highlands*

##### ***Highlander-Thai-State Relations & Legal Deprivations***

There are nine state-recognized highland groups in Thailand, often referred to, derogatorily as *chao khao* (ชาวเขา), or “hill tribes”: Akha, Hmong, H’tin, Karen, Khamu, Lahu, Lisu, and Lua. These groups have long lived in the mountainous borderlands between Myanmar, Thailand, Cambodia, Laos, Vietnam, and parts of southwest China. Far from the ruling lowland polities and the reach of military and administrative forces, highland groups in Thailand had relatively limited interactions with the centralized state until the late 19th century (Scott, 2009; Winichakul, 1994). However, with the presence and looming threat of colonial powers on both borders, the Thai monarchy and state were incentivized to map and exact administrative control over its geographical boundaries, including settlements in the north, which had existed outside of the purview of the state (Vandergeest and



Peluso, 1995; Winichakul, 1994, 2000). As such, Thailand's northern borders were drawn *around* the highland communities that had lived within and across them for generations. Yet, because of their distance from the ruling center, highland populations were excluded from the various forms of state consolidation undertaken during this period. Notably, they were excluded from the initial cadastral surveys conducted to confer citizenship during this period (Flaim, 2015), leaving them within the legal boundary of the state, but without legal status or citizenship since its establishment.

In tandem with the creation of the territorially-bound “geo-body,” the monarchy during this period advanced a vision of the nation-state, unified by a strict notion of “Thainess” (*khwampenthai-ความเป็นไทย*). One’s “Thainess” and belonging to the nation-state became contingent on three criteria: “*chat* or nation (speaking Thai as a manifestation of membership in the Thai nation), *satsana* or religion (being Thai as being Buddhist), and *phra mahakrasat* or the King (devotion to the monarchy)” (Laungaramsri, 2003, p. 157). As highlanders at this time were not Buddhist and did not speak Thai, they were considered “non-Thai,” which troubled the state’s vision of a coherent and singularly “Thai” state (Laungaramsri, 2003; Winichakul, 2000). The anxieties of the Cold War period only intensified the Thai state’s exclusion and scrutiny of highland groups, which brought about state narratives of “hill tribe problems,” which framed highlanders as “communist insurgents,” “opium producers,” and “forest destroyers,” (Laungaramsri, 2001, 2003). The state used these narratives to justify denying highlanders citizenship, and otherwise excluding them from forms of national belonging (Laungaramsri, 2003).

While several cadastral surveys and registration initiatives were implemented throughout the 1970s and later, they have been largely inconsistent or incomplete, leaving highland residents without

the documentation or evidence needed to secure citizenship (Flaim, 2015). Moreover, the state undertook an expanded identification and registration scheme, often administering various forms of personal identification, that only further reified individuals' status as an "Other," ineligible for citizenship (Flaim, 2015; Laungaramsri, 2015). Since the 2000s, rates of birth registration and citizenship conferral have risen, yet statelessness remains an enduring problem in highland communities (Flaim, 2015, 2017). Public protest and advocacy among highland activists in the 1990s and 2000s prompted the state to amend the Nationality Act in 1992, devolving citizenship administration to the local district level, and making all those who could prove that they were born in the country prior to 1992, eligible for citizenship (Flaim, 2015, 2017). Yet, the devolution of these procedures to the district level has (re)produced barriers to citizenship, as the application of "rational" bureaucratic procedures is increasingly left up to individual state officials, whose attitudes toward highlanders, and their interpretations of citizenship applications vary considerably (Flaim, 2015, 2017).

Without citizenship, livelihoods and opportunities for highlanders are constrained in meaningful ways. Until recently, stateless individuals in Thailand could not leave their district without permission from the local government or register for Thai schools (Flaim, 2008). Still today, they are unable to acquire other forms of legal documentation, like driver's licenses or passports. They are ineligible for loans or credit, which are critical for a stable, profitable agricultural livelihood; nor are they eligible for crop insurance provided by the Ministry of Agriculture & Cooperatives (Ahlquist, 2015). Statelessness among elderly highlanders is particularly concerning, as they are ineligible for government support and often lack any other form of reliable income or care (see Flaim et al., 2019).

