

# Children affected by migration in ASEAN Member States

## COUNTRY BRIEF: THAILAND

**Southeast Asia is a major migration hub comprising countries of origin, destination and transit – with some countries being a mix of all three – for a large number of migrants.** Migrants include displaced persons moving both within and between countries for diverse and mixed purposes. In 2020 alone, there were 1.3 million (1,266,009) child migrants in ASEAN and in 2021, around 630,000 (627,390) refugees from ASEAN countries in the world were children. Natural disasters and conflict led to more than 2.5 million (2,522,801) internal displacements of children in 2021. Millions more children remained behind while parents migrated for work, leaving many children at risk.

### Data snapshot: Thailand migration trends

- There are an estimated 4.9 million migrants in Thailand, 3.9 million of whom are migrant workers from neighbouring countries. There are an estimated 300,000–400,000 migrant children.<sup>1</sup>
- Fifty per cent of migration is thought to be irregular<sup>2</sup> although this proportion is likely to be much higher among migrants who move from neighbouring countries. It is estimated that the number of migrant children without domestic legal status is between 1 million and 2.5 million.<sup>3</sup>
- At the end of 2021, there were 35,262 child refugees and asylum seekers registered with UNHCR in Thailand.<sup>4</sup>
- There are 153,574 registered stateless children, according to UNHCR (74,262 girls and 79,312 boys), representing 27 per cent of all stateless persons.<sup>5</sup>
- A significant proportion of children remain behind when their parents migrate. The 2019 Multiple Indicator Cluster Survey (MICS) found that 0.5 per cent of children had both parents living abroad and 2.3 per cent had at least one parent living abroad, among surveyed households. Children who remain behind are more likely to be young: 2.6 per cent of children under 9 years of age, compared to 1.8 per cent of those aged 15–19 years, according to the MICS data.<sup>6</sup>

**Thailand is one of the main destination and transit countries for migrants, asylum seekers and refugees in the Southeast Asian region,** owing largely to the country's strong and stable economy and its long, porous borders with Cambodia, Lao PDR, Myanmar and Viet Nam. A large proportion of migration into Thailand occurs irregularly. The

<sup>1</sup> United Nations Thematic Working Group on Migration, *Thailand Migration Report*, 2019, pp. 10–11. It is important to note that a significant proportion of persons entering Thailand from Myanmar are asylum seekers and refugees who are fleeing persecution.

<sup>2</sup> Harkins, Benjamin, Daniel Lindgren and Tarinee Suravoranon, *Risks and Rewards: Outcomes of labour migration in South-East Asia*, International Organization for Migration, International Labour Organization and Rapid Asia, 2017, p. 45.

<sup>3</sup> McAuliffe, M., and A. Triandafyllidou (eds.), *World Migration Report 2022*, International Organization for Migration, Geneva, 2021; International Organization for Migration, *Asia-Pacific Migration Data Report 2020*, 30 August 2021, cited in: International Detention Coalition, *Immigration Detention and Alternatives to Detention in the Asia-Pacific Region*, Alternatives to Detention Thematic Work Stream of the Regional UN Network on Migration in Asia and the Pacific, 2022, p. 15.

<sup>4</sup> United Nations High Commissioner for Refugees, *Global Trends: Forced displacement in 2021*, June 2022, Full Tables, Table 12; the vast majority of this total are living in camps.

<sup>5</sup> *Global Trends: Forced displacement in 2021*, Full Tables, Table 12: Demographic composition by country/territory of asylum and type of population, end-2021. It should be noted, however, that this figure likely underreports the number of stateless persons, as Rohingya persons may not register as stateless in Thailand.

<sup>6</sup> National Statistical Office and United Nations Children's Fund, *Multiple Indicator Cluster Survey 2019: Survey findings report*, August 2020, Table SR9.2, p. 46.

precise number of migrant children without domestic legal status in Thailand is unknown, given that irregular migration is by nature hidden from official registration systems and databases, but recent estimates place the figure at between 1 million and 2.5 million.<sup>7</sup> Irregular migration has led to a highly precarious existence for children and their families trying to navigate life without the protection and security that regular status provides. Data indicate that a substantial proportion of Thai children remain behind when one or both parents migrate, typically to cities in Thailand or internationally. Thailand is also home to a large population of child refugees and asylum seekers who have fled conflict or persecution. These populations are primarily from Myanmar, with smaller populations from Viet Nam, Cambodia, Pakistan, Somalia and the State of Palestine.<sup>8</sup>

