

## CHAPTER III

# THAILAND POLICIES TOWARD MIGRANT WORKERS AND EDUCATIONAL POLICIES FOR MIGRANT CHILDREN

Thailand is one of the so-called “tiger economies” in Southeast Asia that experienced rapid economic and job growth in 1990s. Thailand had one of the world’s fastest economic growth rates between 1984 and 1994, and the Thai economy was transformed from an agricultural to an industrial base. Thailand adopted an export-oriented economic policy in the mid-1980s, and achieved 10 percent a year economic growth over the next decade by employing mostly female rural-urban and foreign migrants in manufacturing industries that produced clothing, textiles, and similar items, many of which were exported. (Martin, 2003:15)

Thailand policy toward Burmese migrants has changed 30 years ago because of changing of security and international policy between two countries. Burmese migrant weaving started about 1970 because of internal war between military government and minority groups in Burma. The strict policy of Myanmar has caused poverty.

Between 1970 and 1980, most of migrants were along border province of Thailand but until 1988 when there was new Thai government which arrested a lot of Burmese, there was a big wave of Burmese migrant in Thailand between 1988 and 1990. At that time, unskilled labor was needed and most of employers preferred low cost of Burmese labor.

Between 1992 and 1999, Thai government had compromise policy for employer to hire illegal migrant labor, who should be registered for some kinds of job and some areas that the government addressed in each year. An estimate number of illegal migrants were about 600,000 to 800,000 that included 100,000 migrants in temporary shelter or refugee camp.

## 1. National Policies

Supang Chantavanich and Premjai Vungsiripaisal (2005) described the cause of created the policies toward migrant workers as follows. The policies for unskilled workers began to take shape in Thailand during the 1990s because of people taking flight from the political upheaval in neighboring Myanmar and Thailand policy on unskilled immigration unfolded in four successive stages; up until 1999, in 1999-2000, in 2001, and in 2002- 2003.

On the other hand, Thailand policy toward Burmese migrants evolved in three phases (Caouettee, et al. 2000, cited in Martin, 2003:17) as follows.

- Between 1945 and 1983, Thailand considered the ethnic minorities on the Thailand-Myanmar border who were fighting the central Government in Yangon a buffer between Thailand and Myanmar, especially after Myanmar declared itself a socialist country in 1962. Burmese who fled to Thailand before March 9, 1976 were called “Displaced Persons of Burmese Nationality” and issued colored card to indicate their status in Thailand.

- From 1984 to 1987, there was a Thai-Burmese rapprochement that also led to intensified fighting between ethnic Karen and Mon and Government of Myanmar, and resulted in many Burmese near the Thai border fleeing to the border provinces in Thailand.

- Since 1988, the State Law and Restoration Council (SLORC) in Myanmar invited Thais to invest in the country, which prompted many to do so. However, many order Thais and foreigners invested in Thailand near the Thai-Myanmar border, so that products such as garments could be made with Burmese labor in Thailand and exported from Thailand, avoiding sanctions on Burmese exports. These border-area factories attracted additional migrants from Myanmar, and prompted some of the Burmese already living in camps along the Thai-Myanmar border to move further inside Thailand for higher wages.

### 1.1 National policies for migrant worker

#### The March 1992 Cabinet Resolution

During the initial period, the government came under pressure from Business groups to relax registration that prohibited unskilled worker immigration to

Thailand. Therefore, the government used a loophole in the immigration Act of 1992 to allow the registration of illegal migrants (Supang and Premjai, 2005: 37).

The first resolution of cabinet about Burmese migrant workers is on 17 March 1992. Government permits the businesses to employ the Burmese migrant workers for temporary. The employers must guarantee and inform their workers in order to request for the work permit which cost 1,000 baht per person per year. In addition, the employers must pay the insurance fee at 5,000 baht per person. Government permits the Burmese migrant workers to work only nine provinces which are Chiangrai, Chiangmai, Maehongson, Tak, Karnchanaburi, Ratchaburi, Prachaubkirikun, Chomporn, and Ranong. In the past, these nine provinces have many illegal migrant workers because there are the frontier countries between Myanmar and Thailand.

However, this first resolution of cabinet was not success. Kritaya Archavanitkul (2002: 29) addressed that only 706 employers or business owners to request the work permit for his workers. The major reason is the high rate of insurance fee which was about 5,000 baht per person. Therefore, the business owners or employers still employed the illegal migrant workers. Most of employees were willing to pay the illegal fee to police in that precinct. The employers thought that it was worth to pay the illegal fee because they did not response for any arrest. Another reason was that employers could not hire the Burmese migrant workers in the fishery industry because it against to the Act of parliament about the fishery's right on Thai territorial water. It is not permitted the foreign workers to be the fisherman. According to this reason, the government has changed this rule.

