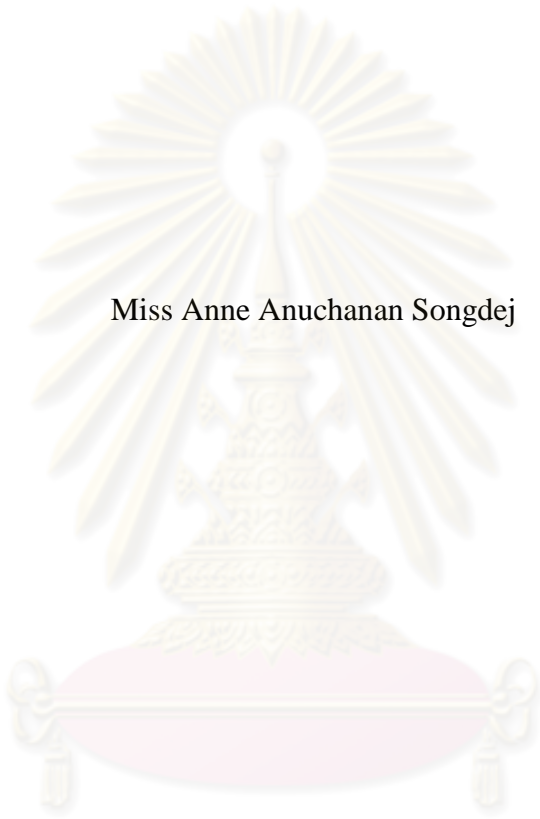


CAMBODIAN CHILD BEGGARS IN THAILAND: A CASE STUDY OF RIGHTS
AND NEEDS BASED APPROACHES IN LEGISLATION AND IMPLEMENTATION



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A Thesis Submitted in Partial Fulfillment of the Requirements
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Faculty of Political Science

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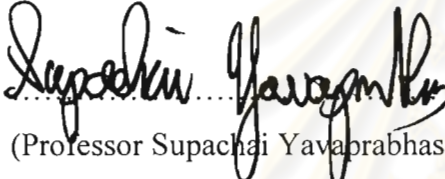
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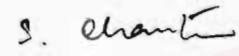
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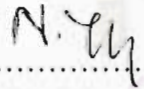
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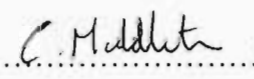
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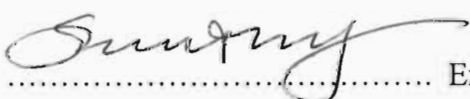
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วิจัยนี้มีจุดประสงค์ที่จะวิเคราะห์ว่าพระราชบัญญัติป้องกันและปราบปรามการค้ามนุษย์ พ.ศ. 2551 ได้ปกป้องสิทธิเด็กขอทานชาวกัมพูชาตามที่ระบุไว้ในอนุสัญญาที่เกี่ยวข้องกับการปกป้องสิทธิมนุษยชนมากเพียงใด วิจัยนี้ได้ถูกจัดทำขึ้นโดยการวิเคราะห์ความสัมพันธ์ระหว่างพระราชบัญญัติป้องกันและปราบปรามการค้ามนุษย์และนโยบายไทยอื่นๆที่มีความเกี่ยวข้องกับเด็กขอทานชาวกัมพูชาเป็นอันดับแรก โดยการวิเคราะห์ประสิทธิภาพการคัดแยกเหยื่อการค้ามนุษย์ของเจ้าหน้าที่ไทยเป็นอันดับถัดไป และโดยการวิเคราะห์ว่าทัศนคติของเจ้าหน้าที่ไทยต่อเด็กขอทานชาวกัมพูชาได้ปกป้องสิทธิเด็กขอทานชาวกัมพูชามากกว่าที่จะมุ่งไปอย่างความต้องการของเขาหรือไม่

วิจัยนี้ได้ค้นพบว่าพระราชบัญญัติป้องกันและปราบปรามการค้ามนุษย์มีความสม่ำเสมอกับนโยบายอื่นที่เกี่ยวข้องกับเด็กขอทานชาวกัมพูชา เช่น พระราชบัญญัติคุ้มครองเด็ก พ.ศ. 2546 พระราชบัญญัติคุ้มครองแรงงาน พ.ศ. 2551 และ พระราชบัญญัติคุ้มครองผู้ถูกกระทำด้วยความรุนแรงในครอบครัว พ.ศ. 2550 แต่ทั้งนี้มีความไม่สม่ำเสมอระหว่างพระราชบัญญัติป้องกันและปราบปรามการค้ามนุษย์และพระราชบัญญัติอื่นเช่นเดียวกัน ได้แก่ พระราชบัญญัติควบคุมการขอทาน พ.ศ. 2484 และ พระราชบัญญัติตรวจคนเข้าเมือง พ.ศ. 2522 ความไม่สม่ำเสมอระหว่างพระราชบัญญัติป้องกันและปราบปรามการค้ามนุษย์และนโยบายไทยทั้งสองนี้ได้มีผลกระทบต่อเจ้าหน้าที่ไทยจะปฏิบัติตามสิทธิหรือความต้องการของเด็กขอทานชาวกัมพูชา ทั้งนี้เป็นเพราะว่าความไม่สม่ำเสมอของนโยบายนี้กับพระราชบัญญัติป้องกันและปราบปรามการค้ามนุษย์ได้ทำให้เจ้าหน้าที่ไทยมีความคิดเห็นไม่ตรงกันว่าเด็กขอทานชาวกัมพูชาอยู่กลุ่มเหยื่อ พวกที่สมัครใจมาขอทาน หรือพวกที่หลบหนีเข้าเมือง ดังนั้นความคิดเห็นที่ต่างกันได้ทำให้การคัดแยกเหยื่อไม่เป็นระบบและทำให้เกิดการคัดค้าน้ำหนักกับความเห็นของเจ้าหน้าที่ไทยต่อเด็กขอทานชาวกัมพูชามากกว่าสิทธิที่เด็กควรที่จะได้รับตามพระราชบัญญัติป้องกันและปราบปรามการค้ามนุษย์ วิจัยนี้ได้สรุปจากการสัมภาษณ์เด็กขอทานชาวกัมพูชาว่าการที่เจ้าหน้าที่ไทยไม่ได้พิจารณาเด็กขอทานชาวกัมพูชาทุกคนในวิจัยนี้เป็นเหยื่อการค้ามนุษย์ได้ตอบสนองต่อความต้องการของเด็กขอทานชาวกัมพูชาเหล่านี้โดยส่วนใหญ่และเป็นการแก้ปัญหาในเชิงปฏิบัติ แต่วิธีนี้เป็นเพียงการแก้ปัญหาเฉพาะหน้าแต่ไม่ใช่การแก้ปัญหาอย่างยั่งยืน

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ปีการศึกษา 2553

ลายมือชื่อนิสิต..... 

ลายมือชื่ออาจารย์ที่ปริกษาวิทยานิพนธ์หลัก Nitya

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ANNE ANUCHANAN SONGDEJ: CAMBODIAN CHILD BEGGARS IN
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This research aims to determine the extent that Thailand's Anti-Trafficking in Persons Act (2008) protects the rights of Cambodian child beggars as outlined in human rights conventions. This was done by assessing the level of policy coherence between Thailand's Anti-Trafficking in Persons Act (2008) and other related policies, by assessing the practicality of the guidelines used for screening victims of trafficking by Thai officials, and by assessing whether Thai officials' attitudes towards Cambodian child beggars affected whether the rights-based approach or the needs-based approach was followed in practice.

This research found that there was strong policy coherence between Thailand's Anti-Trafficking in Persons Act (2008) and other related policies, such as the Child Protection Act (2003), the Labor Protection Act (2008), and the Domestic Violence Victim Protection Act (2007). Despite this fact, there existed large policy incoherence between Thailand's Anti-Trafficking in Persons Act (2008) and the Beggar Control Act (1941) and Immigration Act (1979). The lack of policy coherence between Thailand's Anti-Trafficking in Persons Act (2008) and the two latter Acts was found to deeply affect whether Thai officials followed the rights-based approach or the needs-based approach when dealing with Cambodian child beggars. This was because some saw the Cambodian child beggars as victims of trafficking, while others saw them as voluntary migrants, illegal migrants, or both. This in turn made for a subjective screening process and affected whether Cambodian child beggars were taken under Thai custody at all. From interviews with Cambodian child beggars, it was found that although Thai officials do not follow the Anti-Trafficking in Persons Act (2008) for every Cambodian child beggar in this study, this may be a more practical approach so that the immediate needs of the majority of these Cambodian child beggars are met. Nonetheless, this raises concerns over how to more effectively address the structural causes of the child begging problem.

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LIST OF ABBREVIATIONS

BATWC	Bureau of Anti-Trafficking in Women and Children
CRC	Convention on the Rights of the Child
DSDW	Department of Social Development and Welfare
FCD	Foundation for Child Development
FFW	Foundation for Women
GO	Government Organization
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
IDC	Immigration Detention Center
LPN	Labour Rights Promotion Network Foundation
MSDHS	Ministry of Social Development and Human Security
NGO	Non-Government Organization
PTC	Poipet Transit Center
TNPD	Thailand National Police Department
UNIAP	United Nations Inter-Agency Project against Human Trafficking in the Greater Mekong Subregion
UNICEF	United Nations Children's Fund

CHAPTER I

INTRODUCTION

1.1 Statement of the Research Problem

In 2010, Cambodian migrant beggars in Thailand received wide media coverage. For example, on January 18, 2010, the *Bangkok Post* headlined on the 'Crimes' section of their news the following: "Taming the beggars' brigade: Hundreds of foreigners beg on Bangkok streets" (Ngamkham and Marukatat, 2010). Almost exactly one month after, on February 14, 2010, the headline "Khmer beggars testing ties and tolerance: The current uncertain situation between Thailand and Cambodia is having a knock-on effect on many of Bangkok's beggars" appeared under 'Investigative Reporting' (Fry, 2010). The issue of Cambodian migrant beggars has been placed on the public agenda due to two political and economic reasons. Firstly, the recent attention placed by Thai authorities on migrant beggar issues have attributed to the building of a "political theatre" in a time of heated relations between Cambodia and Thailand (Fry, 2010, n.p.). This is enhanced by the worsening relations between Cambodia and Thailand because of the controversial relationship that exists between Thailand's fugitive ex-Prime Minister Thaksin Shinawatra and Cambodia Prime Minister Hun Sen. Thailand-Cambodia relations have now warmed considerably since the first half of 2010, however. Secondly, economic disparities between Thailand and Cambodia have arguably caused an influx of migrant beggars, who find the journey and occupation as opportunities for more lucrative earnings (Third World Network Features, 1998, p. 1).

The demographic characteristics of beggars have changed over the past 15 years. Back in 1994, a survey of the begging and soliciting business in Thailand showed that there were 3,115 beggars, 26.5 percent of those were child beggars less than eighteen years of age¹. And within the 10-month period from October 1, 1996 to July 31, 1997, data from transit centers² notably recognized an increase in the number of Cambodian beggars, and a decrease in the number of Thai beggars. While Cambodian beggars constituted 64 percent of total beggars, Thai beggars only amounted to 33.16 percent. There were also recorded numbers of Burmese and Vietnamese beggars, but at negligible amounts (Archavanitkul, 1998, The Number of Foreign Children in Begging and Soliciting Business in Thailand section). Most concerning was the 39 percent increase in the number of child beggars during this two and a half year period (Berger and Glind, 1999, p. 31), in which children from Cambodia made up 79.74 percent of the total number of child beggars in Thailand (Archavanitkul, 1998, The Number of Foreign Children in Begging and Soliciting Business in Thailand section).

The way by which the Thai government has addressed the growing number of Cambodian beggars in Thailand has produced much controversy over recent years. Such incidences counts the airlifting of 620 beggars back to Cambodia aboard C-130 Hercules transport planes by former Prime Minister Thaksin Shinawatra in 2003 (Fry, 2010, n.p.), and the rounding up and deportation of 570 Cambodian beggars³, 200 of which were children, by Thai authorities in 2010 (Ngamkham and Marukatat, 2010, n.p). These have been criticized as a breach of Thailand's own Anti-Trafficking in Persons Act (Fry, 2010, n.p.). Although Thai authorities announced that the 2010 incident was carried out to combat transnational trafficking rings that bring beggars into Thailand, many argue that there was no screening of beggars to determine if any were victims of trafficking and/or

¹ The nationality of the beggars and the precise location that the survey was held was not noted in this survey

² Data on beggars in transit centers was provided by the Department of Social Welfare under the Ministry of Labour and Social Welfare; the exact location of these transit centers was not noted

³ Some claim that the number of Cambodian beggars was over 500 and included non-begging illegal Cambodian migrants

were entitled to protection. Rather, civil society groups claim that migrants were treated more as criminals than as rights holders (Fry, 2010, n.p.).

Thailand's mass deportation of Cambodian beggars is especially concerning when considering the large number of children involved. According to the 2000 *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Woman and Children*, all child beggars are by definition, victims of trafficking, and human trafficking is a grave violation of child rights (UNIAP, 2008, p. 1). Thailand ratified the Convention on the Rights of the Child in 1992, and is therefore, responsible for protecting the rights of all children who live on Thai soil. Despite the obligations that follow, not all Cambodian child beggars are de facto recognized as victims of trafficking by Thai authorities. Rather, some are arrested as illegal migrants and simply deported back to Cambodia within a week or less. Those identified as victims of trafficking on the other hand, are transferred to shelters in Thailand and remain there for a significant period of time. Because of this, many Cambodian child beggars arguably prefer deportation over having to spend a significant amount of time in shelters, even when it works against the realization of their rights as children (Fry, 2010, n.p.). This raises an ethical dilemma over the rights-based approach and needs-based approach in policy implementation (See Section 1.6 for definitions).

1.2 Research Topic

This research aims to analyze the extent by which there is policy coherence between the rights-based approach and the needs-based approach towards solving trafficking issues related to Cambodian child beggars in Thailand.

1.3 Research Questions

- Main Research Question:

Has Thailand's Anti-Trafficking in Persons Act (2008) protected Cambodian child beggars' their rights as outlined in international human rights conventions?

- Sub-questions:

1. Has there been policy coherence between Thailand's Anti-Trafficking in Persons Act and other related policies such as the Beggar Control Act (1941), the Child Protection Act (2003), and the Immigration Act (1979) and has this resulted in confusion in operationalizing the policy in practice?
2. Have the guidelines designed for the implementation of the Anti-Trafficking in Persons Act been practical?
3. Have Thai officials' attitudes towards Cambodian child beggars' in Thailand determined whether the 'rights-based approach' or the 'needs-based approach' is followed in practice?

1.4 Research Objectives

1. To determine the policy coherence between Thailand's Anti-Trafficking in Persons Act and other related policies such as the Beggar Control Act (1941), the Child Protection Act (2003), and the Immigration Act (1979)
2. To determine the practicality of the guidelines used by officials for the implementation of the Anti-Trafficking in Persons Act
3. To determine the extent to which Thai officials' attitudes towards Cambodian child beggars' in Thailand determine whether the 'rights-based approach' or the 'needs-based approach' is followed

1.5 Hypothesis

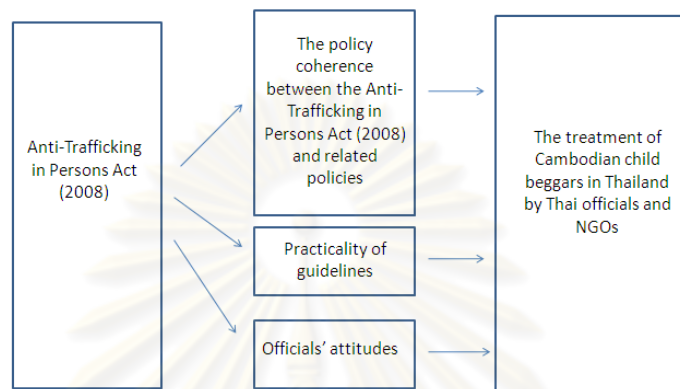
Thailand's Anti-Trafficking in Persons Act (2008) is adequately protecting Cambodian child beggars' rights in Thailand because there exists policy coherence between stakeholders and clear prioritization of related Acts, the guidelines used for implementation of this Act are designed practically, and officials' attitudes have favored following the Act in accordance with the 'rights-based approach'.

1.6 Conceptual Framework

The key theories and concepts of this research are child rights, the rights-based approach, the needs-based approach, migration, and trafficking. The dependent variable is the treatment of Cambodian child beggars in Thailand by Thai officials and NGOs, whereas the independent variables are: the policy coherence between the Anti-Trafficking in Persons Act and related policies; the practicality of the guidelines following the Anti-Trafficking in Persons Act; and the officials' attitudes towards following the rights-based approach or the needs-based approach when dealing with Cambodian child beggars in Thailand (See Figure 1.1).

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Figure 1.1 Conceptual Framework for the Protection of Cambodian Child Beggars' Rights



1.6.1 The treatment of Cambodian child beggars in Thailand by Thai officials and NGOs

This section serves to explain the human rights framework that will be used to analyze the dependent variable of this research. The three international human rights conventions that are specifically relevant to Cambodian child beggars in Thailand are the Convention on the Rights of the Child (CRC), the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW), and the Anti-Trafficking Protocol of the International Convention against Transnational Organized Crime. The human rights framework first consists of the overarching child's rights principles that pertain to Cambodian child beggars in Thailand, and then moves to convey the rights relevant for children who are either subject to detention as irregular migrants or protection and assistance as trafficking victims. This is portrayed below:

- *The Core Child's Rights Principles that pertain to Cambodian Child Beggars in Thailand*
 - Freedom from slavery or servitude (IRCMW, Article 11)
 - Freedom from forced or compulsory labor (IRCMW, Article 11)

- *Protection against Situations of Exploitation and Physical and Mental Harm*
 - A child's right to be protected against all forms of physical or mental violence or exploitation while in the care of his or her parents (CRC, Article 19)
 - A child's right to protection from child trafficking (Anti-Trafficking Protocol, Article 13)

- *Assistance to and Protection of Victims of Trafficking in Persons*⁴
 - The right to privacy (Anti-Trafficking Protocol, Article 6(1))
 - The child's right to have his or her views and concerns presented and considered at appropriate stages of criminal proceedings (Anti-Trafficking Protocol, Article 6(2b))
 - The right to appropriate housing (Anti-Trafficking Protocol, Article 6(3a))
 - The right to counseling and information on the legal rights of the child in a language that he or her understands (Anti-Trafficking Protocol, Article 6(3b))
 - The right to medical, psychological and material assistance (Anti-Trafficking Protocol, Article 6(3c))
 - The right to education and training opportunities⁵ (Anti-Trafficking Protocol, Article 6(3d))

⁴ The right to compensation under Article 6(6) of the UN Anti-Trafficking Protocol has been omitted

- The right to physical safety (Anti-Trafficking Protocol, Article 6(5))
 - The right to safe and preferably voluntary repatriation (Anti-Trafficking Protocol, Article 8)
- *A Child's Rights during Deportation and Detention*
 - The right to due process of law and the right to be protected against arbitrary arrests or detentions and collective expulsions (ICRMW, Article 16 and 22; CRC, Article 37(d))
 - A child's right to not be separated from his or her parents against his or her will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child, such as in cases of neglect or abuse (CRC, Article 9(1))
 - The right of a child who is deprived of his or her liberty to humane treatment. For example, a child deprived of his or her liberty should be separated from adults unless it is considered in the child's best interest not to do so (CRC, Article 37 (c))
 - A child deprived of his or her liberty has the right to maintain contact with his or her family through correspondence or visits, save in exceptional circumstances (CRC, Article 37 (c))
 - The right of a child who is deprived of his or her liberty to be held for the shortest appropriate period of time (CRC, Article 37(b))

⁵ The right to employment has been omitted since the focus of this research is on children under the age of 15. As such, international labor conventions and labor laws in Thailand prohibit children under the age of 15 from working.

1.6.2 Policy Coherence

This section serves to define the term ‘policy coherence’ as an independent variable of this research. In accordance with May, Sapotichne, and Workman (2006) policy coherence is a concept that suggests that various policies complement each other when they share a set of ideas or objectives (p. 2). The Organization for Economic Cooperation and Development (OECD) (2005) elaborates further that policy coherence for development involves countries taking up policies that support rather than impede on their existing efforts to help and sustain the development process (p. 1, as cited in IOM, 2005, p. 1). As such, policy coherence aims to avoid contradictions in policies, which may derive from conflicting interests among stakeholders, the unforeseen impact of other policies, or merely from a lack of information (GDI, 2002, p. 3, as cited in IOM, 2005, p. 1). Its ultimate aim is to attain human, social, and economic development objectives in the most general sense (IOM, 2005, p. 1).

1.6.3 Practical Guidelines

This section serves to explain the concept ‘practical guidelines’ as an independent variable of this research. ‘Practical guidelines’ will refer specifically to the guidelines used for screening Cambodian child beggars for victims of trafficking.

1.6.4 Officials' Attitudes towards following the Rights-Based Approach or the Needs-Based Approach

The basic needs framework that will be used in the analysis of this research is based on the definition of basic needs as provided by the Director-General of the International Labor Organization (ILO) in 1976. Some needs, however, have been omitted from the original⁶ so that the framework for the analysis of this research is specifically tailored to the circumstance of the population group of this study. As such, the needs framework for this research consists of the following basic needs:

- Food
- Shelter
- Clothing
- Safe drinking water
- Sanitation
- Healthy and humane environment

⁶ The need for transport has been omitted from the original list of basic needs provided by the Director-General of the ILO in 1976 since access to transport is arguably irrelevant for Cambodian child beggars who are under detainment or shelter homes. Additionally, the need to health has been omitted since this population group is irregular migrants. Thus, according to Article 28 of the IRCMW, states are obligated to provide emergency medical care but not necessarily regular medical services to irregular migrants. The need for education has also been omitted since this need is largely irrelevant for a population group who is temporarily staying in Thailand and will soon be repatriated or deported back to Cambodia. Furthermore, the need for remunerate employment opportunities has been omitted since the population group for this research are children under the age of 15 and are prohibited from working according to international labor conventions and labor laws in Thailand. Moreover, the need for popular participation in decisions that affects the lives of the people and individual freedoms have been omitted as this group generally hold an irregular status and are thus restricted in popular participation and certain individual freedoms in the country of destination.

1.7 Research Methodology

The key objectives of this study were determined by carrying out documentary research on multilateral, regional, bilateral, and national policies pertaining to child migrant rights, migrant family rights, human trafficking, immigration regulations, and domestic exploitation. Additionally, primary research was conducted by carrying out interviews with service providers at the multilateral, governmental, and grassroots level and with Cambodian child beggars within the shelter homes and outside of the shelter homes.

First, semi-structured key informant interviews were held with service providers who were knowledgeable about multilateral, regional, bilateral, and national policies pertaining to child rights, human trafficking, immigration regulations, and the victim identification process. These include the following individuals:

- *Stakeholders at the Multilateral Level*
 - **Matthew Friedman (September 29, 2010)**
Regional Project Manager, United Nations Inter-Agency Project against Human Trafficking in the Greater Mekong Subregion (UNIAP)
 - **Sirirath Chunnasart (October 5, 2010)**
Child Protection Officer, United Nations Children's Fund (UNICEF) Thailand
- *Stakeholders at the Government Level*
 - **Suwaree Jaihan (October 4, 2010)**
Human Trafficking Expert, Bureau of Anti-Trafficking in Women and Children (BATWC) under Thailand's Ministry of Social Development and Human Security (MSDHS)

- *Stakeholders at the Government Shelter Homes*

- **Ladda Benjatchah (October 1, 2010)**
Director, Kredtrakarn Protection and Occupational Development Center
- **Suchada Kudwattana (September 24, 2010)**
Social Worker, Pak Kred Reception Home for Boys
- **Yapiloon Sohnglin (September 30, 2010)**
Social Worker, Nonthaburi Home for the Destitute

- *Stakeholders at the Immigration Detention Center and Local Police Station*

- **Sathorn Winprakhon (September 22, 2010)**
Social Worker from the Foundation for Women (FFW) in charge of screening for victims of trafficking at the Immigration Detention Center (IDC) at Soi Suanplu, Bangkok
- **Anonymous (September 28, 2010)**
Immigration Officer, the Immigration Detention Center (IDC) at Aryanaprathet
- **Anonymous (September 28, 2010)**
Immigration Officer, the Immigration Detention Center (IDC) at Aryanaprathet
- **Anonymous (September 28, 2010)**
Police Officer, Putorn Klongluek police station in Aryanaprathet

- *Stakeholders at the Government Organizations (GOs) Level*

- **Voer Naroeun (September 28, 2010)**
Project Coordinator of Border Victims Support Team (BVST), Poipet Transit Center (PTC), Cambodia

- *Stakeholders at the Non-Government Organization (NGO) Level*
- **Oratai Junsuwanaruk (September 27, 2010)**
Program Manager, Peuan Peuan – Aryanaprathet
- **Piyakrai Silakoth (September 21, 2010)**
Head of the Rights Protection Division, Labour Rights Promotion Network (LPN)
- **Eaklak Loomchomkhae (September 13, 2010)**
Head of the Mirror Foundation's Anti-Human Trafficking Center, the Mirror Foundation
- **Witanapat Rattanawalipong (September 13, 2010)**
Head of the Project to Stop the Begging Business, the Mirror Foundation
- **Tattiya Rihiwong (September 9, 2010)**
Assistant Director, Foundation for Child Development (FCD)
- **Mok Vanchith (September 28, 2010)**
Country Director, Krouser Thmey Poipet, Cambodia

Field research also consisted of non-participatory observation at the following conference:

- “*Signing off to Cooperate on Stopping the Beggar Issue between Thai Government and NGOs.*” Prince Palace Hotel, Bangkok, Thailand, September 13, 2010. [In Thai]

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Additionally, interviews were held with Cambodian child beggars to gain an understanding of the personal needs of the child beggars and the circumstances he or she encounters while in Thailand (for questions see Appendix A). Four Cambodian child beggars between the ages of four to seven years old from Braemritai Community in Samut Prakan Province on September 15, 2010 and two seven year old Cambodian child beggars at Nonthaburi Home for the Destitute in Bangkok were interviewed through a snake board game on September, 29, 2010. The board game took the shape of a snake and consisted of colored spots and white spots. Children were asked to roll the die and move their game piece according to the number that appeared on the die. Children who landed on a colored spot were asked one question. This continued on until the child reached the end of the board game.

Furthermore, a semi-structured interview was simultaneously held with two Cambodian child beggars who were six and ten years old at the Pak Kred Reception Home for Boys in Bangkok on September 29, 2010. Due to the lack of a translator, the social worker at this shelter home selected the children who were most fluent in Thai to be interviewed. Three questions were omitted at the request of the social worker on the grounds that the questions were repetitive of those asked by Thai authorities when the children first entered the shelter home. As such, the social worker did not want the children to have to re-live that type of interrogation process a second time. These questions pertained to the number of times the children have migrated to Thailand, their length of stay in Thailand per time, and what they did in a day before entering the shelter home.

Moreover, semi-structured interviews were held with five Cambodian child beggars between the ages of 7-11 years old at the Thailand-Cambodia border in Aryanaprathet on September 27, 2010 and nine Cambodian child beggars between the ages of 5-14 years old on the streets of Bangkok at Sala Daeng and Sukhumvit Road on February 19, 2011. Peuan Peuan–Aryanaprathet assisted with both of the translations (See Table 1.2 for summary).

Table 1.1 Cambodian child beggars interviewed by location and number of persons

Location			Number of Persons
Inside Homes	Government Shelter	Nonthaburi Home for the Destitute in Bangkok (Baan Raitipung), September, 29, 2010	2
		Pak Kred Reception Home for Boys in Bangkok (Baan Phumvet), September 29, 2010	2
Outside Homes	Government Shelter	Braemritai Community in Samut Prakan Province, September 15, 2010	4
		On Bangkok streets at Sala Daeng and Sukhumvit Road (Nana, Asok, Prompong), February 19, 2011	9
		Thailand-Cambodia Border in Aryanaprathet, September 27, 2010	5
Total			22

1.8 Ethical Issues

During each interview, the researcher notified the Cambodian child beggars of their right to not respond to any of the questions asked. At the discretion of the researcher, none of the interviews with Cambodian child beggars were recorded by an audio recorder or by handwritten notes during the time of the interview. Rather, notes were taken down directly after the interview was over. As such, the responses of the Cambodian child beggars are paraphrased in this thesis. Furthermore, the real names of the Cambodian child beggars interviewed are replaced by aliases in this thesis in order to protect the child's identity.

In some cases, the key informants interviewed requested to remain anonymous. Out of respect for the informants, only their position is noted in this thesis. Furthermore, some interviews were not audio recorded at the request of key informants and at the discretion of the researcher. In these events, handwritten notes were taken during the time of the interview. As such, the responses of these key informants have been paraphrased in this thesis.

1.9 Research Scope

Due to the complex nature of migration and human trafficking, this research will study only the domains that relate directly to Cambodian child migrant beggars with an irregular status. Additionally, the policy coherence between rights and needs based approaches towards solving trafficking issues related to Cambodian child beggars in Thailand will be looked at from the destination country only, and not from the country of origin. Therefore, data and information for this research will mainly be derived from interviews with Cambodian child beggars in Bangkok and Aryanaprathet and service providers in Bangkok.

1.10 Significance of the Research

Although the UN Trafficking Protocol and Thailand's Anti-Trafficking in Persons Act considers all child beggars victims of trafficking by definition, not all Cambodian child beggars are de facto recognized as such by Thai authorities in practice. Rather, some are identified as victims of trafficking and are sent to government shelter homes, while others are not identified as such and are simply deported back to Cambodia. Nonetheless, it has been argued by various NGOs that this is the preferred option of many Cambodian child beggars, as they wish to return to Cambodia and re-migrate to Thailand rather than be confined in government shelters homes for a period of two months or more (Fry, 2010, n.p.). This raises an ethical dilemma over the rights and needs approach in policy implementation.

Since 2002, combating human trafficking has been a priority on Thailand's national agenda. Recently, on September 13, 2010, the Thai Government and NGOs came together to sign off on a commitment to cooperate on stopping the beggar issue in Thailand. Although trafficking issues related to Cambodian child beggars are recognized as grave concerns in need of prioritization and cooperation across all sectors, not enough research has been done on the policy coherence between the sectors. Therefore, this research contributes to the body of knowledge by critically assessing the policy coherence between the rights-based approach and the needs-based approach towards solving trafficking issues related to Cambodian child beggars in Thailand, as well as the effectiveness of the implementation of Thai trafficking policies in practice. The research findings will potentially be useful to both practitioners and policymakers working on issues of trafficking and child migrant begging.

1.11 Research Limitations

Because of the limited research funds, a translator was not always used to bridge the language barrier that occasionally existed between the researcher and the Cambodian child beggars. Although this language limitation affected the number of children able to be interviewed, it should not significantly affect the research findings since all of the Cambodian child beggars interviewed spoke fluent Thai and sometimes served as translators for children who could not speak Thai. Additionally, the researcher was not permitted to interview Cambodian child beggars at the Kredtrakarn Protection and Occupational Development Center as the Director of the shelter home claimed that the children were too young to provide in-depth answers to the interview questions. Lastly, there was an evident selection bias in the research for Cambodian child beggars selected to be interviewed as the researcher did not have access to child beggars who were confined by their employers or prohibited from talking to an academic researcher. Therefore, this research was not able to gather data concerning the most vulnerable of the child beggars. Furthermore, a limited number of key informants interviewed were senior officials due to the time constraint for completing this thesis.

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1.12 Thesis Structure

The chapters of this thesis will cover the following: Firstly, Chapter 2 will provide a literature review of the current debates surrounding child trafficking for begging. Thereafter, Chapter 3 will assess the policy coherence between the Anti-Trafficking in Persons Act (2008) and other Acts that pertain to Cambodian child beggars in Thailand using the human rights framework of this thesis. Subsequently, Chapter 4 will assess the practicality of the guidelines used to implement the Anti-Trafficking in Persons Act (2008). Then, Chapter 5 will assess whether officials' attitudes determine whether the rights-based approach or the needs-based approach is followed using the human rights framework and the needs framework of this thesis. Lastly, Chapter 6 will conclude the findings from this research and provide recommendations and suggestions for further research.



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CHAPTER II

LITERATURE REVIEW

This chapter will provide a literature review of the current debates surrounding child trafficking for begging. In order to unravel this rather complex issue, the surrounding debates on begging in Thailand will be explored by covering the enactment of the Beggar Control Act in 1941 up until the draft revision of this Act in 2008. Thereafter, the surrounding debates on trafficking as related to begging will be presented, and subsequently the debates surrounding the definitional ambiguity between the ‘trafficked child’ and the ‘migrant child’. The current approach and response to Cambodian child beggars in Thailand will be looked into thereafter. Lastly, this chapter will provide an overview of the rights-based approach and the needs-based approach and present the current gaps in the literature.

2.1 Surrounding Debates on Begging and the Beggar Control Act

As far back as 1941, Thailand passed the Beggar Control Act¹ to specifically address the issue of begging in the country. According to Article 6 of this Act, begging is strictly prohibited and is defined as the following:

[A person who] asks for another person’s property without having worked for it or without having given anything back in return, and is not asking from a network of relatives is considered a beggar.

The act of singing, playing instruments, or performing shows or acting in any other related way without having made a direct or indirect agreement to charge for listening or watching, but takes according to what the listener or watcher will voluntarily give, will not be taken as an excuse of not begging under this provision (Beggar Control Act, 1941, Article 6).

¹ All references to the 1941 Beggar Control Act and the 2008 draft of the Beggar Control Act have been unofficially translated by the researcher.

The 1941 Beggar Control Act conveys that the begging problem is not a new issue of concern in Thailand. Despite this fact, the 1941 Act has just undergone a revision in 2008 on reasons that the nature of begging has changed to one that involves the “unlawful exploitation of others who are physically, intellectually, skillfully, and psychologically weak, causing harm and affecting the peace of the country” (Beggar Control Act draft, 2008, Reason Section).