For those who are able to leave the village, they are at particular risk of labor exploitation or unsafe working conditions (Feingold, 2002; Flaim, 2015). Given these limitations, citizenship and legal rights have long been, and continue to be a central part of advocacy agendas pursued by highland activists and networks across Thailand.

### ***Histories of Gendered Belonging & Recognition in Akha Communities***

Akha are a Tibeto-Burman ethnolinguistic group that has long lived in the mountainous northern regions of Myanmar, Thailand, Laos, Vietnam, and southwest China. Historically, they have practiced *Aqkaqzanr*, which refers to “traditional Akha culture,’ including customs, culture, religious beliefs and practices, language and overall way of life” (Li, 2013, p. 19). *Aqkaqzanr* entails a patrilineal system of kinship and descent, wherein women’s relationships to their fathers, male relatives, and later their husbands, are crucial to their cosmological and social belonging in their community (Kammerer 1989, 1998). Relevant to this study is that, in these arrangements, women historically left their birth village and moved to their husband’s village after marriage (Kammerer, 1989, 1998). Importantly, many, if not most Akha communities in Thailand have been the subject of proselytizing efforts by Catholic missionaries throughout the 1960s and 1970s, and today, have largely converted to varying sects of Christianity (Tooker, 2004). Still, even in villages that have converted to Christianity, particular elements and practices of *Aqkaqzanr* persisted, notably insofar as they relate to the significance of genealogy and descent, as well as women’s familial, social, and cosmological location in their communities. While this project does not seek to make claims about specific Akha, or other highlander cultural histories or practices, such themes did emerge in my fieldwork, and their bearing on citizenship and statelessness, merit discussion here.

Many of the Akha communities where I conducted research in Chiang Rai province trace their historical and contemporary family lineages across national borders to Myanmar. In conducting interviews with elderly stateless women, there were recurrent stories of conflict and migration from Myanmar. Most often, as they explained, their husbands died in protracted conflict between ethnic armed forces in Shan state and the Burmese military. This is consistent with findings from the Shan Women's Action Network's pivotal report, "License to Rape," which documents the extent to which gender-based violence was used as a weapon of war in the conflict in Shan state (SHRF & SWAN, 2002).

In a context of ongoing conflict, and without a patrilineal line anchoring them to residence in their husband's village, these women and their children were often forced to flee and follow their own kinship networks to new villages in Thailand. With the Myanmar state administration yet to register the citizenship of its residents in the highlands, and much of the northern Thai border not yet solidified or policed, these women moved across the border, usually unknowingly, and without any identity documentation. Other ethnic groups, including Karen and Kachin, were similarly affected by this conflict, and fled across the border to Mae Hong Son and Taak provinces, where official, UN-recognized refugee camps had been set up. In contrast, Akha communities most often fled to Thailand through Chiang Rai province to Mae Sai, where there were no refugee camps. Instead, they often settled directly into villages alongside their ethnic kin. As such, they were never afforded the benefit of the refugee or asylee status and accompanying documentation that others who fled the same conflict had. This accounts, in part, for the enduring rates of statelessness among women in Akha

villages, and the relatively higher rates of citizenship administration to Karen and other ethnic groups that fled to Thailand during this period.

As such, while many of these women are eligible for Thai citizenship based on the provisions of the Nationality Act of 1992, they still lack citizenship as a result of the bureaucratic and procedural barriers discussed above. Such dynamics are rooted in what Petrozziello (2018) refers to as the “matrilineal transmission” of statelessness, an especially salient concept in the Thai and highland context, as the following sections illustrate how highland women experience a disproportionate burden of evidence in citizenship conferral and administration.