### The June 1996 Cabinet Resolution

It was the first regular registration, which allowed employers of unauthorized migrants from Myanmar, Cambodia and Laos to register migrants for two years after paying a 1,000-Baht bond, a 1,000-Baht fee and a 500-Baht health fee. Only employers in 7 sectors (agriculture, construction, coal, fisheries, transportation, mining, and manufacturing) and 39 provinces could register migrants when the program began, but the number of sectors was later expanded to include domestic helps and several other occupations, and number of provinces was expanded to 43. Between September 1, 1996 and November 29, 1996, some 323,123 illegal migrants

were registered, of which almost 80 per cent of them were registered by employers in 3 sectors—construction (33 per cent), agriculture (28 per cent) and fisheries (18 per cent) and there are 88 per cent were Burmese (Martin, 2003: 20). Supang and Premjai (2005) described the large number of documented migrant workers from Myanmar were allowed to work for period of up to a year in 1995 and 1996 and their number increased to 239,652 in 36 of Thailand's 76 provinces by 1996. By May 22, 1997, a total number of 303,088 alien workers were granted work permits. Of this number 263,782 were Burmese (87 %), 12,323 were Laotians (4 %) and 26,938 were Cambodians (9 %). Most alien workers registered in the construction industry (33 %), followed by agriculture (28%), maritime fishery (18%), domestic help (12%), manufacturing (8%), waterway transportation (1%), and mining (0.5%) (Caouette et al., 2000:29).

### The April 1998 cabinet resolution

In 1997, a committee was created under the National Security Council that included a central unit in charge of supervising immigrant worker policy. The aftermath of the 1997 financial crisis saw the expulsion of some 300,000 temporary foreign workers in a bid to reduce the unemployment rate, which rose to 4.4 per cent in 1998 regardless. In the same year, 90,911 the government allowed foreign migrants to work in 54 provinces, including Bangkok. The fall in the number of registered migrant workers was partly a reflection of a sharp drop in the construction sector during and after the financial and economic crises, and occurred as many provinces insisted that they needed immigrant workers (Supang and Premjai, 2005: 37).

This policy also has the condition that differs from the cabinet's resolution on 1996. Government increase working area to 54 provinces which separates to 13 frontier provinces, 22 provinces of fishery, and 19 province of lacking labor. The businesses are rubbery, sugarcane farm, pig farm, rice mill, and sea logistics, which lack of labor. Time range of requesting work permit is 90 days. For insurance fee and work permit fee is 1,000 baht each. But the health check up cost is 700 baths. Most of provinces require that migrant workers must pay for health check up as well which the cost is difference between 500 – 1,200 baths (Kritaya, 2002:30).

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### The August 1999 cabinet resolution

Migrant workers continued to be permitted to work in those provinces where Thai replacements were not available. The difference this time was that each province was gained authority to determine its own needs. The Asian Research Center for Migration of Chulalongkorn conducted analysis of the labor demand in each province to determine the type of businesses, number of provinces, and number of currently registered migrant workers. In August 1999, the Cabinet passed another resolution allowing 18 types of business to employ migrant labor in 37 provinces. Ten provinces were situated along the border, 18 were engaged in fishery-related work; and nine of them were undergoing the process of developing production capacity. Innately, no more than 86,895 migrant workers were to be employed, but after negotiations with the private sector this number was increased to 106,000. The register process was again to be completed within a 90-day period, with “bail” and registration fees remaining the same as in 1998. The medical exam was set at 700 baht and all migrant workers were required to purchase a health insurance card costing 1,000 baht. As of December 30 1999, a total of 99,974 migrants had registered (Caouette, et al, 2000:47).

### The August 2000 cabinet resolution

On April 2000, a cabinet resolution allowed migrant registration to be extended one more year, to August 31, 2001. Some 106,684 migrants were registered between September 1 and November 30, 2000, and 99,656 migrants received permits—91 per cent of migrants were Burmese (Martin, 2003:23).

Supang and Premjai (2005:37) described about aware of large number of migrant workers as follows. As immigration continued in 1999-2000, Thai authorities took better notice of migrants’ active presence in the country. The public at large similarly became more aware of the problems immigrants were facing, especially in urban areas. Nonetheless, those civil society groups that advocated immigrants’ well-being and social inclusion as fundamental guidelines for national policy met little success, if any. In this period, the government set a quota in a bid to control and restrict the number of illegal workers who would be allowed to register, which effectively amounted to more than 100,000 in 1999 and 2000, at that time when the public became more aware of their predicament. especially in urban areas.

