

Comparative Immigration Law across the Mekong Subregion: Entry, Residence, and Enforcement Frameworks in Six States

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Abstract

This article offers the first systematic comparison of the immigration law frameworks of the six Mekong subregion states China, Lao PDR, Thailand, Vietnam, Cambodia, and Myanmar with a focus on the entry, residence, and enforcement provisions that bear on irregular migration. Working from primary legislative texts, including the Lao PDR Law on Immigration and Foreigner Management (2015), China's Exit and Entry Administration Law (2012), Thailand's Immigration Act B.E. 2522 (1979, as amended), and the corresponding laws of Vietnam, Cambodia, and Myanmar, it traces how differently these states characterize irregular migration in law, define the rights and obligations of foreigners, and organize enforcement authority. Those differences are not merely academic. They obstruct cross-border law enforcement cooperation, including mutual legal assistance and joint operations under the Lancang-Mekong Law Enforcement and Security Cooperation Center (LMLECC). The article argues that the lack of a harmonized regional framework is itself a governance gap, one that weakens enforcement and leaves migrants' rights less protected, and it sets out a set of minimum common standards for harmonization grounded in international human rights obligations and the Palermo Protocols. The analysis draws throughout on the author's work as a Lieutenant in the Lao PDR Department of Immigration since 2018, which offers a close view of how these frameworks actually operate at border crossings and in foreigner management.

Keywords: comparative immigration law, Mekong subregion, irregular migration, Lao PDR, China, Thailand, immigration enforcement, legal harmonisation, LMLECC

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1. Introduction

Comparative immigration law is a surprisingly thin field within the scholarship on Southeast Asian legal systems. Migration studies and criminology have documented the patterns of irregular migration across the Mekong subregion in detail, but there has been little systematic legal comparison of how the six Mekong states China, Lao PDR, Thailand, Vietnam, Cambodia, and Myanmar build their immigration frameworks. The gap matters. How a state defines 'irregular migration,' classifies foreigners, regulates residence, and assigns enforcement authority has direct consequences for cross-border cooperation. Immigration officers running joint operations or exchanging information have to work across not only different languages and institutional cultures but genuinely different legal frameworks governing the very people in front of them.

This article sets out to close that gap. It compares the immigration frameworks of all six Mekong states, drawing on primary legislative texts available in English or in official translation, and organizes the comparison around three functional questions. The first concerns entry and residence: how each state regulates who may enter, on what conditions, and with what documents. The second concerns enforcement: what powers immigration authorities hold, and whether irregular migration is treated as an administrative matter or a criminal offense. The third concerns international cooperation: what provisions, if any, govern cooperation with other states on immigration and law enforcement.

The article proceeds as follows. Section 2 sets out the methodological approach and a brief comparative-law framework. Section 3 examines the Lao PDR framework in detail, as the article's main reference point. Sections 4 through 7 compare China, Thailand, and then Vietnam, Cambodia, and Myanmar. Section 8 draws out the convergences and divergences across the six systems, with particular attention to cross-border cooperation. Section 9 proposes minimum harmonization standards, and Section 10 concludes.

2. Methodological approach and comparative framework

The analysis uses the functional method of comparative law developed by Zweigert and Kötz (1998) and applied to immigration law by Dauvergne (2008) and Boeles et al. (2014). That method asks what function a given legal institution serves and how different systems perform it. For immigration law, the questions become concrete: how does a state distinguish authorized from unauthorized presence, what follows from irregular status, and what powers do immigration authorities hold, and over whom?

The primary sources are the six states' immigration statutes: the Lao PDR Law on Immigration and Foreigner Management (2015), printed by the Ministry of Public Security with the Ministry of Justice's Department of Law Propaganda and Training; China's Exit and Entry Administration Law, adopted on 30 June 2012 at the 27th meeting of the Standing Committee of the 11th NPC; Thailand's Immigration Act B.E. 2522 (1979, as amended); Vietnam's Law on Entry, Exit, Transit, and Residence of Foreigners (Law No. 47/2014/QH13); Cambodia's Law on Immigration (1994); and Myanmar's Emergency Immigration Act (1947) and Registration of Foreigners Act, supplemented by more recent practice documentation.