Moreover, marriage practices in Akha communities, wherein women often move to their husband’s familial home after marriage, leaving their own families and villages (Kammerer, 1989, 1998), have also shaped citizenship outcomes. Flaim (2015, 2017) recounts the story of Buqyeuhr, an Akha woman who was stateless for much of her life. Buqyeuhr was married while state agents were carrying out a registration survey in 1969. As she traveled to her husband’s village, state officials came and surveyed her birth village, where her parents did not include her on their household registry, as she had recently moved. Yet, the survey team had already visited her husband’s village, where his family did not include her, as she was not yet a “household resident” (Flaim, 2015, 2017). This left Buqyeuhr, for much of her life, without the registration status necessary to apply for citizenship. As such, this instance illustrates how marriage practices and particular cultural conceptions of belonging to a particular “household” have also informed documentation of residence, with significant bearing on women’s eventual citizenship outcomes. In these ways, the story of statelessness and exclusion in the highlands, as well as its gendered dimensions are larger than just the state and its policies. There are

further embedded historical arcs that play into it, as well as long-standing conceptions of belonging, connection, and kinship.

### GENDERING CITIZENSHIP IN THREE PARTS:

#### *Law, Conferral, & Adjudication*

#### ***Citizenship Law in Thailand***

The Nationality Act, amended most recently in 2012, is the primary legislation that governs citizenship eligibility conferral, and naturalization in Thailand. The Act recognizes both *jus sanguinis* and *jus soli* claims to citizenship. Moreover, a unique 1992 amendment to the Act allows for individuals to make *jus soli* claims to citizenship if they can present proof that they were born in Thailand prior to February 26th, 1992, which has been the legal basis upon which many highlanders have made their claims to Thai citizenship (Flaim, 2015, 2017). In contrast, *jus sanguinis*, as the Act stipulates will be extended only to:

“(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. “Father” in (1) means also a person having been proved, in conformity with the Ministerial Regulation, that he is a biological father of the person even though he did not register marriage with the mother of the person or did not do a registration of legitimate child” (Kingdom of Thailand, Nationality Act (No. 4) 2008).

This provision suggests that mothers’ legal status (or lack thereof) will be conferred by default to children born out of wedlock, unless the paternity of the father can be established according to legal standards. Relatedly, Flaim (2015) notes that household registration policies for new births, a requisite part of citizenship conferral to the child in question, is also informed by whether the mother or father of the child is a citizen. If only the mother is a citizen, the child is automatically included on her

household registry, whereas if only the father is a citizen, “the child will only be automatically included in the father’s official household registration (Tor/Ror 14) as a future citizen of Thailand if the child’s father is present and registered on the child’s birth certificate” (Flaim, 2015, p. 98). Together, these instances illustrate how citizenship and nationality law and policy in Thailand are gendered, insofar as they place a disproportionate emphasis on mothers’ status, a recurrent theme herein.

### ***Citizenship Conferral***

*“Aqcha meets the criteria for Thai citizenship according to the current Thai Nationality Law. He was born in the country prior to 1992, and both of his parents and all of his siblings are citizens. Yet, he still lacks recognition of his Thai citizenship...Aqcha traces the root of the problem to the fact that his parents were unable to formally register his birth with the state. He was born sometime during the rainy season of 1989 or 1990, when his father was working in a factory far from home and his mother was left caring for two young children and a toddler by herself in their remote village home. According to Aqcha, his mother simply did not have the energy or time to take him to the district office to register him after giving birth. Twenty years ago, the unpaved roads through the highlands were notoriously dangerous to traverse in the rainy season (see Chapter 5), and the 15 km journey to and from the district office—whether on foot or by horse—would have taken days. Had his mother traveled alone with him to register his birth, Aqcha doubts that she could have registered him accurately. Like many people of her generation, she never learned to read or write in Thai, and she could not speak it well either. As a result of the particular circumstances of his birth, Aqcha does not possess a birth certificate.”*

—Flaim (2015, p. 10)