**This country brief summarizes the key findings of a report on the situation of children affected by migration in ASEAN Member States.**

It also draws from an in-depth case study on the *Impact of a lack of domestic legal status on the protection and well-being of migrant, urban refugee, and unregistered stateless children in Bangkok, Thailand* undertaken as specific background research to the regional study. The regional study examined the unique drivers of child migration; the ways in which children are affected by migration, including associated protection risks; and the laws, policies and services for children and families affected by migration.



A young girl reads a book at a Child-Friendly Space located inside a construction site in Bangkok. © UNICEF/UN056439/Sukhum Preechapanich

**It is important that the unique situation and needs of children affected by migration are understood** so that more effective and targeted policy and programmatic responses can be developed. Until recently, much of the migration literature focused on the experiences of, and the impact on, migrant adults. Children and their interests have been largely invisible, with little knowledge generated about the unique drivers or impact of migration and particular migration policies on children.

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**‘Children affected by migration’** is a broad umbrella term that encompasses children (those aged under 18 years)<sup>9</sup> who move or have moved within their country of origin or across the border into another State, temporarily or permanently. This includes children who migrate voluntarily or involuntarily (as a result of forced displacement due to natural disaster or conflict); or for economic, social, educational or cultural reasons. It includes children who move individually or to accompany parents who have migrated. It also includes children who remain behind while one or both of their parents migrate (‘children remaining behind’).<sup>10</sup>

<sup>7</sup> McAuliffe, M., and A. Triandafyllidou (eds.), *World Migration Report 2022*, International Organization for Migration, Geneva, 2021; International Organization for Migration, *Asia-Pacific Migration Data Report 2020*, 30 August 2021, cited in: International Detention Coalition, *Immigration Detention and Alternatives to Detention in the Asia-Pacific Region*, Alternatives to Detention Thematic Work Stream of the Regional UN Network on Migration in Asia and the Pacific, 2022, p. 15.

<sup>8</sup> United Nations High Commissioner for Refugees Thailand, ‘Refugees in Thailand’, <[www.unhcr.org/th/en/](http://www.unhcr.org/th/en/)>.

<sup>9</sup> This is in accordance with international definitions of childhood in particular as set out in the Convention on the Rights of the Child, Article 1. It should be noted that in the domestic laws of some ASEAN States, such as Thailand, children who have attained majority through marriage are not included within the definition of ‘child’ in the Child Protection Act 2003. In addition, in some domestic laws, such as the Philippine Republic Act 7610, a child over the age of 18 who cannot fully take care of themselves because of a physical or mental disability or condition is included within the definition of a child.

<sup>10</sup> Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of migration, CRC/C/GC/22 16 November 2017, para. 9. See also UNDESA, which defines an international migrant as anyone who changes their country of usual residence, ‘Recommendations on Statistics on International Migration, Revision 1’, 1998; and International Organization for Migration, ‘IOM Definition of “Migrant”’, <[www.iom.int/who-is-a-migrant](http://www.iom.int/who-is-a-migrant)>, accessed 6 April 2021.

# 1. Profile of children affected by migration in Thailand



**A substantial proportion of Thailand's population are migrants from other ASEAN Member States**, mainly migrant workers in search of better economic opportunities. A large percentage (more than 30 per cent) of migrants in Thailand are engaged as construction workers and 25 per cent are agricultural workers.<sup>11</sup> Migrants from neighbouring countries (Cambodia, Lao PDR, Myanmar and Viet Nam) may enter and remain in Thailand lawfully under bilateral Memoranda of Understanding (MoUs), which aim to regulate the movement of migrant workers in order to fill short-term labour shortages while at the same time restricting access to longer-term settlement options. However, the bilateral MoUs tend to include a clause forbidding migrant workers from bringing accompanying children, leaving parents with the choice of bringing their children into Thailand illegally or leaving them at home (causing family separation).

