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Human Rights Challenges of Irregular Migrant Laborers' Dependent Children in Thailand's Construction Sectors: An Empirical Analysis

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ABSTRACT

Despite being a vital component of economic growth, irregular migrant laborers staying with their children on construction sites in Thailand face various challenges. Irregular migrant workers face discrimination in wages, inadequate documentation, and limited access to basic rights, and their children are not covered by public services guaranteed in the Thai national legal framework for migrant laborers. The children, or dependants of the irregular migrant workers in this sector, face difficulties accessing fundamental rights. Through the conceptual framework of irregular migrants together with the complex definition of dependent children of migrant workers, this documentary research analyses the basic protection deficits, risks, and needs of migrant workers' dependent children in the construction sector in Thailand. The study found that their identity as 'children' is largely ignored due to their parents' identity as migrant workers or irregular migrants. Therefore, migrant workers' dependants or children in Thailand's construction projects are deprived of their fundamental human rights, such as education, healthcare, and protection. The study's findings provide insights into both academic research and policy analysis in the field of migrant worker management by highlighting the human rights deprivation of children as the key dependents of migrant workers, which affects the productivity of migrant workers and indicates the lack of efficacy of the Thai government's labor migrant policies. The study recommends weighing migrant workers' voices in the design of labor migration programs, broader consultation among migrant workers, employers, and government officials, and policy review to allow children of migrant workers to access fundamental human rights.

Introduction

Migrant laborers from neighboring countries are the backbone of the Thai economy. The prolonged conflicts and poverty in neighboring countries have made Thailand the transit and destination of a large number of documented and undocumented labor migrants, displaced persons, and asylum seekers over the years (Ducanes et al., 2023). Children comprise a considerable proportion of these groups, although their existence is largely ignored and, therefore, less visible and under-recorded. Children who migrate to Thailand or are born to migrant parents hold various identities, such as (1) individual child migrant laborers who may travel alone or accompany parents or relatives to seek income and (2) asylum seeker children who are categorically different from labor migrants. Some have refugee status, like the Burmese refugee children who stay in the nine refugee camps in Thailand, and the urban refugees who are undocumented and unrecognized by the Thai government, stay all over Thailand as irregular migrants. This group cannot benefit from Thai labor migration laws and policies, and 3. Thai labor migration laws and policies do not cover child dependents of labor migrants. This paper analyzes the human rights condition of the child dependent or the children of migrant laborers in the construction sites in Thailand.

Thailand generally receives migrant workers from countries in the Greater Mekong subregion (Myanmar, Cambodia, Lao PDR, and Vietnam), and the number of registered migrant laborers is estimated at approximately 2.8 million, of which 600,000 migrant laborers work in the construction section only (International Labour Organization [ILO], 2019). However, the actual number of migrant workers in Thailand is believed to be higher as the undocumented migrant laborers are not counted in the official statistics (International Organization for Migration [IOM], 2020). IOM 2023 report indicated that a number of registered migrant workers remained consistent over the last couple of years. Only the number of registered migrants in 2023 is equal to 7 percent of the total population in Thailand (IOM, 2023). Specific Thai industries, such as fishing, agriculture, and construction, depend highly on migrant workers. Child dependents of migrant laborers are present in all these sectors but face precarious vulnerability both due to their age as minors and their undocumented legal status (Capaldi, 2015). Children born to undocumented migrant parents essentially ended up being stateless and, therefore, deprived of most of their basic human rights.

Despite several measures put in place, a considerable proportion of migrants remain undocumented. Since migrant workers are part of the economy, there has been a continuous evolution of the Thai government policy framework to register them and their dependents and address the general presumption that undocumented migrants create health and security risks to

the country. However, the latter has a more complex implementation focus than regularizing the migrants and their dependents. Arrest and deportation remain very common as part of the enforcement of the immigration law against undocumented migrants (IOM, 2018).

Many migrants prefer unofficial channels due to the cumbersome official registration system despite being deprived of most government services. Also, Thai regulations on formal migrant worker recruitment and deployment specifically exclude the families and dependents of migrant workers. The 2002–2003 Memorandum of Understanding (MOU) between Thailand and neighboring countries (revised in 2015-2026) is the key to facilitating regular labor migration. This official channel does not include dependents, leaving few options available for the children of migrant workers to accompany their parents to Thailand (Harkins, 2019). These few options result in child dependents entering the country without legal status, even when their parents have migrated through regular channels.

Child dependents of migrant workers on Thai construction sites:

The ASEAN 2020 report indicates that in most Southeast Asian countries, but specifically in Thailand, women working in the construction sector are often considered informal employment as most arrive through irregular channels. The complexity of regular migration under MOU agreements with neighboring countries serves as a reason for women workers choosing irregular migration, particularly those whose lower incomes in countries of origin render the costs of regular migration more prohibitive. However, this means that women are more likely to migrate irregularly into informal employment, placing them at higher risk of labor exploitation and human rights violations. This situation mainly affects the child dependent of the migrant workers who accompany their mother (Atapich, 2015).

