

CHAPTER II

CONCEPTUAL FRAMEWORK AND LITERATURE REVIEW

Conceptual framework composes of the concept of migration and migrant workers, migrant workers and migrant children's rights and educational opportunities as follows.

1. Concept of Migration and Migrant Worker

Migration

Pete Alcock, Angus Erskine and Margaret May (2002: 148) addressed the term "migration" as follows. It is the physical movement of people within and between social systems, which may be short or long-distance, voluntary or involuntary, permanent or temporary. The factors influencing such movements and their effects are subject to considerable debate, as are the policy responses to them. In terms of possible influences, both 'push' and 'pull' factors have attracted attention. Some studies emphasize short-term, localized influences others the effects of demographic, economic and political changes, warfare, environmental degradation and larger, international processes and shifts in the demand for labor. They also diverge in their assessment of the impact of migration within between countries, particularly its overall economic benefits and disbenefits and its effects on social and ethnic relations.

Migration is either external (between societies) or internal (between regions). The causes of external labor migration can be classified in terms of "push" and "pull" factors. In the latter are the size and structure of the indigenous labor force. Increases in full-time education postponed the entry of young people into the labor market, creating a gap for unskilled migrants while indigenous workers also move into better-paid, white-collar, skilled occupations. The "push" factors are the unemployment, poverty and under-development of labor exporting countries, which have high unemployment and low per capita incomes. (Institute of Asian studies, 1999: 36-37)

Migrant worker

The term “Migrant worker” refers to “a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.” It can be referred to many characteristics as follows. **Frontier worker**-- if he or she retains the habitual residence is a neighboring state to which he or she normally returned every day or at least once a week. **Seasonal workers**—when his work by its character is dependent on seasonal condition. **Seafarer**—(which include fisherman), when that person is employed on board a vessel registered in a state of which he or she not a national. **Worker on an offshore installation**—works on an offshore installation that is under the jurisdiction of a State of which he or she is not nationality. **Itinerant worker**—when the person retains his or her habitual residence in one State, but travels to another State or States for short periods, owing to the nature of his or her occupation. **Projected worker**—admitted to a state for a defined period by his or her employer to work solely on a specific project. **Self-employment worker**—engaged in an activity aboard not under a contract of employment. **Specified-employment worker**—works in another country based on specific assignment or duty for a short period of time and requires professional, commercial, technical or other highly specialized skill (Institute of Asian studies, 1999:35). The migrant worker of this research refers to seafarer and self-employment worker because Samutsakhon is seaport; most of migrant workers work for fishery industries and being fishermen.

Migrant children

In Article 1 of the Convention on the rights of the child addressed that a child means “every human being below the age of eighteen years.” (Office of National Human Rights Commission of Thailand, 2004: 34). Consequently, Migrant children mean whoever below the age of eighteen years and live in a State of which he or she is not a national. Additionally, migrant children in this research stresses on children who are 6-14 years old –school age and fifteen is their labor age.

2. Concept of Migrant workers and migrant children's rights

Migrant workers' rights

Migrant workers' rights from International Convention

Thailand ratified many International Conventions on Human Rights but there are two conventions that stress on migrant worker's rights as follow.

In 2003, Thai cabinet resolution authorized *International Convention on the elimination of all forms of racial discrimination* that concerns discrimination in respect of employment and occupation. This convention addressed the equal rights about civil, economic, social, and culture rights below.

- Civil rights, in particular: the right to freedom of opinion and expression, to freedom of thought, conscience and religion.
- Economic rights in particular: the right to work, to free choice of employment and to just and favorable of work
- Social rights in particular: the right to public health, medical care, social security, education and training and social service.
- Culture rights in particular: the right to equal participation in culture activities (Office of the National Human Rights Commission of Thailand; 2003:35).

From *the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, it is able to address basic rights of migrant workers as follow.

- Migrant workers and their families shall be free to leave any State, protected national security by law, public order, public health or morals or the rights and freedoms of others.
- No migrant worker or family members shall be held in slavery, servitude or be required to perform forced labor.
- Migrant workers and their families shall have right to freedom of thought, conscience and religion. Moreover, they must have right to hold opinions without interference.
- Migrant workers and member of their families shall have right to receive any medical care on basic of equality treatment with nationals of the State concerned.

- Migrant workers and member of their families shall have the right to protect their personal belongings and to be able to transfer their earnings and savings and, in accordance with the applicable legislation of the States concerned.

- Migrant workers and member of their families shall have the right to be informed by the State of origin (Institute of Asian studies, 1999:71-81).

Although Thailand has not ratified this convention, migrant workers in Thailand should have basic rights in line with this convention.

Migrant children's rights

Migrant children's rights from International Convention

The Convention on the Right of the Child 1992 composes of 54 topics but there are 40 topics that indicate the main issue of child rights as follows.

