

Approaches to Lao Minors Working in Thailand

by Roy Huijsmans

Recent studies have observed in Thailand a growing number of working Lao minors. By law, these may be regarded as victims of human trafficking. This paper observes, however, that some older teenagers who are still under 18 may be seeking and finding legitimate working positions. The phenomenon of minors migrating may thus be addressed from different points of view, including a rights-based approach that takes into account the views of children themselves. The author discusses three different perspectives identified in approaches to children and teenagers in development practice. In doing so, he teases out the underlying ideas of childhood and relates them to recent empirical observations on Lao minors working in Thailand.

Since embracing the New Economic Mechanism (NEM) in the late 1980s the Lao PDR has gradually adopted a very different politico-economic orientation. In economic terms this has entailed a gradual departure from state-planned to market-driven economics. In political terms the global collapse of state-communism induced a shift from almost exclusive dependence on the old 'socialist bloc' to an increased participation in regional politics.

The impact of this change has carried well beyond the economic and the political spheres of life, with the effects being felt in the social and cultural lives of Lao people. However, it should be noted that the extent to which the NEM has triggered change differs greatly between localities, and furthermore has affected different social groups in varying ways within localities. In geographical terms, the impact of policy reorientations is probably most dramatic in already dynamic regions, such as cities, towns, border regions and border-crossings, as well as in newly-accessible areas following road construction. With regard to social groups, much has been written about the way different socio-economic groups are faring in relation to development. However, much less emphasis has been put on different generations within socio-economic categories.

This paper builds on the proposition that different generations have experienced the recent changes in quite distinct ways. In this respect, this paper highlights the role and position of children and teenagers in development by focusing on specific development related themes: labour migration and human trafficking. This specific focus on the current generation of teenagers and children seems justified since they have grown up under different political and economic realities and may thus have different world-views than their parents. This suggests that the differences observed in lifestyles between the young generation, and their parents and grandparents can only partially be attributed to their respective positions in the human life-cycle. It is likely that the differences between these generations rather signify something of a structural reorientation of social life in Laos.

*An apparently growing number
of Lao 'children' work willingly or
unwillingly in Thailand*

The starting point of this paper is the observation that an apparently growing number of Lao 'children' work, for some time, and willingly or unwillingly, in Thailand. The term children is put in quotation marks since although by both Lao and international standards any person below the age of eighteen is regarded as a child, here it generally refers to older children so the terms 'teenager' or 'minor' may be more appropriate. The phenomenon of Lao minors working in Thailand can thus technically be portrayed as 'child labour migration' and is highly delicate, not in the least because of the hazy boundaries that this trend shares with 'human trafficking'. It is precisely on account of this high degree of delicateness surrounding any discussion on 'child labour migration' and 'human trafficking' that this paper seeks to critically discuss particular ways in which the phenomenon is being addressed in Laos. The paper argues that the varying ways of addressing human trafficking and teenagers as migrant workers are based on different views of teenagers' and children's positions in development. These positions emerge from particular underlying ideas on children and childhood which are not necessarily made explicit. By discussing these ideas, the article aims to open more space for addressing some of the difficult challenges of development in relation to young people.

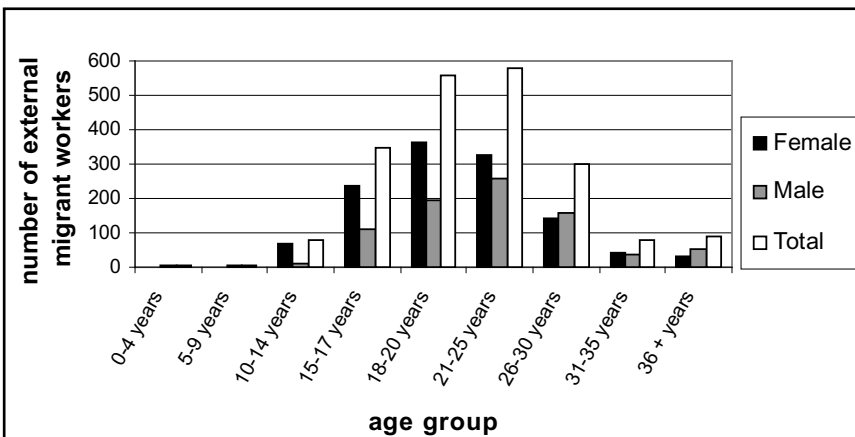
Lao Children Working in Thailand: Vague Figures, Firm Responses

Following relative isolation from Thailand between 1975 and the late 1980s, Laos has gradually opened its borders to its western neighbour. This has resulted in a dramatic increase in movements of goods and people between the two countries. These changes should not be evaluated in quantitative terms only. Current migrations from Laos to Thailand should also be viewed in a more qualitative light than earlier and at times illegal practices, since the current phenomenon takes place in a dramatically different politico-economic context.