Child dependents who accompany their parents during travel to Thailand and who are born in Thailand face various challenges. Many female migrant workers accompany their children. Research indicated that if women workers have to accompany their children, they prefer irregular routes to travel mainly for two reasons: one, the official route is expensive and complicated, and two, child dependents cannot be included in the official labor migration processes (ILO, 2016). This fact ultimately means that the majority of children who travel with migrant parents are undocumented. Married female workers either travel as single mothers to accompany their children or travel to reunite with their migrant spouses in Thailand. In both cases, female labor migrants preferred irregular routes, resulting in their children being undocumented. The construction sector, in particular, hosts the most significant number of undocumented labor migrants. This fact is caused by the high demand for labor, which is the quickest source of 'job' for irregular migrants offered by their brokers or friends and relatives who may inform them about

such job opportunities. This labor is cheap for the employer as the workers are often given a daily worker rate with no job security (ILO, 2016). In 2023, of the total 600,000 migrant laborers in the construction sector, 36 percent were female migrant workers, and the majority were undocumented (ILO, 2023a). Therefore, not just due to their identity as undocumented but also the discrimination faced by the female workers in the construction sites directly impacted their child dependents.

ILO study on the construction sector indicates that many female workers in the construction sector are undocumented. These female migrant workers in the construction sector get lower wages than those for male co-workers despite serving similar working hours, which are generally lower than the official minimum wage. Pregnancy is considered an obstacle for women workers as they are forced to resign or are terminated due to pregnancy, have no right to maternity leave, and, in most cases, have higher costs for reproductive health care (ILO, 2016). Many women are indebted as they borrowed money to cover the cost of treatment or have no source of income, as they may have sold their last assets to cover migration costs. Therefore, earning income is a crucial priority for most women in this sector. It is, however, challenging to refer to disaggregated data on undocumented migrant workers and their dependent children. According to a 2018 report of 4,551,049 registered migrant workers, there were 1,032,198 child dependents (Mala, 2018). In 2021, there are around 585 migrant workers sites in greater Bangkok alone, accommodating an estimated 80,000 workers (Bangkok Post, 2021).

The female migrant workforce in the construction sector faces evident discrimination in opportunities and services. Women migrants are not hired based on their skills but based on the obligation perceived by the employers. In the construction sector, most female migrant workers are married. They either come together with their migrant husbands or separately. Hiring women benefits both employers and female workers. On the one hand, because women are not paid the same as male workers, they are a source of cheap labor for the employer. On the other hand, women's opportunities to stay and make some income with their spouses were fulfilled. Therefore, marriage becomes a *de facto* condition for female migrant workers in the construction industry. While female workers face critical protection issues as a matter of course, the issues also affect their children who either came with them or were born in Thailand as the children largely stay with their mother (ILO, 2016).

Women migrants face additional barriers to accessing documentation than men, which ultimately affects their children. Only women who enter through MOU channels have a secured employment scheme. Most women workers are burdened with care responsibilities at home and in Thailand, relying on brokers or employers to access migration and work documents. In practice,

women workers often have their documents held by their employers, work permits are tied to employers, and work contracts on construction sites have access to few or no labor benefits. Workers pay high broker fees and bribe the officials who often raid construction sites searching for irregular workers (ILO, 2016; 2019). These complexities indicate that in construction sectors, child dependents of undocumented female migrant workers rarely have chances to access national regularization services.

A large number of migrant children are born inside Thailand, as many migrants remain in Thailand for a long time. Lack of birth registration then adds to the number of migrant children in Thailand without legal documentation, which is also a source of vulnerability. By law and policy, all children, both documented and undocumented, can access basic public services, including education, healthcare, and child protection services. However, in reality, accessing public services remains complicated for undocumented migrant children. The key barriers to accessing services by migrant children include negative attitudes toward migrant children, lack of capacity among service providers to support migrant children adequately, lack of understanding of policies and procedures by officials, and reservations among the migrant community about using government services (Meyer et al., 2014; Harkins, 2019).

The precarious situation of the children of migrant workers who work and stay in the construction sector in Thailand has not received the attention that it warrants from the government, international organizations and social researchers. This study examines how the irregular migration status and informal employment of migrant workers in the construction sector affect the human rights of dependent children of migrant laborers in Thailand. The research questions are,

1. How has the literature recorded the human rights challenges of migrant workers' dependent children in construction sites in Thailand?
- 2) How can child protection challenges for migrant workers' dependent children at construction sites in Thailand be addressed?

Objective(s)

This paper aims to collect and analyze the existing literature on the migration process and post-migration challenges faced by migrant workers' dependent children in construction sites in Thailand to inform further policy reformation.

Methodology

To address the research questions, this study employs a documentary research approach relying on secondary sources to gather data and information. The limitation of this research is the absence of primary data and lack of validation through direct interviews. Nonetheless, the study utilizes data collected through formal methods and recorded in various migration-related reports conducted by academic institutions, human rights organizations, the United Nations, and INGOs. The analysis involves several steps:

1. Data collection. The primary data source is academic papers on labor, which provide an analysis of the historical context, the evolution of Thai labor migration laws and policies and a broader understanding of the issues.

2. Data selection and categorization: The literature is categorized into themes such as migration patterns, legal status, access to education and healthcare, and living conditions on construction sites.