The 2008 draft version² legalizes begging in designated areas for the disabled, the elderly, the mentally and physically ill, and the homeless who are unable to make a living from any other occupation other than begging (Beggar Control Act draft, 2008, Article 8). However, anyone who is found “forcing, threatening, hiring, requesting, provoking, encouraging, or acting in any other way that causes another to become a beggar or using somebody else for the benefit of his or her own begging” will be punished by law (Beggar Control Act draft, 2008, Article 13). Even so, parents who bring their child to beg will be exempt from this punishment if there is no act of threat or force involved (Beggar Control Act draft, 2008, Article 13).

Many argue, however, that the 2008 draft of the Beggar Control Act only serves to perpetuate the trafficking of beggars in Thailand. This is because this draft version overlaps with the Anti-Trafficking in Persons Act, but carries a lighter penalty for traffickers, creating a legal loophole for corrupt officials (“Wrong Spirit in Beggar Bill,” 2009, n.p.) (see Chapter 3 for further details on the Anti-Trafficking in Persons Act (2008)). The maximum years of imprisonment for a trafficker under this draft version is less than half of that indicated in the Anti-Trafficking in Persons Act (2008), and the maximum fine is three times less depending on the age and the circumstance of the beggar (Beggar Control Act draft, 2008, Article 13; Anti-Trafficking in Persons Act, 2009, Section 52). Although this draft version also carries a death penalty for anyone who

² Since this is a draft version, it cannot be legally enforced. As such, the Beggar Control Act (1941) is still the policy being legally enforced to this date.

physically mutilates somebody else for the purpose of begging, others have stated that these are very rare circumstances (“Wrong Spirit in Beggar Bill,” 2009, n.p.). Accordingly, the draft Bill of the Beggar Control Act overlooks the need for multi-sector cooperation and is seen as inadequate for dealing with the complexity of the begging issue (“Wrong Spirit in Beggar Bill,” 2009, n.p.).

The controversy over the 2008 draft of the Beggar Control Act is not only directed towards the inadequacy of the Bill to deal with the complex issues of trafficking, but also towards the legalization of begging itself. According to Issara Somchai, the Minister at the Ministry of Social Development and Human Security (MSDHS), there has been unanimous agreement amongst the government and involved organizations that the begging law will “cause problems for Thailand” as beggars will affect the tourism industry in the country” (Somchai, “Signing off” Conference, September 13, 2010³). Therefore, there has been much support for the rejection of this Beggar Control Act Bill. It is likely that existing laws, such as the Anti-Trafficking in Persons Act (2008) and the Child Protection Act (2003), along with the potential adoption of a legislation concerning homelessness and street people will be used in its place (Somchai, “Signing off” Conference, September 13, 2010).

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³ All references to the “Signing off to Cooperate on Stopping the Beggar Issue between Thai Government and NGOs” Conference has been unofficially translated by the researcher.

2.2 Surrounding Debates on Trafficking as related to Child Begging

The contradictions that exist between Thailand's 2008 Beggar Control Bill and its Anti-Trafficking in Persons Act (2008), extends beyond those concerning the legal punishment for traffickers to the definition of 'trafficking' itself. While the Beggar Control Bill exempts parents who bring their child to beg from punishment as long as there is no evidence of threat or force, the use of threat or force is not a requirement for the case to be considered that of child trafficking under the Anti-Trafficking in Person's Act (2008). According to the Anti-Trafficking in Persons Act (2008), exploitation includes "causing another person to be a beggar [...] regardless of such person's consent" (Anti-Trafficking in Persons Act, 2008, Section 4). Therefore, an individual is guilty of child trafficking simply by moving the child⁴ within the country or across international borders for the purpose of exploitation (Anti-Trafficking in Persons Act, 2008, Section 6). As such, no evidence of threat or force when obtaining the child is necessary for the child to be considered trafficked, even in situations where the parent brings his or her child to beg, arguably.

Thailand's Anti-Trafficking in Person's Act (2008) follows along the standards of the internationally agreed definition of human trafficking outlined in the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children in the United Nations Convention Against Organized Crime (2000)⁵. Therefore, the definition of 'child trafficking' as stated in Thailand's Anti-Trafficking in Persons Act (2008) is aligned with that written in Article 3(c) of the UN Protocol. A slight difference exists between the two, however, in the definition of 'exploitation.' In the UN Protocol, 'causing another person to become a beggar' is not explicitly stated as an act of exploitation. Despite this fact, the UN Protocol argues that exploitation 'includes' other kinds of exploitation outside of sexual exploitation, forced labor or services, slavery, and

⁴ A child is defined as any person who is less than 18 years of age (Anti-Trafficking in Persons Act, 2008, Section 4).

⁵ As of January 20, 2010, Thailand signed the Palermo Protocol but has yet to ratify it (UNIAP, 2010, p. 8).

the removal of organs (UN Protocol, 2000, Article 3(a)). As a result, the program “Towards the Elimination of the worst form of Child Labor” (TECL) under the International Labor Organization (ILO) makes the point that labor exploitation is also included among these (TECL, 2007, p. 1).

The TECL program points to the ILO’s Worst Forms of Child Labor Convention (C 182 of 1999)⁶ to convey that the ‘labor exploitation’ of children includes all types of exploitative work mentioned in the UN Trafficking Protocol, in addition to work that is harmful to the health, safety and morals of children and work that is done by children less than the minimum age for work as indicated in the ILO’s Minimum Age Convention (C138), which is approximately 15 years of age (TECL, 2007, p. 1 and 2; Am and Vemuri, 2009, p. 4). Accordingly, ‘causing a child to become a beggar’ would be categorized among the worst forms of child labor, and arguably a type of ‘labor exploitation.’

2.2.1 The Definitional Ambiguity that exists between the ‘Trafficked Child’ and the ‘Migrant Child’

The definitional inconsistencies between the ‘trafficker’ or ‘third party’ and the ‘trafficked’ child beggar are reflected in the research conducted over the years. The few research that has been done on child beggars seem to distinguish between trafficked and non-trafficked child beggars by determining whether or not a third party was involved. Traditionally, the ‘third party’ was mainly perceived to be trafficking gangs or rings. This can be seen by Archavanitkul’s (1998) publication, “Combating the Trafficking in Children and their Exploitation in Prostitution and Other Intolerable Forms of Child Labour in Mekong Basin Countries,” which recognizes two types of child beggars among Cambodian and Burmese children: 1) younger children between the ages of 6-10 who are

⁶ The Cabinet of the Royal Thai Government gave consent for the ratification of Convention 182 of 1999 on November 17, 2000 (Isaan Lawyers, n.d., Thai Labor Law Section).

controlled by beggar gangs and 2) older children who live and beg independently after having gained experience from beggar gangs or relatives involved in the begging business (Section 6.2 Child Beggars and Solicitors). This can additionally be seen in the Mirror Foundation's (2004) report titled, "Child Beggar Business - Investigating Children in the Beggar Business," which points to the prevalence of beggar gangs and fake mothers, who physically mutilate children or beat them to invoke pity from the public ("Child Beggars," 2005, n.p.).

The findings of these reports are questionable, however, considering that observation was the primary research method used to determine the existence of begging gangs, although the authors claim that other research methods such as in-depth interviews and surveys were used. Archavanitkul (1998), for example, makes reference to a group of Burmese child beggars being watched over by adults at a distance, and from this, concludes that the children were controlled by an organized gang (Archavanitkul, 1998, Section 3.2(c)). Similarly, the findings reported by the Mirror Foundation (2004) were based on a "survey," which mainly consisted of researchers observing beggars for a period of three months at various central locations in Bangkok ("Child Beggars," 2005, n.p.).

More recent research, however, have begun to steer away from this traditional view that begging gangs are the dominant 'third party' involved in trafficking children into begging. Friends International's (2006) report titled, "The Nature and Scope of the Foreign Child Beggar Issue (especially as related to Cambodian Child Beggars) in Bangkok," aimed to test the validity of the begging gang theory, and ultimately concluded that the migration and trafficking patterns have shifted more towards voluntary migration for the purpose of begging (p. 19). This analysis was mainly drawn from the finding that 80 percent, or 112 out of 140 child beggars interviewed begged with their biological parents or relatives, while the rest were accompanied by a 'trafficker' or non-blood relative (p. 29). The accuracy of this data is questionable, however, when considering the varying maturity of the children interviewed, the common use of titles

such as aunt, uncle, brother, and sister in the Cambodian language for non-blood relatives, and the varying interpretations of the term 'trafficker' or *Me Kyhol* in the Cambodian language to also mean facilitators, care takers, or job agents (Friends International, 2006, p. 29).

Anti-Slavery International's (2009) report, which studied the issue of forced begging in Albania/Greece, India and Senegal, extends the term 'third party' to not only include the child's non-blood relatives and criminal gangs, but also religious teachers, extended family members, family friends, the child's friends, and even the child's own biological parents or guardians (Delap, 2009, p. 6 and 8). Biological parents or guardians are accused of forced begging if psychological or physical abuse or threats outside acceptable means of family discipline is used against the child to coerce the child into begging (Delap, 2009, p. 6).

In two of the research sites, Albania and Delhi, Anti-Slavery International (2009) actually found that children are most commonly forced to beg by their parents, or in some instances, their guardians. In Albania alone, a third of the 53 child beggars who participated in the in-depth interviews told of being forced to beg by their parents through violence or coercion (Delap, 2009, p.8). The researchers even believe that this number is lower than the actual number of children who are being forced to beg by their parents, as children may be reluctant to report due to a sense of loyalty or fear. In Delhi, six of the 12 children who took part in the in-depth interviews, as well as children who participated in the group discussions, reported being beaten by their parents if not enough money was earned from begging (Delap, 2009, p.8).

In conducting the literature review, this report was the only one that recognized the potential for parents to force their own children into begging. Anti-Slavery International ascribes this to the greater emphasis that is often placed on trafficking by third parties rather than possible exploitation by families (Delap, 2009, p. 8). However,

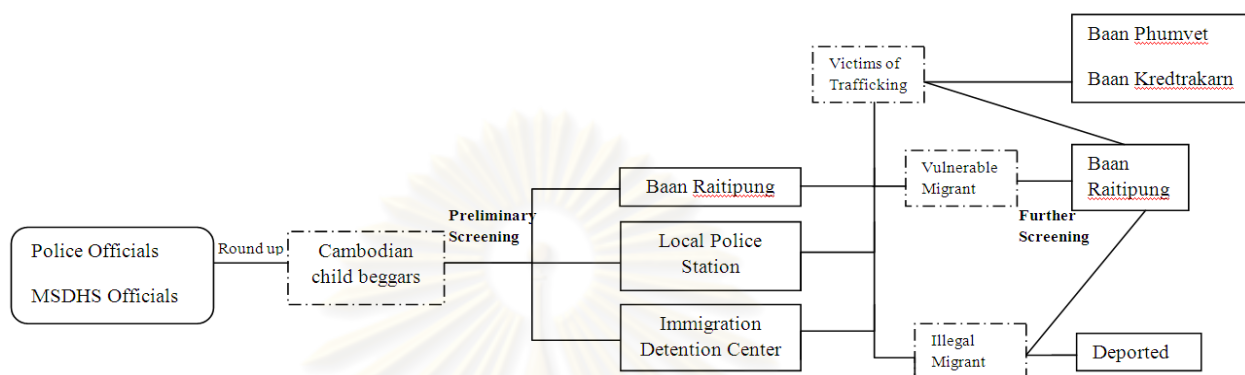
the researchers of the report also recognize a correlation between the ‘third party’ and the biological parent. For instance, stricter anti-trafficking laws have pushed more parents into forcing their own children to beg rather than using a ‘third party’ or ‘facilitator’ so that chances of getting caught are reduced. Additionally, it can be argued that parents find it more profitable if they bring their own children to beg (Delap, 2009, p. 8). Derks, Henke, and Ly (2006) also add that increased fears of abuse by the ‘third party’ and the parent’s increased familiarity with travel routes to the destination country have played a role in the decrease of the use of the ‘third party’ (IOM, 2004, p. 18, as cited in Derks, Henke, and Ly, 2006, p. 25).

All of the abovementioned reports convey that scholars and organizations working on the issue of child beggars share different definitions of trafficking, or more particularly the ‘third party’ when conducting research in practice. However, in all reports there is an evident gray area when it comes to distinguishing between trafficked beggars and voluntary migrant beggars, and children who migrate with their families, yet whose involvement in begging to help his or her family generate income might be thought of as “child labor” (Margallo and Lath 2002: 47; IOM 2004, p. 26, as cited in Derks, Henke, Ly, 2006, p. 25). This is a part of a wider debate surrounding the difference between the ‘migrant child’ and the ‘trafficked child’ (Van de Glind and Coenjaerts, 1998, p. 28). While others tend to distinguish between these two categories by observing whether the movement of the child was for the *purpose* of labor exploitation, others tend to see the two categories as overlapping (TECL, 2007, p. 2; Van de Glind and Coenjaerts, 1998, p. 28). In the former, the argument is that if the initial intent of exploitation was nonexistent, but the child still ended up in a situation of exploitation or was more vulnerable to exploitation, this would possibly be identified as a worst form of child labor, but not necessarily considered child trafficking (TECL, 2007, p. 2). As can be seen, the definition of ‘trafficking’ as related to child beggars is highly contentious and nebulous. As such, this research will unravel these definitional ambiguities by looking at the policy coherence across sectors in Thailand.

2.3 Current Approaches and Responses to Cambodian Child Beggars in Thailand

Currently, Thai authorities are dividing Cambodian child beggars into three categories: victims of trafficking, vulnerable migrants, and illegal migrants. Firstly, officials from the Ministry of Social Development and Human Security (MSDHS) or local police round up the Cambodian child beggars around the vicinity of Bangkok and take them to either the Nonthaburi Home for the Destitute shelter (Baan Raitipung) in Nonthaburi Province, a local police station, or the Immigration Detention Center (IDC) in Bangkok for preliminary screening. Generally, all of the children that are identified as victims of trafficking and are without accompanying adults are then sent to Baan Kredtrakarn or Baan Phumvet shelters in Nonthaburi Province. Children sent to these shelter homes then undergo further screening to verify their status as victims of trafficking. Child beggars not identified as victims of trafficking and whose initial screening was done at Baan Raitipung are labeled as vulnerable migrants and remain there with their mother for further screening. However, beggars not identified as victims of trafficking and whose initial screening was done at the police station are arrested as illegal migrants and taken to the Immigration Detention Center (IDC) in Bangkok to await deportation. These beggars, including children, are deported back to Cambodia in less than a week via the Aranyaprathet-Poipet border crossing (Friends International, 2006, p. 22) (See Figure 2.1).

Figure 2.1 The Formal Process for Cambodian child beggars taken under Thai custody



For Cambodian child beggars identified as victims of trafficking, Thailand's Anti-Trafficking in Persons Act (2008) ensures them such protections and services as, food, shelter, medical treatment, physical and mental rehabilitation, education, training, legal aid, the return to their country of origin or residence, the right to legal proceedings to claim compensation (Section 33), the right to protection whether or not they reside in Thailand or their country of origin (Section 36), and immunity from criminal prosecution for entering Thailand illegally (Section 41) (Olivie, p. 8-9, 2008). Although the Anti-Trafficking in Persons Act (2008) also entitles victims to seek employment while awaiting the conclusion of legal processes (Section 37), the Thai government has not granted victims with this right (U.S. Department of State, 2010, p. 322). Therefore, victims have no other legal alternative but to be repatriated back to their country of origin. For Cambodian child beggars identified as 'vulnerable migrants,' government shelter homes such as Baan Raitipung provide the basic needs of shelter, food, medical treatment, and clothing. However, Cambodian child beggars identified as 'illegal migrants' are simply deported and hence, do not receive any of these services (Olivie, 2008, p. 9).

Despite the fact that shelter homes are able to provide a certain level of protection and services for the children, the United States Department of State (2010) considers government shelters to be no different from other detention based facilities that follow the “3D” (Detention, Deportation, and Disempowerment) paradigm rather than the “3P” (Prevention, Protection, and Prosecution) paradigm (p. 17). Often, law enforcement and social affairs officials argue that the “3D” approach is in the best interest of foreign victims, who “just want to go home (to their country of origin)” (U.S. Department of State, 2010, p. 17 and 19). And studies have shown that more often than not, foreign victims do wish to go home or decline assistance mainly for reasons that the victim is unable to earn money and/or see their families while in the shelters (Friends International, 2006, p. 21; U.S. Department of State, 2010, p. 323).

Often, however, the consent of the victims to voluntary repatriation is not necessarily an accurate measure of their best interests. According to the U.S. Department of State (2010), shelters, even though comfortable and safe, are often disempowering to victims during a “critical time when they need a restored sense of individual freedom” (p. 17). Yet, in Thailand, some foreign migrants are required to stay in government shelter homes for a couple of months to up to several years as the formal repatriation process between Thailand and the country of origin is often extensive since the victims’ family must be traced in the country of origin, legal cases must be settled, and immigration offices and/or embassies must be contacted to provide legal travel documents (U.S. Department of State, 2010, p. 323). It is therefore, not surprising that foreign migrants residing in shelters would opt for repatriation or even deportation when they are provided with no other legal alternatives, such as to reside and/or work legally in the country or to receive access to government assistance programs, other than repatriation (U.S. Department of State, 2010, p. 19).

2.4 Understanding the Needs-based Approach and the Rights-based Approach

The abovementioned reports convey that Thai officials face a classic dilemma between whether to follow the needs-based approach or the rights-based approach (Table 2.1) when dealing with issues of migration and trafficking.

The basic needs paradigm evolved as a development approach in the 1970s in an effort to improve the lives of the poor in developing countries. In 1976, the Director-General of the International Labor Organization (ILO) proposed that nations give priority to the meeting of basic needs, which was defined as the following (ILO, 1978, p. 7, as cited in Whitehouse, 1996, p. 36):

- The minimal consumption requirements needed for a physically healthy population (i.e. food, shelter, and clothing)
- Access to essential services and amenities (i.e. safe drinking water, sanitation, transport, health, and education)
- Access to adequately remunerated employment opportunities
- Needs of a qualitative nature, such as a healthy and humane environment, popular participation in decisions that affects the lives of the people, and individual freedoms

‘Basic needs’ as defined by the Director-General of the ILO in 1976, conveys that needs and rights are not much different from one another; he considered ‘basic needs’ to extend beyond a person’s physical needs to their cultural, economic, and political roles as well. Despite this fact, the Brandt Report (1980) simply points to four “elementary needs,” which includes health, housing, education, and food (p. 54-58, as cited in Whitehouse, 1996, p. 36). These definitions of ‘needs’ are only two among many others, however, as this concept is highly contested amongst many theorists (Mallmann and Marcus, 1980, p. 166; Glaeser, 1980, p. 314; Roy, 1980, p. 201; Glatung, 1980, p. 59; Nudler, 1980; p.

146; Bradshaw, 1972, p. 640; Bestuva-Lada, 1973; Maslow, 1960; Bay, 1979; Friedman, 1980, p. 146).

Today, the rights-based approach is generally the most dominant development initiative, especially among NGOs and the UN. It is a conceptual framework that outlines a normative course towards human development by using the international human rights conventions outlined in section 1.6.1 as its standard for promoting and protecting human rights (OHCHR, 2006, p. 15). Rights automatically suggest that somebody, usually the State, is responsible for ensuring individuals their rights, whereas the meeting of needs is prompted by a more charitable response from the State or the public. Therefore, rights automatically raise questions of accountability from a duty-bearer, while the meeting of needs does not hold anybody directly responsible for doing so. Additionally, rights suggest that individuals are entitled to assistance, whereas needs implies that individuals must be thankful for the assistance they receive. Thus, campaigning for an individual's rights is not a campaign for the 'needy,' but is supportive of marginalized people to claim their rights as equal human beings (Boesen & Martin, 2007, p. 10).



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Table 2.1 Contrasting the needs-based approach with the rights-based approach

Needs- Based Approach	Rights-Based Approach
Input and outcome	Process and outcome
Meet basic needs	Attain rights
Needs are legitimate claims	Rights are claims made to duty-bearers
Deserve assistance	Entitled to assistance
Focus on immediate causes of problems	Focuses on structural causes and their manifestations

(Source: Summarized from Boesen & Martin, 2007, p. 10)

The varying understandings of the needs-based approach and the rights-based approach by service providers in Thailand affects the victim identification process and whether victims receive the services and protection they are entitled to under law. A report by Olivie (2008) entitled, “Identifying Cambodian Victims of Human Trafficking Among Deportees from Thailand,” found that many Cambodian victims of trafficking are actually misidentified during the screening process in Thailand and are deported instead (p. 6), yet the report only assessed the impact of the perspectives of the Cambodian police, government, and non-government organizations’ (NGOs) on victim deportation but left unquestioned the perspectives of Thai service providers in the misidentification. As such, this research intends to fill in this gap by assessing the awareness and understanding of the needs-based approach and the rights-based approach among service providers in Thailand.

2.5 Summary: Gaps in the literature

Research related to Cambodian child beggars in Thailand has mainly attempted to describe the circumstance of child beggars, particularly by determining the ‘third party’ that accompanies the child to beg, and how the ‘third party’ affects the livelihood of the child. Other research that is not descriptive in nature analyzes how Cambodian officials’ understandings of the victim identification process or the victim protection process have prevented Cambodian migrants being deported from Thailand from being ensured their rights. However, an insufficient number of researches have assessed how Thai policies and Thai officials’ perspectives on the rights-based approach and the needs-based approach have affected whether or not the rights of foreign migrants, particularly Cambodian child beggars, are protected in Thailand. Therefore, this research hopes to fill in this gap by assessing the policy coherence between Thai policies related to Cambodian child beggars, the practicality of the guidelines used to implement the Anti-Trafficking in Persons Act (2008), and whether Thai officials’ attitudes determine whether the rights-based approach or needs-based approach is followed when dealing with Cambodian child beggars in Thailand.

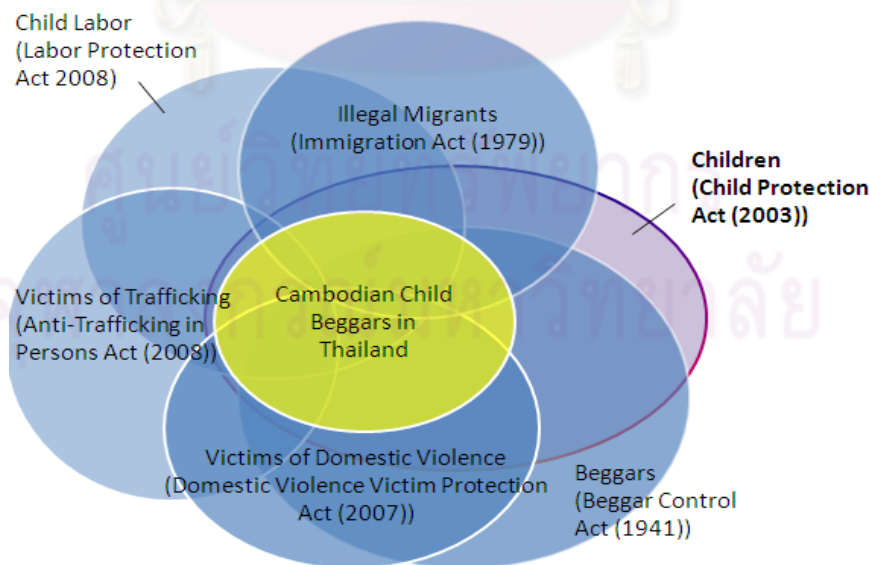
CHAPTER III

FINDINGS AND ANALYSIS: POLICY COHERENCE

3.1 Introduction

As mentioned in section 1.6.2, policy coherence suggests that policies complement each other when they share common ideas or objectives (May, Sapotichne, and Workman, 2006, p. 2). So as to answer the first sub-research question of this thesis, the policy coherence between the human rights framework as outlined in Section 1.6.1 and Thai national legislations related to Cambodian child beggars namely, the Anti-Trafficking in Persons Act (2008), the Beggar Control Act (1941)¹, the Child Protection Act (2003), the Labor Protection Act (2008), the Domestic Violence Victim Protection Act (2007), and the Immigration Act (1979) will be assessed (See Figure 3.1).

Figure 3.1 Thai Policies Related to Cambodian Child Beggars in Thailand



¹ Since the Beggar Control Act draft (2008) has not been enacted, the Beggar Control Act (1941) will be used for the analysis of this chapter.

3.2 The Human Rights Framework assessed against Thailand's Anti-Trafficking in Persons Act (2008)

This section will first assess whether the definition of child trafficking as related to begging in Thailand's Anti-Trafficking in Persons Act (2008) is coherent with the core child's rights principles and convention articles pertaining to a child's right to protection against situations of exploitation and physical and mental harm outlined in the human rights framework in section 1.6.1. Subsequently, the consistency between the forms of protection and assistance entitled to victims of trafficking in the human rights framework will be assessed against those in Thailand's Anti-Trafficking in Persons Act (2008). Thereafter, the extent to which Thailand's Anti-Trafficking in Persons Act (2008) addresses the rights of migrant children during detention and deportation as outlined in the human rights framework of this research will be addressed. Lastly, the legal punishment for anyone found guilty of child trafficking according to Thailand's Anti-Trafficking in Persons Act (2008) will be addressed.

3.2.1 The Human Rights Framework assessed against the definition of child trafficking as related to begging in Thailand's Anti-Trafficking in Persons Act (2008)

In accordance with the definition of child trafficking in the UN Anti-Trafficking Protocol (2000), Thailand's Anti-trafficking in Persons Act (2008) defines child trafficking as the procuring, buying, selling, bringing from or sending to, confining, or receiving of a child for the purpose of exploitation. Unlike the UN Anti-Trafficking Protocol, Thailand's Anti-Trafficking in Persons Act (2008) extends the definition of 'exploitation' to also include the causing of another person to become a beggar (Anti-Trafficking in Persons Act, 2008, Article 4). Although the UN Anti-Trafficking Protocol does not explicitly state that 'causing another person to become a beggar' is an act of exploitation, it does note that exploitation "includes" other kinds of exploitation outside of sexual exploitation, forced labor or services, slavery, and the removal of organs (See Section 2.2) (UN Protocol, 2000, Article 3(a)). Among these include labor exploitation, which is defined by the program "Towards the Elimination of the worst form of Child Labor" (TECL) under the International Labor Organization (ILO) as any type of underage work or any type of work that is harmful to the health, safety and morality of children. Undoubtedly, this would also include child begging (TECL, 2007, p. 1 and 2; Am and Vemuri, 2009, p. 4). Therefore, the definition of child trafficking for begging in the Anti-Trafficking in Persons Act (2008) and the UN Anti-Trafficking Protocol are in line with one another in deeming that anyone, whether a parent or another person, who brings children to beg in Thailand is engaged in child trafficking.

3.2.2 The types of protection and assistance entitled to victims of trafficking in the Human Rights Framework assessed against those in Thailand's Anti-Trafficking in Persons Act (2008)

This section will assess the consistency between the human rights framework and Thailand's Anti-Trafficking in Persons Act (2008) in regards to their protection and assistance services in the respective order in which they are laid out in the human rights framework in section 1.6.1

- The right to privacy (Anti-Trafficking Protocol, Article 6(1))

In accordance with the UN Anti-Trafficking Protocol, Thailand's Anti-Trafficking in Persons Act (2008) ensures victims of trafficking their right to privacy, particularly during legal proceedings. According to Section 36 of the Anti-Trafficking in Persons Act (2008), trafficked persons who testify as a witness in legal proceedings are protected under the Witness Protection Act (2003). Under the Witness Protection Act (2003) victims of trafficking are entitled to assistance and support for his or her security by ensuring that information in legal proceedings are kept "secret" by relevant agencies (Section 10(7)). Therefore, Cambodian child beggars are ensured legal privacy during proceedings under Thailand's national legislations, particularly the Anti-Trafficking in Persons Act (2008) and the Witness Protection Act (2003). There is thus coherency between the human rights framework of this research and Thailand's Anti-Trafficking in Persons Act (2008) in respect to this right.

- The child's right to have his or her views and concerns presented and considered at appropriate stages of criminal proceedings (Anti-Trafficking Protocol, Article 6(2b))

Thailand's Anti-Trafficking in Persons Act (2008) is not specific in stating that child victims of trafficking have the right to have his or her views and concerns presented and considered at appropriate stages of criminal proceedings. The only Section in the Anti-Trafficking in Persons Act (2008) that refers to a trafficking persons' right to express his or her opinion is that in Section 33, which simply states that the opinions of trafficking persons are to be sought when determining the timeframe in which forms of assistance, such as that of legal aid, should be delivered.

- The right to appropriate housing (Anti-Trafficking Protocol, Article 6(3a))

In accordance with the UN Anti-Trafficking Protocol, child victims of trafficking are entitled to receive appropriate shelter in a primary shelter provided by the law on child protection (Anti-Trafficking in Persons Act, 2008, Section 33). This includes not allowing individuals suspected of being a trafficked person to stay in a detention cell (Anti-Trafficking in Persons Act (2008), Section 29). This right is especially relevant to Cambodian child beggars since they are often identified as illegal migrants rather than as victims of trafficking and subsequently detained in detention cells by immigration authorities, suggesting that this right is often violated by Thai authorities (Fry, 2010, ¶24).

- The right to counseling and information on the legal rights of the child in a language that he or her understands (Anti-Trafficking Protocol, Article 6(3b))

In accordance with the UN Anti-Trafficking Protocol, Thai officials must inform victims of trafficking of their right to legal aid under Section 34 of Thailand's Anti-Trafficking in Persons Act (2008). Although this Section does not explicitly state that the information must be presented in a language that the victim of trafficking understands, Section 33 of the Anti-Trafficking in Persons Act (2008) does point that human dignity along with the difference in nationality, race, and culture should be taken into account when providing victims of trafficking with legal aid and when undergoing legal proceedings.

- The right to medical, psychological and material assistance (Anti-Trafficking Protocol, Article 6(3c))

In accordance with the UN Anti-Trafficking Protocol, victims of trafficking are entitled to receive medical treatment and physical and mental rehabilitation under Section 33 of Thailand's Anti-Trafficking in Persons Act (2008).

- The right to education and training opportunities (Anti-Trafficking Protocol, Article 6(3d))

In accordance with the UN Anti-Trafficking Protocol, victims of trafficking are entitled to receive education and training under Section 33 of Thailand's Anti-Trafficking in Persons Act (2008).

- The right to physical safety (Anti-Trafficking Protocol, Article 6(5))

In accordance with the UN Anti-Trafficking Protocol, victims of trafficking are ensured safety protection regardless of whether the trafficked person remains in the country of destination or is repatriated to his or her country of origin, and whether it is prior to, during, or after his or her legal proceeding under Section 36 of Thailand's Anti-Trafficking in Persons Act (2008).

- The right to safe and preferably voluntary repatriation (Anti-Trafficking Protocol, Article 8)

Unlike the UN Anti-Trafficking Protocol, victims of trafficking are not ensured safe and preferably voluntary repatriation under Thailand's Anti-Trafficking in Persons Act (2008). Although Section 36 of Thailand's Anti-Trafficking in Persons Act (2008) allows Thai officials to coordinate with the country of origin "with a view to continuously provide safety protection for the trafficked person and family members in that country," and Section 37 of Thailand's Anti-Trafficking in Persons Act (2008) allows Thai officials to request permission for a trafficked person to remain in the country of destination temporarily in light of "humanitarian reasons," there is no mandate that allows victims of trafficking to decide if he or she wants to be repatriated or not.

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3.2.3 The rights of migrant children during detention and deportation under Thailand's Anti-Trafficking in Persons Act (2008) assessed against those in the Human Rights Framework

The rights of migrant children during detention and deportation from the human rights framework of this research in Section 1.6.1 that are addressed in Thailand's Anti-Trafficking in Persons Act (2008) are the following:

- The right to due process of law and the right to be protected against arbitrary arrests or detentions and collective expulsions (ICRMW, Article 16 and 22; CRC, Article 37(d))

Section 41 of the Anti-Trafficking in Persons Act (2008) prevents the Thai State from taking any criminal proceeding against any trafficked victim for the reason of undocumented entry into Thailand. This right is especially relevant to Cambodian child beggars since they are often identified as illegal migrants rather than as victims of trafficking by Thai authorities (Fry, 2010, ¶24). As such, Cambodian child beggars are vulnerable to being arbitrarily expelled out of Thailand for illegal entry and not receive the forms of assistance and protection entitled to them as victims of trafficking (See the Immigration Act (1979) in Section 3.7.3).

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- A child's right to not be separated from his or her parents against his or her will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child, such as in cases of neglect or abuse (CRC, Article 9(1))

The right of all children to not be separated from his or her parents unless the State finds it in the best interest of the child to do so, such as in cases of neglect or abuse, particularly pertains to Cambodian child beggars who are being forced to beg by his or her parents. Because Cambodian child beggars are being exploited by the accompanying adult when taking into consideration the legal definition of child trafficking for begging under the Anti-Trafficking in Persons Act (2008), this would be considered an exceptional circumstance where the Cambodian child beggar has the right to be separated from the adult exploiting them.

- The right of a child who is deprived of his or her liberty to humane treatment. For example, a child deprived of his or her liberty should be separated from adults unless it is considered in the child's best interest not to do so (CRC, Article 37 (c))

According to Section 33 of Thailand's Anti-Trafficking in Persons Act (2008), when victims of trafficking are provided with shelter by the Thai State, such as in a remand home, welfare center, safety protection center, or development and rehabilitation center in accordance with the law on child protection in Thailand, "human dignity and the difference in sex [and] age" must be taken into account. Therefore, Cambodian child beggars are also entitled to such humane treatment whenever being taken into custody by the Thai State in accordance with Article 37(c) of the CRC.

- The right of a child who is deprived of his or her liberty to be held for the shortest appropriate period of time (CRC, Article 37(b))

According to Section 29 of the Anti-Trafficking in Persons Act (2008), Cambodian child beggars initially suspected to be a trafficked person can be taken into custody for investigation by the Thai State for no more than 24 hours, if necessary, however, this time period can be extended to no more than one week.