Kritaya (2002: 31) noted the situation of immigrant registration in this year as follows. The illegal migrant workers become an obvious problem because the work permit is nearly invalid by the end of August. Before this month, business wants the government to extend work permit, the number of migrant workers and area of migrant working. In this year, the Ministry of Labor and Social Welfare assign ARCM to research for estimate the suitable number of migrant workers and area, making an exception. This research address that the government should increase the number of migrant worker in some areas and business that are allowed in 1999 for confirm that the policy will not increase migrant workers who register in 2000.

### The August 2001 cabinet resolution

The government is changed from Democrat party to Thai Rak Thai party which allowed migrant worker registration in wider area. Consequently, the resolution's cabinet of this topic is absolutely changed.

On May 2001, ARCM is assigned to conduct the research for solve and lunch policy about migrant workers. The researcher advises two choices which are same regulation as the cabinet's resolution on 2000 or increase the number of migrant worker to 200,000 in 39 provinces in 21 businesses (Kritaya, 2002:31).

On 28 August 2001, the cabinet resolution allowed illegal migrants to register in every provinces in these kind of business which is fishery, engaging in orchard gardening and growing plant crop, house keeper, construction, feeding pig and shrimp, moving goods in warehouse, working in rice mill, making brick and working in tin mine. In the first round of registration, between September 24 and October 25, a total cost is 3,250 Baht including work license 900 Baht—for 6 months, health insurance 1,200 Baht—for 1 year, guarantee of sending back their countries 1,000 Baht and fee charge 150 Baht. The second round is everybody should extend their work permit in 6 months between 24 February and 25 March in 2002 and pay fee 1,200 Baht—900 Baht for work license and 300 Baht for health checking up in hospital to where employer take them.

From the first round, there is highest number of registration--568,249 migrant workers ( Burmese 79% , Laos 11% and Cambodia 10%) the highest number is in Bangkok (110,536 workers). Samut Sakhon (49,145 workers) and Tak (47,486 workerts) but the lowest is in Pattalung (52 workers) (Kritaya, 2002:33).

### The April 2004 cabinet resolution

Department of Employment started to organize migrant labor on July for collecting the number of migrant workers including Burmese, Laotian and Cambodia who live Thailand. Consequently, their employments should take them to register. After that, they will get one year work permit card. This is the last for migrant illegal workers thus; whoever does not register could not stay and work in Thailand. For health check up, their employers will take them to hospitals addressed by Ministry of Health between 22 and 31 October.

The statistics of Department of Provincial Administration, the total number of registration 126,561 migrant workers (83,195 Burmese, 29,838 Laotians and 13,528 Cambodians). The highest number is in Ching Mai –56,754 workers, Tak—49,535 workers, Samut Sakhon—44,721 workers, Ranong –36,402 workers and Chonburi—29,271 workers (The Ministry of Labor).

### The April 2005 cabinet resolution

This cabinet resolution allowed about 200,000 migrant workers (Burmese, Laotian and Cambodia) who registered in 2004 to continue their work up to the end of August 2005. After that they should be registered for continue their work permits. Moreover, the government creates the one stop service for illegal migrant workers.

Thai policies address about migrant workers but no one emphasizes on the role and rights of migrant children who are the large number in Thailand. Most of them come to Thailand with their parents, come alone or born in Thailand. Moreover some of them, both legal and illegal, don't have basic right protection such as child trafficking and abuse, and lack opportunity to access basic service such as health care, basic education that are necessary for their living. However, there is only policy from the Ministry of Education which address about an educational opportunity of migrant children.

In conclusion, Thailand initiated the registration system to identify unauthorized migrants in 1992, and gradually expanded the number of provinces, sectors in 1996. Employees could register migrants and employ them legally for 1-2 years. The new registrations that occurred in 1996 were followed by re-registrations in 1998, 1999, and 2000 for workers previously registered with their respective employers (Beesey, 2004:35).



