



**THE REPUBLIC OF TÜRKİYE
SOCIAL SCIENCES UNIVERSITY OF ANKARA
THE GRADUATE SCHOOL OF SOCIAL SCIENCES**

**CHILD MIGRANTS AND CHILD LABOR IN THAILAND:
AN OVERVIEW OF MOTIVES AND NATIONAL POLICIES**

Master's Thesis

Suristeya Sa-nguansat

Master of Arts in International Relations

April 2023



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Acknowledgments

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I hope this research will aid in enhancing the lives of child migrants by increasing awareness and informing stakeholders to safeguard their rights and ensure their well-being.

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Özet

Bu çalışma Tayland'da çocuk göçü ve çocuk işçiliği konusunu incelemeyi amaçlamaktadır. Çalışma, özellikle Myanmar, Laos ve Kamboçya gibi komşu ülkelerden çocukları Tayland'a göç etmeye ve çocuk işçiliği yapmaya iten faktörlerin yanı sıra Tayland'ın bu çocukları korumaya yönelik mevcut politikalarının etkinliğine odaklanmaktadır. Çalışma, nitel bir araştırma tekniği kullanmakta ve temel veri toplama yöntemi olarak hükümet raporları ve akademik makaleler gibi çeşitli kaynaklardan yararlanarak masa başı araştırmasını esas almaktadır. Çalışma, ilgili literatür, uluslararası standartlar ve göç politikaları ile çocukların göç etme ve çocuk işçiliği yapma kararlarını etkileyen faktörlere genel bir bakış da dahil olmak üzere Tayland'da çocuk göçü ve çocuk işçiliği konusunda kapsamlı bir arka plan sunmaktadır. Çalışma, Tayland'daki çocuk göçmenler arasında çocuk işçiliği konusunun karmaşık olduğu ve yoksulluk, kültürel normlar ve eğitime erişim eksikliği gibi çok sayıda itici ve çekici faktörden etkilendiği sonucuna varmaktadır. Çocuk işçiliğinin en kötü biçimlerinin ortadan kaldırılması çocukların bağlamı, özerkliği, ve eylemliliği dikkate alınarak ana odak noktası olmalıdır. Çalışma, Tayland'da uluslararası göçün yönetişiminin başarıya ve zorluklara tabi olduğunu ve sistemik sorunları ele almak için her düzeyde işbirliği gerektirdiğini ortaya koymaktadır. Çocuk göçmenlerin düzensiz statüsü önemli bir zorluktur ve yasaların ve politikalarının çocuğun yararı, eşitlik, kapsayıcılık ve katılımcılık ilkeleriyle uyumlu hale getirilmesi gerekmektedir. Bu çalışma aynı zamanda eğitim ve sağlık politikalarının yanı sıra çocuk koruma tedbirlerinin de çocuk hakları temelli yaklaşımla uyumlu hale getirilmesi gerektiğini vurgulamaktadır. Çalışma, Tayland'ın çocuk işçiliğini ele alma çabalarının eşitlik, kapsayıcılık ve katılımcılık ilkelerinin yerine getirmede hâlâ yetersiz kaldığı sonucuna varmaktadır.

Anahtar Kelimeler: Çocuk işçiliği, çocuk göçmenler, Tayland, itme ve çekme faktörleri, göç politikaları.

Abstract

This study aims to investigate child migration and child labor issues in Thailand. The study specifically focuses on the factors that drive children from neighboring countries such as Myanmar, Lao PDR, and Cambodia to migrate to Thailand and engage in child labor, as well as the effectiveness of Thailand's current policies to protect these children. The study uses a qualitative research design and primarily employs desk research as the main method of data collection, drawing on various sources such as government reports and academic papers. The study provides a comprehensive background on child migration and child labor in Thailand, including relevant literature, international standards, and an overview of migration policies and factors that influence children's decision to migrate and engage in child labor. The study concludes that the issue of child labor among child migrants in Thailand is complex and influenced by numerous push and pull factors such as poverty, cultural norms, and lack of access to education. The elimination of the worst forms of child labor should be the main focus, taking into consideration the context, autonomy, and agency of the children. The study finds that governance of international migration in Thailand is subject to success and challenges and requires cooperation at all levels to address systemic problems. Irregular status of child migrants is a significant challenge, and laws and policies need to be aligned with the principles of the best interest of the child, equity, inclusivity, and participation. This study also highlights the need for improvement in education and health care policies, as well as child protection measures to ensure that they align with the child rights-based approach. The study concludes that efforts to address child labor in Thailand still fall short in fulfilling principles of equity, inclusivity, and participation.

Keywords: Child labor, child migrants, Thailand, push and pull factors, migration policies.

List of Abbreviations

AEC	ASEAN Economic Community
ASEAN	Association of Southeast Asian Nations
CLC	The Child Labor Coalition
CLMV	Cambodia, Lao PDR, Myanmar, and Vietnam
CRC	Convention on the Rights of the Child
ECLT	Eliminating Child Labor in Tobacco-Growing Foundation
EU	European Union
GNI	Gross National Income
HPV	Human papillomavirus vaccine
HRC	Human Rights Committee
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
IFRC	International Federation of Red Cross and Red Crescent Societies
IIECL	International Initiative to End Child Labor
ILO	International Labour Organization
INGO	International non-governmental organizations
IOM	International Organization for Migration
IPEC	International Programme for the Elimination of Child Labor
Lao PDR	Lao People's Democratic Republic
MHIS	Migrant Health Insurance Scheme
MLC	Migrant Learning Centers
MOU	Memorandum of Understanding
MRA	Mutual Recognition Arrangements
NCPO	National Council for Peace and Order
NGO	Non-governmental organizations
NV	Nationality Verification
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the United Nations High Commissioner for Human Rights
PTSD	Post-traumatic stress disorder
SSS	Social Security Scheme
UK	United Kingdom
UN	United Nations
UNDESA	United Nations Department of Economic and Social Affairs
UNDP	United Nations Development Programme
UNESCAP	Economic and Social Commission for Asia and the Pacific
UNHCR	United Nations High Commissioner for Refugees
US	United States

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Chapter 1: Introduction

International migration has been a subject of significant interest for policymakers, researchers, and the general public alike. Migration has a significant impact on various aspects of life including the economy, politics, culture, and human development. The topic of international migration has become increasingly relevant in recent years, particularly with the rise of cross-border movements of individuals seeking better living conditions, education, and employment opportunities. While international migration can provide many benefits, it can also result in a number of challenges and risks, particularly for populations that are vulnerable, such as children. Children in international migration face a range of challenges including exploitation, abuse, family separation, a lack of access to essential services including healthcare and education, and other forms of harm. In addition, children who migrate are often at risk of being forced into child labor, which can have a negative impact on their physical and emotional well-being, as well as their future prospects.

This study focuses on the situation in Thailand where a child migration and child labor are prevalent, but where protection and support for child migrants remain inadequate. Thailand is located at the crossroads of Southeast Asia and is a hub for migration, both within the region and from neighboring countries. The country has a growing economy and is experiencing a significant demand for labor, specifically in the agricultural and industrial sectors. However, this demand is not met by the domestic labor force, and Thailand has become migrant workers' destination as well as child migrants seeking employment opportunities from neighboring countries, such as Cambodia, Lao PDR, and Myanmar. This study will seek to answer the following research questions:

1. What are the factors providing incentives for children from Myanmar, Lao PDR, and Cambodia to migrate to Thailand and eventually work?
2. How relevant and effective are Thailand's current policies to the protection of children on the move, particularly with respect to child labor-related protection?

This study is mainly based on a central claim – a thesis statement – which provides a direction for the entire research, and it reads as follows: “In the context of Southeast Asia, specifically Thailand, Lao PDR, Cambodia, and Myanmar, child labor should not be simplistically viewed as a problem to be eradicated entirely. Instead, considering the complex cultural and socio-economic realities of these regions, the focus should pivot towards

eliminating the worst forms of child labor. It is essential to develop nuanced, effective, and culturally sensitive policies that prioritize the welfare and protection of children who engage in child labor, both voluntarily and involuntarily. This approach, while acknowledging the unique realities of these societies, should strive to align with international standards to ensure that children's rights are respected, and their future prospects are not compromised.”

It is more than likely that those who have familiarized themselves with the study of international migration have, more than once, encountered the renowned theoretical framework of “push and pull factors of international migration”. It is a framework developed and built upon Ernst Georg Ravenstein's notable Laws of Migration. As the terms indicate, the push factors refer to the factors that essentially push the people to migrate from their country of origin, and vice versa. Within the sea of literature pertaining to the said framework, the emphasis is being placed more on the factors affecting the decisions of adults and less so on those of the children. Due to the already lacking literature on factors affecting children's decisions to migrate, the connection between this framework and the children's decisions to engage in paid or unpaid work in another country has thus been scarcely established. Furthermore, in comparison, the literature on international migration in Southeast Asia is significantly less than the immigration and emigration in Europe. Therefore, the application of the push and pull factors framework to the child migrants engaged in child labor in Thailand substantially add to the scantily existing literature on the subject matter.

Despite the persisting nature of international migration in Thailand, inadequate emphasis is placed on children either in literature or policy-making spheres. The same can also be said for child migrants engaged in child labor. Therefore, an analysis of Thailand's response and policy in this regard can assist us in pin-pointing the areas that require further improvement and/or revisions to better address the problem and properly respond to these children while also ensuring and maintaining their best interests.

The dissertation will begin by providing a comprehensive analytical background on the issue of child migration and child labor, drawing on the relevant literature and international standards and practices. The literature review will examine the definitions and data related to child migration and the rights and protections available to child migrants under international law. The review will also examine the various risks and challenges faced by child migrants, including dangerous migration routes, smuggling and trafficking, abuse and exploitation, family separation, and obstacles to family reunification. Finally, the literature review will

examine the issue of child labor, including its definitions and global statistics, international standards and efforts, and the role of international non-governmental organizations (INGOs) and non-governmental organizations (NGOs) in addressing child labor.

The second part of the analytical background will focus on Thailand, child migrants, and child labor. This section will provide an overview of migration in Thailand, including its context and statistics, and will discuss the migration policies, social policies, and legislations and policies concerning child labor in Thailand. The section will also examine the various push and pull factors that influence children's decision to migrate to Thailand and engage in child labor, including poverty, unpredictability and shock factors, the lack of work and opportunities, positive perceptions of Thailand, the country's demands for labor, favorable geographical conditions, and the role of social capital.

The subsequent chapter provides an overview of the methodology and research design used in this study. The chapter discusses the research design and methodology, the research methods, the analytical framework, as well as the limitations of the study. As this study was conducted with the primary objective of understanding the factors that incentivize children from Myanmar, Lao PDR, and Cambodia to migrate to Thailand and eventually work, as well as assessing the relevance and effectiveness of Thailand's current policies for the protection of children on the move, particularly in relation to child labor. A qualitative research design was employed to address these questions as it allows for a deeper understanding of these complex issues. The main research method adopted was desk research, as it proved to be a quick and effective means of acquiring a substantial amount of information to answer the research questions. The data was collected from a variety of sources, including government reports and documents, academic papers, and online databases, among others. While inevitably flawed, the reliability and quality of the sources were assessed to the best of the researcher's ability throughout the data collection process to ensure that the information gathered was as relevant, credible, and appropriate as possible.

The push and pull theory was utilized to answer the first research question, which focused on the factors incentivizing children to migrate to Thailand and work. This analysis was informed partially by the UNICEF Innocenti working paper "Children's Work and Independent Child Migration: A Critical Review" by Eric Edmonds and Maheshwor Shrestha, 2009. For the second research question, which focused on the evaluation of the Thailand's current policies for the protection of children on the move particularly in relation to child labor,

evaluation criteria were developed to measure the effectiveness, efficiency, responsiveness of these policies. This study relied on Kevin Byrne's child rights-based assessment tool as the primary framework to evaluate different aspects of Thailand's policies. Byrne's assessment tool follows four guiding principles, namely: child centeredness, inclusiveness, equity, and participation. This study aims to contribute to the existing body of knowledge on child migration and provide insights into the critical issues surrounding child labor protection in Thailand.

The study concludes with a discussion of the findings, including a discussion of why children choose to migrate to Thailand, focusing on the push and pull factors that contribute to their decision. To identify their strengths and weaknesses, the chapter also provides a child rights-based assessment of Thailand's current policies on child migrants and child labor, including an examination of migration policies, social policies related to irregular legal status, education, health care, and child protection services, as well as legislations and policies concerning child labor. The chapter also considers the extent to which these policies promote and protect the rights of child migrants and address the issues of child labor. It is hoped that the results of this study will contribute to the existing literature on children in international migration and child labor, and provide valuable insights into the situation of child migrants in Thailand and the challenges and risks they face. Finally, the author believes that the findings of this study will be of interest to policymakers, relevant stakeholders, practitioners, and researchers working in the fields of international migration, child rights, and child labor.

Chapter 2: Methodology and Research Design

1. Research Design and Methodology

The guiding research questions for this study are:

1. What are the factors providing incentives for children from Myanmar, Lao PDR, and Cambodia to migrate to Thailand and eventually work?
2. How relevant and effective are Thailand's current policies to the protection of children on the move, particularly with respect to child labor-related protection?

In order to address these questions which are the guiding force behind this study, a qualitative research design was employed. A qualitative research design and methodology enable the attainment of a deep understanding of complex issues such as the abovementioned research questions, making exploring these issues in depth possible. In addition, the subject populations are less easily accessible through other research methods since they are characteristically difficult to reach and access.

2. Research Methods

Given the characteristics of the research questions, gathering data from existing sources is more appropriate and efficient since conducting primary research would generate a number of hindrances that would significantly be challenging to overcome. Therefore, desk research has been selected as the main research method for this study as it allows for a quick and efficient way to collect a large amount of information needed to explore, understand, and address the research questions. Data was collected from available sources to form background information. Various sources of data were used, including published government reports and documents, government statistics, published articles and research papers, books and other printed materials, academic papers and dissertations, conference proceedings, professional organizations or government agencies' websites, news articles, technical reports or guidelines from various international organizations and civil society organizations, and online databases. Due considerations were certainly given to assessing the reliability and quality of the sources throughout the data collecting process. Factors considered include the reliability and credibility of the authors based on their expertise and qualifications, the sources' relevance to the research questions, the timeliness and appropriateness of the information, and the reliability of the sources on the basis of the methods used to collect the data and analyses used.

Following the collection of data and the formation of background information and a fundamental understanding on the subjects, a few different frameworks derived from the review of existing literature were utilized in order to make sense of the big picture formed. These frameworks are given a detailed account of in the subsequent section – *analytical framework*.

3. Analytical Framework

In answering the first research question with respect to what the factors providing incentives for children from Myanmar, Lao PDR, and Cambodia to migrate to Thailand and eventually work are, this study, through the lens of the push and pull theory, utilizes the UNICEF Innocenti working paper “Children’s Work and Independent Child Migration: A Critical Review” by Eric Edmonds and Maheshwor Shrestha, 2009. This working paper on children’s work and independent child migration was chosen from the few available resources in relation to the factors from the children’s perspective. The conceptual framework and the general structure in terms of the categorization of the factors in this working paper were partially adapted and utilized in this study. This study adopted the framework for analysis that groups factors into two major categories: migrant supply and migrant demand, in other words, the push factors influencing the *agent’s*¹ willingness to have the child migrate and the pull factors influencing an employer’s decision to hire child migrants into child labor (E. Edmonds & Shrestha, 2009, p. 2). According to this study, if there is no child labor market or if the wages for child labor in the origin countries are lower, the factors that contribute to migrant supply, i.e., push factors, will be significantly impacted by the factor that affected child labor, as this merely amounts to migration becoming a way for children to work (E. Edmonds & Shrestha, 2009, p. 2). Originally, the categorization found in this working paper is as follows: 1) The push factors, including poverty, insurance failures and work, the availability of quality alternatives to work, work and employment opportunities, and sibling interactions; 2) The pull factors, including the search for more lucrative employment opportunities, the information and the role of networks, formal schooling, and child agency and autonomy (E. Edmonds & Shrestha, 2009, p. 2). As previously pointed out, this study relied partially on this working paper and certain categories were omitted, while categories not mentioned in this working paper were also added, in accordance with the context in Thailand.

¹ The working paper refers to the ‘decision-making agent’ as an individual who makes decisions relating to the way in which children ought to spend their time, and the agent could be the child, the parents, a relative, or a community leader, etc (E. Edmonds & Shrestha, 2009, p. 1).

Due to the nature of the second research question – how relevant and effective Thailand’s current policies to the protection of children on the move are, particularly with respect to child labor-related protection – the development of evaluation/assessment criteria is unconditionally indispensable. This study adopts the following criteria in an attempt to best answer this research question: effectiveness, efficiency, responsiveness, and equity. To measure the first criterion, *effectiveness*, this study seeks to answer whether or not the initial objectives of each policy has been achieved, essentially juxtaposing the goals and the outputs, and thereafter compare them to determine the attainment extent of the policy’s effectiveness. The second criterion, *efficiency*, is measured by answering whether or not the activities of each policy have been undertaken in a manner that is straightforward and uncomplicated, as well as whether the amount of cost and efforts required is principally constructively worthy. *Responsiveness*, the third criterion, is then measured by ascertaining the extent to which each policy satisfies the needs of its target group. Finally, *equity* is measured through determining if the costs and benefits are equitably distributed among different groups.

Following the review of existing frameworks pertinent to the subject of this study, Kevin Byrne’s (2018) assessment tool has been selected as the primary guiding evaluation framework to evaluate different aspects of Thailand’s responses to child migrants with a child-focused and rights-based approach. This integrated evaluation framework, built on the adopted analytical framework of the Council of Europe of 2018, seeks to ensure that the migration process retains quality child-centered monitoring by linking and incorporating a myriad of available guidelines, tools, formats, and practice models. According to Byrne, the basis of this framework is the translation of policies into practice while adhering to the four guiding principles: child-centeredness, equity, inclusion, and participation. The devised evaluation matrix is guided by five domains: general context; asylum processes and procedures; education; health; and child protection. There are manifold indicators and questions within each domain derived from the conducted literature review. These indicators and questions are intended to determine the extent to which a certain policy follows the aforementioned principles, namely: child-centeredness, equity, inclusivity, and participation (Byrne, 2018, pp. 8–10). Nevertheless, conducting an assessment by utilizing every indicator and answering every question is a task that would require tremendous amount of time and resources to achieve. Therefore, only certain relevant domains, indicators, and questions from the framework is adopted for this study.

Under general context domain, the indicator selected is ‘best interests of the child’ with the following questions:

“Does national law mandate that the best interests of the child should be the determining factor in all decisions relating to a child?;

Are there agreed national formats for best interest assessments and best interests determinations?;

...

Are the child’s best interests examined and determined in each individual case in light of the specific circumstances of each child or each group of children, and related to the individual characteristics of the child or group of children concerned, including the social and cultural context in which the child or group of children find themselves?;

...

Are the following elements always considered in best interests assessments: the child’s views; the child’s characteristics; preservation of the family environment and the child’s relationships; care, protection and safety of the child; the child’s vulnerability; the child’s right to be heard; and the child’s right to education?” (Byrne, 2018, pp. 16–17).

The following domain selected for this study is *education*, which seeks to answer the following general and contextual questions:

“Is the right to basic education for all children enshrined in national law?;

Are migrant and asylum-seeking children recognized as a particularly vulnerable group in national strategies and prioritized in national/local action plans?;

...

Are local education services underpinned by the principles of inclusive education? ...” (Byrne, 2018, p. 22).

The next domain is *health*, and it attempts to answer the following:

“What is children’s entitlement to health care under national law?;

...

Are asylum-seeking children/unaccompanied minors [child migrants] entitled to the same access to national health systems and services as other children?;

...

Are migrant and refugee children prioritized as vulnerable groups under national health strategies and national/local health plan? ...” (Byrne, 2018, p. 23).

The final domain chosen from Byrne’s framework is *child protection*, and the indicators chosen are ‘trafficking’ and ‘children in detention’. The selected questions for the first indicator are namely: “... *Is [there] a specific national framework/structure/system in place to address*

trafficking?” and “What extra safeguards/services are available to child victims of trafficking? ...” (Byrne, 2018, p. 27). As for the second indicators – children in detention, the questions are:

“... Does the national legal and policy framework explicitly prohibit the detention of children in any circumstances?;

...

If detention is allowed in exceptional circumstances, does the law explicitly specify that it can only be used as a measure of last resort and for the shortest possible period?;

...

What efforts are made to ensure and enable the fastest possible release of children from detention and their placement in some other form of appropriate accommodation?;

...

Are regulations in place to ensure that children are never detained with adults, and that appropriate education, health and welfare services, facilities and personnel are available in all facilities where children are detained? ...” (Byrne, 2018, pp. 28–29).

4. Limitations

Inevitably, this study is subject to a number of technical, administrative, logistical, and analytical limitations. The most notable hindrance is data availability. Since the assessment has to rely on the availability and quality of data, the lack of which thus results in the limitation to conduct a comprehensive analysis of policies. Another obstacle is the complexity of the policies, rendering an accurate assessment of the impact of the policies extremely challenging. This is because there can be a myriad of factors influencing the issues and discerning the effects of a certain policy from such factors and measuring the impact can become rather difficult.

Moreover, due to the concealed nature of the issues that often go unreported, as well as the number of undocumented child migrants and their (or their parent(s)/guardian(s)') fluctuating legal status in Thailand, the data collected are unavoidably questionable as far as accuracy is concerned. Some of the only available data was also not as up-to-date, with some that could be dated a few decades back from the time this study was conducted. Furthermore, the gathered data on child migrants in Thailand was based on the availability of existing resources and studies. However, these studies were only conducted in a few locations and may not accurately reflect the situation for child migrants in other areas of Thailand. Therefore, the data may not be proportionately representative of the overall situation for child migrants in the

country. In addition, since some of the secondary data collected for this study were also in the Thai language, the accuracy and a holistic retention of original meaning and connotation could not, unfortunately, be guaranteed.

Another factor that significantly disrupted the conduct of this study is the timing. As the period in which this study was conducted coincided with the COVID-19 global pandemic almost precisely, additional challenges and limitations were presented. The main impact of the pandemic on this study is the lack of ability to obtain primary data due to restriction on movement and social distancing requirements – the author was based in Ankara, Türkiye. Numerous attempts were made to contact different civil society organizations in the hope of remotely collaborating for an exchange of data and information. However, no satisfactory results were achieved. Hence, the necessity to utilize secondary data and resources was a result of such constraints inherent to this study.

Chapter 3: Analytical background

1. Theoretical Approach

Among the existing literature on the study of human mobility, the following are more pertinent to this study than others. First, the **Dual Labor Market theory**. The demand for migrant workers can be explained by a number of factors as presented in the “*Migration in Thailand: Context and Statistics*” sub-topic above. However, it is also possible to find a theoretical explanation to the phenomenon. According to Huguet et al. (2008), this phenomenon is consistent with the dual labor market theory outlined by Massey et al. (1993), which posits that a capital-intensive sector employing skilled workers and providing them with high wages and various benefits to attract and retain them is a result of economic dualism. However, simultaneously, a labor-intensive sector also develops for unskilled and seasonal workers, who neither benefits nor job security as the employers want to dismiss these workers during slack periods (Huguet et al., 2008, p. 3). This position is vividly illustrated by the way in which certain sectors of the labor force in Thailand employ a significant number of migrant workers, such as the fishing, garment, textile, seafood processing (Huguet et al., 2008, p. 3), agriculture, construction, and domestic services sectors (Huguet & Sureeporn Punpuing, 2005. Cited by Huguet et al., 2008). Second, in relation to the decision-making of migrants, the **Household Decision Making Model**. There exists a contradiction between the neoclassical microeconomic and the new household economic theories of migration in terms of the standpoints of the migrant’s decision to migrate, as to whether it is made individually for one’s own personal gains or whether it is made with the family being the main rationale (Gubhaju & De Jong, 2009, p. 1). Stark and Bloom (1985) and Fischer et al. (1997) contend that, in fact, the decisions to migrate are oftentimes made by families and households, as opposed to individual actors (Gubhaju & De Jong, 2009, p. 1). This new supposition, as the name suggests, place the households or families as the unit of analysis, and proposes that the lack of access to banking, formal credit mechanisms as well as crop insurance could lead families to try to have a member become migrant worker in hopes that both their sources of income and economic risks are diversified – which could explain much of the incoming migration to Thailand from the poorer countries in extreme poverty (Huguet et al., 2008, p. 2).

Nevertheless, while the abovementioned theories had been utilized to a certain extent in framing the overall picture, the author selected and followed the following theories more closely for this particular study. First, the **Push and Pull Theory**. The Push and Pull Theory is a part of Everett Spurgeon Lee’s 1966 Publication. The development of the push and pull model

was heavily influenced by one of the most renowned theoretical explanations in the field of migration studies, that is Ravenstein's 'Law of Migration' which was first presented in 1885. Lee's approach puts forward that there exist the attracting (pull) factors at destinations and the repelling (push) factors at origin which determine the phenomenon of migration (Bijak, 2006, p. 6). In addition to the factors between the destination and origin – which reflects the neoclassical economics paradigm by relying on principles like rational choice, utility maximization, and labor mobility – Lee also introduced a set of 'intervening obstacles' that required to be overcome such as the physical distance, cultural barriers, and immigration restrictions, as well as the personal factors in the sense that different people will react differently to certain combinations of these factors in accordance with their personality, economic status and life-stage (King, 2012, p. 13). However, originally, the theory does not necessarily touch on these factors from the perspective of children. Therefore, as a complementing framework, the application of the push and pull theory from the child migrants' point of view in this study will be partially based on the UNICEF Innocenti working paper "Children's Work and Independent Child Migration: A Critical Review" by Eric Edmonds and Maheshwor Shrestha (E. Edmonds & Shrestha, 2009). The following chapter, under 'analytical framework' section, will provide more details on the framework.