Vague Figures

Figures given for Lao migrants working in Thailand should be treated with extreme care. The majority enter Thailand illegally or over-stay their border-passes (Thammavongsa, 2006) and are thus excluded from official figures. Estimates on the true numbers vary greatly, ranging from 100,000 according to Thai authorities to 300,000 according to some NGOs (SCUK et al, 2004). There is, however, agreement on composition. As is usual in migration flows in various parts of the world, the Lao working in Thailand are predominantly young people. More specifically, a considerable proportion of these young people are under the age of eighteen, and thus are children according to national and international standards.

Figure 1: External migrant workers by age and sex (Champassak, Khammouane and Savannakhet)



Source: Adapted from MoLSW & ILO-IPEC/TICW 2003, Table 27.

Figure 1 presents a visualisation of how migration is predominantly located in the lower age cohorts, with the majority of the migrants between 18 and 25 years of age, and a significant proportion in the age group 15-17 - technically children. The figure further illustrates that very few child migrants are under the age of 10, or in the case of boys, under the age of 15. The low number of very young migrants and the rapid rise in teenage migrants suggest that the former category should be seen as part of family migration, whereas the latter probably represents 'independent child migration'. Lastly, figure 1 suggests a strong link between age and gender: younger migrants are likely to be female.

Firm Responses

While a significant proportion of Lao migrants fall into the grey area between adulthood and childhood, policy responses set a sharp divide based on the internationally agreed age of eighteen. As a consequence, while the experiences of 17- and 19-year-old Lao workers in Thailand are unlikely to differ greatly, their situation may be subject to dramatically different policy responses. Laos and Thailand signed a memorandum of understanding (MoU) on 'Employment Cooperation' in 2002 (Muntarbhorn, 2005), and newspapers continue to make frequent mention of how labour shortages in Thailand will be amended by Lao labourers (Vientiane Times 2005; 2006). However, it must be noted that the gradual trend towards recognition, facilitation and protection of labour migrants tends to apply predominantly to adults, and in most cases male adults. This represents a significant gender and generational bias. At the same time, strong statements are made against human trafficking, most powerfully through a 2005 MoU between Laos and Thailand (Muntarbhorn, 2005). In contrast to action taken following the 'Employment Cooperation' MoU, measures to combat trafficking tend to explicitly focus on children and women.

Migrant Labour, Children and Development

The discussion here aims to break away from a static and falsely simplistic presentation of different forms of labour migration as a binary construction of adult versus child (O'Connell-Davidson, 2005). This is done by scrutinising three alternative ways in which labour migration and/or human trafficking is addressed in Laos. It is argued that these different approaches are not just different ways of addressing similar phenomena, but are based on fundamentally

different perspectives on the position of children and teenagers in development processes in the country. Hence, the implications of each particular perspective are manifold, not least for the children themselves. In so doing, this paper touches on fundamental questions such as what is childhood? What is a good childhood? What is adulthood? When does one stop being a child? These questions are not explored in detail here but some consideration of them should be intrinsic to any approach and critique.

Lao Children as Victims of Development

The perception of children and teenagers as victims of development-induced migration takes two forms. The first evolves around the notion of being 'left behind'. This mostly applies to young children whose parents have migrated to work elsewhere and who are often left in the care of grandparents or one parent. Concern has arisen about the health, education and psycho-social well-being of such children. However, despite moral judgements, recent research in this field from the Philippines has concluded that 'left behind' children cannot simply be regarded as passive victims. Instead, the effects of migration on 'left behind' children are more ambivalent. While migration may create emotional displacement for the 'left behind' children, it also opens up possibilities for children to act more independently (Asis, 2006). The second form, the 'victim children' label, has proven to be more sticky. This version applies to children, mostly teenagers, drawn into migration processes as workers. Conventional wisdom tends to assume that these young workers become migrants either unwillingly or on the basis of false information. This section explores this second form in greater detail.