## 1.2 Thai Government Education Policies for migrant children

### The Ministry of Education

#### *Policy in 1992*

In 1992, the Ministry of Education launched the regulation about the education for non-Thai nationality and non-residence registration that addressed the educational rights of nine characteristics for non-Thai nationality children who are;

1. Non-registration for verify their nationality, date of birth and address. This group composes of street child, children who follow parents to work in foreign land, orphan, homeless children in children aid home, or other under privileged children. This group could access education from primary school to higher education.
2. Children of Hill-tribe can access education from primary school to higher education.
3. Children of Laos, having permanent residence in Thailand could access education from primary school to higher education.
4. Thai nationality migrants from Koh Kong, Cambodia means Thai nationality migrants, come from Koh Kong—Cambodia were controlled their residence by Ministry of Interior in Trad Province and the cabinet of a government allowed them change to Thai nationality. This group could access education from primary school to higher education.
5. Migrants from Nepal means Nepal migrants were controlled their residence in Tong Pa Phom—Kanchanaburi by Ministry of Interior.
6. Vietnamese migrants mean Vietnamese and their descendant who temporarily flee to Thailand between 1945 and 1946. This group could access the education from primary school to higher education in the limited area, Nong Kai, Udontani, Sakonnakhon, Nakhon panom, Mukdaharn, Ubonrachatani, Yasothon, Prachinburi, Surattani, Pattalung, Amnajaron, Nongbualumpu and Sakeaw.
7. Children of Chinese soldiers who were born in Thailand but non-Thai nationalities could access education from primary school to a higher education but theirs area is limited: Chiang Mai, Chinang Rai and Mae Hong Son.
8. Hor Chiness means Chinese who were controlled by Ministry of Interior illegally migrated into Thailand between 1948 and 1961 and they could not go

back to their country because of political reason. This group also includes their children who were born in Thailand but were recanted or were not Thai by revolutionary committee declaration No.337 on December 13, 1972. This group could access education from primary school to higher education and were limited education area in three provinces, ten districts.

9. Burmese migrants mean Burmese who stayed in Thailand before March 9, 1976 because of political reason and were registered by official. Consequently, for waiting for repatriation, they were allowed to temporarily stay in Thai territory. This group could access primary to higher education but are limited in 9 provinces; Chiang Rai, Chiang Mai, Mae Hongson, Tak, Kanchanaburi, Rachaburi, Prajubkririkan, Chumporn and Ranong.

Remarks: Burmese migrants who have arrived Thailand after March 9, 1976 and have had their permanent residence, enrolling and waiting for repatriation could access basic education in Thailand (The regulation of the Ministry of Education about birth document for school acceptance in 1992).

Consequently, from this regulation, Burmese migrant children could get access to basic education. In contrast, in practice, a few of them could get access to basic education in formal school.

#### *Policy in 2004*

In 2004, August, the Ministry of Education launched the regulation draft that was developed from the regulation launched in 1992 and stop using any regulations that contrast this new regulation. This regulation composed of student document for applying school which involves in the educational access of migrant children, illegal and legal as following.

For school acceptance, application should have an evidence for registration such as birth certificate, birth letter, identification number, census record or any government official evidence. In case of they do not have any evidence; they should fill personal record in government official form.

For educational document and certificate, every school has to record student's data and remark that have no legal census evidence. It means that the schools accept their educational certificate but do not accept their nationality. The main reason why there is a remark in the educational document is that assuring non-Thai nationality of these students.

Moreover, some children claimed the educational document or certificate to ask for Thai nationality. Educational document and certificate is very important for asking for Thai nationality because in this evidence, there is date and time of staying in Thai territory.

In this regulation also addressed that in case of children changing their residences, school directors should advise and facilitate them to other schools where are near their new residences (The regulation draft of the Ministry of Education).

### *Policy in 2005*

In 2005, the Ministry of Education launched regulation about date of birth of student acceptance for non-Thai nationality students. This regulation addressed four main topics as following.

1. Improve the regulation in 1992 about birth certificate. The schools have not to write in red that “have no house registration documents or Ta Bian Ban” on educational evidence because it make different between Thai and non-Thai students. Cancel the practice in the end of regulation in 1992 that addresses about nine groups of children; hill-tribe, Laotian, Tai migrants from Koh Kong, Naples migrants, Vietnamese migrants, Hor Chinese and Burmese migrants. As a result their status has been changed and Thailand has ratified the Convention on the Rights of the Child addressing their educational rights.

2. Non-Thai and person who have no Ta Bian Ban have educational opportunities that relevant to the Convention on the Rights of the Child. Everyone living in Thailand could access education that is unlimited level, kind and area. As a result, they will understand and be optimistic about Thailand for Thai stability.

3. The Ministry of Interior will survey the number of non-Thai and person who have no Ta Bian Ban for registration. The next step, the Ministry of Interior will register children who have no Ta Bian Ban.

4. The subsidiary which is equal as Thai student will be distributed to schools (from kindergarten to high school) where have non-Thai students and students who have no permanent status in the house registration documents.

5. The 6.4 million Baht will be divided for 1,269 non-Thai students in private schools (The cabinet resolution, “The regulation of the Ministry of Educational about birth document for acceptance students,” 5 July 2005).