For Cambodian child beggars already identified as victims of trafficking, the Anti-Trafficking in Persons Act (2008) does not provide an exact timeframe in which they will be held in the government shelter. Article 38 of the Anti-Trafficking in Persons Act (2008) simply states that they should be “returned to their country of residence without delay.”

3.2.4 The legal punishment for child trafficking according to Thailand’s Anti-Trafficking in Persons Act (2008)

According to Thailand’s Anti-Trafficking in Persons Act, anybody who commits an offence of trafficking against a child over fifteen years of age but under eighteen years of age faces a sentence of six to twelve years imprisonment and a fine of 120,000 to 240,000 Baht. If the offence of trafficking is committed against a child under fifteen years of age, the offender will receive the penalty of eight to fifteen years imprisonment and a fine of 160,000 to 300,000 Baht (Anti-Trafficking in Persons Act, 2008, Section 52).

3.2.5 The extent to which there exists policy coherence between the Human Rights Framework and Thailand's Anti-Trafficking in Persons Act (2008)

The consistency between Thailand's Anti-Trafficking in Persons Act (2008) and the human rights framework of this research in terms of the definition of child trafficking as related to begging and the forms of assistance and protection ensured to victims of trafficking is summarized in Table 3.1. As seen in Table 3.1, the only inconsistency between Thailand's Anti-Trafficking in Persons Act (2008) and the human rights framework of this research is a child's right to have his or her views and concerns presented and considered at appropriate stages of criminal proceedings. The strong coherence between Thailand's Anti-Trafficking in Persons Act (2008) and the human rights framework of this research conveys that the Anti-Trafficking in Persons Act (2008) largely protects the rights of Cambodian child beggars in theory. Since all Cambodian child beggars are victims of trafficking by definition, this chapter will assess all other policies that pertain to Cambodian child beggars against the Anti-Trafficking in Persons Act (2008) in the subsequent sections.

Table 3.1 The Policy Coherence between the Human Rights Framework and Thailand's Anti-Trafficking in Persons Act (2008)

The Human Rights Framework		Anti-Trafficking in Persons Act ²	
<i>The Definition of Child Trafficking for Begging</i>	The Core Child's Rights Principles that pertain to Cambodian Child Beggars in Thailand	Freedom from slavery or servitude (IRCMW, Article 11)	√
		Freedom from forced or compulsory labor (IRCMW, Article 11)	√
	A Child's Right to be Protected against Situations of Exploitation and Physical and Mental Harm	Protection against all forms of physical or mental violence or exploitation while in the care of his or her parents (CRC, Article 19)	√
		Protection from child trafficking (Anti-Trafficking Protocol, Article 13)	√
<i>A Trafficked Child's Right to Assistance and Protection</i>		Privacy (Anti-Trafficking Protocol, Article 6(1))	√
		Views and concerns presented and considered at appropriate stages of criminal proceedings (Anti-Trafficking Protocol, Article 6(2b))	x
		Appropriate housing (Anti-Trafficking Protocol, Article 6(3a))	√
		Counseling and information on the legal rights of the child in a language that he or her understands (Anti-Trafficking Protocol, Article 6(3b))	√
		Medical, psychological and material assistance (Anti-Trafficking Protocol, Article 6(3c))	√

² If included marked with a √, If not, marked with a x

	Education and training opportunities (Anti-Trafficking Protocol, Article 6(3d))	√
	Physical safety (Anti-Trafficking Protocol, Article 6(5))	√
	Safe, voluntary repatriation (Anti-Trafficking Protocol, Article 8)	x
<i>A Child's Rights during Detention and Deportation</i>	The right to due process of law and the right to be protected against arbitrary arrests or detentions and collective expulsions (ICRMW, Article 16 and 22; CRC, Article 37(d))	√
	A child's right to be separated from his or her parents against his or her will, such as for cases of neglect or abuse (CRC, Article 9(1))	√
	The right of a child who is deprived of his or her liberty to humane treatment. For example, a child deprived of his or her liberty should be separated from adults unless it is considered in the child's best interest not to do so (CRC, Article 37 (c))	√
	A child deprived of his or her liberty has the right to maintain contact with his or her family through correspondence or visits, save in exceptional circumstances (CRC, Article 37 (c))	x
	The right of a child who is deprived of his or her liberty to be held for the shortest appropriate period of time (CRC, Article 37(b))	√

3.3 Thailand's Beggar Control Act (1941) assessed against the Anti-Trafficking in Persons Act (2008)

This section will first determine the extent to which Thailand's Beggar Control Act (1941) addresses the issue of child trafficking. It will then move on to determine the forms of protection and assistance entitled to child beggars under Thailand's Beggar Control Act (1941), and the extent to which they are in line with those granted to child victims of trafficking in Thailand's Anti-Trafficking in Persons Act (2008). Thereafter, the extent to which Thailand's Beggar Control Act (1941) addresses the rights of migrant children during detention and deportation as outlined in the human rights framework of this research will be addressed. Lastly, the legal punishment for beggars who defy the Beggar Control Act (1941) will be discussed. Overall, it can be concluded that the Beggar Control Act (1941) is limited in its ability to protect the rights of foreign child beggars in Thailand when compared to the Anti-Trafficking in Persons Act (2008). This is because the Beggar Control Act (1941) does not specifically address the issue of trafficking, or the special circumstance of child beggars, and foreign beggars.

3.3.1 Thailand's Beggar Control Act (1941) and Child Trafficking

Thailand's Beggar Control Act from 1941 does not specially address the issue of child trafficking in the form of slavery, forced labor, or the physical and mental violence or exploitation of a child, nor does it specifically refer to child begging. As can be seen in Section 3.3.2, the forms of assistance provided to beggars under the Beggar Control Act (1941) suggests that this Act was put in place to address the issue of voluntary begging among adult beggars.

3.3.2 The types of protection and assistance granted to beggars under Thailand's Beggar Control Act (1941)

Although this law from 1941 does not refer to trafficking for begging, nor does it specifically refer to child begging, it does provide beggars with some forms of assistance that are consistent with those provided to trafficked persons in the Anti-Trafficking in Persons Act (2008), such as appropriate housing and opportunities for employment. According to this Act, any beggar found physically able to work will be sent to Thailand's Department of Employment to seek employment (Article 7-8), while those found physically incapable of working will be sent to a shelter home. However, if it is found at the shelter home that the beggar can adequately meet his or her basic needs on his or her own, the beggar can be released from the shelter home.

Because this Act does not address the specific circumstance of child migrant beggars, other alternatives to employment, such as education and training opportunities for children, are not addressed. Therefore, the only assistance relevant to Cambodian child beggars is that of appropriate housing. While the Beggar Control Act (1941) does provide a minimal level of assistance to beggars, it does not refer to any special protection measures that are granted to child beggars as the Anti-Trafficking in Persons Act (2008) does. This is clearly because the Beggar Control Act (1941) had not yet acknowledged the issue of forced begging, and thus did not see the need to establish special protection measures for victims of trafficking.

3.3.3 The rights of migrant children during detention and deportation under Thailand's Beggar Control Act (1941) assessed against those in the Human Rights Framework

The rights of migrant children during detention and deportation from the human rights framework of this research in Section 1.6.1 that are addressed in Thailand's Beggar Control Act (1941) are the following:

- The right to due process of law and the right to be protected against arbitrary arrests or detentions and collective expulsions (ICRMW, Article 16 and 22; CRC, Article 37(d))

Since Thailand's Beggar Control Act (1941) does not acknowledge the issue of forced begging, not all Cambodian child beggars would be identified as victims of trafficking as they should be in theory. This would leave Cambodian child beggars in Thailand vulnerable to being arbitrarily expelled out of Thailand for illegal entry and not receive the forms of assistance and protection entitled to them as victims of trafficking (See the Immigration Act (1979) in Section 3.7.3).

- A child's right to not be separated from his or her parents against his or her will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child, such as in cases of neglect or abuse (CRC, Article 9(1))

The right of all children to not be separated from his or her parents unless the State finds it in the best interest of the child to do so, such as in cases of neglect or abuse, particularly pertains to Cambodian child beggars who are being forced to beg by his or her parents. Since Thailand's Beggar Control Act (1941) does not acknowledge the issue of forced begging, not all Cambodian child beggars would be identified as victims of trafficking as should in theory. As such, not all Cambodian child beggars would be

considered to be under exploitation if they are forced to beg by his or her parents. Therefore, Cambodian child beggars who fall under the protection of the Beggar Control Act (1941) would most likely be identified as a voluntary migrant beggar and would not be separated from his or her parents as should for situations of exploitation under Article 9(1) of the CRC.

- The right of a child who is deprived of his or her liberty to be held for the shortest appropriate period of time (CRC, Article 37(b))

Cambodian child beggars who are sent to a shelter home on the grounds of the Beggar Control Act (1941) and not the Anti-Trafficking in Persons Act (2008) can be automatically released if he or she is found to be able to adequately meet his or her basic needs on his or her own or if his or her parents are capable of providing the child with his or her basic needs. This would imply that Cambodian child beggars receiving protection under the Beggar Control Act (1941) will not receive the forms of protection and assistance entitled to them as victims of trafficking, such as the right to be free from criminalization for illegal entry into Thailand. A specific timeframe for which the Cambodian child beggar should stay at the shelter home is not mentioned otherwise.

3.3.4 The legal punishment under Thailand's Beggar Control Act (1941)

As begging is considered an illegal activity under Article 6 of the Beggar Control Act (1941) (See Section 2.1), beggars are penalized if they do not follow official orders to enter the shelter home or if they choose to run away from the shelter homes. The penalty for these misdemeanors is merely a fine of 100 Baht and/or imprisonment for a period of no more than one month (Article 13).

3.3.5 The extent to which there exists policy coherence between Thailand's Anti-Trafficking in Persons Act (2008) and the Beggar Control Act (1941)

Notably, the Beggar Control Act (1941) and the Anti-Trafficking in Persons Act (2008) carry diverging ways of seeing the begging issue in that one perceives the begging issue as an occupation entered into voluntarily, while the other defines it as the exploitation of a child, respectively. These two different ways of viewing the begging issue naturally affect the means of solving it. As such, the Beggar Control Act (1941) and the Anti-Trafficking in Persons Act (1998) achieve policy coherence to the extent that both ensure a child beggar to his or her basic needs (See Section 1.6 for definition of basic needs). However, because the Beggar Control Act (1941) does not acknowledge the special circumstance of trafficking for begging, it naturally disregards other types of special assistance and protection measures that follow a more holistic rights-based approach, such as legal aid, repatriation, etc. Table 3.2 summarizes the level of policy coherence between the human rights framework of this research, the Anti-Trafficking in Persons Act (2008), and the Beggar Control Act (1941).

Table 3.2 The Policy Coherence between the Human Rights Framework, Thailand's Anti-Trafficking in Persons Act (2008), and the Beggar Control Act (1941)³

The Human Rights Framework		Anti-Trafficking in Persons Act (2008)	Beggar Control Act (1941)	
<i>The Definition of Child Trafficking for Begging</i>	The Core Child's Rights Principles that pertain to Cambodian Child Beggars in Thailand	Freedom from slavery or servitude (IRCMW, Article 11)	√	x
		Freedom from forced or compulsory labor (IRCMW, Article 11)	√	x
	A Child's Right to be Protected against Situations of Exploitation and Physical and Mental Harm	Protection against all forms of physical or mental violence or exploitation while in the care of his or her parents (CRC, Article 19)	√	x
		Protection from child trafficking (Anti-Trafficking Protocol, Article 13)	√	x
<i>A Trafficked Child's Right to Assistance and Protection</i>		Privacy (Anti-Trafficking Protocol, Article 6(1))	√	x
		Views and concerns presented and considered at appropriate stages of criminal proceedings (Anti-Trafficking Protocol, Article 6(2b))	x	x
		Appropriate housing (Anti-Trafficking Protocol, Article 6(3a))	√	√
		Counseling and information on the legal rights of the child in a language that he or her understands (Anti-Trafficking Protocol, Article 6(3b))	√	x

³ Common areas of assistance or non-assistance between the Anti-Trafficking in Persons Act (2008) and the Beggar Control Act (1941) are shaded in gray; If included marked with a √. If not, marked with a x

	Medical, psychological and material assistance (Anti-Trafficking Protocol, Article 6(3c))	√	x
	Education and training opportunities (Anti-Trafficking Protocol, Article 6(3d))	√	x
	Physical safety (Anti-Trafficking Protocol, Article 6(5))	√	√
	Safe, voluntary repatriation (Anti-Trafficking Protocol, Article 8)	√	x
<i>A Child's Rights during Detention and Deportation</i>	The right to due process of law and the right to be protected against arbitrary arrests or detentions and collective expulsions (ICRMW, Article 16 and 22; CRC, Article 37(d))	√	x
	A child's right to be separated from his or her parents against his or her will, such as for cases of neglect or abuse (CRC, Article 9(1))	√	x
	The right of a child who is deprived of his or her liberty to humane treatment. For example, a child deprived of his or her liberty should be separated from adults unless it is considered in the child's best interest not to do so (CRC, Article 37 (c))	√	x
	A child deprived of his or her liberty has the right to maintain contact with his or her family through correspondence or visits, save in exceptional circumstances (CRC, Article 37 (c))	x	x
	The right of a child who is deprived of his or her liberty to be held for the shortest appropriate period of time (CRC, Article 37(b))	√	√

3.4 Thailand's Child Protection Act (2003) assessed against the Anti-Trafficking in Persons Act (2008)

Thailand's Child Protection Act (2003) most holistically reflects the core principles found in the CRC in its objective to act in the best interest of the child without unfair discrimination (Article 22). This Act is therefore one of the most powerful instruments that can potentially protect the rights of Cambodian child beggars in Thailand as it contains specific measures for protecting any street child or child in difficult circumstances⁴. As such, this section will first determine the extent to which Thailand's Child Protection Act (2003) addresses the issue of child trafficking. It will then move on to determine the forms of protection and assistance entitled to child beggars under Thailand's Child Protection Act (2003), and the extent to which they are in line with those granted to child victims of trafficking in Thailand's Anti-Trafficking in Persons Act (2008). These forms of protection and assistance will be assessed in the order in which they are laid out in the human rights framework in Section 1.6.1. Thereafter, the extent to which Thailand's Child Protection Act (2003) addresses the rights of migrant children during detention and deportation as outlined in the human rights framework of this research will be addressed. Lastly, the legal punishment for anyone who violates the Child Protection Act (2003) will be discussed.

⁴ A Cambodian child beggar could receive protection under the Child Protection Act (2003) since he or she would qualify as either a 'street child' or a 'child in difficult circumstances' according to the definitions provided in the Child Protection Act (2003), which defines a 'street child' to include any child whose parents or legal guardian either fails or cannot afford to take care of the child, causing such a child to wander from place to place or a child who develops a vagrant lifestyle likely to be harmful to his or her safety; and a 'child in difficult circumstances' as any child who stays with an impoverished family or is abandoned by his or her parents or whose parents are divorced, imprisoned or separated causing difficulties to such a child; or a child who has to shoulder familial responsibilities beyond his or her age, ability and intellect; or a child who cannot help him or herself.

3.4.1 Thailand's Child Protection Act (2003) and Child Trafficking

In accordance with Thailand's Anti-Trafficking in Persons Act (2008), the Child Protection Act (2003) strictly prohibits any person from trafficking a child in the form of slavery, forced labor, the physical and mental violence or exploitation of a child, and begging. The level of coherence between the definition of child trafficking as it pertains to child migrant beggars in the Child Protection Act (2003) will be assessed against that in the Anti-Trafficking in Persons Act (2008) in the abovementioned order.

- Freedom from slavery

While Article 26 (1) of the Child Protection Act (2003) forbids all persons from “committing or omitting acts which result in torturing a child’s body or mind,” it does not explicitly state of prohibiting child slavery as does Thailand’s Anti-Trafficking in Persons Act (2008).

- Freedom from forced or compulsory labor

Like Thailand’s Anti-Trafficking in Persons Act (2008), the Child Protection Act (2003) prohibits anyone from forcing a child to work. This can be seen in Article 26(6) of the Child Protection Act (2003), which prohibits all persons from “using, employing or asking a child to work” in a way that can hinder a child’s development or can harm him or her physically or mentally.

- Protection against all forms of physical or mental violence or exploitation while in the care of his or her parents

Similar to Thailand's Anti-Trafficking in Persons Act (2008), the Child Protection Act (2003) protects all children from all forms of physical or mental violence or exploitation while in the care of his or her parents or guardian. This can be seen in Article 25 of the Child Protection Act (2003), which forbids guardians from "neglectfully or deliberately" withholding things from his or her child to an extent that the child's physical or mental health may be harmed.

- Protection from trafficking for begging

Like Thailand's Anti-Trafficking in Persons Act (2008), the Child Protection Act (2003) specifically forbids anyone from causing a child to become a beggar regardless of the child's consent. This can be seen in Article 26(5) of the Child Protection Act (2003), which prohibits anyone from "forcing, threatening, inducing, encouraging, consenting to, or acting in any way that results in a child becoming a beggar, living on the street, or using a child as an instrument for begging or committing crimes, or act in any way that results in the exploitation of a child."

Thus, it can be seen that the definition of child trafficking in the Child Protection Act (2003) generally reflects that in the Anti-Trafficking in Persons Act (2008), and thus the human rights framework of this research. There is a strong coherence level between these two Acts in this respect.

3.4.2 The types of protection and assistance entitled to child beggars under Thailand's Child Protection Act (2003) assessed against those in the Anti-Trafficking in Persons Act (2008)

This section will assess the consistency in the types of protection and assistance entitled to child beggars under Thailand's Child Protection Act (2003) and the Anti-Trafficking in Persons Act (2008) in the order in which these rights are laid out in the human rights framework of this research in Section 1.6.1.

- The right to privacy

Similar to Thailand's Anti-Trafficking in Persons Act (2008), the Child Protection Act (2003) protects a child's right to privacy. This can be seen in Article 50 of the Child Protection Act (2003), which prohibits anyone who is responsible for protecting a child's safety, whether it is the child's own guardian, an Thai official, psychologist, social worker, or otherwise, from disclosing any information about the child, such as his or her name, surname, or picture in a way that may harm the reputation, confidence, or entitlements of the child.

- The child's right to have his or her views and concerns presented and considered at appropriate stages of criminal proceedings

Like Thailand's Anti-Trafficking in Persons Act (2008), the Child Protection Act (2003) is not specific in stating that children have the right to have his or her views and concerns presented and considered at appropriate stages of criminal proceedings. While the Child Protection Act (2003) does refer to criminal proceedings for cases of domestic violence, such as when a child is found being abused by his or her guardian or relative, it does not state of the child's legal rights during these criminal proceedings. Overall, the Child Protection Act (2003) generally limits a child's right to have his or her views and

concerns presented to mere instances where a child may be interrogated concerning his or her family or living environment, for example, to determine the best type of assistance for the child (Article 35). Generally, Thai officials are the sole determinant of the type of assistance that is most appropriate for a child in a difficult circumstance. However, if a guardian disagrees with the length of time in which the child must receive assistance or disagrees with the fact that the child must receive safety protection, he or she can make an appeal in court (Article 38, Article 46).

- The right to appropriate housing

Similar to Thailand's Anti-Trafficking in Persons Act (2008), the Child Protection Act (2003) does assist children in difficult circumstances and/or street children with appropriate housing, whether it is by providing assistance and welfare to the child's family so that his or her family can raise him or her in a suitable manner, having the child be cared for by an individual deemed appropriate for a period of one month, having the child be adopted, having the child be cared for in a foster family, or having the child be sent to a welfare center, gatehouse, or development and rehabilitation center (Article 33).

- The right to counseling and information on the legal rights of the child in a language that he or her understands

Thailand's Child Protection Act (2003) does not specifically refer to a child's right to receive counseling and information on his or her legal rights.

- The right to medical, psychological and material assistance

Similar to Thailand's Anti-Trafficking in Persons Act (2008), children who are found to be in a difficult circumstance and/or street children are entitled to receive basic assistance, medical and psychological treatment if ill, and possibly welfare assistance under Article 29 and 35 of the Child Protection Act (2003).

- The right to education and training opportunities

Like Thailand's Anti-Trafficking in Persons Act (2008), the Child Protection Act (2003) enables children in difficult circumstances and/or street children to receive education and training opportunities under Article 33.

- The right to physical safety

Like Thailand's Anti-Trafficking in Persons Act (2008), the Child Protection Act (2003) ensures to protect a child's physical safety under Article 29.

- The right to safe, voluntary repatriation

The Child Protection Act (2003) does not specifically refer to circumstances where a child may have to be sent back to his or her home country.

3.4.3 The rights of migrant children during detention and deportation under Thailand's Child Protection Act (2003) assessed against those in the Human Rights Framework

The rights of migrant children during detention and deportation from the human rights framework of this research in Section 1.6.1 that are addressed in Thailand's Child Protection Act (2003) are the following:

- The right to due process of law and the right to be protected against arbitrary arrests or detentions and collective expulsions (ICRMW, Article 16 and 22; CRC, Article 37(d))

In line with Thailand's Anti-Trafficking in Persons Act (2008), all Cambodian child beggars are considering victims of trafficking by definition according to the Child Protection Act (2003). As such, all Cambodian child beggars should be free from criminalization for undocumented entry into Thailand.

- A child's right to not be separated from his or her parents against his or her will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child, such as in cases of neglect or abuse (CRC, Article 9(1))

As children in difficult circumstances, Cambodian child beggars can remain with his or her parents or be separated from them depending on the type of welfare assistance they receive. In cases where the Cambodian child beggar and his or her family is provided welfare and assistance by the State so that the parent can raise the child in a lawful manner, the family and child can still live together. As mentioned in the literature review in Chapter Two, however, Cambodian child beggars are sent to shelter homes most of the time. In this circumstance, they will be separated from his or her parents until his or her parents can prove that they can take care of the child in an adequate manner.

- The right of a child who is deprived of his or her liberty to humane treatment. For example, a child deprived of his or her liberty should be separated from adults unless it is considered in the child's best interest not to do so (CRC, Article 37 (c))

According to Section 56 of the Child Protection Act (2003), Thai officials in shelter homes are required to arrange for “appropriate and hygienic accommodation, sleeping place and clothing, as well as nutritious and sufficient meals” for children in difficult circumstances who are staying at the shelter homes, such as Cambodian child beggars.

- The right of a child who is deprived of his or her liberty to be held for the shortest appropriate period of time (CRC, Article 37(b))

Although the Child Protection Act (2003) does not specify the timeframe for which some children in difficult circumstances, such as Cambodian child beggars, must stay in government shelter homes, it does state that the Thai officials should “expeditiously arrange for that child to be returned to his or her guardian” (Article 33).

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3.4.4 The legal punishment under Thailand's Child Protection Act (2003)

Thailand's Child Protection Act (2003) penalizes individuals who violate Article 26 of the Child Protection Act (2003), or trafficks a child into begging, with a comparatively small fine of 30,000 Baht and/or imprisonment for a maximum of three months⁵. Since child trafficking for begging carries a heavier penalty under Thailand's Anti-Trafficking in Persons Act (2008), however, Article 26 of the Child Protection Act (2003) mandates that laws which carry the heavier penalty be imposed instead. Therefore, the legal punishment for child trafficking for begging is consistent between the Child Protection Act (2003) and the Anti-Trafficking in Persons Act (2008).

3.4.5 The extent to which there exists policy coherence between Thailand's Anti-Trafficking in Persons Act (2008) and the Child Protection Act (2003)

Overall, there exists strong policy coherence between Thailand's Anti-Trafficking in Persons Act (2008) and the Child Protection Act (2003) in terms of the definition of child trafficking as related to begging and the forms of assistance and protection ensured to child migrant beggars. This is summarized in Table 3.3. Although some forms of assistance that were specifically mentioned in the Anti-Trafficking in Persons Act (2008), such as a child's right to receive counseling and information concerning his or her legal rights and a child's right to safe, voluntary repatriation, were left unmentioned in the Child Protection Act (2003), the objectives of the Child Protection Act (2003) and the Anti-Trafficking in Persons Act (2008) do not impede on existing efforts to protect children non-discriminatorily from work that is exploitative and harmful. Furthermore, it can be argued that if Cambodian child beggars are identified as children in difficult circumstances or street children under the Child Protection Act (2003) rather than as

⁵ Thailand's Anti-Trafficking in Persons Act (2008) penalizes individuals who traffick children into begging with a fine of up to 300,000 Baht and imprisonment of up to fifteen years.

victims of trafficking, a more sustainable approach to solving and/or alleviating the issue of forced child begging among parents and family members can be created. This is because the Child Protection Act (2003) places the restoration of the child beggar to his or her family as a top priority and aims to work with the child's family, rather than simply prosecute the parents as the offender as would be the case under the Anti-Trafficking in Persons Act (2008), so that the best interest of the child is realized.



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Table 3.3 The Policy Coherence between the Human Rights Framework, Thailand's Anti-Trafficking in Persons Act (2008), and the Child Protection Act (2003)⁶

The Human Rights Framework		Anti-Trafficking in Persons Act (2008)	Child Protection Act (2003)	
<i>The Definition of Child Trafficking for Begging</i>	The Core Child's Rights Principles that pertain to Cambodian Child Beggars in Thailand	Freedom from slavery or servitude (IRCMW, Article 11)	√	x
		Freedom from forced or compulsory labor (IRCMW, Article 11)	√	√
	A Child's Right to be Protected against Situations of Exploitation and Physical and Mental Harm	Protection against all forms of physical or mental violence or exploitation while in the care of his or her parents (CRC, Article 19)	√	√
		Protection from child trafficking (Anti-Trafficking Protocol, Article 13)	√	√
<i>A Trafficked Child's Right to Assistance and Protection</i>		Privacy (Anti-Trafficking Protocol, Article 6(1))	√	√
		Views and concerns presented and considered at appropriate stages of criminal proceedings (Anti-Trafficking Protocol, Article 6(2b))	x	x
		Appropriate housing (Anti-Trafficking Protocol, Article 6(3a))	√	√
		Counseling and information on the legal rights of the child in a language that he or her understands (Anti-Trafficking Protocol, Article 6(3b))	√	x
		Medical, psychological and material assistance (Anti-Trafficking Protocol, Article 6(3c))	√	√

⁶ Common areas of assistance or non-assistance between the Anti-Trafficking in Persons Act (2008) and the Child Protection Act (2003) are shaded in gray; If included marked with a √. If not, marked with a x

	Education and training opportunities (Anti-Trafficking Protocol, Article 6(3d))	√	√
	Physical safety (Anti-Trafficking Protocol, Article 6(5))	√	√
	Safe, voluntary repatriation (Anti-Trafficking Protocol, Article 8)	√	x
<i>A Child's Rights during Detention and Deportation</i>	The right to due process of law and the right to be protected against arbitrary arrests or detentions and collective expulsions (ICRMW, Article 16 and 22; CRC, Article 37(d))	√	√
	A child's right to not be separated from his or her parents against his or her will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child, such as in cases of neglect or abuse (CRC, Article 9(1))	√	√
	The right of a child who is deprived of his or her liberty to humane treatment. For example, a child deprived of his or her liberty should be separated from adults unless it is considered in the child's best interest not to do so (CRC, Article 37 (c))	√	√
	A child deprived of his or her liberty has the right to maintain contact with his or her family through correspondence or visits, save in exceptional circumstances (CRC, Article 37 (c))	x	x
	The right of a child who is deprived of his or her liberty to be held for the shortest appropriate period of time (CRC, Article 37(b))	√	√

3.5 Thailand's Labor Protection Act (2008) assessed against the Anti-Trafficking in Persons Act (2008)

In theory, child begging can be considered a form of child labor under ILO's Worst Forms of Child Labor Convention (See Section 2.2 for definition). Therefore, Cambodian child beggars in Thailand should be protected under Thailand's Labor Protection Act (2008), which protects Thai and foreign workers without discrimination (Section 11/1 and Section 89). As such, this section will first determine the extent to which Thailand's Labor Protection Act (2008) addresses the issue of child trafficking. It will then move on to determine the forms of protection and assistance entitled to child workers under Thailand's Labor Protection Act (2008), and the extent to which they are in line with those granted to child victims of trafficking in Thailand's Anti-Trafficking in Persons Act (2008). These forms of protection and assistance will be assessed in the order in which they are laid out in the human rights framework in Section 1.6.1. Lastly, the legal punishment for anyone who violates the Labor Protection Act (2008) will be discussed. Unlike the other sections of this chapter, this section will not assess the Labor Protection Act (2008) against the rights of migrant children during detention and deportation in accordance with the human rights of this research since the Labor Protection Act (2008) does not particularly address situations where a migrant child may be held in custody by the State or sent back to his or her country of origin.

3.5.1 Thailand's Labor Protection Act (2008) and Child Trafficking

According to Thailand's Labor Protection Act (2008), all persons are prohibited from hiring children who are less than 15 years of age (Article 44). In the case where a child between the age of 15 and 18 years old is hired, the Labor Protection Act (2008) provides special measures for his or her protection, ensuring that he or she is not under enslavement, force, or exploitation by his or her employers (Burke and Ducci, n.d., p. 16). This can be seen by the following Sections in the Labor Protection Act (2008):

- Section 5: According to Section 5 of the Labor Protection Act (2008), the contract between an 'employer' and 'employee' must be one that is entered into by both party's consent, with the employer agreeing to pay the employee for services for a duration of time, and the employee agreeing to provide those services in turn; contracts of employment can either be written or oral, expressed or implied. Thus, Section 5 shows that all forms of work must be entered into voluntarily by the employee to be considered legal. In other words, forcing a minor into work is forbidden.
- Section 14: According to Section 14 of the Labor Protection Act (2008), an employer must treat his or her worker properly. Section 14/1 more specifically prohibits contracts of employment from being exploitative, thus straightforwardly preventing the mental or physical exploitation of young employees.
- Section 46, 47 and 48: According to Section 46, 47 and 48 of the Labor Protection Act (2008), employers are required to provide a rest period of one hour for every four hours of work a young person does, are not allowed to have young employees work from 10 PM to 6 AM, and are not allowed to

have young employees work overtime or on holidays. Thus, it can be gathered from these three Sections that young employees must have a level of freedom and rest while working. In other words, young employees cannot be inhumanely slaved or forced into work.

- Section 49 and 50: Section 49 and 50 of the Labor Protection Act (2008) protect young employees from work that is harmful to their development, such as those that contain harmful lighting, toxic substances, or machinery, and those that are in slaughterhouses, gambling places, or entertainment places. These Sections further protect young employees against exploitative forms of work by ensuring a safe work environment. As can be seen, however, forms of street work are not clearly regarded as a harmful place of work and are thus not specifically protected under this Act. This may be because begging is not considered a legal form of work as noted by the Beggar Control act (1941).

From these Sections, it can clearly be seen that the Labor Protection Act (2008) protects young employees from work that is exploitative and inhumane. However, because begging is an illegal form of work, this may hold implications in terms of the extent to which the Labor Protection Act (2008) protects Cambodian child beggars in practice. Otherwise, these Sections show that the Labor Protection Act (2008) does not contradict the definition of child trafficking for begging in Thailand's Anti-Trafficking in Persons Act (2008). Thus, there is strong policy coherence between these two Acts in this regard.

3.5.2 The types of protection and assistance entitled to child beggars under Thailand's Labor Protection Act (2008) assessed against those in the Anti-Trafficking in Persons Act (2008)

The forms of protection and assistance from the human rights framework of this research in Section 1.6.1 that are addressed in Thailand's Labor Protection Act (2008) are the following:

- The right to counseling and information on the legal rights of the child in a language that he or her understands

According to the Labor Protection Act (2008), employers must notify employees about their pay (Section 90), although there is no reference to the fact that these documents must be written in a language that the young employee understands, it can be implied that this is the case since this Act explicitly states that it protects Thai and foreign workers equally (Section 11/1 and Section 89).

- The right to medical, psychological and material assistance

Similar to Thailand's Anti-Trafficking in Persons Act (2008), young employees are entitled to medical check-up by their employers at least once a year under Section 107 and Clause 13 of the Ministerial Regulation No. 11 in the Labor Protection Act (2008).

Employers are additionally required to provide nutritious and adequate food for their young employees while they are working under Clause 7 of the Ministerial Regulation No. 11 in the Labor Protection Act (2008).

- The right to education and training opportunities

Consistent with Thailand's Anti-Trafficking in Persons Act (2008), young employees are entitled to take leave from work to obtain education or training "for the purpose of the development and promotion of the quality of life and employment of young people" under Section 52 of the Labor Protection Act (2008).

- The right to physical safety

Similar to Thailand's Anti-Trafficking in Persons Act (2008), young employees are entitled to safety in the work place under Section Clause 9 of the Ministerial Regulation No. 11 in the Labor Protection Act (2008).

3.5.3 The legal punishment under Thailand's Labor Protection Act (2008)

The penalty for employers who violates Section 44 of the Labor Protection Act (2008), which prohibits any person from hiring a child under 15 years of age, is imprisonment of not more than one year and/or a fine of not more than 200,000 Baht. As can be seen, despite the fact that this would be a form of trafficking to force a child under 15 years of age into work, the penalty for this crime is substantially less than that noted in the Anti-Trafficking Persons Act (2008), which penalizes the offender with up to fifteen years of imprisonment and/or a fine of up to 300,000 Baht. While there are discrepancies between the two Acts in terms of their penalties for trafficking in the form of forced labor, Section 7 of the Labor Protection Act (2008) does point that rights acquired under this Act will not deprive employees of other rights that they may be entitled to under other laws. Therefore, there is still a general level of coherence between the two Acts in terms of their penalties against trafficking in the form of forced labor.

Other penalties under the Labor Protection Act (2008) for employers who fail to provide forms of protection and assistance to young employees such as adequate rest periods, a safe work environment, and notification of their pay, is imprisonment of not more than six months and/or a fine of not more than 100,000 Baht (Section 144), while the penalty for employers who fail to provide young employees with leave for education and training opportunities is a fine of not exceeding 10,000 Baht (Section 149).