The notion of children and teenagers as victims of development is rooted in particular readings of capitalist socio-economic development. Capitalism, the argument goes, and particularly in its relatively untamed versions, inherently creates dark corners within the economy which exist on the exploitation of the most vulnerable in society – such as migrant workers or children. Proponents of this theory, while diverse in the emphasis and detail they give, agree on the general observation that the exploitative use of migrant labour, and by implication, child migrant labour, is inherent to global capitalist expansion and is thus unlikely to cease any time soon, particularly if no firm measures are taken (Castles & Kosack, 1973; Piore, 1979; Cohen, 1987; Sassen, 1999).

Laos displays a relatively low degree of industrialisation and for this reason is often seen as not having a child labour problem (Ennew et al, 2005). This is in stark contrast with Thailand, where the capitalist economic path of development has long been associated with a prevalence of child labour. It has been argued that demographic changes and expanding education levels in Thailand have led to a decreased incidence of Thai children in the worst forms of child labour (Baker, 1998). Yet, there is concern that child labourers from neighbouring countries such as Laos have now replaced their Thai peers in these worst forms of child labour, often in association with child trafficking.

Intervention driven by a notion of children and teenagers as victims of development-induced migration is based on a particular conceptualisation of children and childhood. In this, childhood is primarily seen as a preparatory stage of life before adulthood. Early exposure to labour, lack of parental care and protection, and compromising on school attendance are seen as harmful to the process of becoming a successful adult. From this can be deduced a notion of children as incompetent, fragile, incomplete and passive, in contrast with the opposite qualities that are attributed to adults.

*Early exposure to labour is seen as
harmful to the process of becoming a
successful adult*

Human Trafficking

The notion of human trafficking, particularly when the term is applied uncritically, is filled with a strong sense of children and teenagers as victims of capitalist development. This can be illustrated by the phrase “human trafficking, a modern form of slavery,” which regularly surfaces in academic and activist writings (Williams, 1999). This phrase draws an explicit comparison, based on a notion of commoditisation of human beings, between the role of slave trade in early European capitalist expansion and current forms of exploitation under capitalist expansion, often in relation to women and children from the Third World.

Despite the moral outrage such phrases create, it is important to take a closer look at what human trafficking actually refers to and how children are seen in this regard. A commonly used definition of human trafficking incorporates much of the above mentioned idea of children. Article 3, subparagraph (a) of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* supplements the United Nations Convention against Transnational Crime (signed by Thailand and ratified by the Lao PDR) and states the following:

“ ‘Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.

Subparagraph (c) adds that in the case of children “the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if this does not involve any of the means set forth in subparagraph (a)”. Thus, the underlined section of the above definition has no relevance when dealing with children. This in effect means that in determining what constitutes a case of human trafficking of children - any human being aged between 0 and 18 years of age according to the UN definition - exploitation at the work place becomes the key factor. However in practice exploitation (defined by the UN above as “forced labour or services”) is, apart from in the most obvious cases, extremely difficult to establish since it refers to relations which may be subject to constant change. With this lack of clarity in the definition of exploitation, there is considerable leeway in defining cases of Lao children working in Thailand as cases of human trafficking.

The rationale of the definition assumes that children’s interests can be better protected by not granting children the right to consent to migration and work. While the good intention of this

policy is not in question, all its implications should be considered. An approach that regards children's consent, and by implication children's voices and their varied experience, as irrelevant, and relies on firm measures to prevent children working abroad, may in the end not suit all concerned children best. It adheres to a singular notion of 'the trafficked child', who needs to be rescued from exploitation and abuse and given back his or her childhood. This does not explore possible alternative avenues, such as inquiring whether the 'exploitation' could be addressed or to what kind of childhood the child is sent back. It is rather a 'one size fits all' response revolving around a 'rescue-rehabilitate-reintegrate' approach. This policy, which criminalises the employment of Lao minors in Thailand, may not reduce the number of Lao minors working in Thailand, but will certainly make their work even less visible, which as is argued elsewhere, could make young migrant workers only more vulnerable to exploitation (Busza et al, 2004).

*Current policy is rather a 'one
size fits all' response*

Lao Children as Recipients of Development

UNICEF gives a concrete definition of childhood. "Childhood," its flagship *State of the World's Children Report* states, is "a time to grow, learn, play and feel safe," with access to "essential services such as hospitals and schools" and the protection of family and community (UNICEF, 2005). Such global visions of childhood may risk reducing children, or young people in general, to uniform and passive recipients of development. In addition, this very idea of development may then be based on a global consensus on what constitutes 'children's needs', in most cases determined by adult specialists and policy makers whose understanding of childhood is often skewed towards particular middle-class realities (Boyden et al, 1998).