3. Content Analysis. The literature is subjected to content analysis to identify key themes, patterns, and insights related to the challenges faced by migrant workers, particularly identifying recurring issues such as protection deficits, risks, and the needs of dependent children of migrant workers.

4. Contextualizing and Synthesis. The collected data are contextualized within the broader framework of irregular migration and rightlessness to understand how these concepts apply to the experiences of children of migrant workers in Thailand and the impact of the Royal Ordinance and other relevant laws and policies on migrant children's rights and access to services is analyzed. Finally, the study interprets the data to conclude the fundamental human rights deprivations faced by children of migrant workers in Thailand's construction sector.

Conceptual explanation: Irregular migration, definition of child dependence and missing human rights

Complexities in the definition of irregular migration: Irregular migration has long been a major focus of international migration studies. Although there appears to be no fundamental difficulty in determining who an illegal migrant is, scholarly arguments suggest that the concept of 'illegality' in migration must be analyzed in light of the context and background of each set of populations to be considered illegal. There is no widely accepted definition of irregular labor migration. The term "migrant worker" is defined institutionally by the International Labor

Organization (ILO) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW). The ILO refers to people who enter or labor in countries without legal authorization and are labeled illegal, clandestine, undocumented, or irregular. Illegal and irregular are frequently used interchangeably and have a normative connotation associated with criminality. According to the ICRMW, regular migrants are individuals who are permitted "to enter, stay, and engage in a remunerated activity in the state of employment" (ICRMW, Article 5, paragraph (1)). These concepts are practical references when addressing, combatting and preventing unlawful migration. The concept of irregular migration refers to three implicit categories: a foreigner staying beyond his or her permitted period of entry and residence, a foreigner arriving clandestinely on a state's territory, and a foreigner working when not permitted or in a manner inconsistent with his or her immigration status (Amaratunga et al, 2005). In general, national laws divide foreigners' situations into two categories: unlawful entry and individual presence. The ILO defines irregular labor migration as work-related, lacking labor rules, principles, and recommendations on fair recruitment, discrimination, and unequal treatment. This concept suggests that an "unfair" system can lead to irregular migration, which may not be the migrant workers' decision (ILO, 2021).

Irregular migration for employment: According to the ILO, most irregular migration is motivated by a need for income or a desire to work. This fact indicates that the migrants' home nation may lack earning prospects as well as political and economic restraints. Scholars contend that migration is necessary under some conditions (Aulin & Jingmond, 2011). Migration provides pleasant and empowering experiences for migrants and their families, as well as the communities in the origin and destination nations. However, there are constant disagreements about identifying those who chose to migrate through irregular channels and ended up working in 'illegal' jobs in both the formal and informal sectors. They may have entered without proper documents, lost their paperwork, or, in the worst-case scenario, have yet to get official identity and travel documents in their home country (Atapich, 2015; Harkins et al., 2017). Their plea for asylum may be denied, or they may need to seek refuge in the destination country.

Migrants looking for work typically travel to neighboring nations that are less expensive and more culturally convenient. Some believe irregular migration channels are a choice since migrants seek the cheapest alternative (Aulin & Jingmond, 2011). However, evidence indicates that employment-driven irregular migration has a causal relationship with the conditions in destination nations. The labor market asymmetries are determined by the demand and supply of labor in the destination and origin countries. When traditional avenues to survival are unavailable, people are forced to relocate (Chatrakul na Ayudhya, 2010). Unequal access to economic and

social rights, such as food, land, water, health care, decent work, climate change and environmental degradation, unequal opportunities, gender inequality, and gender-based violence can all be compelling reasons to migrate irregularly (ILO, 2016). Recruitment costs, dishonest labor recruiters, misleading or incorrect information, a lack of understanding of complex immigration procedures and gender-based migration bans are also structural problems (Ciba, 2023).

Complex definition of migrant workers dependent children: illegal migrant, illegal children or just 'children'?

Children of migrant workers are not necessarily individual child migrants; they are generally dependents of the migrant workers or extended families of migrant workers. Therefore, they should be regarded as children first and foremost. However, this seems not straightforward and even more complex when migrant parents have an irregular or undocumented status.

When it comes to individual human rights issues, if the 'illegal' individual remains under the jurisdiction of the state, it becomes difficult to explain not only the eligibility of the human rights that both regular and irregular individuals enjoy under international law but also the difficulties they face in the countries where they live, work, and travel (Campbell, 2013). This issue eventually impacts both the destination and origin countries, but most crucially, migrants and their families. Women make up the majority of irregular migrants. Female labor migrants frequently join their spouses or seek protection and income. Female migrant workers frequently lack protection and income opportunities in their home countries and may not always find enough protection and income opportunities in their destination countries (Saibouyai, Vipunjit Ketunuti, Saranya and Sally, 2019). Those labeled as irregular or undocumented migrants frequently have to select marriage as a practical alternative for protection in destination countries. There are discriminatory labor migration policies in place, with many countries failing to protect the rights and benefits of migrant workers' dependents. Such provisions in labor regulations eventually drive potential migrants to seek out irregular migratory pathways, falling into the trap of rightlessness and becoming irregular. This paradox of rightlessness impacts their children. The children born to irregular labor migrant couples or who travel with irregular migrant parents are then considered 'invisible' by default (Save the Children, 2015). Because their parents are not recognized as lawful, their default identity of status-less leads them to rightlessness. Children of irregular migrants frequently lack primary identification documents such as birth certificates. Therefore, in many destination countries, migrant-dependent children are denied access to education and basic

healthcare services if their parents lack valid documentation. These children stay outside of official protection processes, putting them in greater danger of violence and abuse (Harkins et al., 2017).