3.5.4 The extent to which there exists policy coherence between Thailand's Anti-Trafficking in Persons Act (2008) and the Labor Protection Act (2008)

Overall, there exists relatively strong policy coherence between Thailand's Anti-Trafficking in Persons Act (2008) and the Labor Protection Act (2008) in terms of the definition of child trafficking and the forms of assistance and protection ensured to children who are forced into work. This is summarized in Table 3.3. Although some forms of assistance that were specifically mentioned in the Anti-Trafficking in Persons Act (2008), such as a child's right to privacy, to have his or her views and concerns presented during different stages of criminal proceedings, and to safe, voluntary repatriation, were left unmentioned in the Labor Protection Act (2008), the objectives of the Labor Protection Act (2008) and the Anti-Trafficking in Persons Act (2008) do not impede on existing efforts to protect children non-discriminatorily from work that is exploitative and harmful.

Therefore, overall there is relatively strong policy coherence between the Labor Protection Act (2008) and the Anti-Trafficking in Persons Act (2008). However, because the Labor Protection Act (2008) does not recognize child begging as a form of child labor this raises questions concerning the extent to which this Act protects the rights of Cambodian child beggars in Thailand in practice.

Table 3.4 The Policy Coherence between the Human Rights Framework, Thailand's Anti-Trafficking in Persons Act (2008), and the Labor Protection Act (2008)⁷

The Human Rights Framework		Anti-Trafficking in Persons Act (2008)	Labor Protection Act (2008)
<i>The Definition of Child Trafficking for Begging</i>	The Core Child's Rights Principles that pertain to Cambodian Child Beggars in Thailand	Freedom from slavery or servitude (IRCMW, Article 11)	√
		Freedom from forced or compulsory labor (IRCMW, Article 11)	√
	A Child's Right to be Protected against Situations of Exploitation and Physical and Mental Harm	Protection against all forms of physical or mental violence or exploitation while in the care of his or her parents (CRC, Article 19)	√
		Protection from child trafficking (Anti-Trafficking Protocol, Article 13)	√
<i>A Trafficked Child's Right to Assistance and Protection</i>		Privacy (Anti-Trafficking Protocol, Article 6(1))	√
		Views and concerns presented and considered at appropriate stages of criminal proceedings (Anti-Trafficking Protocol, Article 6(2b))	x
		Appropriate housing (Anti-Trafficking Protocol, Article 6(3a))	√
		Counseling and information on the legal rights of the child in a language that he or her understands (Anti-Trafficking Protocol, Article 6(3b))	√
		Medical, psychological and material assistance (Anti-Trafficking Protocol, Article 6(3c))	√

⁷ Common areas of assistance or non-assistance between the Anti-Trafficking in Persons Act (2008) and the Labor Protection Act (2008) are shaded in gray; If included marked with a √. If not, marked with a x

	Education and training opportunities (Anti-Trafficking Protocol, Article 6(3d))	√	√
	Physical safety (Anti-Trafficking Protocol, Article 6(5))	√	√
	Safe, voluntary repatriation (Anti-Trafficking Protocol, Article 8)	√	x



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3.6 Thailand's Domestic Violence Victim Protection Act (2007) assessed against the Anti-Trafficking in Persons Act (2008)

The Domestic Violence Victim Protection Act (2007)⁸ protects any child who is being or may be physically, mentally, or healthily harmed by his or her family member intentionally, or is being influenced or coerced by a family member deliberately so that he or she does something that he or she does not desire to do; any act by the family member that was done out of negligence but had harmed or may have harmed the child or had the child commit an act that he or she did not desire to do is not considered a case of domestic violence, however, and is thus not penalized under this Act (Section 3). This Act is relevant to Cambodian child beggars particularly since they are not only found being forced into begging by begging 'gangs,' but also by his or her own parents (See literature review in Section 2.2.1). Thus, in circumstances where a child is forced into begging by his or her parents but are not necessarily identified as victims of trafficking, Thailand's Domestic Violence Victim Protection Act (2007) may still offer them a level of protection.

Therefore, this section will first determine the extent to which Thailand's Domestic Violence Victim Protection Act (2007) addresses the issue of child trafficking. It will then move on to determine the forms of protection and assistance entitled to children subject to domestic violence under Thailand's Domestic Violence Victim Protection Act (2007), and the extent to which they are in line with those granted to child victims of trafficking in Thailand's Anti-Trafficking in Persons Act (2008). These forms of protection and assistance will be assessed in the order in which they are laid out in the

⁸ The Domestic Violence Victim Protection Act (2007) was unofficially translated by the researcher from Thai to English; wording of the translation was partly assisted by the unofficial translation of the Act from ThaiLaws.com. As the researcher deemed the unofficial translation of the Domestic Violence Victim Protection Act (2007) from Thailaws.com inadequate in conveying in accuracy some of the content of this Act as is expressed in Thai, the researcher's own judgment as a Thai-American was used for the translation of this Act and thus the analysis in this Section.

human rights framework in Section 1.6.1. Lastly, the legal punishment for anyone who violates the Domestic Violence Victim Protection Act (2007) will be discussed. Unlike the other sections of this chapter, this section will not assess the Domestic Violence Victim Protection Act (2007) against the rights of migrant children during detention and deportation in accordance with the human rights of this research since the Domestic Violence Victim Protection Act (2007) does not particularly address situations where a migrant child may be held in custody by the State or sent back to his or her country of origin.

3.6.1 Thailand's Domestic Violence Victim Protection Act (2007) and Child Trafficking

In accordance with the human rights framework of this research, Section 3 of Thailand's Domestic Violence Victim Protection Act (2007) protects children from slavery, forced labor, and all forms of physical or mental violence or exploitation while in the care of his or her parents. The definition of 'domestic violence' under the Domestic Violence Victim Protection Act (2007), however, diverges from that of 'child trafficking' in the Anti-Trafficking in Persons Act (2008) in that the use of coercion, abuse of power and/or the vulnerability of the child is needed for the case to be considered one of domestic violence while cases of child trafficking do not. Additionally, the consent of the child is taken into account when considering if a case is one of 'domestic violence' while that of trafficking does not; in other words, a child's wanting or not wanting to do something is irrelevant for cases of 'child trafficking' so long as the child is made to beg with or for somebody else. This difference in definition may be because that of 'domestic violence' takes into account situations of extreme poverty or severe living conditions within families, which may lead to the unintentional harm of the child or the forcing of the child into a circumstance he or she does not want to be in. Thus, the Domestic Violence Victim Protection Act (2007) serves to protect children who are deliberately

being forced into begging by his or her parents specifically, while the Anti-Trafficking in Persons Act (2008) serves to protect children who are placed into begging for exploitative purposes by any third party.

3.6.2 The types of protection and assistance entitled to child beggars under Thailand's Domestic Violence Victim Protection Act (2007) assessed against those in the Anti-Trafficking in Persons Act (2008)

The forms of protection and assistance from the human rights framework of this research in Section 1.6.1 that are addressed in Thailand's Domestic Violence Victim Protection Act (2007) are the following:

- Privacy

Thailand's Domestic Violence Victim Protection Act (2007) ensures that the identity of victims of domestic violence is kept confidential once a case of domestic violence has been reported under Section 9. Thus, no one is permitted to distribute pictures, print stories, or advertise about the victim. As such, Cambodian child beggars who are being deliberately forced into begging by his or her parents or other family members are entitled to legal privacy under this Act.

- Views and concerns presented and considered at appropriate stages of criminal proceedings

Unlike the Anti-Trafficking in Persons Act (2008), the Domestic Violence Victim Protection Act (2007) allows for the views and concerns of victims of domestic violence to be heard during appropriate stages of criminal proceedings, particularly when there is a settlement of the case or withdrawal of the complaint or litigation under Section 12.

- Counseling and information on the legal rights of the child in a language that he or her understands

The Domestic Violence Victim Protection Act (2007) necessitates that a psychiatrist, psychologist or social worker or someone requested by the domestic violence victim be present to provide advice when the victim request to conduct litigation under Section 8.

- Medical, psychological and material assistance

Similar to Thailand's Anti-Trafficking in Persons Act (2008), the Domestic Violence Victim Protection Act (2007) entitles victims of domestic violence to receive medical and psychological assistance under Section 6.

- Education and training opportunities

In providing assistance to victims of domestic violence, the Domestic Violence Victim Protection Act (2007) also takes into account the circumstance of the family, specifically for situations in which a family is responsible for providing a minor in the household with education and may seek to provide assistance in this manner under Section 15.

3.6.3 The Legal Punishment under Thailand's Domestic Violence Victim Protection Act (2007)

Thailand's Domestic Violence Victim Protection Act (2007) penalizes anybody who commits an act of domestic violence with imprisonment for a maximum of six months and/or a fine of no more than six thousand Baht. If a person is also convicted under other laws, the law that carries the higher penalty will be used according to Section 8. Therefore, in circumstances where a family member of a child may be convicted of domestic violence and trafficking of the child into begging, the penalty of the Anti-Trafficking in Persons Act (2008) will take precedence over that of the Domestic Violence Victim Protection Act (2007)⁹.

3.6.4 The extent to which there exists policy coherence between Thailand's Anti-Trafficking in Persons Act (2008) and the Domestic Violence Victim Protection Act (2007)

Overall, there exists relatively strong policy coherence between Thailand's Anti-Trafficking in Persons Act (2008) and the Domestic Violence Victim Protection Act (2007) as the objectives of both Acts do not impede on existing efforts to protect children from physical and mental harm, abuse, and exploitation from any persons, whether it is their own family member or otherwise (see Table 3.5). The Domestic Violence Victim Protection Act (2007) can arguably be seen as a more sustainable approach to solving and/or alleviating the issue of forced child begging among parents and family members over the Anti-Trafficking in Persons Act (2008) as the Domestic Violence Victim Protection Act (2007) aims to have families cohabit again peacefully (Section 15), which could potentially be achieved within a short period considering that the penalty for

⁹ Thailand's Anti-Trafficking in Persons Act (2008) penalizes individuals who traffick children into begging with a fine of up to 300,000 Baht and imprisonment of up to fifteen years and thus carry a substantially higher penalty than that of the Domestic Violence Victim Protection Act (2007).

domestic violence is a maximum of six months, while the Anti-Trafficking in Persons Act (2008) would simply prosecute the ‘trafficker’, and lead to the separation of the child from his or her parents for up to fifteen years. Of course, how to distinguish between cases of domestic violence from one of negligence by the parent is often difficult to determine, especially since many families of beggars are in situations of poverty and usually cannot adequately fulfill their own basic needs. This may naturally have unintentional impacts on the child’s health or the work that the child must perform. Therefore, this gray area between what is considered force and what is considered negligence by the parent towards the child beggar may be an impediment to the full implementation of this Act in practice.



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Table 3.5 The Policy Coherence between the Human Rights Framework, Thailand's Anti-Trafficking in Persons Act (2008), and the Domestic Violence Victim Protection Act (2007)¹⁰

The Human Rights Framework		Anti-Trafficking in Persons Act (2008)	Domestic Violence Victim Protection Act (2007)
<i>The Definition of Child Trafficking for Begging</i>	The Core Child's Rights Principles that pertain to Cambodian Child Beggars in Thailand	Freedom from slavery or servitude (IRCMW, Article 11)	√
		Freedom from forced or compulsory labor (IRCMW, Article 11)	√
	A Child's Right to be Protected against Situations of Exploitation	Protection against all forms of physical or mental violence or exploitation while in the care of his or her parents (CRC, Article 19)	√
	and Physical and Mental Harm	Protection from child trafficking (Anti-Trafficking Protocol, Article 13)	x
<i>A Trafficked Child's Right to Assistance and Protection</i>		Privacy (Anti-Trafficking Protocol, Article 6(1))	√
		Views and concerns presented and considered at appropriate stages of criminal proceedings (Anti-Trafficking Protocol, Article 6(2b))	x

¹⁰ Common areas of assistance or non-assistance between the Anti-Trafficking in Persons Act (2008) and the Domestic Violence Victim Protection Act (2007) are shaded in gray; If included marked with a √. If not, marked with a x

	Appropriate housing (Anti-Trafficking Protocol, Article 6(3a))	√	x
	Counseling and information on the legal rights of the child in a language that he or her understands (Anti-Trafficking Protocol, Article 6(3b))	√	√
	Medical, psychological and material assistance (Anti-Trafficking Protocol, Article 6(3c))	√	√
	Education and training opportunities (Anti-Trafficking Protocol, Article 6(3d))	√	√
	Physical safety (Anti-Trafficking Protocol, Article 6(5))	√	√
	Safe, voluntary repatriation (Anti-Trafficking Protocol, Article 8)	√	x

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3.7 Thailand's Immigration Act (1979) assessed against the Human Rights Framework and the Anti-Trafficking in Persons Act (2008)

As discussed, all Cambodian child beggars are trafficked by definition according to both the UN Anti-Trafficking Protocol and Thailand's Anti-Trafficking in Persons Act (2008) and are thus entitled to all forms of protection and assistance outlined in the Anti-Trafficking in Persons Act (2008). Nonetheless, the Beggar Control Act (1941), Child Protection Act (2003), Labor Protection Act (2008), and Domestic Violence Victim Protection Act (2007) discussed in this chapter convey that Cambodian child beggars in Thailand are entitled to protection and assistance from the Thai State even when they are not all identified as victims of trafficking, but as beggars, street children, children in difficult circumstances, child workers, or domestic violence victims. The circumstance of Cambodian child beggars in Thailand is especially unique, however, in that they are not only children in need of special protection and assistance by the Thai State, but are also mostly illegal migrants (Friends International, 2006, p. 3). According to Thailand's Immigration Act (1979), immigrants who have no documentation, have no appropriate means of living in the country, have behavior that implies danger or nuisance to the peace or safety of the nation, and/or have been deported by the Thai Government (Section 12) are excluded from entry into Thailand and subject to deportation. Of course, no Cambodian child beggar in Thailand should be treated as an illegal migrant due to their immediate status as victims of trafficking and children in difficult circumstances by Thai law and UN Convention. Nonetheless, the question is raised over which categorization of Cambodian child beggars in Thailand - victim of trafficking or illegal migrant - takes precedence when implementing the Immigration Act (1979) in practice.

Thailand's Immigration Act (1979) provides measures for dealing with migrant children who are suspected to be victims of trafficking and those who are identified as illegal migrants. As outlined in the human rights framework of this research in Section 1.6.1, migrant children are entitled to certain rights during detention and deportation. The extent to which these rights are addressed in Thailand's Immigration Act (1979) will be assessed against those in the Anti-Trafficking in Persons Act (2008) and the human rights framework of this research in this section. First, however, this section will determine the extent to which Thailand's Immigration Act (1979) addresses the issue of child trafficking. Secondly, it will move on to determine the forms of protection and assistance entitled to migrant children under Thailand's Immigration Act (1979). Thirdly, the extent to which Thailand's Immigration Act (1979) addresses the rights of migrant children during detention and deportation as outlined in the human rights framework of this research will be addressed. Lastly, the legal punishment for those who violate articles pertaining to trafficking in the Immigration Act (1979) will be assessed against that of the Anti-Trafficking in Persons Act (2008).

3.7.1 Thailand's Immigration Act (1979) and Child Trafficking

Thailand's Immigration Act (1979) prohibits any individual from the "trading of children" under Section 12(8). Since Thailand's Immigration Act (1979) came into force over two decades before either the Anti-Trafficking in Persons Act (2008) or even the UN Anti-Trafficking Protocol (2000), the English translation of the Immigration Act (1979) from Thailand's Immigration Bureau does not precisely use the term "trafficking," nor does it provide a specific definition for trafficking but rather prohibits anything that is "contrary to public morality" (Thai Immigration Bureau, Section 12 (8)). Nonetheless, it can be argued that the trading of children for purposes that are contrary to public morality also include trafficking, enslaving a child, forcing a child to work, and exploiting a child. Thus, the Immigration Act (1979) is in line with the Anti-Trafficking in Persons Act (2008)

and the human rights framework of this research in terms of prohibiting any individual from child trafficking.

3.7.2 The types of protection and assistance entitled to Cambodian child beggars under Thailand's Immigration Act (1979)

Section 19 and 54 of Thailand's Immigration Act (1979) provides that individuals who are under investigation for illegal entry into Thailand, are waiting to be deported for illegal entry into Thailand, or are suspected of being involved in "the trading of women or children" stay at any "appropriate place" and come to report to a Thai official for questioning during a specific time and date, or be detained at "any place" (Section 19 and 54). Therefore, Thailand's Immigration Act (1979) only provides that any individual under investigation for illegal entry into Thailand, or are waiting deportation for illegal entry, or are suspected of being a victim of trafficking, be provided with an appropriate place to stay during the meantime; other protection and assistance rights besides that of appropriate housing in the human rights framework of this research do not pertain to Cambodian child beggars under investigation or charged with illegal entry or being suspected of being a victim of trafficking under the Immigration Act (1979).

Since all Cambodian child beggars are victims of trafficking by definition, they should all be screened or suspected of being a victim of trafficking by immigration authorities. As such, Thailand's Anti-Trafficking in Persons Act (2008) demand that any individual suspicious of being a trafficked person also stay at an "appropriate place" but one that should *not* be a "detention cell or prison" (Section 29). While Thailand's Immigration Act (1979) states that children suspected of being a victim of trafficking stay at any "appropriate place" or detained at "any place," it is unclear whether these places would also include a detention cell. If all Cambodian child beggars are treated as suspected victims of trafficking and not as illegal migrants during the implementation of

the Immigration Act (1979), however, it should be the case that none of them are placed in a detention cell while awaiting screening in accordance with Thailand's Anti-Trafficking in Persons Act (2008).

3.7.3 The rights of migrant children during detention under Thailand's Immigration Act (1979) assessed against those in the Anti-Trafficking in Persons Act (2008) and the Human Rights Framework

The rights of migrant children during detention from the human rights framework of this research in Section 1.6.1 that are addressed in Thailand's Immigration Act (1979) are the following:

- The right to due process of law and the right to be protected against arbitrary arrests or detentions and collective expulsions (ICRMW, Article 16 and 22; CRC, Article 37(d))

Contrary to the human rights framework of this research, Section 22 of Thailand's Immigration Act (1979) gives the Minister of Interior, who is in charge of the execution of Thailand's Immigration Act (1979), power to arbitrarily expel any "alien or group of aliens," such as Cambodian child beggars, simply if the Minister "considers it improper to allow any alien or group of alien to enter into the Kingdom" (Section 12(10)). Any "alien or group of aliens" who are expelled from Thailand for this reason additionally does not have the right to appeal. Therefore, if Cambodian child beggars are identified as an illegal migrant rather than as a trafficked person, he or she can be arbitrarily expelled out of Thailand without being granted the right of due process of law and cannot appeal for the rights to protection and assistance he or she is entitled to by the Thai State as a victim of trafficking and child in difficult circumstances.

- The right of a child who is deprived of his or her liberty to be held for the shortest appropriate period of time (CRC, Article 37(b))

Section 29 of the Anti-Trafficking in Persons Act (2008) only allows individuals suspected of being a trafficked persons to be held in custody by officials for not more than 24 hours but permission can be granted for the individual to be held for up to seven days. The Immigration Act (1979) can detain any individual suspected of being a victim of trafficking for not more than 48 hours, but this can be extended to up to seven days if necessary (Section 20).



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Table 3.6 The Policy Coherence between the Human Rights Framework, Thailand's Anti-Trafficking in Persons Act (2008), and the Immigration Act (1979)¹¹

The Human Rights Framework			Anti-Trafficking in Persons Act (2008)	Immigration Act (1979)
<i>The Definition of Child Trafficking for Begging</i>	The Core Child's Rights Principles that pertain to	Freedom from slavery or servitude (IRCMW, Article 11)	√	√
	Cambodian Child Beggars in Thailand	Freedom from forced or compulsory labor (IRCMW, Article 11)	√	√
	A Child's Right to be Protected against Situations of Exploitation and	Protection against all forms of physical or mental violence or exploitation while in the care of his or her parents (CRC, Article 19)	√	√
	Physical and Mental Harm	Protection from child trafficking (Anti-Trafficking Protocol, Article 13)	√	√

¹¹ Common areas of assistance or non-assistance between the Anti-Trafficking in Persons Act (2008) and the Immigration Act (1979) are shaded in gray; If included marked with a √, If not marked with a x

<i>A Trafficked Child's Right to Assistance and Protection</i>	Privacy (Anti-Trafficking Protocol, Article 6(1))	√	x
	Views and concerns presented and considered at appropriate stages of criminal proceedings (Anti-Trafficking Protocol, Article 6(2b))	x	x
	Appropriate housing (Anti-Trafficking Protocol, Article 6(3a))	√	√
	Counseling and information on the legal rights of the child in a language that he or her understands (Anti-Trafficking Protocol, Article 6(3b))	√	x
	Medical, psychological and material assistance (Anti-Trafficking Protocol, Article 6(3c))	√	x
	Education and training opportunities (Anti-Trafficking Protocol, Article 6(3d))	√	x
	Physical safety (Anti-Trafficking Protocol, Article 6(5))	√	x
	Safe, voluntary repatriation (Anti-Trafficking Protocol, Article 8)	√	x
	The right to due process of law and the right to be protected against arbitrary arrests or detentions and collective expulsions (ICRMW, Article 16 and 22; CRC, Article 37(d))	√	x

<p><i>A Child's Rights during Detention and Deportation</i></p>	<p>A child's right to not be separated from his or her parents against his or her will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child, such as in cases of neglect or abuse (CRC, Article 9(1))</p>	√	x
	<p>The right of a child who is deprived of his or her liberty to humane treatment. For example, a child deprived of his or her liberty should be separated from adults unless it is considered in the child's best interest not to do so (CRC, Article 37 (c))</p>	√	x
	<p>A child deprived of his or her liberty has the right to maintain contact with his or her family through correspondence or visits, save in exceptional circumstances (CRC, Article 37 (c))</p>	x	x
	<p>The right of a child who is deprived of his or her liberty to be held for the shortest appropriate period of time (CRC, Article 37(b))</p>	√	√

3.8 Conclusion: The policy coherence between Thailand's Anti-Trafficking in Persons Act (2008), Beggar Control Act (1941), Child Protection Act (2003), Labor Protection Act (2008), Domestic Violence Victim Protection Act (2007), and Immigration Act (1979)

This chapter conveyed that Thailand's Anti-Trafficking in Persons Act (2008) to a large extent protects Cambodian child beggars their rights as outlined in international human rights conventions in theory. This is seen by the fact that there is relatively strong coherence between Thailand's Anti-Trafficking in Persons Act (2008) and the human rights framework of this research (See Section 3.2). In addition to Thailand's Anti-Trafficking in Persons Act (2008), however, other national legislations such as the Beggar Control Act (1941), Child Protection Act (2003), Labor Protection Act (2008), and Domestic Violence Victim Protection Act (2007) provide varying levels of protection and assistance to Cambodian child beggars even if they are not identified as victims of trafficking as such, but as beggars, street children, children in difficult circumstances, child workers, or domestic violence victims (See summary in Table 3.7). The level of protection and assistance offered to Cambodian child beggars in Thailand under these Acts naturally depend on the extent to which they recognize forced child begging, either within families or otherwise. For example, the Child Protection Act (2003) recognizes child trafficking for begging and thus offers the highest level of protection and assistance to Cambodian child beggars in line with the Anti-Trafficking in Persons Act (2008). On the other hand, Thailand's Beggar Control Act (1941) only recognizes voluntary begging, and thus criminalizes the Act of begging and offers the lowest level of protection and assistance to Cambodian child beggars in Thailand. While the Beggar Control Act (1941) contradicts the rights entitled to Cambodian child beggars outlined in the Anti-Trafficking in Persons Act (2008), it still ensures Cambodian child beggars some level of assistance from the Thai State however minimal. Nonetheless, if Cambodian child beggars are identified as illegal migrants under the Immigration Act (1979) any form of protection and assistance offered by the Thai State is completely negated. The fact that

the objectives of the Beggar Control Act (1941) and the Immigration Act (1929) mostly contradict those in Thailand's Anti-Trafficking in Persons Act (2008) undoubtedly holds implications for the extent to which Cambodian child beggars' rights are protected in Thailand (See Figure 3.2). Apart from the Beggar Control Act (1941) and the Immigration Act (1979), all aspects of the human rights framework of this research are covered by the remaining laws that pertain to Cambodian child beggars in Thailand, which include the Child Protection Act (2003), Labor Protection Act (2008), and Domestic Violence Victim Protection Act (2007).

Figure 3.2 The level of policy coherence between Thailand's Anti-Trafficking in Persons Acts (2008) and other Thai policies that pertain to Cambodian child beggars in Thailand

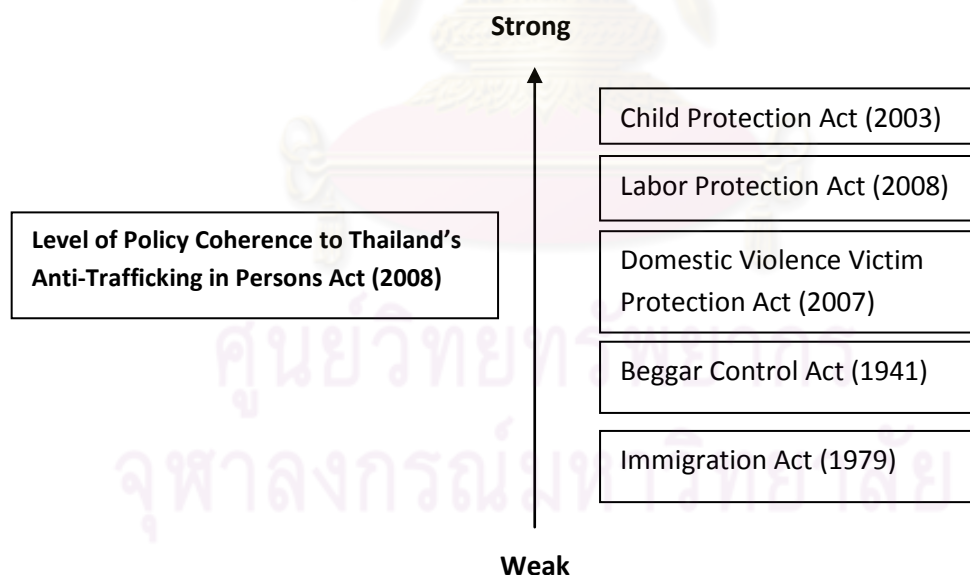


Table 3.7 The Policy Coherence between the Human Rights Framework, Thailand's Anti-Trafficking in Persons Act (2008), and All Policies Related to Cambodian Child Beggars in Thailand¹²

The Human Rights Framework			Anti-Trafficking in Persons Act (2008)	Beggar Control Act (1941)	Child Protection Act (2003)	Labor Protection Act (2008)	Domestic Violence Victim Protection Act (2007)	Immigration Act (1979)
<i>The Definition of Child Trafficking for Begging</i>	The Core Child's Rights Principles that pertain to	Freedom from slavery or servitude	√	x	x	√	√	√
	Cambodian Child Beggars in Thailand	Freedom from forced or compulsory labor	√	x	√	√	√	√
	A Child's Right to be Protected against Situations of Exploitation and Physical and Mental Harm	Protection against all forms of physical or mental violence or exploitation while in the care of his or her parents	√	x	√	√	√	√
		Protection from child trafficking	√	x	√	√	x	√
	Privacy	√	x	√	x	√	x	
	Views and concerns presented and considered at appropriate stages of criminal proceedings	x	x	x	x	√	x	

¹² Common areas of assistance between the Anti-Trafficking in Persons Act (2008) and all other policies are shaded in gray; If included marked with a √, If not marked with a x

<i>A Trafficked Child's Right to Assistance and Protection</i>	Appropriate housing	√	√	√	x	x	√
	Counseling and information on the legal rights of the child in a language that he or her understands	√	x	x	√	√	x
	Medical, psychological and material assistance	√	x	√	√	√	x
	Education and training opportunities	√	x	√	√	√	x
	Physical safety	√	√	√	√	√	x
	Safe, voluntary repatriation	x	x	x	x	x	x
<i>A Child's Rights during Detention and Deportation</i>	The right to due process of law and the right to be protected against arbitrary arrests or detentions and collective expulsions	√	x	√	n/a	n/a	x
	A child's right to not be separated from his or her parents against his or her will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child, such as in cases of neglect or abuse	√	x	√	n/a	n/a	x
	The right of a child who is deprived of his or her liberty to humane treatment. For example, a child deprived of his or her liberty should be separated from adults unless it is considered in the child's best interest not to do so	√	x	√	n/a	n/a	x
	A child deprived of his or her liberty has the right to maintain contact with his or her family through correspondence or visits, save in exceptional circumstances	x	x	x	n/a	n/a	x
	The right of a child who is deprived of his or her liberty to be held for the shortest appropriate period of time	√	√	√	n/a	n/a	√

CHAPTER IV

**FINDINGS AND ANALYSIS: IMPLEMENTATION OF THE ANTI-
TRAFFICKING IN PERSONS ACT (2008)**

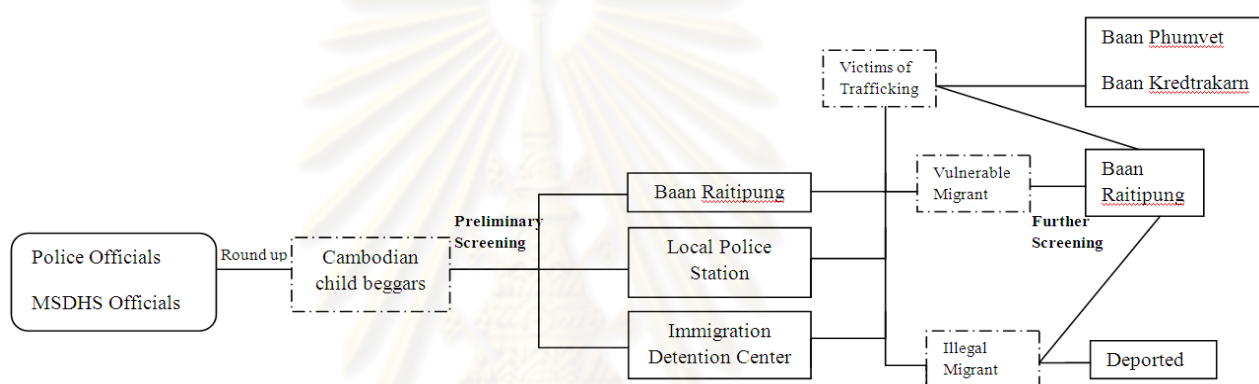
4.1 Introduction

This chapter answers the first sub-research question of this thesis. It assesses whether the lack of policy coherence between Thailand's Anti-Trafficking in Persons Act (2008) and other related Acts cause confusion among Thai officials regarding which Act should be implemented when dealing with Cambodian child beggars in Thailand. Additionally, this chapter answers the second sub-research question of this thesis concerning whether the guidelines designed for the implementation of the Anti-Trafficking in Persons Act (2008) have been practical.

Figure 4.1 conveys the formal process for Cambodian child beggars taken under Thai custody. As recalled from the literature review in Section 2.3, officials from the Ministry of Social Development and Human Security (MSDHS) or local police in Bangkok round up Cambodian child beggars and take them to either the Nonthaburi Home for the Destitute shelter (Baan Raitipung) in Nonthaburi Province, the local police station, or the Immigration Detention Center (IDC) in Bangkok so that the staff at either Baan Raitipung, the local police station, or the IDC can carry out preliminary screening. All of the children that are identified as victims of trafficking are then sent to Baan Kredtrakarn or Baan Phumvet shelters in Nonthaburi Province. Child beggars who are not identified as victims of trafficking and whose initial screening was done at Baan Raitipung are labeled as vulnerable migrants and remain there for further screening. However, beggars not identified as victims of trafficking and whose initial screening was done at the police station are arrested as illegal migrants and taken to the Immigration Detention Center (IDC) in Bangkok to await deportation. These beggars, including children, are deported back to Cambodia in less than a week via the Aranyaprathet-Poipet

border crossing (Yapiloon Sohnglin, Personal Communication, September 30, 2010; Friends International, 2006, p. 22).

Figure 4.1 The Formal Process for Cambodian child beggars taken under Thai custody



As mentioned in the literature review in Section 2.3, Thai authorities are currently dividing Cambodian child beggars into three categories: victims of trafficking, vulnerable migrants¹, and illegal migrants. There are three main government institutions² around the vicinity of Bangkok that conduct preliminary screening to identify whether Cambodian child beggars are victims of trafficking, namely: Baan Raitipung in Nonthaburi Province, the local police station, and the Immigration Detention Center (IDC) in Bangkok. It should be noted that the shelter homes for trafficked persons, such as Baan Kredtrakarn and Baan Phumvet, are not in charge of carrying out preliminary screening. Figure 4.2 depicts the various government ministries and/or departments that manage Cambodian child beggar in each category (victims of trafficking, vulnerable migrants, illegal

¹ A 'vulnerable migrant' is defined as any Cambodian child beggar who has entered Baan Raitipung for the first time with their mother (Yapiloon Sohnglin, Personal Communication, September 30, 2010).

² A government institution is defined in this research as any government organization; it is particularly used in this chapter to refer to the government shelter homes, the IDC, and the local police station.

migrants). It should be noted that this figure is a simplified model for the actual situation. For example, sometimes Cambodian child beggars identified as vulnerable migrants are not only received at Baan Raitipung, but also at Baan Kredtrakarn and Baan Phumvet. At the same time, each Thai institution that takes Cambodian child beggars into their custody may use other legal frameworks not specifically depicted in this figure. For instance, since Baan Raitipung and the IDC are regularly in charge of screening for victims of trafficking, other Acts such as the Anti-Trafficking in Persons Act (2008) or the Child Protection Act (2003), may be used in addition to each institution's respective Acts, namely the Beggar Control Act (1941) and the Immigration Act (1979) respectively. Still, this figure depicts the category of child beggars mainly received and legal framework mainly used by each respective institution. The fact that some institutions are answer to several ministries and legal frameworks at the same time naturally holds implications for the protection of Cambodian child beggars' rights in Thailand; this will be explored more in-depth in this chapter.