Lastly, a portion of this study explored the issues pertaining to legal status through the lens of a concept developed by Cecilia Menjivar as a means to explain the "status" in the grey area between two extremes of the legality spectrum, i.e., the traditional dichotomy between regular and irregular legal status of migrants. Menjivar conceptualized the phenomenon and defined it as "**Liminal Legality**". As elaborated by Menjivar, undocumented migrants with ambiguous legal status – liminal legality – are inevitably exposed to risks of deportation and low-paying jobs, leading eventually to the deprivation of their fundamental human rights such as housing, food, education, and healthcare (Menjívar, 2006. Cited by Petchot, 2011). Petchot further posited that liminal legality is defined by ambiguity that demonstrates the fluctuating nature of migrants' legal status, as illustrated by the ways in which migrants are given temporary resident and work permits only to return to 'irregularity' through various channels such as the completion of their permits, their violation of the immigration law, and/or the rejection of their renewal of temporary permits – which depends greatly on the government policy and economic situations at the time (Petchot, 2011, pp. 20–21). Liminal legality prevents migrants from being able to fully benefit from their entitlements as registered/documented/, and thus legal, members of society. As the legalization process results only in temporary

legality in Thailand, migrants' status therefore goes back and forth between being legal, and not. The period in which migrants are 'not legal' renders them immensely vulnerable to various risks, particularly in terms of their protection, due to their lack of recognition from the state.

2. Literature Review

2.1 Children in International Migration

2.1.1 Definitions and data

Also commonly known as *Children on the Move*, the phenomenon of child migration is one of the prominent issues that has recently gained increased public interest and concern. Several reasons are behind this recent publicity: the current magnitude in the number of children on the move, and the child suffering's attention-grabbing and rating-boosting nature (McAuliffe et al., 2019, p. 232). As with most social phenomena, the scope of child migration can be incredibly wide in range, thereby rendering the comprehensive assessment difficult. This study focuses on the rather unsettling and negative sides of child migration that occurs on an international level, and the events outside of this scope, such as the ones taking place domestically or the ones that result in positive outcomes will remain excluded from this study.

There exist countless views on the ways in which the concept '*child*' shall be defined due to the differences in the perception of the age limit to be applied when defining. Nevertheless, the definition of a child that is most widely recognized is the one stated in Article 1 of the Convention on the Rights of the Child (CRC) which is as follows:

"A child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier" (UN General Assembly, 1989).

Other concepts that are crucial for this study are the concepts of '*child protection*', '*separated children*', and '*unaccompanied children*'. According to a guideline prepared by the International Federation of Red Cross and Red Crescent Societies (IFRC, 2018, p. 5), these terms, respectively, refer to:

"The prevention of and response to abuse, neglect, exploitation and violence against children;

Children separated from both parents, or from their previous legal or customary primary care-giver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members;

Children who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.”

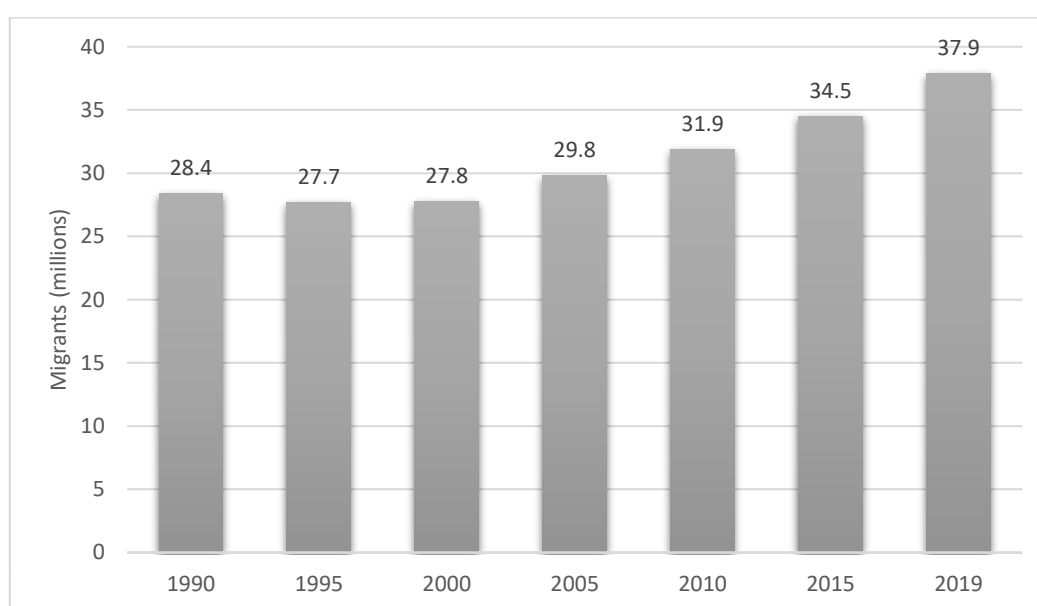
Last, but not least, the important concept of ‘*children on the move*’ is defined as:

“Children moving for a variety of reasons, voluntarily or involuntarily, within or between countries, with or without their parents or other primary caregivers, and whose movement, while it may open up opportunities, might also place them at risk (or at an increased risk) of economic or sexual exploitation, abuse, neglect and violence” (Save the Children, 2018, p. 7)

Although identifying the exact motives behind children’s migratory endeavors is an arduous task, it is not entirely unfeasible. In general, children migrate on an international scale due to reasons such as family, safety or survival, the order from traffickers, or opportunity (McAuliffe et al., 2019, p. 233). Additionally, child migration may stem from economic reasons (poverty, the search for life betterment, unemployment, or low wages); the lack of access to basic services or better quality education; family reunification; violence, abuse, neglect, or exploitation; gender-based violence such as the threat of child marriage; inequality, social exclusion, and discrimination; cultures or traditions that value migration; conflict and insecurity; climate change, natural disaster, drought or famine; forced displacement; a parent’s illness or death; boredom, lack of freedom, peer influence, or friends; abduction or deception (Save the Children, 2018, p. 8). Moreover, the strategy adopted by children may involve engaging with adults who provide assistance for crossing borders in exchange for specific services, taking on the opportunities to gain income to generate resources for migration which may include extreme situations of labor and exploitation, or even sex trafficking (McAuliffe et al., 2019, p. 235).

As outlined above, the phenomenon has been tremendously facilitated by the interconnectedness brought about by the process of globalization, thus, the increase in number and magnitude of child migration is naturally expected. At the time of writing (2020), it is estimated that there are around 31 million child migrants globally, though it is a “stock” figure which hinders the accuracy and use of this estimate (McAuliffe et al., 2019, p. 237). Nonetheless, to illustrate the said increase, Figure 1. below helps in depicting the current situation and developments vividly. It is worth noting that the age frame presented in this figure may seem ambiguous to be used for children-related data. However, as the report points out, it is particularly important to note that this is due to the lack of data exclusively limited to ‘children’, these data are to be relied on for they are drawn on census data from one of the most reliable sources (McAuliffe et al., 2019, p. 236).

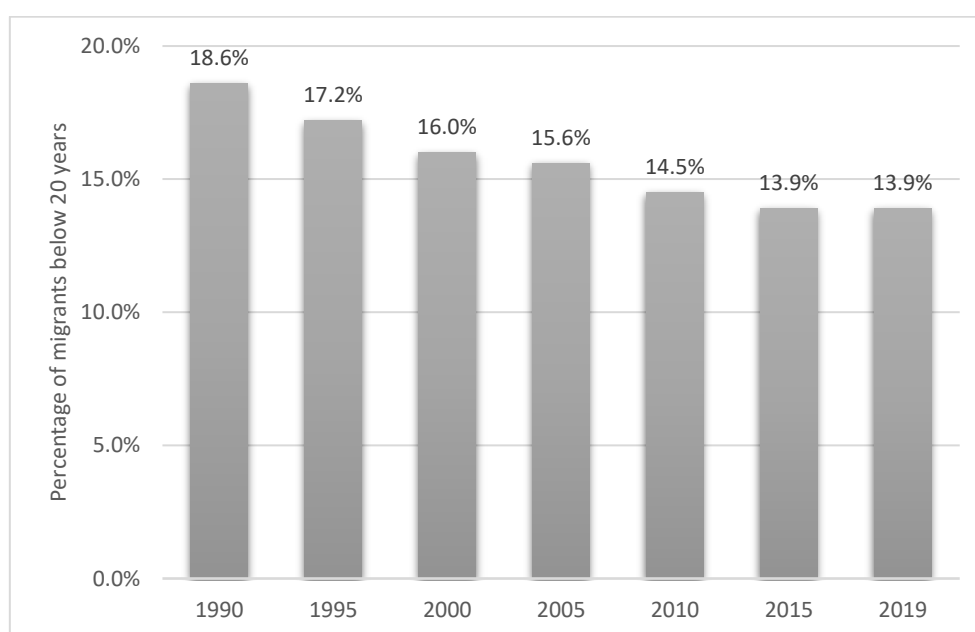
Figure 1. Global migrants below 20 years old



Source: IOM. (2019). World Migration Report 2020. Geneva: International Organization for Migration. p. 236.

As shocking as this increase may seem, data regarding the percentage of global migrants who are under the age of 20 indicates that the share of young migrants has been decreasing since 1990, as shown in the figure 2. below. This indicates that the global trends do not necessarily demonstrate the numbers and extent of child migration. The share of global child migrants has been decreasing over the past decades, but the continued increase in numbers is alarmingly significant, and should not be overlooked.

Figure 2. Share of global migrants below the age of 20



Source: IOM. (2019). World Migration Report 2020. Geneva: International Organization for Migration. p. 237.

2.1.2 The protection of children: children's rights in international migration

Fortunately, every human being is now entitled to fundamental protection arising from the universally concurred human rights treaty. It may be contended that the binding nature – as in the extent to which states are bounded – and the efficacy of these instruments are appallingly questionable, given the frequent occurrence of human rights violations in various parts of the world – some of which are taking place at the time of writing. Nonetheless, such inopportune events by no means imply the absolute futility of these hard-earned frameworks, for the absence of which would deprive us all the protection of any kind.

On an international level, apart from the international refugee protection system, migrants are protected by two sets of such instruments: the core human rights treaties such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR); and the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) and the ILO Conventions specific to migrants and migrant workers (Kanics et al., 2010, p. 21).

Table 1. Current ratification of international legal documents on international migration

Agreement	Year of coming into force	Participants of agreements as of 19.04.2006		Participants of agreements as of 01.12.2013	
		Number of countries	Percentage of countries	Number of countries	Percentage of countries
The 1949 Convention No. 97 of the ILO on migrant workers	1952	45	23	49	26
The 1975 Convention No. 143 of the ILO concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers	1978	19	10	23	12
The 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	2003	34	17	47	24
The 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children	2003	97	50	157	81
The 2000 Protocol against the smuggling of migrants by land, sea and air	2004	89	46	137	71
The 1951 Convention on the status of refugees	1954	143	73	144	75

Source: Aleshkovski, I. A. (2015). International Migration Management in the Era of Globalization. *Globalistics and Globalization Studies*, p. 83.

As elucidated above, the existing international legal mechanisms on migrants are

currently profoundly concentrated on the protection and the rights of adults. Child migrants can, as of now, benefit from the protection arising from the Convention of the Rights of the Child and, in limited cases, from the ICRMW (Kanics et al., 2010, p. 21). Again, the less in quantity of the international instruments directly concerning children in migration and the less emphasis in terms of policy and mechanism shown to child migrants – in comparison to adult migrants – do not necessarily indicate that they are not entitled to any protection whatsoever. Retrospectively, dating back to 1924, the League of Nations adopted the Declaration of the Rights of the Child, and the contents of which read as follows:

“... mankind owes to the Child the best that it has to give, declare and accept it as their duty that, beyond and above all considerations of race, nationality or creed:

Article 1: The child must be given the means requisite for its normal development, both materially and spiritually;

Article 2: The child that is hungry must be fed; the child that is sick must be nursed; the child that is backward must be helped; the delinquent child must be reclaimed; and the orphan and the waif must be sheltered and succored;

Article 3: The child must be the first to receive relief in times of distress;

Article 4: The child must be put in a position to earn a livelihood, and must be protected against every form of exploitation;

Article 5: The child must be brought up in the consciousness that its talents must be devoted to the service of fellow men.” (Geneva Declaration of the Rights of the Child, 1924).

Significantly, the original 1924 document was further developed by the United Nations through the “Declaration of the Rights of the Child” in 1959, and again with the “Convention on the Rights of the Child” in 1989, which holds the distinction of being the human rights treaty with the most extensive ratification in history to date.

As Bhabha (2003) points out, the recent and contemporary lack of interest of child migrants is rather surprising when legal history is taken into consideration. Of the five principles, Article 3 and Article 4 in the Declaration are directly relevant to the rights of child migrants, the former brings attention to the extraordinary needs of refugee children, while the latter reflects the concern regarding the child trafficking and exploitation (Bhabha, 2003, p. 256).

Furthermore, refugee children and trafficked children have been addressed in, among others, the treaties that criminalize the recruitment and transportation of young girls for prostitution; in the 1910 International Convention for the Suppression of White Slave Traffic

which punish those who hired, abducted, or enticed for immoral purposes any woman under 21; as well as in the 1921 International Convention for the Suppression of the Traffic in Women and Children which expanded the protection to children of either sex (Bhabha, 2003, p. 256). In addition, protections for children were broadened with the 1956 United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, which included all forms of exploitation of children, including labor exploitation whether by parents or others (Bhabha, 2003, pp. 256–257). However, legally binding conventions pertinent to the protection of children – including child migrants – manifested in the 1989 Convention on the Rights of the Child (Bhabha, 2003, p. 258).

Meanwhile, the CRC, entails the components that define States’ obligation – including the safeguarding of the right to the highest possible standards of education and health and the right to be free from discrimination, exploitation, and abuse – toward every child within their jurisdiction, without discrimination of any kind, including *migrant* status (Rossi, 2009, p. 6). A number of articles of the Convention are applicable to children in the context of international migration, and all children, for that matter. Specifically, article 2 clarifies that all children in a state, including visitors, refugees, children of migrant workers, and those who are irregularly present in the state, are entitled to all of the rights outlined in the Convention (Kanics et al., 2010, p. 23). The subsequent article, article 3, states that in all actions concerning children, whether by public or private social welfare institutions, courts of law, administrative authorities, or legislative bodies, the best interests of the child must be given primary consideration (Wenke, 2015, p. 13). Additionally, the Committee on the Rights of the Child has specified certain guidelines used as requirements for the procedural safeguards and documentation in relation to the determination of best interests which include the provisions of: “Child-friendly information in a language that the child understands; The right to express her or his views and to have them taken into account; Quality (language) interpretation; Guardianship and representation; Legal representation; Legal reasoning; Mechanisms to review or revise decisions; Right to appeal ...” (Wenke, 2015, pp. 14–15). Another important element to take into account when determining the best interests is ‘time perception’ for delays and prolonging of decision-making process can have negative effects on children as they grow and evolve (UNHCR, 2013). While all children can benefit from each article of the Convention, another article specifically relevant to the children on the move is article 6. The article affords children the right to life, survival, and development, which are related to “*survival, security, and health as a precondition for physical development as well as the mental, spiritual, moral,*

intellectual, cognitive, emotional, and socio-cultural development of the child” (Wenke, 2015, p. 17). Moreover, with regards to the development needs of a child, the following articles from the Convention can be referenced as the relevant factors to be considered: Article 8 (the right to preserve identity, which includes nationality, name, and family relations); Article 20 (the continuity in the child’s care and upbringing, with due regard to ethnic, religious, cultural and linguistic background); Article 24 (the right to enjoy the highest possible standard of health); Article 27 (the right to a standard of living adequate to the child’s physical, mental, spiritual, moral and social development); Article 28 and 29 (the right to the access to education); Article 31 (the right to rest and leisure, to engage in play and recreational activities appropriate to her/his age) (Wenke, 2015, p. 17). With respect to the family relations, article 9 particularly comes into play as it states that it shall be ensured that a child cannot be separated from their parents against their will, unless the authorities believe that such separation is necessary for the best interests of the child (Bhabha, 2003, p. 263). Within the same article, it is specified that unaccompanied children or separated children possess a right to remain in contact, as well as to maintain family relations so long as it is not against the best interest of the child (Wenke, 2015, p. 25). Finally, under the CRC framework, children are also afforded the right to express their views in all matters that affect them, and their views have to be given due weight according to the age and maturity of the child, as stated in the article 12 of the Convention (Wenke, 2015, p. 18). Based on the article 1, 3, 20, and 22, the UN 1956 Convention Relating to the Status of Refugees, and the General Comment No.6 of the Committee on the Rights of the Child, it can be inferred that the basic human rights principle of the access to the territory is also to be respected for child migrants in the sense that the interaction between state officials and a child at the border must involve granting the child entry into the state’s territory and providing access to suitable reception facilities or assistance, which implies that the child cannot be confined in immigration detention at border entry points such as ports or airports (Wenke, 2015, p. 24). In addition, the 2016 New York Declaration in which child immigration detention was recognized as a harmful practice that the United Nations Member States were committed to put an end to the practice, states that:

“Furthermore, recognizing that detention for the purposes of determining migration status is seldom, if ever, in the best interest of the child, we will use it only as a measure of last resort, in the least restrictive setting, for the shortest possible period of time, under conditions that respect their human rights and in a manner that takes into account, as a primary consideration, the best interest of the child, and we will work towards the ending of this practice” (UN General Assembly, 2016, p. 7)

However, despite the existence of these regulations that are supposed to be abided by state parties, and any state with concerns for the well-being of children, for that matter, there certainly are instances where detention of children does, unfortunately, occur. Conveniently, the Committee of the Rights of the Child has outlined the minimum standards that must be respected by states in cases of the detention of children which can be briefly summarized as follows: the deprivation of liberty should be temporary and as short as possible; facilities used for detaining migrants for immigration purposes must be distinct from prisons and should not be prison-like; trained child protection officials must be present in the centers; unless it is deemed to be in their best interest, minors and young adults should be segregated from adults; it is important to guarantee regular communication between individuals and their family members and friends; consistent and confidential communication with legal and consular representatives should be guaranteed; the complete exercise of economic and social entitlements, such as education, healthcare, leisure, sustenance, water, and clothing, for children should be assured; governments are obligated to ensure that independence mechanisms are in place to oversee and monitor the state of detention facilities (Wenke, 2015, p. 34).

In addition to the frameworks cited above, 9 particular principles (the drafting of which was the result of agencies such as UNHCR, OHCHR, UNICEF, and IOM, among others) derived from international human rights, humanitarian, and refugee law in relation to the children whose lives are involved in or affected by migration have been agreed upon in Geneva by representatives of international organizations and NGOs. Having been derived from the existing international mechanisms, these principles bear nearly identical similarities with the frameworks of the CRC outlined above and thereby can be regarded as a handy and legitimate summarized guideline for states and related bodies to follow when dealing with children in migration. These principles can be outlined as follows:

“1. Children on the move (and other children affected by migration) shall be considered children first and foremost, and their best interests shall be a primary consideration in all actions concerning them.

2. All children have the rights to life, survival, development.

3. Children have the right to liberty of movement within their State, and to leave their State and any other.

4. The detention of children because of their or their parents’ migration status constitutes a child rights violation and always contravenes the principle of the best interests of the child.

5. *During all phases of migration, children shall not be separated from their parents or primary caregivers (unless it is in their best interests).*
6. *No child is illegal – children should be protected against all forms of discrimination.*
7. *Child protection systems shall protect all children, including children on the move and children affected by migration.*
8. *Migration management measures shall not adversely affect children's human rights.*
9. *Children have a right to express their views freely in all matters affecting them, and to have their views taken into consideration in accordance with their age, maturity, and understanding of the options available.” (Save the Children, 2018, pp. 11–12)*

Most recently, the world's first UN-negotiated document titled Global Compact for Safe, Orderly and Regular Migration that addresses all aspects of international migration based on human rights standards was agreed upon by United Nations Member States in December 2018. Within the final text of the document, the necessity to consider the protection needs of child migrants was stressed with strong emphasis on having the best interests of the child as an integral part of the any migration response (Blomqvist & George, 2021, p. 4). In fact, child-sensitiveness is among the core principles of the document:

“Child-sensitive: The Global Compact promotes existing international legal obligations in relation to the rights of the child, and upholds the principle of the best interests of the child at all times, as a primary consideration in all situations concerning children in the context of international migration, including unaccompanied and separated children” (United Nations General Assembly, 2018, p. 6)

As such, considerations for the protection of children on the move were provided throughout the document, including measures to reduce statelessness, the facilitation of family reunification, implementation of laws that sanction and prevent child labor, the establishment of protection procedures of migrant children in national child protection systems, the protection of unaccompanied and separated children across all stages of migration via specialized procedures, the prompt identification and referral to relevant protection authorities and services of migrant children at places of first arrival, and the provision of quality education to migrant children and youth while ensuring inclusivity and equitability, among others (United Nations General Assembly, 2018)

2.1.3 Child migrants at Risk

There are significantly afflicting risks and dangers that children in migration are prone to experience. One of the most prominent bodies working on the protection of children, Save the Children, has expediently and comprehensively listed various types of risks facing child migrants which can be outlined as follows:

“Family separation;

Lack of appropriate care and risks of being placed in harmful institutions;

Injury, accidents, drowning when on route; Harassment, corruption, violence and abuse (physical, emotional, sexual) by police, border officials, armed forces, civil groups, members of general public, and others;

Trafficking risks;

Deception and exploitation by smugglers; Gender based violence, including sexual abuse and sexual exploitation of girls and boys, including engagement in prostitution and risks of transactional sex and forced marriage;

Exploitation and increased vulnerability to the worst forms of child labor;

Debt bondage and illegal confinement;

Increased risks of coming into conflict with the law as they are perceived as criminals;

Incarceration in detention facilities (with increased risk of physical, sexual and emotional abuse);

Risks incurred when staying in overcrowded transit or asylum centres, especially if unaccompanied and separated children are accommodated together with adults;

Forced deportation or returns without adequate preparation; Increased returns to countries of origin or third countries where children may face risk of irreparable harm, due to deportation not based on determination of their best interests;

Leaving behind or losing family and friends;

Psychological stress, emotional and physical suffering from direct experiences and from what they witness, or exacerbation of preexisting mental health conditions;

Stressed parents who are less able to provide care and support;

Discrimination and lack of access to basic services;

Recruitment by armed forces and groups.” (Save the Children, 2018, p. 8)

Dangerous and lethal migration routes: Children who migrate are, more often than not, more likely to take on the rather dangerous routes due to various factors, one of which can be the legal and institutional settings and/or restrictions that may force them to adopt the

‘alternative’ routes to migrate. Additionally, their lack of information may also result in them opting for more risky routes. Child migrants usually migrate without valid documentation and are forced to depend on several actors such as smugglers, charitable and religious organizations, or fellow travelers (Menjívar & Perreira, 2017, pp. 9–10). For instance, unaccompanied children from Central America who arrive in the United States often travel by land through Mexico, which is a highly hazardous route, and many Central American women and girls experience sexual violence during this journey, while children of Middle Eastern and African origins may sometimes reach the EU by land, though more often by crossing the Mediterranean Sea in rickety boats when thousands of them never actually make it through to their intended destination (Ko & Perreira, 2010. Cited by Menjívar & Perreira, 2017, p. 1). Moreover, children who migrate to the EU mostly undertake journeys that involve crossing, in a tightly packed boat, the Mediterranean Sea at night or by foot through the mountain areas and forest (Donini et al., 2016. Cited by Menjívar & Perreira, 2017, p. 11). As for the Central Americans, they would go as far as hopping on trains, riding in cargo trucks, walking in the desert, which put them in life-and-death situations throughout the journey to the U.S. (Menjívar & Perreira, 2017, p. 11). The various borders that migrants must cross by land or sea in order to reach the EU and the US act as a checkpoint and contribute to the expansion of smuggling networks and the cost of migration (Menjívar & Perreira, 2017, p. 11).

Migrants in Europe, particularly, face extraordinarily hazardous situations as most of them arrive by sea and as reported in Greece in 2015, five serious incidents, where 15 people lost their lives, several of them being children, 38 others missing, and 15 children suffered from hypothermia, involving smuggler boats carrying refugees and migrants in the waters between Turkey and Greece (Kitidi & Redmond, 2015). When the weather conditions worsen, refugees are likely to abandon the water route and opt for the land route through Bulgaria, though they are still met with snow, rain, and freezing weather as many walk only in the shoes and clothes they have, while in many cases they get stopped at borders, held for long hours or overnight, exposed to the weather, and many do not sleep in a bed for weeks (UNICEF, 2015, pp. 4–5).

The severity of such dangerous journeys is illustrated as Malak told her story of the voyage from Syria to Greece when water sprayed into the boat she and her mother were in overnight and she reached the shore with the help of a fisherman and said: *“I felt as if my mother and I might drown, that the boat might go down,”* (UNICEF, 2015, p. 6)

Smuggling, trafficking, and sale of children: Some of the issues that have been growing greater in magnitude each day, raising concerns for children, parents, state officials, scholars, and activists alike, are the issues of children smuggling, trafficking, and the sale of children. The UN Trafficking Protocol 2000 states “*the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation...*” shall be considered *trafficking of persons* (UN General Assembly, 2000).