In addition to gendered provisions of nationality law and procedures, the work of conferring citizenship to children within individual couples and families is also distinctly gendered. Specifically, ethnographic findings suggest that mothers are disproportionately responsible for securing the requisite birth documentation for their children. Yet, they must do so, or are often prevented from doing so, through recurring interactions and negotiations with patriarchal and masculinist social and

state structures. Such gendered dynamics are affirmed (yet not always explicitly recognized or framed as such) in the extant literature on birth registration in diverse geographical, national, and social contexts (Fisher, 2015; Petrozziello, 2018, 2019; Seo, 2016; Vandenabeele, 2011; Vortherms, 2019). Fisher (2015) illustrates how women in several countries in the Middle East refrain from registering children born outside of wedlock because of the social stigmatization they might encounter. Petrozziello (2018), describes how Haitian migrant mothers who work and give birth in the Dominican Republic are unable to secure *any* birth documentation for their children, let alone Dominican nationality for them, due to the introduction of bureaucratic birth registration procedures that specifically target foreign mothers.

In Thailand, Seo (2016) describes how Shan migrant women from Myanmar leverage participation in antenatal care programs in Thai hospitals in order to procure as many documents as possible to secure their children's legal status. McAuliffe (2023) describes how women in the rural borderlands of Shan state, many of them ethnic kin to the highland groups in Thailand discussed here, are excluded from the evidentiary documentation upon which citizenship is adjudicated, and must further navigate patriarchal notions of family lineage and ancestry in obtaining citizenship for their children. In each of these instances, the responsibility primarily falls on mothers to procure these documents and confer citizenship to their children, due to a range of social, political, and bureaucratic arrangements.

Flaim's (2015) recounting of Aqcha's story, demonstrates how several of these factors coalesce to limit highland women's ability to confer citizenship to their children. With men often working outside of the village during this period, the burden of childcare and other forms of socially



reproductive labor fell on Aqcha's mother. These responsibilities, along with the time and risk that it would require to travel to make the trek to the district office, not to mention doing so newly postpartum, made the trip to the district office infeasible for Aqcha's mother. Moreover, with Aqcha's father working out of the village, his mother's ability to make such travel arrangements, given that, as will be discussed below, it would be uncommon for a woman to make such a trip alone, and especially difficult for her to coordinate without her husband. Moreover, as Flaim (2015) recognizes, even if she had successfully made the trip, there are serious questions about whether or not she could have successfully registered him, given language barriers and prejudices of district staff, which still persist today. Stories like Aqcha's, of which there are many, illustrate how social, political, and bureaucratic circumstances render these processes particularly inaccessible for highland women.

These dynamics are changing, given the increasing number of births in hospitals in recent years, largely facilitated by the construction of paved roads and nearby hospitals (Flaim, 2015). Yet, critical attention to the gendered work of citizenship conferral is still significant given the ways that women's access to the state spaces and procedures with which they require engaging remains limited, and remains mediated or facilitated by men. Significant contributions to sociological literature attest to highland women's increasing mobility as it relates to migration for education and labor, especially among younger generations (Ayuttacorn, 2019; Feingold, 2014; Flaim et al., 2019; Trupp, 2015, 2017). However, the dynamics of mobility and travel at work within and between village contexts are notably different. Even today, women rarely leave or travel between villages unaccompanied. Even in my primary field site, a relatively wealthy and politically stable village, motorcycles remain the primary mode of transportation in the hills, with most families owning one motorcycle. While wealthier

households have purchased pick-up trucks, which are justified primarily by their use in agricultural production, automobiles are still few and far between, and are exclusively owned by men.