Language sets the limits of the comparison. I analyze the Lao and English-language texts directly and work from official English translations of the Chinese, Thai, Vietnamese, and Cambodian laws where these exist, supplemented by secondary literature. Myanmar is the hardest case: because its 1947 framework remains nominally in force alongside more recent administrative practice, the analysis there leans more heavily on secondary documentation. Statutory citations throughout refer to the versions found in those source materials.

3. Lao PDR: law on immigration and foreigner management (2015)

3.1 Structure and scope

The Lao PDR Law on Immigration and Foreigner Management (2015) is a comprehensive statute printed by the Ministry of Public Security together with the Ministry of Justice's Department of Law Propaganda and Training. It falls into four parts: general provisions (Part I, Articles 1-8); the immigration of Lao citizens and foreigners (Part II, Chapters 1-5, Articles 9-25); foreigner management (Part III, Chapters 1-2, Articles 26-39); and the implementation of immigration and foreigner management work (Part IV, Chapters 1-2, Articles 40 onward).

Article 2 defines 'Immigration of the Lao PDR' as the management, in accordance with law, of the entry and departure of Lao citizens, aliens, and foreigners. Article 3 defines 'Foreigner Management' as the management of the stay, residence, and activities of foreigners and stateless persons in Lao territory. Article 4 supplies a set of further definitions. One distinction here carries real structural weight: 'alien' appears to denote the broader category of non-nationals, while 'foreigner' refers more specifically to those residing in Lao territory, whether lawfully or not.

3.2 Entry and residence framework

Chapter 1 of Part II (Articles 9-13) sets out the requirements for immigration: Article 9 states the general requirements, Article 11 governs the entry and departure of foreigners and stateless persons, and Articles 12 and 13 establish the grounds on which authorities may prohibit entry and departure respectively.

The visa framework sits in Chapter 4 of Part II (Articles 19-22), which establishes the visa categories, governs their issuance, and provides for multiple entry-exit visas. Article 22, on the scope of rights in visa issuance, is worth pausing on: it implies a discretionary executive authority over visa decisions without clearly establishing a justiciable right of review.

Part III (Articles 26-39) is the part most relevant to foreigner management, and it works through the stay-and-residence regime in sequence: the determination and extension of stay duration, stay permits, accommodation obligations, and the declaration-of-stay requirement that obliges foreigners to register their place of residence with the authorities. It then sets out the obligations of foreigners approved to stay and the responsibilities of business operators who employ or house them. The declaration-of-stay duty in particular is a recognizable feature of public security-led immigration systems, and it reappears, as Section 6 notes, in the Vietnamese law.

3.3 Enforcement framework

Part IV builds the institutional architecture for implementation, running down the chain of command from the Department of Police Immigration within the General Security Police Department of the Ministry of Public Security (Article 41), through provincial immigration police divisions (Article 42) and district units (Article 43), to the immigration police officers at border checkpoints (Article 44). That last provision speaks directly to my own functions as a border checkpoint coordinator at Wattay International Airport.

One feature of the Lao framework stands out for the comparison that follows. Under the Immigration Law, irregular entry is treated mainly as an administrative matter rather than a criminal one, so its consequences are detention and deportation rather than prosecution. Criminal liability enters chiefly where irregular migration is organized or facilitated for profit, which engages the Criminal Law rather than the Immigration Law. This administrative-criminal line matters a great deal once Lao PDR has to cooperate with states that criminalize irregular entry as such.

3.4 International cooperation

Article 8 of the Immigration Law addresses international cooperation. It establishes a basis for cooperating with foreign states and international organizations on immigration matters, consistent with the treaties and bilateral agreements to which Lao PDR is a party. The formulation is broad and says nothing about mechanisms or procedures, leaving the operational detail to bilateral treaties the Lao Treaty Series provides concrete examples and to institutional arrangements such as LMLECC.