Despite the highly disturbing nature of the issues, the systematic knowledge regarding the child victims is inadequate, especially in terms of their characteristics and experiences due to the ways in which they are often regarded under the title of ‘women and children’ (Goździak, 2010, p. 166). However, it is crucial to distinguish the characteristics and experiences between those of children and those of women, mainly because children and women do not always go through similar experiences, and more often than not, they experience such misfortunes rather differently.

Empirical data on these issues are alarmingly many, not to mention the cases that may have escaped the notice of related officials and gone undocumented due to the difficulties of tracking down to the origin of the network, as well as the sophisticated techniques that smugglers and traffickers have developed and implemented to take advantage of the existing loopholes in immigration law and policy in various countries. Along the South African borders, unaccompanied child migrants cross borders, in a relatively short distance, almost on a daily basis for mundane activities such as attending school, visiting a relative, or making a phone call while facing risks of violence from gangs and smugglers, extortion from border officials, and even police arrest due to the act being rendered illegal and bureaucratically complex (Bhabha, 2014, pp. 7–8). For smugglers, this situation provides opportunities to rob migrants, while for border officials this affords them the chance to extort bribes from children who are desperate to reach school or see a relative by, for instance, ignoring children’s movements until exam time to start checking documents and later extract bribes from them (Bhabha, 2014, p. 8).

From a pool full of troubling occurrences, the following is an example from Moldovan girl, Isabel, who saw and responded to an advertisement for a housecleaning job that promised to pay \$500 per month:

“In Istanbul, a man named Uri met us at the station. He took us to a hotel called Meke. I will never forget that hotel. Uri took our passports and said, “You must shower and get dressed. Tonight you will go on your first

program.” I thought he meant we will go for house cleaning, so I did as he said. That night, Uri sold us to a German man. He raped us in the hotel with five other men. They made us have sex with many men that night. The Germans made me work like this for sixteen months. I was kept locked in a hotel room with three other girls.” (Kara, 2009, p. 111. Cited by Bhabha, 2014, p. 149)

Moreover, the risk of trafficked children being repatriated back to the country of origin also poses an additional danger to children on the move in the sense that their country of origin may not, in fact, be a safe destination to return to due to extraordinary circumstances there, as illustrated in the case of Katya:

“When they assessed her case, British immigration officials knew that Katya, a vulnerable 18-year-old from Moldova, had been trafficked and forced into prostitution, but ruled that she would face no real danger if she was sent back. Days after her removal from the UK, her traffickers tracked her down to the Moldovan village where she had grown up. She was gang-raped, strung up by a rope from a tree, and forced to dig her own grave. One of her front teeth was pulled out with a pair of pliers. Shortly afterwards she was re-trafficked, first to Israel and later back to the UK.” (Gentleman, 2011. Cited by Bhabha, 2014, p. 161)

Abuse, exploitation, enslavement, and detention: These are among the types of risks that, arguably, children in migration are most likely to experience along their migration journeys. As previously outlined, children on the move are exceptionally more vulnerable to abuse and exploitation due to the hindrances that may stem from their age, physical and mental capabilities, as well as surrounding factors that may put them at disadvantage, in comparison to adult migrants.

Risks of abuse and violence are reported to increase significantly when children resort to dangerous and unsafe paths and travel without the protection of adults, especially the risks of suffering from sexual violence, labor, and exploitation into “survival sex” in order to obtain shelter, passage, sustenance or money for journeys ahead (IFRC, 2018, p. 14). In the U.S., Central American women and girls have been reported to be victims of sexual violence during the journey through Mexico (Pereira, 2010. Cited by Menjívar & Perreira, 2017, p. 10). Moreover, child migrants are heavily exposed to exploitation of various forms because of their doubled vulnerabilities – being a child and a migrant. Of various types, it can occur in the forms of child labor such as domestic work in factories, construction sites, restaurants, agriculture, and begging, as well as in the forms of prostitution and pornography (Wenke, 2015, p. 10). However, the reality of parents who sell their children to traffickers willingly, mostly because of the unforgiving living conditions, is also noteworthy. For example, Irene, whose father

unapologetically sold her into slavery with reasons of not having the income to keep 37 children, was among the children who were sold into bonded labor for a fixed term of a few years, and her duties included crushing granite rocks to produce her quota under all sorts of weather conditions in order to avoid being beaten up (Howard, 2014, p. 216). Child migrants are also more likely to be in child labor as an ILO study pointed out, as an example, that 63% of working children in Uganda were migrants (Van de Glind et al., 2010, p. 11).

In addition, to demonstrate the risks of exploitation and other forms of complication of child migrants, the following case of Ahmed, an ethnic Hazara from Afghanistan who arrived in Indonesia from Iran at the age of 17, unaccompanied, is presented.

“One day I wanted to visit my friend to play computer games at his house. On the way to his house, the police stopped me. Since I had no identity card I was arrested and taken to their office. Without notification, I was sent to the Iran–Afghan border together with many other people. ... I had no idea where to go after the police released us. Luckily an older man took me to Herat ... From there I could call my mother. ... She cried when she heard what had happened. ... She advised me to go to Kabul and wait there until she had gathered enough money to send to me. She suggested I go to Indonesia.

Once my mother had transferred US\$6000, which she borrowed from various friends, I started my journey, which took me through India and Malaysia. From there, I crossed over to Indonesia by boat.

Once I arrived at the airport in Jakarta, ... I had no idea what to do. I stood around at the airport for hours, until finally I heard some other Farsi speakers. (who) had come here for similar reasons. ... they suggested we take a taxi together to Puncak.

On our way to Puncak, the police stopped us. The officers demanded US\$400 per person in order to grant passage. I had only US\$150 in my pockets. I was very scared, but luckily one of the other passengers managed to bargain with the police. In the end, I gave them US\$100.

Once we arrived in Puncak, I was invited to stay in a house where a dozen other Hazaras were staying. My remaining US\$50 was gone after only 10 days.... In the end I was asked to leave. ... I ended up in Jakarta. I slept in front of the UNHCR office for about a month. I lived off donations from other people. Eventually the staff members from the UNHCR took notice of me. I was sent to an orphanage, I stayed there for many months. ... this place is tiny and dirty. I do not fit in here and I do not speak enough Indonesian to communicate. ... Soon, I will be 18, which means that my stay here also comes to an end. Now [February 2015] I am still waiting for my first interview by the UNHCR [in order to start the refugee determination process].” (Missbach & Tanu, 2016, pp. 303–304, 309–310).

The detention of children in migration is being more and more frequently witnessed, too. In the United States, when children are encountered at the border, they are initially

screened and confined by U.S. Customs and Border Protection, and if they are apprehended internally, they are first screened and detained by Immigration Customs Enforcement (Menjívar & Perreira, 2017, p. 12), and afterward, they are transferred to detention centers managed by the Department of Homeland Security and may be confined there for a maximum of 72 hours for purposes such as verifying their age and reviewing their documentation (Bhabha & Finch, 2006. Cited by Menjívar & Perreira, 2017, p. 12). In the EU, on the other hand, unaccompanied children could face different treatments, in accordance with their particular case, and one of which includes being held in a detention center (Menjívar & Perreira, 2017, p. 13). The conditions of the reception and detention centers have repeatedly been criticized by many regarding, among other issues, the unsafe and unhealthy conditions that threaten the children development, as well as how the facilities are understaffed with little resources for the health and educational needs of children (Menjívar & Perreira, 2017, p. 13).

Family separation and obstacles to family reunification: The international and European instruments on the rights of children have afforded *all* children the right to family reunification, even in the host country. Such a provision is completely in line with common logic as separation of a child from his/her family is, in most cases, detrimental to the well-being and integrity of the child. Prolonged family separation generates adverse effects on children in migration which can be challenging for all parties involved to reverse. Some of such negative consequences resulting from family separation include the development trajectory of the child (especially if this takes place at a critical development stage of the child), the likelihood to suffer from depressive symptoms (Suárez-Orozco & Suárez-Orozco, 2002. Cited by Schapiro, 2009, p. 19), marginalization, mistreatments, trafficking (Chisinau, 2003. Quoted in Prohntitchi, 2004. Cited by Cortés, 2007. Cited by Schapiro, 2009, p. 20), psychological trauma for children feeling abandoned, angry, hurt, or even resentful (Schapiro, 2009, p. 20). The sense of resentment is abandonment and rejection are vividly projected in the case of young El Salvador who was forced to wait for more than 10 years to reunite with his family in the U.S.:

“What do you think is worse, to share poverty [in the United States] with my half-siblings and mother and father, or not having learned how to love them because I never saw them? What would I have given for a goodnight kiss from my mother, for instance, or even for a fight with a sibling! You know? That’s what makes a family a family. But instead, I don’t know who these people are!” (Menjivar & Abrego, 2009, p. 174. Cited by Bhabha, 2014, pp. 23–24)

Meanwhile, Fernando Betbazel, a Honduran who embarked unaccompanied at 5 years of age on a journey to the U.S. gave his remarks as follows: *“I want to see my parents. My*

grandmother told me to get on the bus, that it would take me to where they are.” (Thompson, 2002. Cited by Bhabha, 2014, p. 26)

Between the U.S. and Central or South America border, thousands of children are estimated to take on the dangerous journeys – which sometimes end tragically as most children are robbed, raped, beaten, or even killed (Nazario, Citing 1997 University of Houston study, p. 281. Cited by Bhabha, 2014, p. 53) – with smugglers and trafficker and the journeys have been described by some children as: *“an adventure that would carry them back to their parents’ embrace ... [noting] how long it had been since they had last seen their mothers and fathers.”* (Thompson, 2002. Cited by Bhabha, 2014, p. 64).

Recently, it was recorded that more than 2300 children had been sent to shelters across the U.S., separated from their parents who were in detention, following the Trump’s administration’s ‘tough on immigration’ policies (Solon, 2018. Cited by Palmary, 2019, p. 7). Furthermore, in 2018, a truck carrying 8 Zimbabwean children of the ages 2-13, who were on their ways to meet their parents in Cape Town, into South Africa was reported to the authorities, and the children were held separated from their parents for 3 months, then later deported to Zimbabwe (Palmary, 2019, p. 7).

Well-being, development, and integration: Children whose lives are involved with migration are expected to be affected by it in one way or another. Having a stable space to steadily grow up and develop with well-deserved care from the parents or the caregivers is crucial for the overall well-being of any child, and migration, especially the ones that are forced or involuntary, no matter the frequency, could adversely cause irreversible disruptions that could permanently damage the child. The case of Paul depicts how migration affected his mental health in an incredible unsuspecting way.

“Paul was an 8-year-old boy from a sub-Saharan African country. He and his family had arrived a year previously in Canada, having fled persecution. He was referred to a pediatric emergency room after fainting in school. The neurologic exam was normal and he was sent back home without any particular follow-up. After fainting again, he was reassessed by a pediatrician in a newcomer refugee clinic. The pediatrician, without pushing for disclosure of pre-migratory trauma from the family, established an alliance with the parents and discovered that the boy had witnessed extremely traumatic scenes. He decided to refer him to a community clinic youth mental health team. The mental health assessment, ... , confirmed that the symptoms were the tip of the iceberg, and that the boy had PTSD.” (Measham et al., 2014, pp. 3–4)

Likewise, the case of Simran is presented here to portray how mental health and wellness of children can be profoundly influenced by migration.

“Simran was an 11-year-old refugee girl from South Asia referred for cultural consultation by a community social worker for anxiety and nightmares. She had witnessed her father's murder in their country of origin. Simran's mother was able to flee, arriving in Canada to request refugee status. Simran refused to participate in therapy for her post-traumatic anxiety (nightmares, flashbacks, and overanxious states) as she was highly mistrustful and also proud of her mother's resilience modeling. The clinician wrote a letter of the assessment documenting Simran's PTSD symptoms,” (Measham et al., 2014, p. 5)

The subject of ‘integration’ is also considered another matter of concern for many, especially in this day and age where the world appears to pay extra attention to the proper upkeep of diversity, as well as the inclusion of ‘everyone’, under the umbrella of superdiversity. The extent to which child migrants can successfully integrate into the new society is crucial. The following example shows how children can easily feel excluded from the community and that inadequate actions are being taken to improve the situation.

“Andreas, a boy from a Roma family, migrated from a poor rural area in Romania to an urban neighbourhood in Scotland. ... The facilities Andreas accessed were limited to the local school and church and he socialised mainly with Roma youth:

‘I don’t go out much, my dad says I can’t go on my own. I go swimming with the school. I like it. . .and football, too. And I like going to the cinema, but I’ve not been here [in Scotland], I don’t know where it is. My dad sings in the church, so I go with him sometimes and meet with other Gypsy children there. And that’s it, the rest of the time is just at home.’” (Sime & Fox, 2015, p. 527)

Similarly, Klaudia, a 13-year-old girl, pointed out how difficult it was for her to make friends when she first arrived in Scotland, especially because she was the only Polish child in the school(Sime & Fox, 2015, p. 529). Radicz, on the other hand, revealed that she tended to stay mostly at home as her mother cautioned that her English was not sufficiently good yet and that she might get attacked [bullied] (Sime & Fox, 2015, p. 530).

Keeping with the theme of languages, Roxanne, an 8-year-old said the following after her and her family’s arrival from China to Canada:

“I speak English in school now. [But] sometimes I just... ah ... I can't... and I think hard but I can't think it out. Sometimes I can say it, sometimes I can't, and sometimes I dare not ... When I dare not express myself, I just, I just sit there, I just stand ... I just ... stand aside. I wish my English is better.” (Adams & Kirova, 2006, p. 191)

2.1.4 Child Labor

Complexities of definitions and current global statistics. As evident in other fields of study, the definition of *child labor* is certainly not unidimensional and cannot be approached from an overly generalized standpoint. That children, as a matter of fact, engage in various forms of work – some even resemble those in which adults actively engage – may come across as unlikely or surprising to some, even though it is the case in many places. In fact, ILO points out that some of the work that children or teenagers do can very well equip them with appropriate skills and experience in their preparations to become productive adults in society (International Labour Office, 2004, p. 16). However, in order for certain work to be considered positive, that work must not affect the children's health, their personal development, or their schooling (International Labour Office, 2004, p. 16).

According to ILO, *all* work done by a child is not essentially classified as 'child labor' – i.e., to be eliminated; in fact, child labor is usually defined as:

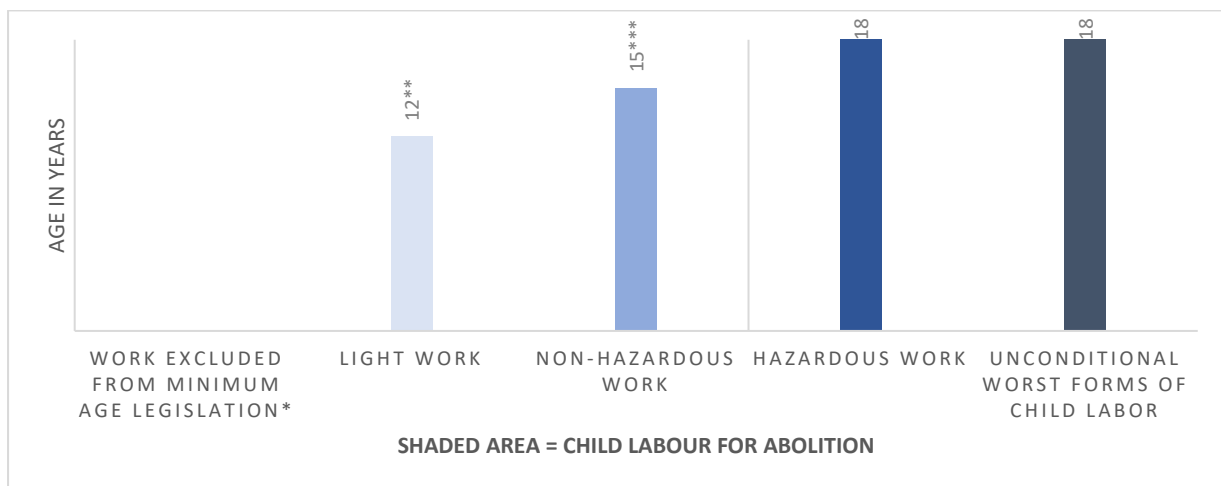
“...work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. It refers to work that:

- *is mentally, physically, socially, or morally dangerous and harmful to children; and*
- *interferes with their schooling:*
 - *by depriving them of the opportunity to attend school;*
 - *by obliging them to leave school prematurely; or*
 - *by requiring them to attempt to combine school attendance with excessively long and heavy work.*

In its most extreme forms, child labor involves children being enslaved, separated from their families, exposed to serious hazards and illnesses and/or left to fend for themselves on the streets of large cities – often at a very early age.” (Inter-parliamentary Union & International Labor Office, 2002, p. 15, as cited by Edmonds et al., 2008, p. 16)

As could be expected, there are several variables involved when deciding whether or not particular types of work are to receive the banner of “child labor”, namely: the forms and hours of work done, the condition, and the objectives of individual countries (International Labour Office, 2004, p. 16). The figure below, adapted from the 2002 Global Report “A Future without Child Labor” by ILO, illustrates the types of work, in relation to the corresponding minimum age, to be considered child labor subject to abolition.

Figure 3: Basic distinctions in ILO child labor standards



* Such as household chores, work in family undertakings, and work as part of education

** The minimum age can be set at 12 or 13 years

*** The minimum age is determined by national legislation; it can be set at 14, 15, or 16 years (Internationales Arbeitsamt & International Labour Conference, 2002, p. 10).

In addition, two more categories of child labor is presented in the report by ILO on the global estimates of child labor:

“Unpaid household services, or household chores, refer to services children provide without pay for their own households. These include caring for household members, cleaning and minor household repairs, cooking and serving meals, washing and ironing clothes and transporting or accompanying family members to and from work and school;

Hazardous unpaid household services involve long hours, an unhealthy environment, unsafe equipment or heavy loads and/or dangerous locations. For statistical measurement, ... , hazardous household chores refer to those performed by children below the general minimum working age for 21 hours or more per week.” (ILO & UNICEF, 2021, p. 19)

Apart from the general criteria of child labor defined above – which undoubtedly should not be taken lightly, there are certain forms of work that are considered absolutely off-limit and shall receive no tolerance whatsoever – *the worst forms of child labor*. This was afforded by the International Convention on the Worst Forms of Child Labor (No. 182), a convention that outlines the types of work that shall be a priority when tackling child labor. According to the convention, the following are included in the term *the worst forms of child labor*, and they apply to all children who are under the age of 18, irrespective of whether the work is paid or unpaid:

“(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory

labor, including forced or compulsory recruitment of children for use in armed conflict;

(b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

(c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;

(d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.” (ILO, 1999a)

Among the four types of the worst forms of child labor stated, a grouping *by definition* and *by condition* can be made in which the first three are referred to as the worst forms of child labor *by definition*, meaning that they do not necessarily require any national decision to be considered as the worst forms of child labor (International Labour Office, 2004, pp. 46–47). However, the final category – hazardous work – will need to be determined on a national level whether a particular list of work shall be included in this category, which is why this is referred to as the worst forms of child labor *by condition* (International Labour Office, 2004, p. 47).

Conveniently, the accompanying Recommendation No. 190 provides a guideline in the hope to assist one in an attempt to define the types of work that are hazardous, by condition:

“(a) work which exposes children to physical, psychological or sexual abuse;

(b) work underground, under water, at dangerous heights or in confined spaces;

(c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;

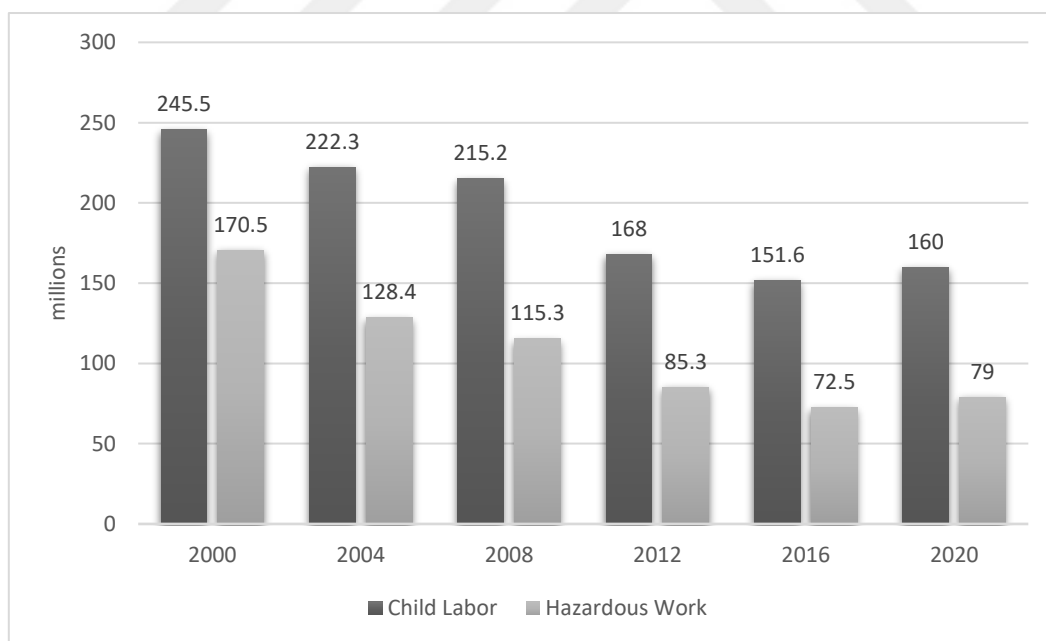
(d) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;

(e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.”(ILO, 1999b)

It is important to point out that the No. 190 Recommendation highlights the possibility of the national laws or regulations or the competent authority to authorize the employment or work of the children from the age of 16 (ILO, 1999b). Although, this is only viable after the consultation with the concerned workers’ and employers’ organizations, and so long as certain conditions are met, that is, the children are entirely protected in terms of their health, safety, and morals (ILO, 1999b). In addition to these requirements, the children must also have sufficiently received the pertinent specific instruction or vocational training (ILO, 1999b).

Pertaining to statistics facts of current state of child labor globally, 160 million children were reported to be in child labor, 63 million of which are girls and 97 million are boys, while 79 million children were found to be in hazardous work that endangered their health, safety, as well as moral development (ILO & UNICEF, 2021, p. 21). Of the total number of 160 million children, 89.3 million were reported to be between 5-11 years, 35 million children aged 12-14, and 35 million aged 15-17 (ILO & UNICEF, 2021, p. 28). More worryingly, more than one third of children in child labor are not in school, with 37.2% of children between 5-14 years in child labor being out of school, the highest number globally (ILO & UNICEF, 2021, pp. 48–49). As far as the progress towards reducing child labor is concerned, it was reported that the world did not make progress in the last four years, for the first time since 2000, which is evident in the increase in the absolute number of children in child labor by more than 8 million, by 6.5 million for children in hazardous work, and the way in which no change was observed in the proportion of children in child labor (ILO & UNICEF, 2021, p. 21). The figure below depicts the global progress against child labor between 2000-2020, where the stall in the last four years is explicitly shown.

Figure 4: Global Progress Against Child Labor 2000-2020



Source: ILO & UNICEF. (2021). Child labor: Global estimates 2020, trends and the road forward. p. 23.

It was also estimated that about 140 million children will be in child labor in 2025 – which is the original global goal to eliminate child labor, and 125 million in 2030 if no accelerated action is taken against child labor, especially with the COVID-19 crisis exacerbating the situation – as it is likely that 8.9 million more children will be in child labor

by the end of 2022 due to the impact of the COVID-19 crisis in the event that mitigation measures are not taken (ILO & UNICEF, 2021, pp. 21, 25, 57).

Characteristically, the majority of child labor, affecting both boys and girls, occurs in the agricultural sector, and this include work in family subsistence farming, small scale farming, large commercial plantations, agro-industrial complexes, fishing (both wild capture fisheries and aquaculture), post-harvest fish processing, and forestry (ILO & UNICEF, 2021, p. 37). Besides, services and industry such as domestic work, work in commerce, transport and automobile repair, work in construction, mining, and manufacturing also takes up significant shares of children in child labor (ILO & UNICEF, 2021, p. 37). The fact that the largest share of child labor occurs within the family is noteworthy, contrary to the common belief that family is a safer working environment (ILO & UNICEF, 2021, p. 37).

Hazardous work is a considerably frequent occurrence and some of the examples include exposure to inorganic fertilizers, pesticides, etc., use of dangerous cutting tools, prolonged period at sea in capture fisheries, being forced to work in deep underground shafts to mine, being lured and drawn into illicit activities while street vending, among others (ILO & UNICEF, 2021, p. 37). Moreover, due to the nature of domestic work, the children are isolated which makes them vulnerable to various forms of abuse – physical, verbal, and sexual (ILO & UNICEF, 2021, p. 37).

International standards and efforts in relation to child labor

International standards: After the clarification of the wide range of child labor spectrum, an examination of the existing international standards with respect to child labor will be of significant use as an analytical background to identify Thailand's current place and progress toward the elimination of child labor. Evidently, the sources of prohibition of child labor can be found in the various provisions of UN and ILO conventions and declarations.