**A large proportion of migration to Thailand occurs irregularly** – that is, outside the country's regular process or not in compliance with its laws. The limited avenues for children to migrate legally into the country, either alone or with their families, is a key driver for irregular migration. The desire to bypass bureaucratic, complex or lengthy immigration law requirements encourages children and families to opt to migrate irregularly and work without legal permissions.<sup>12</sup> The inability to produce the documentary evidence required is also a barrier to regular migration in some cases. These journeys are often facilitated by smuggling networks,<sup>13</sup> potentially leading to exploitative situations, meaning that migrant children and families are vulnerable to becoming victims of trafficking *en route* or upon arrival in Thailand.

**Many children in Thailand remain behind while their parents migrate.** The limited opportunities for children to migrate in a lawful way with their parents can be a strong deterrent to parents taking children with them, as is the often very limited access to education and other services for undocumented children in destination countries.<sup>14</sup>

**Thailand has substantial populations of child refugees and asylum seekers.**<sup>15</sup> There are two distinct refugee populations: those residing in camps along the Thai-Myanmar border, who are predominantly of Karen, Karenni or Burmese ethnicity,<sup>16</sup> and the 'urban' asylum-seeking and refugee population, who have fled persecution from a range (upwards of 51) of different origin countries,<sup>17</sup> and who reside in urban settings in and around Bangkok.<sup>18</sup> Anecdotal evidence suggests that the military coup in Myanmar in February 2021 and the resultant poverty has caused a spike in the number of irregular arrivals from Myanmar,<sup>19</sup> many of whom are likely to be refugees.<sup>20</sup> Children make up 40 per cent of all refugees in Thailand.<sup>21</sup> However, the number of children residing in Thailand who have fled or are fleeing conflict or persecution but have not been formally identified as refugees or 'persons of concern' is unknown.

**Thailand also has a substantial population of stateless children**, who make up just over a quarter of the country's 561,527 stateless population.<sup>22</sup> Over 80 per cent of the registered stateless population lives near the mountainous areas bordering Lao PDR and Myanmar.<sup>23</sup>

<sup>11</sup> International Labour Organization and UN Women, *Public Attitudes to Migrant Workers in Japan, Malaysia, Singapore and Thailand*, 2019, p. x.

<sup>12</sup> United Nations Thematic Working Group on Migration, *Thailand Migration Report*, 2019, p. 7.

<sup>13</sup> See United Nations Office on Drugs and Crime, *Smuggling of Migrants in Asia and the Pacific: Current trends and challenges*, Volume II, 2018, pp. 78–87.

<sup>14</sup> United Nations Children's Fund, 'Children "Left Behind"', UNICEF Working Paper, <[www.unicef.org/media/83581/file/Children-Left-Behind.pdf](http://www.unicef.org/media/83581/file/Children-Left-Behind.pdf)>.

<sup>15</sup> Migration Data Portal, 'Migration Data in Southeastern Asia' (data from 2020), <<https://www.migrationdataportal.org/regional-data-overview/south-eastern-asia>>, accessed 12 December 2022.

<sup>16</sup> The refugees living in camp settings on the border are in what is referred to as a 'protracted' refugee situation, having fled to Thailand years previously during periods of conflict in Myanmar. They are forbidden from leaving the camps, are unable to work or access hospitals or schools, and rely on assistance and services provided by a collection of NGOs mandated to enter the camps. These refugees do not face risks of arrest and detention so long as they remain within camp borders.

<sup>17</sup> United Nations High Commissioner for Refugees 'Fact Sheet, Thailand', 31 March 2022, <[www.unhcr.org/th/wp-content/uploads/sites/91/2022/04/UNHCR-Thailand-Fact-Sheet\\_31-March-2022.pdf](http://www.unhcr.org/th/wp-content/uploads/sites/91/2022/04/UNHCR-Thailand-Fact-Sheet_31-March-2022.pdf)>.

<sup>18</sup> *Ibid.*

<sup>19</sup> 'Myanmar Coup-Fuelled Poverty Pushes Thousands to Thailand', *Bangkok Post*, 6 January 2022, <[www.bangkokpost.com/thailand/general/2243067/myanmar-coup-fuelled-poverty-pushes-thousands-to-thailand](http://www.bangkokpost.com/thailand/general/2243067/myanmar-coup-fuelled-poverty-pushes-thousands-to-thailand)>.