As extended motorcycle trips are largely considered too dangerous for women to undertake alone, women must instead engage in considerable planning and diplomacy, as they must rely on husbands, male family members, or other truck owners in order to leave the village for errands. In eight months of fieldwork, I was driven between the villages, the nearest lowland towns, and Chiang Rai city countless times. Yet, on only one of these occasions was I driven by a woman, in a set of exceptional circumstances. This is not at all to say that highland women do not drive, or lack mobility as a rule. In fact, I spent significant time with highland activist women in Chiang Mai city, where they drove me on a daily basis. It is, however, to say that there is a set of particular negotiations that inform and often limit highland women's mobility in and around the village. These limitations thus become significant to understandings of citizenship conferral in the highland context, as they shape women's ability to meaningfully engage in the bureaucratic procedures that it entails.

Aside from travel to district offices alone, there is also considerable evidence to suggest that district offices and related state spaces themselves are difficult for women to navigate, and that these engagements are often mediated by men. Moreover, consistent with McAuliffe's (2023) findings in Myanmar, the highland women that I spoke to in interviews reported relying disproportionately on village headmen<sup>6</sup> in their negotiations for documentation and citizenship for themselves and their

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<sup>6</sup> Headmen, in this context truly does refer exclusively to men. Despite several of the leaders of highland advocacy and activist organizations being women, I never encountered a village leader that was a woman. Ahlquist (2015), further recounts this interaction during his fieldwork: "When I asked men in the villages if they thought a woman might one day be village head, most of them laughed at my question. When I asked women, a few seemed hopeful, but most did not" (p. 260).

children. For instance, almost all of the stateless women I interviewed reported receiving documentation, like their “Alien” ID card, through their village headman. Few, if any, went to district offices to request these documents themselves. Flaim (2015) further notes that the support and verification of village headmen are crucial to the success of individual applications for citizenship. Whether this finding is an indicator of the ways that women are unable to independently engage in such processes, or if it is a patriarchal dynamic that (re)produces their inability to do so, is not yet clear. The matter of importance here, however, is that these gendered dimensions meaningfully shape women’s ability to advocate for themselves and their legal entitlements.

Additionally, there are meaningful ways that women come to undertake the burden of helping others, aside from just their children or family members, acquire citizenship. As noted earlier, my fieldwork is embedded in and only made possible by networks of highland activists, most of whom are women. Most notable in discussions of citizenship is Chutima ‘Miju’ Morlaeku, an Akha woman, who, for over 20 years has led the movement for citizenship rights for highlanders in Thailand. She has been my entry point into several of the communities and spaces where I have conducted research, and I am extremely fortunate to have had the opportunity to spend considerable time with her during my fieldwork. In this time together, I saw just how relentless her commitment to and personal engagement in helping individuals acquire citizenship is.

In one particularly illustrative instance, on one of my last days in Thailand, before I returned home after my first summer of fieldwork in August 2022, Miju asked to see me to say goodbye before I left. Our goodbye was prolonged, as I found her in the midst of a Zoom meeting that she had connected to from her iPhone, where she was negotiating funding from the United Nations, while

simultaneously looking over the identity documents of a young Akha woman preparing to apply for citizenship for herself and her parents. Miju's commitment to this advocacy has put her at great personal risk and subjected her to considerable scrutiny by the Thai state. While the myriad ways that she, alongside other highland women activists put their bodies on the line to secure futures for their communities, is deserving of its own paper or project, it merits mention here as yet another way that the labor of citizenship conferral falls upon women.

As Flaim (2015, 2017) argues, highlanders have experienced structural barriers that preclude their ability to acquire citizenship through extant bureaucratic requirements. The gendered analysis of these observations, and the original ethnographic insights that follow illustrate how this is especially true for highland women. These instances reveal not only how procedures remain inaccessible to the very populations who most need them, but also suggest that women experience a disproportionate burden in acquiring legal and identity documentation, a pattern which will be expanded upon in the following section. Ethnographic attention to these dynamics is warranted, especially given how "statelessness" and "legal status" are framed and addressed as rational, uniform processes in both national and international policy and initiatives. As such, this ethnographic detail is central to a meaningful understanding of, and any attempt to address statelessness in the highlands.