The first international organization to adopt a binding approach regarding the rules on child labor was the ILO, especially with its various conventions on child labor (Cullen, 2007, p. 2). Besides the ILO, UNICEF has also adopted a significant role in the area of child labor by approaching it from a human rights standpoint based on the Convention on the Rights of the Child, while arguing that the best strategy to combat child labor lies in the promotion of basic education initiatives (OECD, 2003, p. 51). The ILO has established the International Programme for the Elimination of Child Labor (IPEC) mainly to urge countries to ratify the ILO Conventions related to child labor, as well as providing technical cooperation, and

assisting countries in their policy formation to deal with child labor (OECD, 2003, p. 51). Interestingly, besides being sector-specific, the ILO treaties between 1919 and 1930s were mainly based on the premise of setting the minimum ages for employment admission (Cullen, 2007, p. 2). Later, with the adoption of the ILO C 138 in 1973 (the Minimum Age Convention), the relevancy of the sector-specific standards has mostly ceased as the three main categories of work – i.e. the general category (minimum age is 15), light work (minimum age is 13), and hazardous work (minimum age is 18) – assume their places on the child labor agenda (Cullen, 2007, p. 2). However, the rather abolitionist approach of the C 138 was rejected by the adoption of the C 182 (the Worst Forms of Child Labor Convention) and R 190 in 1999 by the ILO, which has a “prioritization approach” to focus the efforts on the elimination of the worst forms of child labor, as opposed to targeting all types of work in which children engage (Cullen, 2007, p. 5).

Moreover, there are several ILO Conventions concerning the protection of the workers’ rights – the rights that naturally extend to children. One of which is the ILO Convention No. 29 Concerning Forced or Compulsory Labor, which entirely prohibits forced or compulsory labor of children. The term forced or compulsory labor is defined as “...*all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.*” (ILO, 1930, p. 1). In addition, the ILO Declaration on Fundamental Principles and Rights at Work declares that the following are to be respected, promoted, and realized by all Members:

“(a) freedom of association and the effective recognition of the right to collective bargaining;

(b) the elimination of all forms of forced or compulsory labor;

(c) the effective abolition of child labor;

(d) the elimination of discrimination in respect of employment and occupation;
and

(e) a safe and healthy working environment.” (ILO, 1998).

As for the UN provisions, the most important instruments are the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, Article 4 of the Universal Declaration of Human Rights – i.e. “*No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.*” (UN General Assembly, 1948), Article 8 (2) of the International Covenant on Civil and Political Rights – i.e. “*No one shall be held in servitude.*” (UN General Assembly, 1966a), Article 10

(3) of the International Covenant on Economic, Social and Cultural Rights – i.e., “*Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labor should be prohibited and punishable by law.*” (UN General Assembly, 1966b), and Article 32 of the Convention on the Rights of the Child – i.e., “*States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.*” (UN General Assembly, 1989, p. 14), respectively (Humbert et al., 2009, p. 120). In addition, other articles from the CRC pertinent to child labor and the sale of children include Article 34 – i.e., “*States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse.*”, Article 35 – i.e., “*States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.*”, and Article 36 – i.e., “*States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.*” (UN General Assembly, 1989, p. 15)

As for the protection of child labor as afforded by the international law provisions, according to Suntheeraporn, the following are the fundamental rights to which children engaged in child labor are entitled: the rights of equality and non-discrimination, the rights to work and free choice of employment, the right to education, the right to protection and special assistance, the rights to survival and development, and the right to participation (Suntheeraporn, 2001, pp. 13–28).

States that have ratified the relevant treaties are, within the scope of international law, absolutely and immediately obligated to adopt legislative, administrative, social and educational, as well as preventive measures to protect the children according to the protection afforded by the treaties (Humbert et al., 2009, p. 120). In addition to these obligations, the ICESCR, the CRC, and ILO C 182 also mention the international cooperation and assistance when it comes to the obligations to implement the related conventions (Humbert et al., 2009, p. 120). In sum, states have the obligation to 1) refrain from the exploitation of children 2) protect the children from violations by third parties 3) fulfill certain obligations, such as the provision of free basic education and measures for recovery, rehabilitation, and social integration of exploited children (Humbert et al., 2009, p. 121).

In terms of the mechanisms to monitor the enforcement of the ILO Conventions, the first tool is the *regular system of supervision* which requires the provision of regular reports regarding the measures that member countries have taken in accordance with the ratified Convention (OECD, 2003, p. 56). Subsequently, the measures are assessed by the Committee of Experts on the Application of Conventions and Recommendations (CEACR), which annually provides a report concerning the progress (OECD, 2003, p. 56). The second tool is a *special system of supervision* that addresses specific allegations made against a member state via Articles 24 and 26 of the ILO Constitution – Article 24 affords any national or international worker or employer association the ability to claim the failure to apply an ILO Convention against a given member state, and this is followed by the Governing Body of the ILO inviting the concerned Government to make a statement about the allegation; Article 26 allows any ILO member state which has ratified a relevant Convention or any delegate of the International Labor Conference to complain against other member states with respect to how it fails to secure the Convention's effective application (OECD, 2003, p. 56).

With regards to the UN implementation mechanisms, there are the treaty-based bodies and the charter-based bodies, the jurisdiction of which extend to the state parties to a certain treaty and to all member states of the UN, respectively (Humbert et al., 2009, p. 124). The effectiveness of both procedures stems from the ability to shame each government, which is considered to be rather weak in character, according to Humbert et al. (2009). As for the treaty-based bodies, the relevant bodies are the Human Rights Committee (HRC), the Committee on Economic, Social and Cultural Rights, and the Committee on the Rights of the Child, each, in order, implementing the ICCPR, the ICESCR, and the CRC (Humbert et al., 2009, p. 124). Among the three committees, the HRC provides the strongest mechanism because, in addition to the reporting mechanism that exists in all three committees, it also supports the individual and interstate complaint procedures – although the latter has proven to be futile due to the lack of utilization by states parties (Humbert et al., 2009, p. 142). On the other hand, the charter-based bodies encompass the public debates on human rights violations 146, the special procedures appointing special rapporteurs, experts, representatives, working groups, and other envoys for the monitoring of human rights violations, the confidential complaint procedure, and promotional activities (Humbert et al., 2009, pp. 146–151).

Nonetheless, it should be noted that many incidents of child labor are essentially development-related and that its elimination can hardly be achieved if the further development opportunities and the coherent strategy with child labor adopted by national governments and

key stakeholders are lacking (OECD, 2003, p. 57). As evident by the table below, more efforts are still necessary in terms of transposing international standards into national laws and policies.

Table 2: Progress in transposing international standards into national laws and concrete policies, by region, 2004-14

Region	Establishment of legal frameworks based on the International Standards on child labor		Development of national policies and programmes to combat child labor		Inclusion of child labor concerns in relevant development, education, social protection, and other social policies and programmes	
	Number of countries	Number of laws	Number of countries	Number of policies, plans, and programmes	Number of countries	Number of policies, plans, and programmes
Africa	23	47	22	62	20	60
Latin America	16	90	15	129	12	65
Asia and the Pacific	11	31	10	56	11	52
Central Asia, Eastern Europe, and Arab States	9	26	10	32	13	34
Total	59	194	57	279	46	211

Source: ILO. (2018). Ending child labor by 2025: A review of policies and programmes (2. ed). International Labor Office, page 32.

Across all regions, 59 countries have established legal frameworks based on international child labor standards, demonstrating a certain amount of recognition of the need to tackle child labor, though there certainly is more room for improvement. There is also significant regional variation. For instance, Latin America has implemented the highest number of laws and policies, plans, and programs. In contrast, the Asia and the Pacific region, despite having a high child population, has comparatively fewer laws and policies, plans, and programs. Moreover, fewer countries have integrated child labor concerns into their broader social policies, indicating that child labor is often addressed as a standalone issue rather than being integrated into a holistic approach to social development, education, and protection. Overall, this table shows significant process, however, it also implicitly highlights the need for further action, provided that there are 195 countries in the world, and the table suggests that many have not yet fully implemented international child labor standards.

It is also of utmost importance, according to the IPEC's evaluation of programs, that the interventions made by the government are shaped in accordance with the special needs of the target group, as well as the possessing the sensitivity to the local culture (International Programme on the Elimination of Child Labor, 2001, p. 45).

INGOs and NGOs: In addition to international organizations, there are significant number of non-governmental organizations (NGOs) and non-profit organizations that are engaged in vital efforts to address child labor. However, due to the space limit of this study, it is not plausible to cover each and every single organization, which is the reason why only the following organizations whose works are directly related to combatting child labor on an international level are presented, based on a compilation by Human Rights Careers (2020).

The Global March Against Child Labor (The Global March) is a global network comprised of trade unions, teachers' associations, and civil society organizations that works towards the eradication and prevention of all types of child labor, slavery, and trafficking, while also ensuring that all children have access to free, meaningful, and high-quality education (The Global March Against Child Labor, 2021b) through core programs such as Alliance 8.7, Supporting Action Against Child Labor in Asia, Accelerating Progress in Ending Child Labor in Africa, Ending Child Labor in Supply Chains, among others (The Global March Against Child Labor, 2021a).

The Child Labor Coalition (CLC), a national network for the exchange of information on child labor, which was formed in November 1989, provides a forum and a unified voice on the protection of working children and ending of child labor exploitation (The Child Labor Coalition, 2021b), and believes that no child should be exploited irrespective of race, sex, nationality, religion, economic status, place of residence, or occupation, and are involved in activities such as providing testimony before the state and federal legislative bodies and agencies on child labor issues, submitting comments in response to regulatory proposals, raising awareness through advocacy efforts, conducting research, and other related activities (The Child Labor Coalition, 2021a).

Save the Children is one of the largest INGOs that have been working to help and protect the children in over 100 countries from dangers such as child trafficking and early marriage, while also keeping them healthy from disease and malnutrition through various programs ranging from health programs, education programs, protection program, emergency response, policy and advocacy, to child sponsorship (Save the Children, 2021).

International Initiative to End Child Labor (IIECL) is a not-for-profit organization based in the United States that aims to promote awareness-raising of child labor problem both within the US and internationally, study the worst forms of child labor, develop effective strategies and solutions based on best practices, assist with promoting the public understanding and awareness of the UN Convention on the Rights of the Child (CRC) and the ILO's child labor conventions (Convention 182 and 138), work in partnership with relevant entities seeking to identify and/or ameliorate child labor, among others (International Initiative to End Child Labor, 2021). IIECL seeks to achieve their objectives through activities such as conducting and/or providing education, capacity building, research, resources, monitoring and evaluation services to entities and institutions aiming to eliminate the worst forms of child labor both in the US and around the world (International Initiative to End Child Labor, 2021).

The Eliminating Child Labor in Tobacco-Growing Foundation (ECLT), founded in 2000, is an organization that unites important actors who are committed to fighting against child labor in the tobacco production supply chain, and it is a member of the UN Global Compact and holds a special consultative status with the UN Economic and Social Council (The Eliminating Child Labor in Tobacco-Growing Foundation, 2021). The organization seeks to address the root causes of child labor through projects such as awareness-raising on child labor and its dangers, engaging both parents and communities to identify, withdraw, and support children in child labor, among others (The Eliminating Child Labor in Tobacco-Growing Foundation, 2021).

2.2 Thailand, Child Migrants, and Child Labor

2.2.1 Migration in Thailand: Context and Statistics

Thailand is located in the southeastern region of Asia and shares borders with the Andaman Sea and the Gulf of Thailand. Additionally, it is situated to the southeast of Myanmar. To be more precise, Thailand's neighboring countries include Cambodia to the east, Malaysia to the south, Myanmar to the west, and Lao People's Democratic Republic to the north. This border was established as a result of international treaties signed between Thailand and its neighboring countries in the early 20th century (Kiprop, 2018). At present, the population of Thailand is comprised of various ethnicities, such as Chinese, Malay, Karen, Shan, Mon, Khmer, Lao, Indian, and many more. This diversity is a result of Thailand's historical status as a migration hub in the region for hundreds of years. It was only later, after a significant number of people had entered or resettled in Thailand's territory, that formal systems were established to regulate these movements (Harkins, 2019, p. x).

Given its strategic location in the heart of the Greater Mekong Sub-region, and its relatively more advanced economy compared to its neighbors, Thailand naturally attracts a considerable number of migrant workers from neighboring countries in the Asia-Pacific region, particularly from CLM+V countries - Cambodia, Myanmar, Lao People's Democratic Republic, and Vietnam (Smith et al., 2019, p. 9). Migration plays a crucial role in driving Thailand's socio-economic development, as the country is grappling with an aging workforce and a declining birth rate. To address the growing labor shortage, Thailand relies heavily on migrant workers to fill positions in sectors that are typically shunned by Thai nationals (Smith et al., 2019, p. 9). In addition to labor migrants, Thailand also has a significant population of refugees and asylum seekers living in camps and urban areas, as well as Thai citizens who have emigrated from the country (Smith et al., 2019, p. 10).

International migration in Thailand can be attributed to various factors, including significant economic and social disparities between Thailand and its neighboring countries. These disparities include differences in wages and levels of development, with the majority of immigrants coming from countries facing extreme poverty. As a result, families often seek to secure their income sources by diversifying their economic risks, which can involve having a household member become a migrant worker (Rukumnuaykit, 2009, p. 3). Another critical factor that draws migrant workers to Thailand is the country's dual economy, which comprises both a capital-intensive sector and a labor-intensive sector that primarily employs low-skilled and temporary workers (Rukumnuaykit, 2009, pp. 3–4). It is important to consider other factors, such as Thailand's lengthy mandatory education which leads to fewer Thais lacking education entering the low-skilled job market. Additionally, neighboring countries, especially Myanmar, are experiencing political instability and administrative inefficiencies, including internal conflicts in some areas, as well as a lack of economic opportunities and jobs due to the unrest are also contributing factors (Rukumnuaykit, 2009, pp. 3–4). A 2003 study found that in Myanmar, the primary reasons motivating individuals to migrate were (a) low wages in the country, (b) high levels of unemployment, (c) poverty within families, (d) negative experiences like forced labor, and (e) inadequate qualifications for available jobs (Huguet & Sureeporn Punpuing, 2005, p. 6).

In addition to the previously mentioned factors, globalization - the increased and accelerated movement of information, goods, money, and especially people - is also a significant contributor to migration. The Thai government's policies, local officials, employers, and private recruitment agents have institutionalized migration to Thailand, making it easier

by offering safe transportation across the border to an employer (Huguet & Sureeporn Punpuing, 2005, p. 5).

As a result of these factors, the state faces a major challenge in managing and controlling the large number of migrant workers entering the country. To address this issue, two processes have been implemented to facilitate labor migration to Thailand. The first is the signing of memoranda of understanding (MOUs) with neighboring countries (Cambodia, Lao PDR, Myanmar, and Vietnam - CLMV) to provide migrants with legal channels to access employment opportunities within Thailand. The second is the nationality verification (NV) process, which allows undocumented migrants to register for an ID card at One-Stop Service Centers without having to return to their home countries, thereby regularizing their status (Huguet & Sureeporn Punpuing, 2005, p. 16).

Thailand's economy and workforce rely heavily on migrant workers, particularly in industries that require low-skilled and labor-intensive work. Therefore, it is clear that migration plays a significant role in the country's socio-economic progress. According to a 2017 report from UNDESA, Thailand is an aging society with the lowest population growth rate (0.2% annually) and the second-lowest total fertility rate (1.5 children per woman) in Southeast Asia, and the number of older persons in the population is expected to rise from 16% to over 35% by 2050 (Smith et al., 2019, p. 10). In November 2018, the non-Thai population in Thailand totaled around 4.9 million out of a total population of approximately 69 million. Out of the non-Thai population, 3.9 million were migrant workers from the CLMV countries, comprising over 10% of the labor force of 38.7 million people in Thailand. This represents a significant increase from 2014 when the number of foreign people in Thailand was only 3.7 million, including 2.7 million migrant workers (Smith et al., 2019, p. 9). A significant portion of the total estimated number of migrant population in Thailand, approximately 1-2.5 million, are believed to have irregular status, and the process of entering Thailand through legal channels, including paying fees and navigating bureaucracy, can be daunting for some migrants and may discourage them from using these routes (IOM Thailand, n.d.). Nevertheless, the numbers provided are estimates, and if we factor in the approximate number of non-Thai individuals residing in the country, the number could be as high as 4.7-5.1 million, taking into account stateless persons and workers with irregular status. (Smith et al., 2019, p. 11).

Moreover, although migrant workers from the neighboring CLMV countries make up a significant portion of the labor force in Thailand, they are not the only source of labor. Due

to its open economy, Thailand also attracts professional and high-skilled workers from various countries. In 2017, Thailand attracted a total of 136,542 migrant workers with work permits for professional occupations, primarily from countries such as Japan, China, and the Philippines (Huguet & Sureeporn Punpuing, 2005, pp. 17–18). Thailand also has a significant number of foreign students, with 20,155 international students enrolled in 103 higher education institutions in 2010 and in 2012, there were a total of 99,933 international students in the Thai educational system, ranging from kindergarten to upper secondary school (Huguet, 2014, p. 5).

In addition, as of mid-2020, 97,686 refugees (including refugee-like situations) under UNHCR's mandate, 830 asylum-seekers, and 474,996 stateless persons (reported by the Royal Thai Government) confirmed by UNHCR in Thailand (UNHCR, 2021). Urban refugees and asylum seekers in urban areas are mainly supported by UNHCR as there is a lack of a national framework to address their essential needs, legal concerns, and protection. Many of them arrive in Bangkok with a passport and tourist visa, which makes them irregular migrants once their visa expires (Smith et al., 2019, p. 19).

The difficulty in gathering accurate data on the total number of migrant children in Thailand is a persistent issue that poses challenges for researchers and policymakers alike. The total number of child migrants is unknown, but it was estimated to be around 300,000 to 400,000 in 2018 (Roman & Chuanprapan, 2019a, p. 99), in addition to about 145,000 stateless children registered with the government, as of 2018 (UNICEF, 2019). It is important to note that Thailand has not signed the 1951 Refugee Convention because this indicates that the principle of Non-Refoulement which provides the protections for the refugees is not followed or implemented by the Thai authorities (Thoresen, 2018, p. 40). Moreover, while Thailand has ratified the CRC, it specifically made reservations in not accepting the article 22 of the Convention that protects the rights of refugee children (Parthiban & Hooi, 2019, p. 71), by stating that "*The application of articles 22 of the Convention on the Rights of the Child shall be subject to the national laws, regulations and prevailing practices in Thailand.*" (United Nations Treaty Collection).

In regard to the international collaboration, the ASEAN Community, with its three pillars (political-security, economic, and socio-cultural), has the capacity to bring about substantial advancements for its member nations, including Thailand. The economic and socio-cultural pillars, in particular, have a direct impact on migration within the region (Huguet, 2014, p. 179).

The ASEAN Economic Community (AEC) Blueprint deals with matters related to the free flow of skilled labor and services, with a primary focus on the movement of service providers and natural persons. The goal is to facilitate cross-border trade as well as investment (Huguet, 2014, p. 181). The term "Natural Persons" refers to various categories of people such as self-employed individuals, independent service providers, foreign employees of foreign companies operating within a Member State (intra-corporate transferees), and employees of foreign companies who are sent to fulfill a contract with a host country client (known as contractual service suppliers) (Huguet, 2014, p. 182).

The ASEAN member countries have signed Mutual Recognition Arrangements (MRAs) to make it easier for skilled professionals to work in different countries within the region. The MRAs acknowledge eight priority professions/sectors, including accountancy, engineering, surveying, architecture, nursing, medical, and dental services (Huguet, 2014, pp. 182–183). In the case of Thailand, low-skilled workers from neighboring countries can still legally come to work in Thailand because the policies governing the entry and stay of low-skilled workers will still be managed by the Thai government, in conjunction with MOUs with the countries of origin. Therefore, the AEC will not affect the entry and stay of low-skilled workers from neighboring countries in Thailand (Huguet, 2014, pp. 182–183). Thailand faces challenges in preparing for the freer movement of labor within the ASEAN Community, particularly in managing skilled and low-skilled workers, and the absence of a clear plan to create opportunities for Thai skilled professionals in the AEC. This indicates Thailand's hesitancy, which is shared by other member states, resulting in the failure to meet the initial expectations outlined in the AEC Blueprints (Huguet, 2014, pp. 191–192). A recommendation would be for Thailand to establish and implement a unified migration policy that addresses the movement of workers of various skill levels within the ASEAN region, which should be an integral part of their plan in readiness for the ASEAN Community (Huguet, 2014, p. 191).

2.2.2 Existing Protection for Child Migrants in Thailand's Policies

Section 27 of the Constitution of The Kingdom of Thailand (2017) extends its coverage to child migrants by stating that:

“All persons are equal before the law, and shall have rights and liberties and be protected equally under the law.

Men and women shall enjoy equal rights.

Unjust discrimination against a person on the grounds of differences in origin, race, language, sex, age, disability, physical or health condition, personal

status, economic and social standing, religious belief, education, or political view which is not contrary to the provisions of the Constitution or on any other grounds, shall not be permitted.

Measures determined by the State in order to eliminate an obstacle to or to promote a person's ability to exercise their rights or liberties on the same basis as other persons or to protect or facilitate children, women, the elderly, persons with disabilities or underprivileged persons shall not be deemed as unjust discrimination under paragraph three.” (Constitution of The Kingdom of Thailand B.E. 2560, 2017)

In Thailand, the term “child” refers to a person under 18 years of age but does not include those who have become sui juris by marriage, according to the Child Protection Act 2003 (อินทราณวช, 2017, p. 1).

2.2.2.1 Migration Policies

It is now unambiguously evident that international migration is almost an inseparable part of Thailand due to factors such as dual economy and geographical position with close proximity to Cambodia, Lao PDR, and Myanmar. As demand for migrant workers to compensate for the shortage in unskilled labor, two major dilemmas arise for policymakers: how to employ only the needed number of migrant workers and not attracting excessive numbers of migrants (Huguet et al., 2008, p. 6); and how to ascertain the return of migrant workers once their employment is concluded, i.e. the expiration of their work permits (Huguet et al., 2008, p. 14). Two major acts, namely the Immigration Act 1979 and the Foreign Employment Act 2008 are the overarching acts governing migrant workers in Thailand, with the former declaring any unauthorized entry and/or breach of immigration law illegal, and the latter requiring a work permit and legally designating the activities in which migrant workers are allowed to work (Petchot, 2011, pp. 15–16). Currently, there are two different channels through which migrant workers can register in Thailand: the Memorandum of Understanding (MOU) process for regular migration and the nationality verification (NV) process and the registration for irregular migrant workers already living and working in Thailand – none of which is preferred by a significant number of migrant workers as they continue to work without legal documentation in Thailand instead (Grimwade et al., 2019, pp. 28, 31). The NV process in Thailand began when an employer submitted a list of workers' names for whom they requested regularization, and this list was then checked and cleared through diplomatic channels with the authorities in Cambodia, Lao PDR, and Myanmar. Once the names were cleared, eligible migrants could collect their temporary passports at one of the three border NV offices, or, in the case of Myanmar migrants, by returning to their country of origin. Cambodian and Lao authorities

dispatched mobile teams to issue temporary passports to their eligible citizens (Natali, 2013, p. 180). Moreover, the process was complex and involved a high level of bureaucracy, which caused it to exceed the capacities of the governments involved to efficiently handle it, resulting in long waiting times for migrants seeking to fully regularize their status (Natali, 2013, p. 184).

On a regional level, the priority was placed on how to prevent irregular migration and how to motivate migrant workers to return home after the completion of their employment, which was manifested into the adoption “The Bangkok Declaration on Irregular Migration” in April 1999 (Huguet et al., 2008, p. 5). The Declaration noted that “*comprehensive, coherent and effective policies on irregular/undocumented migration have to be formulated within the context of a broader regional framework based on a spirit of partnership and common understanding*”, while also noting the approach Thailand was willing to follow which can be summed up to two main points: enhancing the cooperation in identifying undocumented/irregular migrants to accelerate their readmission; and reducing the attractiveness of trafficking by ensuring the timely return through cooperation of countries concerned, in as safe and humane way, of those without right to enter and remain (Huguet et al., 2008, p. 5).

Apart from the regional framework, **bilateral policies** have played a crucial role in the management of international migration, particularly labor migration, in Thailand since 2002. The MOUs signed between the Thai Government and Lao PDR in 2002, Cambodia and Myanmar in 2003, detail that the process for hiring workers from one country to work in another country involves the first country creating a list of available positions, which the second country then uses to select qualified applicants for the jobs, and the two countries will cooperate in terms of visa provision, work permit, health insurance, and a work contract (except for Lao PDR) and contributions workers have been agreed on (Huguet et al., 2008, p. 6). According to the MOUs, the employment agreement is limited to a maximum of two years, with the possibility of extending for an additional two years, but the total duration of employment cannot exceed four years, and after the completion the workers are required to return home – ensured by the savings fund they are promised to receive once the return is verified by his/her government – ineligible to reapply for three years (Huguet et al., 2008, p. 6).

As far as the **national policy** on migration is concerned, the registration of migrant workers has been implemented through various Cabinet Decisions, stating that employers specify a number of foreign workers they require, which is to be approved by the Ministry of

Labor (Huguet et al., 2008, p. 7). The permission was initially cautiously granted to a small number of provinces and for specific jobs or sectors in 1992, whereas in 2004 a significant expansion in the scope of migrants' registration took place following the adoption of a resolution by the National Security Council stating six approaches to migration management which include the following:

“a) accept the use of irregular migrant workers in some sectors but limit the overall number by considering demand by sector;

(b) prepare personal records and identification cards for the migrant workers;

(c) employ only the migrant workers, not their family members;

(d) ensure that proper wages are paid;

(e) implement effective repatriation measures;

and (f) develop the economy of regions opposite the Thai border in order to reduce the volume of migration.”(Huguet et al., 2008, p. 7)

The announcement of The Royal Ordinance in 2017, under certain conditions such as the requirement to obtain permission from the Registrar, allow migrant workers the opportunity to change their employment, preventing them from becoming irregular when changing workplaces – something that until now was impossible because the work permits were tied strictly to *one* employer (Grimwade et al., 2019, p. 33). However, it should be noted that the reluctance may occur in the face of obstacles including language barriers or the lack of information, or if the desire to change their employment stems from the incidents of abuse or exploitation taking place in the workplace (Grimwade et al., 2019, p. 33).