In relation to children and migration, such a vision has contributed to a reality in which the phenomenon of Lao children studying in Thailand, which can be seen as migration for a rather specific form of children's work - school work - receives hardly any critical attention, since it corresponds with what is considered to be good for children. Yet, without denying the value

of education, it cannot simply be said that placing children in schools abroad is indisputably in the children's best interest. This point is sadly illustrated by reoccurring reports from richer and poorer countries, including Thailand, that mention severe pressure on students as well as neglect or even abuse of overseas pupils in schools (Bunnag, 2005; Kwankhom, 2006).

*Criminalising the employment of Lao
minors could make them only more
vulnerable to exploitation*

Uniform and static ideas of childhood forego explicit inquiries into contextual differences and the way children and teenagers engage with development projects. Keeping children and teenagers in school is generally, and again uncritically, conceived as one of the major measures to reduce the incidence of human trafficking involving minors. Alternatively, for those beyond school age, employment generation at local level is seen as a way of reducing the risk of falling prey to trafficking (Phetsiriseng, 2001). However, several reports emphasise the fact that Lao teenagers do not just leave for Thailand due to lack of jobs in their own localities. Rather, they are often also driven by a desire to do kinds of work different to those available in their own village, which especially after some years of education, are frequently perceived as hard or boring. Moreover, a simple desire to see the world beyond the village is also frequently stated as one of the factors driving Lao teenagers to Thailand and possibly into trafficking situations (Phetsiriseng, 2001; Wille, 2001; Ginzburg, 2004; SCUK et al, 2004). In this respect, increased education and local employment generation seem not to guarantee a reduction of Lao teenagers migrating to Thailand; instead, they may well contribute to an increase.

Lao Children as Actors in Development

The idea of viewing children as actors in, rather than merely recipients of development activities finds its theoretical and conceptual roots in the "new sociology of childhood" (James & Prout, 1997; Qvortrup, 2005). This perspective differs from the dominant strand in psychologically informed studies on childhood, in which childhood is mainly studied as a rather universal

stage of life leading to adulthood. The new sociology of childhood does not deny the fact that particularly young children may not be able to think and act like most adults, yet, it refrains from universal trajectories of child development by emphasising that “what children do and what is expected from them is largely historically and culturally determined” (Qvortrup, 2004).

These theoretical and philosophical ideas underpin a new approach to children in development which is moving away from needs-based approaches, often rooted in universally assumed and undifferentiated needs, to rights-based approaches backed up by the near-universally ratified United Nations Convention on the Rights of the Child (CRC). A major implication of this approach is that children cannot be reduced to victims or passive recipients of development any longer but must be granted the status of agents in the process of development (Bourdillon, 2004). Article 12 of the CRC explicitly states that children, and this refers again to all persons under the age of 18, have the right to participate in all matters affecting them. Motivations for greater child participation are not just distant calls from western textbooks or international conventions. Sound reasons for greater child participation also emerge from practical observations in mainstream studies on human trafficking and child labour migration in Laos. For example, it is not uncommon for Lao children to leave for Thailand without informing their parents (Phetsiriseng, 2001; Wille, 2001). This suggests that parents, or adults in general for that matter, may in such cases only be of limited value as informants on child labour migration or human trafficking. In addition, it has frequently been observed that Lao children and teenagers migrate with the help of adults, often friends or relatives, who cannot be seen as traffickers. This observation runs parallel to ‘network theories’ in migration studies, in which the migrant is conceptualised as an actor in a web of networks (Massey et al, 1993). This contrasts with the uni-directional relations underpinning trafficker-victim relations. Lastly, studies in the field of ‘rural change’ have long highlighted the active role teenagers play in various migration processes, and in consequent developments, across Southeast Asia (Wolf, 1992; Koning, 1997; Rigg, 2003, part III; Rigg et al, 2004).

The Save the Children Alliance has actively promoted rights-based philosophies in Laos in relation to human trafficking and child labour migration to Thailand. Two examples are

particularly worth mentioning. Firstly, Save the Children UK (SCUK) designed and implemented participatory research on Lao youth as migrant workers in Thailand with the aim of gaining greater understanding of the phenomenon. The involvement of local youths in this study as peer-researchers brought to the surface numerous insights into the experiences and perceptions of Lao youth working in Thailand (SCUK et al, 2004). Secondly, in collaboration with the International Labour Organisation (ILO), SCUK ran a series of ‘Children’s Fora’ in the Mekong Region to explicitly seek children’s views on how to address human trafficking (ILO & SCUK, 2005).