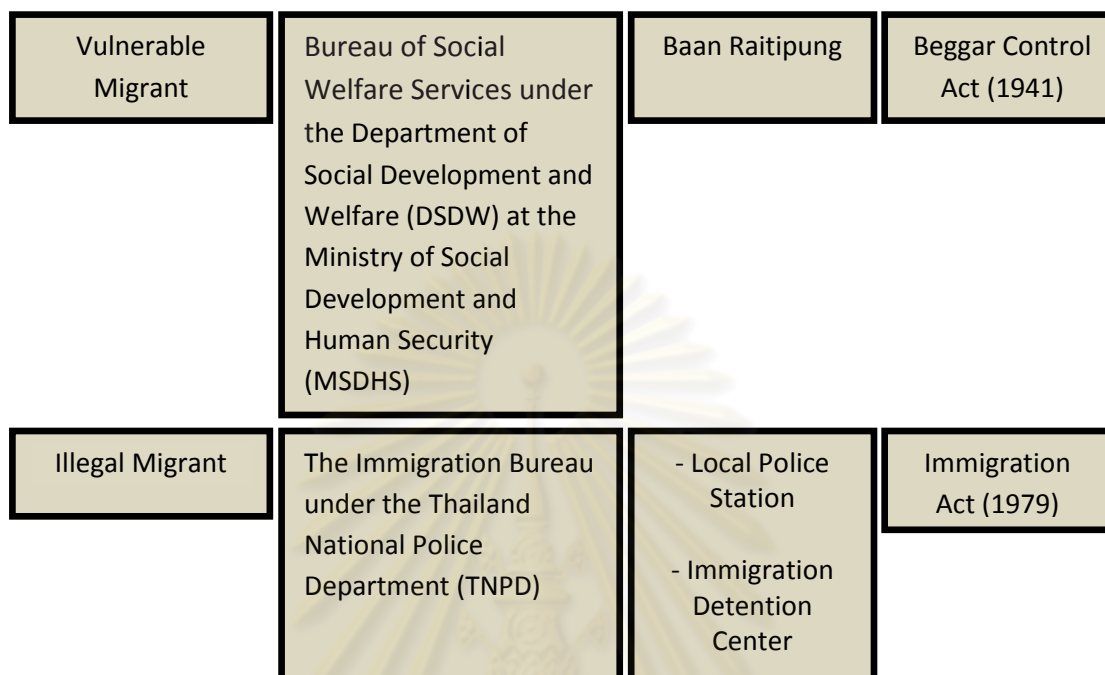


ศูนย์วิจัยทรัพยากร
จุฬาลงกรณ์มหาวิทยาลัย

Figure 4.2 The legal framework and government ministry or department that each Thai government institution performs under per category of child beggar³

Status of Cambodian child beggar	Ministry	Institution	Legal Framework
Victim of Trafficking	Bureau of Anti-Trafficking in Women and Children (BATWC) under the Department of Social Development and Welfare (DSDW) at the Ministry of Social Development and Human Security (MSDHS)	Baan Kredtrakarn Baan Phumvet	Anti- Trafficking in Persons Act (2008)
	Office of Women's Affairs and Family Development (OWAFD) at the Ministry of Social Development and Human Security (MSDHS)		Domestic Violence Victim Protection Act (2007)
	<ul style="list-style-type: none"> - Minister of Interior - Ministry of Social Development and Human Security (MSDHS) - Minister of Education - Minister of Justice 		Child Protection Act (2003)

³ The legal frameworks indicated in this figure for Baan Kredtrakarn, Baan Phumvet, and Baan Raitipung are specifically derived from the information handouts provided by each shelter home to the researcher



This chapter will first begin by discussing why certain Acts, such as the Labor Protection Act (2008), is not being implemented with Cambodian child beggars and why other Acts largely coherent with the Anti-Trafficking in Persons Act (2008), such as the Domestic Violence Victim Protection Act (2007) and the Child Protection Act (2003), are not being fully implemented to protect all Cambodian child beggars in Thailand. This chapter will additionally discuss how the lack of policy coherence between the Anti-Trafficking in Persons Act (2008), and other Acts, namely the Beggar Control Act (1941) and the Immigration Act (1979), affect the implementation of the Anti-Trafficking in Persons Act (2008) in practice. Lastly, this chapter will discuss how Thai officials screen for victims of trafficking among Cambodian child beggars in Thailand, and whether these guidelines for screening victims of trafficking have been practical.

4.2 The Operationalization of Thai Policies that Pertain to Cambodian Child Beggars in Thailand

4.2.1 The Labor Protection Act (2008)

Despite the fact that child begging is considered to be a form of child labor under ILO convention (See Section 2.2. for definition), it can be seen from Figure 4.2 that Thailand's Labor Protection Act (2008) is not actually used by Thai authorities when dealing with Cambodian child beggars in practice not only because it is an informal type of work, but because it is also a type of work in the informal sector. Tattiya Rihiwong, the Assistant Director of the Foundation for Child Development (FCD), explains that “[although child beggars are child workers] the Ministry of Labor in Thailand does not officially consider child begging as a form of child labor [...] and thus do not think of this group of children when creating the national plan [or law]” (Tattiya Rihiwong, Personal Communication, September 9, 2010). The fact that Cambodian child beggars are not protected under Thailand's Labor Protection Act (2008) is not surprising considering that other Thai laws such as the Beggar Control Act (1941) criminalizes begging as an informal type of work.

4.2.2 The Domestic Violence Victim Protection Act (2007)

Overall, there is a low awareness of the Domestic Violence Victim Protection Act (2007) and its relevance to Cambodian child beggars in Thailand among government and NGO stakeholders. When asked what laws pertained to child trafficking for begging, stakeholders commonly did not refer to the Domestic Violence Victim Protection Act (2007). This is unlike with the Anti-Trafficking in Persons Act (2008), Child Protection Act (2003), Beggar Control Act (1941), and Immigration Act (1979), where most stakeholders interviewed would directly refer to the Acts without having to be questioned further. In fact, the only stakeholder interviewed who referred specifically to the

Domestic Violence Victim Protection Act (2007) and its relevance to Cambodian child beggars in Thailand was Tattiya Rihiwong, the Assistant Director of the FCD. She noted, however, that “this Act [the Domestic Violence Victim Protection Act (2007)] has yet to be implemented [...as] currently the process for implementation is still not clear and is still in planning since the Act is fairly new” (Tattiya Rihiwong Personal Communication, September 9, 2010).

Nonetheless, the lack of association of the Domestic Violence Victim Protection Act (2007) with child trafficking for begging may arguably be caused by Thai officials overlooking the role of parents in forced child begging. This can be seen by the fact that some Thai officials hold a narrow working definition of ‘domestic violence’ that only includes the physical abuse of a child by a family member. Actually, however, the definition of ‘domestic violence’ also covers the forcing of a child into something that he or she may not want to do by a family member, such as begging (See Chapter 3). For instance, Yapiloon Sohnglin, a social worker at Baan Raitipung, stated that no Cambodian child beggar who has entered into this shelter home has been found to be “beaten” by their parents as of yet, but “this doesn’t mean that they [the Cambodian child beggars] are not protected under the Domestic Violence Victim Protection Act (2007), they are. [...] nobody is allowed to beat a child whether it is their parents or a Thai official [...] we just haven’t found a case [where a Cambodian child beggar has been subject to domestic violence yet]” (Personal Communication, September 30, 2010). The tendency to associate ‘domestic violence’ with the ‘beating’ of a child by a family member oversimplifies the legal meaning of this term and thus raises concerns over the extent that this Act is being fully implemented to protect the rights of Cambodian child beggars in Thailand.

4.2.3 The Anti-Trafficking in Persons Act (2008) and the Beggar Control Act (1941)

The research showed that the policy Thai officials choose to implement when dealing with Cambodian child beggars is often the one they perform under. As seen in Figure 4.2, Baan Kredtrakarn and Baan Phumvet mainly perform duties under the Anti-Trafficking in Persons Act (2008). Therefore, Ladda Benjatachah and Suchada Kudwattana, the director of Baan Kredtrakarn and social worker at Baan Phumvet respectively, consider all Cambodian child beggars to be trafficked by definition (Suchada Kudwattana, Personal Communication, September 24, 2010; Ladda Benjatachah, Personal Communication, October 1, 2010). This is expressed by Ladda Benjatachah in the following:

“[all] child beggars are automatically victims of trafficking because they are children [...] somebody is exploiting them, they don’t beg and keep the money for themselves [...] even in cases where their parents bring them to beg. [In this case,] they would be considered the victim of their parents and still a victim of trafficking. [The parents would not be considered the trafficker of their child] if they do not bring their child to beg with them. But if one day the mother brings her child to beg with her and seeks to benefit from her own child, the mother would be the trafficker of her own child” (Ladda Benjatachah, Personal Communication, October 1, 2010).

Suchada Kudwattana similarly states, “the first group of child beggars who are brought to beg by his or her family is being exploited by his or her family; the second group of child beggars who are rented or sold to someone else by permission of his or her parents or family member is being exploited by a ‘trafficker’” (Suchada Kudwattana, Personal Communication, September 24, 2010). Therefore, if these shelter homes were regularly in charge of screening for victims of trafficking, all Cambodian child beggars would be identified as victims of trafficking and thus be protected under Thailand’s Anti-Trafficking in Persons Act (2008).

It is important to note, however, that among the three shelter homes that deal with Cambodian child beggars within the vicinity of Bangkok, Baan Raitipung is the only one that is regularly in charge of screening Cambodian child beggars for victims of trafficking (See Figure 4.2). The fact that Baan Raitipung mainly performs duties under the Beggar Control Act (1941) (see Figure 4.2) naturally holds some implications for the protection of Cambodian child beggars' rights in Thailand. Since the Beggar Control Act (1941) recognizes voluntary begging (see Chapter 3), Yapiloon Sohnglin, a social worker at Baan Raitipung, does not consider all Cambodian child beggars to be trafficked victims, but categorizes some as voluntary child beggars. This is conveyed in the following statement:

“if there is a case where [...] the adult is the mother of the child, [the child will not be identified as a victim of trafficking] and we might just send them directly to the IDC [...] those who are found to have come into the shelter as their second time will be sent automatically to the IDC [...] because we will consider that they voluntarily migrated to Thailand [...] the third time [the child beggar and the parent] is found to have entered the shelter we will create a blacklist to the IDC [...] to not allow [the child and parent] to enter the country illegally” (Yapiloon Sohnglin, Personal Communication, September 30, 2010).

Nonetheless, it is not always the case that Thai officials carry an understanding of the child begging situation according to the Act in which they perform under. For example, despite the fact that Suwaree Jaihan is a human trafficking expert under the Bureau of Anti-Trafficking in Women and Children (BATWC), her understanding of the begging situation is more in line with the Beggar Control Act (1941) than with the Anti-Trafficking in Persons Act (2008). Similar to the social worker at Baan Raitipung, Suwaree Jaihan distinguishes between a trafficked child beggar and a voluntary child beggar by stating that Cambodian children who beg with their parents are not victims of trafficking because they “are not being exploited, are not being forced to beg and do not suffer physical abuse when they do not earn enough money” (Suwaree Jaihan, Personal Communication, October 4, 2010). Of course, this understanding of child trafficking for begging is contrary to the definition provided in the Anti-Trafficking in Persons Act

(2008), which would still consider any child beggar to be under exploitation even if her or she is found begging with his or her parents. The fact that Suwaree Jaihan's perception of the child begging situation diverges from the shelter homes working directly under the BATWC's jurisdiction – Baan Kredtrakarn and Baan Phumvet – simply comes to show that there is some confusion among Thai officials on which Act should be operationalized when dealing with Cambodian child beggars in Thailand, especially since the Beggar Control Act (1941) is not an Act that the BATWC is in charge of following in Figure 4.2.

4.2.4 The Child Protection Act (2003) and the Immigration Act (1979)

Since there is no set of clear guidelines for the implementation of the Child Protection Act (2003), officials use the guidelines for the Anti-Trafficking in Persons Act (2008) when dealing with Cambodian child beggars identified as victims of trafficking. Concerns are automatically raised, however, over whether the Child Protection Act (2003) is also being implemented when Cambodian child beggars are identified as 'vulnerable migrants' and 'illegal migrants.' As mentioned in Chapter 3, the Child Protection Act (2003) ensures Cambodian child beggars in Thailand various forms of protection and assistance even if they are not identified as victims of trafficking as such, but as street children or children in difficult circumstances. Nonetheless, this research found that while Thai officials often talk of the importance of adhering to the child's rights principles in the Child Protection Act (2003), it is usually the case that Thai officials will choose to implement the Act that they perform under in Figure 4.2 over the Child Protection Act (2003) when dealing with Cambodian child beggars not identified as victims of trafficking. The lack of guidelines for the Child Protection Act (2003) also causes Thai officials in charge of screening victims of trafficking at Baan Raitipung, the local police station, and the IDC to carry their own interpretations of child's rights, and thus prevents the Child Protection Act (2003) from being fully implemented to protect all Cambodian child beggars in Thailand.

Yapiloon Sohnglin, a social worker in charge of screening Cambodian child beggars for victims of trafficking at Baan Raitipung, implies that “the best interests of the child” (Article 22 of the Child Protection Act (2003)) only takes precedence when a Cambodian child beggar is identified as a victim of trafficking in the following:

“If a Cambodian child beggar is identified as a victim of trafficking, meaning he or she did not come to beg with his or her parents, we will take them to Baan Phumvet, for example, where the environment is better than here [Baan Raitipung] because here at Baan Raitipung there are adults, children, the mentally ill [staying at one place whereas Baan Phumvet is a place especially for children] in this case *the best interests of the child comes first* [...] we take into consideration the rights that the child beggar is entitled to (Yapiloon Sohnglin, Personal Communication, September 30, 2010) [Italics added for emphasis].

Thus, it can be gathered that Cambodian child beggars identified as ‘vulnerable migrants’ continue to fall under the protection of the Beggar Control Act (1941) and are neither categorized as children in difficult circumstances nor street children who are equally entitled to welfare assistance by the Thai State under the Child Protection Act (2003).

However, it is arguably not only the lack of policy coherence between the Child Protection Act (2003) and other Acts, in particular the Beggar Control Act (1941) and the Immigration Act (1979), that prevent the Child Protection Act (2003) from being fully implemented to protect all Cambodian child beggars in Thailand, as the fact that there are four different ministries in Thailand working to implement the Child Protection Act (2003) prevents there from being guidelines finalized for its implementation (See Figure 4.2). This is pointed out by Oratai Junsuwanaruk, the Program Manager of Peuan Peuan Aryanaprathet, who states, “[Although] the Child Protection Act should be enough [to protect the rights of Cambodian child beggars in Thailand] nobody knows how to use it [the fact that there are] all these other laws make people even more confused [on which law should be applied when dealing with migrant children in Thailand]” (Oratai Junsuwanaruk, Personal Communication, September 27, 2010). The lack of policy coherence between the Child Protection Act (2003) and other Acts, in particular the

Beggar Control Act (1941) and the Immigration Act (1979), and the lack of guidelines for the implementation of the Child Protection Act (2003) thus cause Thai officials to carry their own interpretations of child's rights. This prevents the Child Protection Act (2003) from being fully implemented.

Firstly, because Thai officials in charge of screening for victims of trafficking work either with Baan Raitipung, which is under the jurisdiction of the Bureau of Social Welfare Services and follows the Beggar Control Act (1941), or the local police station or IDC which performs duties under the Immigration Bureau and follows the Immigration Act (1979), the Anti-Trafficking in Persons Act (2008) and the Child Protection Act (2003) are naturally disregarded in favor of the Beggar Control Act (1941) or Immigration Act (1979) during the screening process (see Figure 4.1 and 4.2). For example, Sathorn Winprakhon, a social worker from the Foundation for Women (FFW) in charge of screening for victims of trafficking at the IDC, refers to a child's right to not be separated from his or her parents against his or her will to justify implementing the Immigration Act (1941) over the Anti-Trafficking in Persons Act (2008) (see Section 1.6.1). She expresses this in the following statement: "It is a matter of human rights – do you really think we should separate children from their parents?" (Sathorn Winprakhon, Personal Communication, September 22, 2010). Another immigration officer refers to a child's right to be held for the shortest period of time when he or she is deprived of his or her liberty to justify implementing the Immigration Act (1979) over the Anti-Trafficking in Persons Act (2008) in stating that their intention is just to "get the children back home as soon as possible. If the children are sent to a shelter home, they would not be able to stay there because they had once experienced a community of family and friends, having money, and freedom" (Anonymous, Personal Communication, September 28, 2010). Of course, this is a rather loose interpretation of the child's rights principles laid out in the Child Protection Act (2003), as it does not take into account other rights Cambodian child beggars are entitled to such as a child's right to be free from criminalization for illegal entry into Thailand (see Section 3.4.3).

Secondly, the lack of policy coherence between the Child Protection Act (2003) and other Acts, in particular the Beggar Control Act (1941) and the Immigration Act (1979), along with the lack of clear guidelines for the implementation of the Child Protection Act (2003) causes Thai officials in charge of screening Cambodian child beggars for victims of trafficking to conflict over whether their primary duty is to apprehend and detain Cambodian child beggars for illegal entry into Thailand in accordance with the Immigration Act (1979) or to protect a Cambodian child beggars' "rights." This conflict is expressed by one immigration officer, who states:

"we have to stay in the middle, we cannot be too strict on immigration laws because people will accuse us of not protecting child's rights, but we cannot be too lenient on immigration laws or else people will accuse us of not controlling the border [...] so we do half-half – sometimes we do not arrest [the Cambodian child beggars] and sometimes we do, and then release them" (Anonymous, Personal Communication, September 28, 2010).

This response indicates that initial decisions by the police influence whether Cambodian child beggars are even taken under Thai custody and enter into the formal process depicted in Figure 4.2. This is also conveyed through the response of a local police officer at Puthorn Klongleuk Police Station in Srakaeo Province who, when asked about how the Anti-Trafficking in Persons Act (2008) protects Cambodian child beggars in Thailand, stated the following:

"If you want to know about policies [the Anti-Trafficking in Persons Act (2008)] go ask Prime Minister Abhisit! The duty of the police is to ensure that the country is peaceful [...] Cambodian child beggars are a nuisance to the peace and safety of the nation [Immigration Act, 1979, Section 12] as they are often caught stealing from and being a nuisance to tourists in Thailand. However, because of child's rights, nothing much can be done to the child beggars. Therefore, the police cannot do much to the children but simply release them after arrest" (Anonymous, Personal Communication, September 28, 2010).

Clearly, this response indicates that knowledge of the Anti-Trafficking in Persons Act (2008) has not ‘trickled down’ to more local officials, preventing the Anti-Trafficking in Persons Act (2008) from being fully implemented to protect Cambodian child beggars’ rights in Thailand. Additionally, these responses convey that the duty of immigration officers and local police officials to ensure national security greatly affects whether the Anti-Trafficking in Persons Act (2008) is followed. Lastly, the lack of guidelines for the implementation of the Child Protection Act (2003) causes Thai officials to carry their own interpretations of “child’s rights” and prevent the Child Protection Act (2003) from being fully implemented to protect all Cambodian child beggars in Thailand. This thus comes to show that there is a general confusion among Thai officials on which Act should be operationalized when dealing with Cambodian child beggars in Thailand.

4.3 The practicality of the guidelines designed for the implementation of the Anti-Trafficking in Persons Act (2008)

The IDC and Baan Raitipung generally use the preliminary interview form⁴ to screen Cambodian child beggars for victims of trafficking (See Figure 4.3). Apart from consisting of a few questions on the background of the Cambodian child beggar, it can be seen from Figure 4.3 that the interview form used to screen Cambodian child beggars for victims of trafficking simply repeats word-for-word the three criteria that would constitute trafficking as outlined in the Anti-Trafficking in Persons Act (2008), which are the following:

⁴ This preliminary interview form was provided by an immigration officer to the researcher; in addition to the respective ministerial rules and regulations, this preliminary interview form is used by officials to identify whether a Cambodian child beggar is a victim of trafficking.

- 1) the procuring, buying, selling, bringing from or sending to, confining, or receiving any person
- 2) by means of the threat or use of force, abduction, fraud, deception, abuse of power, or of the giving money or benefits to achieve the consent of a person having control over another person in allowing the offender to exploit the person under his control
- 3) for the purpose of prostitution, production or distribution of pornographic materials, other forms of sexual exploitation, slavery, causing another person to be a beggar, forced labour or service, coerced removal of organs for the purpose of trade, or any other similar practices resulting in forced extortion (Anti-Trafficking in Persons Act, 2008, Section 6).

The fact that the interview form used for screening Cambodian child beggars for victims of trafficking simply replicates the definition of trafficking in the Anti-Trafficking in Persons Act (2008) raises concerns over how practical these guidelines for implementing the Anti-Trafficking in Persons Act (2008) actually are, especially when there is already confusion among Thai officials concerning which Acts should take priority when dealing with Cambodian child beggars in Thailand. Therefore, this lack of policy coherence between the Anti-Trafficking in Persons Act (2008) with other Acts, in particular the Beggar Control Act (1941) and the Immigration Act (1979), in addition to impractical guidelines for the implementation of the Anti-Trafficking in Persons Act (2008) only supports a subjective screening process. This can be seen in a statement by Yapiloon Sohnglin, a social worker in charge of screening for victims of trafficking at Baan Raitipung, who argues that she screens for victims of trafficking by simply “observing” the Cambodian child beggars’ behavior:

“[I screen Cambodian child beggars for victims of trafficking by] observing their behavior to see if they [the child and the adult accompanying the child] are biologically related [...] if a child is disabled or the child is a newborn we make initial presumptions that they may be a victim of trafficking [...] but if there is a case where they [the child and the accompanying adult] has a normal behavior or we look from their behavior that the adult is the mother of the child [the child will not be identified as a victim of trafficking] and we might just send them directly to the IDC” (Yapiloon Sohnglin, Personal Communication, September 30, 2010).

It is worth noting that the interview form used for screening Cambodian child beggars does not note the difference between adult and child trafficking. As mentioned in Chapter 3, a child can be identified as a victim of trafficking simply if he or she was received for the purpose of exploitation. As such, the second criteria that is needed to identify somebody as a victim of trafficking, or the ‘means’, do not have to be involved for a child to be considered a victim of trafficking. The fact that the interview form used for screening Cambodian child beggars for victims of trafficking does not refer to these definitional differences naturally holds implications for the protection of Cambodian child beggars’ rights in Thailand. The consequences of this are clear from an interview with Sathorn Winprakhon, a social worker from the Foundation for Women (FFW) in charge of screening for victims of trafficking at the IDC, who states that Cambodian children who beg with their parents are not victims of trafficking because they have not been “deceived”:

When I interview the children [the Cambodian child beggars], they say that they come with their mothers [...] and I can’t [identify them to be] a case of trafficking because they claim that they came with their mother! [...] because it’s not wrong for child beggars to work and get money and give the money to their mothers or their family, right? Because they didn’t get *deceived* here [...] the point is that I have to know that the accompanying adult isn’t their mother to be able to determine whether it’s a case of trafficking or not [...] but I’m not able to determine whether they are really the mother or child! I have to know is the accompanying adult the mother, the relative of the child? If I know it’s not [...] then I can ask ok how did you come here? How did the adult deceive you to coming here? [...] so I’ll be able to say ok this person got deceived so that’s a case of trafficking [...] I have to know the relationship of the child to the parent first (Sathorn Winprakhon, Personal Communication, September 22, 2010) (Italics added for emphasis).

Figure 4.3 Example Preliminary Interview Form for the Screening of Victims of Trafficking in Thailand

Interview location.....

Day..... MonthYear.....

This interview form is to show that today at o’ clock, the following officials:

.....
.....
.....have

gotten together to interview this individual to determine whether he or she is a victims of trafficking by gathering the following information:

1. Information about the Interviewee

First name – last name () Miss () Mrs. () Mr.
(If the first name- last name of the individual cannot be determined, can describe his or her appearance, any flaws in his or her appearance, or any unique features
.....)

Birth date..... Age..... Nationality.....

First name – last name of father First name – last name of mother.

Address.....

Identification Card Number Passport Number

Other personal documentation..... () None

Route used to enter and exit Thailand.....

Means of Travel () by foot
() by vehicle () car () bus () other

First name and last name of person who helped to facilitate the travel

2. Was subject to one of the following:

- () procured () bought () sold
- () vended () brought from () sent to
- () detained () confined () harbored
- () received

3. Was subjected to number two by one of the following means:

- () threat () force () abduction
- () fraud () deception () abuse of power
- () the giving money or benefits to achieve the consent of a person having control over another person in allowing the offender to exploit the person under his control

4. Was subjected to number two and three for the purpose of one of the following:

- () prostitution () production or distribution of pornographic materials
- () other forms of sexual exploitation () slavery
- () causing another person to be a beggar () forced labor or service
- () coerced removal of organs for the purpose () any other similar practices resulting in forced extortion of trade

5. Behavioral observations

.....
.....

Concluding opinion:

- () Not a victim of trafficking
- () Vulnerable migrant should provide temporary protection or undergo another screening
- () Victim of trafficking

6. Suggestions on how to assist the individual

.....

4.4 Conclusion

In response to the first sub-research question of this thesis, this chapter proved that the lack of policy coherence between the Anti-Trafficking in Persons Act (2008) and other Acts, namely the Beggar Control Act (1941) and the Immigration Act (1979) cause confusion among Thai officials regarding which Act should be implemented when dealing with Cambodian child beggars in Thailand. Firstly, Thai officials in charge of screening Cambodian child beggars for victims of trafficking at the IDC and Baan Raitipung generally disregard the Anti-Trafficking in Persons Act (2008) for the Act that they perform under in Figure 4.2. Thus, there is clearly a level of administrative fragmentation. Secondly, the lack of guidelines for the implementation of certain Acts that is largely coherent with the Anti-Trafficking in Persons Act (2008), such as the Child Protection Act (2003), cause Thai officials to carry their own interpretations of child's rights and prevents the Child Protection Act (2003) from being fully implemented to protect all Cambodian child beggars in Thailand.

In response to the second sub-research question of this thesis, this chapter proved that the guidelines for the implementation of the Anti-Trafficking in Persons Act (2008) are impractical in that the interview form used for screening Cambodian child beggars for victims of trafficking simply replicate the definition of trafficking found in the Anti-Trafficking in Persons Act (2008). This naturally holds implications for the protection of Cambodian child beggars' rights in Thailand since Thai officials are already confused as to which policy should be prioritized when dealing with Cambodian child beggars in Thailand. Additionally, the interview form used for screening Cambodian child beggars does not distinguish between adult and child trafficking. As such, these impractical guidelines for the implementation of the Anti-Trafficking in Persons Act (2008) prevents the Anti-Trafficking in Persons Act (2008) from being fully implemented to protect the rights of all Cambodian child beggars in Thailand.

CHAPTER V

FINDINGS AND ANALYSIS: RIGHTS-BASED APPROACH AND NEEDS-BASED APPROACH

5.1 Introduction

This chapter will answer the third sub-research question of this thesis concerning whether Thai officials' attitudes towards Cambodian child beggars in Thailand have determined whether the 'rights-based approach' or the 'needs-based approach' is followed in practice. As can be recalled from the literature review of this thesis, the primary difference between the 'rights-based approach' and the 'needs-based approach' is that the former focuses on the attaining of rights from the State and the structural causes of problems, while the latter focuses on the meeting of basic needs and the immediate causes of problems (See Section 2.3.1). The specific rights framework that is used in this chapter is the one outlined in Section 1.6.1 and the specific needs framework used in this chapter is the one outlined in Section 1.6.4.

As can be recalled from Chapter 3, the Anti-Trafficking in Persons Act (2008) and Child Protection Act (2003) heavily follows a rights-based approach in that the majority of rights from the human rights framework of this research are addressed in both of these policies; the rights laid out in these two Thai legislations are rights that the Thai State ensures to all Cambodian child beggars. On the other hand, the Beggar Control Act (1941) and the Immigration Act (1941) least follow the rights-based approach as they generally disregard most of the rights in the human rights framework of this research. Since the Child Protection Act (2003) is not actually being fully implemented with Cambodian child beggars in Thailand (see Chapter 4), this chapter will focus mainly on the perspectives of Thai officials and Cambodian child beggars on the Anti-Trafficking in Persons Act (2008), the Beggar Control Act (1941), and the Immigration Act (1979).

This chapter will first discuss the benefits and drawbacks of following the rights-based approach and the needs-based approach according to Thai officials. Overall, it was found that the majority of Thai officials carry the opinion that Cambodian child beggars prefer Thai officials to follow a needs-based approach over a rights-based approach – meaning that, Cambodian child beggars prefer to be deported and just have Thai officials address the immediate causes of their problems, rather than stay at the government shelter homes for trafficked persons, such as Baan Kredtrakarn and Baan Phumvet, and have Thai officials address the structural causes of their problems. Although these benefits and drawbacks of the rights-based approach and the needs-based approach were partly explored in Chapter 4 by conveying how Thai officials in charge of screening Cambodian child beggars for victims of trafficking at Baan Raitipung and the IDC generally opt for a needs-based approach mainly on grounds that the child should not be separated from his or her parents (See Section 4.2.4), these benefits and drawbacks of the rights-based approach and the needs-based approach will be further explored in this chapter by exploring the opinions of other Thai officials at further stages of the process. Thereafter, this chapter will assess whether Cambodian child beggars actually prefer Thai officials to follow a rights-based approach or a needs-based approach by analyzing the circumstance of Cambodian child beggars in Bangkok and Aryanaprathet in the three following situations: 1) living on the streets 2) living at the shelter homes and 3) detained at the IDC.

5.2 The benefits and drawbacks of following the rights-based approach and the needs-based approach according to Thai officials

As can be recalled from Chapter 4, Ladda Benjatchah and Suchada Kudwattana, the director and social worker at Baan Kredtrakarn and Baan Phumvet respectively, strictly follow the Anti-Trafficking in Persons Act (2008) when dealing with Cambodian child beggars in that both carry the opinion that all Cambodian child beggars are victims of trafficking by definition, even when they are found begging with their parents. In interviews with Ladda Benjatchah and Suchada Kudwattana, both agree that following the Anti-Trafficking in Persons Act (2008), or the rights-based approach, carries longer term benefits than simply following the needs-based approach in that the Cambodian child beggar is less likely to be re-trafficked into begging or other occupations. This is because the Anti-Trafficking in Persons Act (2008) aims to address the structural causes of the child trafficking for begging problem by ensuring that the trafficker is prosecuted and that the Cambodian child beggar is protected and safely reintegrated into his or her community. Yet still, both agreed that Cambodian child beggars staying at Baan Kredtrakarn and Baan Phumvet prefer Thai officials to follow the needs-based approach over the rights-based approach so that they can be quickly returned to their parents and families (Ladda Benjatchah, Personal Communication, October 1, 2010; Suchada Kudwattana, Personal Communication, September 24, 2010). Ladda Benjatchah points to the benefits and drawbacks of following the rights-based approach and the needs-based approach in the following quotation:

“Really, when the children [Cambodian child beggars] come, nobody wants to stay at Baan Kredtrakarn [...] they want to know when they will be able to go home, and like I said, if we were the Immigration Detention Center (IDC), we can just deport them [...] but we [Baan Kredtrakarn] have a lot of procedures to undergo so that the child is not re-trafficked [...] but if you ask what their needs are? They want to go home! They miss their parents [...] nobody wants to be here” (Ladda Benjatchah, Personal Communication, October 1, 2010).

This quotation is particularly interesting in that the IDC is acknowledged by Thai officials to follow a needs-based approach when dealing with Cambodian child beggars in Thailand.

Yapiloon Sohnglin, a social worker at Baan Raitipung, similarly implies how Cambodian child beggars prefer to be identified as ‘illegal migrants’ so that they can most quickly receive their immediate desires for such things as liberty, play, and family (below, I argue these “desires” are “needs”) over being identified as ‘vulnerable migrants’ or ‘victims of trafficking,’ where their right to further screening and greater protection and assistance may be attained, in the following statement:

“[Cambodian child beggars at Baan Raitipung] want to go home [they] want to receive freedom [...] want to have an area to play more than what is provided here [...] but at this shelter home, the children only get to play in a designated area of space because this is a closed shelter home, they are not allowed outside [...] so really children want to be with their family [...] want to stay home where it is safe [...] where he or she can go anywhere he or she wants [...] can play and run around and go to school [...] but here [at the shelter home] the children don’t get that kind of freedom” (Yapiloon Sohnglin, Personal Communication, September 30, 2010).

In regards to the needs framework of this research in Section 1.6.4, a child’s need to be with his or her parents and family can be argued as one of the factors required for a healthy and humane environment. The Oxford Dictionary defines ‘healthy’ as in a good physical or mental condition, ‘humane’ as having or showing compassion or benevolence, and ‘environment’ as the surroundings or conditions in which a person operates. The Oxford Dictionary particularly states that the term ‘healthy’ can be used in a figurative manner to describe the family, for example, as being the foundation of any ‘healthy’ society. Piyakrai Silakoth, the Head of the Rights Protection Division at the Labour Rights Promotion Network Foundation (LPN), particularly expresses how

separating a Cambodian child beggar from his or her parents in the name of trafficking could produce inhumane consequences in the following statement:

“If you ask, is it considered trafficking [for a parent] to obtain or bring his or her child to beg? Definitely, but as human beings with rights [...] are we going to arrest the parent and separate the child from the parent? Have the parents go through a legal case and be imprisoned? This is probably not the best strategy and would certainly not be in the best interest of the child” (Piyakrai Silakoth, Personal Communication, September 21, 2010).