To further detail The Royal Ordinance, its provisions of severe penalty such as high amounts of fine and prison sentences for irregular migrants caused thousands of Cambodian, Lao, and Myanmar migrant workers to return home following its announcement in 2017 (Grimwade et al., 2019, p. 29). However, the aforementioned fine amounts were reduced and the prison sentences were removed when the amended version of The Royal Ordinance was enacted in 2018 by the National Council for Peace and Order (NCPO) by invoking section 44 of the Interim Constitution (Grimwade et al., 2019, p. 29). The penalties for the workers prior to the amendment were the fine amounts of THB 2000-100,000 and/or up to five years of prison sentence, and the fine amounts of THB 20,000-100,000 in the event that the migrant worker was engaged in work other than what was specified on his/her work permits (Grimwade et al., 2019, p. 29). As for the employers, the fines of THB 400,000-800,000 could be charged per unauthorized worker, and THB 400,000 for employing workers to perform work other than

what was specified on their work permits (Grimwade et al., 2019, p. 29). Nonetheless, the amended version of The Royal Ordinance, the fine of THB 5,000-50,000 is now charged from irregular migrants, and migrant workers risk paying a THB 20,000 fine if they fail to notify a work permit official of their employer and workplace within 15 days from the start date of the job, as well as every time they change employers (Grimwade et al., 2019, p. 29). For the employers, they now can be charged THB 10,000-100,000 per unauthorized worker, and subject to a fine of THB 50,000-200,000 and/or a maximum one-year prison sentence if they repeat the offense (Grimwade et al., 2019, p. 29).

Regarding the immigration detention in Thailand, it is considered as an administrative process in which it is mandatory for migrants to remain at a detention center for the duration of immigration order processing, as opposed to as a penal sanction (Roman & Chuanprapan, 2019b, p. 110). Migrant children continue to face a significant problem of being held in detention. Reports indicate that children who seek asylum are frequently kept in immigration detention centers until their cases are resolved, and they may end up detained alone or with their family for years in facilities that are not adequately equipped to accommodate them for extended periods of time (Roman & Chuanprapan, 2019b, p. 111). In addition, it was reported that the conditions of such detention centers were poor and would pose various health risks to children, which would worsen in a long period of detention (Roman & Chuanprapan, 2019a, p. 111).

In 2016, Thailand announced its commitment to stopping the detention of children for immigration purposes, and in the following year, a few unaccompanied children were released through ad hoc arrangements (Roman & Chuanprapan, 2019b, pp. 111–112). An inter-ministerial process was started to develop a memorandum of understanding (MOU) and standard procedures for releasing children, particularly if they are detained with their mothers, and as a result, 102 individuals (including 78 children) were placed across nine different shelters (Roman & Chuanprapan, 2019a, pp. 111–112). Accordingly, in 2019, an MOU titled “Memorandum of Understanding on Determining Standards and Alternatives to Detention for Children in Migration Detention Centers” were signed by Heads of seven government agencies, including the Royal Thai Police, the Ministry of Social Development and Human Security, the Ministry of Foreign Affairs, Ministry of Interior, Ministry of Public Health, Ministry of Education, and Ministry of Labor (Ministry of Foreign Affairs, Kingdom of Thailand, 2019). The MOU – the implication of which would be ensured by the Ministry in coordination with UNHCR, IOM, and UNICEF – would ensure that children are taken care of by either the

Ministry of Social Development and Human Security, private organizations, or civil society organizations while waiting for long-term resolutions, adhering to the principle of the best interests of the child, as opposed to being placed in the Immigration Detention Centers (Ministry of Foreign Affairs, Kingdom of Thailand, 2019).

The fact that Thailand is not a signatory to the 1951 Refugee Convention nor to its subsequent 1967 Protocol, coupled with the lack of pertinent legal framework that provides refugees the necessary legal standings imply that refugees are neither accepted nor recognized in Thailand (Parthiban & Hooi, 2019, pp. 59–62). Moreover, even though Thailand did sign and ratify the CRC, it has made reservations specifically not to accept Article 22 that protects the rights of refugee children (Parthiban & Hooi, 2019, p. 71). As of October 2022, the number of refugee population seeking refuge across nine temporary shelters along the Thai-Myanmar border was 90,945, and 35.7% or about 32,467 of which were children – 0-17 years of age (UNHCR Thailand MCO, 2022).

According to Button (2017), 49 and 43 child asylum seekers and refugee children were detained in the immigration detention centers in 2015 and 2016, respectively (Button, 2017, p. 1. Cited by Parthiban & Hooi, 2019, p. 61). The reasons for arrest can be either due to overstaying in Thailand, which is considered as “illegal” entry, or entry into Thailand using forged documents, i.e., fake passports, and after the penalty of either paying fines or serving jail time, the person will be subjected to deportation back to their home countries. In the event that the status is uncertain, the offender will be detained in the refugee camps, mostly indefinitely or until they decide to voluntarily return or UNHCR intervenes for a resettlement. Even though Thailand views the detention of refugee children in the camps known as “24/7 cells” with their parents or family members as a form of protection, the condition of the camps is poor as they are not meant for long-term stays, and such condition poses serious physical and psychological implications on the detainees, especially children (Parthiban & Hooi, 2019, pp. 71–72).

2.2.2.2 Social Policies

The policy responses related to child migrants in Thailand are characterized by two main areas: 1) the government’s effort to regularize the legal status of migrant workers and their dependent children, as previously addressed 2) the focus on granting migrant children the rights to access public services – which afford all children in Thailand (including documented and

undocumented migrants) the rights to access education, health care, and child protection services (Roman & Chuanprapan, 2019a, p. 99).

Irregular legal status:

A child should be registered immediately after birth, according to Article 7 of the CRC, and Article 18 of ASEAN Human Rights Declaration further reinforces that every person is entitled to nationality (Ramani & Uden, 2021, p. 12). In Thailand, all children born within its territory are entitled to birth registration as well as the right to have their identification recorded in the government's archive (UNICEF Thailand, 2020, p. 14). However, the Civil Registration Act technically excludes migrant children whose parents illegally entered Thailand from birth registration (Ramani & Uden, 2021, p. 13). As for citizenship, it can be granted either by descent (*jus sanguinis*) or by birth (*jus soli*), but according to Nationality Act, migrant children born to parents with temporary permits to stay in Thailand or who entered Thailand through illegal channels are not entitled to the attainment of nationality (Ramani & Uden, 2021, pp. 12–13). Therefore, some migrant children can only remain in Thailand temporarily as they cannot obtain nationality nor legal recognition, rendering them susceptible – due to the lack of access to rights and protections – to various forms of abuse, exploitation, neglect, as well as risks of arrest, detention, fines, and eventually, deportation (Roman & Chuanprapan, 2019b, p. 101).

Apart from this, efforts have been made by the Thai government in an attempt to regularize the status of 'irregular' migrants, including children. These efforts include the establishment of memoranda of understanding (MOUs) with neighboring countries in the CLMV region to provide a legal channel for migrants to access job opportunities in Thailand. To assist undocumented migrants in obtaining legal status, the Thai government has initiated a nationality verification (NV) process. This program enables these individuals to register for an ID card at One-Stop Service Centers, without having to leave Thailand and return to their country of origin (Huguet & Sureeporn Punpuing, 2005, p. 16).

Education:

In Thailand, the following national law and policies are the main guiding frameworks for education:

1. *The Constitution of the Kingdom of Thailand B.E. 2560 (2017)*

Chapter V, section 54 establishes that “*The State shall ensure that every child receives quality education for twelve years from pre-school to the completion of compulsory education free of charge.*” (Constitution of The Kingdom of Thailand B.E. 2560, 2017)

2. *The National Education Act B.E. 2542 (1999)*

Chapter 2, section 10 establishes that *“In the provision of education, all individuals shall have equal rights and opportunities to receive basic education provided by the State for the duration of at least 12 years. Such education, provided on a nationwide basis, shall be of quality and free of charge.”* (National Education Act of B.E. 2542, 1999)

3. *The National Scheme of Education B.E. 2560-2579 (2017-2036)*

Provision of education establishes the following 5 aspirations:

- “1) Access: All people have access to a high quality and standardized education;*
- 2) Equality: Every learner in all target groups is equally provided with quality standardized education;*
- 3) Quality: A quality educational system enables learners to reach their full potential;*
- 4) Efficiency: An efficient educational administration leads to worthy investment and educational achievement;*
- 5) Relevancy: The educational system responds and meets the dynamics of contextual and global change.”* (The National Scheme of Education B.E. 2560-2579 (2017-2036), 2017)

4. *The 15-Year Free Education Program B.E. 2551 (2008)*

The Program’s objective is to provide everyone the opportunity to receive 15 years of free education by providing textbooks in the main subjects for all schools, providing free school uniforms and school supplies, and supporting with other expenses to compensate for various fees that the school collects from the parents (Sirinirun, 2021).

5. *The educational policy for the management of education for disadvantaged children (2004)*

The provision’s objective is to create equal opportunities for ‘disadvantaged’ children by providing them with education or vocational training, and the Education Council indicated six categories of disadvantaged children as follows:

- a) Abandoned and neglected children;
- b) Children physically or sexually abused;
- c) Children with undesirable behavior;
- d) Children with physical, mental, emotional, intellectual and learning deficiency;
- e) Socially deprived/poor children;
- f) HIV/AIDS affected children (Petchot, 2011, p. 46).

6. *The Cabinet Resolution, ‘Rule of the Ministry of Education on Evidentiary Document for Pupils and Students Admission into Establishment of Education B.E. 2548 (2005)*

With the Cabinet Resolution, all children within Thailand can obtain basic education (grade 1-9) for free in Thai public schools (Ministry of Education, 2005). The educational system in Thailand has been made available to all children under the age of 15 regardless of their legal status or citizenship, ensuring that all non-Thai citizens, including those who are irregular migrants, have the opportunity to receive fair and inclusive education (Roman & Chuanprapan, 2019a, p. 101). Through this policy, those without proof of identity are given an 'identity code' (starting with 'G', such as G1257627083) which is only recognized within the education sector, and the schools will receive budget support on a capitation basis (approximately 1900 Baht per student, covering tuition fee, book fee, stationery fee, student uniform fee, and extra curriculum fee) once the number of 'G-series' children is sent to the Ministry of Education, and both Thai and stateless and migrant children will receive the same amount of budget per head (Tuangratananon et al., 2019, p. 8).

Aside from the Thai public schools, there also exist the Migrant Learning Centers (MLCs) which initially had been established by NGOs as community nurseries and educational spaces to address the 'misconduct', according to some villagers, of migrant children. However, as MLCs do not have legal basis, the lack of school standards is, more often than not, the given case, including the crowdedness of students, the lack of nutritional support, the lack of supervision, subpar hygienic environment and unhealthy conditions, and limited budget. Due to certain features of the MLCs, namely the Myanmar curricula and native Myanmar teachers, certain internal agreement with Myanmar schools for the graduates to further their studies in Myanmar, the close proximity in terms of location to the migrant communities, and the flexibility in terms of document checking compared to the Thai public schools, MLCs were reported to be most of migrant parents' preference (Tuangratananon et al., 2019, pp. 7, 12).

In addition, in 2016, the ASEAN Member States, including Thailand, have collaborated to make education accessible to all children by ensuring the seven key principles of "inclusivity, equity, accessibility, continuity, quality, flexibility, and sustainability" via regional and national activity, in order to implement the ASEAN Declaration on Strengthening Education for Out-of-School Children and Youth (Roman & Chuanprapan, 2019a, p. 102). Consequently, a considerable number of non-Thai children are enrolled in the educational system, but it is also estimated that an even greater number of migrant children are not (Roman & Chuanprapan, 2019a, p. 102). As of 2019, 145,379 child migrants were reported to have enrolled in the Thai government formal schools, 2,562 in Thai government non-formal

education learning centers, 16,350 in MLCs, while 200,000 child migrants were reported to be out of school (Roman & Chuanprapan, 2019a, p. 104).

Although such policies do present promising prospects and expectations, the reality has proven that there exist certain obstructions in terms of practicality. Some of the major hindrances preventing the practical implementation of the policies are namely the negative attitudes towards children in migration, lack of policies and procedures understanding by officials, and lack of capacity to sufficiently support migrant children (Roman & Chuanprapan, 2019a, p. 99). For instance, child migrants and ethnic minorities were reportedly argued to struggle to access basic education because of an unawareness of migrant children's rights to public education, inadequate transportation to schools, and cultural and language barriers (United States Department of Labor, 2018, p. 2). Moreover, some implicit discrimination and marginalization persisted as evidenced in the study by Tuangratananon et al. (2019) where verbal and physical bullying such as name-calling was reported, resulting in some students resigning from the schools (Tuangratananon et al., 2019, p. 9). For some parents, having their child employed early on was preferred over having them attend school as the latter could mean an additional expense (Tuangratananon et al., 2019, p. 10). A study by Arphattananon (2012) showed that there was a lack of policy to promote or persuade migrant parents to make their children attend schools as well as a lack of a follow-up policy on children who dropped out of schools, while the current education policy did not assist the children to proceed to higher education levels (Arphattananon, 2012). It is important to note that the immigration law in Thailand makes it very difficult for migrant workers and their dependent children to obtain legal status, which leads to a prolonged precarious status (Petchot, 2011, p. 19).

Health care:

In terms of health care, all migrant workers and their dependents also possess the right to access health care in Thailand under two main insurances schemes: The Social Security Scheme (SSS), run by the Ministry of Labor, which is available for migrants who have either gone through the process of verifying their nationality or are working in the formal sector under one of the MOUs; and the Migrant Health Insurance Scheme (MHIS) (Roman & Chuanprapan, 2019a, p. 104). The numbers of migrant enrolled in the MHIS was 862,870 in November 2019, 91 per cent of whom were migrant workers and 9 per cent were their dependents, while the numbers of migrants insured under SSS was 1,107,426 in September 2018 (Moungsookjareoun & Kertesz, 2019, p. 123)

The MHIS, which is managed by the Health Economics and Health Security Division of the Ministry of Public Health, was introduced back in 1999 specifically targeting migrant workers from CLM countries and the scheme is compulsory for migrant workers who are ineligible for other schemes such as the SSS, but it is not required for their dependents to enroll (Moungsookjareoun & Kertesz, 2019, p. 122). For an adult, the cost of the health examination is 500 Baht (around USD 16) and 1,600 Baht (USD 50) for a one-year premium, whereas the cost for a one-year premium for children under 7 is 365 Baht (USD 11) and none for an growth or development assessment (Moungsookjareoun & Kertesz, p. 122). The scheme is managed through an annual Cabinet approval document, namely the “Measures and Guidelines for Health Exams and Health Insurance for Foreign Workers” and enrolled migrants are eligible for an annual health screening examination that covers communicable diseases such as tuberculosis, syphilis, among others (Moungsookjareoun & Kertesz, p. 122) As for the SSS, governed by the Social Security Act, B.E. 2533 (1990), the beneficiaries are only the regular migrant workers in the formal sector who contribute 5 per cent of their salary, while the government contributes 2.75 per cent, and therefore migrant workers in the informal sector are ineligible (Moungsookjareoun & Kertesz, p. 123).

According to the Announcement of the Ministry of Public Health regarding the health check-up and health insurance for foreign workers No. 2 B.E. 2563 (2020), children of migrant workers and refugees can purchase the health insurance from local hospitals with the following plans:

Table 3: Health Insurance Plans for Children of Migrants Workers and Refugees

Age	Fee	Duration
0-7 Years	365 Baht	1 Year Coverage
0-7 Years	730 Baht	2 Years Coverage
7-18 Years	500 Baht	3 Months Coverage
7-18 Years	900 Baht	6 Months Coverage
7-18 Years	1,600 Baht	1 Year Coverage
7-18 Years	3,200 Baht	2 Years Coverage

Source: UNICEF Thailand. (2020). Rights and Approaches to Facilitating the Acquisition of Legal Status for Migrant Children, p. 48.

In terms of vaccination services, the Ministry of Public Health currently provides the following vaccinations free of charge for newborn babies to children of 12 years of age, from

which children born to migrant parents can benefit in the event that there is a surplus from the spare doses procured by the Ministry:

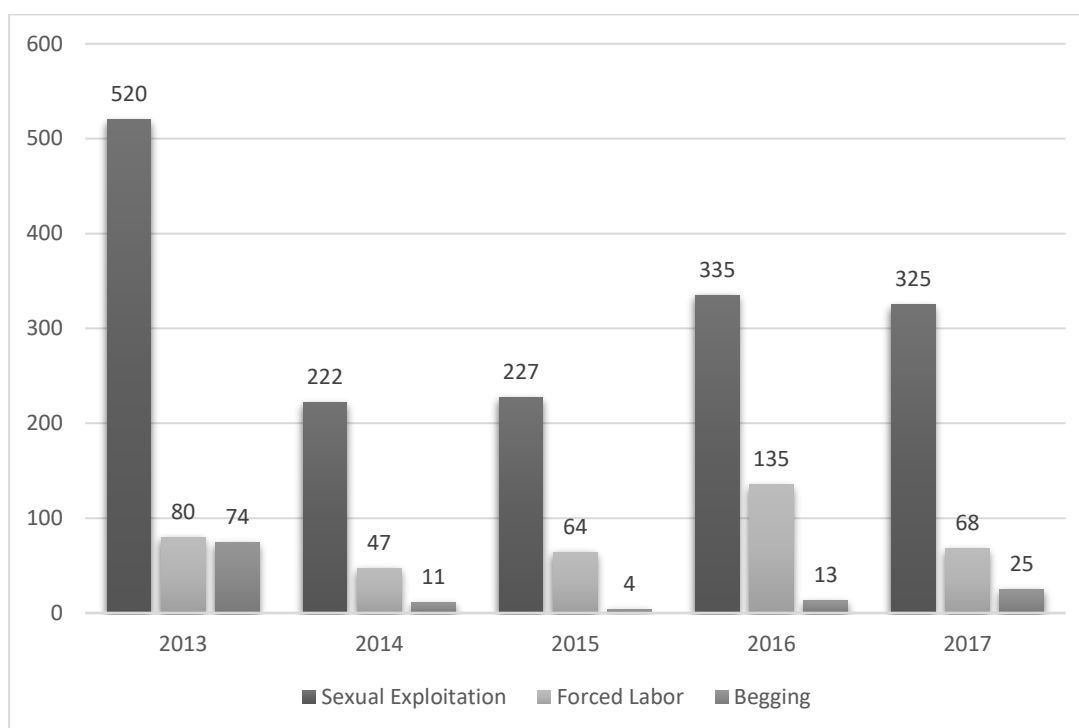
1. Bacillus Calmette–Guérin vaccine (BCG vaccine for tuberculosis)
2. Hepatitis B vaccine (HB)
3. DTP-HepB vaccine
4. DTP vaccine
5. Polio vaccine (OPV/IPV)
6. Measles, mumps, and rubella vaccine (MMR)
7. Japanese encephalitis vaccine (JE)
8. Diphtheria tetanus vaccine (dT)
9. Human papillomavirus vaccine (HPV) (UNICEF Thailand, 2020, pp. 47–48).

Nevertheless, certain factors remain as far as access to health care is concerned, namely the distance barrier, the differences in terms of culture, beliefs, and language skills (Moungsookjareoun & Kertesz, 2019, p. 124). Other challenges include the way in which some migrant workers may be hesitant to contribute to the SSS benefits that they may not expect to collect, as only few would remain in Thailand to collect the pension benefits, whereas bilateral agreements are required between Thailand and countries of origin for the beneficiaries to be able to collect their benefits. Since SSS operation relies on the annual cabinet decisions, the Scheme lacks long-term institutional stability which could contribute to low insurance uptake due to confusion of the beneficiaries (Moungsookjareoun & Kertesz, p. 125). Additionally, there is no legal mechanism by the Ministry of Public Health to oblige the enrollment of migrants ineligible for SSS into MHIS, and there is no unified health information system either which renders insuring over 800,000 undocumented migrants extremely challenging (Moungsookjareoun & Kertesz, pp. 125–126).

Child protection services:

Among many areas where child migrants are in need of protection from, the issues related to trafficking stand out. The following figure portrays the prevalent forms of exploitation especially those that occur on foreign children:

Figure 5. Identified cases of trafficking (2013-17)



Source: Buckley, P., & Boonrattanasamai, U. (2019). Trafficking in Persons in Thailand. In Thailand Migration Report 2019. United Nations Thematic Working Group on Migration in Thailand, p. 164

Children in migration in Thailand also face the dangers that emerge during their migratory journey to Thailand which can incalculably affect their health, both in terms of their physical and mental well-being. Below are the excerpts from stories told by a 17-year-old, a 15-year-old Burmese male migrant, and a 17-year-old Burmese female migrant, respectively:

“At the time I feel I will die in the back of the truck. I closed my eyes and I prayed, saying Buddhist incantations in my mind. I believed that if I did the incantations and I died in the truck then my spirit would go straight to heaven.”

“We walked through the forest [came via Myanwaddy] during the night so that we could cross the border. There were about 100 of us and we rested in a house and they gave us tomatoes and minced pork to eat. It was the only meal we had for all three days of the journey.”

“It was very difficult because there were so many people – around 200 of them. When we got in, they closed it up and I had the feeling of it being so tight because people were on top of me – one person, two persons, something like that. I think if [the journey] had taken a little longer I may not stay alive.”
(Capaldi, 2015, pp. 22–23)

As per the 2003 Child Protection Act, all migrant children are protected irrespective of nationality or legal status. The National Child Protection Committee, as an inter-ministerial body, plays a key role in the development of national child protection strategy. The services

are mostly managed through the Child and Family Shelters and provincial offices under the Ministry of Social Development and Human Security, with main services such as:

- Sub-district personnel monitor the situation of children, the responses of which are occasionally coordinated via a child protection committee. However, despite the fact that the coverage of these services is theoretically intended to extend to migrant populations, the same cannot be clearly said in terms of the challenges and what may take place in practice;
- The “1300 hotline” operated by Ministry of Social Development and Human Security, which provides services to all vulnerable persons by referring them to appropriate service provider such as emergency responses, and is accessible 24/7;
- One-Stop Crisis Centers located in hospitals throughout the country, aiding children who are victims of abuse;
- Temporary shelters in every province supporting children, orphans, women, and families who are survivors of violence, sexual abuse, neglect and exploitation, for up to three months;
- Longer-term alternative care such as kinship care, foster homes and institutional/residential care for children unable to stay with their immediate family;
- Different centers providing education and skill development programs for victims of human trafficking, both Thai nationals and migrants (Roman & Chuanprapan, 2019a, pp. 106–107)

Table 4: Migrant Child Protection Cases Addressed by Shelters in 2017

Subject	Migrant Children
Runaway/living on street	17
Caretakers lack capacity to care for child	112
Physical abuse	12
Sexual abuse	35
Mental/emotional abuse	0
Unwanted pregnancy	10
Behavior problem/drug abuse	31
Car racing/inappropriate entertainment facility	9
Problem with caretaker	160
Domestic violence	14

Human trafficking	60
Lack of accommodation	85
Economic problem/poverty	368
Physical/psychological problem	21
Illegal entry	224
TOTAL	1,212

Source: Roman, V., & Chuanprapan, S. (2019). Strengthening Access to Services for Migrant Children in Thailand. In Thailand Migration Report 2019 (p. 108).

In addition, efforts to combat child trafficking in Thailand were made through various acts with the latest being Anti-Human Trafficking Act 2008. The 2008 Act was expedient to revise the Prevention and Suppression of Trafficking in Women and Children Act of 1997 and expand the prosecution, as well as the severity of penalties (Davy, 2014, p. 803). Although the overarching theme of the 2008 Act is Anti-Human Trafficking, based on its provisions, exploitation (in terms of prostitution or other forms of sexual exploitation, slavery, among others), forced labor or services, and organized criminal group – including offenses committed against children – are all considered human trafficking offenses liable to corresponding penalties and punishments (Government Gazette Vol. 125, 2008).

Nevertheless, when it comes to child protection, issues such as language barrier, the capacity of the child protection system, the relation of child protection to criminal law – where an imbalance of power is at play, alternative care, particularly the monitoring and registration of private institutions providing the care arrangements, still remain topics of concern (Roman & Chuanprapan, 2019a, pp. 108–109).

2.2.3 Child Labor Among Child Migrants in Thailand

2.2.3.1 Context and Statistics

Out of 10.47 million children aged 5-17 in Thailand, the number of children engaged in child labor in Thailand as reported in the National Working Children Survey of 2018 was 176,699 (National Statistical Office (Thailand), 2019, p. 31). Although, it should be noted that this number represents the children in Thailand in general and does not specifically denote the number of child migrants. It is, thus, possible to imply that the actual number of children in migration involved in child labor is much greater, especially given the estimated number of child migrants in Thailand previously presented in the *Migration in Thailand: Context and Statistics* section above.

The official and detailed records or documentation pertaining specifically to child labor among children of nationalities or ethnicities other than Thai are, at the time of writing, nearly unavailable. Among few of the available official resources on the specifics of child migrants engaging in child labor in Thailand is the abovementioned survey on working children in Thailand that was carried out by the National Statistical Office of Thailand in collaboration with ILO in 2018. According to the survey, which collected the data from 26,673 households with 10.47 million children aged 5-17, there were 2,787 out of 61,607 child migrants engaged in what can be conceptually and definitively termed as child labor (National Statistical Office (Thailand), 2019, p. 39).