While insights can be gleaned in this way, new buzz-words like ‘listening to children’, ‘children’s participation’ and dealing with ‘children’s agency’ present their own problems as well. First, there is the issue of selecting participants. For example, who should be listened to, and which children are to participate? Second, while listening to children is certainly very effective in gaining a greater understanding of dynamics and processes, there remains the problem - present in most participatory research – of how to aggregate numerous diverse qualitative responses and how to distil coherent policy responses. The latter issue may be particularly problematic in cases where children’s recommendations are in direct opposition with the interests of adults, who in most cases have the final say in policy formulation. Lastly, the pitfall of methodological individualism looms in relation to children as well. When concentrating on children’s agency, too narrow a focus may obscure “larger frames of meaning and action” such as gender, class and generation (Long, 2001). This may falsely homogenise social phenomena on the basis of realities experienced by some children.

Conclusion: from Competing Views to Alternative Approaches

The discussion above has presented three perspectives on the role of children and teenagers in development, as can be distilled from current approaches towards human trafficking and/or child labour migration from Laos to Thailand. Despite the fact that all three perspectives can to different degrees be found in Laos, the most prominent images of Lao children and teenagers working in Thailand are those of trafficked victims, often connected to the Thai sex-industry.

The perspective of children and teenagers as passive victims of development thus has a high profile. To the extent that this translates into concrete and urgent actions to address the worst and most obvious forms of child labour exploitation, as for example outlined in ILO convention 182, such projection may perhaps be exempted from further critique. Viewing children and teenagers as recipients of development can help in formulating a range of preventative measures to stop children and teenagers falling prey to exploitation and abuse.

*Most Lao migrant workers of minor age
prefer to remain in their Thai jobs rather
than returning home*

A growing body of research however observes that in most cases it is not the nature of the migrant's job that leads to exploitative outcomes, but rather the subordinate position of the young worker. The following forms of exploitation are most common: late or non-payment of salary, long working hours, and mistreatment by employers or police (SCUK et al, 2004). Furthermore, studies have observed that most Lao migrant workers of minor age have positive migratory experiences, and that despite certain forms of exploitation, they prefer to remain in their Thai jobs rather than returning home (Ginzburg, 2004).

Similar observations emerge from studies set in different contexts and which question the uncritical application of the term 'human trafficking' to minors working abroad (Bastia, 2005; Whitehead & Hashim, 2005). However, attempts to add some nuances to the human trafficking debate seem to be swimming against a particularly strong current. Anti-trafficking projects and research have been mushrooming all over the globe during the last decade (Laczko, 2005), and in Laos over the last five years (Molland, 2005). This has led not only to an increase in knowledge about and interventions to address human trafficking, but has also contributed to a perception of trafficking as the predominant form of labour migration at minor age. The establishment of a United Nations Inter-Agency Project on human trafficking in the Greater Mekong Sub-Region, and in Laos of a National Committee on Human Trafficking, combined with NGO initiatives such as the broadcasting of a television drama on human trafficking, have further contributed to this dual outcome.

This has created a situation in which the space to address child labour migration as anything other than human trafficking is extremely narrow (Whitehead & Hashim, 2005). The fact that the worst forms of abuse do occur should not be forgotten, and this makes finding such a space a particularly difficult endeavour (Caoutte, 2001; Beesey, 2004; UNICEF & MoLSW, 2004). The various studies that have documented the exploitation of Lao minors working in Thailand show that child abuse and exploitation in relation to migrant work are very real. Yet, Jenks (1996), writing about child abuse in a largely western context, argues that while ‘child abuse is real . . . it is equally a device for constituting a reality’. Jenks was passing comment on the ‘better safe than sorry’ approach, which regards all potentially abused children as abused. He argues that increased mention of child abuse is a response to contemporary conditions in which nostalgic visions of the child are desperately preserved following a general “pain at the loss of our social identity” in a vastly changing world. The extent to which Jenks’s observation is relevant to Laos can be debated. However, as with the three alternative perspectives of child labour migration/human trafficking presented in this paper, such an observation aims to provoke further thinking. Further thinking and new ideas are urgently required to make sense of the multiple realities and interpretations, and to be able to responsibly balance the different and conflicting interests associated with labour migration and human trafficking involving children.

About the Author

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