<sup>20</sup> Triggs, Gillian, UNHCR Assistant High Commissioner for Protection, 'News Comment: UNHCR calls on Myanmar's neighbours to protect people fleeing violence', 31 March 2021, <[www.unhcr.org/uk/news/press/2021/3/60648c304/news-comment-unhcr-calls-myanmars-neighbours-protect-people-fleeing-violence.html](http://www.unhcr.org/uk/news/press/2021/3/60648c304/news-comment-unhcr-calls-myanmars-neighbours-protect-people-fleeing-violence.html)>.

<sup>21</sup> *Ibid.*

<sup>22</sup> *Global Trends: Forced displacement in 2021*, Full Tables, Table 5.

<sup>23</sup> 'Fact Sheet, Thailand', 31 March 2022.

## 2. Drivers of (child) migration

**Children in Thailand migrate and are affected by migration for a range of reasons.** The figure below explains the drivers of migration in and to Thailand, including individual and family drivers, along with factors that operate at community and structural levels in a child's life.



### Structural drivers

- Uneven economic development and opportunities between neighbouring countries (Cambodia, Lao PDR, Myanmar, Viet Nam), along with opportunities for higher wages, encourage regular and irregular international migration flows into Thailand.
- Bilateral agreements between Thailand and neighbouring countries have encouraged migration to fill labour shortages in the region's largest economies.
- Increased opportunities to obtain work permits to Thailand (though limited opportunities to bring children in lawfully), encourage migration but result in many children remaining behind without their parent/s.



### Community drivers

- Social and family networks, particularly with previous experience of migration, provide children and families with information, access to opportunities and logistical and financial support that encourages their migration into Thailand.
- The presence of brokers in communities in origin countries also facilitates migration.



### Family drivers

- Economic hardship and poverty in families can drive migration, particularly in the context of improving the family income, as well as a sense of familial duty among children to contribute to supporting their family and giving their parents a 'better life'.



### Individual drivers

- Child marriage trafficking occurs within Thailand as well as from Thailand to other parts of the world. Some of these early marriages involve girls being sold, forced, pressured or trafficked across international borders for marriage.
- Children from neighbouring countries may be driven to migrate to access improved educational opportunities.
- Children may migrate to improve their socioeconomic status or due to a desire for independence and freedom.

### 3. Protection risks

**Children affected by migration in Thailand face a range of protection risks**, such as sexual exploitation and trafficking, child labour and economic exploitation. On the protective side, Thailand has introduced progressive policies to ensure access to education and healthcare for children affected by migration, although there are still challenges in ensuring access to services in practice.

**Migrant children, particularly those who are migrating irregularly, lack documentation or are stateless, may be vulnerable to human trafficking.** Reported cases of human trafficking in Thailand are often linked to the sex industry, with trafficking victims primarily from different regions within Thailand and other Southeast Asian countries, but also from Sri Lanka, the Russian Federation, Uzbekistan and some African countries.<sup>24</sup> Children who are trafficked into Thailand may be exploited in brothels, massage parlours, bars, hotels and private residences.

**Children affected by migration are at risk of being engaged in exploitative or hazardous labour which exposes them to a number of serious protection risks.**<sup>25</sup> Owing to their lack of status and consequent lack of avenues for legal employment, migrant children in Thailand are more likely to seek work in informal sectors, where work arrangements have a tendency to become exploitative. Once in exploitative employment, barriers to reporting make it difficult for children without status to leave and seek recourse. Child labour is known to occur in the construction industry, which relies heavily on migrant labour, with children reportedly organizing bags or moving sand or doing other jobs on construction site camps, such as childminding younger children, domestic work or working in restaurants.<sup>26</sup> Children have also been engaged in forced labour in vending, domestic work, the production of garments, agriculture, seafood processing and fishing.<sup>27</sup>

**Thailand has been heralded for its progress in removing children from detention and implementing Alternatives to Detention (ATD) over the last two years. However, it appears that some children are still at risk of being placed in detention.** In January 2019, seven government ministries<sup>28</sup> co-signed an MoU on the Determination of Measures and Approaches Alternative to Detention of Children in Immigration Detention Centres (MoU ATD), which provides that foreign children<sup>29</sup> should not be detained at immigration detention centres except in “*necessary and unavoidable circumstances*”, as a measure of last resort and for the briefest period of time possible.<sup>30</sup> Prior to the MoU, adults and children over the age of 10 (now 12) could be arrested, charged and prosecuted for an immigration offence related to their irregular presence, for which they would be fined or imprisoned, before being transferred to the immigration detention centre. Between October 2018 and September 2021, 259 children were reported to have been released from immigration detention with many referred to community-based alternatives.<sup>31</sup> However, it is not clear how many children, if any, remain detained for immigration purposes. According to a recent report, children continue to be arrested and detained for immigration offences, and the MoU ATD in Thailand appears to apply once a child is in detention rather than preventing a child from being arrested and detained in the first place.<sup>32</sup>