Similar to the way in which the exact number of child migrants in child labor is challenging to determine, the extent of child labor itself is difficult to pin down. In point of fact, the scope of child labor, particularly among child migrants, was unknown, according to the Thailand Migration Report 2019 (Junghus et al., 2019, p. 69). The industry in which migrant child labor is the most prevalent is the fishing and seafood processing industry where they work late hours carry out different tasks such as sorting and peeling shrimps, exposing themselves to various health risks (United States Department of Labor, 2019a, p. 2). Other sectors include agriculture, manufacturing, service, and entertainment industries (Ramani & Uden, 2021, p. 1). In agriculture, children engage in activities such as the planting and harvesting of sugarcane and the production of rubber and pineapples; and they work in restaurants or gas stations or engage in street work like vending and begging in the service industry (United States Department of Labor, 2019a, p. 2). Some other characteristics of child labor among child migrants in Thailand include commercial sexual exploitation in various places such as Thai massage parlors, karaoke lounges, and private residences. Moreover, some child migrants also engaged in construction and housekeeping work as they accompanied their parents who worked in the construction sector (United States Department of Labor, 2019a, p. 2).

It is, unfortunately, not an uncommon occurrence to come across a child migrant working in different sectors of society, especially in the rural areas. A number of reasons can be accounted for this, one of which is the high rate of employment within the country (Sankharat, 2013, p. 25). In a study carried out in 2013, it was found that most of Cambodian children working in Thailand are greatly concentrated in Rong Kluea Market and that some of the types of work taken on by these children were:

- **Collecting garbage items for sale:** “... most of the Cambodian child workers had a large plastic or woven bag that was larger than the

children themselves for keeping the garbage items they had collected in. They collected paper, cardboard, plastic, plastic bottles, glass bottles, metal, zinc, soft drink cans, and beer cans. When they had collected enough, they sold them to recycling materials dealers. ... There was a gang of robbers called Bongthom that controlled the garbage collecting areas. The children had to collect garbage items in their own area and not to go over others' areas."

- **Taking people across the border through a shortcut:** "... Cambodian child workers did for Thais as well as Cambodians who wanted to cross the border without having to go through the immigration process. ... They took into account the distance of the route and how much risk there was for them to be arrested. The income they made per day was 300-500 baht. ... Part of the money they earned was given to their parents or guardians and they kept part of it for themselves."
- **Pushing goods carts:** "This job was taken by male Cambodian child workers aged 14-16 years. ... Most of them earned 100-300 baht a day depending on the amount of goods that they were hired to carry and push. ... They came in to the Thai market at 7.30 a.m. and worked until 8.00 p.m."
- **Selling sex services:** "... taken by girls aged 14-18 years, most of whom were Vietnamese-Cambodians. They provided two types of services: night services and day services. During the night, they did not entertain guests from faraway places because there had been incidents where children were severely beaten up. During the day time, they wore makeup and dressed in modern styles for the purpose of inviting their guests. ... The children admitted that they used drugs like amphetamine and heroin. ... Some of them had HIV/Aids and could no longer sell the services or were fired from work. ... The prettiest girls sold their services at 500-700 baht, followed by the less pretty ones at 200-300 baht." (Sankharat, 2013, pp. 29-30)

2.2.3.2 Legislations and Policies Concerning Child Labor

Notwithstanding the prevalence of child labor within its borders, Thailand, as a member country of both the ILO and the UN, has ratified key international conventions in relation to the matter, namely the Minimum Age Convention (ILO C. 138) which sets the minimum age for work at 15, the Worst Forms of Child Labor Convention (ILO C. 182), UN CRC, UN CRC Optional Protocol on Armed Conflict, UN CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, and Palermo Protocol on Trafficking in Persons (United States Department of Labor, 2019a, p. 3).

According to the Thai Labor Protection Law, employers are prohibited from employing children under the age of 15 as employees, which is in line with the Minimum Age Convention (No.138) of the International Labor Organization that sets 15 as a minimum age for employment, which means that, therefore, the starting age that Thai law allows children to

enter into child labor is 15 - under 18 years old (อินทราอำนวย, 2017, p. 1). The laws and regulations concerning child labor are derived mostly from the Labor Protection Act of B.E. 2541 (1998) which has received, as of 2020, 7 different revisions with the latest one being as recent as 2019 (กฎหมายแรงงาน, 2020). Of these alterations, efforts such as the refining of the term “Entertainment Place” that is legally forbidden for children under 18 to be employed, have been made to bring the local laws and regulations closer in accordance with the international standards, particularly with the ILO Declaration on Fundamental Principles and Rights at Work (เจียมจิต สุวรรณน้อย, 2008, pp. 185–186). Essentially, the use of child labor is defined in Chapter IV of the Labor Protection Act, 1998, with nine sections, starting from Sections 44 to 52, with the intention of protecting children in relation to employment conditions, working conditions, and to develop and promote the quality of life (อินทราอำนวย, 2017, p. 3). Some of the regulations related to the employment conditions include the minimum age for employment, which prohibits the employment of children under the age of 15 and allows that of those over 15 and under 18 as long as certain conditions are met and that they are not engaged in certain *dangerous* works and/or work at particularly prohibited workplaces such as slaughterhouse and gambling place (อินทราอำนวย, 2017, pp. 3–4). The Act also entails the penalty provisions, some of which is a fine of 400,000 to 800,000 baht per employee or imprisonment for not more than 2 years, or both if an employer hires a child under 15 as an employee or hires a child over 15 and under 18 into the prohibited works and workplaces (อินทราอำนวย, 2017, p. 6).

Moreover, there are the national policies and plans to eliminate the worst forms of child labor that were aimed at completely eliminating the worst forms of child labor within the fiscal years 2015 – 2020) that provided 22,159 migrant children and adults with support and access to education in 2017 (United States Department of Labor, 2019b, p. 7), which consist of five strategies:

- 1) The Prevention of The Worst Forms of Child Labor. Institutions mainly responsible are The Ministry of Education, The Ministry of Social Development and Human Security, local administrations, and The Ministry of Labor,
- 2) Helping and Protecting the Worst Forms of Child labor. Responsible institutions are The Ministry of Social Development and Human Security, The Ministry of Public Health, The Royal Thai Police, The Ministry of Justice, The Ministry of Labor, The Ministry of Education, and The Ministry of Interior,

- 3) Developing and Enforcing Related Laws Effectively. The main responsible institutions are The Royal Thai Police, The Ministry of Justice, The Ministry of Labor, and The Ministry of Social Development and Human Security,
- 4) Develop Cooperation Among Network Partners. The responsible institutions are The Ministry of Labor and The Ministry of Social Development and Human Security,
- 5) Development of Management and Monitoring Systems. The Ministry of Labor is mainly responsible (Choonoo, 2019, pp. 28–29).

In addition, some of other policies include the Cyber Tipline Remote Access Policy which attempts to combat the online sexual exploitation of children, partnering with the U.S. National Center for Missing and Exploited Children; and the National Strategic Plan (2018-2037) that is intended to improve access to education for children, especially the poor and vulnerable ones in remote areas, by means such as scholarship provisions to children in school, reformation of the school subsidy program, and the increase of transportation to school (United States Department of Labor, 2019b, p. 7).

There are a few measures that the government has taken in relation to child labor in general, most notably the Measures for Solving Child Labor Issues of 1988 and 1992 which include the raising of the minimum employment age to 15, the promotion and expansion of educational opportunities, the revisions of laws and legislations on child labor for stricter enforcement, the establishment of relevant mechanisms such as Child Labor Protection Committee and Labor Operations Center (hotline), as well as the advocacy to increase the awareness and understanding on child labor issues (Chimmamee, 2005, p. 85). The subsequently developed measure is the Child Labor Prevention and Solution Plan 1997-2001. The plan consists of the following points:

- 1) Establishment of implementation mechanism: (1) Child Labor Protection Committee, comprise both public and private stakeholders to form child labor eliminating policies and improve the situation around child labor, (2) Operations Center for Helping Women and Child Workers (province level), and (3) Coordinating Center for the Prevention and Suppression of Child Prostitution and Child Labor (Operational level) under the Ministry of Interior;
- 2) Measures for solving child labor issues, targeting children in provinces with high migration rates and migrant child labor, to prevent children under 15 from entering the labor market, reduce illegal and illegitimate child labor, provide preparations for

children prior to their entrance to the labor market, and prevent illegal immigration of migrant child labor;

- 3) Measures to prevent and improve child labor, covering both Thai and migrant child labor, to protect all child labor irrespective of their gender, ethnicity, or nationality, improve the quality of life of child labor and promote equal opportunities for self-development and assist in honing their skills and general knowledge related to labor, and eliminate child labor exploitation;
- 4) Developing of monitoring mechanism for continuous and efficient policy implementation, as well as improving and increasing the effective collaboration in the monitoring of performance (Chimmamee, 2005, pp. 85–86).

2.2.3.3 The Push and Pull Factors for Child Migrants to Work

The Push Factors

Poverty. Poverty is among the most important challenges that the 21st-century world is currently facing (Gweshengwe et al., 2020, p. 1). It is, unquestionably, one of the defining and intricate issues that can be accounted for many other social, economic, and political problems. The migration for the purposes of participation in the labor market of young minors from countries bordering Thailand can also be imputable to poverty.

The dire financial condition in certain rural households in Myanmar has caused many to emigrate, as described by a 13-year-old child migrant from Myanmar, Ong Min Phiw as: *“It is very difficult at home. We are very poor. There is no work, and nothing to eat. The house is crowded. It’s hard to find food, there is not enough to eat.”* (Klomwijd, 2010, p. 50)

In a 2011 study, escaping poverty was said by 94 out of 103 child migrants to be the main reasons as to why they had decided to leave their village for work in Thailand, as exemplified in how a 16-year-old Thai Yai² boy in Mae Sai *“came to Thailand because his parents worked as farmers, who earned very little money from selling rice, but needed money to pay for medicine”* (Wille, 2011, p. 19). Additionally, a study in 2013 found that most of the child workers from Cambodia were from poor families of farmers in drought areas, and some did not even possess their own land to farm on, while their parents did not have any occupation and had a lot of children (Sankharat, 2013, p. 28). As a result of poverty, many of these families had to borrow money – contributing to the household debt – either to invest in farming or to

² Thai Yai, or as known as Shan, is an ethnic group which constitutes 9% of Myanmar’s population (*Burma - The World Factbook*, 2021).

pay for their journey to work in Thailand, while some families were indebted due to gambling and ended up having to sell their houses and their lands (Sankharat, 2013, p. 28).

Most of the time, poverty leads to the lack of education, or access to education, for that matter. For children in Myanmar, this fact is exacerbated by the costs, the absence of educational or school facilities in minority villages, as well as the reprisal against insurgent activities that lead to the closing of schools (Wille, 2011, p. 20). As for Laotian children, they often think that education merely benefits the well-connected people while rural people could by no means progress or advance in society, so they alternatively view coming to Thailand as an option that would allow them to earn more financially than a university graduate in the Lao PDR (Wille, 2011, p. 20). For Cambodian children, the lack of money, coupled with the high number of children in some families, also resulted in their access to education being deprived, which led to these minors attaching more significance to earning income than attending school (Sankharat, 2013, p. 28). In most cases, the children are not left with much choice but to be economically active due to the lack of access to education (ILO-IPEC/Thailand, 2013, p. 8).

In relation to poverty, the personal problems of the minors, especially with the family, also influence the decision-making process of the children to migrate and work, as exemplified by the way in which a 14-year-old Laotian girl ran away in the hope of escaping her stepfather, and finally got involved in the sex industry for 600 Baht (US\$16) a month at a restaurant (Wille, 2011, p. 24). This is the case among some Cambodian children as well, as indicated in the findings that some of the minors came from broken homes, with divorced, separated, or deceased parents (Sankharat, 2013, p. 28).

Unpredictability and Shock Factors. Despite not being a frequent occurrence, unpredictable events – shock factors such as the agricultural shocks and health shocks (including parental death) (E. Edmonds & Shrestha, 2009, pp. 22–23), when happen, can be one of the main determinants in the decision-making of children (and the family or the network) of whether or not to migrate and engage in economic activities. It is reported that one of the reasons for the children to work was due to their family's dire circumstances following natural disasters (ILO-IPEC/Thailand, 2013, p. 8).

Additionally, situations such as conflict, violence, persecution or fear of persecution, and war are also among the shock factors, forcing people to cross an international border to seek refuge in another country. According to the UNHCR, Thailand hosts approximately 91,795 refugees from Myanmar in the nine temporary shelters along the Thai/Myanmar border

as of April 2021 (the number is under reverification) (*UNHCR in Thailand*, 2021). There are also around 5,000 urban refugees and asylum-seekers from more than 40 countries in Thailand, with about 475,000 stateless persons registered by the Royal Thai Government, as of April 2021 (*UNHCR in Thailand*, 2021). In military-run Myanmar, incidents such as land confiscation by the military, army attacks on ethnic villages, and forced labor of villagers have been well documented (Robertson et al., 2006, p. 56).

It is important to note, however, that the number of children among these numbers is unclear. Also, a child's refugee status is not recognized by law in Thailand because Thailand is neither a party to the 1951 Refugee Convention nor the 1967 Protocol, so even if the child holds a refugee card, he/she is considered a person who is not allowed to stay in Thailand and living in the Kingdom without permission is an offense under the Immigration Act (UNICEF Thailand, 2020, p. 32).

The Lack of Work and Employment Opportunities. The lack of work opportunities, in other words, the unemployment of the family, particularly of the parents, is one of the main factors contributing to children's engagement in economic activities, as seen in the interview below:

“Jojotai (assumed name), age 10, was born in Ranong province, Thailand, with 9 siblings. Jorothai is the sixth child. His parents migrated from Myanmar to work in Ranong province where his father used to sail as an employee in a fishing boat and his mother has a job collecting shellfish for sale. Jojotai is in Grade 1 at a community center for young children. Currently, his father is unable to sail anymore due to poor health, so Jojotai was ordered by his mother to go beg at the immigration at the age of 7, starting work from 6.00 A.M. while his mother often asked him to stop studying.” (อุทัยทองทรัพย์ & ชัยเกียรติชัย, 2019, p. 60)

The economic disparities between Thailand and the neighboring countries have long been one of the pushing factors influencing children, and migrants in general, to take the leap and migrate into Thailand in the hope of earning more money than they otherwise could back home. This is evidently elucidated in the 2019 Gross National Income (GNI) per capita of Thailand in comparison to those of Lao PDR, Myanmar, and Cambodia. In 2019, Thailand's GNI per capita was reported to be 7,260 USD while Lao PDR's was 2,570 USD, Cambodia's was 1,480 USD, and Myanmar's was 1,390 USD (The World Bank, 2020, pp. 2–3).

Moreover, the disparities between the rural and urban areas are significant in these countries, as seen in how the number of Lao PDR's urban population during 2005 to 2015 was at 33% (Insisienmay & Philavanh, 2019, p. 18). This means that 67% of the entire population

resided in the rural areas of the country. As for Myanmar, the population in urban areas was 28.8%, as of 2019 (Department of Population, Ministry of Labor, Immigration and Population, 2020, p. 29). This number amounts to the fact that 71.2% of Myanmar's entire population resided in the country's rural areas, which is, undoubtedly, an astonishingly high figure. Cambodia, however, had the highest number of its population living in the rural areas, as of 2019, which was 76% (*Rural Population (% of Total Population) - Cambodia | Data*, n.d.). Whereas in Thailand, the rural areas housed merely 49% of the country's population in 2019 (*Rural Population (% of Total Population) - Thailand | Data*, n.d.). This indicates an almost 1:1 ratio in the distribution of the population between the urban and rural areas.

Naturally, the main source of income of people in rural areas comes from agricultural activities. It was reported in a survey completed in 2020 that paddy farming and farming of other crops were the main occupations of 63% of the 223 respondents in rural villages of Myanmar (Lambrecht et al., 2020, p. 4). The same applies in Cambodia with farm and environmental incomes contributing up to 87% to rural households' income (Jiao et al., 2015, p. 325). Selling of livestock and farming are also the main sources of income of rural villagers in Lao PDR for the rural households are generally dependent on agriculture with outdated technology and low productive rice farming (Nanthavong, n.d., p. 9).

As evident among young Laotians, due to the heavy reliance on agricultural activities, limited job availability, and the dissatisfactory opportunities at home, a considerable number of young people decide to leave their village homes in the hope of finding employment and earning more money in Thailand, to generate income as migrating for employment to Thailand is considered by many to be another source of income (Changpitikoun, 2008, pp. 26, 31). According to a study done in 2014 that sampled 80 child workers from Myanmar aged 15-18 in Samut Sakhon province, most of the respondents (65%) pointed out that they had come to Thailand mainly to help their families financially because what they earned in Thailand was higher in volume and number when compared to what they could earn back in Myanmar, which means that by merely working in Thailand for a relatively short period of time, they could uplift the financial situation back home rapidly and significantly (Islam, 2014, pp. 50, 67). As a matter of fact, children gain a sense of self-efficacy and achievement when they remit money back home, as a study in 2015 showed that 78% of child migrants in Thailand wished to send money home regardless of their low wages and the cost of living, evident in how a 17-year-old female migrant from Myanmar expressed her thoughts that: "When I send money to mum I call

her by phone and say ‘Mum, I’ve sent you money already’. It makes me feel so proud” (Capaldi, 2015, p. 22).

Unfavorable working condition at home is also one of the other main driving forces pushing child migrants to enter into the workforce at an early age, as told by a child laborer in 2010: *“We work with the rice fields at home, it is very hot, tiresome, the rice is not enough, and the vegetables are not available.”* – Nil ngein, 12-year-old from Myanmar (Klomwijid, 2010, p. 50).

However, it is crucial to point out that when children enter into the workforce before the proper working age, they are exposed to the possibility of exploitation both in terms of the wage and welfare, while also being deprived of the mandatory education, resulting in the lack of knowledge and information with regard to safety at work, and inevitably end up being unskilled workers in the labor market (Klomwijid, 2010, p. 55).

The Pull Factors

Positive Perceptions of Thailand. It has been frequently reported that Thailand is perceived by many in its neighboring countries to be a better place to seek employment and, consequently, establish a better life. One of the interviews given by a staff at the Women Protection Foundation in 2016 illustrates this point with an emphasis on children by stating the following:

“...Human trafficking, especially Lao children, is more complex than in the past because of the need for a better life, the various media that Lao people receive from Thailand through television and other media, as well as the income – which is presented as high and easily earned, resulting in the increase of the demand to work in Thailand or go to other countries, especially among the women and girls...” (อุทองทรัพย์ & ช่วยเกลี้ยง, 2019, p. 61)

The desire to “see or explore the world” is especially prominent among Laotians due to the cultural and language similarities Lao PDR has with Thailand, which allows the spread of information by Thailand’s mass media that exposes young Laotians to the Thai news of entertainment and events, portraying Thailand’s relative wealth, which in turn results in the young people willing to leave to pursue a beautiful life (Changpitikoun, 2008, p. 28).

Peer pressure has also been reported as one of the pulling factors motivating many younger people to migrate into Thailand, especially among teenagers as they follow others to ‘see the world’ and experience life with some of the reasons being that they did not want to do agricultural work and wanted to possess nice things (Wille, 2011, p. 23). To emphasize the

point about perception, a study put forward his observation of a Laotian teenage boy and his comments with respect to his peers who worked in Thailand as follows:

“They [peers working in Thailand] earn a lot, without having to work very hard [working in a garment factory]. They earn something like 3000 baht a month. For the same job in Lao PDR one would not get more than 1000 baht a month. Also, working in a Lao factory is not much fun since there is little you can do with the money you earn. There are no cinemas, etc. like in Thailand. But well, I am not going to work in Thailand 'cause I have a girlfriend here in Savannakhet, but one day, I will join my friends who work in Bangkok. Just to see things!” (Huijsmans, 2008, p. 344).

Thailand's Demands for Labor in both Industrial and Agricultural Sectors. As stated previously, Thailand has initiated and developed two processes to facilitate the labor migration to Thailand: the memoranda of understanding (MOUs) with neighboring countries – Cambodia, Lao PDR, Myanmar, and Vietnam – and the registration system, namely the nationality verification (NV) (Smith et al., 2019, p. 16). Thailand's economy consists of two sectors, a capital-intensive sector, and a labor-intensive sector, which primarily employs low-skilled and temporary workers. This dual economy is a significant factor that attracts migrant workers from neighboring countries to work in Thailand (Pungpond Rukumnuaykit et al., 2009, p. 3). Especially the risky, dirty, and difficult work which laborers in Thailand do not engage in, such as like fishery work, thus creating a gap and causing Myanmar workers to replace Thai workers in the fishing industry (อุทัยทรัพย์ & ชวเกียรติชัย, 2019, p. 66). Among the labor-extensive export industries in Thailand, the shrimp industry – which has become dependent on migrant labor – has a high demand for labor and is one which attracts migrant workers from Myanmar, Lao PDR, and Cambodia, but Thai workers are usually disinclined to take on the low-paid and dirty work that is typical in the industry when migrant workers are willing to do almost any work that allows them to earn more than what they could back home (ILO-IPEC/Thailand, 2013, p. 2).

According to a 2013 study on Cambodian child migrant workers in Rong Kluea Market Area in Thailand, an area where a lot of Cambodian child workers are present, a great number of children were hired to scrape fish flesh and scale fishes in the fish market by various employers, despite the dirty and unhealthy working environment with the smell of fresh and rotten fish in the air that was a source of disease for these children (Sankharat, 2013, p. 30). Another study on migrant child workers in Mae Sot, Thailand presented a case study on Aye who was a 14-year-old female from Myanmar who came to Mae Sot with her mother following her father's death to work in the garment sector because of her previous experience in a garment

factory, which was forced to close down, in Myanmar (Robertson et al., 2006, p. 68). Regardless of the hardship Aye faced, including the long working hours of 12-hour and the incredibly low wage of 300 Baht (7.50 USD) a week, Aye continued to work because the pay is higher in Mae Sot than in Myanmar (Robertson et al., 2006, p. 68).

Favorable Geographical Conditions: Adjacent Natural Borders. Traveling to Thailand as a destination and transit cities can be done very easily (อุทัยทรัพย์ & ชัยเกื้อยง, 2019, p. 66). There are many entry and exit channels, causing government officials to not thoroughly control and the operation of the staff is not very strict, while some government officials even broker migrant workers for employers in Thailand which is the center of growth in the region – a pulling factor that attracts many migrant workers from neighboring countries (Pichayawat, 2013, p. 26).

It was found in a 2011 study that children from Lao PDR and Myanmar used public transport or privately arranged transportation including cars, boats, trucks, and buses to travel into Thailand as evidenced by how, for instance, a 16-year-old Laotian boy traveled alone into Thailand by boat with a local river crosser after hearing about job opportunities from returning workers in the village, and by how a 14-year-old Karen³ girl entered Thailand by minibus to Mae Sot (Wille, 2011, p. 31). However, it should be noted that all the children in this study illegally entered Thailand irrespective of the relatively flexible regulated and legal entry points to avoid the inconvenience of having to travel to official crossing points, and because they generally did not have a passport and/or were under the age of 15 and were unaccompanied, which would prevent them from legally entering Thailand (Wille, 2011, p. 32).

As for the Thailand-Cambodia border, the crossing is relatively easy as well due to several reasons. Apart from the legal entry channels, there are local agreements that allow any Thai, Laotian, Myanmar, or Cambodian national to cross borders using a border pass while minors under 15 years are required to be accompanied by their parents or guardian (Wille, 2011, p. 32). Some of the other smaller crossing points with little or without border control would include traveling through the mountains while crossing the border to Thailand in Koh Kong can be done easily by boat (Derks, 1998, p. 18).

Information and the Role of Networks (Social Capital). In the case of child migrants from Lao PDR, the circumstances are rather special. This is because, throughout history, there exist the ties between Laotians and Thais who live along the Mekong River, which means that

³ The Karen are among the various ethnic groups in Myanmar and are indigenous to the Thailand-Myanmar border region (Neiman et al., 2008).

crossing the border for the purposes of visiting friends and families are, in fact, common for these people (Changpitikoun, 2008, p. 29). In consequence, the migrant networks of family, friends, employers, smugglers, and traffickers – as described to mean the networks with contacts, different ways in which to know whom to trust or not, and to track people – have, thus, been established on both sides, facilitating the border crossing and the flows of labor migrants from Lao PDR into Thailand (Changpitikoun, 2008, p. 29).

A study on trafficking in children into the worst forms of child labor in the areas of Thailand-Lao and Thailand-Myanmar borders found that the most common source of information in relation to a certain job and general work opportunities were fellow villagers and friends, while the extended family members in Thailand who were living or had worked there assumed the role of agents and facilitated contacts with recruiters as well as potential employers upon the children's arrival in Thailand (Wille, 2011, p. 29). In the case of a 12-year-old Akha⁴ girl, *"Her aunt who worked as a domestic in Thailand, invited her to join her at the same home at the request of the employer, who offered the family an advance payment of 5,000 Baht (US\$ 135)"* (Wille, 2011, p. 29). Another 15-year-old Lowland Laotian boy pointed out that *"He had heard about employment opportunities in Thailand and contacted a friend, who had worked in Thailand and gave him the information on how to travel to Chachuensao and find work in a shrimp hatchery. He paid his friend 100 Baht (US\$ 2.7) for this information."* (Wille, 2011, p. 30).