- The rights to be cared for living such as medical care access, i.e. the children should get knowledge and primary health care, vaccination and through the provision of adequate nutritious foods and clean drinking-water.

- The right to develop their personality by educational access rest and participate in cultural activities.

- The rights of mental and physical protection, i.e. the children should be protected from negligent treatment, maltreatment or exploitation. They should have the chance to stay with their parents.

- The rights to participate in social activities i.e. the children have freedom of expression, access to information and freedom to manifest one's religion or beliefs (Office of National Human Rights Commission of Thailand, 2004:34-43).

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families addresses about migrant children's rights as follows.

- Each child of migrant workers shall have the right to name, to get the registration of birth and to a nationality.

- Each child of migrant workers shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned (Institute of Asian studies, 1999:81).

Rights from Thailand National Declaration

Thailand lunched National Declaration that basic necessary and service that related to this research for children as follows.

- Children have to access the basic education for human development and improving their moral. They should be trained for peaceful living, optimistic thinking, and understand and accepting their rights and others.

- Children have to participate in arts, culture, nature and environment developing.

- Children have chance to express their idea for activity participation.

- Children have chance to access the basic service. Children have chance to perceive and be protected their basic rights by the government, social organization and business organization. They should be protected from accusation; not reveal in public and different practiced from adult (National Youth Bureau, 1991:1-10).

3. Educational Opportunities

Migrant children's educational opportunities

Educational opportunities mean an access of basic education in school. Thailand ratified the international convention: the Convention on the Rights of the Child as follows.

The Convention on the Rights of the Child mentions about children's education rights as follow.

Article 28

1. State Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

1.1 Make primary education compulsory and available free to all.

1.2 Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need.

1.3 Make higher education accessible to all on the basis of capacity by every appropriate means.

1.4 Make educational and vocational information and guidance available and accessible to all children.

1.5 Take measures to encourage regular attendance at schools and reduction of drop-rates.

2. State Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

State Parties shall promote and encourage international co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries (Office of National Human Rights Commission of Thailand, 2004:40).

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families clearly addresses on children's rights below.

Article 30

Each child of migrant workers shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned. Access to public pre-school educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State of employment (Institute of Asian studies, 1999:81)

In additionally, Thailand has Educational opportunities from Thailand National Declaration 1991 that stresses on educational opportunities for all children living in Thailand as follows.

The child shall have at least basic education to develop wisdom, virtue according to his/her religion, and basic ethnic. The child shall be trained to have knowledge and a constructive attitude towards life with a sense of initiative, and a desire to continue acquiring knowledge

throughout life, well disposed towards the family, society and life (National Youth Bureau, 1991:5).

4. Related Literature

Literature about law and government policies; an article “Illegal Migrants in Thailand: some aspects of International Protection” stressed the need of international law for refugee protection. It stressed on the difference between refugee and migrant workers, and the reason why refugees should be protected. This article also stressed on the culture that is a part of aid campaign and international cooperation. The writer suggested that Thailand should be concerned about refugee’s freedom and accept human rights (Bari, 1983 cited in Amornthip Amaraphibal and Chiraporn Worasean, 2000:21).

Seminar document “The direction of migrant worker’s problem solving in Thailand: Case study in Ranong province” by Ministry of Public Health. Its conclusion is that the migrant workers’ problems tend to drastically increase. This situation also causes economic and social impact, especially health problems. This document suggested that the solving of migrant worker problems should not only stress on security issue but also social and economic issues. Moreover, government policies should be based on human rights (Ministry of Public Health, 1995 cited in Amornthip and Chiraporn, 2000:22).

Seminar document on “State policies and practice to migrant workers: suggestions from Non-government organization” (1999) by Asian Research Center for Migration, Forum Asia and Human Rights Commission in Myanmar. The brainstorm of this seminar addressed on the rights and protection of migrant workers. Its conclusion is that although law does not protect migrant workers, they should be protected by human rights. The government officers should show fairness and justice to migrant children and they should be protected (Premjai, 1999 cited in Amornthip and Chiraporn, 2000:21)

The research about migrants in Thailand “A survey on Situational of Street Child in Ranong and Phuket” (Naing and Cotteril cited in Amornthip and Chiraporn, 2000:23) is a participation survey that is to interview key informant and migrant children. The result is that migrant children face health problems, educational problems, intimidation, and abuse.

“Thailand’s Illegal Migrant Labors” which is a survey research by way of interviewing the key informant and observing their travels into Thailand, and problems of seeking jobs for them. The result is that migrant workers face problem such as maltreatment by their employers and government officers. Moreover, government protection policies seem to be in contrast in solving the problems and it is not effective (Stern, 1996 cited in Amornthip and Chiraporn, 2000:23).