4. China: exit and entry administration law (2012)

4.1 Structure and key provisions

China's Exit and Entry Administration Law was adopted on 30 June 2012 at the 27th meeting of the Standing Committee of the 11th National People's Congress. It is a comprehensive framework covering the exit and entry of Chinese citizens and foreigners alike, organized into chapters on general provisions, the exit and entry of Chinese citizens, the entry and exit of foreigners (visas, stay and residence, and prohibition grounds), the entry and exit of means of transport, investigation and handling, and legal liability.

What sets the Chinese framework apart is the precision with which it treats foreigners' categories of lawful stay. It provides for several visa types (diplomatic, courtesy, service, ordinary) and several residence-permit types (employment, family reunion, study), with detailed rules on extension, cancellation, and revocation. Its handling of 'illegal entry' and 'illegal stay' as administratively enforceable violations, with criminal consequences reserved for the more serious cases, mirrors the broad shape of the Lao approach, even though China's administrative machinery for enforcement is far more developed.

4.2 Enforcement powers and irregular migration

The law equips immigration authorities with extensive enforcement powers: to question, examine documents, inspect accommodation, and detain suspected violators. It allows detention of irregular migrants for up to 60 days, extendable in certain circumstances. That detention authority, considerably longer than what most Mekong frameworks permit, reflects both China's larger administrative capacity and the security-oriented cast of its enforcement approach.

Particularly relevant to this comparison is China's treatment of 'organizing' irregular border crossings under Articles 318-321 of its Criminal Law. These provisions criminalize the commercial organization and facilitation of irregular crossing as serious offenses, and they are both more specific and more heavily penalized than their counterparts in most other Mekong states. As Section 8 shows, this is one of the main sources of the dual-criminality obstacles to mutual legal assistance that I examine in my doctoral research.

5. Thailand: immigration act B.E. 2522 (1979)

5.1 An aging framework

Thailand's Immigration Act B.E. 2522 (1979) is the oldest primary immigration statute among the six states, and it has stayed largely in its original form through nearly five decades of dramatic change in Thailand's migration landscape. Section 1 names the act, Section 2 set its effective date 90 days after publication in the Government Gazette, and Section 4 defines 'Alien' simply as 'any person who is not of Thai nationality under the Nationality Act,' borrowing from the nationality law rather than building a self-contained immigration definition.

The Act is organized around an Immigration Commission, entry and departure requirements, temporary stay, permanent residence, and the deportation of foreigners. Its deportation provision grants broad administrative authority to remove aliens deemed undesirable, those who have breached immigration conditions, and those present without authorization.

5.2 Administrative versus criminal treatment of irregular migration

As in Lao PDR, Thailand's primary framework treats irregular migration administratively rather than criminally, with irregular entrants subject to detention and deportation under the Immigration Act. But Thailand's legal picture is more tangled than the Act alone suggests, because later legislation has been layered on top: the Working of Foreigners Act, which covers irregular labour migration; the Anti-Trafficking in Persons Act 2008 (amended in 2017 and 2019); and a range of ministerial regulations. The interaction among these instruments produces a multi-layered framework that is genuinely hard to navigate, especially in mixed-flow cases where one person may at once be an irregular migrant, a trafficking victim, and a labour law violator.

6. Vietnam, Cambodia, and Myanmar: brief comparative overview

6.1 Vietnam

Vietnam's Law on Entry, Exit, Transit, and Residence of Foreigners (Law No. 47/2014/QH13) is a relatively modern statute that shares much of its structure with the Lao framework. It sets out entry requirements, visa categories (including e-visas), residence conditions, and enforcement authority lodged with the Ministry of Public Security. Two features stand out: its fairly detailed deportation provision, and the specific duty it places on hotels and other accommodation providers to report the presence of foreign guests. That reporting duty echoes the Lao law's declaration-of-stay requirement and reflects the common public-security heritage of the two states' institutions.

