***Human Rights of Children in the Context of International Migration***

***This is a short submission from the National Catholic Commission on Migration (NCCM), an organization within Caritas Thailand of the Catholic Church of Thailand. It is written for the CMW-CRC Joint General Comment.***

*A Context*

In 2016, Thailand remains a regional migration hub in Southeast Asia, with a high demand for low‐skilled workers to fuel its economic growth and a migrant population estimated at being over three million. This is a population coming from neighboring Myanmar, Cambodia, and the Lao People’s Democratic Republic. They come to Thailand because of what they suffer back home and what is lacking there, opportunity. The migrant population in Thailand is here for work so as to earn money for their families. They may stay a long time in Thailand for the sake of work and income but this does not mean that they see Thailand as their home which remains their place and family of origin, even if not so far away geographically. Nor does Thai government policy allow for their long term settlement within the country.

They do mainly unskilled work which needs to be done in Thailand for the sake of Thailand’s own development needs. So the migrants from nearby countries find work in Thailand. This is something they cannot access back home. Even if the work is demeaning or harsh, they are happy as it is better for them here than what they can find back home. And yes, they come temporarily, even if for many years.

The International Organization for Migration (IOM) projects this migrant labor force will continue to grow in the foreseeable future with a possible increase to 5.36 million workers by 2025 to meet decreasing local labor supplies in labor‐intensive sectors of the Thai economy. Reality is that Thailand lacks its own needed labor pool due to a falling decline in population growth and to the success of its own development which results in Thais having higher levels of expectations. Basically, Thailand does not have the population to meet its own labor needs for the ongoing development of their own country.

Within the region, changes are expected with the creation of the ASEAN Economic Community (AEC) on 31 December, 2015. What exactly these changes will be, no one seems exactly sure nor are these changes necessarily for the better for a migrant workforce that is employed within the construction, agriculture, factory and food processing sections of the Thai economy. ASEAN’s goal for AEC is presently purely economic, establishing regional economic integration through a single market and production base. It aims to achieve this through freer movement of goods, services, investment and skilled labor, plus a freer flow of capital. Note that the free exchange of labor is aimed at those more professional sectors of the regional labor force.

The Asian Development Bank (ADB) estimates an overall boost in GDP in the region of 7.1 percent by 2025, with the largest gains being enjoyed by lower‐income ASEAN Member states. While most of AEC’s provisions are for freer mobility of high‐skilled workers, it also expects shifts in labor demand toward expanding sectors such as trade, transport and construction, which are sectors often associated with vulnerable employment. Demand for low‐ and medium‐skill jobs is likely to remain and even increase in this new environment, with labor migration continuing and predictably increasing. Yet efforts to prepare for this shift have not been put towards making migration channels safer, more manageable, or transparent. It is only early days for AEC and so the jury is out on what will transpire for the lower end of the labor market.

The Royal Thai Government’s policies towards migrants continue to change along with its leadership. May 2014 saw the latest military coup. The then constitution was dissolved with certain key parts remaining in force and an interim constitution being put in place. An interim government was put in place under a royal mandate. This government is military in flavor, with a named anti-corruption focus. This has implications in both policy and implementation. With its large and diverse migrant population, the present government has focused on regularizing the presence of the migrant population in the country. This results in pursuing a comprehensive migration policy. Registration of the migrant population is a central concern with one motive being national security. Consistent in Thailand’s policies towards migrants and displaced persons is that their presence in the kingdom is “temporary”. The reality though is that many of the migrants in Thailand have stayed for long periods of time, whether documented or undocumented.

*Rights of Children in Thailand*

Thailand has signed the International Convention on the Rights of the Child. As such, Thai government policy supports access for every child within the country to public education. This is policy but the reality is more challenging as migrant need to be proficient in Thai and the local schools need to be able and ready to accept the migrant children in their area.

The legal age for becoming an adult in Thailand is 18, while 15 is the minimum age for employment. Between 13 and 15, children can be permitted to do what is deemed light work. The minimum age for marriage is 17, with 15 being the age of consent.

Like in other areas, legislation and laws are in place to protect children. There are laws in place addressing child protection, physical and sexual abuse, child labor and human trafficking in children. What is lacking is good and effective implementation and the overseeing of these laws.

*Risks*

There is a huge informal sector in the labor market in Thailand. This sector is open to many abuses. Children remain a vulnerable population that can become victims of abuse within an uncontrolled, informal labor market and of human trafficking.

Government policy and action are lacking in taking proper measures for protecting the rights of migrant children. A factor is the local cultural and social perception that migrant populations are not identified as being on equal standing with Thais. Government corruption, which exists at all levels, is another risk factor.