### ***Citizenship Adjudication***

*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?*

—Chiang Rai District Official, cited in Flaim (2017, p. 156)

Over the past decade, the Thai state has increasingly introduced measures to adjudicate *jus sanguinis* claims to citizenship using DNA testing and biometric data, framing them as technical solutions that will rectify statelessness caused by “inadequate registration procedures” of the past (Chappanapong, 2011; Flaim, 2020; Flaim and Nawyn, 2023). Yet, DNA-testing initiatives are still largely embedded in, and subject to the bureaucratic procedures that have long produced statelessness in the highlands (Flaim 2020). Applicants must be registered residents of a recognized village, a status which can largely depend on the efficacy of leadership in a given village, as individuals must be registered by their village headman (Flaim 2020). They must also obtain permission from a district official to get a DNA test at a state-designated hospital (Flaim 2020), which is predicated upon having made several trips to district offices, and successfully pleading one’s case to an individual official. With approval from the district, applicants must then travel, often several hours by car or motorcycle, to the nearest state-designated hospital, and pay anywhere from 8,000 to 12,000 Thai baht (approximately \$250-350 USD) to have a DNA test administered (Flaim, 2020). As Flaim (2020) argues, these procedures “drastically increase the price of citizenship.” Not only do applicants need the funds to pay for the test, they also need the time and transportation to travel to the district office and hospital, as well as the knowledge and language capacity to facilitate interactions with officials and hospital staff. These factors are worth enumerating, given that statistically, stateless individuals experience higher rates of poverty, stemming, in part, from the ways that their (lack of) legal status forecloses on

employment opportunities and credit, and reinforces their dispossession from land as a means of social reproduction (Ahlquist, 2015; Ahlquist and Flaim, 2018).

Accordingly, DNA-testing entails several similar gendered dimensions associated with citizenship procedures described above and entails new ones. It stands to reason that the limitations on movement and access to state spaces described above also apply to women's relative (in)ability to successfully engage in DNA testing procedures and to successfully resolve citizenship disputes using these mechanisms. However, gender is also shown to meaningfully inform the perception of DNA evidence in citizenship disputes. Specifically, mothers' biometric data are shown to hold greater analytical weight in the interpretation of citizenship claims by state officials. In the quote above, a district official in Chiang Rai province, tasked with adjudicating citizenship applications, admits that he really only "trusts" DNA when it comes from an applicant's mother given the apparent certainty of biological connection, rather than DNA from a father, despite there being no provision or reference to such a gendered differentiation in Thai law or policy (Flaim, 2015, 2017).

Writing about Aqcha's story (referenced above), and his attempts to procure citizenship after his mother died, Flaim (2017) argues, "without a DNA test from the person who delivered him into the world and onto Thai soil—his mother—no one could possibly be certain that he is *really* Thai" (p. 11). Evidence of the prevalence and consequences of this perspective come not only from individual bureaucrats, but also from large-scale survey data and statistical analyses of stateless populations in Thailand. For instance, Flaim (2015) writes that among highlanders who have applied for citizenship based on a *jus sanguinis* claim, "Individuals who have a claim through their father alone are 76 percent less likely to be citizens as compared to those who have a claim through their mothers alone" (p. 120).

As such, there are clear gendered elements that inform women's ability to engage in these procedures, and how their roles within them are weighted and understood.

These dynamics have meaningful resonances with extant feminist scholarship on gender and the nation-state and are indicative of gendered nationalisms in Thailand. Women's sexuality is a recurring point of contention in nation-building, as women's sexual activity is an index of their "honor" in patriarchal society, and women's honor is further conflated with "national honor" (Das 2006; Nagel 1998). In heteronormative terms, women, given their reproductive capacity, are further understood in masculinist national projects as responsible for biologically reproducing "the nation" through childbirth (Yuval Davis, 1993; see also Brown, 1992; Das, 2006; Nagel, 1998). In conjunction with ethnonationalist anxieties and projects of constructing a "pure" national collective, this role further subjects women to considerable scrutiny and management by state institutions and policies, including pre- and ante-natal requirements, access to contraception and abortion, and maternity leave, among others (Yuval-Davis 1993). Efforts to enact such control over migration and its bearing on the national population have increasingly been pursued in citizenship and birth registration policies, with states limiting migrant mothers' ability to obtain birth registration and birthright citizenship for their children, in an effort to discourage migration or permanent residence in the country (Petrozziello 2018).