Child Agency and Autonomy: Socio-Cultural Dynamics. In Southeast Asia, the children coming from poor and rural families are commonly held to graduate or transition into adulthood earlier than the children in more developed countries, mainly due to the prevalent patriarchal traits of the societies in the region which results in deep cultural, gender-based, and traditional customs and norms – among which is the how the children helped their parents by contributing to the maintenance of the family or helping with the domestic chores (Capaldi, 2015, p. 20). Therefore, a great number of Southeast Asian children have grown up contributing to the family – as a sense of duty to family – while also being exposed to the 'school of life', gaining skills and attributes that can help them during the migratory journeys (Capaldi, 2015, p. 20). In fact, the ILO acknowledges the benefits of some of the work done by children reflects that children ought to be allowed to make choices with regards to their own lives (Cullen, 2007, p. 2).

⁴ "The Akha are an ethnic group who live in small villages at higher elevations in the mountains of Thailand, Myanmar, Lao PDR, North East India and Yunnan Province in China." (Atlas of Humanity)

Besides the decision of parents or relatives, child migrants from Myanmar also decided to migrate into Thailand for work on their own with various motivations, such as the desire to earn and save up the money, wanting to have a better livelihood (Klomwijid, 2010, p. 54). Furthermore, it was found in the 2011 study that 54 out of 103 child migrants had made the decision to leave and migrate to Thailand on their own, while 32 out of 103 did not inform their parents (Wille, 2011, pp. 20–21). This is clearly shown in how a 13-year-old Laotian boy “*Ran away from home because his parents would not have allowed him to go if they had known his plans. He paid a friend 2,000 Baht (US\$ 54) to find him a job on a fishing boat*” and how a 14-year-old girl from Myanmar “*Ran away from home to Mae Sot to see the world. She thought her village had been ‘mai sanuk’ – ‘no fun,’ She thinks Mae Sot is the most beautiful place she has ever seen, and there is so much going on*” (Wille, 2011, p. 22).



Chapter 4: Discussion

1. Why do children choose to migrate to Thailand?

1.1 The Push and Pull Factors

Child labor among child migrants in Thailand is far from being unheard of in the region. As appraised above, there are a number of push and pull factors contributing to the decision-making process of the agents, causing the persistence of child labor. As opposed to aiming for the complete elimination of child labor, it is, thus, important to direct the focus to the elimination of the worst forms of child labor instead, especially when certain socio-cultural dimensions and contexts are considered. It is not unusual for most children in the region to feel a sense of duty to their family. In fact, some children feel a sense of accomplishment while some even gain a sense of purpose from contributing to the maintenance of the household. Other than this desire to be useful to the family that most children feel entitled to fulfill, the autonomy and agency of children should also not be disregarded. Therefore, it is these children who will be affected in the event that inappropriate measures are taken. Nevertheless, even though not all types of work are labeled as child labor, and even though the socio-cultural contexts are conducive to children's involvement in paid/unpaid work, the main and ultimate objective should always be to guarantee the overall well-being of children, allowing them the proper time and resources to experience childhood, to learn, to develop, and to grow in a safe and healthy environment without having the necessity to prematurely engage in child labor.

In an attempt to answer the initially posed question of why children from Myanmar, Lao PDR, and Cambodia migrate to Thailand to engage in child labor, this study adopts the push and pull theory, as well as the partial conceptual framework of the UNICEF Innocenti working paper for the categorization of said factors. However, it must be added that this study, naturally, is subject to several limitations due to various reasons. First, because of the physical distance of the author, obtaining primary data such as interviews was unfeasible. Second, in relation to the first point, the data utilized in this study is mainly secondary. Third, because of the secretive and hidden nature of child labor due to the stigma and the fear from the authorities, especially among child migrants, recent and up-to-date data was half of the time unavailable, with some of the interview excerpts dating as far back as to 2005.

Often, it is a combination of several of the factors that amount to one's decision to migrate and engage in child labor. It is hardly the case that this decision is made due to a single factor, which means a black and white delineation is not possible in this situation. For that reason, developing a general understanding and raising awareness around this subject matter

in terms of the how's and the why's behind this and the fundamental human rights aspects among all parties involved, especially the local people, is crucial because the lack of which usually leads to negative attitudes, misunderstandings, and mistreatment towards these children, eventually preventing the development of proper policies and their successful implementation. For example, the right to access to basic education of child migrants for 15 years in public schools in Thailand can be challenging to realize if the school and its staff think and behave negatively towards these children, be it because they come across as burdensome or because they are from different cultures. The lack of understanding among the relevant officials can also prevent these children from enjoying this right to free education because merely providing free education does not mean that these child migrants can indeed benefit from it due to impediments such as language barrier or the lack of financial capability (for school supplies, food, or transportation).

With respect to the decision to migrate and work, it is undeniable that the decision is mostly economically motivated. As discussed above, poverty and (un)employment, although they are hardly the sole motivation, are the main reasons influencing the children's decision to migrate and work. Oftentimes, the dire financial and living circumstances the family and/or the parents find themselves in, leave the family with few alternatives besides sending the children away to work. With insufficient financial capability, lack of access to education is also aggravated and the family and the children are oftentimes left with little alternatives but to work, as feeding and maintaining the household inevitably becomes the sole priority. As a matter of fact, in relation to the socio-cultural context previously discussed, the children themselves sometimes either take it upon themselves or are somewhat compelled by the surrounding situations to migrate and work. As long as these pushing factors at the countries of origin persist, efforts to mitigate child labor among child migrants will only be done on the surface level as the problems arise each day while the root causes remain unresolved, perpetuating the problem. What this indicates is that this is a multi-layered problem that transcends international borders, and it requires cooperation on an international level to tackle. The problem-solving role should not be adopted by merely a single country involved, but it should be assumed by both the origin and destination countries. In the case of poverty and unemployment in the origins, there is little that could be done by Thailand. However, while the origin countries are tackling these problems, Thailand can ensure that these children are guaranteed the proper rights and treatments during their stay in the hope that the contributions these children make may help alleviate the situation back home in the event that they return, or

that the children may grow up to be a productive member of the society in the event that they stay. Either way, the problems are dealt with in both countries, as opposed to being tackled unilaterally. It should be noted, though, that certain causes of migration and child labor can be extremely challenging to solve, namely the unpredictability and shock factors. The sudden death of a father or devastating natural disasters are matters that are entirely out of one's control, and both the country of origin and Thailand can only make certain that the affected receive proper care and that necessary procedures are carried out in accordance with the laws and regulations, while always adhering to the principle of the best interest of the child whenever there are children involved. The principle is one of the four general principles of the UN Convention on the Rights of the Child, which recognizes a child as a *subject of rights* – that is, a full range of human rights (Zermatten, 2010, p. 483). The best interests principle is conceptualized in Article 3 (1) of the Convention on the Rights of the Child that reads “*In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*” (UN General Assembly, 1989, p. 3). In addition to this article, the principle is also found in various other articles within the Convention concerning the application in certain situations, which includes the extension of the principle to the *right of the child to live with her or his parents*; the requirement for the child to maintain personal relationships as well as direct contact with the parents unless it is against the best interests of the child; the involvement of both parents with the child's education, the child's entitlement to special protection and assistance to ensure alternative care (such as adoption and institutionalization) for the child deprived of family environment; the prohibition of torture or other cruel, inhuman or degrading treatment or capital punishment in administration of juvenile justice; and the requirement for the hearing of the child to be done in accordance with the established procedural rules, which involve having a lawyer present and/or the child's parents, unless it is determined that it is not in the best interest of the child to have them present (Zermatten, 2010, pp. 491–492).

Apart from the pushing factors, various reasons can also be accounted for the attraction that Thailand has for child migrants to leave their homes and cross the border to work in Thailand. Since Thailand's economy first saw substantial improvements in its economy, Thailand has been perceived by its neighbors to be a place where modernity, materialism, and relative wealth can be found. The mass media, coupled with the cultural and linguistic similarities Thailand has with these countries, especially with Lao PDR whose language is

nearly identical to Thai, have made possible the rapid dissemination of such ideas and perceptions. Moreover, when the living situations in the origins are pale in comparison to what is believed to be the case in Thailand, it is only natural to expect the general willingness to leave home and come to Thailand in pursuit of a better life where they are no longer subject to, for example, difficult working conditions in the rice paddy fields, or confined in a small village and prevented from experiencing or possessing nice things or *seeing the world*. That being said, the exceedingly positive perceptions are not completely groundless when both the capital-intensive and labor-intensive economy of Thailand is taken into account. The high growth and industry competition in Thailand have resulted in a small labor market's demands for cheap labor in an attempt to reduce production costs. Coupled with the tendency to normalize the children's contribution to the family in the region, the demand for cheap labor thus leads to the use of child labor. The demand for cheap labor is especially prominent in certain sectors that include dirty or dangerous works which do not typically pay well, creating reluctance for Thai workers to engage in. Meanwhile, migrant workers are willing to take on such jobs because they are relatively better when compared to the options they had in their countries of origin. Since there are demands for labor in Thailand, which are not fulfilled by Thais, these gaps will have to be bridged in order for the economy to continue to function, and it is the migrant workers, including the children, who come in and supply said demands in the case of Thailand. The labor supply from Myanmar, Lao PDR, and Cambodia have indeed been one of the driving forces contributing to the growth of Thailand's economy, so much so that a considerable number of industries, such as the fishing industry, have become heavily dependent on migrant workers.

The adjacent natural borders that Thailand is one of the main facilitators for the crossing of borders, further normalizing the labor mobility in the region. Border-crossing not only involves the traveler, but also involves various other actors such as immigration officers, traffickers, smugglers, and other pertinent government officials. With as many entry and exit channels as Thailand's borders, proper control can be difficult to maintain, which can be attractive for migrants looking to get into Thailand to work, especially if there are existing *migrant networks* of family, friends, employers, smugglers, and traffickers. The social capital can provide significant incentives for child migrants to migrate and work because of the sense of assurance they get from knowing that there are those who have paved the way before them and established networks and ways to get around in the region. Hearing success stories from

the networks also acts as a pulling factor, for it adds to the attractiveness that Thailand already has for migrant workers.

Some children migrate independently, while some do so with family, friends, or other companions. One is inevitably left to question whether the agency of children matters and whether it plays a role in the decision-making process. The finding in the Child Agency and Autonomy: Socio-cultural Dynamics section suggests that child agency does assume quite an important role. This is influenced mainly by the socio-cultural dynamics predominant in the region that praises the sense of duty to the family. Because most children are exposed to *the school of life* at an early age, they also mature rather earlier than their peers in more developed countries. With different combinations of both push and pull factors, some of these children, thus, demonstrate their agency and make the decision to migrate and work on their own account. To exemplify, unpleasant living conditions in the origin combined with the positive perceptions of the destination and the existing networks can result in a child's decision to jump on the migration bandwagon, start a new life, and do different things to generate income, in a different country.

In conclusion, the issue of child labor among child migrants in Thailand is a complex phenomenon that cannot be attributed to a single cause. The push and pull factors, such as poverty and unemployment, cultural norms and values, as well as lack of access to education, all play a role in the decision-making process of these children to migrate and eventually engage in child labor in Thailand. The elimination of the worst forms of child labor should be the main focus, taking into consideration the socio-cultural context and the autonomy and agency of these children. The lack of understanding and awareness around this issue can lead to negative attitudes and mistreatment towards these children, hindering the development and implementation of proper policies. The solution to this multi-layered problem requires cooperation on an international level, with both the origin and destination countries playing a role in addressing the root causes and ensuring the proper rights and treatment of these children. The efforts to mitigate child labor among child migrants can only be successful if they are addressed on a systemic level, taking into consideration the various interrelated factors and contribute to the persistence of this problem. Addressing the fundamental reasons behind the problem and promoting awareness and understanding of the issue are crucial. It is imperative to keep in mind that the ultimate objective should always be to ensure the welfare of these children.

2. A Child Rights-Based Assessment of Thailand's Policies on Child migrants and Child Labor

2.1 Migration Policies

The country's dual economy and proximity to Cambodia, Lao PDR, and Myanmar have made international migration a ubiquitous part of Thailand's society. The effectiveness, efficiency, and responsiveness of policies governing international migration in Thailand have been challenged by various factors. The Immigration Act 1979 and the Foreign Employment Act 2008 are the main acts governing migrant workers in Thailand. These acts regulate migrant workers and specify the requirements for obtaining a work permit. Migrant workers can register in Thailand through two channels: the Memorandum of Understanding (MOU) process and the nationality verification (NV) process. However, a significant number of migrant workers still work without legal documentation due to the complexity and high level of bureaucracy involved in the NV process. On a regional level, the priority has been placed on preventing irregular migration and encouraging migrant workers to return home after the conclusion of their employment. This is manifested in the "Bangkok Declaration on Irregular Migration" in 1999 and bilateral policies such as the MOUs signed between Thailand and neighboring countries. In terms of national policy, the registration of migrant workers has been implemented through Cabinet Decisions, allowing for a limited number of foreign workers in specific provinces and sectors. A significant expansion in the scope of migrants' registration took place in 2004 with the adoption of a resolution by the National Security Council. Additionally, the Royal Ordinance in 2017 allows migrant workers to change their employment under certain conditions. Still, despite the measures taken, there are still issues with regard to the effectiveness, efficiency, and responsiveness of the policies in place. The NV process is complex and exceeds the capacities of the governments involved, resulting in long waiting times for migrants. There are still a significant number of migrant workers who continue to work without legal documentation, as previously stated. The MOUs signed between Thailand and neighboring countries specify the terms and conditions of employment, but the return of migrant workers is still a challenge. The registration process for migrant workers is bureaucratic, and the priority placed on preventing irregular migration and encouraging the return of migrant workers has not fully addressed the challenges faced. Notwithstanding how The Labor Protection Act of 1998 provides all workers in Thailand, irrespective of nationality or legal status, with protection, the reality on the ground paints a different picture as official labor inspectors in Thailand are not pro-active because they normally respond to complaints only (Huguet et al., 2008, p. 11). In fact, some sectors such as agriculture, fishing, and domestic

work are less protected by the 1998 Act because the labor protections for said sectors are specified in separate Ministerial Regulations, resulting in a higher risk of migrant workers' exposure to labor rights violations, as well as workplace abuses than Thai workers (Grimwade et al., 2019, p. 33). Although, it is important to note that the type of employment and legal documentation are the determinants of migrant workers' entitlement to social security benefits – those with informal employment such as agriculture, fishing, domestic work, livestock, forestry, etc., and those who have not entered Thailand under the MOU agreements or completed the NV process are ineligible to be entitled to the social security benefits (Grimwade et al., 2019, p. 34). In addition, the labor standards and registration regulations are commonly violated as seen in various reports of incidents in which migrants are subject to working more than the permitted hours by the Labor Protection Act and receiving less wages than the legal minimum, or having their original registration documents and work permits held by their employers, exposing them to the risks of getting arrested by the police (Huguet et al., 2008, p. 11). Such common violations discourage migrant workers to register as they are made to feel that they do not gain the protection they are entitled to once they cover the cost and go through the complexity of the process to pay for their registration and work permit fees, which results in the migrant workers and the employers opting for the 'faster' and 'cheaper' than the official process of issuing the work permits by operating through unofficial channels instead (Huguet et al., 2008, p. 11). Overall, the policies regarding international migration in Thailand have been somewhat effective in establishing a legal framework for the governance of migrant workers, but there certainly is room for improvement in terms of efficiency and responsiveness to the needs of migrant workers.

The policy aimed at ending immigration detention of children in Thailand and ensuring alternative arrangements for children in migration detention centers was initiated in 2016 and resulted in the release of 78 children in the subsequent year. In 2019, an MOU was also signed by several government agencies to ensure that children are taken care of in the best interests of the child, but this policy was limited by the lack of recognition of refugees in Thailand, as the country is not a signatory to the 1951 Refugee Convention or its subsequent 1967 Protocol, and has reservations regarding the rights of refugee children under the CRC. In terms of effectiveness, the policy has shown some success in reducing the number of child migrants detained in immigration detention centers, but more efforts are needed to ensure that the practice comes to an end, or is used as the last resort, at the least. The efficiency of the policies is also unclear, as there is limited information available on the resources and measures used to

implement the policy and the outcomes achieved. As for responsiveness, the policy has addressed the immediate needs of children, to an extent, but it has limitations in addressing the root causes of immigration detention and the lack of recognition of refugees in Thailand, indicating a necessity for a more comprehensive approach. All in all, Thailand's efforts to stop detaining children in immigration centers are noteworthy, but due to its lack of participation in the 1951 Refugee Convention and the absence of supporting legal structures, achieving this objective is challenging. Furthermore, the inadequate conditions in the refugee camps pose significant risks to the health and safety of those detained, particularly for children.

As for Byrne's approach regarding the child-centeredness principle, it can be said that the migration-related policies and practices in Thailand are not exactly in line with the principle. This is because the focus of the policies and practices is primarily on managing the number of migrant workers and ensuring their return once their employment ends, as well as preventing irregular migration. While these policies may have some impact on the lives of children, they do not appear to have been developed with the explicit goal of protecting and promoting the best interests of individual child migrants or refugees. Moreover, these policies and practices do not seem to fully align with the principle of equity, either. While the government has established some policies to regulate the number of migrant worker and ensure their return, many still work without proper documentation, leading to challenges such as exploitation and human trafficking. The NV process for migrant workers to register involves a high level of bureaucracy and long waiting times, and some employers have to specify the number of foreign workers they need to later be approved by the Ministry of Labor. The fact that there are still challenges such as exploitation of migrant workers is indicative of the possibility that not all children may enjoy full access to their rights. There certainly is room for improvement in terms of ensuring equity for all children in Thailand. Again, it cannot be said that the policies and practices for managing international migration in Thailand are fully in alignment with the principle of inclusiveness. As discussed previously, the bureaucracy involved in the NV process may create barriers for migrants to access mainstream services such as health and education. Further, the focus on preventing irregular migration and encouraging workers to return home after the end of their employment may contribute to a lack of inclusiveness towards migrants in the country. In short, the policies and practices can be improved in a way that ensures an inclusive approach towards migrant workers in Thailand, particularly children. As for the principle of participation, the policies and practices do not explicitly mention relevant

mechanisms that would include the opinions of children or the involvement of migrant workers in the decision-making process.

Pertaining to the policies on immigration detention in Thailand, it can be argued that they are to an extent consistent with the principle of child-centeredness as put forth by Byrne (2018) on the basis of the best interests of the child being the primary factor influencing the responses to migrant children. There have been efforts to improve the situation, such as the signing of the MOU on Determining Standards and Alternatives to Detention for Children in Migration Detention Centers by various government agencies in 2019, which aims to ensure that children are not placed in immigration detention centers and taken care of by various organizations. However, the fact that children are still being detained in immigration detention centers and the poor conditions of the refugee camps poses serious physical and psychological implications, which suggests that the best interests of the child are not yet being fully observed. The number of children among the refugee population in Thailand and the poor conditions of the refugee camps also highlight the need for a child-centered approach in addressing the needs of these children. Further, it can be said that the principle of equity for children is somewhat violated in Thailand's immigration detention practices. Children are often detained for long periods of time in poor and inadequate facilities, which poses various health risks. This is due to the fact that Thailand is not a signatory to international agreements such as the 1951 Refugee Convention and the 1967 Protocol. As a result, refugees, including children, are not recognized and may be subjected to indefinite detention in poor conditions. This unequal treatment of children based on their immigration status is not in line with the principle of equity, which states that all children in a country should have equal access to their rights irrespective of their race, ethnicity, religion, or other status. For these reasons, it can also be said that these practices are not, to a certain extent, in line with the principle of inclusivity, according to Byrne's criteria. Again, it is difficult to ascertain whether children's accounts are taken into consideration in the decision-making process as there is no mention of any pertinent mechanisms that provide such opportunities.

Finally, Byrne (2018) also specifies a set of questions related to children in detention to determine the extent to which certain policies and practices are child-rights based. This set of questions can be accessed in Chapter 3, under Analytical Framework. In an attempt to answer these questions, the national legal and policy framework in Thailand does not explicitly ban the detention of children. Migrants, including children, are required to stay in detention centers during immigration processing, which is considered an administrative process rather

than a penal sanction. However, reports have shown poor conditions in these centers and the negative impacts on children's health from long-term detention. In 2016, Thailand committed to ending the immigration detention of children and made ad hoc arrangements to release some unaccompanied children the following year. An inter-ministerial process was initiated to develop an MOU on the care of children detention centers, which was signed by heads of seven government agencies in 2019. The MOU ensures that children shall be taken care of by either the Ministry, private organizations, or civil society organizations while waiting for long-term solutions and in line with the principle of the best interests of the child, rather than being placed in immigration detention centers. Efforts have also been made to ensure the fastest possible release of children from immigration detention and their placement in alternative accommodation. Nevertheless, it is unclear if these regulations guarantee that children are never detained with adults and that appropriate education, health, and welfare services, facilities, as well as personnel are available in the detention facilities.

To conclude, the policies governing international migration in Thailand present a mix of success and challenges. The Immigration Act 1979 and Foreign Employment Act 2008 have established a legal framework for the governance of migrant workers; however, their effectiveness, efficiency, and responsiveness have been tested by various factors such as the complex and bureaucratic NV process, the priority on preventing irregular migration, and the lack of protection for certain sectors like agriculture, fishing and domestic work. Similarly, the policy aimed at ending the immigration detention of children has shown some success in reducing the number of children detained, but it faces limitations due to the lack of recognition of refugees in Thailand and inadequate conditions in refugee camps. Overall, it is clear that there is room for improvement in ensuring the protection of migrant workers and children in migration detention centers in Thailand, and a more comprehensive approach is needed to address the root causes of these issues.

2.2 Social Policies

Irregular status: As of 2022, there is no officially verified number of irregular child migrants in Thailand. Based on the estimates from IOM, about 2.5 million of the 4-5 million migrants in Thailand are believed to have irregular status. Once again, according to IOM, the estimated number of child migrants in Thailand was about 400,000 in 2018. This number is in addition to about 145,000 stateless children reported in the same year, according to UNICEF.

It can, thus, be implied that a significant portion of these numbers indicate those without legal status.

As previously discussed, there are a myriad of factors that contribute to the irregular status of child migrants in Thailand, including poverty, lack of access to legal channels for migration, lack of awareness concerning their rights, as well as the rather complex legal processes in terms of obtaining legal status in Thailand. The lack of regular legal status and documentation can prevent access to fundamental services such as education and healthcare that are crucial elements of well-being. On top of that, it can render the children susceptible to significant challenges, including exploitation, discrimination and marginalization, and physical and sexual abuse. Departing from these, various initiatives have been implemented by the Thai government in an effort to improve the situation of irregular child migrants in Thailand, as well as to regularize their status. These initiatives include efforts to provide access to education and health care, as previously elaborated under the Social Policies section above. Actions have also been taken towards the protection of children abuse and exploitation, including, but not limited to, the establishment of a national hotline for reporting cases of abuse.

In term of birth registration, even though all children born within its territory are entitled to birth registration and the right to have their identification recorded in the government's archive, children born to parents who had entered Thailand through illegal channels are excluded. Citizenship-wise, children born to parents with temporary permits or parents who entered Thailand illegally are not entitled to the attainment of nationality, either. There are two main channels through which migrants in Thailand can obtain legal status, as discussed above, namely: the MOUs and the NV. While the MOUs procedures are rather lengthy and complex, the NV process in Thailand has been seen as a positive step towards improving the situation of irregular migrants, as it allows them to obtain legal status in the country for the first time (Natali, 2013, p. 191). Nonetheless, the NV process has encountered a range of difficulties, including high levels of bureaucracy, insufficient capacity in related countries to effectively manage the process, and complexity for migrants who may need to go back to their home countries for temporary passports (Natali, 2013, p. 191).

As a result of their inability to obtain nationality or legal recognition, some child migrants can only temporarily remain within Thailand. Moreover, the process of obtaining legal status in Thailand can be complex and can involve lengthy and costly procedures, which can be challenging for child migrants as well as their families to navigate. This can also cause

a sense of insecurity and instability because the lack of a stable legal status or a clear path to obtaining legal recognition in Thailand. To address the challenges stemming from irregular legal status and ensure that child migrants are able to fully realize their rights and participate in society, it is necessary to take further actions. This could include addressing the underlying causes of irregular migration, improving access to legal channels for migration, and making the process of regularizing the status of migrants simpler and more efficient. In addition, providing more support and assistance to irregular child migrants and their families could help them navigate the process of regularizing their status and accessing basic services.

As far as Byrne's framework is concerned, it appears that the laws and policies related to irregular status explored in this study may not necessarily align with the child-centeredness principle. This is primarily because the laws in place that govern birth registration and citizenship for migrant children in Thailand, specifically the Civil Registration Act and Nationality Act, technically exclude those whose parents entered the country illegally from obtaining proper documentation, including birth registration and citizenship. This lack of legal recognition puts these children at risk for abuse, exploitation, neglect, and potential arrest, detention, fines, and deportation. This indicates the incongruence of said laws to the principle of putting the best interests of the child first. The second guiding principle is equity. Again, the laws in place is not in line with this principle as it excludes a specific group of children based on their parent's immigration status when the principle clearly states that all children should have equal access to rights and protection, regardless of their background. The ongoing efforts by the government to regularize the status of these children are a step in the right direction, however, more needs to be done to ensure that all children have equal access to their rights and protections. The third guiding principle of this framework is the principle of inclusivity. It can be said that the existing laws are not in line with this principle, either. This is evident in the way in which the Civil Registration Act and Nationality Act exclude migrant children whose parents entered the country illegally from birth registration and citizenship, which creates segregation of these children from the rest of the population. Such exclusion may limit their access to mainstream health, education, and family support services. Lastly, the principle of participation. Since the laws and regulations in place do not specifically mention any mechanisms for child participation or efforts to ensure that children's opinions are taken into account in decision-making, it, therefore, cannot be said that said laws are directly in line with the principle of participation.