6.2 Cambodia

Cambodia's Law on Immigration (1994) is the oldest of the group, enacted in the immediate post-UNTAC period as Cambodia was rebuilding its state institutions after conflict. It is comparatively brief and lays out a basic framework for entry, residence, and deportation. Its age shows: it does not address the digital documentation, biometric systems, or complex mixed flows that later legislation elsewhere has taken on. In practice, Cambodia's handling of irregular migration in its border special economic zones has been shaped less by the statute than by the scam-operation crisis of the early 2020s, which laid bare the limits of the formal framework.

6.3 Myanmar

Myanmar's framework is the most legally archaic of the six. Its primary instruments, the Emergency Immigration Act (1947) and the Registration of Foreigners Act, date from the immediate post-colonial period and still carry colonial administrative structures. That a 1947 emergency act continues to serve as primary immigration law is itself a measure of how little legislative modernization Myanmar's governance has managed. The 2021 military coup has complicated matters further: the junta has used immigration law as an instrument of political control, producing selective enforcement that erodes whatever integrity the framework retained for ordinary immigration management.

7. Comparative analysis: key convergences and divergences

7.1 Legal character of irregular entry

All six states treat simple unauthorized entry as primarily administrative rather than criminal, with deportation as the consequence. The convergence stops there. The states diverge in the severity of those administrative consequences, with detention running from a few days to 60; in the threshold at which facilitation becomes criminal, where China's provisions are the most specific and severe; and in how they handle mixed cases where irregular migration overlaps with other crime. These differences have real operational bite. They shape what immigration authorities will share with foreign partners, the procedures that must precede a removal, and the legal footing for cooperation in any given case.

7.2 Enforcement authority and institutional architecture

Every one of the six states places primary enforcement authority in an executive police or public security ministry, with no judicial pre-authorization for key actions such as detention and deportation. This administrative enforcement model differs sharply from the more court-supervised systems of Western liberal democracies, and it carries consequences for the accountability and rights-compliance of enforcement actions, joint operations included. The absence of independent judicial oversight across most Mekong systems is a governance concern I take up in my doctoral research, especially in connection with joint operations under LMLECC.

7.3 International cooperation provisions

Each of the six laws includes some provision for international cooperation, but they are uniformly vague about mechanisms and procedures. The operational substance of cooperation comes not from the immigration laws themselves but from bilateral treaties, of which the Lao Treaty Series offers detailed examples, and from institutional arrangements such as LMLECC and COMMIT. This pattern, where domestic law supplies framework authority and bilateral arrangements supply the operational specifics, is exactly what produces the regime complexity and coordination difficulties I analyze in my doctoral work.

8. Implications for regional legal cooperation

Taken as a whole, the comparison shows that the missing common framework is not just a theoretical gap. It has concrete operational consequences, and three of them stand out.

The first is status confusion. Because six national systems use different definitions and categories, the same person an undocumented migrant moving from Myanmar to Thailand through Lao PDR may hold a different legal status under each state's law, which raises hard questions about whose obligations apply and which enforcement procedures are available. LMLECC joint operations that intercept people in one state's territory, conducted by officers from several states working under different frameworks, have to manage that confusion without clear legal guidance.

The second concerns mutual legal assistance. The divergence in how facilitation is criminalized affects whether assistance can be given at all. China's Criminal Law Articles 318-321 create specific, heavily penalized offenses of organizing irregular crossings; Lao PDR's Criminal Law has no equivalent specific offense, a gap compounded by Lao PDR's non-ratification of the Smuggling Protocol. So a Chinese request to Lao PDR for evidence relating to an organizing offense may simply fail the dual-criminality test.

The third is the mixed-flow problem. None of the six states has specific provisions for the situations now common at Mekong crossings, where irregular migrants, trafficking victims, and asylum seekers travel together and must each be assessed individually. My own experience at Wattay International Airport and in LMLECC operations bears this out: how such cases are handled depends on operational training and institutional culture rather than on any clear legal framework, and the results are inconsistent and sometimes rights-violating.

9. Minimum harmonisation standards for regional immigration law

Building on the comparison, the article proposes five minimum standards that the six states could work toward, consistent with their obligations under UNTOC, the Palermo Protocols, and ACTIP.