As Nagel (1998) argues, "While female fecundity is valued in mothers of the nation, unruly female sexuality threatens to discredit the nation" (p. 256). It is this tension at work in the state's broader approach to interpreting mother's DNA evidence and the Chiang Rai official's perspective on DNA testing. Not only does this official explicitly frame citizenship adjudication as an issue of

“national security,” his statement further implies that it is only mothers’ DNA, stemming from their reproductive capacity, that can resolve this issue. His specific invocation of a “Burmese prostitute” as an example of a demographic that would threaten national security, is further indicative of patriarchal attitudes toward women’s sexual activity and honor, as well as the larger Thai ethnonationalist project that is especially concerned with managing and restricting migration from Myanmar. Such a statement is particularly salient in discussions of highlanders’ citizenship claims, as the Thai state has long justified their exclusion based on their migration from Myanmar. In these ways, citizenship adjudication thus functions as a site wherein gendered nationalisms are enacted and articulated in Thailand.

Taken together, the barriers to DNA testing as a means for highlanders, and highlander women in particular, to claim citizenship, as well as the state’s fetishization of mothers’ DNA evidence, highlight a key tension in the state’s approach to citizenship adjudication and its execution. While the state and its agents evidently place greater analytical weight and emphasis on mothers’ DNA and biometric evidence, the processes through which individuals are expected to engage with the state’s bureaucratic procedures remain particularly inaccessible to mothers, and to women more broadly. Combined, these factors structure both a gendered burden *of* proof of identity, and, –by extension– gendered barriers to citizenship.

## CONCLUSION

The most common reactions I received from friends and interlocutors in the villages when I told them of my research agenda, and the relationship I began to note between legal status and women’s access to land and opportunities in agricultural labor, fell somewhere between confusion and



dismissal. A friend, who himself was stateless until he was 18, and is responsible for making logistical arrangements and interventions that have helped countless individuals in his village acquire citizenship, told me that he didn't think that citizenship made a difference for women in the village. Stateless or not, he said, the work that they do on farms in the village is all the same. It was only when people left the village, and worked in the city, that they might have a problem, he added.

The above vignette, echoing the oversights of the village headman whose comments opened this piece, affirms the need for this intervention and its attention to gender. As rates of citizenship conferral and acquisition have risen in the past several years, there is a prevailing assumption, even among highland communities and those that have experienced statelessness themselves, that the problem of citizenship has been "solved." The initial movements for highlander rights in the 1990s that changed citizenship policy required coordinated and sustained efforts by large coalitions of highland groups. Today, without the attention and support of their communities and leadership, if the opening and closing vignettes of this intervention are any indication, the marginalization of those who remain stateless is likely to endure, if not intensify. As such, this intervention offers necessary insight into the factors that have historically produced gendered citizenship outcomes, and gendered experiences of citizenship law and statelessness in the Thai highlands. Against this backdrop, the following chapter turns to illustrate how legal status informs highland women's access to and exclusions from land and property.

This thesis offers insight into the gendered dimensions of citizenship law and practice in the Thai highlands. Overall, it illustrates how highland women paradoxically experience disproportionate barriers to citizenship procedures, as well as a disproportionate responsibility and role in conferring

citizenship to their children. Beyond an analysis of law and policy alone, it demonstrates how histories of conflict and migration, cultural practices, and social and geographical barriers come to structure highland women's exclusion from citizenship. In doing so, this thesis sets the foundation for forthcoming interventions, which will more explicitly illustrate how citizenship informs women's access to land and agricultural labor.

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