Findings: Thai legal frameworks and ignorance of child dependents of migrant workers

Challenges in Thailand's domestic legal framework

The Thai legal framework on labor migration combines opportunity and deterrence. The Ministry of Labor has said that all workers are entitled to equal protection under national labor laws, such as the 1975 Labor Relations Act of 2008 Labor Protection Act (Amended), 1979 Immigration Act, 1985 Employment Arrangement, Job-Seeker Protection Act and 2008 Working of Aliens Act, and the 2003 Child Protection Act and 2008 Anti-Trafficking in Persons Act. To regularize migrant labor, in 2002-3, Thailand signed bilateral Memoranda of Understanding (MOUs) on Cooperation in the Employment of Workers with Cambodia, Lao PDR and Myanmar. These MOUs underline that migrant workers who enter the country via the MOU will be treated similarly to Thai nationals. In reality, these MOUs are used to define unauthorized migration in Thailand. Thailand began changing its workforce migration regulations in 2001. Currently, two methods are available for Thailand-bound migrant labor: (1) the MOU process for regular migration from countries of origin and (2) the registration and National Verification (NV) process for irregular migrant workers—a large majority of migrant workers in Thailand work without legal documents. Despite various regulatory changes, Thai migrant regularization is time-consuming and complicated for most stakeholders. Since the military took power in May 2014, labor migration policy has evolved toward more limited governance, emphasizing security considerations rather than labor market demands (Meyer et al., 2014). The migrant labor figures categorized by legal framework are as follows:

Total: 2,323,124 registered migrants (2020) and an unknown number of undocumented migrant workers.			
Category	Female	Male	Total
MOUs	362 739	453 106	815 845
	Myanmar = 424,389 (52 per cent) Cambodia= 231,151 (28.3 per cent) Lao PDR= 160,055 (19.6 per cent) Viet Nam = 250 (0.03 per cent)		
	569 742	696 965	1266 707

NV under 29 August 2019 Cabinet Resolution ¹	Myanmar= 1,002,616 (79.2 per cent) Cambodia= 213,455 (16.9 per cent) Lao PDR= 50,636 (4 per cent)		
NV under 4 August 2020 Cabinet Resolution (including border employment) ²	107 073	133499	240 572
	Myanmar= 156,267 (65 per cent) Cambodia= 70,994 (29.5 per cent) Lao PDR= 13,311 (5.5 per cent)		

Source: Office of Foreign Workers Administration, Department of Employment, Ministry of Labor, Thailand (November 2020)

Official migration channels like the NV process and the MOU system, which govern regulated migrant workers, are costly, complex, time-consuming, and thus unpopular in the Greater Mekong subregions. Migrants from Myanmar frequently employ intermediaries to process documents for the official channels, increasing costs and vulnerability (Sunindijo & Hadikusumo, 2014; ILO, 2020c). Approximately a million migrants, including hundreds of thousands of migrant children, choose irregular pathways and remain undocumented.

Debt bondage is another prevalent concern. For documented migrants, employers pay registration fees in advance, resulting in a type of debt bondage. Companies believe it is appropriate to withhold workers' IDs and work permits, and they are rarely penalized or prosecuted. Including dependent children in the formal paperwork can be problematic (Sunpuwan & Niyomsilpa 2012). Furthermore, if documents are withheld and only photocopies are offered, businesses limit migrants' mobility, leaving them subject to police harassment and extortion (IOM, 2021).

The Thai government considers undocumented migrant workers 'illegal'. Migrants choose unofficial methods since they have free mobility but experience other forms of prejudice. Aside from the risk of detention or harassment by police, there are frequent instances of migrants earning significantly less than the minimum wage and no overtime pay (ILO, 2016). Migrant laborers are forced to work excessively long hours, up to 10 hours per day, and are only provided two days off each month. Many employers fail to pay on time and deduct excessive registration

¹ An August 2019 Cabinet Resolution allows migrant workers to renew work permits without leaving Thailand. This provision includes those who have completed nationality verification and hold temporary passports, travel documents, or certificates of identity.

² The Cabinet Resolution, in response to COVID-19, granted extensions to four groups of migrant workers whose work permits would expire during the lockdown, including MoU workers with a completed four-year contract and migrant workers holding border passes under the border employment scheme.

fees (Chamchan et al., 2017). Employers demand unreasonable fees for workers in manufacturing compounds or building sites (Technavio, 2022; ILO, 2020b).