**Migrant children and stateless children in Thailand face difficulties in accessing services, such as education and birth registration.** Although the law in Thailand provides that any child born in the country (including irregular migrant children) can obtain a birth certificate, practical challenges remain, including language barriers and limited understanding of the process. As a result, almost one in five migrant children did not have a birth certificate according to a 2017 study.<sup>33</sup> Lack of birth registration can complicate citizenship claims, as stateless parents may be unable to provide proof of the full circumstances of the birth of their children, or to trace midwives or family members to support their claims.<sup>34</sup> Stateless individuals in Thailand have low levels of education despite the 2005 policy of “education

<sup>24</sup> United States Department of State, *2020 Trafficking in Persons Report: Thailand*, <[www.state.gov/reports/2020-trafficking-in-persons-report/thailand](http://www.state.gov/reports/2020-trafficking-in-persons-report/thailand)>.

<sup>25</sup> CRC Committee, Consideration of reports submitted by States parties under Article 44 of the Convention, Committee on the Rights of the Child Fifty-ninth session 16 January – 3 February 2012, CRC/C/THA/CO/3–4, 17 February 2012, para. 74.

<sup>26</sup> Baan Dek Foundation and United Nations Children’s Fund, *Building Futures in Thailand: Support to children living in construction site camps*, Bangkok, 2018, p. 42.

<sup>27</sup> United States of America Department of Labor, *2021 Findings on the Worst Forms of Child Labor*, pp. 1182–1183.

<sup>28</sup> Countersigning government agencies were: Royal Thai Police; Ministry of Social Development and Human Security; Permanent Secretary, Ministry of Foreign Affairs; Ministry of Interior; Ministry of Public Health; Ministry of Education; and Ministry of Labour.

<sup>29</sup> Article 3, Royal Thai Government, Memorandum of Understanding on the Determination of Measures and Approaches Alternative to Detention of Children in Immigration Detention Centers B.E. 2562 of 2018.

<sup>30</sup> Article 4.1, Royal Thai Government, Memorandum of Understanding on The Determination of Measures and Approaches Alternative to Detention of Children in Immigration Detention Centers B.E. 2562 of 2018.

<sup>31</sup> *Alternatives to Detention Working Group of the UN Network on Migration*, p. 14.

<sup>32</sup> *Ibid.*, p. 22.

<sup>33</sup> Mahidol Migration Centre, 2017, referenced in International Organization for Migration et al., *Thailand Migration Report*.

<sup>34</sup> DHRRA Malaysia, 2019, referenced in UNICEF Malaysia, *Situation Analysis of Women and Children in Malaysia*, 2020, p. 80.



A toddler sits on her mother's lap during a check-up at a health facility in the Baan Mai Nai Soi refugee camp in Thailand's Mae Hong Son province, near the Myanmar border. © UNICEF/UNI45818/Robert Few

for all” which grants children access to compulsory schooling, even if they do not hold citizenship.<sup>35</sup> Unregistered stateless persons face challenges accessing public schools and health centres; opening bank accounts; marrying legally; participating politically; and enjoying freedom of movement.<sup>36</sup> According to a mixed-methods research project in Thailand,<sup>37</sup> unregistered stateless/undocumented migrant individuals live in constant fear of arrest, harassment or deportation due to their precarious status as ‘illegal migrants’.

### Protection risks for migrant children in Bangkok

The qualitative research carried out in 2022 ‘*The impact of a lack of domestic legal status on the protection and well-being of migrant, urban refugee, and unregistered stateless children in Bangkok, Thailand*’,<sup>38</sup> found that such children were exposed to a range of risks, including child labour and substantial barriers in accessing basic services and support, as well as feelings of insecurity and exclusion. In addition to practical barriers, including language and cost barriers, feelings of ‘illegitimacy’ driven by their lack of legal status, created a culture of fear and exclusion among undocumented children involved in the research, resulting in these children living in very vulnerable situations.