Eaklak Loomchomkhae, head of the Mirror Foundation's Anti-Human Trafficking Center, further points to the consequential impact of following the Anti-Trafficking in Persons Act (2008) and even the Child Protection Act (2003) too strictly by remarking the following:

“[in theory] all parents who bring their child to beg are going against the Child Protection Act (2003) and the Anti-Trafficking in Persons Act (2008) because they are not raising their child in a suitable manner. If we were to punish them according to law, we would bring them to court [to have them] imprisoned [...] but who will the child stay with? Will we be perpetuating the cycle of poverty? [...] these laws [the Child Protection Act (2003) and the Anti-Trafficking in Persons Act (2008)] were modeled after the laws in Western countries, which were meant to be enforced with people who are extremely atrocious and ruthless [to the child] [...] but in Southeast Asia there is a lot of poverty [...] if we enforce these laws for every case, there will be a lot of people imprisoned and a lot of orphans” (Eaklak Loomchomkhae, Personal Communication, September 13, 2010).

Therefore, the above quotations from Thai officials, in addition to those provided by Thai officials in charge of screening for victims of trafficking at Baan Raitipung and the IDC in Chapter 4, convey that Thai official's attitudes most lean towards a needs-based approach when dealing with Cambodian child beggars in Thailand. This naturally holds implications for the protection of Cambodian child beggars' rights in Thailand.

5.3 Cambodian child beggars on Thai officials following the rights-based approach or the needs-based approach

This section will analyze whether Cambodian child beggars actually prefer Thai officials to follow the rights-based approach or the needs-based approach by covering the extent to which Cambodian child beggars' receive their rights and needs in the human rights framework and needs framework of this research respectively, while in the following three circumstances: 1) on the streets 2) in the shelter homes and 3) at the IDC.

5.3.1 Life on the streets

The information presented in this section were from interviews with Cambodian child beggars on the streets of Bangkok, in Braemrithai Community in Samut Prakarn Province (who usually go to beg in Bangkok), and at the Thailand-Cambodia border in Aryanaprathet. Firstly, the rights attained by Cambodian child beggars on the streets will be addressed in the order in which they are laid out in the human rights framework of this research in Section 1.6.1. This first section will not address the right to the forms of protection and assistance entitled to Cambodian child beggars by the Thai State and some of the rights during detention¹ since Cambodian child beggars on the streets are not currently being held under Thai custody and so do not receive these rights. The second part of this section will address the needs that Cambodian child beggars on the streets receive in the order in which they are laid out in the needs framework of this research in

¹ The rights during detention that are not addressed in this section include: The right of a child who is deprived of his or her liberty to humane treatment. For example, a child deprived of his or her liberty should be separated from adults unless it is considered in the child's best interest not to do so; a child deprived of his or her liberty has the right to maintain contact with his or her family through correspondence or visits, save in exceptional circumstances; and the right of a child who is deprived of his or her liberty to be held for the shortest appropriate period of time.

Section 1.6.4. While it is clear that the Thai State has no obligation to meet the needs of Cambodian child beggars living on the streets as they are undocumented migrants and thus not legally recognized in Thailand, Cambodian child beggars become protected under the Child Protection Act (2003) immediately upon contact with the State.

- *Rights on the street*
- Freedom from slavery or servitude

The majority of Cambodian child beggars interviewed on the streets of Bangkok seem to not be enslaved by the adult accompanying them, but several were found to be in servitude. Firstly, most of the Cambodian child beggars interviewed on the streets were able to speak freely to the interviewer, even when the child's opinion was against the opinion of the adult accompanying him or her. For example, many Cambodian child beggars interviewed were able to freely express their dislike for begging and their wanting to go back to Cambodia to go to school while the accompanying adult was by their side (Multiple interviews conducted on February 19, 2011). In cases where the child was able to speak freely in front of the accompanying adult, it was assumed by the researcher that the accompanying adult was either the parent or the relative of the child². Secondly, most of these adults accompanying these children had their own rented rooms, which suggests that they were not being confined and had a certain level of freedom in their movement. It seemed that the majority of Cambodian beggars interviewed from the various locations in Bangkok rented rooms around the same area, which were on Sukhumvit Street for a similar price of 50 Baht per night (Multiple interviews conducted on February 19, 2011).

² The presence of “fake mothers” and “fake fathers” make determining whether the accompanying adult is truly the biological parent difficult. For example, all accompanying adults interviewed stated that they were the parent of the child, even when the Cambodian child beggar was clearly under an extreme trafficking situation and it was evident to the researcher that the accompanying adult was a ‘trafficker’ and not the biological parent of the child. Thus, it was necessary for the researcher to make this assumption to determine the relationship of the accompanying adult to the Cambodian child beggar.

On the other hand, there were about two Cambodian child beggars that were interviewed on the streets of Bangkok where it was clear that they were being severely controlled by a ‘trafficker’. In these two circumstances, the adult accompanying the child prohibited the researcher from interviewing the children, thus not much information was obtained concerning the circumstance of these two children. However, during one split second, the researcher did have the chance to interview one of these children before the accompanying adult approached. The child (hereafter referred to as “Champeï”) is an 11-year-old female. Champei clearly stated that she was not full when she ate, was not comfortable in the room she stayed in, and was extremely unhappy with begging (Interview with Champei on February 19, 2011). She stated of once being sent to Baan Raitipung for a period of one month by herself before being deported back to Cambodia. When the adult (hereafter referred to as “Atith”) approached the researcher, the researcher asked whether Atith had any interest of sending the child back to Cambodia to go to school and he angrily retorted back, “No because I want to beg! What else am I going to do [...] I am old.” When asked further why he did not beg himself instead of having the child beg for him, Atith stated, “I can’t beg because I will be easily arrested by the police so I just watch the child beg” (Interview with Atith on February 19, 2011). These responses suggest that Champei was under more severe trafficking conditions than the other Cambodian child beggars interviewed on the street. Most adults, for example, stated that they wanted to send their child to school in Cambodia once they saved enough money from begging. Additionally, other adults told the researcher that they sometimes consented to their children staying at shelter homes in Cambodia so that the child can attend school. However, Atith is only thinking of what is in his best interests, but not what is in Champei’s best interest.

Atith additionally told the researcher that he and Champei were once arrested together by the Thai police but were simply sent to the IDC and deported back to Cambodia; they have now returned back to Thailand for a third time. This is worrying considering that the researcher could clearly see that this child was under an extreme circumstance of trafficking and should be especially protected by the Thai State.

- Freedom from forced or compulsory labor

All Cambodian child beggars interviewed on the streets of Bangkok expressed their dislike of begging. All expressed that they wanted to go to school and go back to Cambodia. However, it was clear that the adult accompanying the child determined whether or not the child continued to beg. From interviewing Cambodian child beggars on the streets of Bangkok, it was gathered that the Cambodian child beggars are forced to beg for an average of 10 hours per day. Most Cambodian child beggars stated that they begged in three intervals – morning, noon, and night – from 8:00 to 11:00, 14:00 to 18:00, and 20:00 to 22:00, respectively. Most accompanying adults would add that the times varied depending on how much they are able to earn within the specific timeframes. For example, if they were able to earn a lot in the mornings, they will not beg in the afternoon. Other accompanying adults did not have the children beg in the afternoon because they feared getting arrested. Having three timeslots for the Cambodian children to beg was the general trend, however (Multiple interviews conducted on February 19, 2011). Thus, it was gathered from the interviews that all of the Cambodian child beggars interviewed are being forced to beg by the accompanying adult.

- A child's right to be protected against all forms of physical or mental violence or exploitation while in the care of his or her parents

Since the majority of Cambodian child beggars were found begging with an accompanying adult, who were assumed to be the Cambodian child beggars' parents in most circumstances, Cambodian child beggars on the streets of Bangkok are mostly being exploited by their parents when the legal definition of child trafficking for begging is taken into account under the Anti-Trafficking in Persons Act (2008). Additionally, three out of nine Cambodian child beggars interviewed on the street were found begging while the accompanying adult simply stood from afar watching the child, but did not beg himself. This is clearly an act of child exploitation by the accompanying adult.

- A child's right to protection from child trafficking

All Cambodian child beggars on the streets of Bangkok are victims of trafficking when taking into account the legal definition of child trafficking for begging under the Anti-Trafficking in Persons Act (2008). Thus, Cambodian child beggars on the streets of Bangkok are not protected from child trafficking.

- The right to due process of law and the right to be protected against arbitrary arrests or detentions and collective expulsions

Many Cambodian child beggars interviewed on the street stated of having been arrested and then sent to a government shelter home, but many have also stated of being arrested and then simply deported back to Cambodia. For example, one 10-year old Cambodian child beggar (hereafter referred to as "Sokhanya") interviewed at the Thailand-Cambodia border in Aryanaprathet told of being arrested and sent to the IDC around ten times or more (Interview with Sokhanya on September 27, 2010). Additionally, four out of seven Cambodian child beggars between the ages of four to

seven years old interviewed at Braemrithai Community in Samut Prakarn Province, stated of having been arrested by the police and brought to the IDC. One girl specifically told of being arrested four times (Multiple interviews conducted on September 15, 2010). In some circumstances, it was not clear whether or not all of the children were even deported back to Cambodia, as it seemed that some were simply released after being arrested. One adult (hereafter referred to as “SreyMom”) accompanying a Cambodian child beggar (hereafter referred to as “Sothea”) in Bangkok even stated of the Thai police approaching them, but not arresting them. Rather, the Thai police just asked where SreyMom and Sothea lived and whether Sothea had eaten anything. The Thai police then suggested for SreyMom to go buy something for Sothea to eat and then left (Interview with SreyMom on February 19, 2011). As such, the researcher took to ask every Cambodian child beggar on the streets of Bangkok whether they had ever bribed a local police officer so that they are not arrested, but none said they had (Multiple interviews conducted on February 19, 2011). However, due to the sensitivity of this question, the reliability of this data can be questioned. Nonetheless, it can be argued that the capriciousness of the Thai police and immigration officers to arrest or release the Cambodian child beggars convey their dilemma over whether to follow immigration laws or their own interpretation of child’s rights.

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จุฬาลงกรณ์มหาวิทยาลัย

- A child's right to not be separated from his or her parents against his or her will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child, such as in cases of neglect or abuse

Most of the Cambodian child beggars interviewed on the streets of Bangkok who were sent to the IDC were not separated from the parents when being detained. However, one four-year-old girl at Braemrithai Community in Samut Prakarn Province told of once being arrested and sent to the IDC by herself when she had been begging alone while her parents were at a distance. Another Cambodian child beggar at the Thailand-Cambodia border in Aryanaprathet, Sokhanya (mentioned in the previous section), additionally stated that she was never accompanied by her parents each of the ten times she was arrested and sent to the IDC; Sokhanya claimed that each of these times she was arrested, she had been begging alone while her parents were simply at home waiting for her to bring back the money she made from begging that day. As both of these children were alone during the time that they were arrested and sent to the IDC by the Thai police, this suggests that the Thai police generally send both the parent and the child to the IDC unless the child is begging alone at the time. Therefore, it was gathered from these interviews that Cambodian child beggars on the streets of Bangkok generally do not receive their right to be separated from their parents in the case of neglect or abuse, such as in situations of child trafficking for begging. As mentioned in Chapter 3, because Cambodian child beggars are being exploited by the accompanying adult, this would be considered an exceptional circumstance where the Cambodian child beggar has the right to be separated from the adult exploiting them.

- *Needs on the street*
- Food

Most Cambodian child beggars interviewed on the street state that they are not completely full when they eat, but they have enough to sustain themselves from day to day. The Cambodian child beggars interviewed state that they make about 400-1000 Baht per day and the money largely goes towards food and shelter. On average, it was stated that this money goes to raise a family of three or more (Multiple interviews conducted on February 19, 2011). Therefore, it is difficult to say that the Cambodian child beggars on the streets of Bangkok receive adequate food. However, other Cambodian child beggars under the extreme control of a ‘trafficker’ such as with the two Cambodian child beggars stated earlier are on the brink of starving. For example, the first words that Champei (mentioned earlier) said to the researcher before the accompanying adult approached were “I’m hungry” (Interview with Champei on February 19, 2011). In these cases of extreme trafficking, Cambodian child beggars almost receive no food because they do not have control over the money they make, and only receive food from the ‘trafficker’ whenever they provide it.

- Shelter

Most of the Cambodian child beggars interviewed on Bangkok streets said they stayed on Sukhumvit Street for 50 Baht per day. One out of the nine Cambodian child beggars interviewed on the Bangkok Street stated that they lived on the street (Multiple interviews conducted on February 19, 2011).

- Clothing

Most Cambodian child beggars interviewed on the streets of Bangkok stated of having one to two outfits (Multiple interviews conducted on February 19, 2011).

- Safe drinking water

Most Cambodian child beggars interviewed on the streets of Bangkok stated that the accompanying adult boiled tap water for drinking water. When they are out begging, however, they generally buy bottled water. This suggests that Cambodian child beggars usually have access to safe drinking water (Multiple interviews conducted on February 19, 2011).

- Sanitation

The Cambodian child beggars interviewed on the streets of Bangkok generally stated that they do not take showers often. The adults accompanying the child also mostly stated that when they have enough money they will buy soap or shampoo but if they do not have enough money they will not use soap on a daily basis (Multiple interviews conducted on February 19, 2011). This suggests that the level of sanitation is still inadequate for most Cambodian child beggars on the streets of Bangkok.

- Healthy and humane environment

As mentioned earlier, the Oxford Dictionary defines ‘healthy’ as in a good physical or mental condition, ‘humane’ as having or showing compassion or benevolence, and ‘environment’ as the surroundings or conditions in which a person operates. The Oxford Dictionary particularly states that the term ‘healthy’ can be used in a figurative manner to describe the family, for example, as being the foundation of any ‘healthy’ society.

Thus, in terms of the conditions and surroundings of the streets of Bangkok, most Cambodian child beggars interviewed stated that they have never been approached inappropriately by a passer-by and have never been treated inhumanely by a Thai police officer. Nonetheless, most of them stated of living in fear of being arrested because they are living illegally in Thailand (Multiple interviews conducted on February 19, 2011).

In terms of their physical health, most Cambodian child beggars interviewed stated of buying medicine from the local pharmacy when they are sick; none stated of entering to the hospital in Thailand to treat their illnesses (Multiple interviews conducted on February 19, 2011).

As a healthy and humane environment comprises of many factors, it is difficult to state that the majority of Cambodian child beggars live in a healthy and humane environment since begging on the street poses many risks and probably carries many mental implications for the Cambodian child beggar as they are constantly living in fear. It was gathered from the interviews, however, that Cambodian child beggars on the streets have not yet faced any extreme threats save for the exceptional circumstances where they are under extreme confinement and abuse by their own ‘trafficker.’

5.3.2 Life in the government shelter homes

The information presented in this section is from interviews with the staff at Baan Kredtrakarn, Baan Phumvet, and Baan Raitipung. Additionally, information is taken from Cambodian child beggars at Baan Phumvet, Baan Raitipung, and on the streets of Bangkok who have been sent to a government shelter home in the past. Some of the information was also obtained from an assessment sheet of the shelter homes done by Friends International, an NGO who serves as a translator for Baan Kredtrakarn, Baan Phumvet, and Baan Raitipung. Firstly, the rights and needs received by Cambodian child beggars at Baan Kredtrakarn and Baan Phumvet will be addressed in the order in which they are laid out in the human rights framework and needs framework of this research, respectively. Secondly, the rights and needs received by Cambodian child beggars at Baan Raitipung will be addressed.

- *Rights at Baan Kredtrakarn and Baan Phumvet*
- Freedom from forced or compulsory labor

Cambodian child beggars staying at Baan Kredtrakarn and Baan Phumvet are naturally free from forced labor as they are no longer begging in these shelter homes but are instead taking part in educational and training activities (See section on education and training activities).

- A child's right to be protected against all forms of physical or mental violence or exploitation while in the care of his or her parents

Cambodian child beggars staying at Baan Kredtrakarn and Baan Phumvet are usually separated from their parents when entering the shelter homes (See section on a child's right to non-separation from parents save for exceptional circumstances below). In rare cases where the parent accompanies the child to the shelter home, they are prohibited by the staff from abusing the children while at the shelter home (Suchada Kudwattana, Personal Communication, September 24, 2010; Ladda Benjatachah, Personal Communication, October 1, 2010). In terms of exploitation, children staying at these shelter homes are no longer under exploitation since they are no longer begging while staying there.

- A child's right to protection from child trafficking

Cambodian child beggars staying at Baan Kredtrakarn and Baan Phumvet are naturally free from child trafficking as they are no longer begging in these shelter homes but are instead taking part in educational and training activities (See section on education and training activities below).

- The right to privacy

As mentioned in Chapter 3, the UN Anti-Trafficking Protocol proposes that each State Party protects the privacy and identity of victims of trafficking, including, by making legal proceedings confidential (Article 6(1)). In accordance with the UN Anti-Trafficking Protocol, Thailand's Anti-Trafficking in Persons Act (2008) ensures that information concerning Cambodian child beggars identified as victims of trafficking are kept secret during legal proceedings (Section 36). While it is difficult for the researcher to assess the extent to which the privacy and identity of Cambodian child beggars

identified as victims of trafficking are protected during legal proceedings, since the researcher did not have access to situations where a Cambodian child beggar identified as a victim of trafficking had to testify as a witness in court, the researcher was able to assess the extent to which the identity and privacy of Cambodian child beggars identified as victims of trafficking were protected in general during their stay at Baan Kredtrakarn and Baan Phumvet. Therefore, the researcher leaves an assessment of the extent that legal proceedings involving Cambodian child beggars identified as victims of trafficking are kept confidential for further research.

At Baan Kredtrakarn, the researcher observed that the identity and privacy of Cambodian child beggars identified as victims of trafficking are strictly protected. When this research was being conducted, for example, the researcher was not allowed access to Cambodian child beggars identified as victims of trafficking at the shelter home. While the researcher was allowed to greet the children upon visiting the shelter home, the researcher was unable to interrogate a trafficked child even if the researcher gained his or her consent. Therefore, all information concerning the trafficked child was kept secret by Thai authorities at the shelter home; only general information concerning Cambodian child beggars and child trafficking were provided to the researcher but none that referred to a specific person or case.

At Baan Phumvet, the researcher observed that the identity and privacy of Cambodian child beggars staying at the shelter home is not as strictly protected as those at Baan Kredtrakarn. However, as the researcher was only allowed access to two Cambodian child beggars who were identified as vulnerable migrants at the shelter home, it may be the case that Cambodian child beggars identified as victims of trafficking are provided with stricter protection measures than those identified as vulnerable migrants. Nonetheless, this should not be the case since the social worker at the shelter home stated that she selected these two specific Cambodian child beggars because they spoke Thai

fluently, but not because the shelter home carried stricter privacy measures for children identified as victims of trafficking. Upon finishing the interview with these two children, the social worker asked the researcher whether more information was needed concerning the children, for example their full names or their photographs. The researcher stated that all information provided by these children was kept anonymous in this thesis so the full names or photographs of the children were not needed. This led the researcher to conclude that the identities of Cambodian child beggars staying at the shelter home are not as strictly protected as should be according to the child's rights, especially to outsiders such as the researcher.

- The child's right to have his or her views and concerns presented and considered at appropriate stages of criminal proceedings

Thailand's Anti-Trafficking in Persons Act (2008) does not ensure this right to Cambodian child beggars identified as victims of trafficking so the implementation of this right will not be addressed in this section.

- The right to appropriate housing

It was observed that Cambodian child beggars identified as victims of trafficking are provided with appropriate housing when the researcher visited both Baan Kredtrakarn and Baan Phumvet. At both shelter homes, a policy of non-discrimination is practiced in that the children's sleeping areas are not divided by race, but only by age. For example, babies may be separated from older children so that they are properly cared for (Suchada Kudwattana, Personal Communication, September 24, 2010).

- The right to counseling and information on the legal rights of the child in a language that he or her understands

An assessment sheet done by Friends International, an NGO that frequently provides translation services and/or conducts activities with Cambodian child beggars at Baan Kredtrakarn and Baan Phumvet, confirms that both Baan Kredtrakarn and Baan Phumvet have lawyers regularly present at the shelter homes. More specifically, lawyers from government organizations (GOs) and non-government organizations (NGOs) frequently visit Baan Kredtrakarn, and there is a permanent lawyer at Baan Phumvet (Friends International, 2010). Despite the regular presence of lawyers at both shelter homes, both Baan Kredtrakarn and Baan Phumvet do not have permanent translators and/or interpreters at the shelter home. At Baan Kredtrakarn, Friends International is the only organization that provides translation services to the shelter; otherwise, there is no permanent translator at the shelter home (Friends International, 2010). Additionally, Suchada Kudwattana, a social worker at Baan Phumvet, stated that a translator only comes into Baan Phumvet once or twice a week (Suchada Kudwattana, Personal Communication, September 24, 2010). The fact that there are no permanent translators and/or interpreters at neither Baan Kredtrakarn nor Baan Phumvet affected the stay of two five and ten-year-old Cambodian child beggars (hereafter referred to as “Thavary and Bopha”) who had once stayed at Baan Kredtrakarn but are now back begging on the streets of Bangkok. According to Bopha and Thavary, Baan Kredtrakarn did not feel “cozy” because there was “no staff to talk to [in their native language]”; they pointed that there was only one translator at the shelter at the time they stayed there (Interview with Thavary and Bopha on February 19, 2011).

- The right to medical, psychological and material assistance

Baan Kredtrakarn has a 24 hour clinic that provides basic medical and psychological assistance to Cambodian child beggars staying at the shelter (Baan Kredtrakarn, 2010). An assessment sheet done by Friends International additionally confirms that Baan Phumvet contains a health facility that provides Cambodian child beggars identified as victims of trafficking with basic medical and psychological assistance. Both shelter homes will send Cambodian child beggars identified to be treated at the hospital if it is found that they have chronic illnesses (Baan Kredtrakarn, 2010; Baan Phumvet, 2010). When the researcher interviewed Cambodian child beggars concerning their stay at Baan Kredtrakarn and Baan Phumvet, they were especially appreciative of these medical services (Multiple interviews conducted on February 19, 2011).

In terms of material assistance, both shelter homes provide Cambodian child beggars with three meals per day, clothes, bedding, and other personal necessities (Baan Kredtrakarn, 2010; Baan Phumvet, 2010).

- The right to education and training opportunities

Cambodian child beggars are provided with education and training opportunities at both Baan Kredtrakarn and Baan Phumvet. An assessment sheet done by Friends International confirms that the Pak Kred Municipality provides Cambodian child beggars with non-formal education at Baan Kredtrakarn and there is a Learning Center for Foreign Children at Baan Phumvet, where classes and activities are conducted in Cambodian (Baan Kredtrakarn, 2010; Baan Phumvet, 2010; Friends International, 2010).

In terms of training opportunities, Baan Kredtrakarn provides eight types of vocational training opportunities for Cambodian child beggars. These include: sowing, beauty styling, weaving, crafts, cooking, massage therapy, among others (Baan Kredtrakarn, 2010; Friends International, 2010). Additionally, training opportunities provided to Cambodian child beggars identified as victims of trafficking at Baan Phumvet include: barbering, drawing, batik, sandstone molding, pottery sculpturing, agriculture, and magic tricks (Baan Phumvet, 2010; Friends International, 2010).

Thavary, Bopha, and another 14-year Cambodian beggar (hereafter referred to as “Vichear”), who had once stayed at Baan Phumvet but is now back begging on Bangkok streets, expressed that the education and training opportunities at Baan Kredtrakarn and Baan Phumvet were what they enjoyed most while staying at these shelter homes (Interview with Thavary and Bopha on February 19, 2011; Interview with Vichear on February 19, 2011).

- The right to physical safety

Upon visiting Baan Kredtrakarn and Baan Raitipung, it was observed by the researcher that both places are closed shelter homes, meaning that Cambodian child beggars staying there are not allowed to leave the shelter home; the shelter homes are also very strict in having the children contact with individuals outside the shelter home (see next section on a child’s rights during detention). Thavary and Bopha stated that they felt very safe while staying at Baan Kredtrakarn, and Vichear similarly stated that he felt safe while staying at Baan Phumvet (Interview with Thavary and Bopha on February 19, 2011; Interview with Vichear on February 19, 2011).

- The right to safe and preferably voluntary repatriation

Both Baan Kredtrakarn and Baan Phumvet Vichear contact GOs and NGOs in the country of origin so that family tracing can take place. Once the Cambodian child beggars' family is traced in the country of origin, Baan Kredtrakarn and Baan Phumvet will appoint a time with the country of origin for the repatriation of the Cambodian child beggar. In cases where a Cambodian child beggars' family cannot be traced, the researcher found that Cambodian child beggars can continue to stay at their respective shelter homes. For example, the researcher found Cambodian child beggars who have stayed at both Baan Kredtrakarn and Baan Phumvet for a year or more because the family cannot be traced. In other cases, Baan Kredtrakarn and Baan Phumvet can coordinate with NGOs at the country of origin to receive the Cambodian child beggars whose families cannot be traced (Suchada Kudwattana, Personal Communication, September 24, 2010; Ladda Benjatchah, Personal Communication, October 1, 2010; Baan Kredtrakarn, 2010; Baan Phumvet, 2010).

Additionally, both Baan Kredtrakarn and Baan Phumvet provide a follow-up service to Cambodian child beggars who have been repatriated and reintegrated to their families. The follow-up service is generally divided into three timeframes: three months, six months, and twelve months so as to assure that the Cambodian child beggar is not going to be re-trafficked into Thailand (Suchada Kudwattana, Personal Communication, September 24, 2010; Ladda Benjatchah, Personal Communication, October 1, 2010; Baan Kredtrakarn, 2010; Baan Phumvet, 2010).

Box 5.1 Vichear after being repatriated from Baan Phumvet

Vichear told of being sent to Dam Nok Tuek shelter home in Cambodia after being repatriated back to Cambodia from Baan Phumvet; he stayed at Dam Nok Tuek for five to six months. When interviewed, he immediately told the researcher how happy he was staying at Dam Nok Tuek shelter home because he got to go to school. Despite being happy at the shelter home, he ran away from there because he is the oldest child and must provide for his mother who is sick and his two younger siblings who are seven and five years old, respectively. He is now back begging on Bangkok streets, and hopes to go back to Cambodia and re-enter Dam Nok Tuek shelter home once he saves 1000 Baht (Interview with Vichear on February 19, 2011).

- The right to due process of law and the right to be protected against arbitrary arrests or detentions and collective expulsions

Cambodian child beggars identified as victims of trafficking at Baan Kredtrakarn and Baan Phumvet are free from criminalization for illegal entry into Thailand. Before each child is repatriated back to Cambodia, the Immigration Office and embassy is contacted to prepare and provide travel documents for him or her (Baan Kredtrakarn, 2010).

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- A child's right to not be separated from his or her parents against his or her will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child, such as in cases of neglect or abuse

According to Ladda Benjatchah and Suchada Kudwattana, Cambodian child beggars are usually separated from their parents before being sent to Baan Kredtrakarn and Baan Phumvet. At times, the separation is not a result of State action, but is a result of “the mother running away from the child when arrested” (Ladda Benjatchah, Personal Communication, October 1, 2010). This may attest to situations where the child is trafficked into Thailand by a “fake mother.” Other times, however, the State separates the mother and child. For example, Suchada Kudwattana, a social worker at Baan Phumvet, makes the following point: “It is very rare for Cambodian child beggars staying at Baan Phumvet to be sent back to Cambodia with their parents. [This is because] the child is usually staying at Baan Phumvet, while the mother is at Baan Raitipung” (Suchada Kudwattana, Personal Communication, September 24, 2010). Based on these interviews with Thai officials, it is gathered that the Thai State generally protects a Cambodian child beggars’ right to be separated from his or her parents during cases of neglect or abuse, such as in situations of child trafficking for begging.

When interviewing Cambodian child beggars on the streets of Bangkok, however, cases were found where the child was not separated from the accompanying adult. This was the case for Thavary and Bopha, who were sent to stay at Baan Kredtrakarn with their mother as suspected victims of trafficking. After three months, however, they were not identified as victims of trafficking and were eventually deported back to Cambodia (Interview with Thavary and Bopha on February 19, 2011).

- The right of a child who is deprived of his or her liberty to humane treatment. For example, a child deprived of his or her liberty should be separated from adults unless it is considered in the child's best interest not to do so

As mentioned in the previous section, Cambodian child beggars identified as victims of trafficking are usually separated from their parents before being sent to Baan Kredtrakarn and Baan Phumvet. Therefore, Cambodian child beggars are usually separated from adults when staying at Baan Kredtrakarn and Baan Phumvet. In exceptional circumstances such as with Thavary and Bopha, however, they were not separated from their mother upon entering Baan Kredtrakarn because they were suspected victims of trafficking but not yet identified as such.

- A child deprived of his or her liberty has the right to maintain contact with his or her family through correspondence or visits, save in exceptional circumstances

As mentioned above, Baan Kredtrakarn strictly protects the privacy and identity of Cambodian child beggars identified as victims of trafficking. As such, Baan Kredtrakarn is extremely strict on parents and relatives contacting and/or visiting the children at the shelter home, even for Thai children. For foreign children, such as Cambodian child beggars, Baan Kredtrakarn completely prohibits parents or relatives from visiting the shelter home. Ladda Benjatchah, the director of Baan Kredtrakarn, stated that this is because the shelter would not be able to “verify who the person [foreign visitor] is” (Ladda Benjatchah, Personal Communication, October 1, 2010).

Interestingly, however, Baan Phumvet does not adhere to the same protection measures as Baan Kredtrakarn does when it comes to allowing Cambodian child beggars identified as victims of trafficking to maintain contact with their families through correspondence or visits. At Baan Phumvet, Cambodian child beggars are allowed to call home once a week, and are allowed to have their parents visit (Friends International,

2010). While Baan Phumvet does ensure Cambodian child beggars staying at the shelter the right to maintain contact with their family in accordance with the human rights framework, it also conveys the shelter's rather lax attitude towards protecting Cambodian child beggars' privacy and identity at the shelter home.

Box 5.2 Nhean and Phirum separated from parents and family at Baan Phumvet

Nhean and Phirum, who are six and ten years old respectively, are separated from their parents and family when staying at Baan Phumvet; this was their greatest need at the shelter home. For example, while Nhean expressed his appreciation for the services being provided at Baan Phumvet, such as the life skills and language lessons, sports activities, and the ability to have a community of peers, he was “ready to go home” (Interview with Nhean on September, 24, 2010; Interview with Phirum on September 24, 2010). Nhean was eager to go home after having been at the shelter for over a year because he was concerned about his younger brother's well-being (Interview with Nhean on September, 24, 2010). Additionally, Phirum, who had been staying at Baan Phumvet for less than a month stated of wanting to see his parents (Interview with Phirum on September 24, 2010).

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- The right of a child who is deprived of his or her liberty to be held for the shortest appropriate period of time

In theory, all Cambodian child beggars detained by Thai authorities in the shelter homes should be held for no more than two months according to the Memorandum of Understanding (MOU) between Thailand and Cambodia on Trafficking (Suchada Kudwattana, Personal Communication, September 24, 2010; Ladda Benjatachah, Personal Communication, October 1, 2010; Yapiloon Sohnglin, Personal Communication, September 30, 2010). However, the Director of Baan Kredtrakarn, Ladda Benjatachah, stated that Cambodian child beggars generally stay at Baan Kredtrakarn for about five months. For exceptional cases, Cambodian child beggars can stay for up to one year. Likewise, Suchada Kudwattana, a social worker at Baan Phumvet stated that Cambodian child beggars generally stay for up to one year at Baan Phumvet. The length of stay for Cambodian child beggars identified as victims of trafficking is dependent on whether the family can be traced at the country of origin and whether the Cambodian child beggar must undergo any legal proceedings in Thailand (Suchada Kudwattana, Personal Communication, September 24, 2010; Ladda Benjatachah, Personal Communication, October 1, 2010).

The length of time that the Cambodian child beggars interviewed stayed at Baan Kredtrakarn and Baan Phumvet varied. For example, Vichear stayed at Baan Phumvet for only 45 days before being referred to Dam Nok Tuek shelter home in Cambodia, and Phirum had only been staying at Baan Phumvet for a month or less at the time of interview. On the other hand, Bopha and Thavary stayed at Baan Kredtrakarn for three months and Nhean has been staying at Baan Phumvet for one year at the time of interview. Therefore, this suggests that the length of time Cambodian child beggars stay at Baan Kredtrakarn and Baan Phumvet vary and that the length of time they are taken

into custody is significantly longer than if they were simply deported back to Cambodia by the IDC (see section 5.3.3).

- *Needs at Baan Kredtrakarn and Baan Phumvet*
- Food

All of the Cambodian child beggars who had stayed at Baan Kredtrakarn or Baan Phumvet and were interviewed for this research stated of always being full after they ate at the shelter homes. All of them stated of receiving three meals a day (Multiple interviews conducted on February 19, 2011).

- Shelter

As stated earlier, all of the Cambodian child beggars staying at Baan Kredtrakarn and Baan Phumvet receive adequate shelter. When interviewed, Thavary and Bopha added that Baan Kredtrakarn was clean and that the Thai social workers were nice, but the beds were too “narrow and small” (Interview with Thavary and Bopha on February 19, 2011).

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- Clothing

As mentioned earlier, Baan Kredtrakarn and Baan Phumvet should provide clothing as a form of material assistance. However, Thavary and Bopha stated that they did not receive clothing when they were staying at Baan Kredtrakarn, but they are unsure whether Baan Kredtrakarn provides this type of assistance now. The researcher is unclear why Thavary and Bopha had not received clothing at Baan Kredtrakarn, however, Vichear did state that he received clothing at Baan Phumvet (Interview with Thavary and Bopha on February 19, 2011).

- Safe drinking water

Safe drinking water is provided at Baan Kredtrakan and Baan Phumvet (Suchada Kudwattana, Personal Communication, September 24, 2010; Ladda Benjatachah, Personal Communication, October 1, 2010).

- Sanitation

Thavary, Bopha, and Vichear all stated that the facilities were clean at Baan Kredtrakarn and Baan Phumvet, respectively (Interview with Thavary, Bopha, and Vichear on February 19, 2011). Baan Kredtrakarn and Baan Phumvet additionally have regular access to shower facilities and provide Cambodian child beggars with personal necessities for bathing (Baan Kredtrakarn, 2010; Baan Phumvet, 2010).