Migrant workers must get annual health examinations, which include a pregnancy test. Although pregnancy tests are not required for deportation, the findings are not kept confidential, and employers frequently cite other reasons to fire pregnant women. Furthermore, frequent announcements that pregnant migrant women will be deported encourage migrant women to have unsafe abortions to preserve their jobs. In Thailand, children under 15 are not permitted to work, while those aged 15-18 are only permitted to work in specific jobs. However, due to inadequate monitoring, employers and employees misrepresent the age of migrants working in hazardous occupations (ILO, 2020a). According to the 1975 Labor Relations Act, migrant workers are not permitted to serve on union committees or create their own unions, limiting their capacity to engage in collective bargaining (Timetric Construction Reports, 2014).

Labor migration patterns and impact on dependent children of migrant workers

Research indicates that despite several official channels being established, migrants generally prefer unofficial modes of travel, and, in this process, friends, relatives, and family members remain the most favorable contact points (ILO, 2013; Dowding, 2014). To investigate the migration patterns, the Flow Monitoring Survey: Insights into the Profiles and Vulnerabilities of Myanmar Migrants to Thailand (IOM, 2020) surveyed around two thousand Myanmar migrants who entered Thailand and found that since the signing of the bilateral MOUs in 2002-3, the formal recruitment process did not attract migrants. Among the migrants surveyed in this study, 43.3 percent came through family and friends, 37.7 percent through brokers, 18.5 percent on their own, and only 0.5 percent used the formal recruitment process stipulated in the MOU. This trend remained unchanged. This survey re-established that the link with family and friends is the cause for the selection of travel mode (largely irregular) and the result of migratory movement. While the key reasons for migration are income opportunities from employment, most migrants are influenced by their family and friends who are already in the destination country. Family and friends in Thailand help arrange and pay for the trip to Thailand, liaise with brokers, and arrange jobs for the incoming migrant relatives. Thus, this data indicates that most migrations are irregular and female migrants are the key travelers under this method, allowing women to bring their children with them. Most female migrants with no income in their home country and whose

relatives already work in Thailand prefer this arrangement. The key reasons for relying on friends and family are first financial support and then support upon arrival (IOM, 2020).

Another IOM study on migrant workers shows that the majority of migrant laborers have pre-arranged employment before they reach Thailand, managed through friends or relatives. One common trend, particularly in the construction sector, is for male workers to bring their spouses, which is generally convenient for both the employer and the workers as they can work and stay together on the same work sites (IOM, 2018). Moreover, the average cost of migration through irregular channels is cheaper than through official channels, USD 205 versus USD 517 for Cambodian workers and USD 368 versus USD 394 for Myanmar workers. Among sectors, workers in the construction sector spend the most on recruitment, with an average of USD 489, followed by those in domestic work (USD 461) and agriculture (USD 431) (Chamchan et al., 2017; ILO, 2020b). Another study found that the majority of workers from Cambodia (73 percent), the Lao PDR (96 percent), Myanmar (91 percent), and Viet Nam (91 percent) used irregular channels to enter Thailand also because the irregular migration was considerably quicker by an average of 78 days and they can accompany their children (Harkins et al., 2017).

Most migrant laborers are between the ages of 21 and 40, most are married, and female workers often have higher educational levels (secondary education) than men. Since labor migrants are mostly married, they have children either with them or back in their home country. This report indicates that 63 percent of total migrants already have at least one child when they are staying in Thailand. About 71 percent of female workers in Thailand have their children with them. Most female workers bring their children with them, arguing that they do not have support or income for caregiving back home (IOM, 2018). However, a proportion of migrants leave their children back home and send remittances for maintenance, at an average of USD 105 a month (IOM, 2020). Most migrants face challenges during their journey, including being charged more than expected, psychological stress and demands for bribes, lack of places to sleep, arrest and detention, misinformation, personal threats, and documents confiscated (IOM, 2021; ILO, 2019).

Data Crisis

The fundamental problem in reaching out to migrant children in Thailand and the failure in planning programs by both government and non-governmental organizations (NGOs) is the lack of accurate data on migrant children. This data crisis poses significant challenges in addressing the demand for quality services. Without data, there is also no accurate understanding of the number, location, and needs of migrant children. As rightfully pointed out in the Millennium Development Goals Report (United Nations [UN], 2015), though it is not always easy to identify,

understand, and make visible the vulnerable groups in question, failure of data estimation can be the first level of failure of development (UN, 2015). At the moment, only migrant children who have parents with official documents are counted in official data, leaving most undocumented migrants statistically invisible). The most crucial point to note here is that regardless of their migration or other political status, children can access basic human rights like protection, education, and health care in Thailand. However, when migrant parents are undocumented, their children often do not access services (Dowding, 2014).

Another risk is the tendency to overstate official figures. For example, the World Bank's measurement of the primary education completion rate for East Asia and the Pacific exceeded 100 percent from 2009 to 2013 (World Bank, 2016). However, this data was challenged by other researchers, saying the statistics do not adequately reflect the presence of migrant children in the population since many are not legally registered (Harkins et al., 2017). The data gap is the most vital challenge in being able to see the vulnerability of migrant children in the construction sector in Thailand, not only because of the presence of a high number of undocumented migrant parents but also due to the high frequency of employment turnover and internal migration (Powell et al., 2004).