A cultural risk factor from the migrant side is with families identifying their daughters specifically and children generally as a means of support. This is about children coming second in the family to other concerns. Children follow their families to the place where their parents find work and it is this quest which comes first. The primary decision is to go where there is work. So the children in the family and their concerns come secondary to the basic issue of seeking employment. This leaves children isolated and vulnerable in foreign or hostile settings to outside forces, having implications in what may happen to them in the community.

Other risk factors that lead to children being exploited or not enjoying their rights are

-poverty;

-family dysfunction;

-lack of education;

-lack of access to services and government protection;

-language and cultural barriers;

-lack of geographical stability;

-lack of documentation;

-the place of children in society and culture;

-a culture of silence when it comes to realities that may involve shame or loss of face.

The 2013 statistics from the Thai Ministry of Public Health reveal that there were 19,229 reported cases of child abuse. Of these,

-69% of cases were sexual abuse;

-22% were physical abuse;

-4% were emotional abuse;

-3% were cases of neglect.

88% of the victims were girls and 61% under 15 years old.

As noted already, the Thai government is actively following the policy of having migrant workers be registered and have the proper documentation. In this way, they enter the workforce having the correct status which means protecting their right and having access to public services such as health and education. The issue is the number of migrant workers in the country and the number who do not have the money, the language or the access to being properly registered and having the proper documentation. This means that many do not become and remain undocumented. This affects their children and therefore the rights their children can enjoy in reality. There is then the accompanying question of protecting their children from possible resulting levels of abuse.

*Realities*

Our service supports community based education for Burmese migrant children in Mae Sot, a major industrial center on the border between Thailand and Myanmar, attracting a large migrant population. There a simple survey was taken in November 2015 within a migrant education center supported by NCCM. Its results are worth sharing.

1. The center had 32 children who could not get into Thai government schools. This would be due to lack of Thai language skills, lack of place in the Thai education system, lack of family income or active desire or to the mobility of the family, not staying in the one place long enough.
2. Of the 32 children, 26 were 10 years old or under.
3. Of the six children over 10 years of age, four left to go to work, one returned to Myanmar and one went to another education center.
4. Children generally stay short term at the education center as the population is mobile, moving to where work is found.

The population lacks geographical stability which has implications in the education that can be accessed for their children and the level of education which can be pursued. This simple survey shows the level of vulnerability of migrant children and the risks they run in living in a Thailand where they do not live what may be labelled as a ‘normal, stable life’ of a child in the community.

Children are found working in factories and in agriculture and in the seafood processing industry, as well as sadly begging on the street and in the worse cases of commercial sexual exploitation.

The now previous Constitution of Thailand assured the rights of children. The present political reality of being within an interim period waiting for a new constitution raises the question of where does this leave the rights of children. It can be seen that these same rights remain but it becomes more about political resolve. This results in some state of ‘official limbo’ depending on the goodness of legislators and the people. Basically, their rights remain but there arises a question when there is no firm assurance coming out of constitutional recognition. Communal and political goodness do exist on behalf of children but the reality is the question of how this inherent goodness is backed up at government level and by government action.

This is reflected by the style of government which is both interim and military based, formed under Royal decree and acting under an interim constitution. Such a basis for government allows for discretionary exercise of power. This has possible implications for policy and implementation, such as focus on order and stability in dealing with a migrant population that is living a fluid existence. Ongoing weaknesses are the level of corruption within Thai administration and too much being left to the discretion of individual Thai authorities at the implementation level when dealing with this population.

Conflicting government policy on demanding documentation for entry into education is adversely affecting all migrant children accessing education. This leads into the difficulties caused by a seeming lack of communication among various government ministries involved in the one issue. There is also the reality of various governments over time continually changing the rules which makes it more complicated for the migrant population to regularize their situation in Thailand. One relevant issue is the question whether the Thai government will continue to allow migrant workers to include their children when registering. There is pressure on the Thai government that migrant workers be compelled to leave their children at home. The applying of any such policy would result in a denial of human choice and human rights. It is to be seen where this goes under the present Thai government.

*Summary*

A summary could be that it is not all bad but it is not all good. Migrant children are vulnerable or at least run the risk of being vulnerable due to the very nature of their existence and their level of access to government services. While laws and government policy may be in place, what is lacking is implementation. Corruption creeps in as do negative aspects of local culture, as well as family values and need. Government can be seen to be both acting for the good of children and to be lacking how they respond to or approach migrant children. Still what may be going wrong with addressing migrant children is not all the fault of government. There is a need to work more with communities – both local and migrant. As well there are issues with families to be addressed. At local, communal and government levels, there is a need for more oversight in protecting the good of migrant children. Thailand has a strong NGO sector acting for the children of migrant community. This is known as CRC Coalition Thailand. Caritas Thailand and the Thai Catholic Church are active partners within the community with NGO and other sectors, acting for the good of migrant children.

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