- Healthy and humane environment

Thavary, Bopha, and Vichear stated that Thai officials were nice and that they were never mistreated by the staff at Baan Kredtrakarn and Baan Phumvet, respectively (Interview with Thavary, Bopha, and Vichear on February 19, 2011). A common need of Cambodian child beggars at these shelter homes, however, were the need to speak to staff who spoke their native language, and to be with their parents and family; these needs generally make up what the children feel is their “home,” the lack of these needs may be reasons for why the children love the assistance provided by these shelter homes but still feel do not “cozy” (Interview with Thavary and Bopha on February 19, 2011; Interview with Vichear on February 19, 2011; Interview with Nhean and Phirum on September 29, 2010).

- ***Rights at Baan Raitipung***
- Freedom from forced or compulsory labor

Cambodian child beggars staying at Baan Raitipung are naturally free from forced labor as they are no longer begging while staying at the shelter home.

- A child’s right to be protected against all forms of physical or mental violence or exploitation while in the care of his or her parents

Cambodian child beggars staying at Baan Raitipung are free from all forms of physical or mental violence or exploitation from their parents since this shelter home prohibits parents and staff from abusing the child in any way (Yapiloon Sohnglin, Personal Communication, September 30, 2010). In terms of exploitation, Cambodian child beggars who had once been forced to beg by their parents are no longer under exploitation since they are no longer begging when staying at the shelter home.

- A child's right to protection from child trafficking

Cambodian child beggars staying at Baan Raitipung are naturally free from child trafficking as they are no longer begging while staying at the shelter home.

- The right to privacy

Under the Beggar Control Act (1941), Cambodian child beggars are not ensured their right to legal privacy during criminal proceedings because they are not ensured legal aid. As such, Baan Raitipung does not provide this protection to Cambodian child beggars staying at the shelter home. In terms of the researcher's own observations from visiting the shelter home, it was clear that Baan Raitipung is less strict on protecting the children's privacy and identity than the government shelter homes for trafficked persons, such as Baan Kredtrakarn and Baan Phumvet. For example, the researcher was simply able to interview the children staying at the shelter home with no supervision from a staff working at Baan Raitipung. This is contrary to when the researcher went to Baan Kredtrakarn and Baan Phumvet, where the staff prohibited the researcher from interviewing the children completely, and the staff had to be present while the researcher interviewed children at the shelter home, respectively.

- The child's right to have his or her views and concerns presented and considered at appropriate stages of criminal proceedings

This right was not ensured under Thailand's Beggar Control Act (1941) or under the Anti-Trafficking in Persons Act (2008), thus this right will not be addressed in this section.

- The right to appropriate housing

Baan Raitipung provides shelter for Cambodian child beggars staying at the shelter home. An assessment sheet done by Friends International confirms that in addition to bedrooms, other facilities include bathrooms, a gym, cafeteria, and nursing room (Friends International, 2010).

- The right to counseling and information on the legal rights of the child in a language that he or her understands

An assessment sheet done by Friends International confirms that Baan Raitipung does not have any lawyers present at the shelter home. In terms of translation services, however, Baan Raitipung only has one social worker who speaks Cambodian and who performs activities with the Cambodian children. Otherwise, Friends International comes in to provide further translation services and to perform further activities at the shelter home (Yapiloon Sohnglin, Personal Communication, September 30, 2010; Friends International, 2010).

- The right to medical, psychological and material assistance

Baan Raitipung provides basic medical care to Cambodian child beggars staying at the shelter home (Yapiloon Sohnglin, Personal Communication, September 30, 2010; Friends International, 2010).

- The right to education and training opportunities

Currently, there are neither training opportunities nor informal education for foreigners at Baan Raitipung. There are simply various recreational activities provided to Cambodian child beggars that are put on by social workers at the shelter home, or by NGOs (Yapiloon Sohnglin, Personal Communication, September 30, 2010; Friends International, 2010).

- The right to physical safety

Baan Raitipung is a closed shelter home, meaning that Cambodian child beggars staying at the shelter home are not allowed to leave the shelter home (Yapiloon Sohnglin, Personal Communication, September 30, 2010). As such, physical safety is ensured.

- The right to safe and preferably voluntary repatriation

As Baan Raitipung is only in charge of screening Cambodian child beggars for victims of trafficking, it does not ensure safe and preferably voluntary repatriation to all of the Cambodian child beggars staying at the shelter home. At Baan Raitipung, if a Cambodian child beggar is identified as victims of trafficking, they would be sent to Baan Kredtrakarn or Baan Phumvet and would be ensured safe and preferably voluntary repatriation. However, Cambodian child beggars identified as illegal migrants at Baan Raitipung would simply be sent to the IDC. Therefore, Cambodian child beggars in the latter category will not be ensured the right to safe and preferably voluntary repatriation.

- The right to due process of law and the right to be protected against arbitrary arrests or detentions and collective expulsions

As mentioned in the previous section, Cambodian child beggars staying at Baan Raitipung can be either screened as victims of trafficking or illegal migrants. Therefore, Cambodian child beggars staying at Baan Raitipung are protected against arbitrary arrests or detentions.

- A child's right to not be separated from his or her parents against his or her will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child, such as in cases of neglect or abuse

If a Cambodian child beggar enters into Baan Raitipung with an accompanying adult, they are generally not separated unless the accompanying adult is identified to be a 'trafficker' of the child (Yapiloon Sohnglin, Personal Communication, September 30, 2010). Upon visiting Baan Raitipung, the researcher also observed that the accompanying adult and the child will not be separated, especially if the accompanying adult is still breastfeeding the child.

- The right of a child who is deprived of his or her liberty to humane treatment. For example, a child deprived of his or her liberty should be separated from adults unless it is considered in the child's best interest not to do so

As had been mentioned in Chapter 4, Cambodian child beggars are not separated from adults when staying at Baan Raitipung. Yapiloon Sohnglin, a social worker at Bana Raitipung refers to this in stating: "Here at Baan Raitipung there are adults, children, the mentally ill [staying at one place]" (Yapiloon Sohnglin, Personal Communication, September 30, 2010).

- A child deprived of his or her liberty has the right to maintain contact with his or her family through correspondence or visits, save in exceptional circumstances

Cambodian child beggars staying at Baan Raitipung are not allowed to contact their family through correspondence (Friends International, 2010). Thus, even though Cambodian child beggars receive basic forms of assistance at Baan Raitipung, and are not separated from their parents when entering Baan Raitipung, they still desire to go home so that they can see their families. For example, a seven-year-old boy at Baan Raitipung (hereafter referred to as “Piseth”) was frustrated that he could not return home after having been at Baan Raitipung for three months because he was concerned about his grandmother’s well-being (Interview with Piseth on September, 29, 2010). On the other hand, Baan Raitipung does allow families to visit the child at the shelter home if the family member is a regular migrant. For instance, one Cambodian beggar interviewed on the street of Bangkok (hereafter referred to as “Reaksmey”) told of having a daughter (hereafter referred to as “Soriya”) who was once arrested and taken to Baan Raitipung by herself. Because Soriya’s father was a documented migrant, he was able to visit Soriya during the three months she stayed at Baan Raitipung (Interview with Reaksmey on February 19, 2011).

Box 3.3 Soriya at Baan Raitipung and after Baan Raitipung

Reaksmey expressed how much Soriya loved staying at Baan Raitipung because Soriya was able to live comfortably and she enjoyed all of the activities carried out by the NGOs and staff at Baan Raitipung. Later, Soriya was referred to Dam Nok Tuek shelter home in Cambodia and has been staying there for over a year now. Reaksmey expressed that she is considering taking Soriya out of Dam Nok Tuek to send her to school, but feels that Soriya already enjoys Dam Nok Tuek because she gets to go to school, dance, and perform other activities so she may just allow Soriya to stay there (Interview with Reaksmey on February 19, 2011).

- The right of a child who is deprived of his or her liberty to be held for the shortest appropriate period of time

In theory, all Cambodian child beggars detained by Thai authorities in the shelter homes should be held for no more than two months according to the Memorandum of Understanding (MOU) between Thailand and Cambodia on Trafficking (Suchada Kudwattana, Personal Communication, September 24, 2010; Ladda Benjatchah, Personal Communication, October 1, 2010; Yapiloon Sohnglin, Personal Communication, September 30, 2010). However, Yapiloon Sohnglin, a social worker at Baan Raitipung stated that Cambodian beggars staying at Baan Raitipung generally stay for around three months. This was the case for Piseth and Reaksmey who both stayed at Baan Raitipung for three months (Interview with Piseth on September, 29, 2010; Interview with Reaksmey on February 19, 2011).

- ***Needs Framework at Baan Raitipung***

Baan Raitipung ensures all Cambodian child beggars staying at the shelter homes with almost all of the needs in the needs framework of this research such as food, shelter, clothing, safe drinking water, and sanitation. Cambodian child beggars who had stayed at Baan Raitipung generally expressed an appreciation for these services (Interview with Piseth on September, 29, 2010; Interview with Reaksmey on February 19, 2011). The extent that Baan Raitipung provides a healthy and humane environment for the Cambodian child beggars staying there is limited, however, in that the children are detained with adults and the mentally ill. This is probably not the best conditions for a child to stay in. Additionally, the largest concern for children staying at Baan Raitipung is their families. Piseth, for example, was frustrated that he could not contact his grandmother. This desire to contact and see one's family is usually the driving factor for many Cambodian child beggars, including those interviewed at Baan Kredtrakarn and

Baan Phumvet, to favor Thai officials following a needs-based approach over a rights-based approach.

5.3.3 Life at the IDC

The information presented in this section were from interviews with Cambodian child beggars who had been sent to the IDC in the past, but are now back begging on the streets of Bangkok. Firstly, Cambodian child beggars' rights during deportation and detention at the IDC will be addressed in the order in which they are laid out in the human rights framework of this research. This first section will not address the other rights laid out in the human rights framework, such as the core child's rights principles, the rights to protection against situations of exploitation and physical and mental harm, and the right to assistance and protection entitled to Cambodian child beggars identified as victims of trafficking by the Thai State since Cambodian child beggars at the IDC are identified as 'illegal migrants' and are not only not ensured these rights in Thailand, but are also not detained long enough to be ensured these rights. As will be mentioned below, Cambodian child beggars taken into the IDC are only detained for at most a week until being deported back to Cambodia. The second part of this section will address the needs of Cambodian child beggars at the IDC in the order in which they are laid out in the needs framework of this research.

- *Rights at the IDC*
- The right to due process of law and the right to be protected against arbitrary arrests or detentions and collective expulsions

Cambodian child beggars identified as ‘illegal migrants’ and sent to the IDC are protected against arbitrary arrests and detentions only if they have been screened to determine if they are victims of trafficking or children in vulnerable circumstances. Most Cambodian child beggars interviewed for this research told of being arrested and sent to the IDC multiple times. For example, four out of the seven Cambodian child beggars interviewed at Braemrithai Community, who were between the ages of four to seven years old, stated of having been arrested by the police and brought to the IDC (Multiple interviews conducted on September 15, 2010). One girl specifically told of having being arrested four times. Another ten-year-old Cambodian child beggar in Aryanaprathet told of being arrested over 10 times (Multiple interviews conducted on September 27, 2010). Moreover, all of the Cambodian child beggars interviewed at Baan Phumvet and Baan Raitipung, told of being arrested and sent to the IDC at least once before having been arrested and sent to the government shelter home (Interview with Nhean and Phirum on September 29, 2010; Interview with Piseth on September 29, 2010). Furthermore, four out of nine Cambodian child beggars interviewed on the streets of Bangkok have been arrested and sent to the IDC at least once, including the aforementioned Champei, who was clearly under extreme trafficking conditions (see section 5.3.1 under the freedom from slavery or servitude section) (Multiple interviews conducted on February 19, 2011). Thus, it is questionable whether all of these Cambodian child beggars received due process of law by being appropriately screened and if they were considered on an individual basis and not subject to collective expulsion.

- A child's right to not be separated from his or her parents against his or her will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child, such as in cases of neglect or abuse

In terms of those interviewed for this research, none of the Cambodian child beggars who were accompanied by a parent when they were arrested to the IDC has told of being separated from their parents when detained. On the other hand, there were a few cases where Cambodian child beggars had been found to be arrested and sent to the IDC when begging without their parents, such as with one four-year-old girl who told of being arrested, detained for three days, and then released – in this case she implied that she was not deported back to Cambodia. Sokhanya, the ten-year-old girl mentioned in section 5.3.1, also told the researcher that she was arrested without her parents each of the ten times she was arrested and sent to the IDC. For cases where the child is accompanied with a parent, however, all stated that they were not separated from their parents when detained at the IDC (Multiple interviews conducted on September 15, 2010; Multiple interviews conducted on September 27, 2010; Multiple interviews conducted on February 19, 2011).

- The right of a child who is deprived of his or her liberty to humane treatment. For example, a child deprived of his or her liberty should be separated from adults unless it is considered in the child's best interest not to do so

Cambodian child beggars at the IDC are not separated from adults but only by gender when being detained. In fact, the majority of Cambodian child beggars who had been arrested and sent to the IDC told the researcher of being detained with hundreds of people in one detention cell (Anonymous, Personal Communication, March 29, 2011; Personal Communication, September 15, 2010; Personal Communication, September 27, 2010; Personal Communication, February 10, 2011).

- A child deprived of his or her liberty has the right to maintain contact with his or her family through correspondence or visits, save in exceptional circumstances

. As mentioned above, Cambodian child beggars staying at the IDC are not separated from their parents. As such, they are in regular contact with their parents during the few days that they are detained. In terms of contacting their families, Cambodian child beggars are only detained at the IDC for a maximum time of one week. So generally, Cambodian child beggars are not withheld from corresponding with or visiting their families since it is assumed that most are able to reunite with them once they are deported back to Cambodia.

- The right of a child who is deprived of his or her liberty to be held for the shortest appropriate period of time

The majority of Cambodian child beggars who had been arrested and sent to the IDC told of being there for at least two days and at most one week (Multiple interviews conducted on September 15, 2010; Multiple interviews conducted on September 27, 2010; Multiple interviews conducted on February 19, 2011). However, there were exceptional cases such as in the case of Sokhanya, the ten-year-old Cambodian child beggar in Aryanaprathet, who told of having once been detained at the IDC for one month (Interview with Sokhanya on September 27, 2010). Of course, the reliability of this data is questionable since Aryanaprathet is off the border of Cambodia so there is no reason for Sokhanya to be detained for one month, unless Thai officials intended to put in place a harsher penalty so that Sokhanya does not continue to re-migrate into Thailand illegally.

- Needs at the IDC

- Food

Cambodian child beggars staying at the IDC receive three meals per day, which consist of rice, one mild dish, another spicy dish, and an option for a vegetarian dish. Apart from these main meals provided by the IDC, other free food is provided by NGOs. There is also a snack shop and food cart available inside the IDC (Sathorn Winprakhon, Personal Communication, March 30, 2011; Anonymous, Personal Communication, March 30, 2011). Cambodian child beggars interviewed generally stated that they were full when staying at the IDC (Multiple interviews conducted on September 15, 2010).

- Shelter

Cambodian child beggars are detained in detention cells at the IDC so they receive shelter, but clearly not appropriate housing since one detention cell may contain hundreds of detainees (Anonymous, Personal Communication, March 29, 2011).

- Clothing

Generally, Cambodian child beggars detained at the IDC wear their current clothes, or any clothes they have with them. Sometimes, however, staff at the International Organization for Migration (IOM) daycare may provide a change of clothes for the children (Sathorn Winprakhon, Personal Communication, March 30, 2011).

- Safe drinking water

Within one detention cell, there is a water filter. Additionally, bottled water can be purchased at the IDC (Sathorn Winprakhon, Personal Communication, March 29, 2011). Therefore, Cambodian child beggars are provided with safe drinking water at the IDC.

- Sanitation

In terms of sanitation, Cambodian child beggars interviewed have complained that the detention cell reeks of urine because bathrooms are placed in the cell. Overall, Cambodian child beggars interviewed stated that the sanitation in the cell is quite horrible (Multiple interviews conducted on September 15, 2010). In terms of the sanitation for the children, there are showers available (Sathorn Winprakhon, Personal Communication, March 29, 2011); however, it is unclear how accessible this is to the children, especially since there are hundreds of people staying in one cell. Cambodian child beggars staying in the cell are also given toothpaste, a toothbrush, and soap – two persons share one toothbrush (Anonymous, Personal Communication, March 29, 2011). Overall, the sanitation for children staying in the cell is quite worrying.

- Healthy and humane environment

As the IDC is a detention cell, it cannot be argued that the Cambodian child beggars staying there are in a healthy and humane environment. The safest thing to say is that at least Cambodian child beggars identified as illegal migrants are only detained for at most a week and Cambodian child beggars are not separated from the accompanying adult. Not being separated from the accompanying adult may be more humane in that Cambodian child beggars can remain with their parent while being detained, if they are

accompanied by their parents. On the other hand, if the Cambodian child beggar is being accompanied by an adult who is severely abusing the child or is placing him or her in an extreme trafficking condition, this leaves the child in a severely unhealthy and inhumane condition that will only continue once the child is deported to Cambodia.

5.4 Conclusion

In terms of the situation of Cambodian child beggars on the streets, it can be seen from this chapter that the majority of them hardly receive any of their rights and hardly any of their needs are fulfilled to an adequate level. It can also be seen that the situation of Cambodian child beggars on the streets and that at the IDC is not much different – Cambodian child beggars in both situations hardly receive any of their rights and hardly have any of their needs fulfilled to an adequate level, save for receiving three adequate meals per day at the IDC.

On the other hand, Cambodian child beggars staying at the shelter homes receive almost all of their rights and have almost all of their needs fulfilled. Yet, Cambodian child beggars often want to leave the shelter homes so that they can see their families. It should be noted that most of the Cambodian child beggars interviewed told of wanting to see a family member who was not necessarily their own parent, such as their grandmother or brother and sisters. This simply goes to convey that children in difficult circumstances often carry the responsibility of taking care of the elderly or their younger siblings. Thus, the solution to solving the trafficking for begging problem must go beyond simply protecting the rights of Cambodian child beggars, to protecting the rights of their families as well. Otherwise, following the rights-based approach only addresses the structural causes at a surface level. Most Cambodian child beggars interviewed, for example, stated that they were very happy during their stay at the shelter homes initially. However, the longer they stay at the shelter homes, the more they expressed anguish because they are separated from their families. While it can be argued that long-term

solutions should be addressed at the country of origin, such as Cambodia, it can be seen from Vichear's case that although he loved staying at Dam Nok Tuek shelter home in Cambodia, he chose to escape because he had responsibility to take care of his sick parents and younger siblings. Another fact to accept is that the accompanying adult usually determines whether or not the child begs. Therefore, Cambodian child beggars who had once stayed at government shelter homes, such as, Thavary, Bopha, and Champei, are often back begging on Bangkok streets because the adults accompanying them decide to migrate to beg in Bangkok since the potential to earn income is more lucrative and/or because they have nothing left for them back in Cambodia.

From this chapter, it can be most simply stated that children just want to be children. Therefore, all of the Cambodian child beggars interviewed show a strong dislike of begging, and they want to go to school just like any other child. However, they face a reality where they must forgo certain needs, such as their need to see or provide for their families, in order to attain other rights or assistance from the State. Therefore, although it may be practical that Thai officials do not follow the rights-based approach for every Cambodian child beggar, it does not mean that following the needs-based approach fulfills all or any of the Cambodian child beggars' needs, save that of the family. Additionally, while it may be more practical that Thai officials only follow the rights-based approach for Cambodian child beggars under extreme trafficking conditions, this chapter conveys the lack of efficacy in the screening process since severe trafficking situations like that of Champei's pass through the system twice over without ever being effectively screened as a victim of trafficking.

CHAPTER VI

CONCLUSION

6.1 Introduction

This thesis sought to determine the extent that Thailand's Anti-Trafficking in Persons Act (2008) protects Cambodian child beggars' rights as outlined in international human rights conventions. This was first done by assessing the policy coherence between Thailand's Anti-Trafficking in Persons Act (2008) and other related policies such as the Beggar Control Act (1941), the Child Protection Act (2003), and the Immigration Act (1979); the policy coherence between these Acts evaluated whether there was confusion in the operationalization of the Anti-Trafficking in Persons Act (2008) among Thai officials. Secondly, the guidelines designed for the implementation of the Anti-Trafficking in Persons Act (2008) were assessed for their practicality. Lastly, Thai officials' attitudes towards Cambodian child beggars in Thailand were explored to determine whether they have resulted in following the 'rights-based approach' or the 'needs-based approach.'

In the conceptual framework of this research, the dependent variable is the treatment of Cambodian child beggars in Thailand by Thai officials and NGOs, whereas the independent variables are: the policy coherence between the Anti-Trafficking in Persons Act (2008) and related policies; the practicality of the guidelines following the Anti-Trafficking in Persons Act (2008); and the officials' attitudes towards following the rights-based approach or the needs-based approach when dealing with Cambodian child beggars in Thailand.

The human rights framework that is used to analyze the dependent variable of this research was derived from the CRC, ICRMW, and the UN Anti-Trafficking Protocol, which are the three international human rights conventions specifically relevant to Cambodian child beggars in Thailand. The human rights framework consists of overarching child's rights principles that pertain to Cambodian child beggars in Thailand and moves to rights that are more specific to those identified as victims of trafficking and those identified as illegal migrants.

As independent variables of this research, 'policy coherence' is defined as policies that complement and support each other in their objectives and ideas, and 'practical guidelines' refer to the guidelines Thai officials use during screening (May, Sapotichne, and Workman, 2006, p. 2). Additionally, the needs framework used for the analysis of this research is based on the definition of 'basic needs' by the Director-General of the International Labor Organization (ILO) in 1976, which include the following: food, shelter, clothing, safe drinking water, sanitation, and a healthy and humane environment.

The findings from this thesis reject the hypothesis of this research as it was found that Thailand's Anti-Trafficking in Persons Act (2008) does not sufficiently protect some Cambodian child beggars' rights when implemented. This was mainly because of the lack of policy coherence between the Anti-Trafficking in Persons Act (2008) and the Beggar Control Act (1941) and the Immigration Act (1979), the impracticality of the screening interview form used for the implementation of the Anti-Trafficking in Persons Act (2008), and the fact that Thai officials generally favored a 'needs-based approach' over a 'rights-based approach'.

While this research found some flaws in the implementation of the Anti-Trafficking in Persons Act (2008), it must be reminded that this Act is fairly new and that its enactment has nevertheless proved to be a large stepping stone towards combating child trafficking for begging in Thailand. Prior to the enactment of the Anti-Trafficking in Persons Act (2008), Thailand did not have a specific law to tackle human trafficking, but relied on several other related laws to combat this issue, such as the Anti-Prostitution Act, the Child Protection Act, the Immigration Act, and Measures in Prevention and Suppression of Trafficking in Women and Children. The recent enactment of the Anti-Trafficking in Persons Act (2008) has undoubtedly made combating human trafficking more efficient. Additionally, with the initiation of the revising of the Beggar Control Act (1941) in 2008, the Thai government has clearly shown that child trafficking for begging is a priority on its national agenda (The Government Public Relations Department, 2008).

This chapter will first draw conclusions from the findings and analysis of this research. Subsequently, some recommendations will be made concerning how to solve the issue of child migrant begging. Lastly, some suggestions for future research will be offered.

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6.2 Policy Coherence

According to the UN Anti-Trafficking Protocol, all Cambodian child beggars are victims of trafficking by definition. Thus, one of the main questions raised in Chapter 3 was whether Thailand's Anti-Trafficking in Persons Act (2008) entitles Cambodian child beggars their rights as victims of trafficking. The findings from this chapter conveyed that the Anti-Trafficking in Persons Act (2008) does ensure Cambodian child beggars almost all of their rights under the human rights framework of this research. Therefore, the Anti-Trafficking in Persons Act (2008) does protect the rights of Cambodian child beggars as outlined in human rights conventions to a large extent.

Additionally, the objectives of other Thai policies that pertain to Cambodian child beggars in Thailand were largely coherent with those of the Anti-Trafficking in Persons Act (2008), save for the Beggar Control Act (1941) and the Immigration Act (1979). Firstly, the Anti-Trafficking in Persons Act (2008) and the Child Protection Act (2003) shared the most policy coherence as both recognized child trafficking for begging. As such, the forms of protection and assistance ensured to Cambodian child beggars under both Acts were nearly identical. The Labor Protection Act (2008) was subsequently the most coherent with the Anti-Trafficking in Persons Act (2008) in that it prohibited child labor, and thus child begging. The Domestic Violence Victim Protection Act (2007) was also largely coherent with the Anti-Trafficking in Persons Act (2008) in that it protects Cambodian child beggars from forced begging and physical and mental harm within the confinement of the family. All of these Acts ensure that Cambodian child beggars receive some type of assistance by the Thai State. Additionally, if one right from the human rights framework of this research was not covered in one of these Acts, it would be subsequently covered by another. Therefore, all of the rights in the human rights framework of this research are ensured to all Cambodian child beggars under Thai policy when bringing together the Anti-Trafficking in Persons Act (2008), Child Protection Act

(2003), Labor Protection Act (2008), and the Domestic Violence Victim Protection Act (2007).

On the other hand, the Beggar Control Act (1941) and the Immigration Act (1979) show the least policy coherence with the Anti-Trafficking in Persons Act (2008) in that the former only recognizes voluntary begging and not child trafficking for begging, and the latter gives Thai officials the authority to apprehend and deport Cambodian child beggars for illegal entry into Thailand. As such, both of these Acts fail to ensure Cambodian child beggars the special measures of protection they are entitled to as victims of trafficking under the Anti-Trafficking in Persons Act (2008) and, therefore, the international human rights framework.

In Chapter 4, it was found that this lack of policy coherence between the Anti-Trafficking in Persons Act (2008) and other related Acts, particularly the Beggar Control Act (1941) and the Immigration Act (1979), and the lack of guidelines for the Child Protection Act (2003) cause confusion among Thai officials concerning which Act should be operationalized in practice. This is in part due to the fact that different government ministries and/or departments are in charge of implementing the respective Acts. For example, the BATWC under the MSDHS is in charge of implementing the Anti-Trafficking in Persons Act (2008), the DSDW under the MSDHS is in charge of implementing the Beggar Control Act (1941), and the Immigration Bureau is in charge of implementing the Immigration Act (1979). As such, the Act that Thai officials worked under generally determines whether or not the Anti-Trafficking in Persons Act (2008) is followed. The fact that Thai officials in charge of screening victims of trafficking at Baan Raitipung and the IDC work under the Beggar Control Act (1941) and the Immigration Act (1979), respectively, thus holds implications for the protection of Cambodian child beggars' rights in Thailand.

Subsequently, the lack of guidelines for the Child Protection Act (2003) cause the Child Protection Act (2003) and the Anti-Trafficking Persons Act (2008) to work against one another even when they show strong policy coherence. In Chapter 4 it was found that the lack of guidelines for the Child Protection Act (2003) causes Thai officials carry their own interpretations of child's rights, thus preventing the Child Protection Act (2003) from being fully implemented to protect all Cambodian child beggars in Thailand; Thai officials' own interpretations of child's rights affect the entire screening process from start to finish and thus affect whether or not the rights of Cambodian child beggars are protected in Thailand. For example, it was found from the interviews with the Thai police and immigration officers that an initial stage of decision making occurs when deciding whether or not to arrest and take the Cambodian child beggars into Thai custody. The Thai police and immigrations officers' interpretations of child's rights usually determine whether or not Cambodian child beggars are even entered into the screening process. For example, some of the local police officers and immigration officers interviewed were unsure whether to follow the Immigration Act (1979) and arrest Cambodian child beggars, or to not arrest them because of "child's rights." Of course, these interpretations of "child's rights" are a violation of both the Child Protection Act (2003) and the Anti-Trafficking in Persons Act (2008) which entitles all Cambodian child beggars to assistance and protection by the Thai State even if they are not identified as victims of trafficking as such, but as children in difficult circumstances or street children.

Additionally, Thai officials' interpretations of child's rights determine whether or not Cambodian child beggars are actually identified as victims of trafficking when screened at the IDC, Baan Raitipung, or the local police station. Most of the Thai officials in charge of screening Cambodian child beggars at the IDC, Baan Raitipung, or the local police station, for example, claim to disregard the Anti-Trafficking in Persons Act (2008) when a Cambodian child beggar is accompanied by his or her parent because a "child's rights" would be violated if he or she were to be separated from the parent because the parent was identified to be the 'trafficker' of the child. In theory, however, all Cambodian

child beggars are victims of trafficking even in circumstances where they are brought to beg by their parents.

As such, before Cambodian child beggars can be protected by the Anti-Trafficking in Persons Act (2008), Thai officials whose work is guided primarily by either the Beggar Control Act (1941) or the Immigration Act (1979), and not directly by the Anti-Trafficking in Persons Act (2008), must determine whether Cambodian child beggars actually enter into the anti-trafficking screening process and how they are subsequently identified after the screening is complete. The fact that Thai officials working under the BATWC at Baan Kredtrakarn and Baan Phumvet do not take part in these two stages of decision-making thus prevents the Anti-Trafficking in Persons Act (2008) from being fully implemented to protect the rights of all Cambodian child beggars in Thailand.

6.3 The Practicality of the Guidelines

The IDC and Baan Raitipung generally use the preliminary interview form to screen Cambodian child beggars to determine if they are victims of trafficking. Overall, this interview form was found to be impractical as the questions just repeat word-for-word the definition of trafficking in the Anti-Trafficking in Persons Act (2008). This is a concern because Thai officials are already confused concerning which Acts should be operationalized when dealing with Cambodian child beggars in Thailand. Therefore, the lack of policy coherence between the Anti-Trafficking in Persons Act (2008) and other Acts, particularly the Beggar Control Act (1941) and the Immigration Act (1979), in addition to the impracticality of the guidelines used to screen Cambodian child beggars as possible victims of trafficking only supports a subjective screening process where Thai officials at the IDC and Baan Raitipung determine whether or not Cambodian child

beggars are victims of trafficking by using their own observations and interpretations of what they consider to be trafficked or not trafficked.

Additionally, the interview form used for screening Cambodian child beggars to determine if they are victims of trafficking by the IDC and Baan Raitipung does not note the definitional difference between adult and child trafficking. Therefore, it was found that some of these Thai officials determined whether or not a Cambodian child beggar was a victim of trafficking by assessing whether he or she was ‘deceived’ into begging, even though the ‘means’ by which a Cambodian child beggar entered trafficking is not a criterion for determining whether a child is a victim of trafficking, but only whether he or she was received for the purpose of exploitation. As such, these impractical guidelines for the screening of Cambodian child beggars as possible victims of trafficking prevent the Anti-Trafficking in Persons act (2008) from being fully implemented to protect the rights of all Cambodian child beggars in Thailand.

6.4 The Rights-Based Approach and Needs-Based Approach

Chapter 5 discussed the benefits and drawbacks of following the rights-based approach and the needs-based approach according to Thai officials. Overall, it was found that the majority of Thai officials carry the opinion that Cambodian child beggars prefer Thai officials to follow a needs-based approach over a rights-based approach – meaning that, Cambodian child beggars prefer to be deported and just have Thai officials address the immediate causes of their problems, rather than stay at the government shelter homes for trafficked persons, such as Baan Kredtrakarn and Baan Phumvet, and have Thai officials address the structural causes of their problems. Additionally, it was assessed whether Cambodian child beggars actually prefer Thai officials to follow a rights-based approach or a needs-based approach by analyzing the circumstance of Cambodian child

beggars in Bangkok and Aryanaprathet in the three following situations: 1) living on the streets 2) living at the shelter homes and 3) detained at the IDC.

It was concluded from this chapter that children just want to be children. Therefore, all of the Cambodian child beggars interviewed show a strong dislike of begging, and they want to go to school, presumably in Cambodia, just like any other child. However, under their present circumstances as located in Thailand, they face a reality where they must forgo certain needs, such as their need to see or provide for their families, in order to attain other rights or assistance from the State. Therefore, although it may be for practical reasons that Thai officials do not follow the rights-based approach for every Cambodian child beggar and identify them as trafficked, it does not mean that following the needs-based approach fulfills all or any of the Cambodian child beggars' needs, save that of the need to be with their family. Additionally, while it may be more practical that Thai officials only follow the rights-based approach for Cambodian child beggars under extreme trafficking conditions, this chapter conveys the lack of efficacy in the screening process since some cases of severe trafficking situations were found to not be effectively screened as victims of trafficking despite having been through the screening process numerous times.

6.5 Recommendations

From this research, several recommendations can be made so that Cambodian child beggars' rights are better protected in Thailand and so that the issue of child migrant begging is more effectively dealt with in Thailand.

- ***Recommendations for Thai Legislation***

- 1) The penalty for child trafficking for begging in the 2008 draft Beggar Control Bill and the Anti-Trafficking in Persons Act (2008) should be consistent with one another. Additionally, if the 2008 Beggar Control Bill chooses to exempt parents from being labeled as ‘traffickers’ if there is no act of threat or forced involved, then this should also be explicitly stated in the Anti-Trafficking in Persons Act (2008) and the interview form used for screening victims of trafficking.
- 2) All Thai legislation related to the Anti-Trafficking in Persons Act (2008), particularly the Beggar Control Act (1941) and the Domestic Violence Victim Protection Act (2007), should provide measures that explicitly prohibit any individual from committing acts of trafficking. On a positive note, this is currently being recognized under the 2008 Beggar Control Act draft Bill.
- 3) Practical guidelines on how to implement the Child Protection Act (2003) with children who are not necessarily identified as victims of trafficking, but as children in difficult circumstances, should be designed. For the more effective implementation of the Child Protection Act (2003), the Thai government may consider having one ministry in charge of the implementation of the Child Protection Act (2003).