Analysis: Human rights challenges of the migrant laborers' dependent children in the construction sector

The actual number of migrant workers' dependent children living in Thailand, particularly in the construction industry is unknown because the number of irregular migrant workers is unknown. This means that this group of migrant children is not officially registered by the Thai government (considered status-less) and lacks documentation, rendering them unable to exercise basic human rights (portrayed as rightless) (Rijken et al., 2015). However, according to the Thailand Migration Report IOM, 2019, over 400,000 migrant children remain in Thailand. Over 164,000 students are enrolled in school, but more than 200,000 are not. Around 60,000 children live in construction site camps in Thailand. Because the construction industry employs more female workers, and the birth rate among migrant workers is also high (Harkins, 2019). The majority of these construction projects are in greater Bangkok, but are also found in Chiang Mai, Chiang Rai, Chumphon, Kanchanaburi, Pathum Thani, Phang Nga, Ranong, Rayong, Samut Prakan, Samut Sakhon, Tak, and Trat. However, the location of the migrant workers keep changing based on the lifecycle of construction projects. Migrant children living in construction site camps face critical challenges in accessing basic human rights, which indeed affects their

physical and cognitive development (United Nations Children's Fund [UNICEF], 2018). The key human rights issues of migrant children living in the construction projects are as follows:

Documentation

Even if migrant parents have visas and work permits in Thailand, their children rarely have a document similar to a stay permit. Employers only register adult migrant labor, leaving the children unregistered. Furthermore, many migrant workers use illicit methods to enter Thailand; therefore, their children are never counted in official data (Harkins, 2019). One of the primary reasons for not seeking official assistance is fear of being arrested, detained, fined, deported, and, more importantly, denied benefits owing to an irregular/illegal status. Often, migrant children are required to provide identity documents before enrolling in public schools. The migrant children in construction site camps are thus entirely dependent on onsite alternative education facilities, often provided by NGOs.

Birth registration

Migrant workers' children born in the Kingdom are often overlooked and denied the rights they deserve due to a lack of adequate legal status. Around 60,000 migrant children are born in Thailand each year. Around 75% of migrant workers' children lack a valid birth certificate and are therefore not legally registered (Mala, 2018). While Section 16 of the 2008 Civil Registration Act requires that every birth within the country be registered, regardless of nationality or migration status, there is a significant gap in policy implementation because civil registration officials and hospital staff lack a clear understanding of the law, migrants' rights, and the birth registration process. Another cause for low levels of birth registration among migrants is migrant parents' lack of information and awareness about the importance, entitlement, and method for obtaining a legal birth certificate for their children. For example, migrant mothers or caregivers are unaware that they must submit the birth report issued by the hospital to obtain a birth certificate from the district office, they lack the necessary resources (money, transportation), or undocumented migrants are afraid to approach any government office. This fear is true for migrant workers' children in construction campsites, the majority of whom are confined to the sites with restricted mobility options. Although the majority of migrant infants from construction campsites born in Thai hospitals have access to birth certificates, migrant parents are unaware that a hospital report of birth is not a birth certificate, which should be obtained from a government registration office

(UNICEF, 2018; Chamchan et al., 2017). Furthermore, many children born at home in the construction camp sites lack birth certificates.

Education

Thailand's government enacted liberal educational policies for migrant and stateless children in 2005. For example, state schools do not officially charge fees, and schools are not entitled to refuse enrollment to children because they need citizenship or identification documents. Furthermore, travel limitations typically imposed on migrants are removed for children who must relocate to attend school (Ducanes, et al., 2023). However, statistics show that less than half of migrant children in Thailand were unable to enroll in public schools until 2014 (Petchot, 2014). The costs of sending a child to school are recognized as a cause of low enrollment among impoverished migrant families. Daily transportation costs, added fees and equipment, and the potential loss of income from child labor, among other things, place a strain on migrant families' finances. Language is also a hurdle, as Thai primary schools do not accept pupils with little Thai language ability (UNICEF, 2022). As a result, many migrant children who want to attend the formal school system must first go to migrant learning centers (MLCs) run by NGOs. Therefore, migrant children in elementary school are typically older than their classmates. Those significantly older than the average for their grade level frequently dropped out of school. Children who remain in the education system had to endure "local curricula" based on a centralizing nationalist Thai culture (Nawarat, 2018).

Another challenge is that the educational curriculum delivered through the MLCs is mostly not recognized by the governments of Thailand or the country of origin, causing barriers to matriculation at accredited schools in both countries for migrant children. There is also no harmonized system of placement tests at schools to accept migrant students in Thailand. Headteachers can use their discretion to allow or refuse access to government schools, and in some cases, both official and unofficial fees are applied (Save the Children, 2015).

Almost all these obstacles to accessing public education by the children of migrant construction workers were reconfirmed in a joint study by UNICEF and the Baan Dek Foundation (2018), including additional fees charged by schools for expenses that the government does not cover, school uniform costs, accident insurance, costs of transportation, etc. The reasons that most construction migrant workers' children do not attend public school are poverty, acting as caretakers of younger siblings, involvement in child labor to make financial contributions to the

family, and frequent relocation of the family due to the temporary employment contracts of the parents (Harkins, 2019; Reuters, 2021).