World Vision Foundation of Thailand studied about migrant children and opportunities of migrant children “Situational Analysis of Burmese children in Disadvantageous Circumstance: A Case study in Ranong province, Thailand”. The survey stressed the condition on Burmese children’s problems in Ranong. This study is qualitative research and survey. The result is that migrant children risked of becoming street child because they spend time outside their houses in order to relax etc. They do not have educational opportunities because of the illegal status and lack of language skills. Some of parents need their children to get the basic knowledge of work but some of them need their children to finish fundamental education before working (World Vision Foundation of Thailand cited in Amornthip and Chiraporn, 2000:23).

In “Situation Analysis of Myanmar Children in Disadvantageous Circumstances” (World Vision Thailand ,1995 cited in Premjai et al.,1999:53) addresses the situation of Burmese child labor in Thailand that some of them pack charcoal must breathe dust for extended periods, some are fish grading, and some collect garbage can be injured by glass fragments. For industrial factory jobs where children have to do heavy duty jobs and had long working hours. Construction jobs and fishery related jobs could be dangerous.

For the educational opportunities of migrant children, the statistics of the Ministry of Education in 2002 addressed that there were 172,984 children who do not include in census record and are not Thai and do not study in Thai schools. There were 144,019 children in northern Thailand, 16,824 children in central Thailand, 4,343 children in southern Thailand, and 7,798 children in the northeast Thailand. These non-citizen children in Thailand were divided in several groups and one group, about 11,360 children is from migrant worker families.

The Study of Needs to Hiring Migrant Workers in Thailand between 2004- 2006 (Institute of Asian Studies of Chulalongkorn University, Thailand

Development Research Institute, and Population and Social Research Institute of Mahidol University, 2004) mentioned that in Samutsakhon, there is informal education in primary school for migrant children that are preceded by religious organization. However, there are few proportions of migrant children who are educated in a school, which teaches Burmese, English language, and mathematics. Although the Ministry of Education allowed migrant children to educate in Thai school until 1992 but in practice, there are few migrant children who are educated in Thai school. Particularly, in Samusakhon, there are 20 migrant children studying in Thai school (the Ministry of Education, 1992). The reason why migrant children do not study in Thai school is that of a misunderstanding of officer who do not follow the educational policy. A director of primary school said that Ministry of Education policy mention that migrant children have no right to study in Thai school.

The World Conference on Education For All in Jomtien, Thailand in 1990 caused The World Education Forum (2000) that agreed on six EFA goals composing of a.) expanding and improving comprehensive early childhood care and education, especially for the most vulnerable and disadvantaged children; b.) ensuring that by 2015 all children, particularly girls, children in difficult circumstances and those belonging to ethnic minorities, have access to and complete free and compulsory primary education of good quality; c.) ensuring that the learning needs of all young people and adults are met through equitable access to appropriate learning and life skills programs; d.) achieving a 50 per cent improvement in levels of adult literacy by 2015, especially for women, and equitable access to basic and continuing education for all adults; e.) eliminating gender disparities in primary and secondary education by 2005, and achieving gender equality in education by 2015, with a focus on ensuring girls' full and equal access to and achievement in basic education of good quality; f.) improving all aspects of the quality of education and ensuring excellence of all so that recognized and measurable learning outcomes are achieved by all, especially in literacy, numeracy and essential life skills, which were considered to be essential, attainable and affordable given strong international commitment and solve. The Dakar Framework for Action declared that by 2015, all children of primary-school age would participate in free schooling. Levels of adult illiteracy would be halved, early childhood care and education and learning opportunities for youth and adults would be greatly increase, and all aspects of education quality would be improved. In the same year, the Millennium Development Goals were agreed, two of which--universal

primary education (UPE) and the elimination of gender disparities in primary and secondary education—were defined as critical to the elimination of extreme poverty (UNESCO, 2002: 12).

Biddle (2001) studied about American schools; he addressed education as public property. Consequently, everybody has right to access education. One of his seven design principles for education is that all children are entitled to equal educational opportunities regardless of their class, race, gender, residence, or learning differences. The children must be offered curriculum, teaching, and support that favors all rather than a few. De facto class and race of high-quality education is uneven and skewed in favor of the privileged.

“Migrant Children in Difficult Circumstances in Thailand” mentions on three types of migrant children in difficult circumstances; migrant child labor, migrant children in prostitution and migrant street children who come to Thailand with their parents, themselves and agents. (Premjai et al., 1999) All risk of arrest on the charge of illegal entry into Thailand. This research also mentions about their educational opportunities that few have the opportunity to receive higher than a primary school education. Some of them received a primary-level education but most of them did not receive any formal education at all. Even the children who were born in Thailand of families that have been living in Thailand for a long time had a little opportunity to receive education due to their status as illegal migrants.