## National Security Council

In 1997, National Security Council launched the educational regulation about problems of minority, hill-tribe and security along Thai border on 1 August 1997. For minority and hill-tribe people, National Security Council agreed with the Ministry of Education policy about educational opportunities for all children in Thailand even they are not Thai. However, there are some limitations for these groups as follow;

1. The Burmese who fled from Myanmar to Thailand because of war in 1984.
2. All migrants who are allowed to temporarily work in Thailand by cabinet resolution in 1996
3. All illegal migrants
4. People who have right to access education but stay in uncontrolled area

From this regulation, it contrasts with the regulation of the Ministry of Education. Migrant children who are in group two and three compose of the limited group in topic 2 and 3 above thus, in practice, some government official are confuse and unsure about the real policy, the Cabinet Resolution Nor Ror 0205/11071)

In 2004, December, National Security Council agreed to regulation about providing an education to non-Thai nationalities," referring to Ministry of Education's letter on December 3<sup>rd</sup> 2004 about education order for non-residence and non-Thai citizen person. This regulation proposed by the Ministry of Education addressing the way to manage and extend educational opportunities and rights of non-Thai residence people. All of them could get access to education (level, kind and area is unlimited) that be in line with human rights and constitution. However, budget for educational support should not effect Thai people and have suitable measure that is not pull-factors for migrants (National Security Council, the Cabinet Resolution Nor Ror 0804/9622).

From educational policies toward migrant children initiated in 1992 by the Ministry of Education., Supang and Premjai (2005:42) noted the problems of their opportunity as follows. All children in the country had right to attend school. However, initially this did not include children of illegal workers. The government subsequently extended the 1992 policy to include migrant children whose parents had registered for work permits. Even so, illegal/undocumented immigrants are understandably reluctant to register their children at local schools, thereby

perpetuating their poor socio-economic conditions into the next generation. NGOs have advocated extended access to education for all children, including the stateless, but Thai National Security Council rejected the proposal. Still, migrant children both illegal/undocumented and legal/documented parents in Thailand's border areas have benefited more from educational opportunities than those in the country's major conurbations, as border towns have grown accustomed to providing education to young people from the other side of the line. However, a significant problem in Thailand is that the government's 1992 education policy has not been implemented on a universal scale. In those schools with large numbers of immigrant pupils, teachers have been facing a heavy additional burden because these children were often illiterate in the Thai language. Consequently, teachers have to spend more time with them to help them catch up with local peers, and as they balk at the extra effort many seek alternative jobs.

## **2. Local Policies**

There was educational policy for migrant children in 2004 as follows. Until local government was change in the end of 2004, the policy about migrant in Samut Sakhon was also changed. The Samut Sakhon governor considered that an educated person is better than uneducated one because they are easier to control. Otherwise, they may risk doing something illegal. Burmese workers are necessary for Thai people thus; they should live together with Thai people. Now a day, there are 200,000 Burmese workers in this province. In their opinion, Thailand is not their own home but just rent-room for them. They play an important role for economic development in Samut Sakhon thus; we should give them an educational chance. However, the education should be by Thais because we could control them and it will be better than teaching by Burmese. A special course syllabus is good choice because education with Thai students will have some problems that Thai parents don't want their children to study with Burmese. (Pinyo, 2004:7) Additionally, Samut Sakhon Education Service Area Office launched educational strategy for Burmese children as follows.

In 2004, the resolution of the committee of problem solving migrants in Samut Sakhon addressed that for educational management, the migrant children should have be registered for verification and disease protection.

In 2005, there is three years strategy plan (from 2006, May to 2009, March) for migrant children from Samut Sakhon Education Service Area Office. The reason of this plan is that giving chance for migrant children in this province to educate because everybody should be educated for better living condition. Consequently, this government official aims to give education for them in the way of Thai culture, law and society. Its purpose is also giving basic education (12 years) to 1,000 migrant children for living together in Thai society and understanding Thai culture and laws (The educational strategic plan of Samut Sakhon Education Service Area Office).

In summary, since Thai government launched the first education policies for migrant children in 1992 up to now, no many migrant children could access to formal school because of way of practice of local government official such as schools and local government official. The schools do not understand this regulation thus they refuse to accept migrant children. The lack of public relation about their rights by local government official –Samut Sakhon Education Service Area Office is one reason why they could not get access to Thai school. Moreover, the parents and children are also the obstacles because they ignore the basic education. The cabinet resolution in 2005; the migrant children have more educational opportunities from them. In case Samut Sakhon, in 2005, there was a strategic plan for 1,000 migrant children—most of them are Burmese to attend formal school.