Social Security and Health Care

There are two health insurance schemes for migrant workers and their dependents. The Social Security Scheme, managed by the Social Security Office of the Ministry of Labor, is open to migrants employed in the formal sector who entered Thailand through one of the bilateral MOUs or completed the NV process. The Migrant Health Insurance Scheme (MHIS) is managed by the Ministry of Public Health. A Thai Cabinet resolution issued in 2013 makes all migrant workers (both regular and irregular) and their accompanying dependents eligible for health insurance. Insurance is offered at an annual rate of THB 2,200 for adults and THB 365 for dependents (Chamchan et al., 2017).

Migrant workers in the construction sector face particular challenges in accessing health insurance and related benefits. MHIS coverage lacks flexibility as it can only be used in certain hospitals the migrants choose. Many migrant workers and their dependent children are highly nomadic, staying in one location for several months and moving frequently as their work in construction projects ends. In such circumstances, they cannot buy health insurance linked to a single hospital or healthcare facility (Harkins et al., 2017). Besides, due to language barriers and financial poverty, some migrants fail to get health insurance. Some migrant parents do not see the immediate need to buy health insurance if their children are healthy; others are unaware of the insurance scheme. Some migrant parents hesitate to register their children for insurance due to their irregular status and fear of being reported to the immigration authorities (Harkins, 2019).

The National Immunization Program provides the most essential and compulsory vaccines to migrant children. However, vaccination rates among migrant children are significantly lower than among Thai children (König et al., 2024). Migrant parents on construction sites receive vaccinations for their children at hospitals or schools. Nevertheless, there are many instances when migrant parents are not aware of the vaccination program, forget to follow the schedule of vaccines, suffer from financial constraints, or fear movement (for irregular migrants). Their children do not receive the required vaccine (Harkins et al., 2017).

Living conditions

The project owners generally provide accommodation for the construction workers, usually comprising a room big enough to fit two mats on the floor, with metal sheeting separating each family's room, heat trapped inside the rooms during the hot summer in Thailand. Large

construction projects use shipping containers as workers' accommodation, quickly shifting to the required location upon completion. One shipping container camp accommodates around 1000 workers. Thailand aims to set a standard that guarantees workers one square meter per person of accommodation space. This size is way below the international standard of 3.5 square meters per person. Employer-provided housing is located on and off the work site but generally close to the site. Onsite camps provide common showers and toilets with no gender-specific shower space. There are also instances where migrant workers are responsible for housing, which costs around THB 800/USD 23 per room in Bangkok and THB 3,000/USD 85 per room in Chiang Mai (ILO, 2016). Studies show that the inadequacy of showers and toilets causes overcrowding, fears among women and children, and problems related to hygiene and sanitation. Toilets are generally located outside and are not equipped with sewerage systems, privacy, lights, and necessary protection; migrant children are generally afraid of using toilets (UNICEF, 2018). Adult workers regularly accept the accommodation provided by employers because it allows them to stay with their families. However, migrant workers' children feel confined with limited rest, recuperation, and child development facilities.

Childcare facilities at the workplace

There are few public childcare options available for migrant laborers in Thailand. There are no legal requirements for project owners or employers to provide childcare facilities in the workplace for employees, especially for working migrant mothers. Many Myanmar workers leave their children in their place of origin, but not all workers have relatives back home whom they can trust. Migrant children who come along with their parents or are born in Thailand face the most precarious crisis for childcare facilities if both parents or the single migrant mother are working (ILO, 2019). Some workers try to hire other migrants to look after their children, but such arrangements are getting more difficult due to financial constraints and the scarcity of fellow migrants to hire. Due to limited childcare options and a strong social expectation that mothers should look after children, women workers need help juggling work and childcare, primarily when they work in low-paid jobs with long working hours (ILO, 2016). On some occasions, migrant women had to quit their jobs to look after their children since they could not find any alternative and had to forfeit all the wage increases that they were able to gain through long years of working

(ILO, 2020b). This situation causes family separation and risks child protection and development. It may also create the risk of an unexpected shortage of cheap labor.

Risk of child labor

Although the legal age for children to work and earn money in Thailand is 15, migrant children living in construction camps are heavily at risk of child labor (Harkins et al., 2017). Poverty is frequently cited as a reason why migrant parents on construction sites involve their children in a variety of income opportunities, such as working as caretakers for other children in the community, as agricultural laborers, or as housekeepers or cleaners. Migrant children work as day laborers on construction sites, especially those hazards that work in construction camps are not adequately addressed due to a lack of care and monitoring services. Research indicates that if a child falls behind in a local Thai school, they are more likely to leave and become involved in income-generating activities (Nawarat, 2018).

Family separation

Family separation is another adverse result of migrant work worldwide and also in Thailand. Children left behind at their homes of origin or children sent back to their homes of origin are separated from their families. Several researchers have confirmed this phenomenon. UNICEF and Baan Dek Foundation (2018) research documented the critical reasons for family separation among migrant children in the construction sector in Thailand as the availability of grandparents or other extended family caregivers in the home of origin, the degree of travel difficulty the safety of both home area and current living arrangements, and their comparative suitability as places for children. Another research study found that one of the reasons for sending migrant children from construction camps to their home origin is that the migrant children failed to cope with the educational arrangement in Thailand (Nawarat, 2018).