- ***Recommendations to Administrative Fragmentation***

- 1) The Majestic Group, an informal grouping of government and NGO representatives in charge of the revision of Thai law to incorporate the Convention on the Rights of the Child, should begin a systematic review of how to streamline the screening process.
- 2) With the support of the Majestic Group, a government MOU covering all relevant ministries should be created for child migrant beggars and child trafficking for begging.

- *Recommendations for the Implementation of the Anti-Trafficking in Persons Act (2008)*

- 1) Thai government support for multi-stakeholder capacity building programs, particularly for practitioners who are responsible for making initial contact with the Cambodian child beggar, such as the MSDHS officials and the local police officers, and for practitioners who are in charge of screening for victims of trafficking at the IDC, the local police station, and the government shelter homes. This is to ensure that all Cambodian child beggars receive preliminary protection when initial contact with government officials is made and that the rules and regulations for screening victims of trafficking are 'trickled down' to non-managerial staff.
- 2) Social workers from the trafficking shelter homes, such as Baan Kredtrakarn and Baan Phumvet, should also be regularly in charge of screening Cambodian child beggars for victims of trafficking.
- 3) More initiative should be taken by the Thai government to protect a Cambodian child beggars' right to be separated from adults while being detained at the IDC and Baan Raitipung. This can be done by having daycare centers available at these locations and by allowing Cambodian child beggars to have access to them around the clock.
- 4) The interview form used for screening victims of trafficking should include guidelines from the ministerial rules and regulations and should distinguish between child trafficking and adult trafficking. It should also outline the different policy sequence that should be taken by Thai officials depending on the situation of the child beggar. This is so that policies are systematically prioritized, but yet flexible to the child's circumstance.

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6.6 Suggestions for Further Research

It is recommended that further research be carried out on the following areas pertaining to child trafficking for begging:

- 1) The referral system at each stage of the formal process for Cambodian child beggars taken into Thai custody (see Figure 4.1)
- 2) The way by which senior officials in the various ministries integrate, draft, and implement legislation pertaining to foreign migrant beggars and how this can be tied to the work of the Majestic Group.
- 3) The truth behind the relationship that exists between Cambodian child beggars and the adult accompanying them
- 4) The effectiveness of legal proceedings against ‘traffickers’ in Thailand
- 5) The extent that Cambodian child beggars’ right to privacy is protected during legal proceedings
- 6) The extent that the various Thai departments and/or ministries dealing with child migrant beggars are aware of the Anti-Trafficking in Persons Act (2008)
- 7) The reasons why the Child Protection Act (2003) is not being fully implemented to protect child migrants’ rights in Thailand
- 8) The role of the Cambodian government in solving the Cambodian child beggar issue in Thailand

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REFERENCES

- Am, J.K., and Vemuri, S.R. What the Economic Crisis Means for Child Labour. Draft Working Paper Prepared for UNICEF Conference [Online]. 2008. Available from: http://www.unicef.org/eapro/Economic_Crisis_and_child_labourJK.pdf [2008, December]
- Archavanitkul, K. Combating the Trafficking in Children and their Exploitation in Prostitution and Other Intolerable Forms of Child Labour in Mekong Basin Countries [Online]. 1998. Available from: <http://www.seameo.org/vl/combat/frame.htm> [1998, June].
- Ashoff, G. Improving Coherence between Development Policies and Other Policies — The Case of Germany, Briefing Paper (1/2002). German Development Institute (GDI), 2002.
- Bay, C. A Human Rights Approach to Transnational Politics. Universal Human Rights (Jan-March 1979): 29-40.
- Bestushev-Lada, I. Human Needs: Analysis and Prognosis Paper, Presented at the Special Conference on Future Research. Rome, 1973. Available from:
- Boesen, J. and Martin, T. Applying a Rights-Based Approach: An Inspirational Guide for Civil Society. Copenhagen: The Danish Institute for Human Rights, 2007.
- Bradshaw, J. The Concept of Social Need. New Society. (30 March 1972): 640-643.
- Delap, E. Begging for Change – Research findings and recommendations on forced child begging in Albania/Greece, India and Senegal by Anti-Slavery International [Online]. 2009. Available from: http://www.childtrafficking.com/Docs/anti_slav_09_begging_change_1009.pdf [2009, n.d.]
- Derks, A., Henke, R., and Ly, V. Review of a Decade of Research on Trafficking in Persons, Cambodia. Center for Advanced Study, the Asia Foundation, 2006.
- Friedman, Y. About Implicit Limitations on Satisfiers. In K. Lederer (ed.). Human Needs: A Contribution to the Current Debate, pp. 151-162. Cambridge, MA: Oelgeschlager, Gunn & Hain, 1980. Cited in Whitehouse, C. Human Rights and Basic Needs in Development: Are they Universal? Are they Universalisable?. United Kingdom: Center for Development Studies, University of Bath, 1996.

- Friends International. The Nature and Scope of the Foreign Child Beggar Issue (especially as related to Cambodian Child Beggars) in Bangkok [Online]. 2006. Available from: <http://www.friends-international.org/resources/thailand/UNAIP-Report.pdf> [2006, n.d.]
- Fry, E. Khmer beggars testing ties and tolerance: The current uncertain situation between Thailand and Cambodia is having a knock-on effect on many of Bangkok's beggars. Bangkok Post [Online]. 2010. Available from: <http://www.bangkokpost.com/news/investigation/32900/khmer-beggars-testing-ties-and-tolerance> [2010, February].
- Glaeser, B. Labor and Leisure in Conflict? Needs in Developing and Industrialised societies. In K. Lederer (ed.). Human Needs: A Contribution to the Current Debate. Cambridge, MA: Oelgeschlager, Gunn & Hain, 1980. Cited in Whitehouse, C. Human Rights and Basic Needs in Development: Are they Universal? Are they Universalisable?. United Kingdom: Center for Development Studies, University of Bath, 1996.
- Glatung, J. The Basic Needs Approach. In K. Lederer (ed.). Human Needs: A Contribution to the Current Debate. Cambridge, MA: Oelgeschlager, Gunn & Hain, 1980. Cited in Whitehouse, C. Human Rights and Basic Needs in Development: Are they Universal? Are they Universalisable?. United Kingdom: Center for Development Studies, University of Bath, 1996.
- IOM. Pursuing Policy Coherence in Migration and Development Policy Agendas. Workshop Discussion Paper, IOM Workshop on Migration and Development, Geneva, 2-3 February 2005.
- Kredtrakarn Protection and Occupational Development Centre. Kredtrakarn Protection and Occupational Development Centre, Bangkok: Ministry of Social Development and Human Security, 2010. (Typewritten)
- Nudler, O. "Human Needs: A Sophisticated Holistic Approach." In K. Lederer (ed.). Human Needs: A Contribution to the Current Debate. Cambridge, MA: Oelgeschlager, Gunn & Hain, 1980. Cited in Whitehouse, C. Human Rights and Basic Needs in Development: Are they Universal? Are they Universalisable?. United Kingdom: Center for Development Studies, University of Bath, 1996.

- Mallmann, C. and Marcus, S. (1980). "Logical Clarification in the Study of Needs." In K. Lederer (ed.). Human Needs: A Contribution to the Current Debate. Cambridge, MA: Oelgeschlager, Gunn & Hain, 1980. Cited in Whitehouse, C. Human Rights and Basic Needs in Development: Are they Universal? Are they Universalisable?. United Kingdom: Center for Development Studies, University of Bath, 1996.
- Maslow, A. Toward a Psychology of Being. Princeton: Van Nostrand, 1960.
- May, P.J., Sapotichne, J., and Workman, S. Policy Coherence and Policy Domains. The Policy Studies Journal 34 (3), 2006.
- Mirror Foundation. Child Beggar Business - Investigating Children in the Beggar Business. International Labour Organization, 2005.
- Ngamkham, W., and Marukatat, S. Taming the beggars' brigade: Hundreds of foreigners beg on Bangkok streets. Bangkok Post [Online]. 2010. Available from <http://www.bangkokpost.com/news/crimes/31185/taming-the-beggars-brigade> [2010, January].
- Olivie, A. Identifying Cambodian Victims of Human Trafficking Among Deportees from Thailand. Bangkok: UNIAP, 2008.
- Oxford Dictionary. 2011. Available from: www.oxforddictionaries.com [2011, March]
- Pak Kred Reception Home for Boys Baan Poomvet. Pak Kred Reception Home for Boys Baan Poomvet. Bangkok: Ministry of Social Development and Human Security, 2010. (Typewritten)
- Roy, R. "Human Needs and Freedom: Liberal, Marxist and Gandhian Perspectives." In K. Lederer (ed.). Human Needs: A Contribution to the Current Debate. Cambridge, MA: Oelgeschlager, Gunn & Hain, 1980. Cited in Whitehouse, C. Human Rights and Basic Needs in Development: Are they Universal? Are they Universalisable?. United Kingdom: Center for Development Studies, University of Bath, 1996.
- TECL. Note on the definition of 'Child Trafficking'. Pretoria: International Labour Organization [Online]. 2007. Available from: http://www.unicef.org/southafrica/SAF_pressrelease_notetrafficking.pdf [2007, March]
- The Anti-Trafficking in Persons Act, Thailand [Online]. 2008. Available from: [http://www.baliprocess.net/files/Thailand/1.%20trafficking_in_persons_act_b.e%202551%20\(eng.\).pdf](http://www.baliprocess.net/files/Thailand/1.%20trafficking_in_persons_act_b.e%202551%20(eng.).pdf) [2008, January]

- The Beggar Control Act, Thailand [Online]. 1941. Available from: <http://www.m-society.go.th/lawdatabase.php> [1941, October]
- The Beggar Control Act Draft, Thailand [Online]. 2008. Available from: <http://www.m-society.go.th/lawdatabase.php> [2008, n.d.]
- The Child Protection Act, Thailand [Online]. 2003. Available from: <http://www.m-society.go.th/lawdatabase.php> [2008, September]
- The Domestic Violence Victim Protection Act, Thailand [Online]. 2007. Available from: <http://www.m-society.go.th/lawdatabase.php> [2007, July]
- The Government Public Relations Department, Thailand. Thailand's First Anti-Trafficking in Persons Act Has Come Into Force [Online]. 2008. Available from: http://thailand.prd.go.th/view_inside.php?id=3495 [2008, October]
- The Immigration Act, Thailand [Online]. 1979. Available from: www.immigration.go.th/nov2004/en/doc/Immigration_Act.pdf [1979, February]
- The Labor Protection Act, Thailand [Online]. 2008. Available from: www.labour.go.th [2008, February]
- Third World Network Features. A New Kind of Trafficking: Child Beggars in Asia. World of Work 26, 1998.
- United Nations. Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime [Online]. 2000. Available from: http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf.
- UNIAP. SIREN Human Trafficking Data Sheet: Cambodia [Online]. 2008. Available from: http://www.no-trafficking.org/reports_docs/cambodia/datasheet_cambodia_march08.pdf [2008, March]
- UNIAP. SIREN Human Trafficking Data Sheet: Thailand [Online]. 2008. Available from: http://www.childtrafficking.com/Docs/siren_thailand_data_sheet_oct_08_0109.pdf [2008, October]
- United Nations. Convention on the Rights of the Child (CRC) [Online]. 1990. Available from: www.unicef.org/crc/ [1990, September]

- United Nations. International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW) [Online]. 1990. Retrieved from: www.interculturaldialogue.eu/web/files/32/en/UICRMW-T.pdf [1990, December]
- U.S. Department of State. Trafficking in Persons Report, 10th edition [Online]. 2010. Available from: www.state.gov/g/tip/rls/tiprpt/2010/ [2010, June].
- Van de Glind, H. and Coenjaerts, C. Combating Trafficking in Children for Labour Exploitation in the Mekong Sub-region: A Proposed Framework for ILO- IPEC Action and Proceedings of a Mekong Sub-regional Consultation. Bangkok: ILO-IPEC South-east Asia, 1998.
- Whitehouse, C. Human Rights and Basic Needs in Development: Are they Universal? Are they Universalisable?. United Kingdom: Center for Development Studies, University of Bath, 1996.
- Wrong Spirit in Beggar Bill. The Bangkok Post [Online]. 2009. Available from: <http://www.bangkokpost.com/opinion/opinion/29946/wrong-spirit-in-beggar-bill> [2009, December]



ศูนย์วิจัยทรัพยากร
จุฬาลงกรณ์มหาวิทยาลัย



APPENDICES

ศูนย์วิจัยทรัพยากร
จุฬาลงกรณ์มหาวิทยาลัย

APPENDIX A

INTERVIEW QUESTIONS FOR CAMBODIAN CHILD BEGGARS

1) Neutral Questions

- Age of Child:
- Where are you originally from?
- Are you comfortable with speaking Thai?
- How many years of schooling have you had?
- Did you come to Thailand with your parents? Are they here with you now?
- Do you travel to Thailand often? How many times have you traveled to Thailand and how long do you stay in Thailand each time?
- Do you also do other types of work?

2) Description of Begging Situation

- Would you mind describing me your typical day? (ask probing questions where necessary)
 - o What time of the day do you begin begging (morning, noon, night)?
 - o What time of the day do you end begging?
 - o About how many hours do you beg per day?
- Who do you beg with (i.e. alone, with friends, with parents, with relative, with non-relative)?
- Is the person you beg with blood-related?
- Who decided that you begin begging?
- How much money do you make per day?
- How much money do you get to keep per day?
- Who do you give the rest of the money to?
- Does that person ever hit you or get angry when you do not earn enough money?
- Do you want to beg?
- Do you like begging?
- How happy are you about begging right now?

- 3) Are these needs being met in your **current situation**? (Mark Y or N)
- Adequate food
 - How many meals a day do you eat?
 - What kinds of food do you usually eat per meal?
 - Does each meal make you full?

 - Shelter
 - Where do you sleep?
 - Is where you sleep crowded or spacious?
 - How clean is the space where you sleep (i.e. in regards to insects)?

 - Clothing
 - How many pieces of clothing (shirts, pants, underwear) do you own?
 - How often are your clothes washed?
 - Do these clothes keep you warm?

 - Safe drinking water
 - Where do you generally get access to drinking water?
 - i.e. Do you generally drink out of bottled water or tapped water?)
 - i.e. If you usually drink from tapped water, is the water boiled beforehand?

 - Sanitation
 - How often do you take a shower (wash your face and body with soap and wash your hair with shampoo)?
 - How often do you wash your hands before meals per day?

 - Healthy and humane environment
 - What does a good and bad day look like when you are out begging?
 - Are you frequently approached by a Thai police officer? What usually happens?
 - Have you ever given money to a Thai police officer to not be arrested?
 - Do you think that you are treated properly when a Thai police officer approaches you?

- Do you feel that you have ever been mistreated by passers-byers?
- Has anybody ever hit you hard or touched you where you do not want them to?
- The last time you were sick, how did you cure your sickness? (went to the doctors, herbal medicine, didn't do anything)
- Do you feel that you have to have time to rest or play often?
- Can you prioritize which of these are the most important for you in your current situation?

4) Government Shelter Homes

- Have you ever received services from the Thai government shelter homes (i.e. Baan Kredatakarn, Baan Raitipung, Baan Phumvet)?
- If yes, how many times have you been there and how long did you stay there each time?
- What kind of services was provided?
- Did these services meet the following needs?
 - Adequate food
 - How many meals a day did you eat?
 - What kinds of food did you usually eat per meal?
 - Did each meal make you full?
 - Shelter
 - Where did you sleep?
 - Is where you slept crowded or spacious?
 - How clean is the space where you slept (i.e. in regards to insects)?
 - Clothing
 - How many pieces of clothing (shirts, pants, underwear) did they give you?
 - How often were your clothes washed?
 - Did these clothes keep you warm?

- Safe drinking water
 - o Where did you generally get access to drinking water?
 - i.e. Did you generally drink out of bottled water or tapped water?)
 - i.e. If you usually drunk from tapped water, was the water boiled beforehand?

- Sanitation
 - o How often did you take a shower (wash your face and body with soap and wash your hair with shampoo)?
 - o How often did you wash your hands before meals per day?

- Healthy and humane environment
 - o Did you feel that you were treated properly by Thai authorities at the shelter home?
 - o Did you like staying in the shelter home more than outside of the shelter home? Why?
 - o Did you feel that any needs were not met during your stay at the shelter home?

- Can you prioritize which needs were the most important for you at that time?

- Did you feel that your identity and information you provided to Thai authorities was kept private and confidential?

- Were you separated from your parents upon entering the shelter home? If yes, did you want to be separated from your parents?

- Were you with your biological parents at the shelter home? If not, were you able to contact your parents? Were they able to come visit you? Were you able to be given information about how your parents were?

- Did you feel that you were able to freely express your view on decisions that affected your life? For example, did you feel you were able to freely express whether you wanted to return home quickly, be reunited with your family, seek legal assistance, etc.? Were your concerns taken into consideration by Thai authorities?
- Did you receive counseling (advice) and information on your legal rights in a language that you understood?
- Were you provided with medical and psychological assistance?
- Were you provided with educational and/or training opportunities?
- Did you feel physically safe?
- Did you feel that you were safely returned to Cambodia?
- Did you want to return to Cambodia?

5) Children's experience with official procedures:

- Have you ever been detained by Thai authorities?
- How many times have you been detained?
- For how long have you been detained?
- Were you detained with your biological parent or alone?
- If alone, were you able to contact your parents? Were they able to come visit you? Were you able to be given information about how your parents were?
- Were you ever provided with legal assistance during your detention?
- For your most recent detention, were you released or deported?
- Do you feel that you were treated properly while in the detention center?
- In the detention center, did you stay in a room with adults or did you stay separate from the adults? Did you want to stay separate from the adults?

6) During your stay in the detention center were the following needs met? (Mark Y or N)

- Adequate food
 - How many meals a day did you eat?
 - What kinds of food did you usually eat per meal?
 - Did each meal make you full?

- Shelter
 - Where did you sleep?
 - Is where you slept crowded or spacious?
 - How clean is the space where you slept (i.e. in regards to insects)?

- Clothing
 - How many pieces of clothing (shirts, pants, underwear) did they give you?
 - How often were your clothes washed?
 - Did these clothes keep you warm?

- Safe drinking water
 - Where did you generally get access to drinking water?
 - i.e. Did you generally drink out of bottled water or tapped water?)
 - i.e. If you usually drunk from tapped water, was the water boiled beforehand?

- Sanitation
 - How often did you take a shower (wash your face and body with soap and wash your hair with shampoo)?
 - How often did you wash your hands before meals per day?

- Healthy and humane environment
 - o Did you feel that you were treated properly by Thai authorities at the shelter home?
 - o Has anybody ever hit you hard or touched you where you do not want them to while you were at the detention center?
 - o When you were sick, how did you treat yourself?
 - o Did you feel that any needs were not met during your stay at the detention center?
- Can you prioritize which needs were the most important for you at that time?

7) Concluding questions

- What other services/help do you think child migrant beggars need?
- What can be done to make life better for children who beg?
- What can be done to stop child begging?
- What do you see yourself doing in the future?



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-Thai Translation-

หัวข้อที่ใช้ในการสัมภาษณ์ ขอทานเด็กกำพร้า

- 1) คำถามทั่วไป:
 - อายุของเด็ก :
 - บ้านเกิดของเธออยู่ที่ประเทศและจังหวัดอะไร:
 - เธอรู้สึกสบายใจไหมถ้าเราคุยกันเป็นภาษาไทย:
 - เธอได้รับการศึกษากี่ปี:
 - เธอเข้ามาในประเทศไทยกับพ่อแม่หรือไม่ ตอนนี้พ่อแม่ของเธออยู่กับเธอหรือไม่:
 - เธอเข้ามาในประเทศไทยกี่ครั้งแล้ว แต่ครั้งเธออยู่ประมาณกี่วัน
 - เธอทำงานอย่างอื่นด้วยหรือไม่

- 2) คำถามเกี่ยวกับการขอทาน:
 - ในวันหนึ่งเธอทำอะไรบ้าง
 - เธอเริ่มขอทานประมาณกี่โมง (เช้า กลางวัน เย็น)
 - เธอเลิกขอทานประมาณกี่โมง (เช้า กลางวัน เย็น)
 - เธอขอทานประมาณวันละกี่ชั่วโมง
 - เธอขอทานกับใครบ้าง (เช่น ขอทานคนเดียว กับเพื่อน กับพ่อหรือแม่)
 - คนที่เธอขอทานกับมีความสัมพันธ์กับเธออย่างไร
 - ใครเป็นคนตัดสินใจให้เธอเริ่มขอทาน
 - เธอได้เงินจากการขอทานประมาณเท่าไรต่อวัน
 - จากเงินที่ได้ทา เธอได้เก็บไว้ใช้เองประมาณเท่าไร
 - เธอได้อาเงินที่เหลือไปให้ใคร
 - คนคนนั้นเคยตีเธอหรือโมโหใส่เธอไหมเวลาเธอขอเงินได้น้อย
 - เธออยากจะทำอะไรไหม
 - เธอชอบขอทานไหม
 - เธอมีความสุขมากเพียงใดกับการขอทานตอนนี้

3) เธอได้รับสิ่งต่อไปนี้ตามที่เธอต้องการอย่างเพียงพอหรือไม่ในขณะนี้:

- อาหารพอเพียง
 - เธอกินอาหารวันละกี่มื้อ
 - เธอกินอาหารประเภทใดในแต่ละมื้อ
 - เธอรู้สึกอิ่มหรือไม่หลังจากที่เธอกินแต่ละมื้อ

- ที่พัก
 - เธอหลับนอนที่ไหน
 - สถานที่ที่เธอนอนมันกว้างหรือมันแคบ
 - สถานที่ที่เธอนอนมันสะอาดขนาดไหน (เช่น มีแมลง หนู เยอะไหม)

- เสื้อผ้า
 - เธอมีเสื้อผ้ากี่ชุด (เสื้อ กางเกง กางเกงใน)
 - เสื้อผ้าของเธอถูกซักบ่อยไหม
 - เสื้อผ้าของเธอช่วยป้องกันความหนาวเย็นไหม

- น้ำสะอาด
 - เธอส่วนใหญ่ดื่มน้ำเปล่าจากไหน
 - เช่นเธอส่วนใหญ่ดื่มน้ำเปล่าจกขวดน้ำหรือจากน้ำประปา
 - ถ้าเธอดื่มน้ำประปา น้ำประปานั้นได้ถูกเดือดก่อนไหม

- สุขอนามัย
 - เธออาบน้ำบ่อยไหม (ล้างหน้าและตัวกับสบู่ และสระผมกับแชมพู)
 - เธอล้างมือกับสบู่ก่อนกินข้าวบ่อยไหม

- สิ่งแวดล้อมที่ดีต่อสุขภาพและมีมนุษยธรรม
 - วันที่เธอขอทาน วันที่ดีและวันที่ไม่ดีเป็นอย่างไร
 - ช่วงที่เธอขอทานตำรวจไทยได้เข้ามาคุยกับเธอบ่อยไหม อะไรมักจะเกิดขึ้นที่ตอนที่ตำรวจไทยเข้ามาหาเธอ
 - เธอเคยให้ตำรวจไทยเงินไหม
 - เธอคิดว่าตำรวจไทยปฏิบัติต่อเธออย่างเหมาะสมไหม
 - เธอเคยรู้สึกว่ามีคนเดินผ่านเธอปฏิบัติต่อเธออย่างไม่เหมาะสมไหม
 - เคยมีใครตีเธออย่างรุนแรงหรือเคยจับเธอตรงส่วนใดของร่างกายของเธอ เธอไม่อยากจะจับไหม
 - ครั้งสุดท้ายที่เธอเป็นไข้เธอรักษาไข้หวัดนั้นอย่างไร (ไปหาหมอ รักษาด้วยสมุนไพร ไม่ได้ทำอะไร)
 - เธอรู้สึกว่าเธอมีเวลาที่จะเล่นและพักผ่อนอย่างเพียงพอหรือไม่
 - ช่วยเรียงลำดับความต้องการจากที่พุดมาจากมากไปน้อย
- 4) สถานสงเคราะห์ของไทย
- เธอเคยเข้าไปอยู่ในสถานสงเคราะห์ของไทยหรือไม่ เช่น บ้านเกร็ดตระการ, บ้านไร่ที่ผึ้ง, บ้านภูมิเวช
 - ถ้าเคย เธอเคยเข้าไปอยู่ที่ครั้ง และแต่ละครั้งเธอเข้าไปอยู่นานเท่าไร
 - เธอได้รับบริการอะไรบ้างที่นั่น
 - เธอได้รับสิ่งต่อไปนี้ตามที่เธอต้องการอย่างเพียงพอหรือไม่ช่วงเวลาที่เธออยู่ในสถานสงเคราะห์:
 - อาหารพอเพียง
 - เธอกินอาหารวันละกี่มื้อ
 - เธอกินอาหารประเภทใดในแต่ละมื้อ
 - เธอรู้สึกอิ่มหรือไม่หลังจากที่เธอกินแต่ละมื้อ

- ที่พัก
 - เธอหลับนอนที่ไหน
 - สถานที่ที่เธอนอนมันกว้างหรือมันแคบ
 - สถานที่ที่เธอนอนมันสะอาดขนาดไหน (เช่น มีแมลง หนู เยอะไหม)
 - เสื้อผ้า
 - เธอได้เสื้อผ้านี่ชุด (เสื้อ กางเกง กางเกงใน)
 - เสื้อผ้าของเธอถูกซักบ่อยไหม
 - เสื้อผ้าของเธอช่วยป้องกันความหนาวเย็นไหม
 - น้ำสะอาด
 - เธอส่วนใหญ่ดื่มมาเปล่าจากไหน
 - เช่นเธอส่วนใหญ่ดื่มมาเปล่าจกขวดน้ำหรือจากน้ำประปา
 - ถ้าเธอค้มน้ำประปา น้ำประปานั้น ได้ถูกเดือดก่อนไหม
 - สุขอนามัย
 - เธออาบน้ำบ่อยไหม (ล้างหน้าและตัวกับสบู่ และสระผมกับแชมพู)
 - เธอล้างมือกับสบู่ก่อนกินข้าวบ่อยไหม
- สิ่งแวดล้อมที่ดีต่อสุขภาพและมีมนุษยธรรม
- เธอคิดว่าเจ้าหน้าที่ที่สถานสงเคราะห์ปฏิบัติต่อเธออย่างเหมาะสมไหม
 - เธอชอบอยู่ในสถานสงเคราะห์หรือข้างนอกสถานสงเคราะห์มากกว่ากัน
 - มีความต้องการอื่นหรือไม่ที่เธอรู้สึกว่าจะไม่ได้รับช่วงเวลาที่เธออยู่ในสถานสงเคราะห์
- ช่วยเรียงลำดับความต้องการจากที่พุดมาจากมากไปน้อย
- เธอรู้สึกว่าคุณของเธอและข้อมูลที่คุณให้แก่เจ้าหน้าที่ไทยได้ถือเป็นการเป็นความลับและจะถูกปกปิดอย่างเหมาะสมไหม

- เธอและพ่อแม่ของเธอ ได้ถูกแยกออกจากกันหรือไม่ตอนที่เธอถูกเข้าไปอยู่ในสถานสงเคราะห์ ถ้าเธอถูกแยกออกจากพ่อแม่ของเธอ เธออยากที่จะถูกแยกออกจะพ่อแม่ของเธอหรือไม่
 - เธออยู่กับพ่อแม่ของเธอในสถานสงเคราะห์หรือไม่ ถ้าเธอไม่ได้อยู่กับพ่อแม่ของเธอ เธอสามารถติดต่อกับพ่อแม่เธอตอนอยู่ในสถานสงเคราะห์หรือไม่ พ่อแม่ของเธอสามารถที่จะมาเยี่ยมเธอหรือไม่ เธอสามารถที่จะรับข้อมูลเกี่ยวกับพ่อแม่ของเธอหรือไม่
 - เธอรู้สึกว่าจะเธอสามารถที่จะออกความคิดเห็นเกี่ยวกับสิ่งที่ควรเกิดขึ้นกับชีวิตเธอหรือไม่ เช่น เธอรู้สึกว่าจะเธอสามารถที่จะออกความคิดเห็นเกี่ยวกับการที่จะได้ได้กลับบ้านอย่างรวดเร็ว ได้กลับไปอยู่กับพ่อแม่ ได้รับความช่วยเหลือทางด้านกฎหมาย เจ้าหน้าที่ไทยได้ออกความคิดเห็นของเธอไปปฏิบัติหรือไม่
 - เจ้าหน้าที่ไทยได้ให้คำปรึกษาหารือและได้ให้ข้อมูลเกี่ยวกับสิทธิของเธอในภาษากัมพูชาหรือไม่
 - เธอได้รับการรักษาพยาบาลและการช่วยเหลือทางด้านจิตใจหรือไม่
 - เธอได้เรียนหนังสือและได้ฝึกงานหรือไม่
 - เธอรู้สึกปลอดภัยไหม
 - เธอรู้สึกว่าจะเธอได้ถูกส่งกลับกัมพูชาอย่างปลอดภัยหรือไม่
 - ตอนที่เธอจะถูกส่งกลับ เธออยากที่จะกลับไปกัมพูชาหรือไม่
- 5) ประสพการณ์ของเด็กขอลานที่ได้รับ การปฏิบัติจากเจ้าหน้าที่อย่างเป็นทางการ
- เธอเคยถูกเจ้าหน้าที่ไทยควบคุมตัวไว้หรือไม่
 - ถ้าเธอเคยถูกควบคุม เคยถูกควบคุมมาแล้วกี่ครั้ง
 - ครั้งล่าสุดเธอถูกควบคุมนานกี่วัน
 - พ่อแม่ของเธออยู่ด้วยหรือไม่ตอนที่เธอถูกควบคุมตัว
 - ถ้าเธอถูกควบคุมตัวคนเดียว เธอสามารถติดต่อกับพ่อแม่เธอหรือไม่ พ่อแม่เธอสามารถมาเยี่ยมเธอหรือไม่ เธอได้รับข้อมูลเกี่ยวกับพ่อแม่เธอหรือไม่
 - เธอได้รับการช่วยเหลือทางด้านกฎหมายช่วงที่เธอถูกควบคุมตัวหรือไม่
 - ครั้งล่าสุดที่เธอถูกควบคุมตัวเธอถูกปล่อยตัวหรือถูกส่งกลับประเทศ

- เธอรู้สึกว่าคุณได้รับการดูแลอย่างเหมาะสมหรือไม่
- ตอนที่เธอถูกควบคุมตัวเธออยู่ในห้องกับผู้ใหญ่หรืออยู่แยกจากผู้ใหญ่ เธออยากจะอยู่ในห้องรวมกับผู้ใหญ่หรือไม่

6) เธอได้รับสิ่งต่อไปนี้ตามที่เธอต้องการอย่างเพียงพอหรือไม่ช่วงเวลาที่เธอถูกควบคุมตัวไว้:

- อาหารพอเพียง
 - เธอกินอาหารวันละกี่มื้อ
 - เธอกินอาหารประเภทใดในแต่ละมื้อ
 - เธอรู้สึกอิ่มหรือไม่หลังจากที่เธอกินแต่ละมื้อ
- ที่พัก
 - เธอหลับนอนที่ไหน
 - สถานที่ที่เธอนอนมันกว้างหรือมันแคบ
 - สถานที่ที่เธอนอนมันสะอาดขนาดไหน (เช่น มีแมลง หนู เยอะไหม)
- เสื้อผ้า
 - เธอได้เสื้อผ้ากี่ชุด (เสื้อ กางเกง กางเกงใน)
 - เสื้อผ้าของเธอถูกซักบ่อยไหม
 - เสื้อผ้าของเธอช่วยป้องกันความหนาวเย็นไหม
- น้ำสะอาด
 - เธอส่วนใหญ่ดื่มน้ำเปล่าจากไหน
 1. เช่นเธอส่วนใหญ่ดื่มน้ำเปล่าจกขวดน้ำหรือจากน้ำประปา
 2. ถ้าเธอดื่มน้ำประปา น้ำประปานั้นได้ถูกเคื่อดก่อนไหม
- สุขอนามัย
 - เธออาบน้ำบ่อยไหม (ล้างหน้าและตัวกับสบู่ และสระผมกับแชมพู)
 - เธอล้างมือกับสบู่ก่อนกินข้าวบ่อยไหม

7) สิ่งแวดล้อมที่ดีต่อสุขภาพและมีมนุษยธรรม

- เธอรู้สึกว่าตำรวจไทยได้ดูแลเธออย่างเหมาะสมหรือไม่ช่วงที่เธอถูกควบคุมตัวไว้
 - เคยมีใครตีเธออย่างรุนแรงหรือเคยจับเธอตรงส่วนใดของร่างกายเธอที่เธอไม่ยอมให้เขาจับไหมช่วงที่เธอถูกควบคุมตัวไว้
 - ตอนที่เธอเป็นไข้เธอรักษาไข้หวัดนั้นอย่างไร (ไปหาหมอ รักษาด้วยสมุนไพร ไม่ได้ทำอะไร)
 - มีความต้องการอื่นหรือไม่ที่เธอรู้สึกว่าเธอไม่ได้รับช่วงเวลาที่เธอถูกควบคุมตัวไว้
- ช่วยเรียงลำดับความต้องการจากที่พุดมาจากมากไปน้อยช่วงเวลาที่เธอถูกควบคุมตัวไว้

12) สรุป

- เธอคิดว่าเด็กขอทานต้องการความช่วยเหลือด้านอื่น ๆ อีก เช่นอะไรบ้าง
- เธอคิดว่าอะไรที่คนอื่นจะช่วยเหลือเพื่อทำให้ชีวิตของเด็กขอทานดีขึ้น
- อะไรที่ควรจะทำเพื่อที่จะให้เด็กหยุดขอทาน
- เธอคิดว่าเธอจะทำอะไรกับชีวิตของเธอในอนาคต

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BIOGRAPHY

Anne Songdej is an American of Thai descent. After graduating from the University of California – Berkeley in 2009, she moved to Thailand and became accepted into the MAIDS program at Chulalongkorn University. Child trafficking for begging became her research interest after having visited the NGO Friends International in Cambodia, and became inspired by their work.



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