**Adolescent migrant from Cambodia:** “We cannot really go out or do anything for fun since we can get caught with no documents. Therefore, we are just stuck at home... I feel depressed, bore, and worried.”<sup>39</sup>

**Adolescent migrant from Myanmar:** “I don’t have Thai ID... I feel insecure wherever I go. I’m not confident myself dealing with Thai society.”<sup>40</sup>

**Adolescent migrant from Afghanistan:** “I cannot speak Thai very well. I don’t know anything. That’s why this is the problem – Thai schools cannot teach us Thai. It’s like they will open their book and they will say ‘read it.’ But I don’t even know what is that word! So that’s why. We cannot even speak Thai and we’re going to Thai school and we don’t know anything.”<sup>41</sup>

<sup>35</sup> Rijken, Conny, et al., *The Nexus between Statelessness and Human Trafficking in Thailand*, 2015, <[https://files.institutetesi.org/Stateless-Trafficking\\_Thailand.pdf](https://files.institutetesi.org/Stateless-Trafficking_Thailand.pdf)>.

<sup>36</sup> United Nations High Commissioner for Refugees, *I am Here, I Belong: The urgent need to address childhood statelessness*, 2015, p. 19.

<sup>37</sup> Rijken, *The Nexus between Statelessness and Human Trafficking in Thailand*.

<sup>38</sup> Background case study to the *Situation of Children Affected by Migration in ASEAN Member States*, United Nations Children’s Fund East Asia and the Pacific Regional Office, April 2023.

<sup>39</sup> Focus group discussion with adolescent migrants from Cambodia (four males, one female) aged 17–18 years, Klong Neung, Pathumwan.

<sup>40</sup> Focus group discussion with undocumented adolescents from Myanmar (two males and three females) aged 17–18 years, Klong Tan, Bangkok.

<sup>41</sup> Focus group discussion with refugee/asylum-seeking adolescents from Afghanistan (three males and two females).

## 4. Policies, laws and services for children affected by migration

**ASEAN Member States, including Thailand, have taken important steps towards protecting the rights of children affected by migration.** In particular, the ASEAN Declaration on the Rights of Children in the Context of Migration, which was adopted in November 2019, and the Regional Plan of Action on implementing the Declaration, adopted in October 2021, provide a solid framework for the protection of children in the context of migration. Thailand has ratified the United Nations Convention on the Rights of the Child 1989, which sets out a comprehensive framework of rights, including for children affected by migration. However, the country has entered a reservation with regard to Article 22 which states that refugee children shall be subject to its “national laws, regulations and prevailing practices” (though Thailand is currently considering withdrawing this reservation). Thailand is not party to the 1951 Refugee Convention and does not have domestic laws allowing for the determination and granting of refugee status.

**Thailand has bilateral agreements to protect children and others from cross-border human trafficking** with Cambodia,<sup>42</sup> Myanmar<sup>43</sup> and Lao PDR.<sup>44</sup> These agreements set out rights and obligations with a particular focus on cross-border working arrangements in the response to cases of human trafficking. According to a 2019 qualitative assessment,<sup>45</sup> the agreements were found to operate sufficiently, although gaps were identified. For instance, the care and protection of child victims in trafficking cases does not appear to be subject to and guided by a best interests determination.

**Migration legislation states that children over the age of 12 years can be arrested, charged and prosecuted for an immigration offence related to their irregular status.** However, the MoU on Alternatives to Detention adopted in 2019 places strict limitations on the detention of children on immigration grounds.<sup>46</sup> In addition, pragmatic government policies and arrangements under bilateral agreements with neighbouring countries (Cambodia, Lao PDR, Myanmar and Viet Nam) have resulted in ad hoc amnesties, which have served at times to protect undocumented children from being prosecuted or sanctioned for breaching migration laws.