Child Protection Services

Migrant children are protected under the 2003 Child Protection Act. The definition of child in this Act does not differentiate based on the nationality or legal status of children, and the Act states that treatment of cases "shall give primary importance to the best interest of the child and any discrimination of an unfair nature shall not be allowed ."The Ministry of Social Development and Human Security (MSDHS) manages much of the child protection system through its Child and Family Shelters and provincial offices. These offices provide one-stop service centers for children victims of abuse, temporary shelter for children and families, and longer-term alternative

care for children). However, the general understanding of these child protection services is that they are linked with criminal law, like child victims of violence, physical and sexual abuse, or human trafficking (UNICEF, 2018; Reuters, 2021). This link is a challenge for migrant children. They may hesitate to report cases against the offenders, who may be their employers or prominent persons in the community. If their status is irregular, they may not report any abuse or seek any support from the authorities (Harkins, 2019).

Social exclusion and discrimination

Life in construction site camps seems to be a form of confinement for migrant workers' children. The general perception of migrant workers in the construction camps is that no matter how long they stay in Thailand, they will remain foreigners. Both because of the language barrier and their status as migrants' children living in construction site camps face xenophobia and social exclusion. Migrants' children refrain from going out or localizing due to fear of police and humiliation by the locals (UNICEF, 2018). They feel discriminated against or treated differently by employers and others in Thailand. Thus, migrant children barely have friends or any opportunities for socialization. Social exclusion and discrimination can negatively affect children's physical and cognitive development and well-being (Harkins et al., 2017). Moreover, some commonly known forms of discrimination exist in the construction sector. Women are being paid less, and Thai workers are prioritized for opportunities in new projects. Migrant women and their children are being looked down upon and abused verbally by their employers, which ultimately affects both the personal and social lives of migrant workers and their families (Pearson & Kusakabe, 2012).

Violence against women and children

Research indicates that female migrant workers do not consider living arrangements in construction site camps safe. Young and unmarried girls are at heightened risk in such accommodation. Harassment by fellow migrant men is also very common (ILO, 2016). UNICEF and Baan Dek Foundation 2018 report indicates that men tried to force migrant women to perform sexual acts. It is also common for women and children to face physical violence. However, no sufficient research data are available to determine the severity and frequency of such acts. It is indicated in most research that violence against women and children is seen as a 'culturally

accepted' phenomenon. Therefore, women rarely bother to report and seek help for such violence (UNICEF, 2018).

Conclusion

Children of migrant workers become "invisible" since there is no provision for children of migrant workers from neighboring countries to accompany their parents under an MoU or other registration. They are not supposed to exist under the country's labor migration policy. Children born to migrant workers are likely to become stateless since they cannot be registered as Thai and must be registered in their country of origin. If the migrant parents are unable to do so, they will be stateless. The hazards and problems outlined in this study continue to harm not only migrant children but also employers, as migrant parents fail to provide their children with the necessary protection and services, affecting their lives and job outputs. There must be an understanding of the prevalence of child labor, violence against children, and other protection hazards, as well as the significance of meeting fundamental requirements for children, such as education and healthcare in promoting child protection and providing response mechanisms (UNICEF, 2022). At the same time, Thailand has continued to suffer from child safety challenges, particularly those involving illegal migrant children who lack access to any support networks. These children are trafficked and exploited, mainly in construction and domestic services (Dowding, 2014).

The care and support of migrants' children is not an isolated issue in labor management. When children accompany their migrant parents, it should be their responsibility to uphold their fundamental human rights. Although many actors are active on the ground, a large proportion of migrant children are still not attending school. Children continue to have difficulty accessing birth certificates and primary healthcare, and they are in high need of child protection in their accommodation, which lacks adequate protection facilities. School drop-outs are exposed to child labor, and many children face violence from family members, fellow children, or locals (Petchot, 2014).

Migrant workers' children must receive serious consideration. Despite various broad legal provisions, the literature clearly shows that there are policy and implementation gaps, as well as actual barriers to migrants' children's access to services. As a result, a majority of migrant workers' children are denied basic human rights and face a high danger of needing protection. This study discovered that it is difficult to provide comprehensive child care for migrant parents alone due to the unpredictable nature of the construction industry, in particular, where migrant parents are under constant stress about losing their jobs, changing jobs, and sustaining families.

Unless the Thai government gives additional support to businesses and INGO/NGOs, the country may struggle to manage the required migrant worker force, an inescapable demand of the Thai economy (Pearson & Kusakabe, 2012).

In order to address the challenges faced by migrant workers as well as the host countries, partnership with all stakeholders needs to be developed in which migrant workers can continue to work while receiving supplies such as appropriate health and hygiene services, immunizations, and an upgraded social security system that includes migrant workers' dependents. Only then can employers and migrant workers operate safely. NGOs can encourage the Thai government to undertake further bilateral negotiations with neighboring countries to seek cooperation, as migrant workers contribute to poverty reduction in their home country through remittances; hence, support from all stakeholders is required. However, additional research is needed to determine the considerable problems associated with including child dependents in Thailand's national labor migration strategy. In doing so, we will acquire a better understanding of the fundamental criteria for migrant workers to be able to contribute to policy provisions more effectively, including calculating the additional support that the state may require if migrant workers have a say in decision-making.

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