The first is a common definition of 'irregular migration' that keeps three categories distinct: the irregular migrant, whose status is primarily administrative; the smuggled migrant, who is the victim of a criminal offense under the Smuggling Protocol; and the trafficking victim, who is entitled to protection under the Trafficking Protocol and ACTIP. All six laws currently blur these categories in ways that get in the way of an appropriate response.

The second is a common minimum standard for the rights of people held in immigration detention, consistent with Article 9 of the ICCPR on arbitrary detention and the UN Body of Principles for the Protection of All Persons under Any Form of Detention. Detention regimes presently vary widely across the six states.

The third is a mandatory screening mechanism for trafficking victims and asylum seekers, to be applied before any removal decision, with referral routes into the COMMIT and UNHCR mechanisms. No Mekong state's immigration law currently requires such screening at the legislative level.

The fourth is a set of harmonized cooperation provisions that actually specify the channels, procedures, and legal authority for sharing information with foreign immigration authorities, so that the bilateral treaty network can be used more consistently.

The fifth is a common administrative penalty for transport operators who knowingly carry undocumented passengers, creating a supply-side deterrent in line with the carrier obligations the Smuggling Protocol requires.

10. Conclusion

The immigration frameworks of the six Mekong states diverge sharply in their conceptual architecture, their enforcement structures, and their cooperation provisions, even though the states face shared migration pressures and have built overlapping cooperation mechanisms. The divergence is partly a legacy of different legal traditions civil law, socialist law, and colonial common law all leave their mark but it is also a governance gap that weakens cooperative enforcement and puts migrants' rights at risk.

The minimum standards proposed here are meant to be politically achievable within the states' existing international obligations. They do not ask the six states to adopt identical immigration laws, which would be neither feasible nor desirable, but to converge on common minimum provisions that make cooperative enforcement both more effective and more respectful of rights. The Lancang-Mekong Cooperation framework, and specifically LMLECC together with its proposed transformation into a binding institution with an adequate legal mandate, offers a plausible vehicle for developing and promoting those standards.

My own work in Lao PDR's Department of Immigration, including coordination with Chinese and Thai counterparts, confirms both the practical weight of these divergences and the willingness of frontline officers to work toward greater consistency. What this article adds is the comparative legal framework that can ground that practical convergence in careful doctrinal analysis.

References

Boeles, P., den Heijer, M., Lodder, G., & Wouters, K. (2014). *European migration law* (2nd ed.). Intersentia.

Caballero-Anthony, M. (2014). *Regional security in Southeast Asia: Beyond the ASEAN Way*. ISEAS.

Dauvergne, C. (2008). *Making people illegal: What globalization means for migration and law*. Cambridge University Press.

Goodwin-Gill, G. S., & McAdam, J. (2007). *The refugee in international law* (3rd ed.). Oxford University Press.

Hathaway, J. C. (2021). *The rights of refugees under international law* (2nd ed.). Cambridge University Press.

IOM. (2024). *Thailand migration report 2024*. International Organization for Migration.

Jones, L. (2016). Explaining the failure of the ASEAN human rights regime. *The Pacific Review*, 29(1), 199-225.

Lao PDR. (2015). *Law on Immigration and Foreigner Management*. Ministry of Public Security, in cooperation with Ministry of Justice.

Liu, X. (2010). *Chinese immigration law*. Routledge.

Martin, S., Abebe, A. M., & Ruijter, A. (Eds.). (2018). *A handbook on migration and security*. Edward Elgar.

McAuliffe, M., & Koser, K. (Eds.). (2017). *A long way to go: Irregular migration patterns, processes, drivers and decision-making*. ANU Press.

People's Republic of China. (2012). *Exit and Entry Administration Law*. Standing Committee of the 11th NPC.

Thailand. (1979). *Immigration Act B.E. 2522*. Government of Thailand.

UNODC. (2024). *Migrant smuggling in Southeast Asia: Research findings*. UNODC Regional Office for Southeast Asia and the Pacific.

Zweigert, K., & Kötz, H. (1998). *Introduction to comparative law* (3rd ed.). Oxford University Press.