Overall, the irregular status of child migrants in Thailand is a complex and pressing issue that affects a significant portion of the migrant population. Estimates suggest that there are hundreds of thousands of child migrants who lack legal status and face numerous challenges as a result, including limited access to education and health care, increased vulnerability to abuse and exploitation, and difficulty in obtaining birth registration and citizenship. While the Thai government has taken steps to address this issue, including the implementation of initiatives to provide support and assistance to irregular migrants, the current laws and policies in place are not exactly in line with the principles of Byrne's framework. This framework calls for laws and policies that put the best interests of the child first, ensure equity, promote inclusivity, and allow for child participation. Addressing the underlying causes of irregular migration, improving access to legal channels for migration, and making the process of regularizing status simpler and more efficient would go a long way in improving the situation of irregular child migrants in Thailand. More needs to be done to align the laws and policies with the principles of Byrne's framework and ensure that all children, regardless of their background, have equal access to their rights and protections.

Education: Based on the laws and policies on education, it can be said that Thailand has made significant efforts to increase access to quality education for all individuals, ensuring equal rights and opportunities for all. The Constitution of the Kingdom of Thailand, the National Education Act, and the National Scheme of Education all establish the principle of free and quality education for all children. The 15-Year Free Education Program and the Cabinet Resolution on evidentiary documents for admission into schools have helped to ensure that all children, including undocumented migrants and stateless children, have access to basic education. In addition, the educational policy for the management of education for disadvantaged children aims to create equal opportunities for specific groups of children who may face barriers to education. Nonetheless, it is worth noting that there are also some challenges and limitations in terms of the implementation of these policies, especially for non-Thai and disadvantaged children. The Migrant Learning Centers (MLCs), established by NGOs and not officially recognized by the government, may not meet the same standards as Thai public schools and may not provide the same level of support and resources. These centers often lack school standards, including crowdedness, lack of nutrition and supervision, and subpar hygienic conditions. Additionally, the flexibility in document checking at the MLCs and the proximity of these centers to migrant communities may make them a more appealing option for migrant families, but they may not provide the same level of education and

opportunity as the Thai public schools. Moreover, while the ASEAN Member States, including Thailand, have collaborated to make education more inclusive and accessible, it is unclear how effective these efforts have been in practice. In general, while Thailand has made efforts to increase access to quality education for all individuals, it is important to consider the effectiveness, efficiency, and responsiveness of these efforts in practice, particularly for disadvantaged and marginalized groups such as migrant and stateless children. The government of Thailand and other stakeholders may need to take further actions to address these challenges.

In terms of the first guiding principle of Byrne's Child Rights-based approach, *child-centeredness*, it can be said that the policies and practices on education are in line with this principle because they prioritize the well-being and best interests of the individual child. Providing education ensures that children have the opportunity to develop and thrive intellectually. They also demonstrate a commitment to putting the needs of the child first. As for the principle of equity, the laws and policies in Thailand regarding education are in line with this principle in that they aim to ensure that all children have access to quality education that is free of charge, regardless of their race, sex, language, national, ethnic or social origin, citizenship, or legal status. As an ASEAN Member State, Thailand has collaborated to make education accessible to all children through, among others, inclusivity and equity. These laws and practices also align with the principle of inclusivity as they aim to provide equal access to education for all children in Thailand, regardless of their legal status. They establish the right to quality education for all children and aim to provide equal opportunities for disadvantaged children. Access to education is granted to all children, including irregular migrants and stateless children, by providing them with an identity code recognized within the education sector. Lastly, it is unclear how these policies and practices specifically relate to the principle of participation as there is no mention of mechanisms in place for child participation.

To sum up, it can be seen the Thailand has made significant efforts to increase access to equality education for all individuals and ensure equal rights and opportunities for all. The laws and policies reflect the first guiding principle of Byrne's child-rights based approach, *child-centeredness*, by prioritizing the well-being and best interests of the individual child. Additionally, the laws and policies are in line with the principle of equity, as they aim to ensure that all children have access to quality education that is free of charge regardless of their race, language, ethnic or social origin, citizenship, or legal status. As one of the ASEAN member states, Thailand has collaborated with other member states to make education accessible to all children, promoting inclusivity and equity. While the laws and policies provide access to

education for all children, including irregular migrants and stateless children, there are still challenges and limitations in terms of implementation, especially for non-Thai and disadvantaged children. It is important to address these challenges and further improve the effectiveness, efficiency, and responsiveness of the efforts to provide quality education for all. While the laws and policies are in line with the principles of child-centeredness, equity, and inclusivity, it is unclear how these policies and practices relate to the principle of participation. Overall, while progress has been made in increasing access to quality education in Thailand, there is still much work to be done to ensure that all children, including marginalized and disadvantaged children, have equal access to quality education. This emphasizes that the education sector in Thailand has a significant role to play in promoting child rights and creating a brighter future for all children.

Health care: The health care policies and practices in Thailand aimed at providing coverage for migrant workers and their dependents possess mixed level of success in terms of effectiveness, efficiency, and responsiveness. On one hand, there are two major programs that offer access to health care services to a significant number of migrants, namely the Social Security Scheme (SSS) and the Migrant Health Insurance Scheme (MHIS). However, the SSS is limited in terms of accessibility, as it only covers regular migrant workers in formal sectors, while others may not participate due to their reluctance to pay into the scheme and doubts about receiving the benefits in return. This situation is further compounded by various barriers, such as geographical distance, cultural differences, and language barriers, which can make it difficult for some migrants to receive adequate health care. As for the MHIS, it is mandatory for those who are ineligible for the SSS, but it is not compulsory for their dependents to enroll. Although the cost of health examination and insurance are affordable, there are several challenges that hinder the effective implementation of the scheme. For instance, there is no unified health information system, which makes it difficult to track the health status of migrants, and there is no legal obligation for undocumented migrants to enroll in the MHIS, which makes it nearly impossible to ensure they have adequate coverage. Furthermore, the SSS program is subject to annual cabinet decisions, which can affect its stability and cause low uptake among migrants. On the positive side, the Ministry of Public Health offers free vaccination services, but the lack of a comprehensive health information system remains a major challenge. All in all, while the health care policies and practices in Thailand for migrant workers and their dependents have some elements of effectiveness and efficiency, they are still facing challenges in terms of accessibility and responsiveness.

With respect to the first principle of Byrne's approach, namely the child-centeredness principle, it can be said that the policies and services are not fully in line with the principle because there are various challenges that hinder access to health care. Firstly, the distance barrier and differences in culture and language skills can limit the accessibility and utilization of health care services. Secondly, there is no unified health information system which makes insuring over 800,000 undocumented migrants extremely challenging. This means that some migrant children may not have access to proper health care coverage, putting their health and well-being at risk. These challenges demonstrate that the policies and services may not be in line with the principle, as the best interests of the child may not always be the primary factor influencing legislative, policy, and service responses to migrant and refugee children in terms of health care. Likewise, the health care policies and services may not be fully in line with the principle of being equitable for all children. Migrant workers and their dependents have the right to access health care through SSS and MHIS schemes. However, the SSS is only available to regular migrant workers in the formal sector. There is also no legal mechanism to oblige enrolment of migrants who are ineligible for SSS into MHIS. These factors, coupled with the lack of unified health information system, may limit access to health care for some migrant workers, their dependents, and migrant children in general. In terms of inclusivity, the aforementioned challenges such as the distance barrier, differences in culture and language skills, the lack of institutional stability of the SSS, among others, suggest that there may still be difficulties in providing inclusiveness in practice. Although children of migrant workers are eligible for health insurance plans and free vaccinations provided by the Ministry of Public Health, the approach to health care can certainly be more inclusive in the sense that mainstream health services should be rapidly accessible and not segregated from migrants, as well as child migrants. As for the principle of participation, it is not clear whether the opinions of children are taken into consideration, and it is difficult to determine due to the scarcity of existing information.

In short, the healthcare policies and practices in Thailand aimed at providing coverage for migrant workers and their dependents possess mixed success in terms of effectiveness, efficiency, and responsiveness. The availability of the Social Security Scheme (SSS) and the Migrant Health Insurance Scheme (MHIS) provides access to health care services for some migrants, but there are still numerous challenges that hinder its full success. These challenges include geographical distance, cultural differences, language barriers, the lack of a unified health information system, and low uptake among migrants. While these policies have some

elements of effectiveness and efficiency, they do not fully align with Byrne's approach, particularly in regards to the principles of child-centeredness, equity, inclusivity, and participation. The lack of accessibility and utilization of healthcare services and limited coverage for dependents suggest that there is still room for improvement in the health care policies and practices in the context of migrants.

Child protection services: Evaluating the effectiveness, efficiency, and responsiveness of the measures taken to protect child migrants in Thailand is complex and multi-faceted. For effectiveness, the 2003 Child Protection Act and the Anti-Human trafficking Act of 2008 provide a legal framework to protect child migrants and address the issue of trafficking. The services provided by the National Child Protection Committee, such as the 1300 hotline, One-Stop Crisis Centers, temporary shelters, and alternative care options are commendable steps taken to ensure the protection and well-being of child migrants. Nonetheless, the data in Table 3 indicates that there are still significant numbers of child migrants facing various forms of abuse, exploitation as well as neglect. This highlights the need for stronger implementation of the existing laws and better coordination between various agencies and stakeholders to ensure that child migrants receive the necessary protection and support. In terms of efficiency, the services provided are intended to be accessible to all child migrants, but in practice, the language barrier, lack of awareness, and other factors may hinder their access to these services. This could result in inefficiencies in the delivery of protection services to child migrants. For responsiveness, the 1300 hotline operates 24/7 and is a positive step in ensuring that child migrants have access to emergency services. However, the lack of capacity of the child protection system, as well as the imbalance of power between child migrants and criminal law, may limit their ability to report cases of abuse and exploitation. Moreover, the monitoring and registration of private institutions providing alternative care arrangements may also pose a challenge to ensuring their responsiveness in protecting child migrants. Overall, while significant steps have been taken to protect child migrants in Thailand, there is room for improvement in ensuring the effectiveness, efficiency, and responsiveness of the measures taken.

As for Byrne's approach, it can be stated that the child protection measures for child migrants in Thailand aligns with the child-centeredness principle, where the well-being of the individual child is considered the top priority in decision-making. The 2003 Child Protection Act provides protection for all child migrants, and the National Child Protection Committee plays a crucial role in developing a national child protection strategy. In addition, the services

offered through the Child and Family Shelters and provincial offices are aimed at supporting and protecting migrant children. However, challenges still exist in the child protection system, such as language barriers and capacity limitations. Nevertheless, the focus remains on the best interests of the individual child. The child protection system in Thailand aims to provide equitable protection to all children, including child migrants, which illustrate its alignment with the principle of equity, which is among the four guiding principles of Byrne's approach. The provisions in The 2003 Child Protection Act of Thailand protect all children from various forms of abuse and exploitation, including human trafficking. The Act is aimed at ensuring that children, regardless of their nationality or legal status, are protected. However, while efforts have been made to address child protection and trafficking, there are still many challenges that need to be addressed. Regarding the principle of inclusivity, these measures, likewise, demonstrate their alignment with the principle in the sense that the services provided are aimed to support and protect all vulnerable children, including child migrants. The efforts to combat child trafficking also demonstrate the commitment to protecting the rights of all children. Nonetheless, as previously stated, challenges persist. Lastly, the alignment of the measures taken toward the protection of children with the principle of participation is illustrated by the mechanisms provided for children to have their opinions heard and taken into consideration when decisions that affect them are made. The various services provided such as the 1300 hotline, One-Stop Crisis Centers, and education and skill development programs all show an effort to address the challenges and ensure the protection of the children. It can be inferred that the goal of the various child protection services is to provide a supportive environment for child migrants, where their well-being and opinions are valued.

To summarize, the measures put in place to safeguard child migrants in Thailand align with Byrne's approach. The law such as the 2003 Child Protection Act and the Anti-Human Trafficking Act of 2008 form the legal basis for protecting child migrants and combating human trafficking. The services provided by the National Child Protection Committee and other organizations strive to support and protect child migrants while taking their experiences into account. Despite the presence of challenges such as language barriers and limitations in capacity, the main focus remains on the best interests of the individual child and providing equal protection to all children. The child protection system in Thailand is aimed at protecting child migrants and follows the principles of child-centeredness, equity, inclusivity and participation. However, there is still a need for further improvement to overcome the challenges

and ensure the effectiveness, efficiency, and responsiveness of the measures taken to protect child migrants.

2.3 Legislations and policies concerning child labor

Following the examination of the existing legislations and policies aimed at addressing child labor among child migrants in Thailand, it can be argued that while some of them are commendable, some are still intolerably lacking. In terms of effectiveness, the extent of child labor among children in migration is much more widespread than what was recorded in the National Working Children Survey of 2018. The reported number is believed to be an underestimation of the actual situation. As child migrant labor continues to occur in various industries and sectors, including fishing, seafood processing industry, agriculture, manufacturing, service, and entertainment industries, some child migrants are also subjected to commercial sexual exploitation and work in construction and housekeeping. These highlight the ineffectiveness of the existing policies and practices aimed at addressing child labor among child migrants and underscore the need for more comprehensive measures to address the issue. The high rate of employment in the country is a contributing factor to the prevalence of child migrant labor, but the lack of information and documentation makes it challenging to accurately assess the extent of the problem. The uncertainty surrounding the scale of child labor in Thailand itself also reveals that strategies and efforts put in place to address the issue have not been efficient in accurately assessing the magnitude of the issue. Moreover, the information gathered in this study illustrates the widespread nature of child labor among child migrants in Thailand, encompassing a diverse range of industries including, as discussed previously, fishing, agriculture, service, among others. This highlights the lack of responsive policies and practices in addressing the issue, as they have not been able to keep up with the constantly evolving nature of child migrant labor. Additionally, the prevalence of child labor among child migrants in rural areas suggests that the policies and practices have not been responsive to changing conditions and circumstances on the ground. The problem continues to persist, and there is a need for more comprehensive, effective, efficient, and responsive policies to protect the rights of these children who are, more often than not, overlooked, and prevent them from being subjected to exploitation.

When placed against Byrne's four guiding principles of child-rights based approach, it can be said that the approach to addressing the issue of child labor in Thailand is based on the fundamental principle of placing the welfare of children at the forefront. This is in accordance

with the child-centeredness principle outlined in Byrne's framework. Determining the exact extent of child labor among child migrants is challenging, but it is clear that the fishing and seafood processing industry appears to be the most significant contributor. Children in this industry work extended hours and are subjected to hazardous conditions. Child labor is also prevalent in other industries, including, but not limited to, agriculture and service. These children are exposed to various health as well as safety risks, including commercial sexual exploitation. To address these issues, the Thai government, in collaboration with different organizations, is making various efforts including creating awareness, providing education, and enforcing laws and regulations that, to an extent, prohibit child labor. All in all, the policies and practices aimed at addressing child labor in Thailand align with the principle of placing the best interests of children first with various efforts being made at different levels, but there is much more work to be done to ensure that the welfare of children is protected.

Further, the measures in place to combat child labor in Thailand fall short of being equitable, as not all children within the country are receiving equal protection against exploitation and hazardous work. Children from non-Thai ethnicities and nationalities are particularly susceptible and frequently face a heightened threat of involvement in child labor. The available data demonstrates that a substantial number of child migrants are participating in child labor. Moreover, child migrants are frequently involved in work that puts them at risk of health issues and commercial sexual exploitation. For instance, a 2013 study discovered, as discussed above, discovered that the majority of Cambodian child workers in Thailand were located in the Rong Kluea Market and engaged in works such as collecting garbage, transporting people across the border, pushing good carts, and providing sexual services. These findings imply that there is a necessity for stronger and more comprehensive policies and practices aimed at protecting all children, regardless of their nationality or ethnicity, from the negative impacts from child labor in Thailand. Such policies should take into consideration the specific obstacles faced by child migrants and offer them the support and protection they need to overcome these challenges. This could encompass initiatives aimed at enhancing access to education, healthcare, and social services, as well as increasing awareness of their rights and the resources available to them.

Likewise, it can be concluded that the policies and practices in Thailand regarding child labor are not fully in agreement with the principle of inclusivity. Although the government has taken some steps to address the issue of child labor, the actual number of child migrants involved in child labor is still unknown and the extent of child labor among child migrants

remains challenging to determine. Furthermore, official records and documentation specifically regarding child labor among children of other nationalities other than Thai remain scarce. The lack of information and the limited resources available to address this issue suggests that the policies and practices fall short in terms of taking into consideration the specific needs and experiences of child migrants, who are a vulnerable population. It can be argued that the current policies and practices need to be reviewed and improved in order to be more inclusive and address the issue in a comprehensive and effective manner.

As for the last of the four principles, it is difficult to determine whether or not the policies and practices are, in fact, participatory – meaning relevant mechanisms are provided to allow the involvement of children and young people in decisions that affect their lives, as well as giving them a voice in addressing issues that concern them. However, no available information suggests that the policies and practices related to child labor are inclusive of the perspectives and experiences of the children who are affected by it.

Overall, while the Thai government has made some efforts that prioritize the welfare of children, these efforts still fall short in terms of being equitable, inclusive, and participatory. The extent of child labor among child migrants in Thailand remains largely undetermined and attempts to assess the issue have been insufficient. The need for more comprehensive and effective policies and practices that take into account the specific needs and experiences of child migrants is vividly highlighted. The current policies and practices must be evaluated and improved to ensure that *all* children are protected from the harmful effects of child labor and that their rights and welfare are safeguarded.

Conclusions

The conclusion of this study highlights the complex and multi-layered issue of international migration, child migration, and child labor in Thailand. The country serves as a hub for migration, both within Southeast Asia and from neighboring countries, and has a growing economy with a significant demand for labor. However, this demand is not met by the domestic labor force, and Thailand has become a destination for child migrants seeking employment opportunities, who face numerous challenges such as exploitation, abuse, family separation, and lack of access to essential services.

The study finds that the problem of child labor among child migrants in Thailand is complex and cannot be solely attributed to one cause. A number of push and pull factors such as poverty and unemployment, cultural norms and values, as well as lack of access to education, all play a role in the decision-making process of these children to migrate and eventually engage in child labor. The elimination of the worst forms of child labor should be the main focus, taking into consideration the socio-cultural context and the autonomy and agency of the children. A lack of understanding about the issue can lead to negative attitudes and mistreatment, impeding the development of effective policies. Solving this multifaceted problem requires international cooperation between both the origin and destination countries to address the root causes and protect the rights of the children. The solution must address the underlying systemic issues and increase awareness and understanding of the problem. The ultimate goal must always be the well-being of these children.

The governance of international migration in Thailand is a subject of both success and challenges. The implementation of the immigration act 1979 and foreign employment Act 2008 has established a legal framework for the regulation of migrant workers, but the efficiency, effectiveness, and responsiveness of these policies have been tested by various obstacles, including the complex and bureaucratic visa process, the priority placed on preventing irregular migration, and the lack of protection for certain sectors such as agriculture, fishing, and domestic work. The policy aimed at ending the immigration detention of children has shown some degree of success in reducing the number of children in detention, but it is limited by the absence of recognition of refugees in Thailand and the inadequate conditions in refugee camps and detention centers. It is evident that there is scope for improvement in ensuring the protection of migrant workers and children in migration in Thailand, and a more comprehensive and systemic approach is required to address the underlying causes of these issues.

The issue of irregular status among child migrants in Thailand is a significant and complex challenge. Many child migrants lack legal status and face difficulties accessing education, healthcare, and citizenship. Current laws and policies in place do not align with the principles of Byrne's framework, which prioritizes the best interests of the child, equity, inclusivity, and participation. Addressing the root causes of irregular migration, improving access to legal channels, and simplifying the regularization process would significantly improve the situation of irregular child migrants. Aligning laws and policies with Byrne's framework is crucial to ensure equal access to rights and protections for all children.

It is also found that Thailand has taken steps to promote equality in education and equal rights to education for all through its laws and policies, which prioritized well-being and best interests of the child. The laws align with the principles of child-centeredness and equity, providing free quality education for all children, regardless of background. As an ASEAN member state, Thailand has collaborated with others to ensure education is accessible to all, promoting inclusiveness and equity. Despite laws providing access to education, there are still challenges in implementation, particularly for non-Thai and disadvantaged children. Addressing these challenges is important to providing quality education for all. The relationship between policies and the principle of participation is unclear. Though progress has been made, much work is still needed to ensure equal access to quality education for all children, including marginalized and disadvantaged children. This highlights the critical role the education sector in Thailand plays in promoting child rights and creating a better future for all children.

Further, health care policies and practices in Thailand aimed at providing coverage for migrant workers and dependents have had mixed success in terms of effectiveness, efficiency, and responsiveness. Access to health care services is provided through the Social Security scheme and the migrant health insurance scheme, but obstacles, such as geographical distance, cultural differences, language barriers, lack of a unified health information system, and low uptake among migrants, persist. Although these policies show some signs of effectiveness and efficiency, they do not fully align with Byrne's approach, particularly with regards to the principles of child-centeredness, equity, inclusivity, and participation. Limited accessibility and utilization of health care services and coverage suggest room for improvement in the health care policies and practices for migrants.

The measures implemented in relation to child protection in Thailand align with Byrne's child rights-based approach. The 2003 Child Protection Act and the 2008 Anti-Human Trafficking Act provide a legal basis for the protection of child migrants and combatting human trafficking. The National Child Protection Committee and other organizations provide support and protection to child migrants while considering their unique experiences. Despite facing challenges such as language barriers and limitations in capacity, the well-being and best interests of the individual child remain the primary focus and equal protection is ensured for all children. The child protection system in Thailand follows the principles of child-centeredness, equity, inclusivity, and participation, and is aimed at protecting child migrants as well. However, efforts must be made to overcome existing challenges and improve the effectiveness, efficiency, and responsiveness of these measures.

In relation to child labor-related legislations and policies, it can be said that efforts made by the Thai government still fall short in fulfilling the principles of equity, inclusivity, and participation, even though they prioritize the well-being of children. The issue of child labor among child migrants in Thailand remains largely undetermined, as previous assessments of its extent have proven to be insufficient. This underscores the necessity for more comprehensive and effective policies and practices that consider the unique needs and experiences of child migrants, particularly those engaged in child labor. A comprehensive evaluation of existing policies and practices is required to ensure that all children are protected from the harmful effects of child labor and that their rights and welfare are properly safeguarded. In this regard it is imperative to strengthen the efforts made to ensure that the principles of equity, inclusivity, and participation are also integrated into the policies and practices aimed at providing child labor-related protection for child migrants in Thailand.

In a world where human rights are considered a cornerstone and the Convention on the Rights of the Child is the most ratified human rights treaty, the lack of protection for the basic human rights of children, including the protection related to child labor, is unacceptable. Despite international laws and protocols aimed at safeguarding children, they have been found to be insufficient in the face of the daunting risks that children face, including child labor. The extent of these dangers is beyond comprehension, yet some children are subjected to them on a daily basis. the conditions described in this study are so harrowing that even adults would find them intolerable, yet some children have become numbed to them. The protection of children's rights, especially in relation to child labor, must always be given priority.

Policymakers should recognize the distinct nature of the experiences and circumstances of children in migration compared to adults, as well as the differing experiences of children compared to other populations. To effectively protect the fundamental human rights of these children, a more comprehensive and nuanced approach is needed. This must involve collaboration between relevant actors at the domestic, regional, and international levels. The particular vulnerability of children in migration exacerbates the challenges they face in protecting their rights. This is further compounded by the lack of awareness and understanding about children's rights among both children themselves and wider society. The underreporting of incidents of child abuse and exploitation serves as a reminder of the ongoing challenges in safeguarding the rights of children in migration. Therefore, there is a need for strengthened measures and enforcement mechanisms at the domestic and international levels to address these violations. Additionally, strict immigration policies and laws must be reevaluated with a view to incorporating greater flexibility and child-centered approach, taking into account the “best interests” principle for children. While policies are important, in Thailand, particularly, it is also important to address the negative attitudes, neglect, and ignorance towards the rights of child migrants that exist among the general population. Despite Thailand’s non-signatory status to the Refugee Convention, there is a need for collaboration efforts among all relevant stakeholders to ensure that the basic human rights of these children, as enshrined in the Convention on the Rights of the Child, are upheld and respected. This requires a more nuanced and comprehensive approach that considers the unique needs and experiences of migrant children in Thailand.

The concept that “children are the future” continues to be a valid notion in contemporary times. The proper care, development, and welfare of children is of utmost importance, not only from an ethical perspective, but also from a human development perspective, as the children of today will shape the future of the world. The experiences and outcomes of childhood will significantly impact the future of society. It is incumbent upon society to treat each child as if they were their own, as the adverse effects of neglect or mistreatment are felt not only by the individual child, but by the community as a whole. Given that migration is an inescapable aspect of human existence, the solution to the challenges it presents is not to eradicate it, but rather to improve the laws and policies that govern it, so as to facilitate a more equitable and efficient process. Likewise, children who are subject to labor instead of receiving an adequate education and experiencing childhood are disadvantaged in terms of their future prospects. This has a damaging effect not only on their personal growth

and well-being but also perpetuates the cycle of poverty and limited prosperity for future generations. It is crucial for policymakers to give due consideration and properly address the issue and ensure a proper childhood experience and the protection of children's fundamental rights such as education and health care, so that they may have the opportunity to reach their full potential and contribute to a better and brighter future for all.



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