**Thailand has a comprehensive framework to provide for the care and protection of children at risk, which applies to children affected by migration.** Thailand’s Child Protection Act applies to all children and includes special protections for children who are unaccompanied or separated.<sup>47</sup> Thailand also has a comprehensive Anti-Trafficking in Persons Act which entitles victims of trafficking to assistance and placement in shelters, including children’s shelters.<sup>48</sup>

**Laws in Thailand make no distinction between asylum seekers and refugees and other groups of migrants,** such that children and families seeking asylum are regarded as undocumented migrants.<sup>49</sup> While there is no formal legal framework in Thailand allowing for the determination and granting of refugee status, reports indicate a shift in policy over the last decade to end the detention of refugee children and establish effective refugee-screening measures and resettlement options.<sup>50</sup> In 2019, the Thai Cabinet approved in principle the establishment of a National Screening Mechanism to distinguish between persons in need of protection from economic migrants.<sup>51</sup> The criteria for determining who is a ‘protected person’ under this mechanism and the rights and entitlements it will grant to such persons is not spelled out in the Regulation. In addition, the Standard Operating Procedures which set out the rules governing the mechanism have not yet been approved by the Thai Cabinet.<sup>52</sup>

<sup>42</sup> Memorandum of Understanding between the Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand on Bilateral Cooperation for the Elimination of Trafficking in Persons and Protection of Victims of Trafficking, 30 October 2014 [“Cambodia-Thailand TIP-MOU”].

<sup>43</sup> Memorandum of Understanding between the Government of the Kingdom of Thailand and the Government of the Union of Myanmar on Cooperation to Combat Trafficking in Persons, Especially Women and Children, 24 April 2009 [“Myanmar-Thailand TIP-MOU”].

<sup>44</sup> Memorandum of Understanding between the Government of the Kingdom of Thailand and the Government of the Lao People’s Democratic Republic on Cooperation to Combat Trafficking in Persons, 12 July 2017 [“Laos -Thailand TIP-MOU”].

<sup>45</sup> United Nations Children’s Fund, *Assessment of Child Protection Services for Migrant Children in Thailand*, UNICEF Thailand, December 2019.

<sup>46</sup> Royal Thai Government, Memorandum of Understanding on the Determination of Measures and Approaches Alternative to Detention of Children in Immigration Detention Centers B.E. 2562 of 2018.

<sup>47</sup> Thailand, Child Protection Act 2003, Article 32.

<sup>48</sup> Thailand, The Anti-Trafficking in Persons Act 2008, Section 33.

<sup>49</sup> United Nations Children’s Fund, *Closing the Gap: Feasibility review for withdrawal of Thailand’s reservation to Article 22 of the Convention on the Rights of the Child in relation to refugee and asylum-seeking children*, UNICEF, undated, p. 15.

<sup>50</sup> *Ibid.*, p. 7.

<sup>51</sup> United Nations High Commissioner for Refugees, ‘UNHCR Welcomes Thai Cabinet Approval of National Screening Mechanism’, 16 December 2019, <[www.unhcr.org/th/en/16791-unhcr-welcomes-thai-cabinet-approval-of-national-screening-mechanism.html](http://www.unhcr.org/th/en/16791-unhcr-welcomes-thai-cabinet-approval-of-national-screening-mechanism.html)>, accessed 21 January 2022.

<sup>52</sup> *Alternatives to Detention Working Group of the UN Network on Migration*, p. 19.

## 5. Suggested next steps



### Data and research

**It is recommended that the Government of Thailand strengthen data collection and reporting on the number and profile of child migrants in Thailand, including refugees, asylum seekers, and unregistered stateless children/undocumented migrant children and conduct research on their risks and needs.**

Gaining a robust and comprehensive understanding of the scale, profile, protection risks and needs of children affected by migration, including those without domestic legal status, is crucial to the development of effective, targeted policies and programmes.



### Law and policies

**It is recommended that the Government of Thailand increase avenues for children to migrate legally into Thailand and to regularize their status once they are in Thailand.**

This should include building on the Nationality Verification process enabling post facto regularization of the status for children of migrant workers already in Thailand; implementing the National Screening Mechanism without delay for children and their families in need of protection who are residing in Thailand; and strengthening the civil registration system for stateless persons.



### Programmes

**The Thai Government should remove the remaining barriers for children and families without domestic legal status to access basic services (education and health) and protective services.**

This should include increasing awareness of the Education For All policy in schools throughout Thailand and taking action to address language barriers; ensuring full implementation of the Resolution on Access to healthcare for registered stateless children and migrant workers (Resolution No 13, 27 December 2022); and addressing barriers to accessing the child protection system for children affected by migration.



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